### City of Kingsville, Texas

## AGENDA CITY COMMISSION

MONDAY, APRIL 28, 2025
REGULAR MEETING
CITY HALL
EBERG GROVES COMMUNITY

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

Live Videostream: https://www.facebook.com/cityofkingsvilletx

I. Preliminary Proceedings.

**OPEN MEETING** 

INVOCATION / PLEDGE OF ALLEGIANCE - (Mayor Fugate)

MINUTES OF PREVIOUS MEETING(S)

Regular Meeting - April 14, 2025

Special Meeting - April 21, 2025.

APPROVED BY:

Charlie

Interim City Manager

#### II. Public Hearing - (Required by Law).1

- 1. Public hearing on request to rezone from R1 (Single Family) to C2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3<sup>rd</sup>, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385). (Director of Planning and Development Services).
- 2. Public hearing on request for a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C2 (Retail) at 3<sup>rd</sup>, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385). (Director of Planning and Development Services).
- 3. Public hearing on request for a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole in C4 (Commercial) at Paulson's SUB, Lot B, acres .0, also known as 1025 E. General Cavazos, Kingsville, TX 78363 (Property ID 25758). (Director of Planning and Development Services).

#### 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, Proposed Development Report; Accounting & Finance – Financial Services - Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works-Building Maintenance, Construction Updates; Park Services - grant(s) update,

miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time."

#### IV. Public Comment on Agenda Items.3

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

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#### 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.

## <u>CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:</u>

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

- 1. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to KT&I Co, Block 18, Lot Pt 9, Pt 10, (10.98 acres) (Property ID #17868), Kingsville, Texas, from R1 (Single Family Residential District) to R3 (Multi-Family Residential District), (off Loop 428); amending the Comprehensive Plan to account for any deviations from the existing Comprehensive Plan. (Director of Planning and Development Services).
- 2. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter XI-Business Regulations, Article 2-Ambulance Service, Section 28-Ambulance Billing Rates for Services Provided by the City of Kingsville Ambulance Service, providing for revisions to rates. (Fire Chief).
- 3. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to accept and expend grant funding from the Ed Rachal Foundation for salaries and park field improvements. (authorizing resolution #2024-95 approved 11/25/24) (Parks Director).
- 4. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to accept and expend grant funding from StoneGarden for Police overtime, portable radios, and vehicle maintenance. (authorizing resolution #2025-14 approved 1/27/25) (Police Chief).
- 5. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to reallocate Utility Funds ARP funding for the water meter project to General Fund ARP funding for the animal shelter project. (Purchasing Manager).

#### **REGULAR AGENDA**

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

VI. Items for consideration by Commissioners.4

Page 2 of 4 AGENDA – KINGSVILLE CITY COMMISSION April 28, 2025

- 6. Discuss and consider introduction of an ordinance amending the zoning ordinance by changing the zoning in reference to 3<sup>rd</sup>, Block 22, Lot 24-27 (Property ID 17385) also known as 620 E. Alice Ave., Kingsville, Texas from R1 (Single Family District) to C2 (Retail District); amending the comprehensive plan to account for any deviations from the existing comprehensive plan. (for Wholesale Bakery Use, Famosa Tortilla Factory). (Director of Planning and Development Services).
- 7. Discuss and consider introduction of an ordinance amending the zoning ordinance by granting a Special Use Permit for Wholesale Bakery Use (Tortilla Factory) in C2 (Retail District) at 620 E. Alice Ave., Kingsville, Texas, also known as 3<sup>rd</sup>, Block 22, Lot 24-27 (Property ID 17385); amending the comprehensive plan to account for any deviations from the existing comprehensive plan. (Director of Planning and Development Services).
- 8. Discuss and consider introduction of an ordinance amending the zoning ordinance granting a Special Use Permit for a Wireless Telecommunications Pole Tower in C4-Commercial at Paulson's SUB, Lot B, also known as 1025 E. General Cavazos, Kingsville, Texas (Property ID 25758); amending the comprehensive plan to account for any deviations from the existing comprehensive plan. (for a 120' monopole) (Director of Planning and Development Services).
- 9. Discuss and consider the continuation of All-Risk Property Insurance with TMLIRP as per staff recommendation. (Human Resources Director).
- 10. Discuss and consider the renewal of Windstorm & Hail Insurance, including named storms, through Victor Insurance Managers LLC as per staff recommendation. (Human Resources Director).
- 11. Consideration and approval of a resolution of the City of Kingsville, Texas providing for the City to become a member of the American Flood Coalition. (Commissioner Alvarez).
- 12. Consideration and approval of a resolution authorizing the Interim City Manager to execute the Construction Contract with Mor-Wil LLC for the GLO CDBG-MIT Contract 22-085-009-D237 Project 3: E. Caesar Ave. Storm Water Improvements. (from 18<sup>th</sup> St. to 240 ft. east of 24<sup>th</sup> St.) (Bid #25-11; awarded 4/14/25) (City Engineer).
- 13. Consideration and approval of a resolution authorizing the Interim City Manager to execute the Construction Contract with Mor-Wil LLC for the GLO CDBG-MIT Contract 22-085-009-D237 Project 5: E. Caesar Ave. Storm Water Improvements. (from E. Carlos Truan Blvd. to 18<sup>th</sup> St.) (Bid #25-12; awarded 4/14/25) (City Engineer).
- 14. Consideration and approval of a resolution authorizing the Interim City Manager to execute the Construction Contract with D&J Utility Services LLC for the GLO CDBG-MIT Contract 22-085-009-D237 Project 10: N. Armstrong Ave. Storm Water Improvements. (from Corral Ave. to Santa Gertrudis Ave.) (Bid #25-13; awarded 4/14/25) (City Engineer).
- 15. Consideration and approval of a resolution authorizing the Interim City Manager to execute Change Order No. 2 for the Construction Contract with R.S. Parker Construction, LLC for the GLO CDBG-MIT Contract 22-085-009-D237 Project 2: N. 19<sup>th</sup> Street Storm Water Improvements Project. (City Engineer).
- 16. Consideration and approval of a resolution authorizing the Interim City Manager to execute Change Order No. 1 for the Construction Contract with Donald Hubert Construction Co. for the GLO CDBG-MIT Contract 22-085-009-D237 Project 6: Carlos Truan Blvd. Storm Water Improvements Project. (City Engineer).
- 17. Consideration and approval of a resolution authorizing the Interim City Manager to execute Change Order No. 1 for the Construction Contract with R.S. Parker Construction, LLC for the GLO CDBG-MIT Contract 22-085-009-D237 Project 8: Alice Ln/Margaret Ln Storm Water Improvements Project. (City Engineer).

- 18. Consideration and approval of a resolution authorizing the Interim City Manager to execute Change Order No. 3 for the Construction Contract with R.S. Parker Construction, LLC for the GLO CDBG-MIT Contract 22-085-009-D237 Project 13: W. Johnston Ave. Storm Water Improvements Project. (City Engineer).
- 19. Discuss and consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to provide additional funding for South Creek and Golf Course Road lift stations. (repairs to wastewater lift stations for TCEQ compliance) (Public Works Director).
- 20. Consideration and approval of resolution authorizing the Interim City Manager to execute the Contract with PM Construction & Rehab LLC for Emergency Repair Cured-In-Place 18" CIPP on E. Corral Ave. for the Public Works, Wastewater Collections Division. (Public Works Director).

#### 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 or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
- Items being considered by the Commission for action except citizen's comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

#### NOTICE

This City of Kingsville and Commission Chambers 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 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 at City Hall, City of Kingsville, 400 West King Avenue, 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:

April 25, 2025, at 11:00 A.M. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

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

This public notice was removed from the c	official posting board a	at the Kingsville City	Hall on the
following date and time:		<u> </u>	
By:			
City Secretary's Office			
City of Kingsville, Texas			

# MINUTES OF PREVIOUS MEETING(S)

#### **APRIL 14, 2025**

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, APRIL 14, 2025, IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 3:00 P.M.

#### **CITY COMMISSION PRESENT:**

Sam R. Fugate, Mayor Edna Lopez, Commissioner Norma N. Alvarez, Commissioner Hector Hinojosa, Commissioner Leo Alarcon, Commissioner

#### **CITY STAFF PRESENT:**

Charlie Sosa, Interim City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
Derek Williams, Systems Administrator
Emilio Garcia, Health Director
Leticia Salinas, Accounting Manager
Erik Spitzer, Director of Economic & Development Services
James Creek, Captain
Diana Gonzales, Human Resources Director
Kobby Agyekum, Senior Planner/HPO
Susan Ivy, Parks Director
Deborah Balli, Finance Director
Rudy Mora, City Engineer

#### I. Preliminary Proceedings.

#### **OPEN MEETING**

Mayor Fugate opened the meeting at 3:00 p.m. with all five commission members present.

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

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

#### MINUTES OF PREVIOUS MEETING(S)

#### Regular Meeting - March 24, 2025

Motion made by Commissioner Lopez to approve the minutes of March 24, 2025 as presented, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".

1. <u>Executive Session: Pursuant to Section 551.074, of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the employment and duties of the City Manager position. (Mayor Fugate).</u>

Mayor Fugate announced the executive session and convened the meeting into closed session at 3:05 p.m.

Mayor Fugate reconvened the meeting into open session and recessed the executive session at 5:08 p.m.

- II. Public Hearing (Required by Law).1
  - 1. <u>Public hearing on request for an alcohol variance for a Mixed Beverage (MB), Late Hours Certificate (LH) On Premise Bar for the establishment known as Buckets at 905 North 14<sup>th</sup> Street, Kingsville, Texas, 78363. (Director of Planning and Development Services).</u>

Mayor Fugate read and opened this public hearing at 5:08 p.m. Mayor Fugate further announced that this is a public hearing. If anyone would like to speak on behalf of this item they may do so now with a five-minute limit. Additional time cannot be extended by the City Commission.

Mr. Erik Spitzer, Director of Planning and Development Services, stated that Mr. Rueben Garza, requestor, is requesting an alcohol variance for a Mixed Beverage, Late Hours Certificate on Premise Bar for the establishment known as Buckets located at 905 N. 14<sup>th</sup> Street. After reviewing the application and with the assistance of the Engineering Department, the establishment falls within 300 feet of a church, which will require this applicant to go through an alcohol variance. Staff mailed 14 letters, and of those mailed, only one individual, Mrs. Regina Lee Perez of 1505 Lewis, contacted the Planning Department with concerns and stated that historically this location had loud noise and music playing into the early hours of the morning, especially on weekends.

Commissioner Alvarez commented that the individual who had concerns resides on Lewis Street and further asked how Lewis Street connected to that area, as the establishment is on North 14<sup>th</sup> Street.

Mr. Spitzer responded that Mrs. Perez owns property within that area.

Commissioner Hinojosa asked if the request was also for later hours. Mr. Spitzer responded yes, which is until 2:00 a.m.

There being no further discussion, Mayor Fugate closed this public hearing at 5:13 p.m.

## 2. Public hearing on request for an alcohol variance for a Wine and Malt Beverage Retailer's On-Premise Permit (BG) for the establishment known as Javelina Watering Hole Brewing Co. LLC at 211 East Caesar Ave., Suite C, Kingsville, Texas, 78363. (Director of Planning and Development Services).

Mayor Fugate read and opened this public hearing at 5:13 p.m. Mayor Fugate further announced that this is a public hearing. If anyone would like to speak on behalf of this item, they may do so now with a five-minute limit. Additional time cannot be extended by the City Commission.

Mr. Spitzer stated that Mr. Christopher Flores is requesting an alcohol variance for a Wine and Malt Beverage Retailer's On-Premises Permit for the establishment known as the Javelina Watering Hole Brewing Company LLC located at 211 E. Caesar, Suite C. After reviewing the application and with the assistance of the Engineering Department, the establishment falls within 300 feet of a church, which will require this applicant to go through an alcohol variance. Staff mailed 22 letters to those within 300 feet, and staff received no feedback from those noticed.

There being no further discussion, Mayor Fugate closed the public hearing at 5:15 p.m.

## 3. Public hearing on request to rezone from R1 (Single Family) to R3 (Multi-Family) KT&I Co, Block 18, Lot Pt 9, Pt 10, acres 10.98, Kingsville, Texas 78363, (Property ID 17868). (Director of Planning and Development Services).

Mr. Spitzer stated that Edna Oceguera, applicant/authorized agent and Ramon Perez, owner, approached the Planning Department on February 25<sup>th</sup>, 2025, requesting approval of re-zoning the parcel of land located behind Southgate Mall from R1 (Single Family) to R3 (multi-family) to support an affordable multi-family housing project, to be called "Casitas Los Ebanos." The Planning and Zoning Commission meeting was held on April 2<sup>nd</sup>, 2025, with 5 members in attendance. Members deliberated over the request to re-zone the parcel of land located behind Southgate Mall from R1 (Single Family) to R3 (multi-family). 11 Notice Letters were sent out to neighbors within the 200-foot buffer and the city received no feedback. The Planning and Zoning Commission voted to approve the rezoning of this property by a unanimous vote.

#### 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, Proposed Development Report; Accounting & Finance – Financial Services - Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works-Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time."

Mr. Charlie Sosa, Interim City Manager, updated the Commission regarding street projects. He further announced that the Trash-Off event was a big success and thanked all those who assisted with this event. Mr. Sosa further announced that the Loteria Festival is scheduled for Saturday, April 26, 2025, from 10:00 a.m. to 5:00 p.m.

Ms. Courtney Alvarez, City Attorney, reported that the next commission meeting is scheduled for Monday, April 28, 2025. She further reported that city offices will be closed on Friday, April 18, 2025, for Good Friday.

Mayor Fugate read and presented a proclamation for National Animal Control Officers Week.

#### IV. Public Comment on Agenda Items.3

V.

Comments on all agenda and non-agenda items.

Mr. Benjamin Gonzalez, 825 E. Hoffman, commented on stray dogs in his neighborhood and the mauling of his cat. He stated that his cat was out and was killed by two dogs that were out on the loose. He further commented that pet owners need to be more responsible for their animals. He asks that the city review its policies regarding animal control. Mr. Gonzalez displayed photos of his cat showing the injuries his cat sustained from the two dogs.

Mrs. Vicki Benys, 1914 Martin, stated that this week is Telecommunicators Week, and she would like to show her appreciation for all that they do. She knows the hard work these individuals do and would like to recognize them and give them thanks for all their hard work.

#### Consent Agenda

#### Notice to the Public

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after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.

### <u>CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:</u>

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

Motion made by Commissioner Lopez to approve the consent agenda as presented, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez, Fugate voting "FOR".

- 1. <u>Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to accept and expend funding from LEOSE for Police officer training.</u> (Police Chief).
- 2. <u>Motion to approve final passage of an ordinance vacating, abandoning, and closing the easternmost 40-foot-wide right-of-way on undeveloped S. 13<sup>th</sup> Street between Kenedy Avenue and the southmost edge of the alley nearest King Avenue in Fifth Addition, Block 4, while retaining a utility easement. (City Attorney).</u>

#### **REGULAR AGENDA**

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

- VI. Items for consideration by Commissioners.4
  - 3. Consideration and approval of an Alcohol Variance for a Mixed Beverage (MB), Late Hours Certificate (LH) On Premise Bar for the establishment known as Buckets at 905 North 14<sup>th</sup> Street, Kingsville, Texas, 78363. (Director of Planning and Development Services).

Motion made by Commissioner Alvarez to approve the Alcohol Variance for a Mixed Beverage (MB), Late Hours Certificate (LH) On Premise Bar for the establishment known as Buckets at 905 North 14<sup>th</sup> Street, Kingsville, Texas, 78363, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Hinojosa, Alarcon, Lopez, Alvarez, Fugate voting "FOR".

4. Consideration and approval of an Alcohol Variance for a Wine and Malt Beverage Retailer's On-Premise Permit (BG) for the establishment known as Javelina Watering Hole Brewing Co. LLC at 211 East Caesar Ave., Suite C, Kingsville, TX 78363. (Director of Planning and Development Services).

Motion made by Commissioner Hinojosa to approve the Alcohol Variance for a Wine and Malt Beverage Retailer's On-Premise Permit (BG) for the establishment known as Javelina Watering Hole Brewing Co. LLC at 211 East Caesar Ave., Suite C, Kingsville, TX 78363, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Alarcon, Lopez, Alvarez, Hinojosa, Fugate voting "FOR".

5. Discuss and consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to KT&I Co, Block 18, Lot Pt 9, Pt 10, (10.98 acres) (Property ID #17868), Kingsville, Texas, from R1 (Single Family Residential District) to R3 (Multi-Family Residential District), (off Loop 428); amending the Comprehensive Plan to account for any deviations from the existing Comprehensive Plan. (Director of Planning and Development Services).

Mr. Spitzer stated that the Planning and Zoning Commission meeting was held on April 2<sup>nd</sup>, 2025, with 5 members in attendance. Members deliberated over the request to re-zone the parcel of land located behind Southgate Mall from R1 (Single Family) to R3 (multi-family).

11 Notice Letters were sent out to neighbors within the 200-foot buffer, and the city received no feedback. The Planning and Zoning Commission voted to approve the rezoning of this property by a unanimous vote.

Introduction item.

6. Consideration and approval of awarding Bid #25-11 for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 3: E. Caesar Ave. Storm Water Improvements, as per recommendation of consulting engineer. (from 18<sup>th</sup> St. to 240 ft. east of 24<sup>th</sup> St.). (City Engineer).

Mr. Rudy Mora, City Engineer, stated that staff is seeking approval to award the fifth GLO CDBG-MIT Hurricane Harvey State Mitigation Competition Round 1 grant. Project 3 – E. Caesar Ave. Stormwater Improvements are a critical component of the city's flood management infrastructure upgrades. This project includes the installation of 4,406 linear feet of reinforced concrete culvert, 5 inlets, and related appurtenances to improve stormwater drainage and reduce future flood risks. The project will be completed within 420 consecutive days after the Notice to Proceed. This project was advertised in the local newspaper on February 13<sup>th</sup> and 20<sup>th</sup> and the city's website. Sealed bids for Bid No. 25-11 (Project 3) were received before the deadline of March 18, 2025, at 2:00 pm and read out loud, from two bidders: Mor-Will LLC, Mission, Texas; and CK Newberry LLC, Karnes City, Texas. The base bids range from \$6,051,030.20 to \$6,397,455.00. Alternate No. 1 bids range from \$975,931.40 to \$936,125.00. The total bids range from \$7,026,961.60 to \$7,333,580.00. After review, staff recommend awarding the project to the lowest bidder, Mor-Will LLC, for the total base bid amount of \$7,026,961.60.

Commissioner Lopez asked if this was the project to only cover the Caesar ditch. Mr. Mora responded Yes. They will be installing a large drainage culvert below it with a small swell on top, but he also submitted a grant through another agency for sidewalks and bike lanes. Commissioner Lopez asked if sidewalks and bike lanes would be on both sides of the road. Mr. Mora responded that if the city gets awarded the other grant, they will be on both sides of the road. The road will have a travel lane in each direction, plus a center turn lane.

Motion made by Commissioner Lopez to approve awarding Bid #25-11 for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 3: E. Caesar Ave. Storm Water Improvements, as per recommendation of consulting engineer, seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".

7. Consideration and approval of awarding Bid #25-12 for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 5: E. Caesar Ave. Storm Water Improvements, as per recommendation of consulting engineer. (from E. Carlos Truan Blvd. to 18<sup>th</sup> St.). (City Engineer).

Motion made by Commissioner Lopez to approve awarding Bid #25-12 for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 5: E. Caesar Ave. Storm Water Improvements, as per recommendation of consulting engineer. (from E. Carlos Truan Blvd. to 18<sup>th</sup> St.), seconded by Commissioner Alvarez and Commissioner Alarcon. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez, Fugate voting "FOR".

8. Consideration and approval of awarding Bid #25-13 for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 10: N. Armstrong St. Storm Water Improvements, as per recommendation of consulting engineer. (from Corral Ave. to Santa Gertrudis Ave.) (City Engineer).

Mr. Mora stated that staff is seeking approval to award the seventh GLO CDBG-MIT Hurricane Harvey State Mitigation Competition Round 1 grant. Project 10 – N. Armstrong

St. Storm Water Improvements is a critical component of the city's flood management infrastructure upgrades. This project includes the installation of 310 linear feet of reinforced concrete culvert, 15 curb inlets with throat extension, and related appurtenances to improve stormwater drainage and reduce future flood risks. The project will be completed within 180 consecutive calendar days after the Notice To Proceed. This project was advertised in the local newspaper on February 13<sup>th</sup> and 20<sup>th</sup> and city's website. Sealed bids for Bid No. 25-13 (Project 10) were received prior to the deadline of March 18, 2025, at 2:00pm and read out loud, from three bidders: D&J Utility Services LLC, Sinton, Texas; Mor-Will LLC, Mission, Texas; and CK Newberry LLC, Karnes City, Texas. The base bids range from \$489,400.00 to \$1,097,565.00. Alternate No. 1 bids range from \$453,918.00 to \$655,019.40. The total bids range from \$1,087,748.00 to \$1,551,483,00. After review, staff recommend awarding the project to the lowest bidder, D&J Utility Services LLC, for the total base bid amount of \$1,087,788.00.

Motion made by Commissioner Hinojosa to approve awarding Bid #25-13 for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 10: N. Armstrong St. Storm Water Improvements, as per recommendation of consulting engineer, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Hinojosa, Alarcon, Lopez, Alvarez, Fugate voting "FOR".

9. Consideration and approval of a resolution authorizing the Interim City Manager to execute a Construction Contract with Donald Hubert Construction Co. for Project 1: 14<sup>th</sup> St. Sanitary Sewer Improvements Project of the CDGB-MIT Program GLO State Contract number 22-082-016-D218. (Bid awarded 8/26/24) (City Engineer).

Mr. Mora stated that Bid 24-09, Project 1 was awarded on August 26, 2024, and now staff is requesting the construction contract be awarded in the amount of \$2,593,299.15.

Motion made by Commissioner Alarcon to approve the resolution authorizing the Interim City Manager to execute a Construction Contract with Donald Hubert Construction Co. for Project 1: 14<sup>th</sup> St. Sanitary Sewer Improvements Project of the CDGB-MIT Program GLO State Contract number 22-082-016-D218, seconded by Commissioner Alvarez and Commissioner Hinojosa. The motion was passed and approved by the following vote: Alarcon, Lopez, Alvarez, Hinojosa, Fugate Voting "FOR".

10. Consideration and approval of a resolution authorizing the Interim City Manager to execute Change Order No. 2 for the Construction Contract with R.S. Parker Construction, LLC for the GLO CDBG-MIT Contract 22-085-009-D237 Project 13: W. Johnston Ave. Storm Water Improvements Project. (City Engineer).

Mr. Moras stated that staff is seeking approval of Change Order No. 2 for the General Land Office Community Development Block Grant Mitigation Contract No. 22-085-009-D237 Project 13, W. Johnston Ave. storm water improvements project. An existing water line is conflicting with the proposed stormwater system and will need to be relocated. The change will have a revised contract price and time, \$627,588.09 and 171 calendar days.

Motion made by Commissioner Alvarez to approve the resolution authorizing the Interim City Manager to execute Change Order No. 2 for the Construction Contract with R.S. Parker Construction, LLC for the GLO CDBG-MIT Contract 22-085-009-D237 Project 13: W. Johnston Ave. Storm Water Improvements Project, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".

11. Consideration and approval of a resolution authorizing the Mayor to execute Change Order No. 2 for the Standard Form of Agreement between City and

### <u>Contractor, Donald Hubert Construction Co., for City-Wide Misc. Concrete and Drainage Improvements-Phase 3. (City Engineer).</u>

Mr. Mora stated that staff is seeking approval for Change Order 2 for Bid No. 25- 05 for city-wide miscellaneous concrete and drainage improvements, Phase 3. The change order is to rehabilitate 2 wastewater brick manholes located within the installation of the concrete drainage flume. The revised contract price and time is \$1,564,489.13 and 204 calendar days.

Motion made by Commissioner Alarcon to approve the resolution authorizing the Mayor to execute Change Order No. 2 for the Standard Form of Agreement between City and Contractor, Donald Hubert Construction Co., for City-Wide Misc. Concrete and Drainage Improvements-Phase 3, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez, Fugate voting "FOR".

12. Consideration and approval of a resolution authorizing the City to submit an application to the FEMA Hazard Mitigation Grant Program, Hurricane Beryl Grant (DR-4798) requesting funding for a new generator at Fire Station #2 with an anticipated cash match; naming the Fire Chief as the grant administrator. (Fire Chief).

Mr. James Creek, Fire Department, stated that the current Fire Department's Station 2 generator was manufactured on February 6, 2004, making it over 21 years old. The new generator will be used for powering the station's utilities, apparatus, radio systems, and equipment in the event of a loss of power. Hurricane Beryl HMGP4798 grant requires the city to provide a 25% match of \$4,743.11. The remaining \$14,229.33 would be provided through general fund resources. The grant is a reimbursement-type grant. Staff is requesting \$18,972.44 in costs for the new generator.

Motion made by Commissioner Lopez to approve the resolution authorizing the City to submit an application to the FEMA Hazard Mitigation Grant Program, Hurricane Beryl Grant (DR-4798) requesting funding for a new generator at Fire Station #2 with an anticipated cash match; naming the Fire Chief as the grant administrator, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Hinojosa, Alarcon, Lopez, Alvarez, Fugate voting "FOR".

13. Consideration and approval of a resolution authorizing the City to submit an application to the FEMA Hazard Mitigation Grant Program, April 2024 Severe Storms Grant (DR-4781) requesting funding for a new generator at Fire Station #2 with an anticipated cash match; naming the Fire Chief as the grant administrator. (Fire Chief).

Mr. Creek stated that the severe storms HMGP4781 grant requires the city to provide a 25% match of \$4,743.11. The remaining \$14,229.33 would be provided through general fund resources. The grant is a reimbursement-type grant. Staff request \$18,972.44 in costs for the new generator.

Motion made by Commissioner Lopez to approve the resolution authorizing the City to submit an application to the FEMA Hazard Mitigation Grant Program, April 2024 Severe Storms Grant (DR-4781) requesting funding for a new generator at Fire Station #2 with an anticipated cash match; naming the Fire Chief as the grant administrator, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Alarcon, Lopez, Alvarez, Hinojosa, Fugate voting "FOR".

14. <u>Discuss and consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XI-Business Regulations, Article 2-Ambulance Service, Section 28-Ambulance Billing Rates for Services Provided by</u>

### the City of Kingsville Ambulance Service, providing for revisions to rates. (Fire Chief).

Mr. Creek stated that the Kingsville Fire Department respectfully requests the City Commission's approval to adjust our EMS billing rates to align with current state standards. Our new billing company, Emergicon, has conducted an analysis of emergency medical service billing practices throughout Texas and found our current rates have fallen significantly below the state average. The Kingsville Fire Department recommends that the City Commission approve the proposed comprehensive fee schedule revision for emergency medical services.

Commissioner Lopez asked when the last time it was increased. Mr. Creek responded in 2016.

Introduction item.

15. <u>Discuss and consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to accept and expend grant funding from the Ed Rachal Foundation for salaries and park filed improvements.</u> (authorizing resolution #2024-95 approved 11/25/24) (Parks Director).

Introduction item.

16. <u>Discuss and consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to accept and expend grant funding from StoneGarden for Police overtime, portable radios, and vehicle maintenance. (authorizing resolution #2025-14 approved 1/27/25) (Police Chief).</u>

Introduction item.

## 17. Consideration and approval of reallocation of UF ARP Fund money from the water meter project to GF ARP Fund for the animal shelter project. (Purchasing Manager).

Mr. Sosa stated that this item authorizes the approval of a Budget Amendment for \$100,000.00 to cover Kennels for the new Animal Shelter in the Health Building Line Item. Staff is requesting a budget amendment to cover the shortfall for the kennels and fencing installation at the new Animal Shelter. The construction of the building has been completed, along with the ordering of the new kennels. in addition, funding will cover the expense of the kennels and exterior fencing of the shelter to finalize the project. Staff is requesting the reallocation of funds to be transferred from UF ARP Fund Budget 125-5-6001-54300 to GF ARP Fund Budget-Health Building 121-5-4400-71300 for \$100,000.00. It is recommended that the City Commission approve the Budget Amendment for the Health Department Animal Shelter Project, as per staff recommendation.

Motion made by Commissioner Alvarez to approve the reallocation of UF ARP Fund money from the water meter project to GF ARP Fund for the animal shelter project, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".

18. <u>Discuss and consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to reallocate Utility Funds ARP funding for the water meter project to General Fund ARP funding for the animal shelter project.</u> (Purchasing Manager).

Introduction item.

19. <u>Consideration and approval of a resolution nominating certain person(s) as candidates(s) for election to the Board of Directors for the Kleberg County Appraisal District due to a vacancy.</u> (City Attorney).

Motion made by Commissioner Alvarez to nominate Mr. Bill Colston, Jr. to the Board of Directors for the Kleberg County Appraisal District due to a vacancy, seconded by Commissioner Lopez and Commissioner Alarcon. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez, Fugate voting "FOR".

At this time, Mayor Fugate reconvened the meeting into closed session to reinstate the executive session item at 6:08 p.m.

Mayor Fugate reconvened the meeting into open session at 6:29 p.m.

#### VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at  $\underline{6:29}$  p.m.

Sam R.	Fugate,	Mayor	

#### **ATTEST:**

Mary Valenzuela, TRMC, City Secretary

#### **APRIL 21, 2025**

A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, APRIL 21, 2025, IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 3:00 P.M.

#### **CITY COMMISSION PRESENT:**

Sam R. Fugate, Mayor Edna Lopez, Commissioner Norma N. Alvarez, Commissioner Hector Hinojosa, Commissioner Leo Alarcon, Commissioner

#### **CITY STAFF PRESENT:**

Charlie Sosa, Interim City Manager Mary Valenzuela, City Secretary Courtney Alvarez, City Attorney Leticia Salinas, Accounting Manager Diana Gonzales, Human Resources Director Deborah Balli, Finance Director Nick Chapa, IT

#### I. Preliminary Proceedings.

#### **OPEN MEETING**

Mayor Fugate opened the meeting at 3:00 p.m. with all five commission members present.

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

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

#### MINUTES OF PREVIOUS MEETING(S)

None.

- II. Public Hearing (Required by Law).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, Proposed Development Report; Accounting & Finance – Financial Services - Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works-Building Maintenance, Construction Updates; Park Şervices - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time."

Mr. Charlie Sosa, Interim City Manager, gave a brief update on the streets.

Ms. Courtney Alvarez, City Attorney, reported that the next commission meeting is scheduled for Monday, April 28, 2025.

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

Comments on all agenda and non-agenda items.

Mr. Joel Saenz, 307 W. Ailsie, commented that six people who have ownership of commercial buildings within the community were not advised about zoning changes or spot zoning changes in the community. This building was occupied for numerous years, which is located on the corner of 6th Street & King. The owner of this building has decided that he is going to retire and has rented the building to someone who would like to have a tint shop. The gentleman with the tint shop has been told that he would need to pay \$250 for a zoning variance, \$250 for an occupancy permit and an additional \$200 for a permit to change the name from the previous owner to the new owner plus whatever the city would charge to have an electrician to check the meters. No meter service will be changed, and the building will be as is. All the previous owner will do is give the keys to the new owner so that the new owner can start doing work. Mr. Saenz further commented that the owner was not notified of any zoning changes, and it he had been notified, he would have notified the new renter. He further commented that people are tired of not being able to rent their buildings to anyone. Nothing will be changed, simply doing window tint.

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#### 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)

None.

#### REGULAR AGENDA

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

- VI. Items for consideration by Commissioners.4
  - 1. <u>Discuss and consider out-of-state travel for the Mayor and staff to Washington, DC, from April 27-29, 2025, for military relations meetings. (Mayor Fugate)</u>

No discussion or action taken on this item.

2. Executive Session: Pursuant to Section 551.074, of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the employment and duties of the City Manager position. (Mayor Fugate).

Mayor Fugate announced the executive session and convened the meeting into closed session at 3:06 p.m.

Mayor Fugate convened the meeting into open session at 5:00 p.m.

3.	<u>Discuss</u>	and	consider	giving	direction	to	staff	regarding	the	Citv	Manager
pos	sition. (Ma	ayor	Fugate).								

Motion made by Commissioner Hinojosa to extend the search for an additional 90 days and have the position of the City Manager opened until filled, and ask the search firm to start advertising, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Fugate voting "FOR". Lopez "AGAINST".

#### VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at  $\underline{5:05}$  p.m.

Sam R.	Fugate,	Mayor	

#### ATTEST:

Mary Valenzuela, TRMC, City Secretary

## **PUBLIC HEARING(S)**

## **PUBLIC HEARING #1**

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



#### **MEMO**

Date:

April 17th, 2025

To:

Charlie Sosa (Interim City Manager)

From:

Erik Spitzer (Director of Planning and Development Services)

**Subject:** 

The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor to re-zone the parcel of land located at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385)

17385).

Summary: Jose Flores and Jaime Flores, Applicants/Owners, approached the Planning Department on February 20<sup>th</sup>, 2025, requesting approval of re-zoning the parcel of land located at 620 E Alice from R1 (Single Family District) to C2 (Retail District) to support re-opening a tortilla factory that was open for ~ 50 years. The property has been vacant for 3 years and is located in the city's Historic District.

**Background:** 620 E Alice was recently purchased after remaining vacant for approximately 3 years. It is currently zoned R1 (Single Family District); adjacent parcels of land are currently zoned R1 (Single Family District). Parcels of land located 2-3 blocks away are zoned C1 (Neighborhood Service District), C2 (Retail District), C3 (Central Business District) and C4 (Commercial District). See attached zoning slides in the agenda packet.

**Discussion**: In reading the attached "Land Use Regulation for Texas Cites," article dated February 11, 2016, located within the agenda packet, on page 2 the author of the article states, "Two pitfalls that cities must be careful to avoid in zoning are "spot zoning" and "contract zoning." "Spot zoning" is the illegal practice of zoning a single tract of land in a manner that is incompatible with the surrounding area and in a manner that is incompatible with the city's zoning ordinance and comprehensive plan." Of note, the city does not have a comprehensive plan; we have an outdated 2008 Master Plan; (we have recently contracted with Halff Associates to apply for a grant to produce a new comprehensive plan for the City of Kingsville as soon as possible). Within the 2008 Master Plan, the area in the vicinity of 620 E Alice was designated as an R1 – Single Family District, as well as the current city ordinances.

Also within this article, the term, "nonconforming use" is discussed. "If property is previously rezoned for a specific use, and a zoning change occurs that negates the previous zoning, then the use of that property becomes a legal nonconforming use." "A city may include a provision in its zoning ordinance that terminates non-conforming uses after a set period of time following the zoning change (e.g., , 25 years) so that the property owner has an opportunity to recoup his investment in the nonconforming use over the normal life-span of the non-conforming structure."

Within the City of Kingsville Ordinances found in your agenda packet, the City of Kingsville defines "Nonconforming status" as "A nonconforming status shall exist under one of the following conditions:

- (A)
  (1) When a use does not conform to the regulations prescribed in the district in which it is located, and was lawfully existing and operating prior to the adoption of this article, or any amendment thereto which creates nonconformity, and where there has been no discontinuance of the use for a period of time exceeding six months or;
  - (2) When a structure does not conform to the regulation prescribed in the district in which it is located, and was lawfully existing and constructed prior to the adoption of this article, or any amendment thereto which creates nonconformity.
- (B) Maintenance permitted. A nonconforming building or structure may be maintained.
- (C) Repairs and alterations. Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.
- (D) Additions, enlargements and moving.
  - (1) A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or removed to another location except as provided by subdivision (2) of this division hereof.
  - (2) A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area, or yard regulations may be added to or enlarged or moved to a new location on the lot upon a permit authorized by the Board of Adjustment, which may issue, provided that the Board of Adjustment, after hearing, shall find:
    - (a) The addition to, enlargement of, or moving of the building will be in harmony with one or more of the purposes of this article as stated in § 15-6-2 hereof, and shall be in keeping with the intent of this article.
    - (b) The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.
    - (c) LOT shall mean that parcel of land owned at the time the use became nonconforming and upon which the use existed, whether defined in one or more legal descriptions provided that all legal descriptions are contiguous.
- (E) Alteration where parking insufficient. A building or structure lacking sufficient automobile parking space in connection therewith as required by this article may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this article for such alteration or enlargement.
- (F) Restoration of damaged buildings. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure, or part thereof, which existing at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of six months and is diligently prosecuted to completion and is not located in an overlay zone.
- (G) Six month vacancy. A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of six months, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.
- (H) Continuation of use. The occupancy of a building or structure by a nonconforming use, existing at the time this Title became effective, may be continued.

- (I) Occupation within six months. A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of six months after the use became nonconforming.
- (J) Change of use. The nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.
- (K) Nonconforming use of land. The nonconforming use of land, existing at the time this article became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of six months or more, any future use of such land shall be in conformity with the provisions of this article.

In reading the attached American Planning Association Texas Chapter, A Guide to Urban Planning in Texas Communities, 2013 article, "Chapter 4 Zoning Regulations in Texas," "In 1987, the sections of Article 1011 were codified in Chapter 211 of the Texas Local Government Code. Chapter 211 currently provides that the zoning regulatory power is "for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance."

In addition, "a violation of a zoning ordinance is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the city."

Moreover, "A party challenging the zoning ordinance must show that the ordinance is arbitrary or unreasonable because it bears no substantial relationship to the public health, safety, morals or general welfare."

With respect to equal protection, "An equal protection challenge may be brought if an individual can demonstrate that the city treated the individual differently from other similarly situated individuals without any reasonable basis."

Also, the article addresses spot zoning: "Some zoning changes may be challenged if the rezoning is deemed to be "Spot Zoning". ""Spot Zoning" is the process of singling out a small tract of land and treating it differently from similar surrounding land "without any showing of justifiable changes in conditions." In *City of Pharr v. Tippitt*, the Texas Supreme Court identified the following factors to be reviewed in determining whether a rezoning is Spot Zoning:

- 1. Whether the City has disregarded the zoning ordinance or long-range master plans and maps that have been adopted by ordinance;
- 2. The nature and degree of an adverse impact on surrounding properties; i.e. is the change substantially inconsistent with surrounding properties; and,
- 3. Whether the use of the property as presently zoned is suitable or unsuitable:
- 4. Whether the rezoning ordinance bears a substantial relationship to the public health, safety, morals or general welfare or protect and preserve historical and cultural places and areas."

Lastly, the City Attorney provided a memo on March 24th, 2025 that addresses this re-zone request. In the memo, the attorney states that "...the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location." The attorney also states "...so, if the same proposed use were to have a detrimental impact on the valuation of surrounding properties, then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades." The attorney states "While times have changed during the last fifty years the factory operated at this site, the business' historical significance to the community should not be overlooked."

The Planning and Zoning Commission meeting was held on April 16th, 2025, with 6 of 7 members in attendance.

Members deliberated over the request to re-zone the parcel of land located at 620 E Alice from R1 (Single Family District) to C2 (Retail District) to support reopening a tortilla factory that was open for ~ 50 years. 25 Notice Letters were sent out to neighbors within the 200 feet buffer and the city has received no feedback as of today.

The Planning and Zoning Commission board members voted to recommend approval of the re-zone of a parcel of land located at 620 E Alice from R1 (Single Family District) to C2 (Retail District) to support reopening a tortilla factory. A recorded vote of all members present was taken and board members Steve Zamora, Larry Garcia, Rev. Idotha Battle, Debbie Tiffee, Mike Klepac and Krystal Emery all voted "YES."

The meeting was adjourned at 7:10 p.m.

The department recommends approval.

#### Erik Spitzer

Director of Planning and Development Services



## CITY OF KINGSVILLE PLANNING AND ZONING DIVISION MASTER LAND USE APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TYPE)
Project Address 620 E Alice Nearest Intersection 10th St
(Proposed) Subdivision NameLotBlockBlock
Legal Description 3ed, Block 22, Lot 24-27 (famusa Tortilla factory)
Existing Zoning Designation P Future Land Use Plan Designation C-2
OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)
Applicant/Authorized Agent Jose and Jaine Flores Phone 361 - 215 - 9449
Email Address (for project correspondence only):
Mailing Address 427 W Ave A city Kingsville State Top zip 78363
Property Owner Jaime Flores Phone 361-215-9449 FAX
Email Address (for project correspondence only):
Mailing Address 427 W Ave A City Kingsville State TY Zip 78363
5.57
Select appropriate process for which approval is sought. Attach completed checklists with this application.
Annexation Request No Fee Preliminary Plat Fee Varies
( Administrative Association (70 A)
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies  Comp. Plan Amendment Request \$250.00 Minor Plat
Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00
Comp. Plan Amendment Request       \$250.00       Minor Plat       \$100.00         X Re-zoning Request       \$250       Re-plat       \$250.00
Comp. Plan Amendment Request       \$250.00       Minor Plat       \$100.00         X Re-zoning Request       \$250       Re-plat       \$250.00         SUP Request/Renewal       \$250       Vacating Plat       \$50.00
Comp. Plan Amendment Request       \$250.00       Minor Plat       \$100.00         X Re-zoning Request       \$250       Re-plat       \$250.00         SUP Request/Renewal       \$250       Vacating Plat       \$50.00
Comp. Plan Amendment Request \$250.00  Re-zoning Request \$250  SUP Request/Renewal \$250  Zoning Variance Request (ZBA) \$250  PUD Request \$250  PUD Request \$250  Subdivision Variance Request \$25.00 ea
Comp. Plan Amendment Request \$250.00    Re-zoning Request \$250   Re-plat \$250.00   SUP Request/Renewal \$250   Vacating Plat \$50.00   Zoning Variance Request (ZBA) \$250   Development Plat \$100.00   PUD Request \$250   Subdivision Variance Request \$25.00 ea    Please provide a basic description of the proposed project:   Would like to open Famosa Tortilla factory but its
Comp. Plan Amendment Request \$250.00  Re-zoning Request \$250  SUP Request/Renewal \$250  Zoning Variance Request (ZBA) \$250  PUD Request \$250  PUD Request \$250  Subdivision Variance Request \$25.00 ea
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Comp. Plan Amendment Request \$250.00    Re-zoning Request \$250   SUP Request/Renewal \$250   Zoning Variance Request (ZBA) \$250   PUD Request \$250   PUD Request \$250   Subdivision Variance Request \$25.00 ea    Please provide a basic description of the proposed project:   Would like to open Famosa Tottila factory but its
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Comp. Plan Amendment Request \$250.00    Re-zoning Request   \$250   SUP Request/Renewal   \$250   Zoning Variance Request (ZBA)   \$250   PUD Request   \$250   Pub Request   \$250   Pub Request   \$250   Subdivision Variance Request   \$25.00 ea    Please provide a basic description of the proposed project:   Would like to open famosa Tortila factory but its   Zoned R   The Building was used as Tortila factory   For many years   Rezont film R   The Building was used as Tortila factory   Rezont film R   The Building was used as Tortila factory   Rezont film R   The Building was used as Tortila factory   Rezont film R   The Building was used as Tortila factory   Rezont film R   The Building was used as Tortila factory   Rezont film R   The Building was used as Tortila factory   Rezont film R   The Building was used as Tortila factory
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Comp. Plan Amendment Request \$250.00    Re-zoning Request   \$250   SUP Request/Renewal   \$250   Zoning Variance Request (ZBA)   \$250   PUD Request   \$250   PUD Request   \$250   Pub Request   \$250   Subdivision Variance Request   \$25.00 ea    Please provide a basic description of the proposed project:   Would like to open famosa Tortila factory but its   Zoned R   The Building was used as Tortila factory   For many years   Rezont for the purposes of this application. I further certify that I have read and examined this application and know the same to be
Comp. Plan Amendment Request \$250.00    Re-zoning Request \$250   Re-plat \$250.00   SUP Request/Renewal \$250   Vacating Plat \$50.00   Zoning Variance Request (ZBA) \$250   Development Plat \$100.00   PUD Request \$250   Development Plat \$100.00   PUD Request \$250   Development Plat \$100.00   PUD Request \$250   Subdivision Variance Request \$25.00 ea    Please provide a basic description of the proposed project:   Would like to open Famosa Tortilla Factory but its   Zoned RI. The Building was used as a Tortilla Factory     Publication Richard Factory   Publication Richard Factory     Publication Richard Factory   Publi
Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250 Re-zoning Request \$250 Re-plat \$250.00 SUP Request/Renewal \$250 Vacating Plat \$50.00 Zoning Variance Request (ZBA) \$250 Development Plat \$100.00 PUD Request \$250 Subdivision Variance Request \$25.00 ea  Please provide a basic description of the proposed project:    Would
Comp. Plan Amendment Request \$250.00    Re-zoning Request \$250   Re-plat \$250.00   SUP Request/Renewal \$250   Vacating Plat \$50.00   Zoning Variance Request (ZBA) \$250   Development Plat \$100.00   PUD Request \$250   Development Plat \$100.00   PUD Request \$250   Subdivision Variance Request \$25.00 ea    Please provide a basic description of the proposed project:   Would liker to open Famosa Tortilla factory but its

This form available on our website: https://www.cityofkingsville.com/departments/planning-and-development-services/

### Kleberg CAD Property Search

#### ■ Property Details

Account

**Property ID:** 

17385

Geographic ID: 100502224000192

Type:

R

Zoning: R1

**Property Use:** 

Location

Situs Address:

620 E ALICE

Map ID:

C1

Mapsco:

**Legal Description:** 

3RD, BLOCK 22, LOT 24-27, (FAMOSA TORTILLA FACTORY)

Abstract/Subdivision:

S005

Neighborhood:

Owner

Owner ID:

15566

Name:

LA FAMOSA DRC INC

Agent:

Mailing Address:

620 E ALICE AVE

KINGSVILLE, TX 78363-4637

% Ownership:

100.0%

**Exemptions:** 

For privacy reasons not all exemptions are shown online.

#### **■** Property Values

improvement nomesite value:				\$0 (+)
وران المراجع المستخدم المستخصص والمراجع المتعادي				
Improvement Non-Homesite Value:			\$127	130 (+)

Improvement Non-Homesite Value: \$127,130 (+)

Land Homesite Value: \$0 (+)

Land Homesite Value: \$0 (+)

Land Non-Homesite Value: \$15,000 (+)

Agricultural Market Valuation: \$0 (+)

Market Value: \$142,130 (=)

Agricultural Value Loss: 

\$0 (-)

Appraised Value: \$142,130 (=)

HS Cap Loss: ② \$0 (-)

Circuit Breaker: 9 \$0 (-)

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.

### ■ Property Taxing Jurisdiction

Owner: LA FAMOSA DRC INC %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$142,130	\$142,130	\$1,097.06
СКІ	CITY OF KINGSVILLE	0.770000	\$142,130	\$142,130	\$1,094.40
SKI	KINGSVILLE I.S.D.	1.410400	\$142,130	\$142,130	\$2,004.60
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$142,130	\$142,130	\$93.37
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$142,130	\$142,130	\$0.00

Total Tax Rate: 3.017965

**Estimated Taxes With Exemptions: \$4,289.43** 

Estimated Taxes Without Exemptions: \$4,289.43

### **■** Property Improvement - Building

Type: COMMERCIAL Living Area: 520.0 sqft Value: \$22,380

Туре	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	RS2A	1970	520
OP1	OPEN PORCH BASIC (20%)	*	1970	120
CON	CONCRETE SLAB COMMERCIAL	.*	1970	3554

Type: COMMERCIAL Living Area: 3480.0 sqft Value: \$104,750

Type	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	IN2A	1970	3480

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Type	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
F1	F1	0.32	14,000.00	100.00	140.00	\$15,000	\$0

### ■ Property Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$127,130	\$15,000	\$0	\$142,130	\$0	\$142,130
2023	\$129,330	\$15,000	\$0	\$144,330	\$0	\$144,330
2022	\$113,590	\$7,000	\$0	\$120,590	\$0	\$120,590
2021	\$121,540	\$7,000	\$0	\$128,540	\$0	\$128,540
2020	\$52,010	\$7,000	\$0	\$59,010	\$0	\$59,010
2019	\$59,460	\$7,000	\$0	\$66,460	\$0	\$66,460
2018	\$61,500	\$7,000	\$0	<b>\$68,5</b> 00	\$0	\$68,500
2017	\$56,110	\$7,000	\$0	\$63,110	\$0	\$63,110
2016	\$54,510	\$7,000	\$0	\$61,510	\$0	\$61,510

#### WRITTEN CONSENT TO USE OF SIMILAR ENTITY NAME

## of LA FAMOSA DRC, INC. a Texas corporation

This written consent is made and tendered in accordance with 1 Texas Administrative Code 79.42 to provide unequivocal consent to Jose L. Flores and/or Jaime Antonio Flores, or either of them, their agents, and assigns, the right to use the name "LA FAMOSA DRC" in the creation of any other entity authorized by the laws of any political subdivision of the United States, including but not limited to the creation of their planned limited liability company to be created under the laws of the State of Texas or

IN WITNESS WHEREOF, the undersigned officer authorized by the Company in accordance with a unanimous resolution of all shareholders of the Company, executes this written consent in the presence to be effective immediately.

Rosa Maria Torres, its Vice President

COUNTY OF Kleben

2 2

This instrument was acknowledged before me on bours 17, 2025, by Rosa Maria Flores, Vice President of La Famosa DRC, LLC, a Texas corporation on behalf of said corporation.

ANTONIO ARREDONDO
Notary Public, State of Texas
Comm. Expires 05-10-2026
Notary ID 131562673

Notary Public, State of Texas
My commission expires: 5/10/74



## CERTIFICATE OF FILING OF

La Famosa DRC, LLC File Number: 805863291

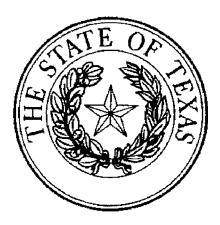
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/17/2025

Effective: 01/17/2025



Jane Melson

Jane Nelson Secretary of State 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													
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	C3	C4	11	12	Ag
Dwelling, one-family det.	P	Р		Р	Р	Р	Р	Р	Р				Р
Dwelling, one-family att.		Р	Р	Р	Р		S	P					Р
Dwelling, two-family		Р		Р	Р		S	Ρ				ŕ	
Dwelling, multi- family				Р	Р		Ρ	Ρ	Р		-		
Tiny Homes		Р	Р			Р							

Bakery or		-				Р	Р	Р	P			
confectionery shop,												
retail sales (less than												
2,500 square feet)												
Bakery, wholesale						ි. වේ.	ြတ	Р	Р			
Brewpub					;		P	S	Р	Р	Р	
Building materials							S	Р	Р	S		
sales	•											
Cafeteria or						S	Þ	ָּם	P	P	P	
restaurant											(1)	
Camera shop						S	Р	Р	P			
Laundry or self-				-		S	P	Р	Р			
service laundry shop												
(limited area)												
Clinic, medical,						S	Р	Р	Р	Р		
dental, chiropractor,			•									
optometrist or other												
office of licensed									:			
Health related												
profession				<u> </u>						· 		
Drug store or						Р	Р	Р	Р			
pharmacy												

#### Land Use Regulation for Texas Cities

## By Brad Young<sup>1</sup> Bickerstaff Heath Delgado Acosta LLP February 11, 2016

#### I. Zoning

A city's zoning authority is governed by chapter 211 of the Texas Local Government Code. Under the Code, a municipality may adopt zoning regulations for "the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural significance." The municipality may also amend, repeal or otherwise change existing zoning regulations or boundaries.

#### A. What goes into a zoning ordinance?

A city's zoning ordinance will contain the city's preferences for use of land in all areas within the city limits. Chapter 211 of the Local Government Code requires all cities to adopt their zoning regulations in accordance with a Comprehensive Plan.<sup>4</sup> The comprehensive plan is a document that sets forth the city's vision for land use in the future. Most cities adopt their comprehensive plan after receiving input from various citizens' groups and other stakeholders. If a city wants to amend its zoning ordinance in a way that conflicts with the comprehensive plan, the city must first amend the comprehensive plan before it can amend its zoning ordinance. It is prudent for a city to review and update its comprehensive plan periodically.

Most zoning ordinances contain the same basic elements: (1) general definitions; (2) land use definitions; (3) land use districts; (4) administrative provisions; (5) development standards; and penalty and enforcement provisions. Cities have a fair amount of discretion in determining what land uses they wish to allow in various districts. For example, most cities do not allow industrial uses to locate in a single-family residential district, or a truck stop to locate in a district that is reserved for hospital and medical uses. Some cities allow for special districts (often called "Planned Development Districts") that provide even greater flexibility for land use than is available in a normal zoning district. For example, a planned development district may provide

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<sup>&</sup>lt;sup>2</sup> Tex. Loc. Gov't Code § 211.001.

<sup>3</sup> Id. at § 211.002.

<sup>4</sup> Id. at §211.004.

for a mix of residential, retail, and professional office uses on terms and conditions that the city includes in the planned development district ordinance.

Two pitfalls that cities must be careful to avoid in zoning are "spot zoning" and "contract zoning." "Spot zoning" is the illegal practice of zoning a single tract of land in a manner that is incompatible with the surrounding area and in a manner that is incompatible with the city's zoning ordinance and comprehensive plan. "Contract zoning" is an illegal agreement between the city and a property owner to adopt a certain zoning classification in exchange for certain promises by the property owner. Because contract zoning usurps the city council's legislative function, the council cannot enter into such a contract.

#### B. Planning and Zoning Commission

Most cities that have a zoning ordinance also have a Planning and Zoning Commission. <sup>5</sup> The commission is an advisory body appointed by the city council that advises the council on requests for changes to the zoning ordinance. A request for rezoning may come from a property owner, or the city council or commission may initiate rezoning on its own initiative. Generally, a request for rezoning will involve the classification of a certain tract of property (e.g., a request to rezone property from multi-family residential to retail). But the commission also reviews and advises the council on requests for changes to zoning regulations (e.g., the creation of a new type of zoning district or an amendment to the land use definitions in the zoning ordinance).

If a city has a Planning and Zoning Commission, the city council generally cannot make changes to the zoning ordinance without first seeking the review and recommendation of the commission.

#### C. Procedural Requirements

Prior to making a rezoning decision, the city council considers the recommendations of city staff and the planning and zoning commission (if there is one). In addition, section 211.006 of the Texas Local Government Code requires the city to publish advance notice in the newspaper, mail notice to surrounding property owners, and hold a public hearing at which "parties in interest and citizens" have an opportunity to be heard.

In some cases, the receipt of written protests by interested landowners will require the council to approve the change by more than a simple majority in order for the zoning change to become effective. If the owners of land of at least twenty percent of either: (1) the area of the lots or land covered by the proposed zoning change; or (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area file a protest, then the council must approve the rezoning by an affirmative vote of at least three-fourths of all members of the governing body. The protest must be in writing and signed by the property owners. Note that the area of streets and alleys is included in determining whether the protestors have met the twenty percent threshold.<sup>6</sup>

<sup>5</sup> Id. at § 211.007.

<sup>6</sup> Id. at § 211.006.

Ultimately, however, the council has discretion as a legislative body to make the decision of whether to rezone. Once the council has denied a rezoning application, it is common for the zoning ordinance to impose a waiting period of one year or more before an applicant can file a new zoning application with the city for the same parcel of land. Depending on the ordinance, however, the council may have specific authority to waive the waiting period.

#### D. Zoning Board of Adjustment

A city's ordinances also may provide for the creation of a Zoning Board of Adjustment. <sup>7</sup> Like the Planning and Zoning Commission, the Board of Adjustment consists of members appointed by the city council. Unlike the commission, the Board of Adjustment does not make recommendations to the city council. Instead, the Board acts as a quasi-judicial body. Generally, the Board has authority over two main types of decisions: (1) whether to grant a variance from the city's zoning regulations; and (2) consideration of appeals from decisions of city administrative officials. Appeals from decisions of the Board of Adjustment do not go to the city council; they go directly to the district court.<sup>8</sup>

When considering whether to grant a variance, the Board must make specific findings regarding the request, including: (1) that the variance is not contrary to the public interest; (2) whether due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship to the property owner; and (3) whether by granting the variance spirit of the ordinance will be observed and substantial justice will be done. Note that "unnecessary hardship" does not include a hardship created by the property owner. Further, the hardship must be unique to the property. Finally, the Board cannot grant a variance that would allow a land use otherwise prohibited by the zoning ordinance. Typical variances include items like additions or reductions to height, square footage, or setback requirements. But the Board could not, for example, approve a "variance" that would allow a commercial use in a zoning district zoned exclusively for residential uses.

Section 211.010 of the Texas Local Government Code also provides the exclusive procedure for a plaintiff to appeal a decision of a city administrative official:

- (a) [A]ny of the following may appeal to the board of adjustment a decision made by an administrative official:
  - (1) a person aggrieved by the decision; or
  - (2) any officer, department, board, or bureau of the municipality affected by the decision.

<sup>&</sup>lt;sup>7</sup> *Id.* at §§ 211.008 - 211.011.

<sup>8</sup> Id. at §§ 211.011.

(b) The appellant *must* file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal *must* be filed within a reasonable time as determined by the rules of the board...<sup>9</sup>

This administrative process is the sole procedure through which the district court may obtain jurisdiction to review the decision of an administrative official. "With regard to a complaint of a Void permit issued under a valid ordinance . . . a party aggrieved by his decision must exhaust his administrative remedy by appealing to the Board of Adjustment before he may sue in a court for redress." A suit not brought pursuant to the statutory provisions of sections 211.010 and 211.011 of the Texas Local Government Code is an impermissible collateral attack on the administrative official's decision. When a party has failed to exhaust his or her administrative remedies, the trial court lacks subject matter jurisdiction over the appeal. 12

#### E. Moratorium on Continued Development

A moratorium is a tool that permits a city to give itself some "breathing room" to review and update its land use regulations. The Texas Supreme Court has held that a moratorium does not constitute a taking *per se* under the Texas Constitution.<sup>13</sup> Out of an apparent concern that cities were overreaching in their use of moratoria, however, the Texas Legislature has heavily regulated the use of moratoria under Chapter 212 of the Texas Local Government Code.

For example, the Legislature has imposed fairly stringent notice and hearing requirements on cities that seek to impose moratoria on development. Before the city can impose a moratorium on property development, it must conduct a public hearing that provides municipal residents and affected parties the opportunity to be heard. The city must publish notice of the hearing in a newspaper of general circulation on the fourth day before the date of the hearing. Beginning on the fifth day after the city publishes notice, a temporary moratorium will automatically take effect. During the period of the temporary moratorium, the city may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property to which the moratorium applies.<sup>14</sup>

<sup>&</sup>lt;sup>9</sup> Id. at § 211.010 (a), (b) (emphasis added).

<sup>&</sup>lt;sup>10</sup> City of Dallas v. Gaechter, 524 S.W.2d 400, 405 (Tex.Civ.App. - Dallas 1975, writ dism'd).

<sup>&</sup>lt;sup>11</sup> City of San Antonio v. El Dorado Amusement Co., 195 S.W.3d 238, 250 (Tex. App. – San Antonio 2006, pet. denied); see also Horton v. City of Smithville, No. 03-07-00174-CV, 2008 WL 204160, at \*4 (Tex.App.–Austin Jan. 25, 2008, pet. denied) (mem. op.) ("Texas Local Government Code sections 211.009 and 211.110 provide administrative remedies that must be exhausted before such matters may be brought to the courts for determination.").

<sup>12</sup> El Dorado Amusement Co., 195 S.W.3d at 250.

<sup>13</sup> Sheffield Dev. Co. v. City of Glenn Heights, I40 S.W.3d 660, 679-80 (Tex. 2004).

<sup>&</sup>lt;sup>14</sup> TEX. LOC. GOV'T CODE § 212.134(a)-(c).

If the city has a planning and zoning commission, the city must hold a second public hearing before the commission. If the city does not have a planning and zoning commission, then the city must hold two hearings before the city council. The city must make a final determination of whether to impose the moratorium within twelve days after the date of the public hearing. In addition, the council must give at least two readings of the ordinance adopting the moratorium, separated by at least four days, before the ordinance can take effect. <sup>15</sup>

Other requirements for imposing a moratorium can be found in sections 212.131 – 212.139 of the Texas Local Government Code.

#### II. Subdivision

An additional source of a city's land use regulations is through the city's subdivision ordinance. The subdivision of land is the first step in the process of development. The distribution and relationship of residential, nonresidential and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors that influence and determine a community's quality of life and overall character. A community's quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. Subdivision regulations are intended to encourage the development of a quality municipal environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources.

Unlike zoning, which only applies within the city's corporate limits, cities have the authority to extend their subdivision regulations by ordinance to include their extraterritorial jurisdictions (ETJs).<sup>17</sup> In fact, with certain exceptions, state law requires an owner of a tract of land located in the city limits or extraterritorial jurisdiction (ETJ) of a city to file and record a plat any time the property owner subdivides the tract into two or more parcels.<sup>18</sup>

A property owner must file the plat with the city for review and approval. If the city has a planning and zoning commission, then the commission generally is the body that has the authority to review and approve plats. However, the city may provide by ordinance that the city

<sup>15</sup> Id. at § 212.134(d)-(f).

<sup>16</sup> Id. at § 212.001, et seq.

<sup>17</sup> Id. at § 212,003.

<sup>18</sup> Id. at § 212.004.

council must approve plats in addition to the commission.<sup>19</sup> Note that the authority of the commission and/or the city council to review and approve plats is virtually ministerial – section 212.005 provides that the reviewing body "must approve a plat or replat . . . that satisfies all applicable regulations." Further, a plat is considered approved of the city does not act on the plat within thirty days after the plat is filed (or up to an additional thirty days if the ordinance requires additional review and approval by the city council).<sup>20</sup>

A city's real land use authority relating to subdivisions arises not in the procedures, but in the text of the city's subdivision ordinance. A typical subdivision ordinance will include: (1) definitions; (2) design standards; (3) requirements for public sites and open spaces; (4) improvements required prior to acceptance by the city; (5) procedures for filing; and (6) enforcement and penalties. The subdivision ordinance may require proper zoning prior to approval of a plat. The ordinance also may divide the platting process into multiple steps. For example, the ordinance may first require approval of a less detailed, preliminary plat before the applicant can submit a final plat that the applicant ultimately will file with the county following city approval. Generally, the ordinance will require that all subdivision plats be prepared and sealed by a professional and licensed engineer.

If a subdivision plat includes multiple properties, the developer may include (and the city may require) streets, parks, sidewalks, utility rights-of-way, and other public facilities that the developer intends to dedicate to the city. Once the city accepts the dedication, the city then accepts responsibility for maintaining such public facilities. But just because a city has approved a plat that includes public facilities does not mean that the city automatically becomes responsible for all of the parks, roads and other facilities included on the plat. A dedication of public facilities does not become official until the city council formally accepts the dedication.

#### III. Annexation

A third method that cities use to control future growth and land use is targeted annexation. The procedures and requirements for annexation are found in Chapter 43 of the Texas Government Code. Because annexation will be addressed separately in this seminar, this paper does not include a detailed discussion of the annexation process.

# IV. Development Agreements (ETJ)

Section 212.172 of the Texas Local Government Code gives cities the ability to contract with landowners in the city's ETJ. The statute gives the parties broad discretion to determine the terms of the agreement, including the right to provide for terms regarding annexation:

The governing body of a municipality may make a written contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality to:

<sup>19</sup> Id. at §212.006.

<sup>&</sup>lt;sup>20</sup> Id. at §212.009.

- (1) guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality for a period not to exceed 15 years;
- (2) extend the municipality's planning authority over the land by providing for a development plan to be prepared by the landowner and approved by the municipality under which certain general uses and development of the land are authorized;
- (3) authorize enforcement by the municipality of certain municipal land use and development regulations in the same manner the regulations are enforced within the municipality's boundaries;
- (4) authorize enforcement by the municipality of land use and development regulations other than those that apply within the municipality's boundaries, as may be agreed to by the landowner and the municipality;
- (5) provide for infrastructure for the land, including:
  - (A) streets and roads;
  - (B) street and road drainage;
  - (C) land drainage;
  - (D) water, wastewater, and other utility systems;
- (6) authorize enforcement of environmental regulations;
- (7) provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties;
- (8) specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties; or
- (9) include other lawful terms and considerations the parties consider appropriate.<sup>21</sup>

<sup>&</sup>lt;sup>21</sup> Id. at § 212.172.

A municipality may not require an agreement under this statute as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally owned or municipally operated utility that provides any of those services.<sup>22</sup>

An ETJ Development Agreement must be in writing, contain an adequate legal description of the subject territory, be approved by both the city and the landowner, and be recorded in the real property records of all the counties in which the territory is located.

To some extent, the powers that the Legislature granted municipalities under section 212.171 mirror those in effect prior to 2003 under section 42.044 of the Local Government Code (Creation of Industrial District in Extraterritorial Jurisdiction). Pursuant to section 42.044, a municipality may enter into an annexation agreement through which the municipality agrees not to annex business property in a designated industrial district for a period up to fifteen (15) years. The term "industrial district" is defined to include its ordinary meaning in addition to any area where tourist-related businesses and facilities are located.<sup>23</sup> Although similar, section 42.044 is more restrictive than section 212.174. In addition to providing a wider menu of contract term options, section 212.171 does not require cities to designate an industrial district prior to entering into an agreement.

# V. Other Land Use Authority

Cities have other sources of land use authority sprinkled throughout the Texas statutes. This section briefly addresses three: (1) alcohol regulation; (2) regulation of sexually oriented businesses; and (3) tax increment financing.

#### A. Alcohol Regulation

Section 1.06 of the Texas Alcoholic Beverage Code (TABC) generally preempts local legislation of alcoholic beverages: "Unless otherwise specifically provided by the terms of this code the manufacture, sale, distribution, transportation, and possession of alcoholic beverages shall be governed exclusively by the provisions of this code." Similarly, section 109.57(b) of the Code provides: "It is the intent of the legislature that this code shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code, a governmental entity of this state may not discriminate against a business holding a license or permit under this code." Similarly, section 109.57(b) of the Code provides: "It is the intent of the legislature that this code shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code, a governmental entity of this state may not discriminate against a business holding a license or permit under this code."

In Dallas Merchant's & Concessionaire's Ass'n v. City of Dallas, 852 S.W.2d 489, 491-92 (Tex. 1993), the Texas Supreme Court held, "The Legislature's intent is clearly expressed in

<sup>22</sup> Id. at § 212.174.

<sup>&</sup>lt;sup>23</sup> Id. at § 42.044.

<sup>&</sup>lt;sup>24</sup> TEX. ALCO. BEV. CODE § 1.06.

<sup>&</sup>lt;sup>25</sup> Id. at § 109.57(b).

section 109.57(b) of the TABC - the regulation of alcoholic beverages is exclusively governed by the provisions of the TABC unless otherwise provided." The Attorney General has interpreted this language broadly, concluding that "to the extent that [an] ordinance purports generally to regulate the sale of all alcoholic beverages of whatever kind, it is preempted by section 109.57(b) of the Alcoholic Beverages Code."

The Code does provide a "grandfathering" exception, however, for certain municipal ordinances that were in effect before June 11, 1987:

Neither this section nor Section 1.06 of this code affects the validity or invalidity of a zoning regulation that was formally enacted before June 11, 1987, and that is otherwise valid, or any amendment to such a regulation enacted after June 11, 1987, if the amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee. For purposes of this subsection, "zoning regulations" means any charter provision, rule, regulation, or other enactment governing the location and use of buildings, other structures, and land.<sup>27</sup>

There is an additional exception from state preemption of local regulation of alcoholic beverages for local regulations that affect business that serve or sell alcohol in the same way that such regulations affect businesses that do not serve and sell alcohol. For example, the Supreme Court has indicated that an ordinance requiring all businesses with the same kind of premises to have a fire extinguisher would not violate section 109.57 of the TABC, but an ordinance that required alcohol-related businesses to have two fire extinguishers but only required all other businesses with the same kind of premises to have one would violate the statute. Similarly, an ordinance banning the sale of all beverages in glass containers would be permissible, but an ordinance that only banned the sale of alcoholic beverages in glass containers would not.

In addition, the Code provides two separate statutes through which a municipality may extend the hours of operation for the holders of a mixed beverage permit and a retail dealer's license (i.e, beer license) respectively. A city that has a population of less than 800,000, according to the last preceding federal census, or less than 500,000, according to the 22<sup>nd</sup> Decennial Census, may adopt an ordinance extending the hours for the sale of mixed beverages to 2:00 a.m. on any day.<sup>30</sup> Similarly, a city that has a population of less than 800,000, according to the last preceding federal census, or less than 500,000, according to the 22<sup>nd</sup> Decennial

<sup>&</sup>lt;sup>26</sup> Op. Tex. Att'y Gen. No. GA-0110, at 2 (2003).

<sup>&</sup>lt;sup>27</sup> TEX. ALCO. BEV. CODE § 109.57(c).

<sup>&</sup>lt;sup>28</sup> Dallas Merchant's, 852 S.W.2d at 492 n.5.

<sup>&</sup>lt;sup>29</sup> Op. Tex. Att'y Gen. No. GA-0110 at 4 (2003).

<sup>30</sup> Id. at § 105.03.

Census, may adopt an ordinance extending the hours for the sale of beer to 2:00 a.m. on any day "or any part of [such] extended hours." 31

Section 109.33 of the Code permits cities to prohibit the sale any alcoholic beverage within 300 feet of a church, public or private school, or public hospital. A city by charter or ordinance may prohibit the sale of beer in a residential area,<sup>32</sup> and a home rule city by charter may prohibit the sale of liquor in a residential area.<sup>33</sup> Finally, a city can regulate the location of: (1) a massage parlor, nude modeling studio, or other sexually oriented business; or (2) an establishment that derives 75 percent or more of the establishment's gross revenue from the onpremise sale of alcoholic beverages.<sup>34</sup>

# B. Sexually Oriented Businesses

Because the courts have determined that sexually oriented businesses engage in protected speech under the First Amendment of the United States Constitution, a city cannot outlaw sexually oriented businesses entirely. Nevertheless, cities have authority to regulate the location and operation of sexually oriented businesses, including, but not limited to, strip clubs, video arcades, and retailers that earn a large portion of their profits from the sale of pornography and related items. One source of such authority is Chapter 243 of the Texas Local Government Code. Among other powers, that chapter authorizes a city to: (1) restrict the location of sexually oriented businesses;<sup>35</sup> (2) prohibit sexually oriented businesses within a certain distance of a school, regular place of religious worship, residential neighborhood, or other specified land use the governing body of the municipality or county finds to be inconsistent with the operation of a sexually oriented business;<sup>36</sup> (3) regulate the density of sexually oriented businesses;<sup>37</sup> and (4) require that an owner or operator of a sexually oriented business obtain a license or other permit or renew a license or other permit on a periodic basis for the operation of a sexually oriented business.<sup>38</sup>

Many cities have included regulations in their ordinances designed to address the "secondary effects" of such businesses on the areas in which they are located -e.g., higher crime and loss of property value. A good sexually oriented business ordinance should include detailed legislative findings that cite published studies to support the premise that the regulation of such businesses is reasonable and necessary to control the secondary effects that such businesses

<sup>31</sup> Id. at § 105.05.

<sup>32</sup> Id. at §109,32.

<sup>33</sup> Id. at §109.31.

<sup>34</sup> Id. at §109.57(c).

<sup>35</sup> TEX. LOC. GOV'T CODE § 243.006(a)(1).

<sup>&</sup>lt;sup>36</sup> Id. at § 243.006(a)(2).

<sup>&</sup>lt;sup>37</sup> Id. at § 243.006(b).

<sup>38</sup> Id. at § 243.007.

bring. In Encore Videos, Inc. v. City of San Antonio, 330 F.3d 288 (5th Cir. 2003), the Fifth Circuit held that the studies that Texas cities traditionally had cited to support their secondary effects regulations did not apply to retail-only sexually oriented businesses. In response to Encore, the Texas City Attorneys Association and a number of Texas Cities commissioned an off-site secondary effects study, Survey of Texas Appraisers: Secondary Effects of Sexually-Oriented Businesses on Market Values and Crime-Related Secondary Effects: Secondary Effects of "Off-Site" Sexually-Oriented Businesses, which is available for download at <a href="http://www.texascityattorneys.org/bulletin-SOB.html">http://www.texascityattorneys.org/bulletin-SOB.html</a>.

#### C. Tax Increment Financing (TIF) Zone

A Tax Increment Financing (TIF) Agreement permits a municipality to designate a "TIF" zone (a.k.a reinvestment zone) to fund projects within the zone through additional tax dollars generated by growth of real property value in the zone.<sup>39</sup> To be designated as a reinvestment zone under the TIF statute, an area must meet the following criteria:

- (1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
  - (A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
  - (B) the predominance of defective or inadequate sidewalks or streets;
  - (C) faulty size, adequacy, accessibility, or usefulness of lots;
  - (D) unsanitary or unsafe conditions;
  - (E) the deterioration of site or other improvements;
  - (F) tax or special assessment delinquency exceeding the fair market value of the land;
  - (G) defective or unusual conditions of title;
  - (H) conditions that endanger life or property by fire or other cause; or
  - (I) any combination of these factors;

<sup>39</sup> TEX. TAX CODE §§ 311.001 et seq.

- (2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality; or
- (3) be in a federally assisted new community located in a homerule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality; or . .
- (4) be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.<sup>40</sup>

The Attorney General has determined that an area designated for TIF treatment must be "unproductive, underdeveloped or blighted" w/in the meaning of article VIII, section 1-g(b) of the Texas Constitution.<sup>41</sup>

#### VI. Vested Rights

"Vested rights" refer to a property owner's right to use the owner's property in a certain manner based on the regulations in place at a particular time, which is usually the date on which the property owner first received approval from the city for such use. A property owner has no vested right in a particular zoning category or restriction.<sup>42</sup> Similarly, a neighboring property owner cannot enforce previous zoning requirements against future construction.<sup>43</sup> Therefore, if the city were to eliminate a building setback requirement, for example, neighboring property owners who were subject to the setback requirement when they built their homes would not have legal standing to enforce the setback against future builders.<sup>44</sup>

<sup>40</sup> Id. at § 311.005(a).

<sup>&</sup>lt;sup>41</sup> Op. Tex. Atty Gen. No. JC-0152 (1999).

<sup>42</sup> Williamson Pointe Venture v. City of Austin, 912 S.W.2d 340, 343 (Tex. App. - Austin 1995, no writ).

<sup>43 1</sup> KENNETH H. YOUNG, ANDERSON'S AMERICAN LAW OF ZONING § 4:28 (4th ed. 2003).

<sup>44</sup> See Nusbaum v. City of Norfolk, 145 S.E. 257, 259 (Va. 1928).

#### A. Nonconforming use

Where a property owner is already using a particular tract of land in accordance with current zoning regulations, a change in zoning will not immediately affect that property. A municipality may not make the restrictions in its zoning ordinance retroactive.<sup>45</sup> If property is previously zoned for a specific use, and a zoning change occurs that negates the previous zoning, then the use of that property becomes a legal nonconforming use. A nonconforming use is a use that exists legally when a new zoning restriction becomes effective and that continues to exist.<sup>46</sup> A city may include a provision in its zoning ordinance that terminates non-conforming uses after a set period of time following the zoning change (e.g., 25 years) so that the property owner has an opportunity to recoup his investment in the nonconforming use over the normal life-span of the non-conforming structure.<sup>47</sup>

As a general rule, mere preparation for use of property before adoption of a zoning change is not enough to establish a nonconforming use.<sup>48</sup> Note, however, that a change in zoning that unreasonably restricts development may result in a taking under the Texas Constitution. In Sheffield Dev. Co., Inc. v. City of Glenn Heights,<sup>49</sup> for example, the Texas Supreme Court held that a city's decision to "down zone" the area of a proposed subdivision from 6,500 square foot lots to 12,000 square-foot lots did not unreasonably interfere with the property owner's investment-backed expectations for development of the property. However, the Court left open the possibility that under different facts, a city's decision to down zone could rise to the level of an unconstitutional taking of private property.

# B. Chapter 245 of the Texas Local Government Code ("Vested Rights Statute")

The legislature originally enacted Chapter 245 of the Texas Local Government Code, "Issuance of Local Permits," to protect property owners from changes in local regulations that occurred after the property owner had already begun development on his or her property. Now known as the "vested rights" or "entitlement" statute, the statute has become a sword for developers and a burden on cities that seek to control growth and development within their jurisdictions.

The Texas Legislature enacted the vesting provisions under Chapter 245 of the Texas Local Government Code to require that "each permit in a series required for a development project be subject to only the regulations in effect at the time of the application for the project's

<sup>45</sup> City of Corpus Christi v. Allen, 254 S.W.2d 759, 761 (Tex. 1953).

<sup>46</sup> City of Univ. Park v. Benners, 485 S.W.2d 773, 777 (Tex. 1972).

<sup>&</sup>lt;sup>47</sup> Murmur Corp. v. Bd. of Adjustment of City of Dallas, 718 S.W.2d 790, 798 (Tex. App. - Dallas 1986, writ ref'd n.r.e.).

<sup>48</sup> City of Pharr v. Pena, 853 S.W.2d 56, 64 (Tex. App. - Corpus Christi 1993, writ denied).

<sup>&</sup>lt;sup>49</sup> 140 S.W.3d 660 (Tex. 2004).

first permit, and not any intervening regulations."<sup>50</sup> Chapter 245 defines "project" as "an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor."<sup>51</sup> The statute defines "permit" as "a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility agency owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought."<sup>52</sup> The statute applies to "political subdivisions," which includes municipalities.

Under Chapter 245, the city must consider the permit application solely on the basis of the regulations that were in effect: (1) at the time the original application for the permit was filed for any purpose, including review for administrative purposes; or (2) a plan for development of real property or plat application was filed with the city.<sup>53</sup> Further, the applicant's rights "vest" on the filing of an application "that gives the regulatory agency fair notice of the project and the nature of the permit sought."<sup>54</sup> And if a series of permits is required for a project, the regulations in place at the time of the original application for the permit in the series must be the sole basis for consideration of all subsequent permits required for completion of the project.<sup>55</sup> After the application for a project is filed, the city may not shorten the duration of any permit required for the project.<sup>56</sup> At least one court has held that the filing of a plat is the first permit application in a series of permits constituting a "project" under section 245.002(b) of the Local Government Code.<sup>57</sup>

The Legislature did leave some authority for cities. First, the city may provide that a permit application expires after 45 days if the applicant fails to provide the necessary information and the city provides the applicant with notice within 10 days after the filing of the application.<sup>58</sup> In addition, the city may, by ordinance, impose an expiration date on "dormant projects" for which no progress has been made towards completion of the project. The expiration date can be no earlier than September 1, 2010. After that time, the expiration date can be two years for an individual permit but for a "project", no earlier than five years after the date the first permit

<sup>&</sup>lt;sup>50</sup> Quick v. City of Austin, 7 S.W.3d 109, 128 (Tex. 1998) (construing predecessor statute); see also TEX. LOC. GOV'T CODE § 245.002.

<sup>&</sup>lt;sup>51</sup> Tex. Loc. Gov't Code § 245.001(3).

<sup>&</sup>lt;sup>52</sup> Id, at § 245.001(1).

<sup>&</sup>lt;sup>53</sup> Id. at § 245.002(a).

<sup>&</sup>lt;sup>54</sup> Id. at § 245.002(a-1).

<sup>&</sup>lt;sup>55</sup> Id. at § 245,002(b).

<sup>&</sup>lt;sup>56</sup> Id. at § 245.002(c).

<sup>&</sup>lt;sup>57</sup> Hartsell v. Town of Talty, 130 S.W.3d 325, 327-38 (Tex. App. - Dallas 2004, pet. denied).

<sup>&</sup>lt;sup>58</sup> TEX. LOC. GOV'T CODE § 245.002(e).

application was filed. The statute provides multiple avenues for the developer to establish that it has made progress toward completion of the project, including: (1) the submission of an application for a final plat or plan; (2) a good-faith attempt to file a permit application necessary to begin or continue towards completion of the project; (3) the incursion of costs in developing the project (exclusive of land acquisition) that equal five percent of the most recent appraised market value of the real property in which the project is located; (4) the posting of a bond with the city to ensure performance of an obligation that the city requires; or (5) payment of utility connection fees or impact fees.<sup>59</sup>

Finally, the legislature has exempted certain regulations from Chapter 245's vesting provisions. These include: (1) building permits that are at least two years old, provided that the building or structure is intended for human occupancy and habitation, and the permit was issued under laws or regulations adopting only uniform building, fire, electrical, plumbing, or mechanical codes and local amendments to those codes; (2) zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by restrictive covenant required by the municipality; (3) regulations that specifically control only the use of the land and that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size; (4) regulations for sexually oriented businesses; (5) municipal or county regulations affecting colonias; (6) fees imposed in conjunction with development permits; (7) regulations for annexation that do not affect landscaping or tree preservation or open space or park dedication; (8) regulations for utility connections; (9) flood control regulations; (10) construction standards for public works located on public lands or easements; (11) regulations to prevent the imminent destruction of property or injury to persons that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size, residential or commercial density, or the timing of a project, or that do not change development permitted by restrictive covenant required by the municipality. 60

An aggrieved applicant cannot recover money damages under Chapter 245. Rather, the statute provides that the only method of enforcement is through mandamus or declaratory or injunctive relief.<sup>61</sup>

# C. Legal Use Prior to Annexation

Section 43.002 of the Texas Local Government Code permits a property owner to continue certain land uses following annexation:

#### § 43.002. Continuation of Land Use

(a) A municipality may not, after annexing an area, prohibit a

<sup>&</sup>lt;sup>59</sup> Id. at § 245.005.

<sup>60</sup> Id. at § 245.004.

<sup>61</sup> Id. at § 245.006.

#### person from:

- (1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or
- (2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:
  - (A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
  - (B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.
- (b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.
- (c) This section does not prohibit a municipality from imposing:
  - (1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;
  - (2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;
  - (3) a regulation relating to preventing imminent destruction of property or injury to persons;
  - (4) a regulation relating to public nuisances;
  - (5) a regulation relating to flood control;
  - (6) a regulation relating to the storage and use of hazardous substances; or
  - (7) a regulation relating to the sale and use of fireworks.

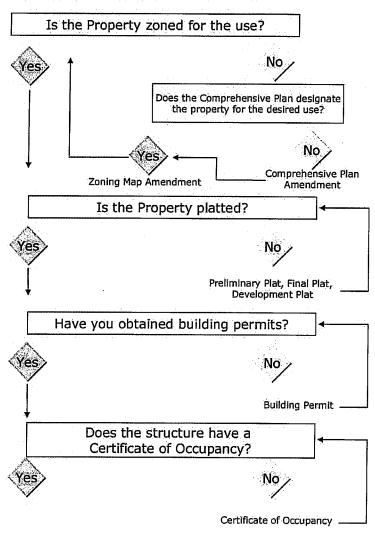
(d) A regulation relating to the discharge of firearms or other weapons is subject to the restrictions in Section 229.002.<sup>62</sup>

Under the above statute, the basic test is: (1) was the land use legal in the county prior to annexation; and (2) if it was, does the regulation that the city is seeking to impose fall within one of the exceptions under subsection (c) (e.g., public nuisances, flood control, fireworks etc.)? A good rule of thumb is that the city rarely will be able to force the property owner to change his land use to comply with the city's zoning ordinance following annexation, but the city almost always can force the property owner to comply with the city's nuisance ordinances.

<sup>&</sup>lt;sup>62</sup> TEX. LOC. GOV'T CODE § 43.002.

#### APPENDIX "A"

# PROPERTY DEVELOPMENT PROCESS



<sup>\*</sup> Describes current ordinance requirements

<sup>\*</sup>From Subdivision Ordinance of the City of Granite Shoals, Texas.

#### Sec. 15-6-4. - Changes and amendments; application fee.

(A)

This zoning article, including boundaries of districts and regulations, may be amended, supplemented or changed by ordinance of the City Commission. The City Commission shall receive the report of the Planning and Zoning Commission prior to adopting any change or amendment to the zoning ordinance.

a.

The Planning and Zoning Commission shall conduct a public hearing, announcement of which shall be published once in a newspaper of local circulation fifteen (15) days prior to such hearing before acting upon any zoning matter.

i.

All property owners within 200 feet of the property on which the change is proposed shall be sent written notice not less than ten (10) days before the hearing date. The list of property owners shall be prepared from the last city tax roll listing all property owners who have rendered their property for city taxes. Notice is adequately served by depositing properly addressed and postage paid notice with the city post office. Property owners whose names do not appear on the city tax roll are adequately notified by the publication in a newspaper of local circulation.

b.

Following the Planning and Zoning Commission public hearing and report, the City Commission shall conduct a public hearing, announcement of which shall be published once in a newspaper of local circulation fifteen (15) days prior to such hearing before acting upon any zoning matter.

i.

Three-fourths (%) vote of the members of the City Commission shall be necessary to make any change should a petition opposed to such change be presented by the owners of 20% of either the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom.

ii.

Three-fourths (3/4) vote of the members of the City Commission shall be necessary to overrule a recommendation of the Planning and Zoning Commission that a proposed amendment supplement, or change be denied.

Vote of the City Commission means members eligible to vote. With a five (5) member commission, 3/4ths vote is 4 of 5 members eligible to vote. The absence of a commission member from a meeting does not change the number of votes required (ie, still 4 of 5). If a commission member were to die, resign, or be disqualified (ie, due to a conflict of interest), then that is considered a vacancy which reduces the number of eligible votes so that the vote would then be 3/4ths of the four (4) members eligible to vote.

C.

Applications for Special Use permits, changes of districts (rezones), or other applications which require notification or publication shall be accompanied by a fee of \$250.00.

#### Sec. 15-6-24. - Nonconforming uses and structures.

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(A)

Nonconforming status. A nonconforming status shall exist under one of the following conditions:

(1)

When a use does not conform to the regulations prescribed in the district in which it is located, and was lawfully existing and operating prior to the adoption of this article, or any amendment thereto which creates nonconformity, and where there has been no discontinuance of the use for a period of time exceeding six months or;

(2)

When a structure does not conform to the regulation prescribed in the district in which it is located, and was lawfully existing and constructed prior to the adoption of this article, or any amendment thereto which creates nonconformity.

(B)

Maintenance permitted. A nonconforming building or structure may be maintained.

(C)

Repairs and alterations. Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.

(D)

Additions, enlargements and moving.

(1)

A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or removed to another location except as provided by subdivision (2) of this division hereof.

(2)

A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area, or yard regulations may be added to or enlarged or moved to

a new location on the lot upon a permit authorized by the Board of Adjustment, which may issue, provided that the Board of Adjustment, after hearing, shall find:

(a)

The addition to, enlargement of, or moving of the building will be in harmony with one or more of the purposes of this article as stated in § 15-6-2 hereof, and shall be in keeping with the intent of this article.

(b)

The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

(c)

LOT shall mean that parcel of land owned at the time the use became nonconforming and upon which the use existed, whether defined in one or more legal descriptions provided that all legal descriptions are contiguous.

(E)

Alteration where parking insufficient. A building or structure lacking sufficient automobile parking space in connection therewith as required by this article may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this article for such alteration or enlargement.

(F)

Restoration of damaged buildings. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure, or part thereof, which existing at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of six months and is diligently prosecuted to completion and is not located in an overlay zone.

(G)

Six month vacancy. A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of six months, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

(H)

Continuation of use. The occupancy of a building or structure by a nonconforming use, existing at the time this Title became effective, may be continued.

(1)

Occupation within six months. A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of six months after the use became nonconforming.

(J)

Change of use. The nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

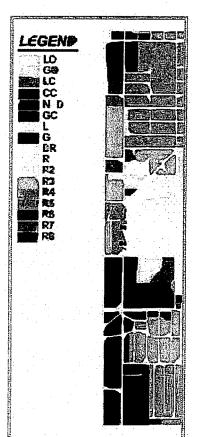
(K)

Nonconforming use of land. The nonconforming use of land, existing at the time this article became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of six months or more, any future use of such land shall be in conformity with the provisions of this article.



# **Chapter 4 Zoning Regulations in Texas**

William Dahlstrom, JD, AICP



This chapter explains the basics of zoning law in Texas. It provides a definition and breif history, along a legal basis for zoning and the statutory authority. The chapter discusses the connection between zoning and the comprehensive plan and districts, the basic zoning units to divide cities. These boundaries and ordinainces are approved by zoning commissions. Procedures includes hearings and notice or zoning commission meetings, city council meetings, and general law city council meetings. The supermajority vote is described and the board of adjustement is discussed in detail. The chapter also describes ways in which municipalities enforce zoning ordinances and the variety of exceptions to zoning authority. Additional zoning concepts are breifly discussed as well as the ways in which zoning laws are challenged. Understanding such regulations are valuable because zoning is an essential tool, if not the essential tool, used to implement the comprehensive plan along with subdivision regulations, infrastructure planning, and economic strategies.

This chapter was developed from the 17th Annual Land Use Planning Law Conference with the University of Texas School of Law on March 20, 2013

Left: Zoning map of a neighborhood

Altered image of image by HistoricOmaha.net on Flickr and reproduced under Creative Commons 2.0

Chapter 4: Zoning Regulations in Texas



#### **DEFINITION AND HISTORY**

"Zoning" is the fundamental regulation of a governmental entity used to control land uses pursuant to a comprehensive plan. "Zoning regulation is a recognized tool of community planning, allowing a municipality, in the exercise of its legislative discretion, to restrict the use of private property."

As the result of the mounting problems from industrialization and urbanization of cities in the late nineteenth and early twentieth cities, municipal governments recognized the need to adopt regulations to make cities more livable, safe and sanitary. Widely recognized as the first comprehensive zoning ordinance, the New York City Zoning Ordinance of 1916 was enacted to regulate height and setbacks of larger buildings to allow sunlight and air to reach adjacent properties and to restrict incompatible uses from residential districts. 2

In 1921, U.S. Secretary of Commerce Herbert Hoover, commissioned an advisory committee to draft a model zoning statute, The Standard Zoning Enabling Act of 1926, which became the model for zoning legislation throughout the country. The Act included a section on a "Grant of Power" which authorized zoning for "the purpose of promoting health, safety, morals, or the general welfare of the community."3

Section 3 of the Act, "Purposes in View" provided,

Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality. 4

#### Typically, zoning will consist of:

(i) an ordinance that sets forth items such as definitions, permitted land uses and development standards, and

(ii) a map designating the districts within the jurisdiction.

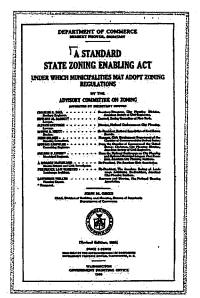
Municipal governments recognized the need to adopt regulations to make cities more livable, safe and sanitary.

Id. at Section 3

City of Brookside Village. v. Comeau, 633 S.W.2d 790, 792 (Tex. 1982), cert. denied,

<sup>1</sup> City of Brookside Village. V. Comeau, 033 S.W. 2u /90, /92 (1ex. 1902), cert. defled, 459 U.S. 1087 (1982).
2 New York City Department of City Planning Website, 2013
3 A Standard State Zoning Enabling Act Under Which Municipalities May Adopt Zoning Regulations; Section 1, U.S. Department of Commerce (1926)





The Standard Zoning Enabling Act of 1926 became the model for zoning legislation throughout the country.

In Village of Euclid, Ohio v. Ambler Realty Co., the Court ruled that there may be valid reasons to separate intensive uses from less intensive uses for the general welfare

The Act also included sections describing the means of adopting and amending the regulations, the establishment of a zoning commission and board of adjustment, the enforcement of regulations, and the resolution of conflicts with other laws.5

#### **LEGAL BASIS**

The United States Supreme Court ruled in 1926 that zoning is a valid exercise of the municipality's police power. In Village of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365 (1926), the Village of Euclid enacted an ordinance that established six classes of use districts, three classes of height districts, and four classes of area districts in an effort to control industrial expansion from the City of Cleveland into the Village. Ambler Realty argued that the classification of its property deprived it "of liberty and property without due process of law" and denied "it the equal protection of the law." Ambler Realty also specifically argued that the zoning ordinance attempted "to restrict and control the lawful uses of appellee's land so as to confiscate and destroy a great part of its value."7 The Court ruled that there may be valid reasons to separate intensive uses from less intensive uses for the general welfare holding, "it is enough for us to determine, as we do, that the ordinance, in its general scope and dominant features, so far as its provisions are here involved, is a valid exercise of authority."8

The validity of zoning in Texas was approved by the Texas Supreme Court in Lombardo v. City of Dallas. In that case, the Court acknowledged that "it appears that full authority was delegated cities and incorporated villages to restrict the use of buildings, structures and land for trade, industry, residence, or other purposes. Zoning, in general, is the division of a city or area into districts, and the prescription and application of different regulations in each district; generally, such division is into two classes of districts, such as was attempted by the ordinance under consideration. Effective zoning regulations, as that term is now well understood, comprehends, necessarily, prohibitions and restrictions; prohibitions against certain uses in named districts, and restrictions as to the area of lots to be built upon, the size and height of

A Standard State Zoning Enabling Act Under Which Municipalities May Adopt Zoning Regulations, U.S. Department of Commerce (1926)

Village of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365, 384 (1926)

Id. at 397



structures, yard spaces to be left unoccupied, etc."9 The Court held, "that the legislative act and the ordinance of the city of Dallas, called in question, and the provisions of same as applied to plaintiff and his property, are not subject to the objections urged by plaintiff, but that they are valid and enforceable."10

# STATUTORY AUTHORITY

In *Lombardo*, the City of Dallas relied on Texas' adopted version of the Standard Zoning Enabling Act adopted in 1927 as Article 1011 of the Texas General Statutes. In 1987, the sections of Article 1011 were codified in Chapter 211 of the Texas Local Government Code. Chapter 211 currently provides that the zoning regulatory power is "for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance."

"...promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance"

Under Section 211,003, the municipality may regulate:

- 1. The height, number of stories, and size of buildings and other structures;
- 2. The percentage of a lot that may be occupied;
- The size of yards, courts, and other open spaces;
- Population density;
- 5. The location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- 6. The pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.<sup>12</sup>

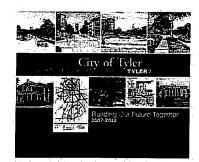
Further, the Statute provides that a city may regulate "the construction,

<sup>9</sup> Lombardo v. City of Dallas, 47 S.W.2d 495, 499 (Tex. Civ. App.—Dallas 1932), aff d, 124 Tex. 1, 73 S.W.2d 475 (1934) 10 Id.

<sup>11</sup> Texas Local Government Code Section 211.001 (2013)

<sup>12</sup> Id. at Section 211.003 (a)





The Purpose in View of the Standard Zoning Enabling Act states that "such regulations shall be made in accordance with a comprehensive plan..." The above image is of the City of Tyler, Texas Comprehensive Plan 2007-2030.

reconstruction, alteration, or razing of buildings and other structures" with regard to designated places and areas of historical, cultural, or architectural importance and significance.13 The governing body of a home-rule municipality may also regulate the bulk of buildings.14

# THE COMPREHENSIVE PLAN

Zoning is one of the primary implementation tools of a municipality's comprehensive plan. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

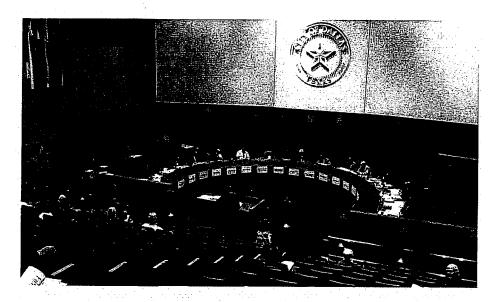
- 1. Lessen congestion in the streets;
- Secure safety from fire, panic, and other dangers;
- Promote health and the general welfare;
- Provide adequate light and air;
- 5. Prevent the overcrowding of land;
- 6. Avoid undue concentration of population; or
- 7. Facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.15

#### DISTRICTS

According to the Chapter 211, a city may divide the municipality into districts of a number, shape, and size and within each district, the city may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.16 The regulations must be uniform for each class or kind of building in a district; however, the regulations may vary from

- Id. at Section 211.003 (b) 13
- 14 Id. at 211.003 (c)
- 15 16 Id. at 211.004
- Id. at 211.005 (a)





Left: Dallas, Texas Council Chambers.

Image by jypsygen on Flickr and reproduced under Creative Commons 2.0

district to district<sup>17</sup> and shall be adopted "with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality."18

# **CREATION OF A ZONING COMMISSION**

A city may appoint a zoning commission to make recommendations regarding the boundaries of the original zoning districts and zoning regulations.19 Often, a city will appoint a commission that performs the recommending authority under Chapter 211 and the planning commission authority regarding subdivisions and plats granted under Chapter 212 of the Texas Local Government Code.

With regard to zoning, this body is a "recommending" body. However, some zoning ordinances also provide that the zoning commission is charged with approval of site plans pursuant to the provisions of that city's zoning ordinance. In that regard, they may be the final municipal authority for the

<sup>17</sup> 18 Id. at 211.005 (b)

Id. at 211.005 (c) Id. at 211.007 (a) 19



review and approval of a site plan.

#### **PROCEDURES**

# Hearings

Approval of a zoning ordinance, districts and amendments of the same require public hearings before the zoning commission and city council. The commission is required to make a preliminary report, hold the public hearing and submit a final report to the city council.20 The city council must receive the report before it can conduct its hearing.21 A home rule city may allow joint hearings of the city council and zoning commission provided the city council, by two-thirds vote, has prescribed the type of notice and location for the hearing.22

#### Notice

#### **Zoning Commission**

Written notice of the zoning commission hearing must be sent to the owners of the property within 200 feet of the property on which a change in classification is proposed "before the 10th day before the hearing date." Notice is sufficient if it is deposited in the municipality, with properly addressed with postage paid, in the United States mail.23

#### **City Council**

Notice of the time and place of the city council hearing must be published in official newspaper or a newspaper of general circulation in the city, "before the 15th day before the date of the hearing."24

# General law city without a zoning commission

A general law city without a commission must provide notice of the city council hearing to the property owners within 200 feet of the property subject to change in the same manner as notice prior to a commission hearing.25

<sup>20</sup> Id. at 211.007 (b) Id. 21

Id. at (d) 22

Id. at 211.007 (c) Id. at 211.006 (a) 23

Id. at 211.006 (b)



#### **SUPERMAJORITY VOTE**

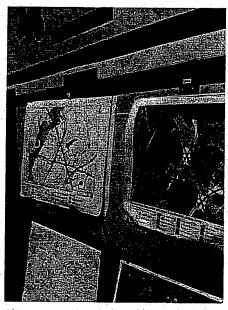
The Statute provides that three-fourths majority affirmative vote is required to approve a change in a regulation or boundary if written protest is filed by the owners of at least 20 percent of either:

- 1. The area of the lots or land covered by the proposed change; or
- 2. The area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area. <sup>26</sup>

Further, the city may by ordinance require that the affirmative vote of at least three-fourths majority of city council is required to overrule a recommendation of the zoning commission that a proposed change to a regulation or boundary be **denied**.<sup>27</sup>

However, in *Appolo Development*, *Inc. v. City of Garland*, the Court ruled that the supermajority requirement did not apply to property that was subject to interim zoning at the time of annexation.

"We do not believe it was intended that Section 5 of Ordinance 1011 [predecessor of Section 211.006 (d)] should have the effect of so zoning all property thereafter annexed that no owner of newly annexed property could apply for permanent zoning without placing himself under the burden of obtaining a favorable vote of three-fourths of the members of the City Council if a protest were made by adjacent property owners described in Article 1011e." <sup>28</sup>



Above: Zoning and land use maps

Image by tracktwentynine on Flickr and reproduced under Creative Commons 2.0

# **BOARD OF ADJUSTMENT**

The city may appoint a board of adjustment to consider variances, special exceptions and appeals of administrative officials in the enforcement of the zoning regulations.<sup>29</sup> The board consists of five members who are appointed by the city council. Each case before the board must be heard by at least 75 percent of the members of the board.<sup>30</sup> Boards of adjustment in cities in excess of 500,000 may consist of several panels with at least five members

<sup>26</sup> Id. at Section 211.006 (d)

Id. at Section 211,006 (f)

Appolo Development, Inc. v. City of Garland, 476 S.W.2d 365 (Tex. App.-Dallas,

<sup>1972;</sup> rehr'g denied 1972) 29 TEXAS LOCAL GOV'T CODE, Section 211.008

<sup>30</sup> Id. at 211.008 (d)





per panel.31

The board of adjustment may hear and decide:

- 1. Appeals of an order, requirement, decision, or determination made by an administrative official in the enforcement of zoning regulations;
- 2. Special exceptions;
- Variances from the terms of a zoning ordinance; and
- Other matters authorized by an ordinance adopted under Chapter 211.32

Variances by definition are modifications to zoning regulations authorized by the board when the following standards are met:

- 1. The variance is not contrary to the public interest;
- Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. (A financial hardship will not be sufficient to qualify as an unnecessary hardship adequate for a variance request.<sup>33</sup>);
- 3. The spirit of the ordinance must be observed; and
- 4. Substantial justice must be done. 34

Special Exceptions are modifications to the zoning regulations specifically set forth in the zoning ordinance that allow such if certain criteria set forth in the ordinance are satisfied.35

Additionally, some cities authorize the board to amortize nonconforming uses after conducting hearings and enabling the owner of the nonconforming use to recoup its investment in the nonconforming use. In City of University Park v. Benners, the Texas Supreme Court ruled "[m]unicipal zoning ordinances requiring the termination of nonconforming uses under reasonable

Id. at 211.012 31

<sup>32</sup> Id. at 211.009 (a)

<sup>33</sup> Board of Adjustment of the City
(Tex. App-Houston [14th Dist.] 2005)
34 TEXAS LOCAL GOVT CODE, Section 211.009 (a) (3) Board of Adjustment of the City of Piney Point Village v. Solar, 171 S.W. 3d 251, 255



conditions are within the scope of municipal police power."36

Any person aggrieved by the decision of an administrative official or any officer, department, board, or bureau of the municipality affected by the decision may appeal the decision of the administrative official by filing with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal.<sup>37</sup> The appeal will stay all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property.<sup>38</sup>

In City of University
Park v. Benners, the
Texas Supreme Court
ruled that cities could
terminate nonconforming uses under
'reasonable conditions'.

A concurring vote of 75 percent of the board members is required to:

- 1. Reverse an order, requirement, decision, or determination of an administrative official;
- 2. Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or
- 3. Authorize a variation from the terms of a zoning ordinance. 39

The decision of the board may be appealed to district court or county court, but not to the zoning commission or city council.<sup>40</sup> The appeal must be a verified petition, presented within 10 days after the date the decision is filed in the board's office, stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality.

The party attacking the decision of the board must demonstrate that the decision is a "very clear showing of abuse of discretion" and that the board could have reasonably reached only one decision. The Courts in Texas hold that the Board "is a quasi-judicial body and the district court sits only as a court of review by writ of certiorari." The order of the Board is presumed valid and the party attacking the order must establish a "very clear showing of abuse of discretion." [cite omitted] A zoning board abuses its discretion

# The appeal or verified petition must be filed by:

- 1. A person aggrieved by a decision of the board;
- A taxpayer; or
- 3. An officer, department, board, or bureau of the municipality.<sup>1</sup>

Id.

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if it acts without reference to any guiding rules and principles or clearly fails to analyze or apply the law correctly. [cites omitted] With respect to a zoning board's factual findings, a reviewing court may not substitute its own judgment for that of the board. [cite omitted]. Instead, a party challenging those findings must establish that the board could only have reasonably reached one decision. [cite omitted].<sup>44</sup>

#### **ENFORCEMENT**

A violation of a zoning ordinance is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the city. The governing body may also provide civil penalties for a violation.<sup>45</sup> Per chapter 54 of the Texas Local Government Code, a fine or penalty for violation of a zoning regulation may not exceed \$2,000.00.<sup>46</sup>

Further, the city may institute the following measure if a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of zoning regulations:

- 1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- 2. Restrain, correct, or abate the violation;
- 3. Prevent the occupancy of the building, structure, or land; or
- 4. Prevent any illegal act, conduct, business, or use on or about the premises.

# **EXCEPTIONS TO A CITY'S ZONING AUTHORITY**

#### **State or Federal Preemption**

Matters regulated by state or federal law are preempted from local zoning authority. For example, the Texas Alcoholic Beverage Code specifically provides

<sup>44</sup> Vanesko at 771.

<sup>45</sup> Id. at 211.012

<sup>46</sup> Id. at 54.001 (b)



that such Code "shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code."47 However, that Code permits city regulation of alcoholic beverage sales and service in specific areas. City regulation of alcoholic beverages where not otherwise permitted by the Texas Alcoholic Beverage Code would be preempted.

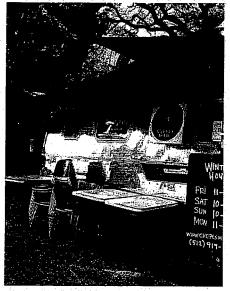
In the case of Southern Crushed Concrete. LLC v. City of Houston, a concrete crushing company secured an air quality permit from the Texas Commission on Environmental Quality, but was denied a similar permit by the City whose regulations were more restrictive to the point of rendering the use unlawful. The Texas Supreme Court ruled, "But, the express language of section 382.112(b) compels us to give effect to the Legislature's clear intent that a city may not pass an ordinance that effectively moots a Commission decision. We hold that the Ordinance makes unlawful an 'act approved or authorized under ... the [C]ommission's ... orders' and is thus preempted by the TCAA and unenforceable. TEX. HEALTH & SAFETY CODE § 382.113(b)."48

# State and Federal Buildings

The Local Government Code provides that zoning regulations enacted pursuant to Chapter 211 do not apply to "a building, other structure, or land under the control, administration, or jurisdiction of a state or federal agency."49 However, zoning will apply to a privately-owned building which is leased to a state agency.50

# **Pawnshops**

Pawnshops are afforded some protection under the Texas Local Government Code. Section 211.0035 provides a city must designate pawnshops, which have been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code, as "a permitted use in one or more zoning classifications and cannot "impose a specific use permit requirement or any requirement similar in effect to a specific use permit requirement on a pawnshop."51



Above: Austin, TX food truck Many cities do not indicate 'mobile food truck vending' among approved land uses listed in the city zoning codes.

Image by Katherine Lynch on Flickr and reproduced under Creative Commons 2.0

Texas Alcoholic Beverage Code, Section 109.57 (b)
Southern Crushed Concrete. LLC v. City of Houston;
TEXAS LOCAL GOV'T CODE, Section 211.013 (c)

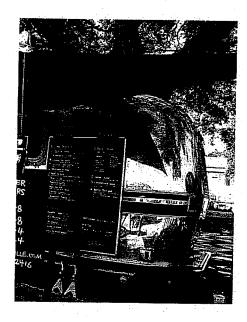
<sup>(</sup>Tex. 2013)

<sup>49</sup> 

Id. at Section 211.013 (d) 50

Id. at Section 211.0035





# SOME ADDITIONAL ZONING CONCEPTS

**Accessory Use** A use that is customarily incidental to a main use. Typically, these uses must be on the same lot as the main use and are permitted in the same zoning district as the main use.

**Conservation Zoning** Zoning regulations that provide development standards aimed at protecting environmental, historic or cultural amenities of a community. Often these types of regulations provide modifications to standard zoning development standards, including but not limited to setbacks and lot sizes, and may provide density bonuses, in order to provide flexibility and incentives for protecting the targeted amenities.

**Cumulative Zoning** Zoning regulations in which uses in more restrictive districts are permitted in more intensive districts.

**Euclidean Zoning** Zoning regulations that provide individual districts for permitted uses and development standards.

**Design Guidelines** Standards aimed at maintaining the architectural integrity of a unique area of a city or at providing an architectural or design theme for an area of the city.

**Exclusionary Zoning** A discriminatory zoning system in which regulations are enacted to unlawfully exclude certain groups of people.

Form-Based Code A zoning code in which the regulations "address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks." 52

**Incentive Zoning** Zoning regulations that provide bonuses or other incentives pursuant to standards that further specific community development objectives.

**Inclusionary Zoning** Zoning that provides for wide array of residential uses including low income and affordable units.

<sup>52</sup> Definition of a Form-Based Code, Form-Based Code Institute; 2011 [Form-Based Code Institute website]



**Nonconforming Uses** Uses that were previously permitted on a property, but subsequently prohibited by zoning regulations imposed with annexation or an amendment to the zoning regulations.

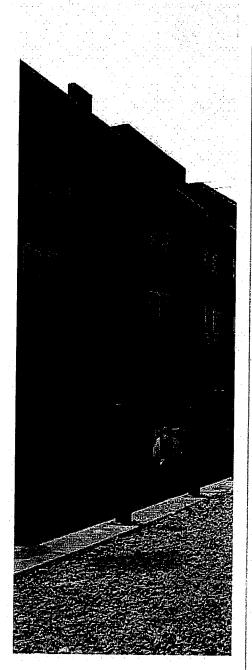
**Performance Zoning** Zoning regulations that focus on performance criteria rather than solely on the separation of uses.

Planned Development District (PD) or Planned Unit Development (PUD) A zoning classification that provides flexible development regulations to allow the construction of a unified development concept which may not conform entirely to the standard zoning regulations. Often these types of development include mixed uses, protection of environmentally significant features, preservation of and provision for open space, interconnection of uses, modified development standards, and special design guidelines and landscaping requirements. Because the authority and limitations for planned development districts are set forth in a city's zoning code, it is necessary to review those portions of the city's code to determine to what extent a planned development district may be used.

Smart Growth According to the American Planning Association,

Smart Growth is not a single tool, but a set of cohesive urban and regional planning principles that can be blended together and melded with unique local and regional conditions to achieve a better development pattern. Smart Growth is an approach to achieving communities that are socially, economically, and environmentally sustainable. Smart Growth provides choices — in housing, in transportation, in jobs, and in amenities (including cultural, social services, recreational, educational, among others) — using comprehensive planning to guide, design, develop, manage, revitalize, and build inclusive communities and regions to:

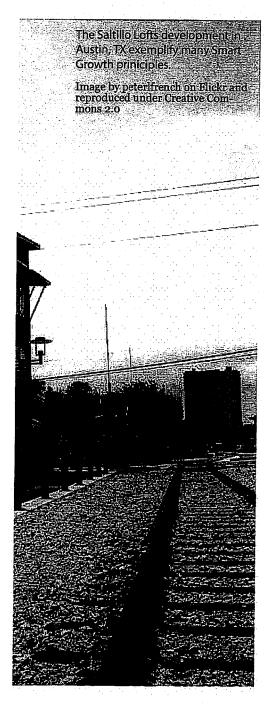
- Have a unique sense of community and place;
- Preserve and enhance valuable natural and cultural resources:
- Equitably distribute the costs and benefits of land development, considering both participants and the short- and long-term time scale;
- Create and/or enhance economic value:



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- Expand the range of transportation, employment, and housing choices in a fiscally responsible manner;
- Balance long-range, regional considerations of sustainability with short-term incremental geographically isolated actions;
- Promote public health and healthy communities;
- Apply up-to-date local and regional performance measures of successful urban and regional growth;
- Encourage compact, transit-accessible (where available), pedestrian-oriented, mixed-use development patterns and land reuse; and,
- Increase collaboration and partnerships to advance place-based and regional goals and objectives, while respecting local land-use preferences and priorities.

#### Core principles of Smart Growth include:

- 1. Efficient use of land and infrastructure
- 2. Creation and/or enhancement of economic value
- 3. A greater mix of uses and housing choices
- Neighborhoods and communities focused around human-scale, mixed-use centers
- 5. A balanced, multi-modal transportation system providing increased transportation choice
- 6. Conservation and enhancement of environmental and cultural resources
- 7. Preservation or creation of a sense of place
- 8. Increased citizen participation in all aspects of the planning process and at every level of government



- 9. Vibrant center city life
- 10. Vital small towns and rural areas
- 11. A multi-disciplinary and inclusionary process to accomplish smart growth
- 12. Planning processes and regulations at multiple levels that promote diversity and equity
- 13. Regional view of community, economy and ecological sustainability
- 14. Recognition that institutions, governments, businesses and individuals require a concept of cooperation to support smart growth
- 15. Local, state, and federal policies and programs that support urban investment, compact development and land conservation
- 16. Well defined community edges, such as agricultural greenbelts, wildlife corridors or greenways permanently preserved as farmland or open space.<sup>53</sup>

The U.S. Environmental Protection Agency identifies the following ten basic principles of Smart Growth developments:

- 1. Mix land uses
- 2. Take advantage of compact building design
- 3. Create a range of housing opportunities and choices
- Create walkable neighborhoods
- 5. Foster distinctive, attractive communities with a strong sense of place

Policy Guide on Smart Growth, American Planning Association; Originally Ratified by Board of Directors, April 15, 2002; Updated Guide Adopted by Chapter Delegate Assembly, April 14, 2012; Updated Guide Ratified by Board of Directors, April 14, 2012



- 6. Preserve open space, farmland, natural beauty, and critical environmental areas
- 7. Strengthen and direct development towards existing communities
- 8. Provide a variety of transportation choices
- 9. Make development decisions predictable, fair, and cost-effective
- 10. Encourage community and stakeholder collaboration in development decisions.<sup>54</sup>

**Street Design Standards** Standards focusing on various elements of street design and construction including, but not limited to street width, curbs and gutters, medians, lane widths, street parking, sidewalks, pedestrian amenities, bicycle lanes, crosswalks, landscaping, lighting, and street.

**Transit-Oriented Development** Typically higher density, mixed use development surrounding a transit station (usually ½-½ mile radius) which is designed to exploit the transportation opportunities afforded by the transit station.

**Unified Development Code** A single code that incorporates all development-related regulations including zoning and subdivision regulations, but may also include signage, landscaping, screening and fencing, environmental performance, and other development-related regulations.

**Zoning Overlay** "A set of zoning ordinances, optional or required, specifying land use and/or design standards for a designated portion of the underlying zoning within a defined district; typically used to keep architectural character and urban form consistent, make adjacent uses compatible, and/or accelerate the conversion of non-conforming land uses." 55

About Smart Growth, U.S. Environmental Protection Agency, (2013) [U.S. EPA website]

<sup>55</sup> Makin Smart Growth Happen, U.S. Environmental Protection Agency, [U.S.EPA website] (2013)



#### CHALLENGES

Zoning is an exercise of a municipality's legislative powers<sup>56</sup> and courts will give deference to the municipality's ordinances and "[i]f reasonable minds may differ as to whether or not a particular zoning ordinance has a substantial relationship to the public health, safety, morals or general welfare, no clear abuse of discretion is shown and the ordinance must stand as a valid exercise of the city's police power."57 Therefore, a zoning ordinance receives deference and is presumed valid. A party challenging the zoning ordinance must show that the ordinance is arbitrary or unreasonable because it bears no substantial relationship to the public health, safety, morals or general welfare. 58"Determining the reasonableness of a zoning ordinance is a question of law for the court."59

The following are some of the common challenges to zoning ordinances:

# Inverse condemnation, taking, damaging

The U.S. Supreme Court has held that, "while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking" in violation of the Fifth Amendment of the U.S. Constitution. 60 In this sense the action of the governmental authority is characterized as a "regulatory taking" as opposed to a physical taking such as the acquisition of property for a public purpose. "In a regulatory taking, it is the passage of the ordinance that injures a property's value or usefulness."61

A regulatory taking may occur if a regulation deprives a property owner of all economically beneficial use of his land. 62 A regulatory taking may also be found if the regulation unreasonably interferes with a landowner's right to use and enjoy his property or does not substantially advance a legitimate

#### **CHALLENGES:**

- 1. Inverse condemnation, taking, damaging
- 2. Substantive due process
- Procedural due process
- 4. Failure to comply with statutory or local procedures
- Equal protection
- Free exercise
- Spot Zoning
- Contract Zoning

in order to challenge a zoning ordinance, one must show that the ordinance is

- 1. arbitrary or
- 2. unreasonable

because it bears no substantial relationship to the:

- public health,
- safety,
- morals or
- general welfare.

<sup>56</sup> City of Pharr v. Tippitt, 616 S.W. 2d 173, 173 (Tex. 1981) citing Thompson v. City of Palestine, 510 S.W. 2d 579 (Tex. 1974)
57 Id. at 176

<sup>57</sup> 58

<sup>58</sup> Id.
59 City of San Antonio v. Arden Encino Partners, Ltd., 103 S.W.3d 627, 630 (Tex. App.-San Antonio 2003\_\_\_\_\_)Id. at 103 S.W.3d 627
60 Pennsylvania Coal Co. v. Mahon, 260 U.S. 393, 413, 43 S.Ct. 158, 67 L.Ed. 322 (1922)
61 Lowenberg v. City of Dallas, 168 S.W.3d 800, 802 (Tex.2005)
62 Lucas v. South Carolina Coastal Commission, 112 S.Ct. 2886 (1992); Mayhew v.
70wn of Sunnyvale, 964 S.W.2d 922, 935 (Tex.1998) cert. denied, 526 U.S. 1144, 119 S.Ct. 2018, 143 L.Ed.2d 1030 (1999).



A regulatory taking may occur if a regulation deprives a property owner of all economically beneficial use of his land.

governmental interest.<sup>63</sup> Further, regulations may be deemed as takings if they unreasonably interfere with an owner's investment-backed expectations while also considering the economic impact of the regulation on the property owner, and the character of the governmental action.<sup>64</sup>

# Substantive due process

Regulations may be subject to a substantive due process challenge if they fail to further a legitimate State interest or fail to have any relation to the public health, safety or welfare. The regulations must first be "rationally related to legitimate government interests." Further, the regulations must not be arbitrary, unreasonable or capricious and must have a substantial relationship to the public health, safety or welfare.

"When a zoning determination is challenged on substantive due process grounds, if reasonable minds could differ as to whether the city's zoning action had a substantial relationship to the public health, safety, morals or general welfare, the action must stand as a valid exercise of the city's police power." 68

# **Procedural due process**

Procedural due process mandates that a property owner who is deprived of a property right must have been given an "appropriate and meaningful opportunity to be heard." A city satisfies this standard if it provides notice and an opportunity to be heard.70

# Failure to comply with Statutory or local procedures

Zoning ordinances are invalid, and not merely voidable, if the statutory procedure is not followed. "(F)ull compliance with the statute is necessary to the validity of amendatory, temporary or emergency zoning ordinances."<sup>71</sup> Further, the "right to have notice and appear before a zoning commission is a

<sup>63</sup> Mayhew at 935
64 Sheffield Development Company, Inc. v City of Glenn Heights, 140 S.W. 3d 660, 672
(Tex. 2004)
65 Mayhew at 938
66 Id.
67 Id.
68 City of Waxahachie v. Watkins, 154 Tex. 206, 275 S.W.2d 477, 481 (1955)
69 Mayhew at 939
70 Id. at 940
71 Bolton v. Sparks, 362 S.W. 946, 950 (Tex. 1962)



statutory right, not a due-process requirement."72 Therefore, one complaining of defective notice, based solely on noncompliance with the statute, does not have a constitutional claim.

# **Equal protection**

An equal protection challenge may be brought if an individual can demonstrate that the city treated the individual differently from other similarly situated individuals without any reasonable basis. Such an ordinance generally must only be rationally related to a legitimate state interest unless the ordinance discriminates against a suspect class or infringes.73 "Economic regulations, including zoning decisions, have traditionally been afforded only rational relation scrutiny under the equal protection clause."74

Cities cannot treat individuals differently from other similarly situated individuals without any reasonable basis.

## Free Exercise

Regulations that attempt to regulate religious activities may be challenged if they interfere with the exercise of religious freedoms in violation of the First Amendment of the U.S. Constitution. The Religious Land Use and Institutionalized Persons Act (RLUIPA), provides further protection by prohibiting:

"zoning and landmarking laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest. This prohibition applies in any situation where: (i) the state or local government entity imposing the substantial burden receives federal funding; (ii) the substantial burden affects, or removal of the substantial burden would affect, interstate commerce; or (iii) the substantial burden arises from the state or local government's formal or informal procedures for making individualized assessments of a property's uses. In addition, RLUIPA prohibits zoning and landmarking laws that:

- Treat churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions;
- Discriminate against any assemblies or institutions on the basis of religion or religious denomination;

73 74 Mayhew at 939

Murmur Corporation v. Board of Adjustment of the City of Dallas, 718 S.W. 2d 790. 792 (Tex. App-Dallas, 1986, writ ref'd n.r.e.)



- 3. Totally exclude religious assemblies from a jurisdiction; or
- 4. Unreasonably limit religious assemblies, institutions, or structures within a jurisdiction. laws." 75

# **Spot Zoning**

Some zoning changes may be challenged if the rezoning is deemed to be "Spot Zoning". "Spot Zoning" is the process of singling out a small tract of land and treating it differently from similar surrounding land "without any showing of justifiable changes in conditions." In City of Pharr v. Tippitt, the Texas Supreme Court identified the following factors to be reviewed in determining whether a rezoning is Spot Zoning:

- 1. Whether the City has disregarded the zoning ordinance or long-range master plans and maps that have been adopted by ordinance;
- 2. The nature and degree of an adverse impact on surrounding properties; i.e. is the change substantially inconsistent with surrounding properties; and,
- 3. Whether the use of the property as presently zoned is suitable or unsuitable;
- 4. Whether the rezoning ordinance bears a substantial relationship to the public health, safety, morals or general welfare or protect and preserve historical and cultural places and areas.

# **Contract Zoning**

Zoning ordinances whereby the City commits itself to rezone land in consideration of the landowner to use or not use his land in a particular manner, or provide some other consideration in exchange for the zoning may be challenged as "Contract Zoning." Contract zoning is invalid because the city dele-

<sup>75</sup> Religious Land Use and Institutionalized Persons Act of 2000; The United States Department of Justice

<sup>76</sup> City of Pharr v. Tippitt, 616 S.W.2d 173, 177 (Tex.1981)

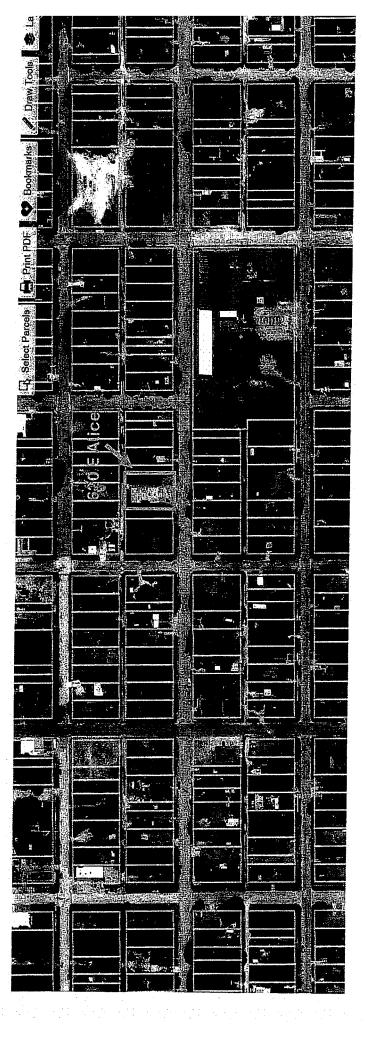


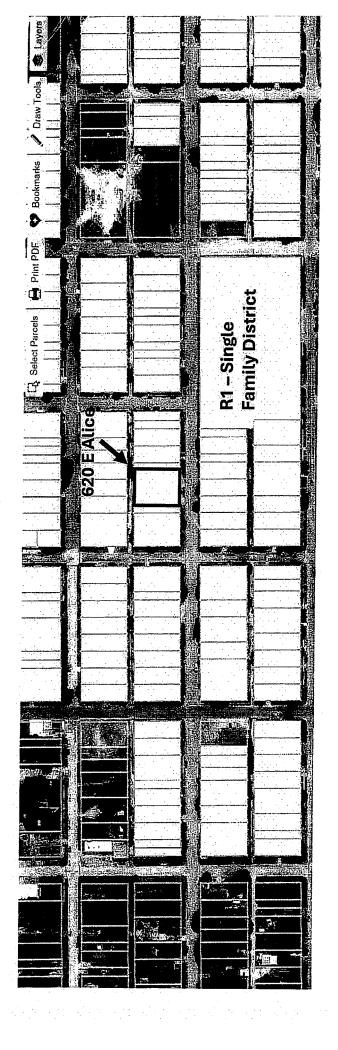
gates its legislative authority and bypasses the legislative process.<sup>77</sup> Zoning is legislative function of municipalities that they cannot contract away.<sup>78</sup>

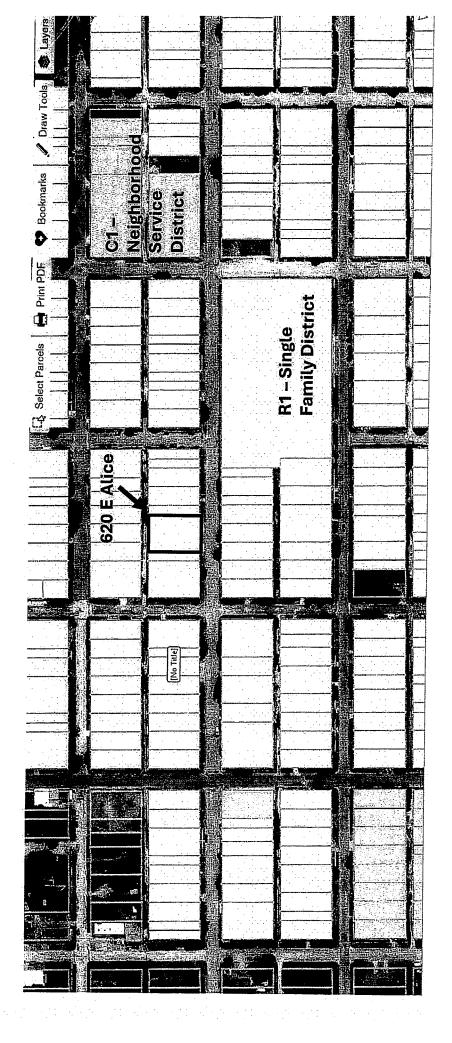
# CONCLUSION

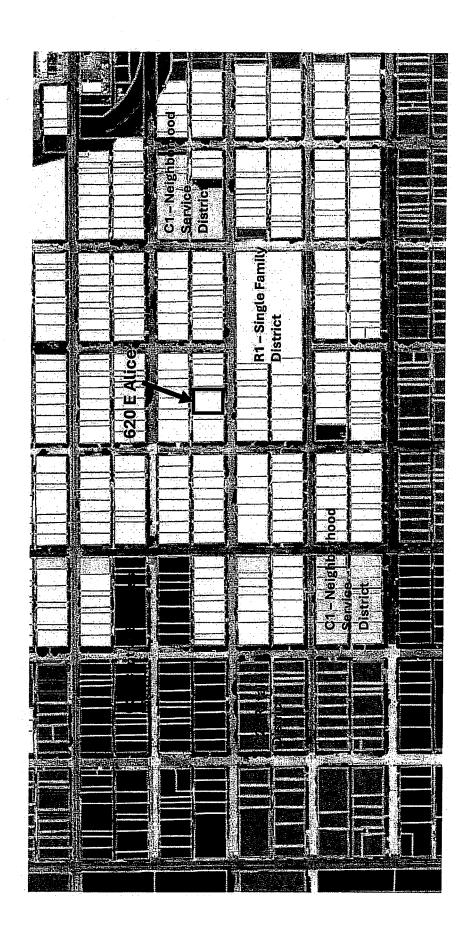
Comprehensive plans are intended to set forth a city's goals and objectives for future growth and identify a strategy by which the city will strive to achieve them. Zoning is an essential tool, if not the essential tool, used to implement the comprehensive plan along with subdivision regulations, infrastructure planning, and economic strategies. As evidenced above, there are numerous technical, legal and political issues that must be evaluated in the enactment and modification of zoning regulations. This article was intended to introduce these concepts at a broad level and not penetrate the deeper judicial analyses and more developed standards of review. A fundamental awareness of zoning should include the basics of the grant of authority, purposes, police power, process, and enforcement just as those same basic concepts were imperative in the Standard Zoning Enabling Act of 1926.

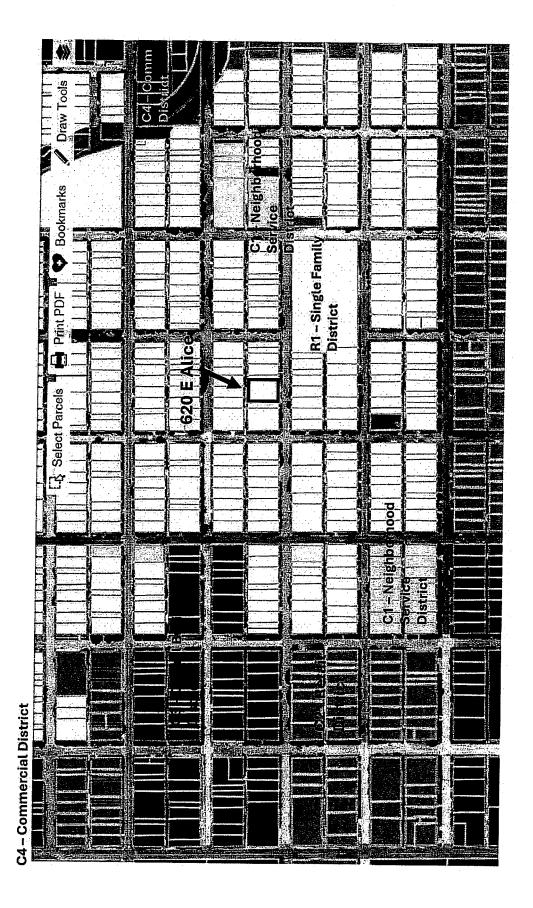
<sup>77</sup> Super Wash, Inc. v City of White Settlement, 131 S.W.3d 249,257 (Tex. App.-Fort Worth, 2004)
78 Id.











# City of Kingsville Legal Department

TO:

Erik Spitzer, Director of Planning and Development Services

CC:

Charlie Sosa, Interim City Manager

FROM:

Courtney Alvarez, City Attorney

DATE:

March 24, 2025

SUBJECT:

Zoning at 620 E. Alice

**Summary:** An ordinance to request the rezone of 620 E. Alice, Kingsville, Texas from R1 (Residential Use) to C2 (Commercial Use) and for an ordinance to request a Special Use Permit for a Wholesale Bakery Use in C2 can move forward to the Planning & Zoning Commission and the City Commission for consideration.

# Background:

The property located at 620 E. Alice, Kingsville, Texas was the site of a tortilla factory (Wholesale Bakery Use) from approximately 1970-2020. Recently, the property was sold and the new owner wishes to reopen the tortilla factory at that site. When the new owner came to the Planning Department for permits, it was discovered that City records show 620 E. Alice to be zoned R1 (Residential Use) despite the fifty-year long commercial use at that location. Texas state law sets out the process for rezoning a property. That process is codified in the City of Kingsville's Code of Ordinances.

The rezoning of property involves a specific process and the analysis of a variety of factors. The rezoning of a property from R1 to C2 in a largely residential area would typically raise concerns of spot zoning. However, an analysis of all the facts surrounding a rezone should be considered before making a final decision.

In this instance, the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location. There is another non-residential use on the same block at the property proposed for rezone. Several commercially zoned properties exist within two blocks of the property proposed for rezone.



# City of Kingsville Legal Department

The property proposed for rezone existed as a tortilla factory for at least fifty years at this same site, so if the same proposed use were to have a detrimental impact on the valuation of surrounding properties, then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades. The property in question is within the City's Historical District. When the tortilla factory first opened at this site in 1970, the area was geared toward uses that largely served Hispanic persons and commerce as pockets of commerce existed to serve different neighborhoods at that time. While times have changed during the last fifty years the factory operated at this site, the business' historical significance to the community should not be overlooked. The proposed rezone could be viewed as serving a substantial public purpose as reopening the factory could increase employment and increase sale tax revenues. Had the same use not recently existed at this site for fifty years, then the analysis might be different.

The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Commercial Use) with a Special Use Permit for Wholesale Bakery Use. A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area.

Financial Impact: There is no expense to the City by considering and approving the requested actions.

**Recommendation:** Allow the process to move forward following state law and city ordinances so that the Planning and Zoning Commission and City Commission can determine whether to allow the proposed zoning changes (rezone from R1 to C2 & a Special Use Permit for Wholesale Bakery Use) to the site.



Raul G Longoria ETAL 828 N Reynalds Alice, TX 78332 #12769

ratifization/solvitovs s. sallA

Guillermo Gonzalez ETUX Brenda Gonzalez 528 E Alice Ave Kingsville, TX 78363 #10307

Ruben R Est Melinda Kerwin 916 E Santa Gertrudis Kingsville, TX 78363 #17256

Maria I Garcia 603 E Richard Kingsville, TX 78363 #17279

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18035

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18815

Frances T Olivarez 611 E Richard Ave Kingsville, TX 78363 #19595

Manuel Trevino EST
ETUX Esabel EST % Nelda Aguilar
1301 Clearfield Dr
Austin, TX 78758-7314
#20390

Eduardo Gonzalez Oralia Gonzalez 701 E Richard Kingsville, TX 78363 #13474

Laura L Elizondo Garrick A Phillips 603 E Alice Ave Kingsville, TX 78363 #25215 Ruben G Soliz 1624 N Armstrong Ave Kingsville, TX 78363 #22680

hoof year assemble breathought.

Francisco P Chapa Est Mrs. Yolanda R Torres PO Box 290 Kingsville, TX 78364 #15095

Belinda J Lopez 9699 Southmeadow Beaumont, TX 77706 #23441

David Michael Isassi 1631 Connell Villa Kingsville, TX 78363 #24203

Eliseo M Torres 620 E Alice Ave Kingsville, TX 78363 #24983

John Edward Cadriel 1949 Zenaida Ave McAllen, TX 78504-5626 #18916

Daniel Avendano ETUX Idalia 8001 Morelos St Pharr, TX 78577-8705 #11167

K I S D PO Box 871 Kingsville, TX 78364 #22290

Yolanda Saeuz 74 Lake Shore DR Corpus Christi, TX 78413-2634 #18175

> Kleberg County PO Box 72 Kingsville, TX 78364 #15901

Gregorio Islas ETUX Teodula (Life EST) Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #13067

Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #12266

Michael W Bars 823 S 23<sup>rd</sup> St Kingsville, TX 78363 #11452

Michael W Bars 823 S 23<sup>rd</sup> St Kingsville, TX 78363 #10672

Jose Arturo Rodriguez ETUX Rosa Laura 607 E Alice Ave Kingsville, TX 78363 #25983

## PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3<sup>RD</sup>, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

## PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3<sup>RD</sup>, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

# Bishop CISD school board elections scheduled for May 3, early voting begins April 22

By Ted Figueroa Reporter

The Bishop CISD School Board is prepared for the next school board elections that will take place on Satur-

day, May 3. In Place 2, incumbent Judy Murdoch with 18 years experience will face

off against Billy Kinsel.

In Place 6, incumbent Dawn Cavanaugh who is completing her 28th year on the board will face challenger year on the boa Julie Chancler.

Early voting will begin on April 22-25 from 8 a.m. to 5 p.m. and will re-sume on April 28 and 29 from 7 a.m.

tipurpose Building, Petronila School, Nucces County Court House, The Da-vid Berlanga Community Center in vid Bertanga Community Center in Agua Duice, the Island Presbyterian Church in Corpus Christi and the Ian-et F. Harte Library in Corpus Christi. In other business, the school board passed all of the consent items and au-

passed all of the consent items and au-thorized the superintendent to begin negotiations with the top ranked prooser for HVAC improvements.

They also authorized the super-

intendent to enter into negotiations with the top ranked proposer for the new gymnasium at Petronila Elementary.

The board also discussed the MOU

with the City of Bishop Police De-partment who has provided an SRO during this school year. The board decided to move on from

that agreement and will pursue other options for security.
Superintendent Christina Gutierrez

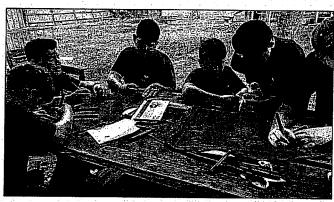
said that for the 2025-26 school year, said that for the 2025-20 school year, the district may hire a safety and secu-rity director and will be looking into

rity director and will be looking into hiring armed guards as well. The board also accepted the resigna-tion of Head Coach Rigo Morales who has taken on a position of head coach and athletic coordinator in the Valley. Bishop CISD is already advertising for the head coach/affensive coordi-nator position.



# Eighth Annual Easter Eggstravaganza set

It's almost time for the 6th annual Easter Eggstranganza hosted by the Kleberg County Attorney's Office. The event will kick off on Set' April 12 from 11 a.m. to 1 p.m. at the Kleberg County Courthouse (West side lawn). Kleberg County Attorney Kira Tally-Sanchez Irrolles the community to come out and enjoy the festivities. This is our 8th annual Festimanean for our production of the statement of the county for the statement of to conte our time enjoy are jestionnes. It is is but on a naman Egystravagarta for our wooderful community. There will be egg hunts according to oge, bounce houses, vendors and prizes given out. As always recrything is free to the com-munity. Come on out and egyin hat dogs and snow cones, " Talip-Sanchez said. (Contributed Photo)



# Boy Scouts take time to help The Purple Door

Boy Scout Troop 186 has partnered with The Purple Door and have decorated T-shirts with positive messages for local survivors of abuse. The clothes will be displayed at La Palmera Mall in Corpus Christi during the month of April for Sexual Assault Awareness month. At the end of the month the T-shirts will be donated to The Purple Door, (Contributed photo)

#### PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room, If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

#### PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property 1D

The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

# **OBTITUTES**



### Jane Anne Sellers Keese

October 8, 1936 - March 28, 2025

October 8, 1936Jane Anne Sellers
Kaese, a lifelong resident of Kingsville,
Texas and longtime
resident of Three
Rivers, Texas, passed
away peacefully
on Friday, March
28, 2025, in Corpus
Christi, Texas, where
she had made her
home for the bast four me for the past four

home for the past four years.

Born on October 8, 1936, in Kingsville. to William Samu-el Sellers and Elsie Catherine. Glasscock Compton, Jane Anne came from pioneering families who helped shape the Kingsville community. Her father was a respected local businessman who owned and operwho owned and oper-ated a grocery store in Kingsville for many

kingsville for many years.

Jone Anne dedicated 30 years of her life to education, touching countless young lives with her passion for teaching. Her Impact on her students remained evident throughout her life, as former pupils would often enthusiastically creek her whenly greet her when-ever she returned to Kingsville for special occasions.
Following her re-

nent from education, Jane Anne devot-ed much of her time to service at First Bap-tist Church of Three

Rivers, where and her late husba and her late husband, James Milton Keese, were devoted members. She could regularly be found in the church kitchen, joyfully preparing meals for various community events and church gatherings.

Jame Anne was preceded in death by her parents; her brother, William Edward Sellers; and her beloved to the proper series and they beloved.

ers; and her beloved husband, James Mil-ton Keese. The family will re-

The family will re-ceive condolences at 10 a.m. on Friday, April 4, 2025, at Tur-cotte-Piper Mortuary; viith a chapel service beginning at 10:30 a.m. officiated by Darin Griffiths. Rite of committal and in-terment will follow at Chamberlain Cem-etery in Kinesville. etery in Kingsville, Texas.

Texas.
Her family would like to thank her loving caregivers from Warm Hearts, that provided wonderful care to her in the past few years. Your kindness will never be forgotten.

In lieu of flowers, donations may be made to South Texas Children's Home in children's Home in Beeville, Texas, re-flecting Jane Anne's lifelong commitment to children and edu-cation.

#### PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 10, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard.

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Foctory) at 3RD, Block 22, Lot 24-27, (Famosa Jortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave.; Kingsville, ... TX in the Helen Kleberg Groves Community Room. If you have any questions about the Items on the agenda, please contact the Planning Department at (361) 595-8055.

#### PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary



ORDINANCE #2025-
------------------

AMENDING THE ZONING ORDINANCE BY CHANGING THE ZONING MAP IN REFERENCE TO 3<sup>RD</sup>, BLOCK 22, LOT 24-27 (PROPERTY ID 17385) ALSO KNOWN AS 620 E. ALICE AVE., KINGSVILLE, TEXAS FROM R1 (SINGLE FAMILY DISTRICT) TO C2 (RETAIL DISTRICT); AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; AND PROVIDING FOR PUBLICATION.

**WHEREAS**, the Planning & Zoning Commission has forwarded to the City Commission it's reports and recommendations concerning the application of Jose Flores & Jaime Flores, property owners/ applicants, for amendment to the zoning map of the City of Kingsville;

WHEREAS, the property was the site of a tortilla factory for at least fifty years though zoning maps show the property to be zoned R1-Single Family District, and there are other non-residential uses on this block and several other uses within two blocks of this previous existing use, so that any potential impact to surrounding properties would already have been experienced due to the long term prior same use;

**WHEREAS**, it is desired for the area to be used as a wholesale bakery use (tortilla factory), which is the same use that had existed at this same location for at least fifty years up until about three years ago and while notice letters were sent to neighbors and a notice was published in the newspaper, no one has contacted city staff about this;

WHEREAS, with proper notice to the public, public hearings were held on Wednesday, April 16, 2025, during a meeting of the Planning & Zoning Commission, and on Monday, April 28, 2025, during a meeting of the City Commission, in the Helen Kleberg Groves Community Room/Commission Chambers, at City Hall, in the City of Kingsville, during which all interested persons were allowed to appear and be heard; and

**WHEREAS**, the item was APPROVED with a 6-0 vote of the Planning & Zoning Commission regarding the requested rezone with no abstentions; and

WHEREAS, the City Commission has determined that this amendment would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

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

**SECTION 1.** That the Zoning Ordinance of the City of Kingsville, Texas, is amended by changing the zoning of the premises known as 620 E. Alice Ave., Kingsville, Texas, also known as 3<sup>RD</sup>, Block 22, Lot 24-27 (Property ID 17385), from R1-Single Family District

to C2-Retail District, as more specifically described on the Zone Change Map, attached as Exhibit A.

- **SECTION 2.** That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendments to the Zoning Ordinance made by Section 1 of this ordinance.
- **SECTION 3.** That the Zoning Ordinance and Zoning Map of the City of Kingsville, Texas, as amended from time to time, except as changed by this ordinance and any other ordinances adopted on this date, remain in full force and effect.
- **SECTION 4.** That to the extent that these amendments to the Zoning Ordinance represent a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.
- **SECTION 5.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.
- **SECTION 6.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

INTRODUCED on this the 28th day of April, 2025.
PASSED AND APPROVED on this the <u>12th</u> day of <u>May</u> , 2025.
Effective Date:
THE CITY OF KINGSVILLE
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED:
Courtney Alvarez, City Attorney

# 200-FT Buffer at Prop ID: 17385



Drawn By: R. PICK Last Update: 2/20/2025

Note: Ownership is labeled

with its Prop ID,

DISCLAIMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY.
THE INFORMATION ON THIS SHEET MAY
CONTAIN INACCURACIES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IT THE INFORMATION
CONTAINED HEREIN IS USED FOR ANY
DESIGN, CONSTRUCTION, PLANING, BUILDING,
OR ANY OTHER PURPOSE.



# CITY OF KINGSVILLE ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064

# **PUBLIC HEARING #2**

Planning and Development Services 410 W King Kingsville, TX 78363

Kingsville, TX 7836 PH: 361-595-8055



# **MEMO**

Date:

April 17th, 2025

To:

Charlie Sosa (Interim City Manager)

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor for a Special Use Permit (SUP) for a Wholesale Bakery

(Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E.

Alice Ave., Kingsville, TX 78363 (Property ID 17385).

Summary: Jose Flores and Jaime Flores, Applicants/Owners, approached the Planning Department on February 20<sup>th</sup>, 2025, requesting approval of a Special Use Permit (SUP) to support re-opening a tortilla factory that was open for  $\sim 50$  years at the parcel of land located at 620 E Alice. The property has been vacant for 3 years and is located in the city's Historic District.

**Background**: 620 E Alice was recently purchased after remaining vacant for approximately 3 years. It is currently zoned R1 (Single Family District). The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Retail District) with a Special Use Permit for Wholesale Bakery use.

**Discussion**: Referencing the City Attorney's memo from March 24<sup>th</sup>, 2025, "A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area."

The Planning and Zoning Commission meeting was held on April 16<sup>th</sup>, 2025, with 6 of 7 members in attendance.

Members deliberated over the request to approve a Special Use Permit (SUP) to support re-opening a tortilla factory that was open for  $\sim 50$  years at the parcel of land located at 620 E Alice. 25 Notice Letters were sent out to neighbors within the 200 feet buffer and the city has received no feedback as of today.

The Planning and Zoning Commission board members voted to recommend approval of a Special Use Permit (SUP) to support re-opening a tortilla factory at 620 E Alice. A recorded vote of all members present was taken and board members Steve Zamora, Larry Garcia, Rev. Idotha Battle, Debbie Tiffee, Mike Klepac and Krystal Emery all voted "YES."

The meeting was adjourned at 7:10 p.m.

The department recommends approval.

#### Erik Spitzer

Director of Planning and Development Services

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



# **MEMO**

Date:

April 9th, 2025

To:

Planning & Zoning Commission

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the Planning & Zoning Commission to approve a Special Use Permit (SUP) for a Wholesale Bakery (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E.

Alice Ave., Kingsville, TX 78363 (Property ID 17385).

Summary: <u>Items 5 & 6</u>: Jose Flores and Jaime Flores, Applicants/Owners, approached the Planning Department on February 20<sup>th</sup>, 2025, requesting approval of a Special Use Permit (SUP) to support reopening a tortilla factory that was open for ~50 years at the parcel of land located at 620 E Alice. The property has been vacant for 3 years and is located in the city's Historic District.

Background: <u>Items 5 & 6</u>: 620 E Alice was recently purchased after remaining vacant for approximately 3 years. It is currently zoned R1 (Single Family District). The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Retail District) with a Special Use Permit for Wholesale Bakery use.

**Discussion:** <u>Items 5 & 6</u>: Referencing the City Attorney's memo from March 24<sup>th</sup>, 2025, "A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area."

# Erik Spitzer

Director of Planning and Development Services



# CITY OF KINGSVILLE PLANNING AND ZONING DIVISION MASTER LAND USE APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TYPE)
Project Address 620 E Alice Nearest Intersection 10th St
(Proposed) Subdivision NameLot
Legal Description 3ed, Block 22, Lot 24-27 (famosa Tortilla factory)
Existing Zoning Designation P   Future Land Use Plan Designation C-2
OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)
Applicant/Authorized Agent Jose and Jine Flores Phone 361 - 215 - 9449
Email Address (for project correspondence only):
Mailing Address 427 W Ave A city Kingsville State To zip 78363
Property Owner Jaime Flores Phone 361-215-9449 FAX
Email Address (for project correspondence only):
Mailing Address 42) W Ave A City kingsville State TX Zip 78363
Select appropriate process for which approval is sought. Attach completed checklists with this application.
Annexation Request No Fee Preliminary Plat Fee Varies
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies
Comp. Plan Amendment Request \$250.00   Minor Plat
X Re-zoning Request       \$250       Re-plat       \$250.00         SUP Request/Renewal       \$250       Vacating Plat       \$50.00
Zoning Variance Request (ZBA) \$250 Development Plat \$100.00
PUD Request\$250 Subdivision Variance Request \$25.00 ea
Please provide a basic description of the proposed project:  Would like to open Famosa Tortilla factory but it's  Zoned RI. The Building was used as a Torting Factory  for many years.
Rezone From RI - to CZ
I hereby certify that I am the owner and /or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be
true and correct. If any of the information provided on this application is incorrect the permit or
approval may be revoked.
Applicant's Signature Date: 20 FB 2025
Property Owner's Signature
Assessment liver
Accepted by: Date: 20 F68 2025

and a share an action! breathing and acadiobilicite 261 at6621

# Kleberg CAD Property Search

# **■** Property Details

Account

Property ID:

17385

Geographic ID: 100502224000192

Type:

R

Zoning: R1

**Property Use:** 

Location

**Situs Address:** 

620 E ALICE

Map ID:

C1

Mapsco:

Legal Description:

3RD, BLOCK 22, LOT 24-27, (FAMOSA TORTILLA FACTORY)

Abstract/Subdivision:

S005

Neighborhood:

Owner

Owner ID:

15566

Name:

LA FAMOSA DRC INC

Agent:

Mailing Address:

620 E ALICE AVE

KINGSVILLE, TX 78363-4637

% Ownership:

100.0%

**Exemptions:** 

For privacy reasons not all exemptions are shown online.

# **■** Property Values

Improvement Homesite Value:

\$0 (+)

Improvement Non-Homesite Value:

\$127,130 (+)

Land Homesite Value:

\$0 (+)

Land Non-Homesite Value:

\$15,000 (+)

**Agricultural Market Valuation:** 

\$0 (+)

Market Value:

\$142,130 (=)

Agricultural Value Loss:@

\$0 (-)

. .

Appraised Value:

\$142,130 (=)

HS Cap Loss: 0

\$0 (-)

Circuit Breaker: @

\$0 (-)

https://esearch.kleberg-cad.org/property/view/17385?printView=detail

1/5

#### **Assessed Value:**

\$142,130

# Ag Use Value:

\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.

# ■ Property Taxing Jurisdiction

Owner: LA FAMOSA DRC INC %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$142,130	\$142,130	\$1,097.06
CKI	CITY OF KINGSVILLE	0.770000	\$142,130	\$142,130	\$1,094.40
SKI	KINGSVILLE I.S.D.	1.410400	\$142,130	\$142,130	\$2,004.60
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$142,130	\$142,130	\$93.37
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$142,130	\$142,130	\$0.00

Total Tax Rate: 3.017965

Estimated Taxes With Exemptions: \$4,289.43

Estimated Taxes Without Exemptions: \$4,289.43

# ■ Property Improvement - Building

Type: COMMERCIAL Living Area: 520.0 sqft Value: \$22,380

Type	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	RS2A	1970	520
OP1	OPEN PORCH BASIC (20%)	*	1970	120
CON	CONCRETE SLAB COMMERCIAL	*	1970	3554

Type: COMMERCIAL Living Area: 3480.0 sqft Value: \$104,750

Туре	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	IN2A	1970	3480

_	_		
	$Dr \cap$	norty/	Land
	LIO	חבו נא	Lailu

Туре	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
F1	F1	0.32	14,000.00	100.00	140.00	\$15,000	\$0

# ■ Property Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$127,130	\$15,000	\$0	\$142,130	\$0	\$142,130
2023	\$129,330	\$15 <b>,0</b> 00	<b>\$</b> 0	\$144,330	\$0	\$144,330
2022	\$113,590	\$7,000	\$0	\$120,590	\$0	\$120,590
2021	\$121,540	\$7,000	\$0	\$128,540	\$0	\$128,540
2020	\$52,010	\$7,000	\$0	\$59,010	\$0	\$59,010
2019	\$59,460	\$7,000	\$0	\$66,460	\$0	\$66,460
2018	\$61,500	\$7,000	\$0	\$68,500	\$0	\$68,500
2017	\$56,110	\$7,000	\$0	\$63,110	\$0	\$63,110
2016	<b>\$54,5</b> 10	\$7,000	\$0	\$61,510	\$0	<b>\$6</b> 1,510

# WRITTEN CONSENT TO USE OF SIMILAR ENTITY NAME

# of LA FAMOSA DRC, INC. a Texas corporation

This written consent is made and tendered in accordance with 1 Texas Administrative Code 79.42 to provide unequivocal consent to Jose L. Flores and/or Jaime Antonio Flores, or either of them, their agents, and assigns, the right to use the name "LA FAMOSA DRC" in the creation of any other entity authorized by the laws of any political subdivision of the United States, including but not limited to the creation of their planned limited liability company to be created under the laws of the State of Texas or

IN WITNESS WHEREOF, the undersigned officer authorized by the Company in accordance with a unanimous resolution of all shareholders of the Company, executes this written consent in the presence to be effective immediately.

Rosa Maria Torres, its Vice President

STATE OF TEXAS

3

COUNTY OF KI

\$

This instrument was acknowledged before me on Nonvey 17, 2025, by Rosa Maria Flores, Vice President of La Famosa DRC, LLC, a Texas corporation, on behalf of said corporation.

ANTONIO ARREDONDO
Notary Public, State of Texas
Comm. Expires 05-10-2026
Notary #0 131562673

Notary Public, State of Texas

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													
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	C3	C4	11	12	Ag
Dwelling, one-family det.	P	Р		Р	Р	Р	Р	Р	Р				Р
Dwelling, one-family att.		Р	Р	Р	Р		S	Р					Р
Dwelling, two-family		Р	·	Р	Р		S	Р					
Dwelling, multi- family				Р	Р		Р	P	Р				
Tiny Homes		Р	Р			Р							

Bakery or		-			P	Р	P	P			
confectionery shop, retail sales (less than											
2,500 square feet)											
2,500 Square reet						~~~					
Bakery, wholesale						Š	Р	P			
Brewpub			:			Р	S	Р	Р	Р	
Building materials	,				,	S	Р	P	S		
sales											
Cafeteria or					ക്	<b>.</b>	P	P.	P.	P	
-restaurant											
Camera shop					S	Р	Р	Р			
Laundry or self-					S	Р	Р	Р			
service laundry shop								-			
(limited area)											
Clinic, medical,					S	Р	Р	Р	Р		
dental, chiropractor,					:						
optometrist or other							-				
office of licensed									•	ľ	
Health related		-									
profession											
Drug store or					Р	P	Р	Р			
pharmacy			 								



# CERTIFICATE OF FILING OF

La Famosa DRC, LLC File Number: 805863291

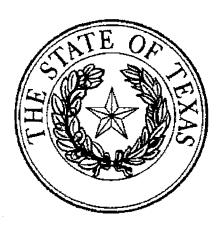
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/17/2025

Effective: 01/17/2025



gave Helson

Jane Nelson Secretary of State

# City of Kingsville Legal Department

TO:

Erik Spitzer, Director of Planning and Development Services

CC:

Charlie Sosa, Interim City Manager

FROM:

Courtney Alvarez, City Attorney

DATE:

March 24, 2025

SUBJECT:

Zoning at 620 E. Alice

**Summary:** An ordinance to request the rezone of 620 E. Alice, Kingsville, Texas from R1 (Residential Use) to C2 (Commercial Use) and for an ordinance to request a Special Use Permit for a Wholesale Bakery Use in C2 can move forward to the Planning & Zoning Commission and the City Commission for consideration.

# Background:

The property located at 620 E. Alice, Kingsville, Texas was the site of a tortilla factory (Wholesale Bakery Use) from approximately 1970-2020. Recently, the property was sold and the new owner wishes to reopen the tortilla factory at that site. When the new owner came to the Planning Department for permits, it was discovered that City records show 620 E. Alice to be zoned R1 (Residential Use) despite the fifty-year long commercial use at that location. Texas state law sets out the process for rezoning a property. That process is codified in the City of Kingsville's Code of Ordinances.

The rezoning of property involves a specific process and the analysis of a variety of factors: The rezoning of a property from R1 to C2 in a largely residential area would typically raise concerns of spot zoning. However, an analysis of all the facts surrounding a rezone should be considered before making a final decision.

In this instance, the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location. There is another non-residential use on the same block at the property proposed for rezone. Several commercially zoned properties exist within two blocks of the property proposed for rezone.



# City of Kingsville Legal Department

The property proposed for rezone existed as a tortilla factory for at least fifty years at this same site, so if the same proposed use were to have a detrimental impact on the valuation of surrounding properties, then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades. The property in question is within the City's Historical District. When the tortilla factory first opened at this site in 1970, the area was geared toward uses that largely served Hispanic persons and commerce as pockets of commerce existed to serve different neighborhoods at that time. While times have changed during the last fifty years the factory operated at this site, the business historical significance to the community should not be overlooked. The proposed rezone could be viewed as serving a substantial public purpose as reopening the factory could increase employment and increase sale tax revenues. Had the same use not recently existed at this site for fifty years, then the analysis might be different.

The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Commercial Use) with a Special Use Permit for Wholesale Bakery Use. A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area.

Financial Impact: There is no expense to the City by considering and approving the requested actions.

**Recommendation:** Allow the process to move forward following state law and city ordinances so that the Planning and Zoning Commission and City Commission can determine whether to allow the proposed zoning changes (rezone from R1 to C2 & a Special Use Permit for Wholesale Bakery Use) to the site.



Raul G Longoria ETAL 828 N Reynalds Alice, TX 78332 #12769

Guillermo Gonzalez ETUX Brenda Gonzalez 528 E Alice Ave Kingsville, TX 78363 #10307

Ruben R Est Melinda Kerwin 916 E Santa Gertrudis Kingsville, TX 78363 #17256

Maria I Garcia 603 E Richard Kingsville, TX 78363 #17279

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18035

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18815

Frances T Olivarez 611 E Richard Ave Kingsville, TX 78363 #19595

Manuel Trevino EST
ETUX Esabel EST % Nelda Aguilar
1301 Clearfield Dr
Austin, TX 78758-7314
#20390

Eduardo Gonzalez Oralia Gonzalez 701 E Richard Kingsville, TX 78363 #13474

Laura L Elizondo Garrick A Phillips 603 E Alice Ave Kingsville, TX 78363 #25215 Ruben G Soliz 1624 N Armstrong Ave Kingsville, TX 78363 #22680

ido⊈vet∃ geembs blad#auoli∃

Francisco P Chapa Est Mrs. Yolanda R Torres PO Box 290 Kingsville, TX 78364 #15095

Belinda J Lopez 9699 Southmeadow Beaumont, TX 77706 #23441

David Michael Isassi 1631 Connell Villa Kingsville, TX 78363 #24203

Eliseo M Torres 620 E Alice Ave Kingsville, TX 78363 #24983

John Edward Cadriel 1949 Zenaida Ave McAllen, TX 78504-5626 #18916

Daniel Avendano ETUX Idalia 8001 Morelos St Pharr, TX 78577-8705 #11167

K I S D PO Box 871 Kingsville, TX 78364 #22290

Yolanda Saenz 74 Lake Shore DR Corpus Christi, TX 78413-2634 #18175

> Kleberg County PO Box 72 Kingsville, TX 78364 #15901

Gregorio Islas ETUX Teodula (Life EST) Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #13067

Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #12266

Michael W Bars 823 S 23<sup>rd</sup> St Kingsville, TX 78363 #11452

Michael W Bars 823 S 23<sup>rd</sup> St Kingsville, TX 78363 #10672

Jose Arturo Rodriguez ETUX Rosa Laura 607 E Alice Ave Kingsville, TX 78363 #25983

# Bishop CISD school board elections scheduled for May 3, early voting begins April 22

By Ted Figueroa Reporter

The Bishop CISD School Board is prepared for the next school board elections that will take place on Satur-

day, May 3. In Place 2, incumbent Judy Mur-doch with 18 years experience will face off against Billy Kinsel.

off against Billy Kinsel.

In Place 6, incumbent Dawn, Cavanaugh who is completing her 28th
year on the beard will face challenger
Julie Chancler.

Early voting will begin on April 2225 from 8 a.m. to 5 p.m. and will resume on April 28 and 29 from 7 a.m.

Voters can vote at the Bishop Mul-tipurpose Building, Petronila School, upurpose Hunding, Petronia School, Nucces County Court House, The Da-vid Berlanga Community Center in Agua Dulce, the Island Presbyterian Church in Corpus Christl and the Jan-et F. Harte Library in Corpus Christi. In other hunners, the school board

passed all of the consent items and aupassed all of the consent items and au-thorized the superintendent to begin negotiations with the top ranked pro-poser for HVAC improvements. They also authorized the super-intendent to enter into negotiations

with the top ranked proposer for the new gymnasium at Petronila Elemen-

tary.
The board also discussed the MOU

with the City of Bishop Police De-partment who has provided an SRO during this school year. The board decided to move on from

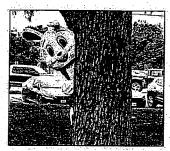
that agreement and will pursue other options for security, Superintendent Christina Gutierrez

said that for the 2025-26 school year. the district may hire a safety and secu-rity director and will be looking into

ray director and will be novaing mo-hiring armed guards as well.

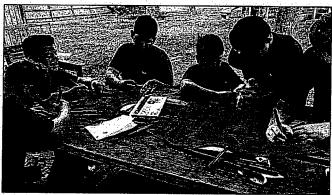
The board also accepted the resigna-tion of Head Coach Rigo Morales who has taken on a position of head coach and athletic coordinator in the Valley.

Bishop CISD is already advertising for the head coach/offensive coordi-



# Eighth Annual Easter Eggstravaganza set

It's almost time for the 8th annual Easter Eggstravaganza locited by the Kleberg County Attorney's Office. The event will take off on Sat. April 12 from 11 a.m. to 1 p.m. at the Kleberg County Attorney was West side laton). Kleberg County Attorney Kria Talip-Sanchez Invities the community to come out and enjoy the festivities. This is our 8th annual Eggstravagance for our wonderful community. There will be egg hunts eccurling to age, bounce houses, vendors and prices given out. As always everything is free to the community. Come on out and enjoy hot dogs and snow cones, Talip-Sanchez said. (Contributed Photo)



# Boy Scouts take time to help The Purple Door

Boy Scout Troop 186 has partnered with The Purple Door and have decorated T-shirts with positive messages for local survivors of abuse. The clothes will be displayed at La Palmera Mail in Corpus Cirristi during the month of April for Sexual Assault Awareness month. At the end of the month the T-shirts will be donated to The Purple Door, (Contributed photo)

#### PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lat 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID

The meeting will be held at City Hall, 400 West King Ave., Kingsville, To meeting will be first at Carly 1 agents. To the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda; please contact the Planning Department at (361) 595-8055.

#### PUBLIC HEARING NOTICE

The City Commission of the City of Kingrville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

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The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kicherg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

# (a) Dictional Co.



# **Jane Anne Sellers Keese**

October 8, 1936 - March 28, 2025

October 8, 1936Jane Anne Sellers
Keese, a lifelong rettdent of Kingsville,
Texas and longdime
resident of Three
Rivers, Texas, passed
away peacefully
on Friday, March
28, 2025, in Corpus
Christi, Texas, where
she had made her
home for the past four home for the past four

years.

Born on October
8, 1936, in Kingsville
to William Samuel Sellers and Elsie
Catherine Glasscock
Compton, Jane Anne Compton. Jane Anne came from pioneering, families who helped shape the Kingaville community. Her father was a respected local businessman who owned and operated a grocery store in Kingaville for many years.

Inne Anne dedicat-

years. Jane Anne dedicated 30 years of her life to education, touching countless young lives with her passion for teaching. Her impact on her students remained evident throughout her life, as former pupils would often enthustastically great her whenever she returned to Kingsville for special occasions.

occasions.
Following her re-tirement from educa-tion, Jane Anne devot-ed much of her time to service at First Bap-tist Church of Three

and her late husband, James Milton Keese, were devoted mem-bers. She could regu-larly be found in the church kitchen, joy-fully preparing meals for various communi-

for various communi-ty events and church gatherings.

Jane Anne was pre-ceded in death by her parents; her brother.

William Edward Sell-ers; and her beloved husband, James Mil-ton Keess.

husband, James Mution Kesse.

The family will receive condolences
at 10 a.m. on Friday,
April 4, 2025, at Turcotte-Piper Mortuary;
with a chapel service
beginning at 10:30
a.m. officiated by
Darin Griffiths. Rite
of committal and Interment will follow
at Chamberlain Cemetery in Kingsville,
Texas.

Her family would
like to thank her loving cargivers from

like to thank her loy-ing caregivers from Warm Hearts, that provided wonderful care to her in the past few years. Your kind-ness will never be for-

In lieu of flowers, donations may be made to South Texas Children's Home in Besville, Texas, re-flecting Jane Anne's lifelong commitment lifelong commitment to children and edu-

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Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

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ORDINANCE NO.	2025-
---------------	-------

AMENDING THE ZONING ORDINANCE BY GRANTING A SPECIAL USE PERMIT FOR WHOLESALE BAKERY USE (TORTILLA FACTORY) IN C2 (RETAIL DISTRICT) AT 620 E. ALICE AVE., KINGSVILLE, TEXAS, ALSO KNOWN AS 3<sup>RD</sup>, BLOCK 22, LOT 24-27 (PROPERTY ID 17385); AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; PROVIDING FOR PUBLICATION.

WHEREAS, the Planning & Zoning Commission has forwarded to the City Commission it's reports and recommendations concerning the application of Jose Flores & Jaime Flores, property owners/ applicants, for amendment to the zoning map of the City of Kingsville;

**WHEREAS**, the property was recently zoned R1-Single Family Residential District but was rezoned to C2-Retail District and it is desired for the area to be used as a wholesale bakery use (tortilla factory), which is the same use that had existed at this same location for at least fifty years up until about three years ago;

**WHEREAS,** there are other non-residential uses on this block and several other uses within two blocks of this previous existing use, and while notice letters were sent to neighbors and a notice was published in the newspaper, no one has contacted city staff about this;

**WHEREAS**, the City Code of Ordinances, Chapter XV-Land Usage, Appendix A- Land Use Categories states that in C2 a special use permit is required to have a wholesale bakery use (tortilla factory); and

**WHEREAS**, the City of Kingsville Code of Ordinances section 15-6-142 regulates special use permits; and

WHEREAS, with proper notice to the public, public hearings were held on Wednesday, April 16, 2025, during a meeting of the Planning & Zoning Commission, and on Monday, April 28, 2025, during a meeting of the City Commission, in the Helen Kleberg Groves Community Room/Commission Chambers, at City Hall, in the City of Kingsville, during which all interested persons were allowed to appear and be heard; and

WHEREAS, a majority of the Planning & Zoning Commission voted 6-0 to APPROVE, with no abstentions, the requested special use permit; and

WHEREAS, the City Commission has determined that this amendment would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

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

**SECTION 1.** That the Zoning Ordinance of the City of Kingsville, Texas, is amended and a Special Use Permit is granted for a Wholesale Bakery Use (tortilla factory) in C2 (Retail District) on the premises known as 620 E. Alice Ave., Kingsville, Texas, also known as 3<sup>RD</sup>, Block 22, Lot 24-27 (Property ID 17385), as more specifically describe on site plan attached as Exhibit A.

**SECTION 2.** That the Special Use Permit granted in Section 1 of this Ordinance is subject the following conditions:

- 1. ALLOWED USE: The only uses authorized by this Special Permit other than the permitted "C2" Retail District uses is as a Wholesale Bakery Use (tortilla factory).
- 2. STATE LICENSE: The premises or operator be licensed or registered by the State of Texas, if required.
- 3. TIME LIMIT: This Special Permit is good for the duration of the business from the date of this ordinance unless the property is not being used for the purpose outlined in Condition 1 or any other conditions have not been complied with.
- 4. SPECIAL CONDITION: The applicant shall obtain all required background checks, business licenses and cooperation with all annual fire safety, health, and sanitation inspections, as required by the State and the City of Kingsville, and any other laws or regulations regarding such business in order to maintain compliance with state and city regulations for the tortilla factory.
- **SECTION 3.** That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendment to the Zoning Ordinance made by Section 1 of this ordinance.
- **SECTION 4.** That the Zoning Ordinance and Zoning Map of the City of Kingsville, Texas, as amended from time to time, except as changed by this ordinance and any other ordinances adopted on this date, remain in full force and effect.
- **SECTION 5.** That to the extent that this amendment to the Zoning Ordinance represents a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.
- **SECTION 6.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.
- **SECTION 7.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

**INTRODUCED** on this the <u>28th</u> day of <u>April</u>, 2025.

PASSED AND APPROVED on this to	ne <u>12<sup>th</sup></u>	_day of _	May	2025.
Effective Date:	, 202_	<del></del>		
THE CITY OF KINGSVILLE				
Sam R. Fugate, Mayor	-			
ATTEST:				
Mary Valenzuela, City Secretary	-			
APPROVED AS TO FORM:				
Courtney Alvarez, City Attorney	-			

# 200-F1 Buffer at Prop ID: 1/385



Drawn By: R. PICK

Last Update: 2/20/2025

Note: Ownership is labeled with its Prop ID.

DISCLAIMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY.
THE INFORMATION ON THIS SHEET MAY
CONTAIN INACCURACIES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IF THE INFORMATION
CONTAINED HEREIN IS USED FOR ANY
DESIGN, CONSTRUCTION, PLANNING, BUILDING,
OR ANY OTHER PURPOSE.



## CITY OF KINGSVILLE ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064

# **PUBLIC HEARING #3**

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



### **MEMO**

Date:

April 17th, 2025

To:

Charlie Sosa (Interim City Manager)

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor for a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole antenna in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also

known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Summary: Vincent Gerard & Associates, Applicant and Robert De Pol, Owner, approached the Planning Department on March 17<sup>th</sup>, 2025, requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole antenna in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

**Background**: In accordance with the City of Kingsville's Land Use Chart, telecommunication mounting structures over 100' tall require a Special Use Exception (SUE); we accomplish this requirement with a Special Use Permit (SUP) application.

**Discussion**: AT&T Mobility is proposing a wireless site at 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758) to improve coverage in the area. AT&T radio frequency engineers have received numerous complaints from NAS Kingsville customers. This solution will benefit both NAS Kingsville and existing interior sites within the City of Kingsville. An existing monopole antenna located approximately 2300' northwest (owned by Cellco) has zero additional ground space for increasing capacity, nor does it have adequate height to optimize coverage. This proposed unmanned site will be accessed once per month by a maintenance worker. In addition, the FAA confirmed the future planned structure would not exceed obstruction standards, nor would be a hazard to air navigation. The request also has approval recommendation from Commander, Training Air Wing TWO.

The Planning and Zoning Commission meeting was held on April 16th, 2025, with 6 of 7 members in attendance.

Members deliberated over the request to recommend approval of a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole antenna at 1025 E General Cavazos, Kingsville, TX 78363. 5 Notice Letters were sent out to neighbors within the 200 feet buffer and the city has received no feedback as of today.

The Planning and Zoning Commission board members voted to approve the recommendation of a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole antenna at 1025 E General Cavazos, Kingsville, TX 78363. A recorded vote of all members present was taken and board members Steve Zamora, Larry Garcia, Rev. Idotha Battle, Debbie Tiffee, Mike Klepac and Krystal Emery all voted "YES."

The meeting was adjourned at 7:10 p.m.

The department recommends approval.

**Erik Spitzer**Director of Planning and Development Services

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



### **MEMO**

Date:

April 9th, 2025

To:

Planning & Zoning Commission

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the Planning & Zoning Commission for a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as

1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Summary: Items 1 & 2: Vincent Gerard & Associates, Applicant and Robert De Pol, Owner, approached the Planning Department on March 17th, 2025, requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with a 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Background: Items 1 & 2: In accordance with the City of Kingsville's Land Use Chart, telecommunication mounting structures over 100' tall require a Special Use Exception (SUE); we accomplish this requirement with a Special Use Permit (SUP) application.

Discussion: Items 1 & 2: AT&T Mobility is proposing a wireless site at 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758) to improve coverage in the area. AT&T radio frequency engineers have received numerous complaints from NAS Kingsville customers. This solution will benefit both NAS and existing interior sites within the City of Kingsville. An existing monopole antenna located approximately 2300' northwest (owned by Cellco) has zero additional ground space for increasing capacity, nor does it have adequate height to optimize coverage. This proposed unmanned site will be accessed once per month by a maintenance worker. In addition, the FAA confirmed the future planned structure would not exceed obstruction standards, nor would be a hazard to air navigation.

### Erik Spitzer

Director of Planning and Development Services





# PLANNING AND ZONING DIVISION MASTER APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TY	PE)			
Project Address 2025 E GENERAL CAVAZOS BL	VD Nearest i	ntersection PAULS	ON FALLS RD & E.G	ENERAL CAVAZOS
(Proposed) Subdivision Name PAULSONS SUB		Lot B	Block	
Legal Description PAULSONS SUB, LOT B, ACRE	S ,0			
Existing Zoning Designation C4 COMMERCIAL DIS	TRICT Future L	and Use Plan Desi	gnation	
OWNER/APPLICANT INFORMATION: (Please PRIN			<del> </del>	
Applicant/Authorized Agent VINCENT GERARD &		Phone 5	512-328-2693	
Email Address (for project correspondence only):		**		
· · · · · · · · · · · · · · · · · · ·				
Mailing Address 5524 Bee Caves Road #K4	_ City Austin	Sta	ite <u>TX</u>	Zip_78746
Property Owner DE POL ROBERT	Phone		FAX	
Email Address (for project correspondence only):				
Mailing Address 1702 E 5TH ST.				
Select appropriate process for which approval is so	ought. Attach c	ompleted checklis	ts with this app	olication.
Annexation Request No Fe	ap	7 Preliminary Plat		Footlesia
Administrative Appeal (ZBA) \$250		Preliminary Plat Final Plat		Fee Varies
Comp. Plan Amendment Request \$250	.00	Minor Plat		\$100.00
Re-zoning Request \$250  ✓ SUP Request/Renewal \$250		Re-plat		\$250.00
✓ SUP Request/Renewal \$250		Vacating Plat		\$50.00
Zoning Variance Request (ZBA) \$250		Development Pla	at	\$100.00
PUD Request \$250		Subdivision Vari	ance Request_	\$25.00 ea
Please provide a basic description of the proposed PROPOSED WIRELESS TELECOMMUNICATIONS FACILITY WI	project: TH 120' MONOPOLI	E AND EQUIPMENT. TX	XDOT DRIVEWAY	PERMIT PENDING.
I hereby certify that I am the owner and /or du application. I further certify that I have read at true and correct. If any of the information propproval may be revoked.  Applicant's Signature  Property Owner's Signature  Property Owner's Signature  Property Owner's Signature	nd examined the vided on this a	nis application ar	nd know the sorrect the per Date: 3/17/20 Date:	ame to be mit or
Accepted by:			Date: <b>19</b> _/	MR 2025

This form available on our website: https://www.cityofkingsville.com/departments/planning-and-development-services/

# Kleberg CAD Property Search

# **■** Property Details

Account

Property ID:

25758

Geographic ID: 152700002000192

Type:

R

Zoning:

**Property Use:** 

Location

Situs Address:

2029 E GENERAL CAVAZOS TX

Map ID:

B2

Mapsco:

**Legal Description:** 

PAULSON'S SUB, LOT B, ACRES .0

Abstract/Subdivision:

S527

Neighborhood:

Owner

Owner ID:

65801

Name:

DE POL ROBERT

Agent:

**Mailing Address:** 

1702 E 5TH ST

PALMETTO, FL 34221

% Ownership:

100.0%

**Exemptions:** 

For privacy reasons not all exemptions are shown online.

# **■** Property Values

Improvement Homesite Value:

\$0 (+)

Improvement Non-Homesite Value:

\$0 (+) \$0 (+)

Land Homesite Value:

Land Non-Homesite Value:

\$22,470 (+)

Agricultural Market Valuation:

\$0 (+)

Market Value:

\$22,470 (=)

Agricultural Value Loss:@

\$0 (-)

Appraised Value:0

\$22,470 (=)

HS Cap Loss: @

\$0 (-)

Circuit Breaker: @

\$2,886 (-)

**Assessed Value:** 

\$19,584

Ag Use Value:

\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal

# ■ Property Taxing Jurisdiction

Owner: DE POL ROBERT %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$22,470	\$19,584	\$151.16
СКІ	CITY OF KINGSVILLE	0.770000	\$22,470	\$19,584	\$150.80
SKI	KINGSVILLE I.S.D.	1.410400	\$22,470	\$19,584	\$276.21
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$22,470	\$19,584	\$12.87
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$22,470	\$19,584	\$0.00

Total Tax Rate: 3.017965

**Estimated Taxes With Exemptions: \$591.04** 

**Estimated Taxes Without Exemptions: \$678.14** 

<b>■</b> Pr	roperty Land						
Туре	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
C1	C1	0.93	40,510.80	0.00	0.00	\$22,470	\$0

Pro	perty	Roll Va	lue H	istory
				,

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$0	\$22,470	\$0	\$22,470	\$0	\$19,584
2023	\$0	\$16,320	\$0	\$16,320	\$0	\$16,320
2022	\$0	\$14,930	\$0	\$14,930	\$0	\$14,930
2021	\$0	\$15,000	\$0	\$15,000	\$0	\$15,000
2020	\$0	\$13,700	\$0	\$13,700	\$0	\$13,700
2019	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2018	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2017	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2016	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300

# ■ Property Deed History

Deed Date	Туре	Description	Grantor	Grantee	Volume Page	Number
3/5/2019	WD	WARRANTY DEED	JOHNSON JOE VAUGHN	DE POL ROBERT	· · · · · · · · · · · · · · · · · · ·	317522
5/12/2008	WDW/ASMP	WARRANTY DEED W/ASSUMPTION	JOHNSON JOE V	JOHNSON JOE VAUGHN	390 270	

Şec. 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										:-			
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	C3	<b>C</b> 4	11	12	Ag
Dwelling, one-family det.	P	P		Р	P	Р	Р	Р	Р				P
Dwelling, one-family att.		Р	P	Р	Р		S	Р					P
Dwelling, two-family		Р		Р	Р		S	Р					
Dwelling, multi- family				Р	P		Р	Р	Р				
Tiny Homes		Р	Р		ı.	Р							
Dwelling, above business									Р				
Work/live units									Р				

	7		<del></del>	· · · · · ·	1901,110,	17.000	e oi Oidii	ances					7	Š.
		P		P	F			P	D F	PF				<i>y</i>
Telecommunications facility					C:T	elec	omm	unica	ation	s of t	he z	Zoni	ng	Nes ·
relevision	S	S		S	S	S	S	P	P	P	P	P	Р	
oumping and	Р	Р		Р	Р	Р	Р	P	Р	Р	Р	P	P	
	P.	Р		Р	Р	Р	Р	Р	P	P	P	P	P	
	Exe	mpt	, see T	Гех. І	₋OC.	Gov	t Coc	le, §§	51.0	001 a	nd 5	4.0	Д О1	
vitching, relay, and ansmitting	S	S		S	S	Р	Р	Р	P	Р	Р	Р	Р	
	microwave towers (without telecommunications facility) Telecommunications facility	microwave towers (without telecommunications facility)  Telecommunications facility  Commercial radio or celevision cransmitting  Sewage or water comping and control stations  Cailroad tracks and ght-of-way  elephone business ffice  elephone vitching, relay, and cansmitting	microwave towers (without telecommunications facility)  Telecommunications As per facility  Commercial radio or selevision transmitting  Sewage or water Pumping and ontrol stations  cailroad tracks and P ght-of-way elephone business ffice  elephone vitching, relay, and ansmitting	microwave towers (without telecommunications facility)  Telecommunications As per Appe facility Ordinance  Commercial radio or S S television transmitting  Sewage or water Dumping and Control stations  Cailroad tracks and P P Ight-of-way  elephone business ffice  Elephone Vitching, relay, and Cansmitting	Radio, television or microwave towers (without telecommunications facility)  Telecommunications As per Appendix facility Ordinance  Commercial radio or selevision ransmitting  Sewage or water pumping and ontrol stations  Tailroad tracks and p p p p p p p p p p p p p p p p p p p	Radio, television or microwave towers (without telecommunications facility)  Telecommunications As per Appendix C: Tacility  Commercial radio or S S S S S S S S S S S S S S S S S S	Radio, television or microwave towers (without telecommunications facility)  Telecommunications. As per Appendix C: Telecommunications or delevision transmitting  Sewage or water pumping and control stations  Tailroad tracks and ght-of-way  Elephone business fice  Elephone vitching, relay, and ansmitting  P P P P P P P P P P P P P P P P P P P	Radio, television or microwave towers (without telecommunications facility)  Telecommunications As per Appendix C: Telecommance  Commercial radio or selevision transmitting  Sewage or water PPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPP	microwave towers (without telecommunications facility)  Telecommunications facility  Ordinance  Commercial radio or selevision transmitting  Dewage or water PPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPP	Radio, television or microwave towers (without telecommunications facility)  Telecommunications As per Appendix C: Telecommunication facility  Commercial radio or selevision transmitting  Sewage or water PPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPPP	Radio, television or microwave towers (without telecommunications facility)  Telecommunications facility  Ordinance  Commercial radio or selevision gransmitting  Exempt, see Tex. Loc. Gov't Code, \$\$ 51.001 a facility gransmitting  Exempt, see Tex. Loc. Gov't Code, \$\$ 51.001 a facility gransmitting  Exempt, relay, and ansmitting	Radio, television or microwave towers (without telecommunications facility)  As per Appendix C: Telecommunications of the 2 Ordinance  Commercial radio or elevision transmitting  Sewage or water pumping and control stations  alilroad tracks and ght-of-way  elephone business  Exempt, see Tex. Loc. Gov't Code, \$\frac{9}{2}\$\$ 51.001 and 5 ffice  elephone vitching, relay, and ansmitting	Radio, television or microwave towers (without telecommunications facility)  Telecommunications As per Appendix C: Telecommunications of the Zoni Ordinance  Commercial radio or selevision transmitting  Gewage or water pumping and control stations alilroad tracks and ght-of-way  elephone business Exempt, see Tex. Loc. Gov't Code, §§ 51.001 and 54.00 fice elephone witching, relay, and ansmitting	Radio, television or microwave towers (without telecommunications facility)  Felecommunications As per Appendix C: Telecommunications of the Zoning:  Commercial radio or relevision ransmitting  Gewage or water pumping and ontrol stations  ailroad tracks and ght-of-way  elephone business ffice  Exempt, see Tex. Loc. Gov't Code, \$\frac{1}{2}\$\$ \$

Sec. 15-6-142. - Special use permits.

- (A) All requests for permits in districts which involve uses listed as special uses in § 15-6-19 and areas designated as an overlay district shall be referred to the City Planner.
- (B) Special uses are conditional upon a demonstration of conditions and facts by the applicant that the special use is appropriate to the site.
- (C) The Planning Department shall collect a fee of \$250.00 to cover the cost of advertising and the mailing of announcements regarding pending special use permit applications to all property owners within 200 feet of the site for which the special use permit is requested.
- (D) Applicants shall supply suitable plans and information concerning the location, function and characteristics of any use proposed to the Planning Department prior to the scheduling of any hearing. The Planning Department shall evaluate the proposed use and submit preliminary recommendations to the Planning and Zoning Commission.
- (E) The City Planner shall evaluate all requests for special use permits and shall submit the application to the Planning Commission and to the City Commission unless he finds:
  - (1) There is inadequate information upon which to evaluate the request;
  - (2) The applicant requests a deferral; or
  - (3) The applicant withdraws the application.
- (F) The Planning Department, after receiving authorization from the City Commission by ordinance, shall authorize the Building Inspector to issue a special use permit. Conditions may be attached to the permit to assure compliance with the intent and purposes of this article and further the public welfare.

(1962 Code, § 11-6-6)

Sec. 1. - Zoning districts where telecommunications facilities are authorized.

Telecommunication		Code						
Facility Type	Nonresidential	Residential <sup>2</sup>	Historical/Cultural	Reference				
Amateur Radio Towers under 50 feet (15 m)	Yes	Yes	No	<u>§ 15-6-48(B)</u>				
Self-supporting Latti	ce, Guyed and Ot	her Towers		<u> </u>				
- 0 to 50 feet (15 m)	Yes	No	No	§ 15-6-48(D)				
- over 50 feet (15 m)	SUE <sup>3,4</sup>	No	No	§ 15-6-48(D)				
Monopole Towers		<u> </u>		<u>  -                                   </u>				
- 0 to 85 feet (26 m)	Yes	SUE 3	No	§ 15-6-48(C)				
- over 85 feet (26 m)	SUE <sup>3,4</sup>	No	No	§ 15-6-48(D)				
Alternative Mounting	Structures	<u> </u>		<del></del>				
- 0 to 100 feet (30 m)	Yes	SUE <sup>3,5</sup>	Stealth	§ 15-6-48(E) (1)				
- over 100 feet (30 m)	SUE	SUE 3	Stealth	§ 15-6-48(E) (2)				
Antenna Only Mountings								
- electronic transmission towers	Yes	Yes	Stealth	<u>§ 15-6-49(</u> B) (3)				

- existing telecom towers over 40 feet (12 m)	Yes	Yes	Stealth	§ 15-6-49(B) (1)
- utility poles over 40 feet 12 m)	Yes	Yes	Stealth	<u>§ 15-6-49(B)</u> (1)
- light poles over 40 feet (12 m)	Yes	Yes	Stealth	§ 15-6-49(B) (1)
- conforming billboards	Yes	Yes	Stealth	§ 15-6-49(B) (5)
- building-mounted panels	Stealth	Stealth <sup>6</sup>	Stealth	§ 15-6-49(B) (6)
- building-mounted whips	Yes	Yes <sup>6</sup>	Stealth	<u>§ 15-6-49(B)</u> (7)
- roof-mounted arrays	Yes <sup>7</sup>	Yes <sup>7</sup>	Stealth	§ 15-6-49(B) (7)
Dish Antenna Mount	ings			
- building/roof- mounted under 3.3 feet (1 m) in diameter	Yes	Yes	Stealth	§ 15-6-49(C) (4)
- building/roof- mounted under 6.6 feet (2 m) in diameter	Yes <sup>7</sup>	Yes <sup>7</sup>	Stealth	§ 15-6-49(C) (5)

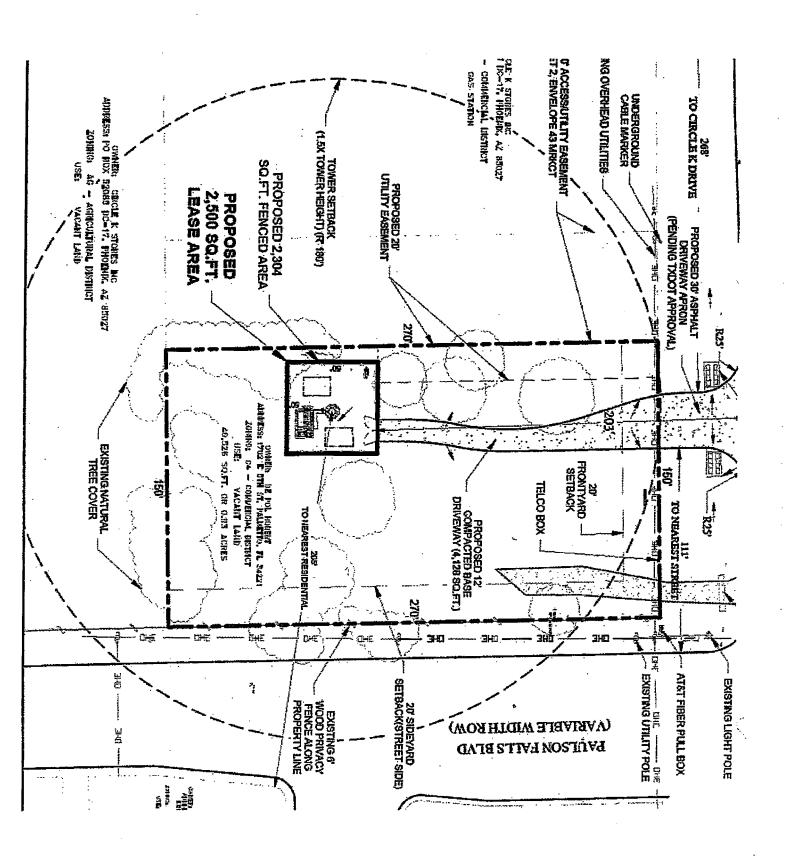
- building/roof- mounted over 6.6 feet (2 m) in diameter	Yes <sup>8</sup>	Yes <sup>8</sup>	Stealth	<u>§ 15-6-49(</u> C) (6)
- ground-mounted under 10 feet (3 m) in diameter	Yes	Yes	Stealth	<u>§ 15-6-49(C)</u> (3)
- ground-mounted over 10 feet (3 m) in diameter	Yes	No	Stealth	<u>§ 15-6-49(</u> C) (3)

### Notes:

- <sup>1</sup> For the purpose of this article and table, *NONRESIDENTIAL* means zoning districts C-1, C-2, C-3, C-4, I-1 and I-2.
- <sup>2</sup> For the purpose of this article and table, *RESIDENTIAL* means zoning districts R-1, R-2, R-3, R-4, MH and Ag.
- <sup>3</sup> SUE means a special use exception, obtained under § 15-6-142, is required by § 15-6-48(B).
- <sup>4</sup> In an <u>I-2 zoning</u> district, there is no tower-height limitation and SUE is not required.
- <sup>5</sup> Alternative mounting structures 100 feet (30 meters) or less in height that are also used to provide lighting to parks, stadiums, athletic fields, school playgrounds, tennis courts and other recreational areas are permitted, by right, in residential districts.
- <sup>6</sup> Nonresidential and multifamily structures only.
- <sup>7</sup> Nonresidential and multifamily structures.

<sup>8</sup> Structures in excess of 100,000 square feet (900 square meters) of floor area.

(Ord. 2001-15, passed 8-13-01)



# Kingsville Coverage Evaluation Plots

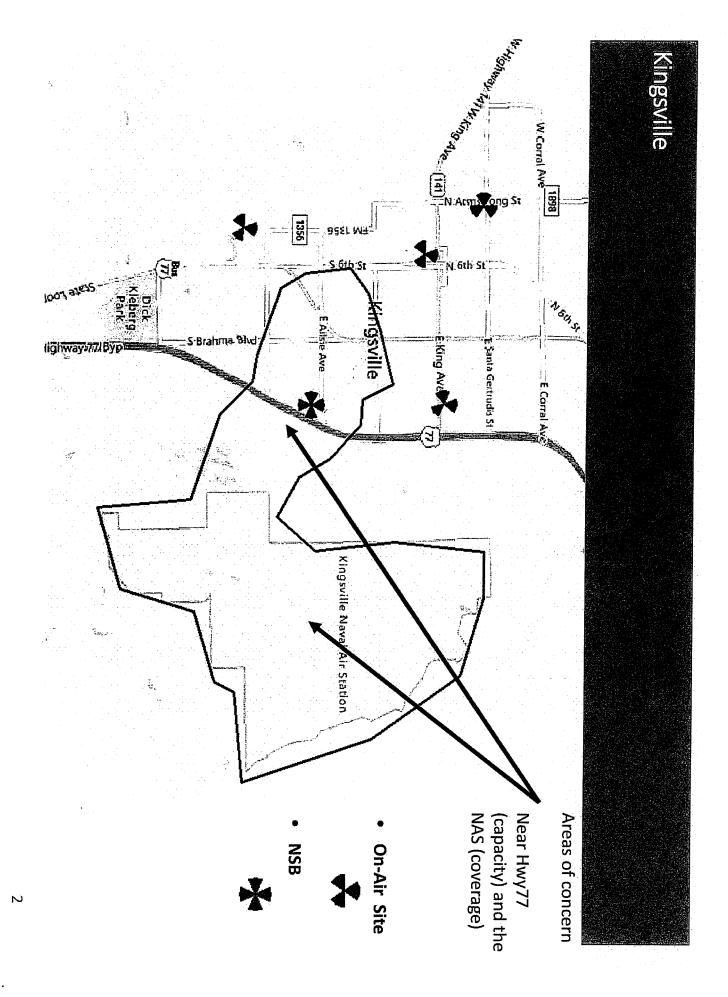
02/25/2025

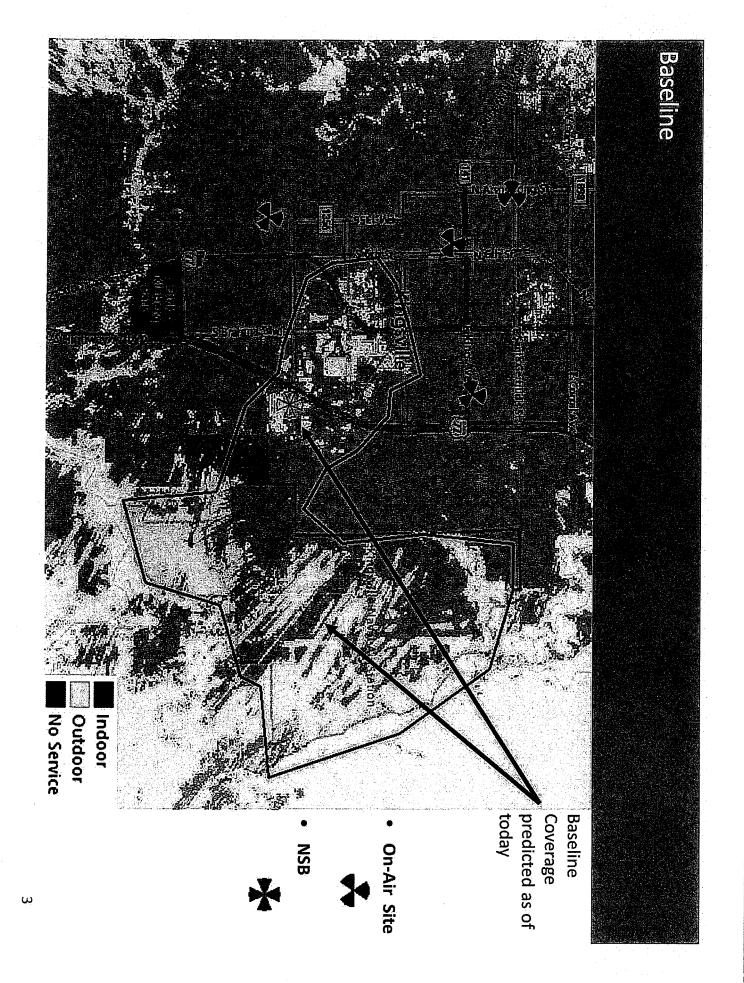
New Site Solution - FA 15470650 Neesen

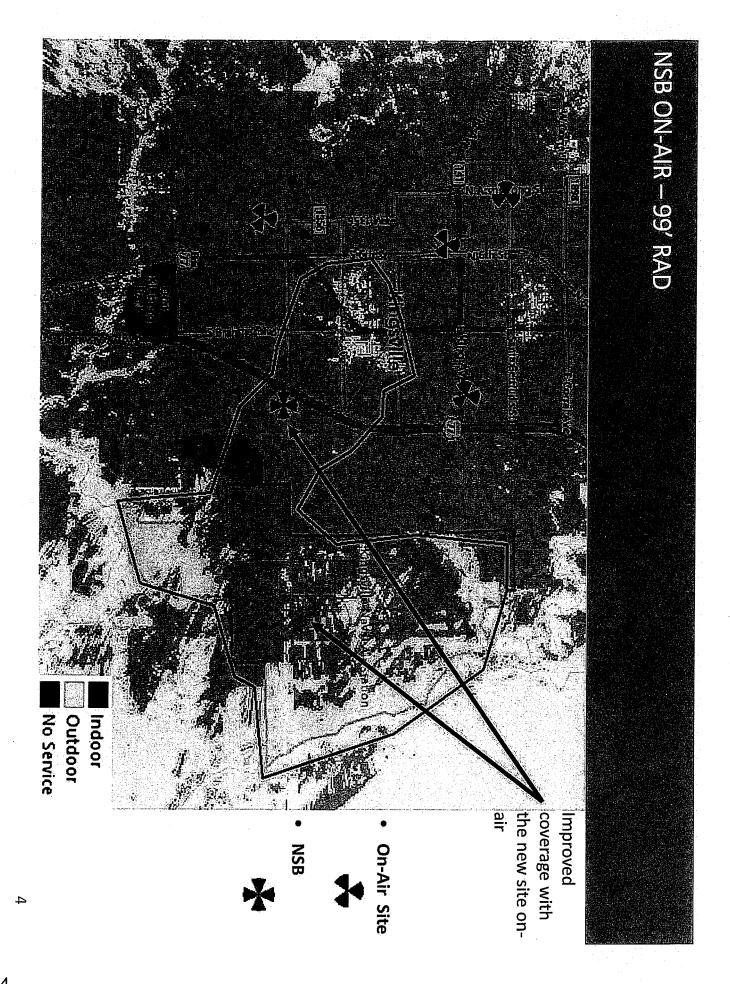
Damon Bindock – Assoc Director STX

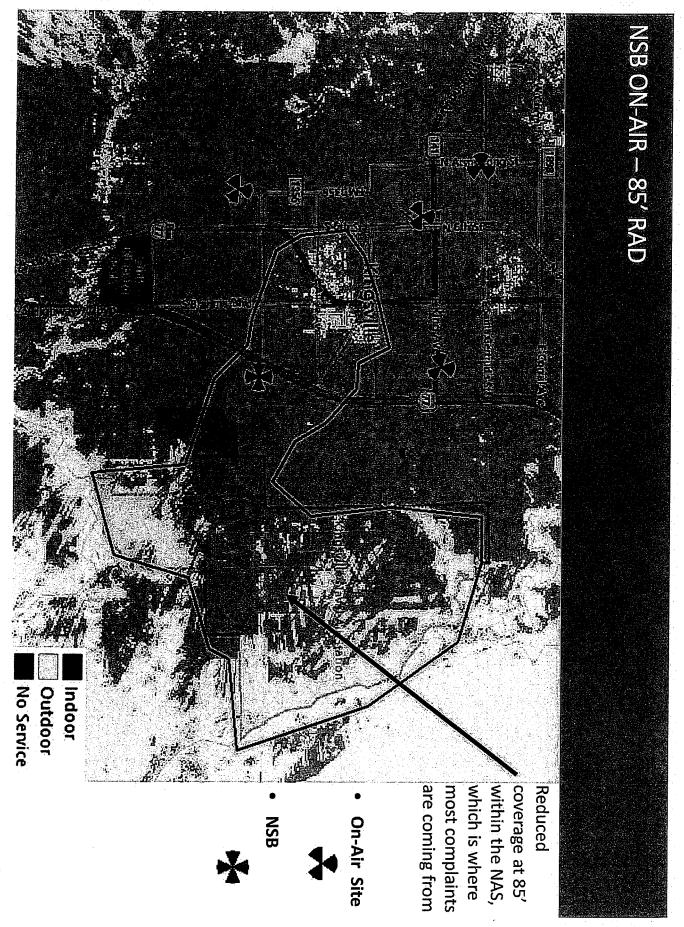


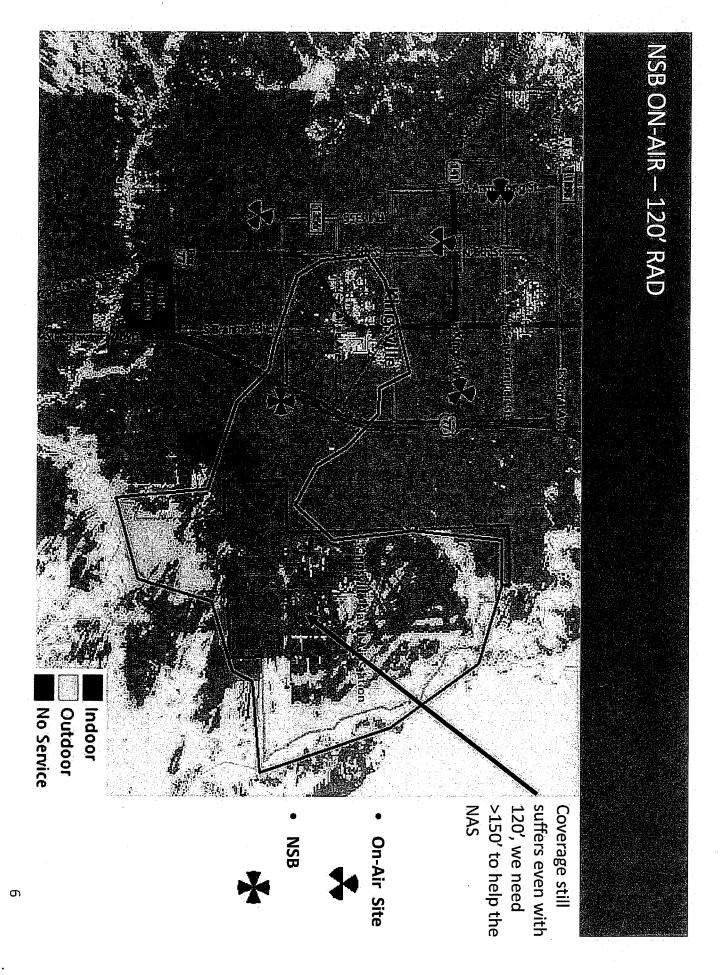
© 2025 AT&T intellectual Property. All Rights Reserved. AT&T, Globe logo, Mobilizing Your World and DIRECTV are registered trademarks and service marks of AT&T Intellectual Property and/or AT&T affiliated companies. All other marks are the property of their respective owners. AT&T Proprietary (Internal Use Only). Not for use or disclosure outside the AT&T companies except under







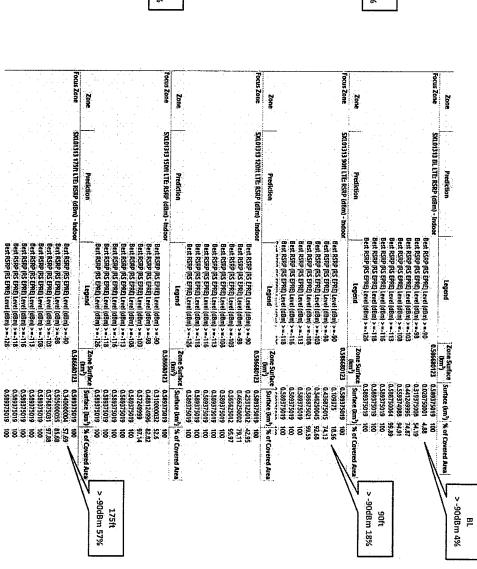




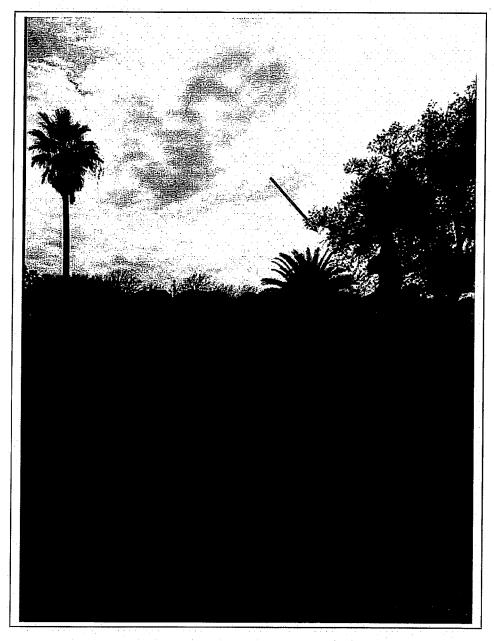
# van's old analysis shows the need for >150' for the NAS

1900 SINR and RSRP area % in HotSpot (Navy Base)

POLIS Zonje	50	Zone Focus Zone		Zone Focus Zone		Zone	Zone Focus Zone
(DO) (DO) ENIS ETI STI ELEGIXE	Picke	Prediction STUDISTIN 150 LTE SINR (01) (dB)		Prediction SXL01313 120 LTE: SXVR (DL) (d5)	EDI (KO) MAKSTATA GE ETERIK	Prediction	President
#95CH CO-11 Level (01) (68) >= 5 #95CH CO-14 Level (01) (68) >= 2 #95CH CO-14 Level (01) (68) >= 2 #95CH CO-14 Level (01) (68) >= 2 #95CH CO-14 Level (01) (68) >= 3	PSCH CG-14 Levi (0) (dd) > 3 PSCH CG-14 Levi (0) (dd) > 2 PSCH CG-14 Levi (0) (dd) > 0 PSCH CG-14 Levi (0) (dd) > 0 PSCH CG-14 Levi (0) (dd) > 3 PSCH CG-14 Levi (0) (dd) > 3 PSCH CG-14 Levi (0) (dd) > -10	Legend	PSCH C#-Nated (Da) (d6) >= 2 PSCH C#-Nated (Da) (d6) >= 0 PSCH C#-Nated (Da) (d8) >= 0 PSCH C#-Nated (Da) (d8) >= -2 PSCH C#-Nated (Da) (d8) >= -2 PSCH C#-Nated (Da) (d8) >= -3	Legend	POSCH CQP-ID (ext) [EQ] (dB) = 5 POSCH CQP-ID (ext) [EQ] (dB) > 2 POSCH CQP-ID (ext) [EQ] (dB) > 0 POSCH CQP-ID (ext) [EQ] (dB) > -3 POSCH CQP-ID (ext) [EQ] (dB) > -3 POSCH CQP-ID (ext) [EQ] (dB) > -3	Ligan	Legend  PSCH C(1-1) Levi (01) (63)5  PSCH C(1-1) Levi (01) (63)2  PSCH C(1-1) Levi (01) (63)10  PSCH C(1-1) Levi (01) (63)10
R.5 86680 123	Zone Surface Com)	Zone Surface (km)		Cone Surface (bm²)	0.586680123	Zone Surface (Im)	Zone Surface (bm) 8.58640123
0.563750029 0.00625 0.047495999 0.100500001 0.174995997 0.343125015 0.563750029	0.0000000 0.00000000000000000000000000	Surface (tim)	0.018750001 0.066250004 0.141875014 0.236249963 0.542500019	Zone Surface (turn) (turn) Surface (turn) 0.516680123	0.44749999 0.000625 0.0016250001 0.06750003 0.136875004 0.21375005 0.44745999	Surface (lon*)	Surface (bm) 0.579375029 0.01125 0.09375 0.30625026 0.3625031 0.501875043 0.579375029
80.66 11.74	10.0 10.0 10.0 10.0 10.0 10.0 10.0 10.0	Zone Surface (dm.) % of Covered Acea (dm.) % of Covered Acea	100 LS	Zone Surface (Surface (Surf) % of Covered Area (Surface) 100	100 100 100 100 100 100 100 100 100 100	Zone Surface Surface (tm²) % of Covered Area	Zone Surbace (both) % of Covered Axes 2546400121 0.57937629 (0) 4556400121 0.57937629 (0) 4556400121 0.57937629 (0) 4556400121 0.57937629 (0) 4556400121 0.57937629 (0) 4556400121 0.57937629 (0)
	175ft > -5dB 60%					>-5dB 47%	90ft



HXL06097 NSB 4 Sectors / Oct 8th, 2024 / © 2024 AT&T Intellectual Property - AT&T Proprietary (Internal Use Only)



Site located strategically behind tree cover



### Vincent Gerard & Associates, Inc.

Mr. Erik Spitzer Director – Kingsville Development & Planning Kingsville Texas

March 17th, 2025

# Summary Letter for TVT III General Cavasos Wireless Facility Site, 2029 E General Cavasos Blvd. Kingsville Texas

Mr. Erik Spitzer,

After a request from AT&T Mobility and a search of all properties within a 1/6-mile search ring study, we believe we have found an excellent location and solution for a wireless site in the Southeast corridor of Kingsville along General Cavasos Boulevard for better coverage in this area. This site will accommodate all the major carriers. AT&T radio frequency engineers have received numerous complaints from Kingsville NAS customers. This proposed site upgrades existing interior sites in Kingsville and the Naval Air Station coverages. There is an existing monopole approximately 2,300' Northwest owned by Cellco. It has zero additional ground space for equipment and does not have the adequate height to allow AT&T Mobility to optimize their customers' coverage and their "FirstNet" equipment. AT&T made an economic business decision to request Tower Ventures III to construct a new 120' monopole at this location. By code Article 6 Chapter 15-6-45 through 51, this site complies with the requirements listed for wireless and we are respectfully requesting an Special Use Exception for this land use from the Planning and Zoning commission and City Council. It is at 1.5x height from a Major Arterial and over 120' away from the residential lots to the east. The unmanned site will be accessed 1x per month by maintenance worker by pickup truck. We are proposing to use the existing tree cover as landscape screening. If a waiver is necessary for the landscaping plans, consider this summary for that specific purpose.

The current tract of land is vacant, zoned C4 Commercial and has adequate space for leasing to other carriers' equipment. Tower Ventures will actively pursue other carriers on this site. It is located along busy US Highway 77. Please review the SUE package, the site plan and the additional supplemental information required and let us know if you have any questions.

Sincerely

Vincent G. Huebinger

Xc: Kobby Agyekum, City of Kingsville

TVT III, LLC

495 Tennessee Street Suite 152 Memphis, Tennessee 38103

Phone:

(901) 794-9494

Toll Free:

(800) 875-5109

March 5, 2025

Re: Agent Authorization Letter, Vincent Gerard & Associates Inc.

To Whom it may Concern:

TVT III, LLC, authorizes Vincent Gerard & Associates to represent their interest in zoning, site plan submittals variances and building permits within the State of Texas. If there are any questions regarding this agreement, please contact us.

Should you have any questions about this, please call Benjamin Orgel at 901-428-3381.

Sincerely,

Benjamin Orgel

Principal/Real Estate Director

Office: 901-244-4001 Cell: 901-428-3381



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Issued Date: 03/12/2025

Craig Royal TVT III, LLC 495 Tennessee Street, Suite #152 Memphis, TN 38103

### \*\* DETERMINATION OF NO HAZARD TO AIR NAVIGATION \*\*

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:

Monopole TX1036 Kingsville E. General Cavazos

Location:

Kingsville, TX

Latitude:

27-29-26.94N NAD 83

Longitude:

97-50-39.77W

Heights:

54 feet site elevation (SE)

128 feet above ground level (AGL) 182 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Emissions from this site must be in compliance with the parameters set by collaboration between the FAA and telecommunications companies and reflected in the FAA 5G C band compatibility evaluation process (such as power, frequencies, and tilt angle). Operational use of this frequency band is not objectionable provided the Wireless Providers (WP) obtain and adhere to the parameters established by the FAA 5G C band compatibility evaluation process. Failure to comply with this condition will void this determination of no hazard.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

	At least 10 d	ays prior to	o start of co	nstruction	(7460-2,	Part 1)		
X	Within 5 day	ys after the	constructio	n reaches	its greate	st height (	7460-2,	Part 2)

### See attachment for additional condition(s) or information.

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/ lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M Change 1.

This determination expires on 09/12/2026 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (817) 222-5922, or debbie.cardenas@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2025-ASW-1820-OE.

Signature Control No: 647599671-650169363

(DNE)

Debbie Cardenas Technician

Attachment(s) Additional Information Frequency Data Map(s)

cc: FCC

### Additional information for ASN 2025-ASW-1820-OE

Part 77 authorizes the FAA to evaluate a structure or object's potential electromagnetic effects on air navigation, communication facilities, and other surveillance systems. It also authorizes study of impact on arrival, departure, and en route procedures for aircraft operating under visual or instrument flight rules, as well as the impact on airport traffic capacity at existing public use airports. Broadcast in the 3.7 to 3.98 GHz frequency (5G C band) currently causes errors in certain aircraft radio altimeters and the FAA has determined they cannot be relied upon to perform their intended function when experiencing interference from wireless broadband operations in the 5G C band. The FAA has adopted Airworthiness Directives for all transport and commuter category aircraft equipped with radio altimeters that prohibit certain operations when in the presence of 5G C band.

This determination of no hazard is based upon those mitigations implemented by the FAA and operators of transport and commuter category aircraft, and helicopters operating in the vicinity of your proposed location. It is also based on telecommunication industry and FAA collaboration on acceptable power levels and other parameters as reflected in the FAA 5G C band evaluation process.

The FAA 5G C band compatibility evaluation is a data analytics system used by FAA to evaluate operational hazards related to aircraft design. The FAA 5G C band compatibility evaluation process refers to the process in which the telecommunication companies and the FAA have set parameters, such as power output, locations, frequencies, and tilt angles for antenna that mitigate the hazard to aviation. As the telecommunication companies and FAA refine the tools and methodology, the allowable frequencies and power levels may change in the FAA 5G C band compatibility evaluation process. Therefore, your proposal will not have a substantial adverse effect on the safe and efficient use of the navigable airspace by aircraft provided the equipment and emissions are in compliance with the parameters established through the FAA 5G C band compatibility evaluation process.

Any future changes that are not consistent with the parameters listed in the FAA 5G C band compatibility evaluation process will void this determination of no hazard.

# Frequency Data for ASN 2025-ASW-1820-OE

LOW	нісн	FREQUENCY		ERP
FREQUENCY	FREQUENCY	UNIT	ERP	UNIT
£	7	CUa	55	JDW
6 6	7 7	GHz	55 43	dBW
		GHz GH-	42 55	dBW
10	11.7	GHz	55 42	dBW
10	11.7	GHz	42 55	dBW
17.7	19.7	GHz	55 42	dBW
17.7	19.7	GHz	42 55	dBW
21.2	23.6	GHz	55 42	dBW
21.2	23.6	GHz	42	dBW
614	698	MHz	2000	W
614	698	MHz	1000	W
698	806	MHz	1000	W
806	824	MHz	500	W
806	901	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
929	932	MHz	3500	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1670	1675	MHz	500	$\mathbf{W}$
1710	1755	MHz	500	W
1850	1910	MHz	1640	$\mathbf{W}$
1850	1990	MHz	1640	$\mathbf{W}$
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W
3700	3980	MHz	3280	W
3700	3980	MHz	1640	W

Circle K Stores INC

Circle K Stores INC PO Box 52085 DC-17 Phoenix, AZ 85027-2085 #4001444

Circle K Stores INC PO Box 52085 DC-17 Phoenix, AZ 85027-2085 #28657

Robert De Pol 1702 E 5th St Palmetto, FL 34221 #25758

Elda Nora Lopez 1725 Mildred `Kingsville, TX 78363 #43178

Axel Messenger LLC 1210 Cypher St Kingsville, TX 78363 #43201

# JEWS



(Above) Marisa Hamilton received the bunor of being selected Secondary District Teacher of the Year. She was also named as the HMK High School Teacher of the Year, She was selected by bei Year. She was also named as the HMK High School Teacher of the Year. She was selected by her peers. Superintenden Dr. Cissy Republes-Peers and HMKHS Principal Dana Moore are pictured with her. (Below) Yesenia Rubalcaba received the hunor of being selected Elementary District Teacher of the Year, She was also selected Härrel Elementary School Teacher of the Year and was selected by her peers. She is pictured with Dr. Reynolds-Peers and Harrel Principal Nicole Lovefuly at the March 25 KISD School Board meeting. (Photos by Gloria Bigger-Cantu).



### **KISD**

CONTINUED FROM PAGE I

updates at the lengthy school

oard meeting.
The first action approved was the National Library Week Proclamation. The proclamation designated the week of April 6-12 as Naweek of April 6-12 as Na-tional Library Week. Na-tappointment of the School Health Advisory Council members and officers was tabled.

SHAC is a health advisory council which consists of five members with the majority being KISD student parents and not employed with the

Trustees unanimously approved the agreement for clinical services, between the University of Texas Rio Grande Valley and Kingstelle Independent School District. The services pertain to inental health issues ranging from dearn dependent to be Trustees unanimously ing from depression to be-havioral problems. Students receive clinical services via

Also approved was the In-terlocal Student Transfer and Tuition Agreement between KISD and Ricardo ISD for the 2025-26 school year, Ri-cardo ISD does not have a high school.

The trustees approved the

from proclamations to policy posed by the 2025 calendar

The first and second reading of Localized Policy Updates 124 was unanimously approved. The policy deals with financial ethics, investments, intellectual proper-ty, employee standards of conduct, special programs, gifted and talented students, child abuse and neglect, con-duct on school premises.

At the beginning of the meeting numerous students and teachers received recognitions. Kindergarten to eighth grade students were recognized for the District and Coastal Bend Science

Fair honors.
Also announced were the District UIL Academic Meet Recognitions for elementary and middle school particinants. Several students in the Fine Arts Band and choir were recognized.

Elementary and Secondary Campus Teachers of the Year and District Elementary and Secondary Teachers of the Year announcements were

Recognized were Vsenia Rubalcaba, Harrel Elemen-tary School; Elizabeth Garza, Harvey Elementary School; Melissa Gonzalez, Perez Ele-mentary School; Tina Leyba, Gillett Middle School; Marissa Hamilton, HMK High School; Cindy Davila; Alexis Villanueva-Pierre, Rubalca ba was named Elementary District Teacher of the Year. ondary District of the Year Teacher.

The teachers were selected

by their peers.

Reports were also presented pertaining to the Gillett
Middle School CTE Programs of Study 2025-26. The report stated that GMS will expand the Career & Tech-nical Education Course offerings to seventh and eighth

The Brahma Blueprint, a career exploration course, will offer students hands-on exposure to 14 different programs of study throughout the school year.

Also reported was the fact that the Education Service Center Region 2, ESC-2 has received a grant to upgrade school libraries in the area.

Harrel Elementary School is one of the schools that will receive funding to upgrade the library.

The total amount of the

grant is \$138,500.

The next school board meeting will be held on April

### Battle

CONTINUED FROM PAGE 1

ed to the all-around most favored participant

of the event.

- Give Me More Award: Amberosa Which vendor's table did you enjoy the most and find yourself wanting to go back for seconds?

Sweet Tooth Award: Maddie from La Pes-

ca/Witt's Bakery Recognizing the table with the most irresistible dessert.

• Wow Factor Award: Flowers with Atti-

tude Honoring the table that leaves a lasting impression and is truly unforgettable. Mayor Sam Fugate and interim Chamber

President Kasey Zumwalt spoke at the event, followed by remarks from Lyte Fiber Presi-dent and CEO Carter Old, who emphasized the company's commitment to delivering world-class connectivity and meaningful ommunity investment. In addition to technological ad

Lyte Fiber pledged to donate 1% of its annual revenue to local charities and causes, rein forcing their role as a long-term community

### Bishop

CONTINUED FROM PAGE 1

forcement career as a Jailer in Jim Hogg County in 2014. She graduated from the Lar-edo Police Academy in 2016 and served two years as a deputy sheriff in Jim Hogg

She also served as a Kingsville Police officer for one year before being hired with the Bishop Police Department where she has risen through detective and school resource officer.

Torres has spent the last couple of weeks meeting with munity members and preparing to take over her

"I'm all about our community and kids and I want to be an example for our youth and anyone who wants to pursue a career in law enforcement make sure we pave a way for the next generation of offi-cers," Torres said.



Chunks of street surface remain broken and missing, following structural failure of the resurfacing provided by Andale. The \$600,000 project was completed last year (Photo by JT Strasner)

### City

CONTINUED FROM PAGE 1

ome back in late April, but it may be mid-

May before they return Yes, they are gonna re-do the whole thing for us," Sosa said.

"Wow, good," Mayor Sam Fugale replied, expressing that he was pleased the entire project would be re-done.

In other business, the commission approved a resolution naming the city girls' youth soft-ball field as David Chavez Field.

Parks Dept. Director Susan Ivy said Chavez was an umpire for local baseball and softball games for more than three decades.

"He had a great sense of humor and served

our community for many years. Ivy said.

The family of Chavez secured more than 2,500 signatures in support of re-naming the park, she added

Members of Chavez' family were in attendance at the meeting.

A ceremony will be held once the plaque is

secured.

"He was a good man and a good friend." Pogate said. "If you ever went to the park, he was out there."

Commissioners also approved a resolution for a ride along program agreement between the Kingsville Fire Department and DelMar College students for training EMS students.

College students for training EMS students. DelMar students previously had to do their ride-alongs in Corpus Christi. "Sometimes it's difficult to get a schedule there," Fire Chieff J Adams estid. Sossa said the Street Department finished seallocating the surface of Santa Gertrudis from Sixth Street to Armstrong last week. Sossa added that any residual loose gravel would be searched. would be removed. He said the distributor machine "was working much better" on this

particular project.
The city will hold its annual spring Trash Off event on April 12 from 8:30 a.m., to noon.
The next city commission meeting will be beld April 14 at 5 p.m.

### PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Vincent Gerard & Associates Applicant, Robert De Pol, Owner; requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

The meeting will be held at City Hall, 400 West King Ave, Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

### PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Vincent Gerard & Associates Applicant, Robert De Pol, Owner; requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

The meeting will be held at City Hall, 400 West King Ave. Kingsville, Texas in the Helen Kleberg Groves Community Room, If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

### SGA defeats London



The SGA Lady Lions, ranked No. 23 of the latest TGHSCA Class 3A rankings, defeated the London Lady Pirates 9-1 during a district showdown Monday night Lady Lion frzy De Los Santos hit a grand slam and Kiauna Cruz blasted a 2-run homer in the victosy. The Lady Lions held an overall cord of 20-7 overall and 5-1 in district action after the victory. (Contributed photo)

ORDINANCE #2025-	ORDINANCE #2025-	
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AMENDING THE ZONING ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A WIRELESS TELECOMMUNICATIONS POLE TOWER IN C4-COMMERCIAL AT PAULSON'S SUB, LOT B, ALSO KNOWN AS 1025 E. GENERAL CAVAZOS, KINGSVILLE, TEXAS (PROPERTY ID 25758); AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; PROVIDING FOR PUBLICATION.

WHEREAS, the City Commission approved a wireless telecommunications facilities ordinance (sections 15-6-45 through 15-6-51) in 2001, as allowed by the Federal Telecommunications Act of 1996, and modified it in 2004 to regulate the placement, construction, and modification of cellular telephone facilities and other personal wireless telecommunication service facilities in order to protect and promote public safety, minimize and mitigate any adverse visual or aesthetic impacts on the community and promote the orderly development of telecommunication facilities within the city; and

WHEREAS, city staff has received an application from Vincent Gerard & Associates, applicant, for Robert De Pol, owner, for the installation of an up to 120-foot monopole antenna/wireless telecommunications pole in a C4-Commercial District area; and

WHEREAS, the applicant plans to install an up to 120-foot monopole tower on private property in a C2-Retail District area, but Appendix C to the City ordinance requires a Special Use Permit process as the pole monopole tower is up to 120 feet and is to be located in a C4-Commercial District area; and

**WHEREAS**, the Planning and Zoning Commission has forwarded to the City Commission it's reports and recommendations concerning the application of Vincent Gerard & Associates for amendment to the zoning map of the City of Kingsville with the request based on City Code sections 15-6-45 and 15-6-46;

WHEREAS, with proper notice to the public, public hearings were held on Wednesday, April 16, 2025, during a meeting of the Planning and Zoning Commission, and on Monday, April 28, 2025, during a meeting of the City Commission, in the Helen Kleberg Groves Community Room at City Hall, in the City of Kingsville, during which all interested persons were allowed to appear and be heard; and

**WHEREAS**, on a motion to approve the item, a majority of the Planning Commission voted 6-0, to APPROVE the requested Special Use Permit; and

**WHEREAS**, the City Commission has determined that this amendment would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

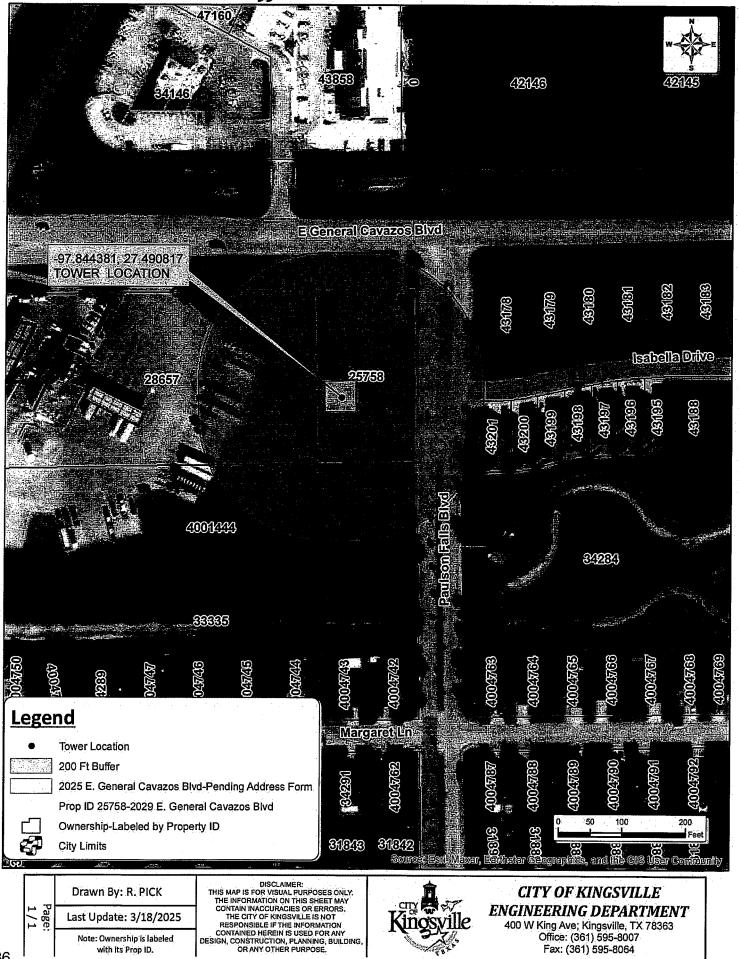
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

- **SECTION 1.** That the Zoning Ordinance of the City of Kingsville, Texas, is amended and a Special Use Permit is granted for an up to 120-foot wireless telecommunications monopole tower in a C4-Commercial District area at Paulson's Sub, Lot B, also known as 1025 E. General Cavazos, Kingsville, Texas (Property ID 25728) as more specifically described on the site plan attached as Exhibit A.
- **SECTION 2.** That the Special Use Permit granted in Section 1 of this Ordinance is subject the following conditions:
- 1. ALLOWED USE: The only use authorized by this Special Use Permit is for the development and operation of a wireless telecommunications monopole tower (hereafter referred to as the "Special Permit Business") in C4-Commercial District at Paulson's Sub, Lot B, also known as 1025 E. General Cavazos, Kingsville, Texas (Property ID 25728).
- 2. TIME LIMIT: This Special Permit is good for the duration of the Special Permit Business from the date of this ordinance **unless** (a) the property is not being used for the purpose outlined in Condition 1, or (b) any other conditions have not been complied with.
- 3. <u>SPECIAL CONDITION</u>: (3.1) The applicant shall obtain all required licenses for operating the Special Permit Business and permits as applicable for building, fire and health thereby meeting all adopted codes to operate said Special Permit Business, and shall cooperate with all annual fire safety, health, and sanitation inspections, in order to maintain compliance with federal, state, and city regulations for such a structure/use at the location. (3.2) All activity on site shall be in complete compliance with all City codes, especially the telecommunications, nuisance, fire, building and zoning codes. (3.3) The applicant shall install and maintain a brick or masonry 8-foot fence. (3.4) The applicant shall install and maintain landscaping at the site.
- **SECTION 3.** That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendments to the Zoning Ordinance made by Section 1 of this ordinance.
- **SECTION 4.** That the Zoning Ordinance and Zoning Map of the City of Kingsville, Texas, as amended from time to time, except as changed by this ordinance and any other ordinances adopted on this date, remain in full force and effect.
- **SECTION 5.** That to the extent that these amendments to the Zoning Ordinance represent a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.
- **SECTION 6.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.
- **SECTION 7.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

**INTRODUCED** on this the <u>28<sup>th</sup></u> day of <u>April</u>, 2025.

PASSED AND APPROVED on this the <u>12<sup>th</sup></u> day of <u>May</u> , 2025.
EFFECTIVE DATE:
THE CITY OF KINGSVILLE
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Ву:
Courtney Alvarez, City Attorney

# 200-FT Buffer at 2500 SF Leased Area



36.

with its Prop ID.



Fax: (361) 595-8064

# **CONSENT AGENDA**

# **AGENDA ITEM #1**

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



### **MEMO**

Date:

April 2nd, 2025

To:

Charlie Sosa (Interim City Manager)

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor to re-zone a parcel of land (Property ID # 17868), also known as K T & I CO, Block 18, Lot PT 9, PT 10, Acres 10.98, Kingsville, TX 78363, located behind Southgate Mall on Brahma Blvd, from R1 (Single Family) to R3 (Multi-Family) to support a future affordable multi-family housing project under the Low-Income Housing Tax Credit (LIHTC)

program.

Summary: Edna Oceguera, applicant/authorized agent and Ramon Perez, owner, approached the Planning Department on February 25th, 2025, requesting approval of re-zoning the parcel of land located behind Southgate Mall from R1 (Single Family) to R3 (Multi-Family) to support an affordable multi-family housing project, to be called "Casitas Los Ebanos."

Background: This parcel of land is currently zoned R1 (Single Family); adjacent parcels of land are currently zoned R1 (Single Family), R3 (Multi-Family) and C2 (Retail).

The Planning and Zoning Commission meeting was held on April 2<sup>nd</sup>, 2025, with 5 members in attendance.

Members deliberated over the request to re-zone the parcel of land located behind Southgate Mall from R1 (Single Family) to R3 (Multi-Family). 11 Notice Letters were sent out to neighbors within the 200 feet buffer and the city received no feedback.

The Planning and Zoning Commission board members voted to approve the re-zoning of the property described above. A recorded vote of all members present was taken and board members Larry Garcia, Rev. Idotha Battle, Debbie Tiffee, Mike Klepac and Krystal Emery all voted "YES."

The meeting was adjourned by 6:21 p.m.

The department continues to recommend approval.

#### Erik Spitzer

Director of Planning and Development Services

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



#### **MEMO**

Date:

March 27th, 2025

To:

Planning & Zoning Commission

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the Planning & Zoning Commission to re-zone a parcel of land (Property ID # 17868), also known as K T & I CO, Block 18, Lot PT 9, PT 10, Acres 10.98, Kingsville, TX 78363, located behind Southgate Mall on Brahma Blvd, from R1 (Single Family) to R3 (Multi-Family) to support a future affordable multi-family housing project under the Low-Income Housing Tax Credit (LIHTC)

program.

Summary: Edna Oceguera, applicant/authorized agent, approached the Planning Department on February 25th, 2025, requesting approval of re-zoning the parcel of land located behind Southgate Mall from R1 (Single Family) to R3 (Multi-Family) to support an affordable multi-family housing project, to be called "Casitas Los Ebanos."

Background: This parcel of land is currently zoned R1 (Single Family); adjacent parcels of land are currently zoned R1 (Single Family), R3 (Multi-Family) and C2 (Retail).

The department recommends approval.

#### Erik Spitzer

Director of Planning and Development Services



# CITY OF KINGSVILLE PLANNING AND ZONING DIVISION MASTER LAND USE APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TYPE)	
Project Address US-77 Business	Nearest Intersection E Alisie Ave & US-77 Business
(Proposed) Subdivision Name Casitas Los Ebanos	Lot pt 9, pt 10 Block 18
Legal Description K T & I CO, BLOCK 18, LOT PT 9, PT 10	, ACRES 10.98
Existing Zoning Designation R1	Future Land Use Plan Designation R3
OWNER/APPLICANT INFORMATION: (Please PRINT or Applicant/Authorized Agent Edna Oceguera	
Email Address (for project correspondence only): jbarrel	ra@cdcb.org
Mailing Address 901 E Levee City	Brownsville State TX Zip 78520
Property Owner Perez Ramon P	Phone <u>361-779- 4218</u> FAX
Email Address (for project correspondence only): steve	n@newsoutherncommercial.com
Mailing Address 317 E SHELTON C	State TX Zip 78363
Select appropriate process for which approval is sought	t. Attach completed checklists with this application.
Annexation RequestNo Fee	Preliminary Plat Fee Varies
Administrative Appeal (ZBA) \$250.00	Final Plat Fee Varies
Comp. Plan Amendment Request \$250.00	Minor Plat \$100.00
Re-zoning Request \$250	Re-plat \$250.00
SUP Request/Renewal \$250	Vacating Plat \$50.00
Zoning Variance Request (ZBA)\$250	Development Plat \$100.00
PUD Request \$250	Subdivision Variance Request \$25.00 ea
Please provide a basic description of the proposed proje We are making an application for 9% competitive tax credits to cr	ect: reate a development of 52 low income units and 10 market rate units.
	ace includes a playground, leasing office, and learning center.
We have reached out to Community Action Corporation of	
We also certify to run an after-school learning program for	
I hereby certify that I am the owner and /or duly at application. I further certify that I have read and extrue and correct. If any of the information provide approval may be revoked.	d on this application is incorrect the permit or
Applicant's Signature	Date: 2/25/25
Property Owner's Signature	Date: 2/25/25
Accepted by:	Date: 26 FEB 2025
1 7/	

This form available on our website: https://www.cityofkingsville.com/departments/planning-and-development-services/



February 25, 2025

RAMON P PEREZ [Seller's Address] [City, State, ZIP Code]

Subject: Notification of Planned Zoning Change for Tax Credit Development

Dear Ramon Perez,

As part of our due diligence and development planning for the property located at US-77 Business, Kingsville Texas 78363 – Property ID 17868 – Geographic ID 290001810200192 – Legal Description: K T & I CO, BLOCK 18, LOT PT 9, PT 10, ACRES 10.98, we want to formally notify you that we intend to pursue a zoning change to facilitate the development of a 9% Competitive Tax Credit Development, e.g., affordable multifamily housing under the Low-Income Housing Tax Credit (LIHTC) program.

We are working closely with the local planning and zoning authorities to ensure compliance with all applicable regulations and to align this development with community needs. The requested zoning change would allow for zoning change from R1 (Single-Family Residential) to R3 (Multifamily Residential).

By signing below, you acknowledge that you have been informed of this zoning request and that you have no objections to our efforts to secure the necessary approvals from the City of Kingsville in Kleberg County Planning and Zoning Department. This acknowledgment does not place any obligations on you as the seller but serves as confirmation of your awareness of our plans.

Sincerely.

Charles N. Mitchell

CEO

cdcb - come dream, come build.

956-541-4955

RP

#### **Acknowledgment and Agreement:**

I, Ramon P Perez, acknowledge that I have been informed of the Buyer's intent to seek a zoning change from R1 to R3 for the above-referenced property and have no objections to this process.

Seller's Signature:	Ramon Perez	Date:	02/25/25	
Seller's Printed Name	DAMON DEDET		<del>.</del>	

www.cdcb.org info@cdcb.org (956) 541-4955 901 East Levee Street Brownsville, Tx 78520



## CITY OF KINGSVILLE

#### P.O. BOX 1458 - KINGSVILLE, TX 78364



February 25, 2025

To Whom It May Concern,

This letter serves as confirmation that Community Development Corporation of Brownsville (dba. cdcb – come dream. come build.) as Applicant Casitas Los Ebanos LP (TBF) has formally submitted an application for a Zoning Change for the property located at US-77 Business, Kingsville Texas 78363 – Property ID 17868 – Geographic ID 290001810200192 – Legal Description: KT & I CO, BLOCK 18, LOT PT 9, PT 10, ACRES 10.98. The application has been received by the City of Kingsville Planning and Development Services and is currently under review.

Furthermore, Community Development Corporation of Brownsville (dba. cdcb – come dream. come build.) as Applicant Casitas Los Ebanos LP (TBF) has provided a signed release, agreeing to hold Kingsville in Kleberg County, its officials, employees, and all other relevant parties harmless in the event that the requested zoning change or special use permit is not granted.

Sincerely

Planning & Develo

Planning & Development Services Director

City of Kingsville

PO Box 1458

Kingsville, Texas 78364-1458

361-595-8053

# Kleberg CAD Property Search

## **■** Property Details

Account

Property ID:

17868

Geographic ID: 290001810200192

Type:

R

Zoning:

**Property Use:** 

Location

Situs Address:

Map ID:

АЗ

Mapsco:

**Legal Description:** 

KT&ICO, BLOCK 18, LOT PT 9, PT 10, ACRES 10.98

Abstract/Subdivision:

S2900

Neighborhood:

Owner

Owner ID:

61172

Name:

PEREZ RAMON P

Agent:

Mailing Address:

317 E SHELTON

KINGSVILLE, TX 78363

% Ownership:

100.0%

**Exemptions:** 

For privacy reasons not all exemptions are shown online.

# ■ Property Values

Improvement Homesite Value:

\$0 (+)

Improvement Non-Homesite Value:

\$0 (+)

Land Homesite Value:

\$0 (+) \$0 (+)

Land Non-Homesite Value:

. .

Agricultural Market Valuation:

\$115,980 (+)

Market Value:

\$115,980 (=)

Agricultural Value Loss:0

\$111,830 (-)

Appraised Value:

\$4,150 (=)

HS Cap Loss: 9

\$0 (-)

Circuit Breaker: @

\$0 (-)

#### Ag Use Value:

\$4,150

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.

# ■ Property Taxing Jurisdiction

Owner: PEREZ RAMON P %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$115,980	\$4,150	\$32.03
CKI	CITY OF KINGSVILLE	0.770000	\$115,980	\$4,150	\$31.96
SKI	KINGSVILLE I.S.D.	1.410400	\$115,980	\$4,150	\$58.53
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$115,980	\$4,150	\$2.73
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$115,980	\$4,150	\$0.00

Total Tax Rate: 3.017965

Estimated Taxes With Exemptions: \$125.25

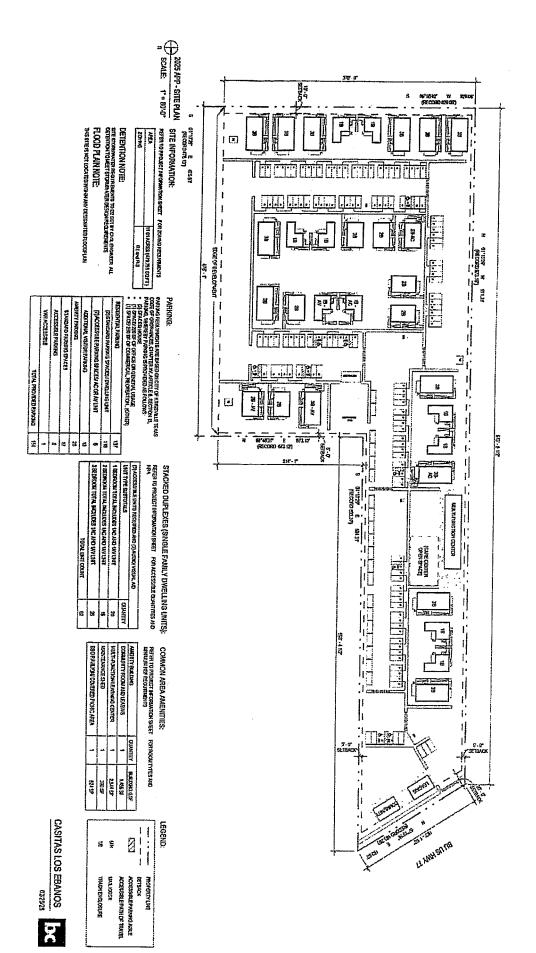
Estimated Taxes Without Exemptions: \$3,500.23

Pr	operty Land		•				
Туре	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
DLCP1	DRY LAND CROP LAND	7.02	305,791.20	0.00	0.00	\$74,150	\$2,650
DLCP1	DRY LAND CROP LAND	3.96	172,497.60	0.00	0.00	\$41,830	\$1,500

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$0	\$115,980	\$4,150	\$4,150	\$0	\$4,150
2023	\$0	\$80,300	\$4,300	\$4,300	\$0	\$4,300
2022	\$0	\$61,580	\$4,300	\$4,300	\$0	\$4,300
2021	\$0	\$65,220	\$4,810	\$4,810	\$0	\$4,810
2020	\$0	\$58,570	\$1,730	\$39,180	\$0	\$39,180
2019	\$0	\$57,100	\$0	\$57,100	\$0	\$57,100
2018	\$0	\$57,100	\$0	\$57,100	\$0	\$57,100
2017	\$0	\$57,270	\$0	\$57,270	\$0	\$57,270
2016	\$0	\$57,270	\$0	\$57,270	\$0	\$57,270

■ Property Dec	ed History
----------------	------------

Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Number
6/26/2019	WD	WARRANTY DEED	CITY OF KINGSVILLE	PEREZ RAMON P			318719



TDHCA# 25236

## **FEASIBILITY STUDY**

**FOR** 

## **CASITAS LOS EBANOS, CDCB DEVELOPMENT**

#### PREPARED FOR:

# CDCB, NON-PROFIT COMMUNITY HOUSING DEVELOPMENT ORGANIZATION 901 E. LEVEE ST. BROWNSVILLE, TEXAS, 78520

PREPARED BY:



TBPE Firm No.: 312

1075 PAREDES LINE ROAD SUITE B BROWNSVILLE, TEXAS 78521 PHONE (956) 303-7100

Project # 60800.001

#### Contents EXECUTIVE SUMMARY......1 1.0 EXISTING SITE CONDITIONS ......1 2.0 SURVEY AND/OR PROPERTY INFORMATION......2 3.0 ENVIRONMENTAL SITE ASSESSMENT ......2 4.0 5.0 6.0 TOPOGRAPHIC REVIEW......3 7.0 8.0 OFFSITE REQUIREMENTS AND COSTS......3 9.0 ONSITE REQUIREMENTS AND COSTS......4 10.0 WATER/SANITARY SEWER SERVICE SUMMARY......4 11.0 ELECTRICITY, TELEPHONE, CABLE TV AND GAS......4 12.0 ZONING/LAND DEVELOPMENT ORDINANCE SUMMARY......5 13.0 BUILDING CODE/ORDINANCES/DESIGN REQUIREMENTS ......5 14.0 IMPACT OR DEVELOPMENT FEE SUMMARY......5 15.0 16.0 17.0 18.0 BUILDING PERMIT PROCESS AND TIMING .......6 19.0 20.0 21.0 OTHER CONSIDERATIONS OR ISSUES RELEVANT TO SIDE DEVELOPMENT.......6 22.0

#### 1.0 EXECUTIVE SUMMARY

This feasibility study addresses the requirements set forth by the Texas Department of Housing and Community Affairs, Housing Tax Credit Program 2025-2026 Qualified Allocation Plan, Section 11(a) for 10.98 acres out of Block 18, KT & I CO, City of Kingsville, Kleberg County.

All persons who have a property interest in this report hereby acknowledge that the department may publish the full report on the Departments' website, release the report in response to a request of public information and make other use of the report authorized by law.

The CDCB is proposing to develop a privately owned multi-family residential community (±62 units) with common areas and amenity centers described as the Casitas Los Ebanos. The property is located in the city limits of Kingsville, Texas adjacent to TxDOT's Business 77 (27°29'52.1"N 97°51'42.2"W). At the time of this study, the proposed development will only encompass 6.47 acres out of the 10.98 acre tract, with the remainder left unused for future development.

The findings on this feasibility report are based on review of local and state governing ordinances and coordination with these entities and provided utility maps. Based on this information, it was determined that the site has nearby access to water, sanitary sewer and dry utility services located along Business 77. A preliminary utility layout plan is being provided in the report, but further communication with City Engineering will be needed. Final construction plans will be required to be submitted to the City of Kingsville's Engineering department for approval of building permit. Furthermore, TxDOT permit applications will be needed to permit construction work within TxDOT's Right-of-Way (ROW). This includes utility permits for all utility tie-ins and driveway permits for one development entrance as the subdivision's ingress/egress points along a TxDOT road. The proposed development will be required to detain all increased drainage runoff on site and release at existing conditions.

#### 2.0 EXISTING SITE CONDITIONS

The subject tract is located southeast of TxDOT's Business 77 (27°29'52.1"N 97°51'42.2"W) in the City of Kingsville, Texas. The legal description of the property is KT & I CO, Block 18, Lot PT 9. The site is currently undeveloped and bounded by other undeveloped tracts. However, the surrounding area is residential developments to the north and northwest, multi-family to the south and a shopping center to the east. Business 77 is a rural road section with two lanes and roadside ditches on both sides. There is a 12" water main along Business 77. The closest sanitary sewer system is to the west of the site at the intersection of Business 77 and Otis St.

There appear to be no electrical power lines adjacent to the property. The nearest visible overhead power source is to the west along Business 77 at the intersection of La Palmas Dr. serving an existing subdivision.

#### 3.0 SURVEY AND/OR PROPERTY INFORMATION

Being 10.98 acres, more or less, out of lot nine (9), block eighteen (18), kt & I, an addition to the town of Kingsville, Kleberg County, Texas. (See Appendix E for Kleberg County Appraisal District information). A boundary survey has not been completed at the time of this study.

#### 4.0 ENVIRONMENTAL SITE ASSESSMENT

A Phase I Environmental Site Assessment was conducted by Terracon Consultants, Inc. No significant findings were noted as part of the assessment. (See Appendix F)

#### 5.0 STORM WATER MANAGEMENT

The City of Kingsville's detention requirements, as per the City of Kingsville's Code of Ordinances, Section 15-3-101 (G), are to detain run off generated from developed improvements on-site for a 25-year frequency storm event and released into the receiving system at the pre-development rate for a 10-year frequency storm event. For a full breakdown of City of Kingsville Code of Ordinances pertaining to storm water management visit the following hyperlink:

https://library.municode.com/tx/kingsville/codes/code of ordinances?nodeId=PT2COOR CHX VLAUS ART3SU DR

Therefore, any additional drainage generated by the subject site's development will be required to be detained on site and released at existing conditional flow rates towards an existing storm sewer system. Since Business 77 only consists of roadside ditches, after discussions with the City Engineer, it was determined that the best viable option would be to tie to the existing storm sewer system along Brahma Blvd. to the east. This can be done by utilizing an existing easement that runs from Brahma Blvd. to the east property line of the site, just north of the South Gate Shopping Center. Based on a provided site layout, a preliminary storm sewer system on site was laid out as shown on Appendix C-1 and C-2, with a series of detention areas. As shown, majority of the site's drainage from the detention ponds will be conveyed to the east and tie to an existing 48" reinforced concrete pipe along Brahma Blvd. A small portion of the site on the north will outfall towards the roadside ditch along Business 77. TxDOT Utility permits will be required for this work.

#### 6.0 FLOODPLAIN INFORMATION

The site was found to be in Zone "X" (unshaded), "areas determined to be outside of 0.2% annual chance flood plain", according to FEMA Flood Insurance Rate Map Number 48273C0115E with an effective date of March 17, 2014. (See Appendix A for a copy of the National Flood Hazard Layer FIRMette relevant to the subject property)

#### 7.0 TOPOGRAPHIC REVIEW

Analysis of the topographical data obtained from the United States Geological Survey (USGS) 3D Elevation Program, demonstrates that the subject site is generally flat with elevations ranging from approximately 58 to 61 feet. Appendix B provides a visual representation of the site conditions. It is essential to note that the 3D elevation data utilized for this analysis is derived from LIDAR technology in the form of a Digital Elevation Model (DEM), ensuring a high level of accuracy and precision in capturing the terrain's elevation variations.

#### 8.0 SITE INGRESS/EGRESS REQUIREMENTS

The site is subject to ingress/egress requirements set forth by the City of Kingsville Code of Ordinances. Business 77 is State Loop 428, and it is subject to Chapter IX, Appendix. – Regulations for access driveways to State Highways. A TxDOT driveway permit application is required for the tie in of a driveway onto Business 77. All TxDOT requirements for driveway construction along TxDOT ROW can be found on TxDOT's Access Management Manual (http://onlinemanuals.txdot.gov/TxDOTOnlineManuals/txdotmanuals/acm/acm.pdf).

The relevant section of the Code of Ordinances can be found in the following hyperlink:

https://library.municode.com/tx/kingsville/codes/code of ordinances?nodeId=PT2COOR CHIX
GERE APPENDIXREACDRSTHI S1GE

#### 9.0 OFFSITE REQUIREMENTS AND COSTS

Off-site costs related to the development of the subject tract that can be accounted for at the time of writing this report are the tie in of the on-site storm sewer to an existing storm sewer on S. Brahma Blvd and the tie in of the on-site sanitary sewer to an existing sanitary sewer main near the intersection of Otis St. and Business 77. The extension of the electrical distribution system along Business 77 from the nearest system at the intersection of Las Palmas Drive will also be required. An engineer's opinion of off-site costs can be seen on Appendix D-2. The cost of the electrical extension was not included in this breakdown. Further discussions with AEP will be needed to determine responsibility of extension costs.

3 | P a g r February 2025

#### 10.0 ONSITE REQUIREMENTS AND COSTS

On-site costs related to the development of the subject tract that can be accounted for at the time of writing this report are the water distribution system, sanitary sewer system, storm sewer system, road improvements with sidewalk, striping and signage, street lighting and electrical system. Earthwork is also being considered for the excavation of detention/swale ponds and mass grading of the site. Based on preliminary site plans provided by the owner and utility information provided by the City of Kingsville, the engineer's opinion of on-site probable construction costs can be seen on D-1.

#### 11.0 WATER/SANITARY SEWER SERVICE SUMMARY

According to utility maps provided by the City of Kingsville Utilities Department, there is an existing 12" PVC water distribution line along Business 77. Given that the on-site water main will also serve as fire protection, an 8" distribution system is sufficient to serve this development. However, a 15' utility easement will need to be dedicated to the City of Kingsville for the proposed 8" water line with fire hydrants.

As per the same document, there is a 24-inch sanitary sewer main with appropriate depth (± 17') that runs south about 800 feet west of the subject property, near the intersection of Otis St. and Business 77. A minimal 8" gravity sanitary sewer line is deemed sufficient to serve this development.

#### 12.0 ELECTRICITY, TELEPHONE, CABLE TV AND GAS

American Electric Power (AEP) is the provider of electricity in the area of interest. However, the nearest distribution system is approximately 500 feet at the intersection of Las Palmas Drive and Business 77. This system will need to be extended to the property site, therefore, additional discussions with AEP will be required to determine appropriate design and cost. Telephone service in the area is provided by AT&T. Cable TV in the area is provided by New Wave. Gas services throughout the City of Kingsville is provided by CenterPoint Energy. As per City of Kingsville's Code of Ordinances Chapter XV – Land Usage, Article 3 Section 15-3-3, the city of Kingsville may require the installation and dedication of gas distribution mains within the subdivision. Relevant sections of the City's Code of Ordinances can be found in the following hyperlink:

https://library.municode.com/tx/kingsville/codes/code of ordinances?nodeId=PT2COOR CHX VLAUS ART3SU GEPR S15-3-3GAUT

#### 13.0 ZONING/LAND DEVELOPMENT ORDINANCE SUMMARY

As per the City of Kingsville's 2024 Land Use Zoning Map the subject tract is located within the City of Kingsville city limits. The property is zoned as R1 – Single Family District 1. The property must be re-zoned from an R1 to R3 – Multi-Family District 3 by following the City of Kingsville's re-zoning process since the intent of this development is to be a single lot with duplexes.

#### 14.0 BUILDING CODE/ORDINANCES/DESIGN REQUIREMENTS

The City of Kingsville Planning and Development Services Department will review and provide permits for any construction on site. The city requires compliance with the 2024 International Codes and the 2023 National Electrical Code. A full list of building ordinances and design requirements can be found in the following hyperlink:

https://library.municode.com/tx/kingsville/codes/code of ordinances?nodeId=PT2COOR CHX VLAUS\_ART1BURE

#### 15.0 IMPACT OR DEVELOPMENT FEE SUMMARY

At the time of writing this report, the anticipated development fees would be the following: water tapping fees, water meter fees, sanitary sewer tapping fees, fire department review fees, engineering review fees, platting fees, and permit application fees. These fees are determined at the time of plan submission.

#### 16.0 BUILDING PERMIT FEE SUMMARY

The city of Kingsville's Code of Ordinances Chapter XV, Article 1 Section 15-1-6 — Schedule of Permit fees denotes all applicable permitting fees. The city will review and determine the final fees at the time of plan submission. Relevant city ordinances can be found here:

https://library.municode.com/tx/kingsville/codes/code of ordinances?nodeId=PT2COOR CHX VLAUS ART1BURE\_BUCO\_S15-1-6SCPEFE

#### 17.0 SITE PLAN OBSERVATIONS, RECOMMENDATIONS, DESIGN

A preliminary site plan with utilities can be seen in Exhibits C-1 and C-2. The preliminary utility locations are based on a site plan provided by the owner and utility information/maps provided by the City of Kingsville. The preliminary storm sewer layout is based on discussions with the City Engineer and the assumption that the existing easement leading to Brahma Blvd. can be

utilized without conflicts with other utilities. It is recommended that discussions with both TxDOT and the City of Kingsville continue to take place.

#### 18.0 SITE DEVELOPMENT, PLATTING AND PERMITTING PROCESS TIMING

At the time of writing this report, the intent of the owner is to not subdivide the subject property since the use of a single lot is all that is needed. The owner's intent is to develop this single lot into two-family rental units comprised of modular homes, with site amenities and green areas. Based on preliminary discussions with the city's planning department, it is preferred that this lot be platted; however, any easements required may be allowed by metes and bounds. Should the owner decide to plat this property, the platting process shall follow the City of Kingsville's platting procedures found in Article 3 of the city's ordinance. It is anticipated that this process shall take 6 months for preliminary approvals.

#### 19.0 BUILDING PERMIT PROCESS AND TIMING

Final design plans can be submitted to City Engineering which will review and provide comments once the plat is approved. Should the Owner forego the platting process, then final plans can be submitted for review right away. Once city engineering approves the construction plans, a construction permit can be requested. The whole process is estimated to take between 3 and 5 months. TxDOT permits will be required for site ingress/egress and utility installation along TxDOT's ROW. It is estimated that ingress/egress TxDOT permit application process may take 4-6 weeks and TxDOT's Utility permit application process may take 3-5 months.

#### 20.0 ENTITLEMENT

The property is currently owned by Perez Ramon P. and is under the taxing jurisdiction of the, Kleberg County, City of Kingsville, Kingsville I.S.D., and Texas Water Authority.

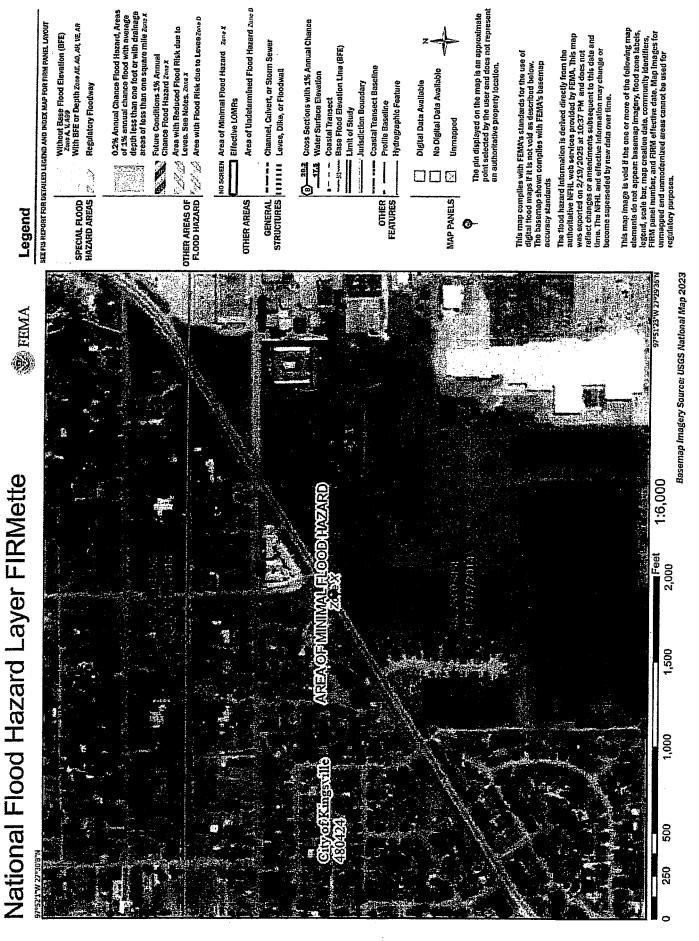
#### 21.0 PROPERTY TAX IDENTIFICATION INFORMATION AND MILLAGE RATE

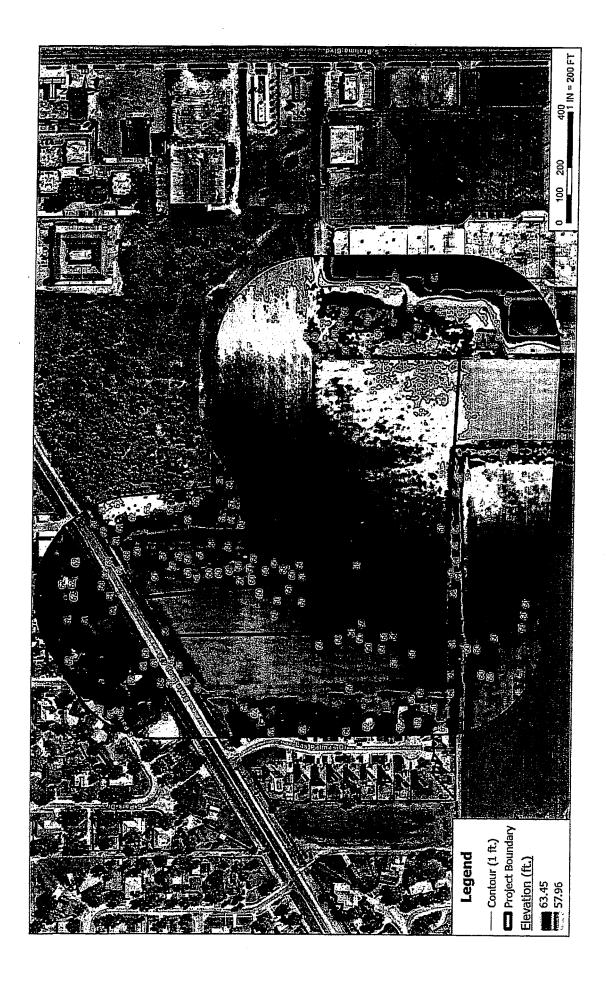
The Account Number (GEOGRAPHIC ID) for this tract is 29-0001-8102-00-192 and the appraisal district property ID number is 17868. The combined tax rate for this property location is \$ 3.018 per \$100.00 in assessed value (See Appendix E for Kleberg County Appraisal District Information).

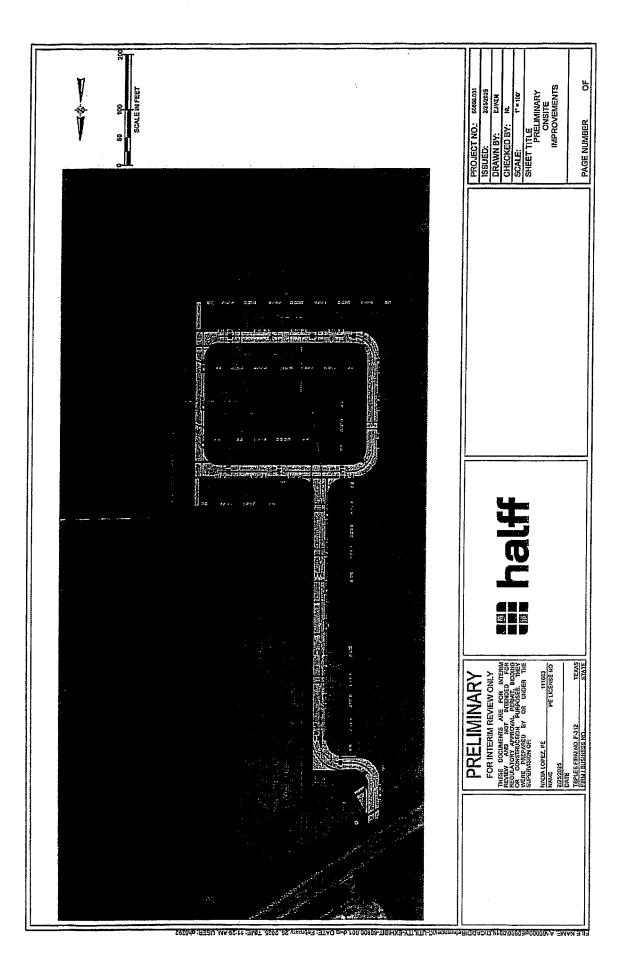
#### 22.0 OTHER CONSIDERATIONS OR ISSUES RELEVANT TO SIDE DEVELOPMENT.

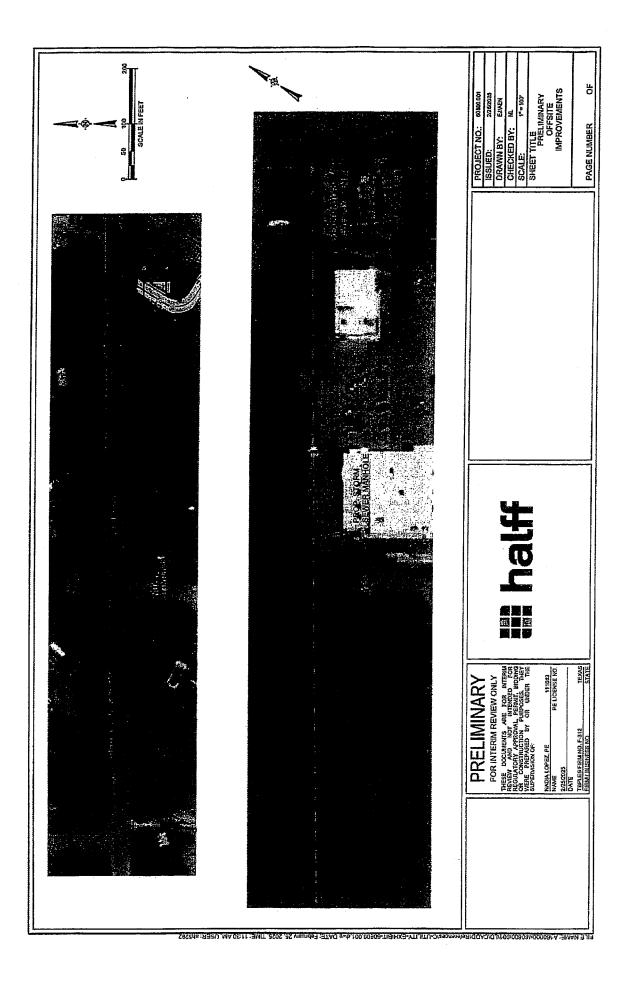
None at the time of writing this report.

6 | P a g e February 2025









# Site Work Cost Breakdown

Column A: The Site Work activity reflected here must match the Site Work activity reflected in the Development Cost Schedule. this form must be submitted with the Development Cost Schedule as justification of Site Work costs.

Columns B and C: In determining actual construction cost, two different methods may be used;

The construction costs may be broken into labor (Column B) and materials (Column C) for the activity; OR The use of unit price (Column B) and the number of units (Column C) data for the activity.

Column D: To arrive at total construction costs in Column D:

If based on labor and materials, add Column B and Column C together to arrive at total construction costs.

If based on unit price measures, Column B is multiplied by Column C to arrive at total construction costs.

Column E: Any proposed activity involving the acquisition of real property, easements, rights-of-way, etc., must have the projected costs of this acquisition for the activity. Column P: Engineering/architectural costs must be broken out by the Site Work activity.

Column G: Figures for Column G, Total Activity Cost, are obtained by adding together Columns D, E, and F to get the total costs.

(A.   B.	B.		D.	E.		
Activity	Labor or Unit Price	Materials or # of Units	Total Construction Costs	Acquisition Costs	Engineering /	Total Activity Costs
Paving	\$ 625,000.00		5.000.00		Picos III management	\$. 625.000
Sidewalks	\$ 78,600.00		\$ 78,600,00			\$ 78.600
Street Signange and Striping	\$ 14,810.00	1	14,810.00			
Construction Erosion Control	\$ 37,500.00	7	\$ 37,500:00			
On-Site Sanitary Sewer Services	\$ 476,885.00	1	\$ 476,885:00			\$ 476.885
On-Site Water Services	\$ 289,610.00	<b>**</b>	\$ 289,610,00		The state of the s	\$ 289,610
On-Site Storm Sewer	\$ 171,010.00	-	\$		一次 大学 の で こうし	\$ 171.010
Rough/Fine Grading	\$ 185,600.00	Ī	\$ 185,600.00			
Clearing and Grubbing	110,000.00	T	110,000.00			
Mailbox Clusters	\$ 28,000.00	1	\$ 28,000.00			
On-Site Street Illumination	\$ 125,000.00	1	\$ 126,000,00			126.000
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Signature of Registered Engineer	i.	Printed Name		l		7
Date		if a revised form is submitted, date of submission:	nission:		NADIA	NADIA M. LOPEZ

This form must be submitted with the Development Cost Schedule if the development has offsite costs, whether those costs are included in the budget as a line item, embedded in the named in the budget as a line item, embedded in the

Column D: To arrive at total construction costs in Column D:	is in Column D:	•				
Column E: Any proposed activity involving the acquisition of real property, easements, rights-of-way, etc., must have the projected costs of this acquisition for the activity. Column F: Engineering/architectural costs must be broken out by the offsite work activity.	s acquisition of real pro ist be broken out by th	perty, easements, rigl e offsite work activity.	hts-of-way, etc., must	nave the projected co	ists of this acquisition f	or the activity.
Column G: Figures for Column G, Total Activity	y Cost, are obtained by on indency in effective	/ adding together Colu	Cost, are obtained by adding together Columns D, E, and F to get the total costs.	the total costs.		
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Α.	B.	C.	D.	E,	F.	G.
Activity	Labor or Unit Price	Materials or # of Units	Total Construction Costs	Acquisition Costs	Engineering / Architectural Costs	Total Activity Costs
Off-Site Storm Sewer	\$ 185,336.00		\$ 185,336.00			\$ 185,336,00
Sanitary Sewer Tie-in City System	00.002,691 \$	1	\$ 169,500.00			
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Total						\$ 354,836
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gister		Printed Name		,		
and the Company of the December of the Personal Company of the Com						: E 7

If a revised form is submitted, date of submission:

Date

Gene M Jones PO Box Drawer A Kingsville, TX, 78364 #29361

Thed by ke views is sell A

David E Schubert 715 Arroyo Dr Kingsville, TX, 78363 #19146

Matthew Jason Rogers 173 W FM 772 Kingsville, TX, 78363 #17124

David R Cecil Est 1921 S Park St Kingsville, TX, 78363 #10486

James K Moses II ETUX Yvonne M 1823 South Park Dr Kingsville, TX, 78363 #18989

Reynaldo Moreno ETUX Michelle 1925 South Park ST Kingsville, TX, 78363 #11240

Oscar Sandoval Jr 1927 South Park ST Kingsville, TX, 78363 #19771

AAK Kingsville LLC 1909 FM 758 New Braunfels, TX 78130 #19963

Maria G Saenz 1006 Susan ST Harlingen, TX 78550 #31897

Costal Bend Enterprises LLC 2209 S Brahma BLVD Kingsville, TX, 78363 #30616 LFL Properties Kingsville LLC ATTN: Eduardo Bertoli 142 Market Place BLVD BLDG E Knoxville, TX 37922 #19002

Eliquettes d'adresse Easy Peel





# **SPORTS**



Rigo Morales thinks about the next play from the sidelines of a Badger game this past fill. Murales has accepted the role of athletic coordinator and head foulball couch at fidinburg North. (Record (ile photo)

# **Morales leaving Badgers** for Valley coaching job

By Ted Figueroz and JT Strasner

Rigo Morales, Bishop Bad-

Ripo Morales, Bishop Bad-gers head foubill coath, it leaving the progent for a school in the Valley. Rubop Athlete Director Mike Davila confirmed Mu-rales has accepted the athletic coordinator and head foot-ball cusching position at Ed-inbury North High School. Davils said a final day at Bishop for Morales has yet to be determined, but perhaps would be the week of March 24.

"Cosch Morales had a successful tenure at Blohop

CISD, making the playoffs every year and advancing to the Area round to 2022.\* Davida said. "Coach Morales changed the culture of Bad-ger football and brought out the best in every student-ath-

During his tenure, Murales coached two athletes that are moving on to the next level to play front-11

Brendon Ray agoed with UT-Rio Grande Valley and Rylee Martinez is going to TAMUK.

"Bishop CISD wishes Coach Murales and his fam-ily the best in the future and see will miss him," Davila

native and alum of James Pace High School, where he was a multi-court standout in basketball, toothall and inck. He is a former Browns-ville Male Athlete of the Year award winner.

Morales went on to partic-ipate in football and track at TAMUK.

He has 17 years of coaching experience, and helped lead the Budgers to the Class 3A playoffe last season, as well as the Class 4A playoffs in 2023 and 2022.

Morales did not respond to a request for comments.

#### SGA competes at State



(Left photo) SGds Sophia Valentuela captured her second consecutive State Powerlitting inconsecutive State Powertizing in-dividual championship during the Class 3A meet at Edmburg list week. She also broke her own pre-vious squat lift State record from last year by lifting \$20 pounds to set a new State record in her divi

(Retton) photol SGA nowerlitter Elen Cavazus took second place in her division and Annastata Hinojosa had a tith place touch at the Class 3A state Powerlifting Meet in Edinburg last week. (Cantributed photos)



#### Day

CONTINUED FROM FACE 1

sition throughout March to ensure a seamless transition to an interim chief. Malataining the momentum we have built and ensuring our police department's continued effectivenest is of utmost importance to me, and I am confident that our team will continue to thrive now and into the future."

Day said the department has seen many ac-

complishments over the last five years.
"I am penud of the significant strides the
Bishop Pulice Department has made in cummunity policing, crime reduction, and inno varive technology and training programs." he

# Tree planted for Smith

By Ted Figueroa

community, along with pol-iticians and the Keep Kings-ville Beautiful group, gath-ered at the Weavers of Love Soup Kitchen last week to honor Sister Elizabeth Smith.

Keep Kingsville Beautiful and the city parks depart-ment planted a tree in her name and hunor and Kleberg County Judge Rudy Madrid tead a proclamation declar-ing March 16, as Sister Eltz-

abeth Smith Day. Smith, who turned 91 on March 16, has been an active supporter of citizens in the community for over 50 years. She has spent that time

volunteering at the hospital and lead the way to opening Kingaville's only soup kitchen in 2015, among other ef-

forts.
"Suter Elizabeth is one of those very special individu-als that don't come around but once in alifetime. She has but once in a lifetime. She has detunted her life to helping the sick, injured and undeserved population. She fraves a trailiaze of live, hope and inspiration everywhere the gues. The tree that was planted its aymbol of her spirit that will live un as a modern-day saint. Conf. Bleen. Screen. His value. God Bless Sister Elizabeth and everyone she touches,"
Madeld said.

The proclamation noted that Smith has helped pro-

vide other supportive ser-vices, such as exercise, cloth-ing, craft days, vaccination clinics, health edication and health screenings

# Lions tennis squads compete at Premont

The SGA Lions and Lady Lions tennis equals brought home a jubilee of medals following their performances at a tournament in Premore last week. (Contributed photo)

By JT Strasner Editor

The SGA varsity and IV tennis teams traveled to Pte-mont last week for the Pre-Lengitetyed mom Individuals beinging home

wins for the Lions are:
Nathan Flannery/Cambell Radford: (Varilty Mixel)

Doubles Champions)
Richard Huang third place

place (Varsity Girls Singles) Ethan Rosasi Brody Deter-man: fourth place (Varsity Boys Doubles)

Oscar Arias/Rolin Barrera: fifth place (Varnity Boys Dou-

Reagan Russellenova Na-vanto; fourth place (Yarsity Girls Doubles)

Aubrey Gonzaler/Delain-ey Garcia: fifth place (Varsily Girls Doubles)

(Varsity Buys Singles) Mis Corrales (Runner up Naughtelie Mireles: fourth IV Girls Singles)

Olivia Salas: third place (IV Girls Singles)
Arianna Price: fourth place

(IV Girls Singles)

Kevin Sanchez IJV Boys Singles Champsons)
Zach Garza (Runner up JV

Boys Singles)
Laxon Brinkley/Erelyn
Bieze (IV Mixed Doubles Champions)
Sheryl Yu/Gabnel Cardona

(Runner up IV Mixed Dou-

# HOF

CONTINUED FROM PAGE 1

His 1984 team played in the Artec Bowl in dympic Stallom in Mexico Cuy. Steve Maupin, Texan Women's Baskethall's Kiara Wright (now Klara Wright Guy), and

Olympic Stadiom in Mexico Cuy.

As an offensive lineman, Adkins was vot-As an offensive lineman, Adkins was varied the Mort Valtable Offensive Player, Games that sick out to him are when the Teams traveled in Golden, Colorado, and defrated the Colorado School of Munes, and when Tarleton Sitte hear Henderson Sitte, Adkins was awarded the game hall for golog against one of the best defensive ends in the country.

On May 3, 2025, Tarleton State will induct five new members into the Tarleton Althelia. Hall of Fame Team Vollepalis Tatlet Roherts, Texan Track and Hedd's Amy Mills (now Amy Mills-Villarehu). Texan Men's Teams

"I am thrilled to celebrate and honor the 2025 Tarleton Athletics Hall of Pane class on May I, featuring five elite student-athletes from the 1980's to just this past decade, which proves how exclusive this club really is." Vice President and Director of Athletics Steve Uryanzand, "Tarleton State Athletics is three-Uryaizated, "Janction State Athletes is thriv-ing across the foard, a textament to the foun-dation that these five individuals laid here in Stephenville. I am so excited for Halley, Amy, Steve, Klara and C.W., who will always hold the honor of being Hall of Famers."

#### PUBLIC ITEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 2, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Edna Oceguera, Applicant, Ramon P Perez, Owner; requesting approval of Re-Zoning from R1 (Single Family) to R3 (Multi-Family) of K T & I CO, Block 18, Lot PT 9, PT 10, Acres 10.98, Kingsville, TX 78363 (Property 1D 17868).

The meeting will be held at City Hall, 400 West King, Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

#### PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 14, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Edna Oceguera, Applicant, Ramon P Perez, Owner; requesting approval of Re-Zoning from R1 (Single Family) to R3 (Multi-Family) of KT& I CO, Block 18, Lot PT 9, PT 10, Acres 10.98, Kingsville, TX 78363 (Property ID 17868).

The meeting will be held at City Half, 400 West King, Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361)



ORDINANCE #2025-	
------------------	--

AMENDING THE ZONING ORDINANCE BY CHANGING THE ZONING MAP IN REFERENCE TO KT&I CO, BLOCK 18, LOT PT 9, PT 10, (10.98 ACRES) (PROPERTY ID#17868), KINGSVILLE, TEXAS, FROM R1 (SINGLE FAMILY RESIDENTIAL DISTRICT) TO R3 (MULTI-FAMILY RESIDENTIAL DISTRICT), (OFF LOOP 428); AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; AND PROVIDING FOR PUBLICATION.

WHEREAS, the Planning & Zoning Commission has forwarded to the City Commission its reports and recommendations concerning the application of Edna Oceguera, applicant/authorized agent for owner Ramon Perez, for amendment to the zoning ordinance and zoning map of the City of Kingsville;

WHEREAS, with proper notice to the public, public hearings were held on Wednesday, April 2, 2025 during a meeting of the Planning and Zoning Commission, and on Monday, April 14, 2025 during a meeting of the City Commission, at City Hall, in the City of Kingsville, during which all interested persons were allowed to appear and be heard; and

**WHEREAS**, the item was APPROVED with a 5-0 vote of the Planning & Zoning Commission regarding the requested rezone with no abstentions; and

**WHEREAS,** the City Commission has determined that this amendment would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

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

**SECTION 1.** That the Zoning Ordinance of the City of Kingsville, Texas, is amended by changing the zoning of KT&I Co, Block 18, Lot Pt 9, Pt 10, (10.98 Acres) (Property ID#17868), Kingsville, Texas, from R1 (Single Family Residential District) to R3 (Multi-Family Residential District), (off Loop 428), as more specifically described on the Zone Change Map, attached as Exhibit A.

**SECTION 2.** That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendments to the Zoning Ordinance made by Section 1 of this ordinance.

**SECTION 3.** That the Zoning Ordinance and Zoning Map of the City of Kingsville, Texas, as amended from time to time, except as changed by this ordinance and any other ordinances adopted on this date, remain in full force and effect.

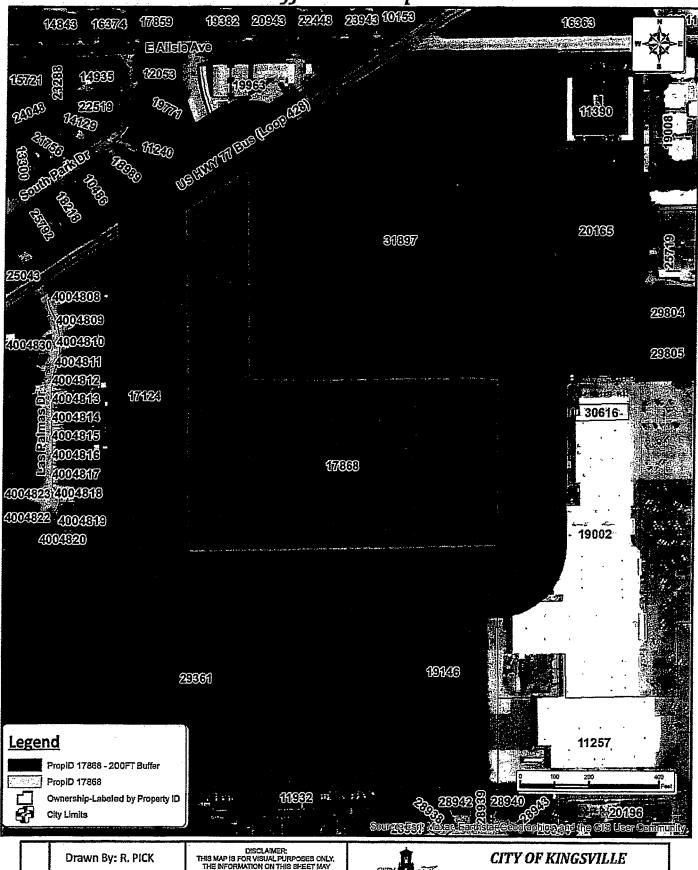
**SECTION 4.** That to the extent that these amendments to the Zoning Ordinance represent a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.

**SECTION 5.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.

**SECTION 6.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

INTRODUCED on this the <u>14th</u> day of <u>April</u> , 2025.	
PASSED AND APPROVED on this the 28th day of April , 2025.	
Effective Date:	
THE CITY OF KINGSVILLE	
Sam R. Fugate, Mayor	
ATTEST:	
Mary Valenzuela, City Secretary	
APPROVED:	
Courtney Alvarez, City Attorney	

200-FT Buffer at Prop ID: 17868



Last Update: 2/25/2025

Note: Ownership is labeled with its Prop ID.

DISCLAIMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY,
THE INFORMATION ON THIS SHEET MAY
CONTAIN INACCURACES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IF THE INFORMATION
CONTAINED HEREIN IS USED FOR ANY
DESIGN, CONSTRUCTION, PLANNING, BUILDING,
OR ANY OTHER PURPOSE.



# ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064

# **AGENDA ITEM #2**

## City of Kingsville Fire Department

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Juan J. Adame, Fire Chief

DATE:

March 31, 2025

SUBJECT:

**EMS Billing Rate and Fee Structure** 

#### Summary:

The Kingsville Fire Department respectfully requests the City Commission's approval to adjust our EMS billing rates to align with current state standards. Our new billing company, Emergicon has conducted an analysis of emergency medical service billing practices throughout Texas and found our current rates fall significantly below the state average.

#### Background:

The cost of operating our emergency ambulance services has risen dramatically since our last rate adjustment in 2016. During this eight-year period, we have absorbed substantial increases in medical supplies, pharmaceuticals, equipment maintenance, fuel, and personnel expenses without corresponding revenue adjustments. These escalating operational costs now significantly outpace our current billing structure, creating an unsustainable financial burden on our emergency medical services.

#### **Financial Impact:**

The projected revenue for the City is expected to increase while maintaining the same collection rate as established in our previous contract. Our financial analysis indicates that implementing the updated billing structure, without any changes to our collection methodology or efficiency, will generate additional revenue for municipal operations.

#### Recommendation:

The Kingsville Fire Department recommends that the City Commission approve the proposed comprehensive fee schedule revision for emergency medical services.



# City of Kingsville Fire Department

City of Kingsville, Texas EMS Billing Fee Schedule

Currently (City Commission Approved; August 22, 2016)

BLS	\$900.00			
ALS	\$1,300.00			
ALS2	\$1,300.00			
Supplies	\$0.00			
TWT	\$225.00			
SCT	\$1,300.00			
Mileage	\$15.00 / Loaded Mile			

Proposed Fee Schedule for Kingsville Fire Department (2025)

BLS – Emergency	\$1,400.00
BLS – Non-Emergency	\$1,400.00
ALS – Emergency	\$1,600.00
ALS – Non-Emergency	\$1,600.00
ALS2	\$1,800.00
SCT	\$2250.00
Mileage	\$24.00
ALS – Disposables	\$450.00
BLS – Disposables	\$350.00
Oxygen	\$125.00
Treatment No Transport	\$175.00

State Average Based on TDI Submittals Jan. 2023

BLS – Emergency	\$1,277.99
BLS – Non-Emergency	\$1,131.07
ALS – Emergency	\$1,508.52
ALS – Non-Emergency	\$1,347.32
ALS2	\$1,704.11
SCT	\$1,974.21
Mileage	\$22.41
ALS – Disposables	\$347.00
BLS – Disposables	\$247.19
Oxygen	\$131.01
Treatment No Transport	\$223.64



ORDINANCE #2025-
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AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XI-BUSINESS REGULATIONS, ARTICLE 2-AMBULANCE SERVICE, SECTION 28-AMBULANCE BILLING RATES FOR SERVICES PROVIDED BY THE CITY OF KINGSVILLE AMBULANCE SERVICE, PROVIDING FOR REVISIONS TO RATES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

**WHEREAS**, the City of Kingsville operates an ambulance service through the Kingsville Fire Department;

WHEREAS, the rates for providing this ambulance service have not been updated since August 2016, yet the cost for the medical supplies, pharmaceuticals, equipment, fuel, and personnel expenses have all increased thereby necessitating this rate revision 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:

1.

**THAT** Section 11-2-28 of Article 2: Ambulance Service of Chapter XI, Business Regulations, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

#### ARTICLE 2: AMBULANCE SERVICE

#### General Provisions

§11-2-28 AMBULANCE BILLING RATES FOR SERVICES PROVIDED BY THE CITY OF KINGSVILLE AMBULANCE SERVICE.

The fee for services provided by the City of Kingsville Fire Department ambulance service shall be as approved by the City Commission. A copy of the current fees (approved in April 2025) is available from the City Secretary and incorporated herein by reference.

. . . .

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

111.

**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 14th day of April, 2025.

PASSED AND APPROVED on this the 28th day of April, 2025.

Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

## City of Kingsville, Texas EMS Billing Fee Schedule as of April 2025

## **Current Fee Schedule-since August 2016**

BLS	\$900.00
ALS	\$1,300.00
ALS2	\$1,300.00
Supplies	\$0.00
TWT	\$225.00
SCT	\$ <del>1,300.00</del>
Mileage	\$15.00 / Loaded
	Mile

## Proposed Fee Schedule for Kingsville Fire Department-April 2025

BLS – Emergency	\$1,400.00
BLS - Non-	\$1,400.00
Emergency	
ALS – Emergency	\$1,600.00
ALS - Non-	\$1,600.00
Emergency	
ALS2	\$1,800.00
SCT	\$2250.00
Mileage	\$24.00
ALS – Disposables	\$450.00
BLS – Disposables	\$350.00
Oxygen	\$125.00
Treatment No	\$175.00
Transport	

# **AGENDA ITEM #3**

## City of Kingsville Parks & Recreation Department

**TO: Mayor and City Commissioners** 

**CC:** Charlie Sosa, Interim City Manager

FROM: Susan Ivy, Director of Parks & Recreation

**DATE: April 1, 2025** 

SUBJECT: Agenda Request - Budget Amendment to Receive Ed Rachal Grant

Summary: We are asking approval of the attached Budget Amendment to receive and record our grant from Ed Rachal Foundation.

History: Commission has previously approved the application to Ed Rachal Foundation in the amount of \$25,000 for Recreation Salaries and new lighting on the Thompson Park Basketball Court. The grant was applied for, approved and we have now received funding and need to approve the budget amendment to record the receipt and budgeting of the funds.

Recommendation: Approve the budget amendment for the receipt of \$25,000 from Ed Rachal and record as indicated on the Budget amendment.



RESOLUTION # 2024- Чつ	RESC	LUT	ION#	2024-	95
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A RESOLUTION AUTHORIZING THE CITY TO SUBMIT AN APPLICATION TO THE ED RACHAL FOUNDATION FOR GRANT FUNDS FOR PARK RECREATIONAL PROGRAM FUNDING AND THOMPSON PARK BASKETBALL COURT LIGHTING IMPROVEMENTS.

WHEREAS, the City Commission of the City of Kingsville has prioritized the improvement of the athletic facilities and healthy recreational programs; and

WHEREAS, Kingsville Parks and Recreation has experienced an increase in recreational programming and special events are needed to provide quality of life opportunities for kids and families in Kingsville; and

WHEREAS, Thompson Park has many kids and adults using the basketball court on a regular basis and with extreme heat in summer and early sunsets in winter there is a need for better lighting on the court; and

WHEREAS, the cost to install new lighting has been quoted at about \$18,000 and the need for additional programming and labor costs is estimated at about \$7,000, which creates a total grant request of \$25,000; and

WHEREAS, the Ed Rachal Foundation provides funding assistance with non-profits and governmental agencies in South Texas; and

WHEREAS, the City Commission of the City of Kingsville finds it in the best interest of the citizens of Kingsville that the Kingsville Parks Department participate in an application for grant monies for lighting equipment at Thompson Park basketball court and for additional recreational programming funds; and

WHEREAS, the Ed Rachal Foundation does not require a cash match and may award part, none, or all of the funds requested, though any monetary award would require a budget amendment; and

WHEREAS, the City Commission of the City of Kingsville through this resolution has authorized the Parks Director to submit a grant application requesting \$25,000 in funding and to administer the grant and necessary paperwork if the grant is awarded to the City with any funding shortfalls coming from the Park's Budget;

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

I.

THAT the City Commission approves the submission of a grant application to the Ed Rachal Foundation for Park Recreational Program Funding and Thompson Park Basketball Court Lighting Improvements, with no anticipated cash match and authorizes the Parks Director to submit the grant and administer the grant and necessary paperwork if the grant is awarded to the City.

11.

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

**PASSED AND APPROVED** by a majority vote of the City Commission the <u>25th</u> day of <u>November</u>, <u>2024</u>.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM

Courtney Alvarez, City Attorney

	ORDII	NANCE	NO.	2025-
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AN ORDINANCE AMENDING THE FISCAL YEAR 2024-2025 BUDGET TO ACCEPT AND EXPEND GRANT FUNDING FROM THE ED RACHAL FOUNDATION FOR SALARIES AND PARK FIELD IMPROVEMENTS.

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

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2024-2025 budget be amended as follows:

#### CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT – BA#35

Dept No.	•   •		Account Number	Budget Increase	Budget Decrease
Fund	140 – Ed Racha	al Foundation - Parks			
Reven	ues				
0000	Non-Dept	Grant Revenues	72037	\$25,000	
Expen	ditures				
4503	Park Maint	Salaries	11100	\$7,000	
4503	Park Maint	Park Field Improvements	71228	\$18,000	
	<u> </u>				

[To amend the City of Kingsville FY 24-25 budget to accept and expend funding from the Ed Rachal Foundation for Salaries and Park Field Improvements.]

П.

**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	t for its purp	ose.				-		_

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 14th day of April 2025.

PASSED AND APPROVED on this the 28th day of April 2025.
EFFECTIVE DATE:
Sam R. Fugate, Mayor
ATTEST:
ATTEST.
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

## **AGENDA ITEM #4**

## City of Kingsville Police Department

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

John Blair, Chief of Police

DATE:

April 1, 2025

SUBJECT:

Operation Stonegarden, OPSG FY25-26 Grant#3194310

#### **Summary:**

The Kingsville Police Department has been invited to participate for an additional year of OPSG and has been approved for participation during performance period beginning 03/1/2025 and ending 02/28/2026.

#### **Background:**

Kleberg County and identified Friendly Forces will participate in Operation Stonegarden (OPSG) for Funding Year 2025. The participating agencies will utilize OPSG funding to enhance enforcement efforts along ingress/egress routes leading from the U.S./Mexico border and into the interior of the United States. OPSG funding will be used for the essential capability enhancement of participating agencies to coordinate operations with the U.S. Border Patrol to support border security efforts within the Rio Grande Valley Border Patrol Sector.

#### Financial Impact:

The grant for "Operation Stonegarden" is a reimbursement type but does not require any cash match. We have been approved \$114,205.00 in overtime, \$12,000.00 for Minor Equipment, and \$10,000.00 for vehicle maintenance.

#### Our total allotment is \$136,205.00

#### **Recommendation:**

We would request a resolution approving the acceptance of this grant via the Office of the Governor eGrants portal by the grantee's authorized official as designated by the City Manager, Chief John Blair. We also request a budget amendment to the current FY 2024-2025 for use of the funds as soon as they are available. Please place this on the next available agenda. Thank you for your assistance regarding this matter.



#### RESOLUTION NO. 2025-14

A RESOLUTION APPLYING FOR AND ACCEPTING FUNDS FOR OPERATION STONEGARDEN GRANT #3194310 WITH THE HOMELAND SECURITY GRANTS DIVISION OF THE GOVERNOR'S OFFICE FOR BORDER SECURITY TO INTERDICT CRIMINAL ACTIVITY WITH NO ANTICIPATED CASH MATCH; AUTHORIZING THE KINGSVILLE CHIEF OF POLICE TO ACT ON THE CITY'S BEHALF WITH SUCH PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Homeland Security Grants Division of the Governor's Office had previously invited the City of Kingsville Police Department to participate in a grant for Border Security in an effort to deter and facilitate directed actions to interdict criminal activity; and

WHEREAS, the City of Kingsville has previously been allowed to apply for reimbursement of overtime for personnel, equipment (portable radios), supplies & direct operating expenses (vehicles), and other allowed costs associated with this project (including but not limited to things like overtime, fringe benefits, vehicles, fuel costs, and management & administrative costs) that will assist with the deterrence of illegal activity in our area;

WHEREAS, the City Commission of the City of Kingsville finds that it is in the best interest of the citizens of Kingsville, that the Kingsville Police Department participate in an application to and accept funds from the Office of the Governor's Homeland Security Grant Division for Operation Stonegarden for grant monies for reimbursement for personnel costs, equipment, supplies & direct operating expenses, fuel and maintenance and other allowable grant expenses for law enforcement purposes for Grant Period Funding Year 2025-26 OPSG, whose performance period is 3/01/25-2/28/26; and

**WHEREAS,** the City agreed to provide the applicable matching funds for the said project, if any, as required by the Office of the Governor for the Operation Stonegarden Grant Program grant application; and

WHEREAS, the City agreed that in the event of loss or misuse of the Office of the Governor grant funds, the City of Kingsville City Commission assures that the funds received through the grant will be returned to the Office of the Governor in full;

WHEREAS, the City Commission of the City of Kingsville designated the Kingsville Chief of Police as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency; and

WHEREAS, the City Kingsville Police Department was recently notified that its total grant allotment is \$136,205.00 in funds to cover personnel costs, fuel, maintenance, supplies & direct operating expenses, and equipment (which includes but may not be

not limited to things like overtime, fringe benefits, vehicles, fuel costs, and management & administrative costs) through Operation Stonegarden, which is a reimbursement type grant that does not require any cash match.

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

I.

THAT the City Commission of the City of Kingsville accepts the Operation Stonegarden grant funds for Grant Period FY25-26 and participation in the Operation Stonegarden Grant Program for reimbursement or personnel costs, fuel, maintenance, supplies & direct operating expenses, and equipment (which includes but may not be not limited to things like overtime, fringe benefits, vehicles, fuel costs, and management & administrative costs) for law enforcement purposes to the Office of the Governor and designates the Kingsville Chief of Police or his designee as the grantee's authorized official.

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

PASSED AND APPROVED by a majority vote of the City Commission the 27th day of January, 2025.

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM

Courtney Alvarez, City Attorney

ORDINA	ANCE NO	). 2025-	

AN ORDINANCE AMENDING THE FISCAL YEAR 2024-2025 BUDGET TO ACCEPT AND EXPEND GRANT FUNDING FROM STONEGARDEN FOR POLICE OVERTIME, PORTABLE RADIOS AND VEHICLE MAINTENANCE.

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

1.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2024-2025 budget be amended as follows:

#### CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT – BA#36

Dept No.	Dept Name	Account Name	Account Number	Budget Increase	Budget Decrease
Fund (	016 – Stonegai	rden Grant			
Reven	ues				
2100	Police	Federal Grants		\$136,205	
					<del></del>
Expen	ditures				
2100	Police	Overtime		\$114,205	
2100	Police	Minor Equipment		\$12,000	
2100	Police	Vehicle Maintenance		\$10,000	
					· · ·

[To amend the City of Kingsville FY 24-25 budget to accept and expend funding from Stonegarden for Police overtime, portable radios and vehicle maintenance.]

11.

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

111.

**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 t	the definite	e intent of	this City	/ Commi	ssion
that every section, paragraph, subdivision,	clause, p	hrase, wo	ord or prov	ision he	reof 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 14th day of April 2025.

PASSED AND APPROVED on this the 28th day of April 2025.
EFFECTIVE DATE:
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

# **AGENDA ITEM #5**

Budget Am.

## City of Kingsville Purchasing Department

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Charlie Sosa Interim City Manager/Purchasing Manager

DATE:

April 8, 2025

SUBJECT:

Budget Amendment for Health Dept. Animal Shelter Project

#### Summary:

This item authorizes the approval of a Budget Amendment in the amount of \$100,000.00 to cover Kennels for the new Animal Shelter in the Health Building Line Item.

#### Background:

Staff is requesting a budget amendment to cover the short fall for the kennels and fencing installation at the new Animal Shelter. The construction of the building has been completed along with ordering of the new kennels, in addition funding will cover the expense of the kennels and exterior fencing of the shelter to finalize the project.

#### **Financial Impact:**

Staff is requesting the reallocation of funds to be transferred from UF ARP Fund Budget 125-5-6001-54300 to GF ARP Fund Budget-Health Building 121-5-4400-71300 in the amount of \$100,000.00.

#### Recommendation:

It is recommended the City Commission approve the Budget Amendment for the Health Department Animal Shelter Project, as per staff recommendation.



ORDI	NANCE	NO.	2025-	

AN ORDINANCE AMENDING THE FISCAL YEAR 2024-2025 BUDGET TO REALLOCATE UTILITY FUND ARP FUNDING FOR THE WATER METER PROJECT TO GENERAL FUND ARP FUNDING FOR THE ANIMAL SHELTER PROJECT.

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

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2024-2025 budget be amended as follows:

#### CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT – BA#30

Dept No.	Dept Name	Account Name	Account Number	Budget Increase	Budget Decrease
Fund '	121 – GF ARP I	Fund			
Expen	<u>ditures</u>				
4400	Health	Building	71300	\$100,000	
Fund '	125 – UF ARP I	und			
Expen	<u>ditures</u>				
6001	Water Const	Utility Plant	54300	*******	\$100,000
		·			

[To amend the City of Kingsville FY 24-25 budget to reallocate Utility Fund ARP funding originally for the Water Meter project to the General Fund ARP Fund for the Animal Shelter Project.]

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	e, for it is the de	finite intent of this	City Commission
that every section, paragraph, subdivision	, clause, phrase	e, word or provision	n 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 14th day of April 2025.

DASSED AND ADDROVED on this the 20th day of A	!! 202E
PASSED AND APPROVED on this the 28th day of A EFFECTIVE DATE:	prii 2025.
LITEORY DATE.	
Sam R. Fugate, Mayor	
ATTEST:	
Mary Valenzuela, City Secretary	
APPROVED AS TO FORM:	· .
Courtney Alvarez, City Attorney	

# **REGULAR AGENDA**

## **AGENDA ITEM #6**

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



### **MEMO**

Date:

April 17th, 2025

To:

Charlie Sosa (Interim City Manager)

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor to re-zone the parcel of land located at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

Summary: Jose Flores and Jaime Flores, Applicants/Owners, approached the Planning Department on February 20<sup>th</sup>, 2025, requesting approval of re-zoning the parcel of land located at 620 E Alice from R1 (Single Family District) to C2 (Retail District) to support re-opening a tortilla factory that was open for ~ 50 years. The property has been vacant for 3 years and is located in the city's Historic District.

**Background**: 620 E Alice was recently purchased after remaining vacant for approximately 3 years. It is currently zoned R1 (Single Family District); adjacent parcels of land are currently zoned R1 (Single Family District). Parcels of land located 2-3 blocks away are zoned C1 (Neighborhood Service District), C2 (Retail District), C3 (Central Business District) and C4 (Commercial District). See attached zoning slides in the agenda packet.

**Discussion**: In reading the attached "Land Use Regulation for Texas Cites," article dated February 11, 2016, located within the agenda packet, on page 2 the author of the article states, "Two pitfalls that cities must be careful to avoid in zoning are "spot zoning" and "contract zoning." "Spot zoning" is the illegal practice of zoning a single tract of land in a manner that is incompatible with the surrounding area and in a manner that is incompatible with the city's zoning ordinance and comprehensive plan." Of note, the city does not have a comprehensive plan; we have an outdated 2008 Master Plan; (we have recently contracted with Halff Associates to apply for a grant to produce a new comprehensive plan for the City of Kingsville as soon as possible). Within the 2008 Master Plan, the area in the vicinity of 620 E Alice was designated as an R1 – Single Family District, as well as the current city ordinances.

Also within this article, the term, "nonconforming use" is discussed. "If property is previously rezoned for a specific use, and a zoning change occurs that negates the previous zoning, then the use of that property becomes a legal nonconforming use." "A city may include a provision in its zoning ordinance that terminates non-conforming uses after a set period of time following the zoning change (e.g., , 25 years) so that the property owner has an opportunity to recoup his investment in the nonconforming use over the normal life-span of the non-conforming structure."

Within the City of Kingsville Ordinances found in your agenda packet, the City of Kingsville defines "Nonconforming status" as "A nonconforming status shall exist under one of the following conditions:

- (A)
  (1) When a use does not conform to the regulations prescribed in the district in which it is located, and was lawfully existing and operating prior to the adoption of this article, or any amendment thereto which creates nonconformity, and where there has been no discontinuance of the use for a period of time exceeding six months or;
  - (2) When a structure does not conform to the regulation prescribed in the district in which it is located, and was lawfully existing and constructed prior to the adoption of this article, or any amendment thereto which creates nonconformity.
- (B) Maintenance permitted. A nonconforming building or structure may be maintained.
- (C) Repairs and alterations. Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.
- (D) Additions, enlargements and moving.
  - (1) A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or removed to another location except as provided by subdivision (2) of this division hereof.
  - (2) A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area, or yard regulations may be added to or enlarged or moved to a new location on the lot upon a permit authorized by the Board of Adjustment, which may issue, provided that the Board of Adjustment, after hearing, shall find:
    - (a) The addition to, enlargement of, or moving of the building will be in harmony with one or more of the purposes of this article as stated in § 15-6-2 hereof, and shall be in keeping with the intent of this article.
    - (b) The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.
    - (c) LOT shall mean that parcel of land owned at the time the use became nonconforming and upon which the use existed, whether defined in one or more legal descriptions provided that all legal descriptions are contiguous.
- (E) Alteration where parking insufficient. A building or structure lacking sufficient automobile parking space in connection therewith as required by this article may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this article for such alteration or enlargement.
- (F) Restoration of damaged buildings. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure, or part thereof, which existing at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of six months and is diligently prosecuted to completion and is not located in an overlay zone.
- (G) Six month vacancy. A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of six months, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.
- (H) Continuation of use. The occupancy of a building or structure by a nonconforming use, existing at the time this Title became effective, may be continued.

- (I) Occupation within six months. A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of six months after the use became nonconforming.
- (J) Change of use. The nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.
- (K) Nonconforming use of land. The nonconforming use of land, existing at the time this article became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of six months or more, any future use of such land shall be in conformity with the provisions of this article.

In reading the attached American Planning Association Texas Chapter, A Guide to Urban Planning in Texas Communities, 2013 article, "Chapter 4 Zoning Regulations in Texas," "In 1987, the sections of Article 1011 were codified in Chapter 211 of the Texas Local Government Code. Chapter 211 currently provides that the zoning regulatory power is "for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance."

In addition, "a violation of a zoning ordinance is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the city."

Moreover, "A party challenging the zoning ordinance must show that the ordinance is arbitrary or unreasonable because it bears no substantial relationship to the public health, safety, morals or general welfare."

With respect to equal protection, "An equal protection challenge may be brought if an individual can demonstrate that the city treated the individual differently from other similarly situated individuals without any reasonable basis."

Also, the article addresses spot zoning: "Some zoning changes may be challenged if the rezoning is deemed to be "Spot Zoning". ""Spot Zoning" is the process of singling out a small tract of land and treating it differently from similar surrounding land "without any showing of justifiable changes in conditions." In *City of Pharr v. Tippitt*, the Texas Supreme Court identified the following factors to be reviewed in determining whether a rezoning is Spot Zoning:

- 1. Whether the City has disregarded the zoning ordinance or long-range master plans and maps that have been adopted by ordinance;
- 2. The nature and degree of an adverse impact on surrounding properties; i.e. is the change substantially inconsistent with surrounding properties; and,
- 3. Whether the use of the property as presently zoned is suitable or unsuitable;
- 4. Whether the rezoning ordinance bears a substantial relationship to the public health, safety, morals or general welfare or protect and preserve historical and cultural places and areas."

Lastly, the City Attorney provided a memo on March 24th, 2025 that addresses this re-zone request. In the memo, the attorney states that "...the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location." The attorney also states "...so, if the same proposed use were to have a detrimental impact on the valuation of surrounding properties, then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades." The attorney states "While times have changed during the last fifty years the factory operated at this site, the business' historical significance to the community should not be overlooked."

The Planning and Zoning Commission meeting was held on April 16th, 2025, with 6 of 7 members in attendance.

Members deliberated over the request to re-zone the parcel of land located at 620 E Alice from R1 (Single Family District) to C2 (Retail District) to support reopening a tortilla factory that was open for  $\sim 50$  years. 25 Notice Letters were sent out to neighbors within the 200 feet buffer and the city has received no feedback as of today.

The Planning and Zoning Commission board members voted to recommend approval of the re-zone of a parcel of land located at 620 E Alice from R1 (Single Family District) to C2 (Retail District) to support reopening a tortilla factory. A recorded vote of all members present was taken and board members Steve Zamora, Larry Garcia, Rev. Idotha Battle, Debbie Tiffee, Mike Klepac and Krystal Emery all voted "YES."

The meeting was adjourned at 7:10 p.m.

The department recommends approval.

#### Erik Spitzer

Director of Planning and Development Services



# CITY OF KINGSVILLE PLANNING AND ZONING DIVISION MASTER LAND USE APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TYPE)
Project Address 620 E Alice Nearest Intersection 10th St
(Proposed) Subdivision NameLot_24-a7_Block_22
Legal Description 3ed, Block 22, Lot 24-27 (famosa Tortilla Factory)
Existing Zoning Designation R1 Future Land Use Plan Designation C-2
OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)  Applicant/Authorized Agent Jose and Line Flores Phone 361 - 215 - 9449
Email Address (for project correspondence only):
Mailing Address 42) We Ave A City King Suille State To Zip 78363
Property Owner Jaime Flores Phone 361-215-9449 FAX
Email Address (for project correspondence only):
Mailing Address 42) W Ave A City kingsville State 7 zip 78363
Select appropriate process for which approval is sought. Attach completed checklists with this application.
Annexation Request No Fee Preliminary Plat Fee Varies
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies  Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00  Re-zoning Request \$250.00 Re-plat \$250.00
Administrative Appeal (ZBA)       \$250.00       Final Plat       Fee Varies         Comp. Plan Amendment Request       \$250.00       Minor Plat       \$100.00         Re-zoning Request       \$250       Re-plat       \$250.00         SUP Request/Renewal       \$250       Vacating Plat       \$50.00
Administrative Appeal (ZBA)       \$250.00       Final Plat       Fee Varies         Comp. Plan Amendment Request       \$250.00       Minor Plat       \$100.00         Re-zoning Request       \$250       Re-plat       \$250.00         SUP Request/Renewal       \$250       Vacating Plat       \$50.00         Zoning Variance Request (ZBA)       \$250       Development Plat       \$100.00
Administrative Appeal (ZBA)       \$250.00       Final Plat       Fee Varies         Comp. Plan Amendment Request       \$250.00       Minor Plat       \$100.00         Re-zoning Request       \$250       Re-plat       \$250.00         SUP Request/Renewal       \$250       Vacating Plat       \$50.00
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Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00  Re-zoning Request \$250 Re-plat \$250.00  SUP Request/Renewal \$250 Vacating Plat \$50.00  Zoning Variance Request (ZBA) \$250 Development Plat \$100.00  PUD Request \$250 Subdivision Variance Request \$25.00 ea  Please provide a basic description of the proposed project:  Would like to open Famosa Tortila factory but its  Zoned R I The Building was used as Tortila factory
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Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00    Re-zoning Request   \$250   SUP Request/Renewal   \$250   Zoning Variance Request (ZBA)   \$250   PUD Request   \$250   PUD Request   \$250   Pub Request   \$250   Subdivision Variance Request   \$250 oea    Please provide a basic description of the proposed project:
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This form available on our website: https://www.cityofkingsville.com/departments/planning-and-development-services/

### Kleberg CAD Property Search

### ■ Property Details

Account

**Property ID:** 

17385

Geographic ID: 100502224000192

Type:

R

Zoning: R1

**Property Use:** 

Location

Situs Address:

620 E ALICE

Map ID:

C1

Mapsco:

**Legal Description:** 

3RD, BLOCK 22, LOT 24-27, (FAMOSA TORTILLA FACTORY)

Abstract/Subdivision:

S005

Neighborhood:

Owner

Owner ID:

15566

Name:

LA FAMOSA DRC INC

Agent:

Mailing Address:

620 E ALICE AVE

KINGSVILLE, TX 78363-4637

% Ownership:

100.0%

**Exemptions:** 

For privacy reasons not all exemptions are shown online.

### Property Values

Improvement	Homesite	Value:

\$0 (+)

Improvement Non-Homesite Value:

\$127,130 (+)

Land Non-Homesite Value:

Land Homesite Value:

\$0 (+)

\$15,000 (+)

**Agricultural Market Valuation:** 

\$0 (+)

\$142,130 (=)

Agricultural Value Loss:0

\$0 (-)

Appraised Value:

Market Value:

\$142,130 (=)

HS Cap Loss: 0

Circuit Breaker: @

\$0 (-)

\$0 (-)

#### **Assessed Value:**

\$142,130

#### Ag Use Value:

\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.

### ■ Property Taxing Jurisdiction

Owner: LA FAMOSA DRC INC %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$142,130	\$142,130	\$1,097.06
CKI	CITY OF KINGSVILLE	0.770000	\$142,130	\$142,130	\$1,094.40
SKI	KINGSVILLE I.S.D.	1.410400	\$142,130	\$142,130	\$2,004.60
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$142,130	\$142,130	\$93.37
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$142,130	\$142,130	\$0.00

Total Tax Rate: 3.017965

Estimated Taxes With Exemptions: \$4,289.43

Estimated Taxes Without Exemptions: \$4,289.43

### ■ Property Improvement - Building

Type: COMMERCIAL Living Area: 520.0 sqft Value: \$22,380

Type	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	RS2A	1970	520
OP1	OPEN PORCH BASIC (20%)		1970	120
CON	CONCRETE SLAB COMMERCIAL	**************************************	1970	3554

Type: COMMERCIAL Living Area: 3480.0 sqft Value: \$104,750

Type	Description	Class CD	Year Built	SQFT	
************			 		
MA	MAIN AREA	IN2A	1970	3480	

### ■ Property Land

Type	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
	and the second of the second o						
F1	F1	0.32	14,000.00	100.00	140.00	\$15,000	\$0

## ■ Property Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$127,130	\$15,000	\$0	\$142,130	\$0	\$142,130
2023	\$129,330	\$15,000	\$0	\$144,330	\$0	\$144,330
2022	\$113,590	\$7,000	\$0	\$120,590	\$0	\$120,590
2021	\$121,540	\$7,000	\$0	\$128,540	\$0	\$128,540
2020	\$52,010	\$7,000	\$0	\$59,010	\$0	\$59,010
2019	\$59,460	\$7,000	\$0	\$66,460	\$0	\$66,460
2018	\$61,500	\$7,000	\$0	<b>\$68,</b> 500	<b>\$0</b>	\$68,500
2017	\$56,110	\$7,000	\$0	<b>\$63,11</b> 0	\$0	\$63,110
2016	\$54,510	\$7,000	\$0	\$61,510	\$0	\$61,510

### WRITTEN CONSENT TO USE OF SIMILAR ENTITY NAME

# of LA FAMOSA DRC, INC. a Texas corporation

This written consent is made and tendered in accordance with 1 Texas Administrative Code 79.42 to provide unequivocal consent to Jose L. Flores and/or Jaime Antonio Flores, or either of them, their agents, and assigns, the right to use the name "LA FAMOSA DRC" in the creation of any other entity authorized by the laws of any political subdivision of the United States, including but not limited to the creation of their planned limited liability company to be created under the laws of the State of Texas or

IN WITNESS WHEREOF, the undersigned officer authorized by the Company in accordance with a unanimous resolution of all shareholders of the Company, executes this written consent in the presence to be effective immediately.

Sona Adai Nun-Rosa Maria Torres, its Vice President

STATE OF TEXAS S
COUNTY OF Klebens S

This instrument was acknowledged before me on <u>Jonus 17</u>, 2025, by Rosa Maria Flores, Vice President of La Famosa DRC, LLC, a Texas corporation on behalf of said corporation.

ANTONIO ARREDONDO
Notary Public, State of Texas
Comm. Expires 05-10-2026
Notary ID 131562673



## CERTIFICATE OF FILING OF

La Famosa DRC, LLC File Number: 805863291

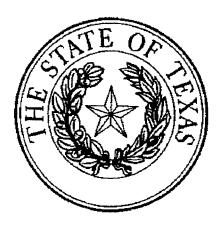
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/17/2025

Effective: 01/17/2025



Jane Melson

Jane Nelson Secretary of State Sec. 1.=Landuse-chart.

The following chart shall secout the land uses within the city:

Permitted

Special use permit required

X=Special review required

Not permitted (absence of any symbol)

### [Land Use Chart on the following pages]

Land Use Chart													
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	С3	C4	11	12	Ag
Dwelling, one-family det.	Р	Р		Р	P	Р	Р	Р	Р				Р
Dwelling, one-family att.		Р	Р	Р	Р		S	Р					P
Dwelling, two-family		P		Р	Р	·	S	Р					***************************************
Dwelling, multi- family				Ρ	Р		P	P	Р			-	
Tiny Homes		Р	Р			Р							

Bakery or confectionery shop, retail sales (less than 2,500 square feet)				Р	P	Р	P			
Bakery, wholesale				W. W.	્રિજી	Р	Р			
Brewpub				-	Р	S	Р	Р	Р	
Building materials sales	-				S	P	P	S		
Cafeteria orrestaurant				ار ش ا	Φ.	TO		Ρ	(TO)	
Camera shop				S	Р	Р	P			
Laundry or self- service laundry shop (limited area)				S	Р	P	Р			
Clinic, medical, dental, chiropractor, optometrist or other office of licensed Health related profession		,		S	Р	P	Р	Р		
Drug store or pharmacy				Р	P	Р	Р			

# Land Use Regulation for Texas Cities

# By Brad Young<sup>1</sup> Bickerstaff Heath Delgado Acosta LLP February 11, 2016

#### I. Zoning

A city's zoning authority is governed by chapter 211 of the Texas Local Government Code. Under the Code, a municipality may adopt zoning regulations for "the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural significance." The municipality may also amend, repeal or otherwise change existing zoning regulations or boundaries.

#### A. What goes into a zoning ordinance?

A city's zoning ordinance will contain the city's preferences for use of land in all areas within the city limits. Chapter 211 of the Local Government Code requires all cities to adopt their zoning regulations in accordance with a Comprehensive Plan.<sup>4</sup> The comprehensive plan is a document that sets forth the city's vision for land use in the future. Most cities adopt their comprehensive plan after receiving input from various citizens' groups and other stakeholders. If a city wants to amend its zoning ordinance in a way that conflicts with the comprehensive plan, the city must first amend the comprehensive plan before it can amend its zoning ordinance. It is prudent for a city to review and update its comprehensive plan periodically.

Most zoning ordinances contain the same basic elements: (1) general definitions; (2) land use definitions; (3) land use districts; (4) administrative provisions; (5) development standards; and penalty and enforcement provisions. Cities have a fair amount of discretion in determining what land uses they wish to allow in various districts. For example, most cities do not allow industrial uses to locate in a single-family residential district, or a truck stop to locate in a district that is reserved for hospital and medical uses. Some cities allow for special districts (often called "Planned Development Districts") that provide even greater flexibility for land use than is available in a normal zoning district. For example, a planned development district may provide

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<sup>&</sup>lt;sup>2</sup> TEX. LOC. GOV'T CODE § 211.001.

<sup>&</sup>lt;sup>3</sup> Id. at § 211.002.

<sup>4</sup> Id. at §211.004.

for a mix of residential, retail, and professional office uses on terms and conditions that the city includes in the planned development district ordinance.

Ewo pitfalls that cities must be careful to avoid in zoning are "spot zoning" and "contract zoning." "Spot zoning" is the illegal practice of zoning a single tract of land in a manner that is incompatible with the surrounding area and in a manner that is incompatible with the city's zoning ordinance and comprehensive plan. "Contract zoning" is an illegal agreement between the city and a property owner to adopt a certain zoning classification in exchange for certain promises by the property owner. Because contract zoning usurps the city council's legislative function, the council cannot enter into such a contract.

#### B. Planning and Zoning Commission

Most cities that have a zoning ordinance also have a Planning and Zoning Commission. <sup>5</sup> The commission is an advisory body appointed by the city council that advises the council on requests for changes to the zoning ordinance. A request for rezoning may come from a property owner, or the city council or commission may initiate rezoning on its own initiative. Generally, a request for rezoning will involve the classification of a certain tract of property (e.g., a request to rezone property from multi-family residential to retail). But the commission also reviews and advises the council on requests for changes to zoning regulations (e.g., the creation of a new type of zoning district or an amendment to the land use definitions in the zoning ordinance).

If a city has a Planning and Zoning Commission, the city council generally cannot make changes to the zoning ordinance without first seeking the review and recommendation of the commission.

#### C. Procedural Requirements

Prior to making a rezoning decision, the city council considers the recommendations of city staff and the planning and zoning commission (if there is one). In addition, section 211.006 of the Texas Local Government Code requires the city to publish advance notice in the newspaper, mail notice to surrounding property owners, and hold a public hearing at which "parties in interest and citizens" have an opportunity to be heard.

In some cases, the receipt of written protests by interested landowners will require the council to approve the change by more than a simple majority in order for the zoning change to become effective. If the owners of land of at least twenty percent of either: (1) the area of the lots or land covered by the proposed zoning change; or (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area file a protest, then the council must approve the rezoning by an affirmative vote of at least three-fourths of all members of the governing body. The protest must be in writing and signed by the property owners. Note that the area of streets and alleys is included in determining whether the protestors have met the twenty percent threshold.<sup>6</sup>

<sup>5</sup> Id. at § 211.007.

<sup>6</sup> Id. at § 211.006.

Ultimately, however, the council has discretion as a legislative body to make the decision of whether to rezone. Once the council has denied a rezoning application, it is common for the zoning ordinance to impose a waiting period of one year or more before an applicant can file a new zoning application with the city for the same parcel of land. Depending on the ordinance, however, the council may have specific authority to waive the waiting period.

#### D. Zoning Board of Adjustment

A city's ordinances also may provide for the creation of a Zoning Board of Adjustment. <sup>7</sup> Like the Planning and Zoning Commission, the Board of Adjustment consists of members appointed by the city council. Unlike the commission, the Board of Adjustment does not make recommendations to the city council. Instead, the Board acts as a quasi-judicial body. Generally, the Board has authority over two main types of decisions: (1) whether to grant a variance from the city's zoning regulations; and (2) consideration of appeals from decisions of city administrative officials. Appeals from decisions of the Board of Adjustment do not go to the city council; they go directly to the district court.<sup>8</sup>

When considering whether to grant a variance, the Board must make specific findings regarding the request, including: (1) that the variance is not contrary to the public interest; (2) whether due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship to the property owner; and (3) whether by granting the variance spirit of the ordinance will be observed and substantial justice will be done. Note that "unnecessary hardship" does not include a hardship created by the property owner. Further, the hardship must be unique to the property. Finally, the Board cannot grant a variance that would allow a land use otherwise prohibited by the zoning ordinance. Typical variances include items like additions or reductions to height, square footage, or setback requirements. But the Board could not, for example, approve a "variance" that would allow a commercial use in a zoning district zoned exclusively for residential uses.

Section 211.010 of the Texas Local Government Code also provides the exclusive procedure for a plaintiff to appeal a decision of a city administrative official:

- (a) [A]ny of the following may appeal to the board of adjustment a decision made by an administrative official:
  - (1) a person aggrieved by the decision; or
  - (2) any officer, department, board, or bureau of the municipality affected by the decision.

<sup>&</sup>lt;sup>7</sup> *Id.* at §§ 211.008 - 211.011.

<sup>8</sup> Id. at §§ 211.011.

(b) The appellant *must* file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal *must* be filed within a reasonable time as determined by the rules of the board...<sup>9</sup>

This administrative process is the sole procedure through which the district court may obtain jurisdiction to review the decision of an administrative official. "With regard to a complaint of a Void permit issued under a valid ordinance . . . a party aggrieved by his decision must exhaust his administrative remedy by appealing to the Board of Adjustment before he may sue in a court for redress." A suit not brought pursuant to the statutory provisions of sections 211.010 and 211.011 of the Texas Local Government Code is an impermissible collateral attack on the administrative official's decision. When a party has failed to exhaust his or her administrative remedies, the trial court lacks subject matter jurisdiction over the appeal. 12

#### E. Moratorium on Continued Development

A moratorium is a tool that permits a city to give itself some "breathing room" to review and update its land use regulations. The Texas Supreme Court has held that a moratorium does not constitute a taking *per se* under the Texas Constitution.<sup>13</sup> Out of an apparent concern that cities were overreaching in their use of moratoria, however, the Texas Legislature has heavily regulated the use of moratoria under Chapter 212 of the Texas Local Government Code.

For example, the Legislature has imposed fairly stringent notice and hearing requirements on cities that seek to impose moratoria on development. Before the city can impose a moratorium on property development, it must conduct a public hearing that provides municipal residents and affected parties the opportunity to be heard. The city must publish notice of the hearing in a newspaper of general circulation on the fourth day before the date of the hearing. Beginning on the fifth day after the city publishes notice, a temporary moratorium will automatically take effect. During the period of the temporary moratorium, the city may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property to which the moratorium applies.<sup>14</sup>

<sup>&</sup>lt;sup>9</sup> Id. at § 211.010 (a), (b) (emphasis added).

<sup>10</sup> City of Dallas v. Gaechter, 524 S.W.2d 400, 405 (Tex.Civ.App. - Dallas 1975, writ dism'd).

<sup>11</sup> City of San Antonio v. El Dorado Amusement Co., 195 S.W.3d 238, 250 (Tex. App. – San Antonio 2006, pet. denied); see also Horton v. City of Smithville, No. 03-07-00174-CV, 2008 WL 204160, at \*4 (Tex.App.—Austin Jan. 25, 2008, pet. denied) (mem. op.) ("Texas Local Government Code sections 211.009 and 211.110 provide administrative remedies that must be exhausted before such matters may be brought to the courts for determination.").

<sup>12</sup> El Dorado Amusement Co., 195 S.W.3d at 250.

<sup>13</sup> Sheffield Dev. Co. v. City of Glenn Heights, I40 S.W.3d 660, 679-80 (Tex. 2004).

<sup>14</sup> Tex. Loc. Gov't Code § 212.134(a)-(c).

If the city has a planning and zoning commission, the city must hold a second public hearing before the commission. If the city does not have a planning and zoning commission, then the city must hold two hearings before the city council. The city must make a final determination of whether to impose the moratorium within twelve days after the date of the public hearing. In addition, the council must give at least two readings of the ordinance adopting the moratorium, separated by at least four days, before the ordinance can take effect. 15

Other requirements for imposing a moratorium can be found in sections 212.131 – 212.139 of the Texas Local Government Code.

#### II. Subdivision

An additional source of a city's land use regulations is through the city's subdivision ordinance. The subdivision of land is the first step in the process of development. The distribution and relationship of residential, nonresidential and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors that influence and determine a community's quality of life and overall character. A community's quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. Subdivision regulations are intended to encourage the development of a quality municipal environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources.

Unlike zoning, which only applies within the city's corporate limits, cities have the authority to extend their subdivision regulations by ordinance to include their extraterritorial jurisdictions (ETJs).<sup>17</sup> In fact, with certain exceptions, state law requires an owner of a tract of land located in the city limits or extraterritorial jurisdiction (ETJ) of a city to file and record a plat any time the property owner subdivides the tract into two or more parcels.<sup>18</sup>

A property owner must file the plat with the city for review and approval. If the city has a planning and zoning commission, then the commission generally is the body that has the authority to review and approve plats. However, the city may provide by ordinance that the city

<sup>15</sup> Id. at § 212.134(d)-(f).

<sup>16</sup> Id. at § 212.001, et seq.

<sup>17</sup> Id. at § 212.003.

<sup>18</sup> Id. at § 212,004.

council must approve plats in addition to the commission.<sup>19</sup> Note that the authority of the commission and/or the city council to review and approve plats is virtually ministerial – section 212.005 provides that the reviewing body "must approve a plat or replat . . . that satisfies all applicable regulations." Further, a plat is considered approved of the city does not act on the plat within thirty days after the plat is filed (or up to an additional thirty days if the ordinance requires additional review and approval by the city council).<sup>20</sup>

A city's real land use authority relating to subdivisions arises not in the procedures, but in the text of the city's subdivision ordinance. A typical subdivision ordinance will include: (1) definitions; (2) design standards; (3) requirements for public sites and open spaces; (4) improvements required prior to acceptance by the city; (5) procedures for filing; and (6) enforcement and penalties. The subdivision ordinance may require proper zoning prior to approval of a plat. The ordinance also may divide the platting process into multiple steps. For example, the ordinance may first require approval of a less detailed, preliminary plat before the applicant can submit a final plat that the applicant ultimately will file with the county following city approval. Generally, the ordinance will require that all subdivision plats be prepared and sealed by a professional and licensed engineer.

If a subdivision plat includes multiple properties, the developer may include (and the city may require) streets, parks, sidewalks, utility rights-of-way, and other public facilities that the developer intends to dedicate to the city. Once the city accepts the dedication, the city then accepts responsibility for maintaining such public facilities. But just because a city has approved a plat that includes public facilities does not mean that the city automatically becomes responsible for all of the parks, roads and other facilities included on the plat. A dedication of public facilities does not become official until the city council formally accepts the dedication.

#### III. Annexation

A third method that cities use to control future growth and land use is targeted annexation. The procedures and requirements for annexation are found in Chapter 43 of the Texas Government Code. Because annexation will be addressed separately in this seminar, this paper does not include a detailed discussion of the annexation process.

## IV. Development Agreements (ETJ)

Section 212.172 of the Texas Local Government Code gives cities the ability to contract with landowners in the city's ETJ. The statute gives the parties broad discretion to determine the terms of the agreement, including the right to provide for terms regarding annexation:

The governing body of a municipality may make a written contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality to:

<sup>19</sup> Id. at §212,006.

<sup>&</sup>lt;sup>20</sup> Id. at §212.009.

- (1) guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality for a period not to exceed 15 years;
- (2) extend the municipality's planning authority over the land by providing for a development plan to be prepared by the landowner and approved by the municipality under which certain general uses and development of the land are authorized;
- (3) authorize enforcement by the municipality of certain municipal land use and development regulations in the same manner the regulations are enforced within the municipality's boundaries;
- (4) authorize enforcement by the municipality of land use and development regulations other than those that apply within the municipality's boundaries, as may be agreed to by the landowner and the municipality;
- (5) provide for infrastructure for the land, including:
  - (A) streets and roads;
  - (B) street and road drainage;
  - (C) land drainage;
  - (D) water, wastewater, and other utility systems;
- (6) authorize enforcement of environmental regulations;
- (7) provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties;
- (8) specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties; or
- (9) include other lawful terms and considerations the parties consider appropriate.<sup>21</sup>

<sup>21</sup> Id. at § 212.172,

A municipality may not require an agreement under this statute as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally owned or municipally operated utility that provides any of those services.<sup>22</sup>

An ETJ Development Agreement must be in writing, contain an adequate legal description of the subject territory, be approved by both the city and the landowner, and be recorded in the real property records of all the counties in which the territory is located.

To some extent, the powers that the Legislature granted municipalities under section 212.171 mirror those in effect prior to 2003 under section 42.044 of the Local Government Code (Creation of Industrial District in Extraterritorial Jurisdiction). Pursuant to section 42.044, a municipality may enter into an annexation agreement through which the municipality agrees not to annex business property in a designated industrial district for a period up to fifteen (15) years. The term "industrial district" is defined to include its ordinary meaning in addition to any area where tourist-related businesses and facilities are located.<sup>23</sup> Although similar, section 42.044 is more restrictive than section 212.174. In addition to providing a wider menu of contract term options, section 212.171 does not require cities to designate an industrial district prior to entering into an agreement.

#### V. Other Land Use Authority

Cities have other sources of land use authority sprinkled throughout the Texas statutes. This section briefly addresses three: (1) alcohol regulation; (2) regulation of sexually oriented businesses; and (3) tax increment financing.

#### A. Alcohol Regulation

Section 1.06 of the Texas Alcoholic Beverage Code (TABC) generally preempts local legislation of alcoholic beverages: "Unless otherwise specifically provided by the terms of this code the manufacture, sale, distribution, transportation, and possession of alcoholic beverages shall be governed exclusively by the provisions of this code." Similarly, section 109.57(b) of the Code provides: "It is the intent of the legislature that this code shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code, a governmental entity of this state may not discriminate against a business holding a license or permit under this code."

In Dallas Merchant's & Concessionaire's Ass'n v. City of Dallas, 852 S.W.2d 489, 491-92 (Tex. 1993), the Texas Supreme Court held, "The Legislature's intent is clearly expressed in

<sup>&</sup>lt;sup>22</sup> Id. at § 212.174.

<sup>23</sup> Id. at § 42.044.

<sup>&</sup>lt;sup>24</sup> Tex. Alco. Bev. Code § 1.06.

<sup>&</sup>lt;sup>25</sup> Id. at § 109.57(b).

section 109.57(b) of the TABC - the regulation of alcoholic beverages is exclusively governed by the provisions of the TABC unless otherwise provided." The Attorney General has interpreted this language broadly, concluding that "to the extent that [an] ordinance purports generally to regulate the sale of all alcoholic beverages of whatever kind, it is preempted by section 109.57(b) of the Alcoholic Beverages Code."

The Code does provide a "grandfathering" exception, however, for certain municipal ordinances that were in effect before June 11, 1987:

Neither this section nor Section 1.06 of this code affects the validity or invalidity of a zoning regulation that was formally enacted before June 11, 1987, and that is otherwise valid, or any amendment to such a regulation enacted after June 11, 1987, if the amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee. For purposes of this subsection, "zoning regulations" means any charter provision, rule, regulation, or other enactment governing the location and use of buildings, other structures, and land.<sup>27</sup>

There is an additional exception from state preemption of local regulation of alcoholic beverages for local regulations that affect business that serve or sell alcohol in the same way that such regulations affect businesses that do not serve and sell alcohol. For example, the Supreme Court has indicated that an ordinance requiring all businesses with the same kind of premises to have a fire extinguisher would not violate section 109.57 of the TABC, but an ordinance that required alcohol-related businesses to have two fire extinguishers but only required all other businesses with the same kind of premises to have one would violate the statute. Similarly, an ordinance banning the sale of all beverages in glass containers would be permissible, but an ordinance that only banned the sale of alcoholic beverages in glass containers would not.

In addition, the Code provides two separate statutes through which a municipality may extend the hours of operation for the holders of a mixed beverage permit and a retail dealer's license (i.e, beer license) respectively. A city that has a population of less than 800,000, according to the last preceding federal census, or less than 500,000, according to the 22<sup>nd</sup> Decennial Census, may adopt an ordinance extending the hours for the sale of mixed beverages to 2:00 a.m. on any day.<sup>30</sup> Similarly, a city that has a population of less than 800,000, according to the last preceding federal census, or less than 500,000, according to the 22<sup>nd</sup> Decennial

<sup>&</sup>lt;sup>26</sup> Op. Tex. Att'y Gen. No. GA-0110, at 2 (2003).

<sup>&</sup>lt;sup>27</sup> TEX. ALCO. BEV. CODE § 109.57(c).

<sup>&</sup>lt;sup>28</sup> Dallas Merchant's, 852 S.W.2d at 492 n.5.

<sup>&</sup>lt;sup>29</sup> Op. Tex. Att'y Gen. No. GA-0110 at 4 (2003).

<sup>30</sup> Id. at § 105.03.

Census, may adopt an ordinance extending the hours for the sale of beer to 2:00 a.m. on any day "or any part of [such] extended hours." 31

Section 109.33 of the Code permits cities to prohibit the sale any alcoholic beverage within 300 feet of a church, public or private school, or public hospital. A city by charter or ordinance may prohibit the sale of beer in a residential area, 32 and a home rule city by charter may prohibit the sale of liquor in a residential area. Finally, a city can regulate the location of:
(1) a massage parlor, nude modeling studio, or other sexually oriented business; or (2) an establishment that derives 75 percent or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages. 34

#### B. Sexually Oriented Businesses

Because the courts have determined that sexually oriented businesses engage in protected speech under the First Amendment of the United States Constitution, a city cannot outlaw sexually oriented businesses entirely. Nevertheless, cities have authority to regulate the location and operation of sexually oriented businesses, including, but not limited to, strip clubs, video arcades, and retailers that earn a large portion of their profits from the sale of pornography and related items. One source of such authority is Chapter 243 of the Texas Local Government Code. Among other powers, that chapter authorizes a city to: (1) restrict the location of sexually oriented businesses; (2) prohibit sexually oriented businesses within a certain distance of a school, regular place of religious worship, residential neighborhood, or other specified land use the governing body of the municipality or county finds to be inconsistent with the operation of a sexually oriented business; (3) regulate the density of sexually oriented businesses; and (4) require that an owner or operator of a sexually oriented business obtain a license or other permit or renew a license or other permit on a periodic basis for the operation of a sexually oriented business.

Many cities have included regulations in their ordinances designed to address the "secondary effects" of such businesses on the areas in which they are located -e.g., higher crime and loss of property value. A good sexually oriented business ordinance should include detailed legislative findings that cite published studies to support the premise that the regulation of such businesses is reasonable and necessary to control the secondary effects that such businesses

<sup>31</sup> Id. at § 105.05,

<sup>32</sup> Id. at §109,32.

<sup>33</sup> Id. at §109.31.

<sup>34</sup> Id. at §109.57(c).

<sup>35</sup> TEX. LOC. GOV'T CODE § 243,006(a)(1).

<sup>&</sup>lt;sup>36</sup> Id. at § 243.006(a)(2).

<sup>37</sup> Id. at § 243.006(b).

<sup>38</sup> Id. at § 243.007.

bring. In Encore Videos, Inc. v. City of San Antonio, 330 F.3d 288 (5th Cir. 2003), the Fifth Circuit held that the studies that Texas cities traditionally had cited to support their secondary effects regulations did not apply to retail-only sexually oriented businesses. In response to Encore, the Texas City Attorneys Association and a number of Texas Cities commissioned an off-site secondary effects study, Survey of Texas Appraisers: Secondary Effects of Sexually-Oriented Businesses on Market Values and Crime-Related Secondary Effects: Secondary Effects of "Off-Site" Sexually-Oriented Businesses, which is available for download at <a href="http://www.texascityattorneys.org/bulletin-SOB.html">http://www.texascityattorneys.org/bulletin-SOB.html</a>.

#### C. Tax Increment Financing (TIF) Zone

A Tax Increment Financing (TIF) Agreement permits a municipality to designate a "TIF" zone (a.k.a reinvestment zone) to fund projects within the zone through additional tax dollars generated by growth of real property value in the zone.<sup>39</sup> To be designated as a reinvestment zone under the TIF statute, an area must meet the following criteria:

- (1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
  - (A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
  - (B) the predominance of defective or inadequate sidewalks or streets;
  - (C) faulty size, adequacy, accessibility, or usefulness of lots;
  - (D) unsanitary or unsafe conditions;
  - (E) the deterioration of site or other improvements:
  - (F) tax or special assessment delinquency exceeding the fair market value of the land;
  - (G) defective or unusual conditions of title:
  - (H) conditions that endanger life or property by fire or other cause; or
  - (I) any combination of these factors;

<sup>39</sup> Tex. Tax Code §§ 311.001 et seq.

- (2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality; or
- (3) be in a federally assisted new community located in a homerule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality; or . .
- (4) be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.<sup>40</sup>

The Attorney General has determined that an area designated for TIF treatment must be "unproductive, underdeveloped or blighted" w/in the meaning of article VIII, section 1-g(b) of the Texas Constitution.<sup>41</sup>

#### VI. Vested Rights

"Vested rights" refer to a property owner's right to use the owner's property in a certain manner based on the regulations in place at a particular time, which is usually the date on which the property owner first received approval from the city for such use. A property owner has no vested right in a particular zoning category or restriction.<sup>42</sup> Similarly, a neighboring property owner cannot enforce previous zoning requirements against future construction.<sup>43</sup> Therefore, if the city were to eliminate a building setback requirement, for example, neighboring property owners who were subject to the setback requirement when they built their homes would not have legal standing to enforce the setback against future builders.<sup>44</sup>

<sup>40</sup> ld. at § 311.005(a).

<sup>&</sup>lt;sup>41</sup> Op. Tex. Atty Gen. No. JC-0152 (1999).

<sup>42</sup> Williamson Pointe Venture v. City of Austin, 912 S.W.2d 340, 343 (Tex. App. - Austin 1995, no writ).

<sup>43 1</sup> KENNETH H. YOUNG, ANDERSON'S AMERICAN LAW OF ZONING § 4:28 (4th ed. 2003).

<sup>44</sup> See Nusbaum v. City of Norfolk, 145 S.E. 257, 259 (Va. 1928).

#### A. Nonconforming use

Where a property owner is already using a particular tract of land in accordance with current zoning regulations, a change in zoning will not immediately affect that property. A municipality may not make the restrictions in its zoning ordinance retroactive. If property is previously zoned for a specific use, and a zoning change occurs that negates the previous zoning, then the use of that property becomes a legal nonconforming use. A nonconforming use is a use that exists legally when a new zoning restriction becomes effective and that continues to exist. A city may include a provision in its zoning ordinance that terminates non-conforming uses after a set period of time following the zoning change (e.g., 25 years) so that the property owner has an opportunity to recoup his investment in the nonconforming use over the normal life-span of the non-conforming structure.

As a general rule, mere preparation for use of property before adoption of a zoning change is not enough to establish a nonconforming use.<sup>48</sup> Note, however, that a change in zoning that unreasonably restricts development may result in a taking under the Texas Constitution. In Sheffield Dev. Co., Inc. v. City of Glenn Heights,<sup>49</sup> for example, the Texas Supreme Court held that a city's decision to "down zone" the area of a proposed subdivision from 6,500 square foot lots to 12,000 square-foot lots did not unreasonably interfere with the property owner's investment-backed expectations for development of the property. However, the Court left open the possibility that under different facts, a city's decision to down zone could rise to the level of an unconstitutional taking of private property.

# B. Chapter 245 of the Texas Local Government Code ("Vested Rights Statute")

The legislature originally enacted Chapter 245 of the Texas Local Government Code, "Issuance of Local Permits," to protect property owners from changes in local regulations that occurred after the property owner had already begun development on his or her property. Now known as the "vested rights" or "entitlement" statute, the statute has become a sword for developers and a burden on cities that seek to control growth and development within their jurisdictions.

The Texas Legislature enacted the vesting provisions under Chapter 245 of the Texas Local Government Code to require that "each permit in a series required for a development project be subject to only the regulations in effect at the time of the application for the project's

<sup>45</sup> City of Corpus Christi v. Allen, 254 S.W.2d 759, 761 (Tex. 1953).

<sup>46</sup> City of Univ. Park v. Benners, 485 S.W.2d 773, 777 (Tex. 1972).

<sup>47</sup> Murmur Corp. v. Bd. of Adjustment of City of Dallas, 718 S.W.2d 790, 798 (Tex. App. - Dallas 1986, writ ref'd n.r.e.).

<sup>48</sup> City of Pharr v. Pena, 853 S.W.2d 56, 64 (Tex. App. - Corpus Christi 1993, writ denied).

<sup>&</sup>lt;sup>49</sup> 140 S.W.3d 660 (Tex. 2004).

first permit, and not any intervening regulations." Chapter 245 defines "project" as "an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor." The statute defines "permit" as "a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility agency owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought." The statute applies to "political subdivisions," which includes municipalities.

Under Chapter 245, the city must consider the permit application solely on the basis of the regulations that were in effect: (1) at the time the original application for the permit was filed for any purpose, including review for administrative purposes; or (2) a plan for development of real property or plat application was filed with the city.<sup>53</sup> Further, the applicant's rights "vest" on the filing of an application "that gives the regulatory agency fair notice of the project and the nature of the permit sought."<sup>54</sup> And if a series of permits is required for a project, the regulations in place at the time of the original application for the permit in the series must be the sole basis for consideration of all subsequent permits required for completion of the project.<sup>55</sup> After the application for a project is filed, the city may not shorten the duration of any permit required for the project.<sup>56</sup> At least one court has held that the filing of a plat is the first permit application in a series of permits constituting a "project" under section 245.002(b) of the Local Government Code.<sup>57</sup>

The Legislature did leave some authority for cities. First, the city may provide that a permit application expires after 45 days if the applicant fails to provide the necessary information and the city provides the applicant with notice within 10 days after the filing of the application.<sup>58</sup> In addition, the city may, by ordinance, impose an expiration date on "dormant projects" for which no progress has been made towards completion of the project. The expiration date can be no earlier than September 1, 2010. After that time, the expiration date can be two years for an individual permit but for a "project", no earlier than five years after the date the first permit

<sup>&</sup>lt;sup>50</sup> Quick v. City of Austin, 7 S.W.3d 109, 128 (Tex. 1998) (construing predecessor statute); see also TEX. LOC. GOV'T CODE § 245.002.

<sup>&</sup>lt;sup>51</sup> Tex. Loc. Gov't Code § 245.001(3).

<sup>52</sup> Id. at § 245.001(1).

<sup>&</sup>lt;sup>53</sup> Id. at § 245,002(a).

<sup>54</sup> Id. at § 245,002(a-1).

<sup>55</sup> Id. at § 245.002(b).

<sup>&</sup>lt;sup>56</sup> Id. at § 245.002(c).

<sup>&</sup>lt;sup>57</sup> Hartsell v. Town of Talty, 130 S.W.3d 325, 327-38 (Tex. App. - Dallas 2004, pet. denied).

<sup>&</sup>lt;sup>58</sup> TEX. LOC. GOV'T CODE § 245.002(e).

application was filed. The statute provides multiple avenues for the developer to establish that it has made progress toward completion of the project, including: (1) the submission of an application for a final plat or plan; (2) a good-faith attempt to file a permit application necessary to begin or continue towards completion of the project; (3) the incursion of costs in developing the project (exclusive of land acquisition) that equal five percent of the most recent appraised market value of the real property in which the project is located; (4) the posting of a bond with the city to ensure performance of an obligation that the city requires; or (5) payment of utility connection fees or impact fees.<sup>59</sup>

Finally, the legislature has exempted certain regulations from Chapter 245's vesting provisions. These include: (1) building permits that are at least two years old, provided that the building or structure is intended for human occupancy and habitation, and the permit was issued under laws or regulations adopting only uniform building, fire, electrical, plumbing, or mechanical codes and local amendments to those codes; (2) zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by restrictive covenant required by the municipality; (3) regulations that specifically control only the use of the land and that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size; (4) regulations for sexually oriented businesses; (5) municipal or county regulations affecting colonias; (6) fees imposed in conjunction with development permits; (7) regulations for annexation that do not affect landscaping or tree preservation or open space or park dedication; (8) regulations for utility connections; (9) flood control regulations; (10) construction standards for public works located on public lands or easements; (11) regulations to prevent the imminent destruction of property or injury to persons that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size, residential or commercial density, or the timing of a project, or that do not change development permitted by restrictive covenant required by the municipality. 60

An aggrieved applicant cannot recover money damages under Chapter 245. Rather, the statute provides that the only method of enforcement is through mandamus or declaratory or injunctive relief.<sup>61</sup>

#### C. Legal Use Prior to Annexation

Section 43.002 of the Texas Local Government Code permits a property owner to continue certain land uses following annexation:

#### § 43.002. Continuation of Land Use

(a) A municipality may not, after annexing an area, prohibit a

<sup>&</sup>lt;sup>59</sup> *Id.* at § 245.005.

<sup>60</sup> Id. at § 245.004.

<sup>61</sup> Id. at § 245.006.

#### person from:

- (1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or
- (2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:
  - (A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
  - (B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.
- (b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.
- (c) This section does not prohibit a municipality from imposing:
  - (1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;
  - (2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;
  - (3) a regulation relating to preventing imminent destruction of property or injury to persons;
  - (4) a regulation relating to public nuisances;
  - (5) a regulation relating to flood control;
  - (6) a regulation relating to the storage and use of hazardous substances; or
  - (7) a regulation relating to the sale and use of fireworks.

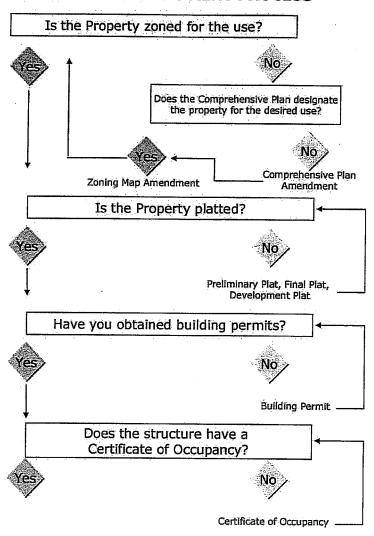
(d) A regulation relating to the discharge of firearms or other weapons is subject to the restrictions in Section 229.002.62

Under the above statute, the basic test is: (1) was the land use legal in the county prior to annexation; and (2) if it was, does the regulation that the city is seeking to impose fall within one of the exceptions under subsection (c) (e.g., public nuisances, flood control, fireworks etc.)? A good rule of thumb is that the city rarely will be able to force the property owner to change his land use to comply with the city's zoning ordinance following annexation, but the city almost always can force the property owner to comply with the city's nuisance ordinances.

<sup>&</sup>lt;sup>62</sup> TEX. LOC. GOV'T CODE § 43.002.

#### APPENDIX "A"

#### PROPERTY DEVELOPMENT PROCESS



<sup>\*</sup> Describes current ordinance requirements

<sup>\*</sup>From Subdivision Ordinance of the City of Granite Shoals, Texas.

## Sec. 15-6-4. - Changes and amendments; application fee.

(A)

This zoning article, including boundaries of districts and regulations, may be amended, supplemented or changed by ordinance of the City Commission. The City Commission shall receive the report of the Planning and Zoning Commission prior to adopting any change or amendment to the zoning ordinance.

a.

The Planning and Zoning Commission shall conduct a public hearing, announcement of which shall be published once in a newspaper of local circulation fifteen (15) days prior to such hearing before acting upon any zoning matter.

i.

All property owners within 200 feet of the property on which the change is proposed shall be sent written notice not less than ten (10) days before the hearing date. The list of property owners shall be prepared from the last city tax roll listing all property owners who have rendered their property for city taxes. Notice is adequately served by depositing properly addressed and postage paid notice with the city post office. Property owners whose names do not appear on the city tax roll are adequately notified by the publication in a newspaper of local circulation.

b.

Following the Planning and Zoning Commission public hearing and report, the City Commission shall conduct a public hearing, announcement of which shall be published once in a newspaper of local circulation fifteen (15) days prior to such hearing before acting upon any zoning matter.

i.

Three-fourths (%) vote of the members of the City Commission shall be necessary to make any change should a petition opposed to such change be presented by the owners of 20% of either the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom.

ii.

Three-fourths (%) vote of the members of the City Commission shall be necessary to overrule a recommendation of the Planning and Zoning Commission that a proposed amendment, supplement, or change be denied.

Vote of the City Commission means members eligible to vote. With a five (5) member commission, 3/4ths vote is 4 of 5 members eligible to vote. The absence of a commission member from a meeting does not change the number of votes required (ie, still 4 of 5). If a commission member were to die, resign, or be disqualified (ie, due to a conflict of interest), then that is considered a vacancy which reduces the number of eligible votes so that the vote would then be 3/4ths of the four (4) members eligible to vote.

C.

Applications for Special Use permits, changes of districts (rezones), or other applications which require notification or publication shall be accompanied by a fee of \$250.00.

# Sec. 15-6-24. - Nonconforming uses and structures.

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(A)

Nonconforming status. A nonconforming status shall exist under one of the following conditions:

(1)

When a use does not conform to the regulations prescribed in the district in which it is located, and was lawfully existing and operating prior to the adoption of this article, or any amendment thereto which creates nonconformity, and where there has been no discontinuance of the use for a period of time exceeding six months or;

(2)

When a structure does not conform to the regulation prescribed in the district in which it is located, and was lawfully existing and constructed prior to the adoption of this article, or any amendment thereto which creates nonconformity.

(B)

Maintenance permitted. A nonconforming building or structure may be maintained.

(C)

Repairs and alterations. Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.

(D)

Additions, enlargements and moving.

(1)

A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or removed to another location except as provided by subdivision (2) of this division hereof.

(2)

A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area, or yard regulations may be added to or enlarged or moved to

a new location on the lot upon a permit authorized by the Board of Adjustment, which may issue, provided that the Board of Adjustment, after hearing, shall find:

(a)

The addition to, enlargement of, or moving of the building will be in harmony with one or more of the purposes of this article as stated in  $\S$  15-6-2 hereof, and shall be in keeping with the intent of this article.

(b)

The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

(c)

LOT shall mean that parcel of land owned at the time the use became nonconforming and upon which the use existed, whether defined in one or more legal descriptions provided that all legal descriptions are contiguous.

(E)

Alteration where parking insufficient. A building or structure lacking sufficient automobile parking space in connection therewith as required by this article may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this article for such alteration or enlargement.

(F)

Restoration of damaged buildings. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure, or part thereof, which existing at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of six months and is diligently prosecuted to completion and is not located in an overlay zone.

(G)

Six month vacancy. A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of six months, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

(H)

Continuation of use. The occupancy of a building or structure by a nonconforming use, existing at the time this Title became effective, may be continued.

**(I)** 

Occupation within six mariths: A vacant building of structure may be occupied by a use for which the building or structure was designed or intended it so occupied within a period of six months after the use became nonconforming.

(J)

Change of use. The nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

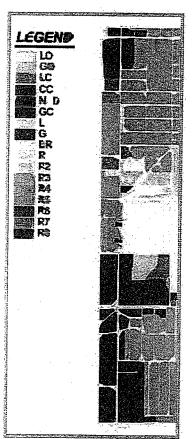
(K)

Nonconforming use of land. The nonconforming use of land, existing at the time this article became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of six months or more, any future use of such land shall be in conformity with the provisions of this article.



# Chapter 4 Zoning Regulations in Texas

William Dahlstrom, JD, AICP



This chapter explains the basics of zoning law in Texas. It provides a definition and breif history, along a legal basis for zoning and the statutory authority. The chapter discusses the connection between zoning and the comprehensive plan and districts, the basic zoning units to divide cities. These boundaries and ordinainces are approved by zoning commissions. Procedures includes hearings and notice or zoning commission meetings, city council meetings, and general law city council meetings. The supermajority vote is described and the board of adjustement is discussed in detail. The chapter also describes ways in which municipalities enforce zoning ordinances and the variety of exceptions to zoning authority. Additional zoning concepts are breifly discussed as well as the ways in which zoning laws are challenged. Understanding such regulations are valuable because zoning is an essential tool, if not the essential tool, used to implement the comprehensive plan along with subdivision regulations, infrastructure planning, and economic strategies.

This chapter was developed from the 17th Annual Land Use Planning Law Conference with the University of Texas School of Law on March 20, 2013

Left: Zoning map of a neighborhood

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Chapter 4: Zoning Regulations in Texas



#### **DEFINITION AND HISTORY**

"Zoning" is the fundamental regulation of a governmental entity used to control land uses pursuant to a comprehensive plan. "Zoning regulation is a recognized tool of community planning, allowing a municipality, in the exercise of its legislative discretion, to restrict the use of private property."

As the result of the mounting problems from industrialization and urbanization of cities in the late nineteenth and early twentieth cities, municipal governments recognized the need to adopt regulations to make cities more livable, safe and sanitary. Widely recognized as the first comprehensive zoning ordinance, the New York City Zoning Ordinance of 1916 was enacted to regulate height and setbacks of larger buildings to allow sunlight and air to reach adjacent properties and to restrict incompatible uses from residential districts. <sup>2</sup>

In 1921, U.S. Secretary of Commerce Herbert Hoover, commissioned an advisory committee to draft a model zoning statute, The Standard Zoning Enabling Act of 1926, which became the model for zoning legislation throughout the country. The Act included a section on a "Grant of Power" which authorized zoning for "the purpose of promoting health, safety, morals, or the general welfare of the community."<sup>3</sup>

Section 3 of the Act, "Purposes in View" provided,

Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality. 4

#### Typically, zoning will consist of:

(i) an ordinance that sets forth items such as definitions, permitted land uses and development standards, and

(ii) a map designating the districts within the jurisdiction.

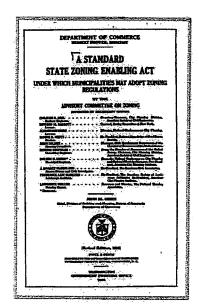
Municipal governments recognized the need to adopt regulations to make cities more livable, safe and sanitary.

4 Id. at Section 3

City of Brookside Village. v. Comeau, 633 S.W.2d 790, 792 (Tex. 1982), cert. denied, 459 U.S. 1087 (1982).
New York City Department of City Planning Website, 2013

<sup>3</sup> A Standard State Zoning Enabling Act Under Which Municipalities May Adopt Zoning Regulations; Section 1, U.S. Department of Commerce (1926)





The Standard Zoning Enabling Act of 1926 became the model for zoning legislation throughout the country.

In Village of Euclid, Ohio v. Ambler Realty Co., the Court ruled that there may be valid reasons to separate intensive uses from less intensive uses for the general welfare

The Act also included sections describing the means of adopting and amending the regulations, the establishment of a zoning commission and board of adjustment, the enforcement of regulations, and the resolution of conflicts with other laws.5

#### **LEGAL BASIS**

The United States Supreme Court ruled in 1926 that zoning is a valid exercise of the municipality's police power. In Village of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365 (1926), the Village of Euclid enacted an ordinance that established six classes of use districts, three classes of height districts, and four classes of area districts in an effort to control industrial expansion from the City of Cleveland into the Village. Ambler Realty argued that the classification of its property deprived it "of liberty and property without due process of law" and denied "it the equal protection of the law." Ambler Realty also specifically argued that the zoning ordinance attempted "to restrict and control the lawful uses of appellee's land so as to confiscate and destroy a great part of its value."7 The Court ruled that there may be valid reasons to separate intensive uses from less intensive uses for the general welfare holding, "it is enough for us to determine, as we do, that the ordinance, in its general scope and dominant features, so far as its provisions are here involved, is a valid exercise of authority."8

The validity of zoning in Texas was approved by the Texas Supreme Court in Lombardo v. City of Dallas. In that case, the Court acknowledged that "it appears that full authority was delegated cities and incorporated villages to restrict the use of buildings, structures and land for trade, industry, residence, or other purposes. Zoning, in general, is the division of a city or area into districts, and the prescription and application of different regulations in each district; generally, such division is into two classes of districts, such as was attempted by the ordinance under consideration. Effective zoning regulations, as that term is now well understood, comprehends, necessarily, prohibitions and restrictions; prohibitions against certain uses in named districts, and restrictions as to the area of lots to be built upon, the size and height of

A Standard State Zoning Enabling Act Under Which Municipalities May Adopt Zoning Regulations, U.S. Department of Commerce (1926)

Village of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365, 384 (1926)

Id. at 397



structures, yard spaces to be left unoccupied, etc."9 The Court held, "that the legislative act and the ordinance of the city of Dallas, called in question, and the provisions of same as applied to plaintiff and his property, are not subject to the objections urged by plaintiff, but that they are valid and enforceable."10

## STATUTORY AUTHORITY

In Lombardo, the City of Dallas relied on Texas' adopted version of the Standard Zoning Enabling Act adopted in 1927 as Article 1011 of the Texas General Statutes. In 1987, the sections of Article 1011 were codified in Chapter 211 of the Texas Local Government Code. Chapter 211 currently provides that the zoning regulatory power is "for the purpose of promoting the public health, safety morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance."11

Under Section 211,003, the municipality may regulate:

- 1. The height, number of stories, and size of buildings and other structures;
- 2. The percentage of a lot that may be occupied:
- 3. The size of yards, courts, and other open spaces;
- Population density;
- 5. The location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- 6. The pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.12

Further, the Statute provides that a city may regulate "the construction."

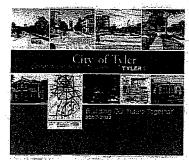
"...promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance"

<sup>9</sup> Lombardo v. City of Dallas, 47 S.W.2d 495, 499 (Tex. Civ. App.—Dallas 1932), aff d, 124 Tex. 1, 73 S.W.2d 475 (1934) 10 Id.

Texas Local Government Code Section 211.001 (2013) 11 12

Id. at Section 211.003 (a)





The Purpose in View of the Standard Zoning Enabling Act states that "such regulations shall be made in accordance with a comprehensive plan..." The above image is of the City of Tyler, Texas Comprehensive Plan 2007-2030.

reconstruction, alteration, or razing of buildings and other structures" with regard to designated places and areas of historical, cultural, or architectural importance and significance.13 The governing body of a home-rule municipality may also regulate the bulk of buildings.14

# THE COMPREHENSIVE PLAN

Zoning is one of the primary implementation tools of a municipality's comprehensive plan. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- Lessen congestion in the streets;
- 2. Secure safety from fire, panic, and other dangers;
- 3. Promote health and the general welfare;
- Provide adequate light and air:
- 5. Prevent the overcrowding of land;
- 6. Avoid undue concentration of population; or
- 7. Facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements. 15

#### **DISTRICTS**

According to the Chapter 211, a city may divide the municipality into districts of a number, shape, and size and within each district, the city may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.16 The regulations must be uniform for each class or kind of building in a district; however, the regulations may vary from

Id. at Section 211.003 (b)

Id. at 211.003 (c)

<sup>13</sup> 14 15 16 Id. at 211.004

Id. at 211.005 (a)





Left: Dallas, Texas Council Chambers.

Image by jypsygen on Flickr and reproduced under Creative Commons 2.0

district to district and shall be adopted "with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality." <sup>18</sup>

# **CREATION OF A ZONING COMMISSION**

A city may appoint a zoning commission to make recommendations regarding the boundaries of the original zoning districts and zoning regulations. <sup>19</sup> Often, a city will appoint a commission that performs the recommending authority under Chapter 211 and the planning commission authority regarding subdivisions and plats granted under Chapter 212 of the Texas Local Government Code.

With regard to zoning, this body is a "recommending" body. However, some zoning ordinances also provide that the zoning commission is charged with approval of site plans pursuant to the provisions of that city's zoning ordinance. In that regard, they may be the final municipal authority for the

<sup>17</sup> Id. at 211.005 (b) 18 Id. at 211.005 (c)

<sup>19</sup> Id. at 211.007 (a)



review and approval of a site plan.

#### **PROCEDURES**

#### **Hearings**

Approval of a zoning ordinance, districts and amendments of the same require public hearings before the zoning commission and city council. The commission is required to make a preliminary report, hold the public hearing and submit a final report to the city council.<sup>20</sup> The city council must receive the report before it can conduct its hearing.<sup>21</sup> A home rule city may allow joint hearings of the city council and zoning commission provided the city council, by two-thirds vote, has prescribed the type of notice and location for the hearing.<sup>22</sup>

#### **Notice**

#### **Zoning Commission**

Written notice of the zoning commission hearing must be sent to the owners of the property within 200 feet of the property on which a change in classification is proposed "before the 10th day before the hearing date." Notice is sufficient if it is deposited in the municipality, with properly addressed with postage paid, in the United States mail.<sup>23</sup>

#### **City Council**

Notice of the time and place of the city council hearing must be published in official newspaper or a newspaper of general circulation in the city, "before the 15th day before the date of the hearing."<sup>24</sup>

#### General law city without a zoning commission

A general law city without a commission must provide notice of the city council hearing to the property owners within 200 feet of the property subject to change in the same manner as notice prior to a commission hearing.<sup>25</sup>

20	Id. at 211.007 (b)
21	Id.
22	Id. at (d)
23	Id. at 211.007 (c)
24	Id. at 211.006 (a)
25	Id. at 211,006 (b)



#### **SUPERMAJORITY VOTE**

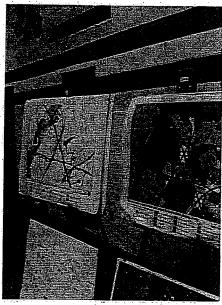
The Statute provides that three-fourths majority affirmative vote is required to approve a change in a regulation or boundary if written protest is filed by the owners of at least 20 percent of either:

- 1. The area of the lots or land covered by the proposed change; or
- 2. The area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area. <sup>26</sup>

Further, the city may by ordinance require that the affirmative vote of at least three-fourths majority of city council is required to overrule a recommendation of the zoning commission that a proposed change to a regulation or boundary be **denied**.<sup>27</sup>

However, in *Appolo Development, Inc. v. City of Garland*, the Court ruled that the supermajority requirement did not apply to property that was subject to interim zoning at the time of annexation.

"We do not believe it was intended that Section 5 of Ordinance 1011 [predecessor of Section 211.006 (d)] should have the effect of so zoning all property thereafter annexed that no owner of newly annexed property could apply for permanent zoning without placing himself under the burden of obtaining a favorable vote of three-fourths of the members of the City Council if a protest were made by adjacent property owners described in Article 1011e." <sup>28</sup>



Above: Zoning and land use maps

Image by tracktwentynine on Flickr and reproduced under Creative Commons 2.0

# **BOARD OF ADJUSTMENT**

The city may appoint a board of adjustment to consider variances, special exceptions and appeals of administrative officials in the enforcement of the zoning regulations.<sup>29</sup> The board consists of five members who are appointed by the city council. Each case before the board must be heard by at least 75 percent of the members of the board.<sup>30</sup> Boards of adjustment in cities in excess of 500,000 may consist of several panels with at least five members

<sup>26</sup> Id. at Section 211.006 (d) 27 Id. at Section 211.006 (f)

<sup>28</sup> Appolo Development, Inc. v. City of Garland, 476 S.W.2d 365 (Tex. App.-Dallas,

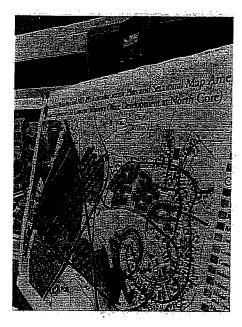
<sup>1972;</sup> rehr'g denied 1972) 29 TEXAS LOCAL GOV'T CODE, Section 211.008

<sup>30</sup> Id. at 211.008 (d)



#### American Planning Association Texas Chapter

A Guide to Urban Planning in Texas Communities 2013



per panel.31

The board of adjustment may hear and decide:

- 1. Appeals of an order, requirement, decision, or determination made by an administrative official in the enforcement of zoning regulations:
- 2. Special exceptions;
- 3. Variances from the terms of a zoning ordinance; and
- 4. Other matters authorized by an ordinance adopted under Chapter 211.32

Variances by definition are modifications to zoning regulations authorized by the board when the following standards are met:

- The variance is not contrary to the public interest;
- 2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. (A financial hardship will not be sufficient to qualify as an unnecessary hardship adequate for a variance request. 33);
- 3. The spirit of the ordinance must be observed; and
- 4. Substantial justice must be done. 34

Special Exceptions are modifications to the zoning regulations specifically set forth in the zoning ordinance that allow such if certain criteria set forth in the ordinance are satisfied.35

Additionally, some cities authorize the board to amortize nonconforming uses after conducting hearings and enabling the owner of the nonconforming use to recoup its investment in the nonconforming use. In City of University Park v. Benners, the Texas Supreme Court ruled "[m]unicipal zoning ordinances requiring the termination of nonconforming uses under reasonable

Id. at 211.012

Id. at 211.009 (a)

Board of Adjustment of the City of Piney Point Village v. Solar, 171 S.W. 3d 251, 255 (Tex. App-Houston [14th Dist.] 2005)

TEXAS LOCAL GOVT CODE, Section 211.009 (a) (3)

Id. at 211.009 (a) (2)



conditions are within the scope of municipal police power."36

Any person aggrieved by the decision of an administrative official or any officer, department, board, or bureau of the municipality affected by the decision may appeal the decision of the administrative official by filing with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal.<sup>37</sup> The appeal will stay all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property.<sup>38</sup>

In City of University
Park v. Benners, the
Texas Supreme Court
ruled that cities could
terminate nonconforming uses under
'reasonable conditions'.

A concurring vote of 75 percent of the board members is required to:

- 1. Reverse an order, requirement, decision, or determination of an administrative official;
- 2. Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or
- 3. Authorize a variation from the terms of a zoning ordinance. 39

The decision of the board may be appealed to district court or county court, but not to the zoning commission or city council.<sup>40</sup> The appeal must be a verified petition, presented within 10 days after the date the decision is filed in the board's office, stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality.

The party attacking the decision of the board must demonstrate that the decision is a "very clear showing of abuse of discretion" and that the board could have reasonably reached only one decision. The Courts in Texas hold that the Board "is a quasi-judicial body and the district court sits only as a court of review by writ of certiorari." The order of the Board is presumed valid and the party attacking the order must establish a "very clear showing of abuse of discretion." [cite omitted] A zoning board abuses its discretion

# The appeal or verified petition must be filed by:

- 1. A person aggrieved by a decision of the board:
- A taxpayer; or
- 3. An officer, department, board, or bureau of the municipality.<sup>1</sup>

Id.

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if it acts without reference to any guiding rules and principles or clearly fails to analyze or apply the law correctly. [cites omitted] With respect to a zoning board's factual findings, a reviewing court may not substitute its own judgment for that of the board. [cite omitted]. Instead, a party challenging those findings must establish that the board could only have reasonably reached one decision. [cite omitted].44

#### **ENFORCEMENT**

A violation of a zoning ordinance is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the city. The governing body may also provide civil penalties for a violation.45 Per chapter 54 of the Texas Local Government Code, a fine or penalty for violation of a zoning regulation may not exceed \$2,000.00.46

Further, the city may institute the following measure if a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of zoning regulations:

- 1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- 2. Restrain, correct, or abate the violation;
- 3. Prevent the occupancy of the building, structure, or land; or
- 4. Prevent any illegal act, conduct, business, or use on or about the premises.

## **EXCEPTIONS TO A CITY'S ZONING AUTHORITY**

# State or Federal Preemption

Matters regulated by state or federal law are preempted from local zoning authority. For example, the Texas Alcoholic Beverage Code specifically provides

- Vanesko at 771.
- 44 45 46 Id. at 211.012
- Id. at 54.001 (b)



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that such Code "shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code."47 However, that Code permits city regulation of alcoholic beverage sales and service in specific areas. City regulation of alcoholic beverages where not otherwise permitted by the Texas Alcoholic Beverage Code would be preempted.

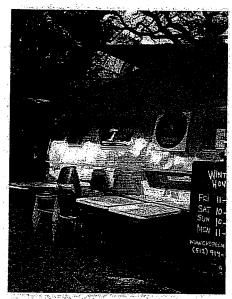
In the case of Southern Crushed Concrete, LLC v. City of Houston, a concrete crushing company secured an air quality permit from the Texas Commission on Environmental Quality, but was denied a similar permit by the City whose regulations were more restrictive to the point of rendering the use unlawful. The Texas Supreme Court ruled, "But, the express language of section 382.112(b) compels us to give effect to the Legislature's clear intent that a city may not pass an ordinance that effectively moots a Commission decision. We hold that the Ordinance makes unlawful an 'act approved or authorized under . . . the [C]ommission's . . . orders' and is thus preempted by the TCAA and unenforceable: TEX. HEALTH & SAFETY CODE § 382.113(b)."48

## State and Federal Buildings

The Local Government Code provides that zoning regulations enacted pursuant to Chapter 211 do not apply to "a building, other structure, or land under the control, administration, or jurisdiction of a state or federal agency."49 However, zoning will apply to a privately-owned building which is leased to a state agency.50

# **Pawnshops**

Pawnshops are afforded some protection under the Texas Local Government Code. Section 211.0035 provides a city must designate pawnshops, which have been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code, as "a permitted use in one or more zoning classifications and cannot "impose a specific use permit requirement or any requirement similar in effect to a specific use permit requirement on a pawnshop."51



Above: Austin, TX food truck Many cities do not indicate 'mobile food truck vending' among approved land uses listed in the city zoning codes.

Image by Katherine Lynch on Flickr and reproduced under Creative Commons 2.0

Texas Alcoholic Beverage Code, Section 109.57 (b) Southern Crushed Concrete. LLC v. City of Houston; TEXAS LOCAL GOVT CODE, Section 211.013 (c) 47 48

<sup>(</sup>Tex. 2013)

<sup>49</sup> Id. at Section 211.013 (d)

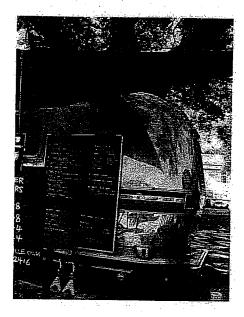
<sup>50</sup> 51

Id. at Section 211.0035



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# SOME ADDITIONAL ZONING CONCEPTS

Accessory Use A use that is customarily incidental to a main use. Typically, these uses must be on the same lot as the main use and are permitted in the same zoning district as the main use.

Conservation Zoning Zoning regulations that provide development standards aimed at protecting environmental, historic or cultural amenities of a community. Often these types of regulations provide modifications to standard zoning development standards, including but not limited to setbacks and lot sizes, and may provide density bonuses, in order to provide flexibility and incentives for protecting the targeted amenities.

**Cumulative Zoning** Zoning regulations in which uses in more restrictive districts are permitted in more intensive districts.

**Euclidean Zoning** Zoning regulations that provide individual districts for permitted uses and development standards.

**Design Guidelines** Standards aimed at maintaining the architectural integrity of a unique area of a city or at providing an architectural or design theme for an area of the city.

**Exclusionary Zoning** A discriminatory zoning system in which regulations are enacted to unlawfully exclude certain groups of people.

Form-Based Code A zoning code in which the regulations "address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks."<sup>52</sup>

**Incentive Zoning** Zoning regulations that provide bonuses or other incentives pursuant to standards that further specific community development objectives.

**Inclusionary Zoning** Zoning that provides for wide array of residential uses including low income and affordable units.

52 Definition of a Form-Based Code, Form-Based Code Institute; 2011 [Form-Based Code Institute website]



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**Nonconforming Uses** Uses that were previously permitted on a property, but subsequently prohibited by zoning regulations imposed with annexation or an amendment to the zoning regulations.

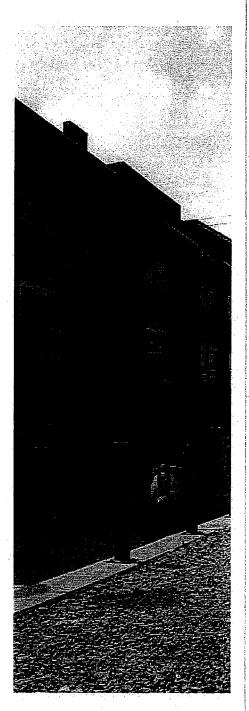
**Performance Zoning** Zoning regulations that focus on performance criteria rather than solely on the separation of uses.

Planned Development District (PD) or Planned Unit Development (PUD) A zoning classification that provides flexible development regulations to allow the construction of a unified development concept which may not conform entirely to the standard zoning regulations. Often these types of development include mixed uses, protection of environmentally significant features, preservation of and provision for open space, interconnection of uses, modified development standards, and special design guidelines and landscaping requirements. Because the authority and limitations for planned development districts are set forth in a city's zoning code, it is necessary to review those portions of the city's code to determine to what extent a planned development district may be used.

### Smart Growth According to the American Planning Association,

Smart Growth is not a single tool, but a set of cohesive urban and regional planning principles that can be blended together and melded with unique local and regional conditions to achieve a better development pattern. Smart Growth is an approach to achieving communities that are socially, economically, and environmentally sustainable. Smart Growth provides choices — in housing, in transportation, in jobs, and in amenities (including cultural, social services, recreational, educational, among others) — using comprehensive planning to guide, design, develop, manage, revitalize, and build inclusive communities and regions to:

- Have a unique sense of community and place;
- Preserve and enhance valuable natural and cultural resources;
- Equitably distribute the costs and benefits of land development, considering both participants and the short- and long-term time scale;
- Create and/or enhance economic value;

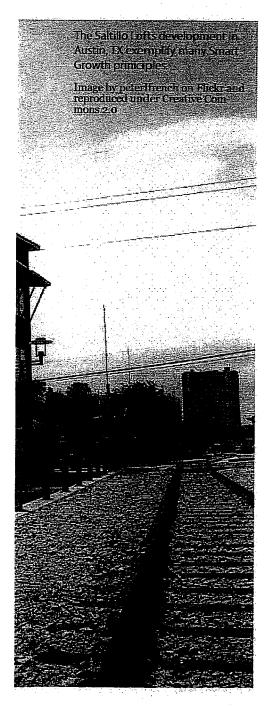


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- Expand the range of transportation, employment, and housing choices in a fiscally responsible manner;
- Balance long-range, regional considerations of sustainability with short-term incremental geographically isolated actions;
- Promote public health and healthy communities;
- Apply up-to-date local and regional performance measures of successful urban and regional growth;
- Encourage compact, transit-accessible (where available), pedestrian-oriented, mixed-use development patterns and land reuse; and,
- Increase collaboration and partnerships to advance place-based and regional goals and objectives, while respecting local land-use preferences and priorities.

### Core principles of Smart Growth include:

- 1. Efficient use of land and infrastructure
- 2. Creation and/or enhancement of economic value
- 3. A greater mix of uses and housing choices
- 4. Neighborhoods and communities focused around human-scale, mixed-use centers
- 5. A balanced, multi-modal transportation system providing increased transportation choice
- 6. Conservation and enhancement of environmental and cultural resources
- Preservation or creation of a sense of place
- 8. Increased citizen participation in all aspects of the planning process and at every level of government



- 9. Vibrant center city life
- 10. Vital small towns and rural areas
- 11. A multi-disciplinary and inclusionary process to accomplish smart growth
- 12. Planning processes and regulations at multiple levels that promote diversity and equity
- 13. Regional view of community, economy and ecological sustainability
- 14. Recognition that institutions, governments, businesses and individuals require a concept of cooperation to support smart growth
- 15. Local, state, and federal policies and programs that support urban investment, compact development and land conservation
- 16. Well defined community edges, such as agricultural greenbelts, wildlife corridors or greenways permanently preserved as farmland or open space.<sup>53</sup>

The U.S. Environmental Protection Agency identifies the following ten basic principles of Smart Growth developments:

- Mix land uses
- Take advantage of compact building design
- 3. Create a range of housing opportunities and choices
- 4. Create walkable neighborhoods
- 5. Foster distinctive, attractive communities with a strong sense of place

Policy Guide on Smart Growth, American Planning Association; Originally Ratified by Board of Directors, April 15, 2002; Updated Guide Adopted by Chapter Delegate Assembly, April 14, 2012; Updated Guide Ratified by Board of Directors, April 14, 2012



- Preservé open space, farmland, natural beauty, and critical environmental areas
- 7. Strengthen and direct development towards existing communities
- 8. Provide a variety of transportation choices
- 9. Make development decisions predictable, fair, and cost-effective
- 10. Encourage community and stakeholder collaboration in development decisions.<sup>54</sup>

**Street Design Standards** Standards focusing on various elements of street design and construction including, but not limited to street width, curbs and gutters, medians, lane widths, street parking, sidewalks, pedestrian amenities, bicycle lanes, crosswalks, landscaping, lighting, and street.

Transit-Oriented Development Typically higher density, mixed use development surrounding a transit station (usually 1/4-1/2 mile radius) which is designed to exploit the transportation opportunities afforded by the transit station.

**Unified Development Code** A single code that incorporates all development-related regulations including zoning and subdivision regulations, but may also include signage, landscaping, screening and fencing, environmental performance, and other development-related regulations.

**Zoning Overlay** "A set of zoning ordinances, optional or required, specifying land use and/or design standards for a designated portion of the underlying zoning within a defined district; typically used to keep architectural character and urban form consistent, make adjacent uses compatible, and/or accelerate the conversion of non-conforming land uses." 55

<sup>54</sup> About Smart Growth, U.S. Environmental Protection Agency, (2013) [U.S. EPA website]

<sup>55</sup> Makin Smart Growth Happen, U.S. Environmental Protection Agency, [U.S.EPA website] (2013)



### CHALLENGES

Zoning is an exercise of a municipality's legislative powers<sup>56</sup> and courts will give deference to the municipality's ordinances and "[i]f reasonable minds may differ as to whether or not a particular zoning ordinance has a substantial relationship to the public health, safety, morals or general welfare, no clear abuse of discretion is shown and the ordinance must stand as a valid exercise of the city's police power."57 Therefore, a zoning ordinance receives deference and is presumed valid. A party challenging the zoning ordinance must show that the ordinance is arbitrary or unreasonable because it bears no substantial relationship to the public health, safety, morals or general welfare. 58"Determining the reasonableness of a zoning ordinance is a question of law for the court."59

The following are some of the common challenges to zoning ordinances:

### Inverse condemnation, taking, damaging

The U.S. Supreme Court has held that, "while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking" in violation of the Fifth Amendment of the U.S. Constitution. 60 In this sense the action of the governmental authority is characterized as a "regulatory taking" as opposed to a physical taking such as the acquisition of property for a public purpose. "In a regulatory taking, it is the passage of the ordinance that injures a property's value or usefulness."61

A regulatory taking may occur if a regulation deprives a property owner of all economically beneficial use of his land. 62 A regulatory taking may also be found if the regulation unreasonably interferes with a landowner's right to use and enjoy his property or does not substantially advance a legitimate

- 56 City of Pharr v. Tippitt, 616 S.W. 2d 173, 173 (Tex. 1981) citing Thompson v. City of Palestine, 510 S.W. 2d 579 (Tex. 1974)
  57 Id. at 176
- 57 58 Id.

- 59 City of San Antonio v. Arden Encino Partners, Ltd., 103 S.W.3d 627, 630 (Tex. App.-San Antonio 2003 \_\_\_\_\_) Id. at 103 S.W.3d 627
  60 Pennsylvania Coal Co. v. Mahon, 260 U.S. 393, 413, 43 S.Ct. 158, 67 L.Ed. 322 (1922)
  61 Lowenberg v. City of Dallas, 168 S.W.3d 800, 802 (Tex.2005)
  62 Lucas v. South Carolina Coastal Commission, 112 S.Ct. 2886 (1992); Mayhew v.
  63 Town of Sunnyvale, 964 S.W.2d 922, 935 (Tex.1998) cert. denied, 526 U.S. 1144, 119 S.Ct. 2018, 143 L.Ed.2d 1030 (1999).

### **CHALLENGES:**

- 1. Inverse condemnation, taking, damaging
- 2. Substantive due process
- 3. Procedural due process
- 4. Failure to comply with statutory or local procedures
- 5. Equal protection
- Free exercise
- Spot Zoning
- 8. Contract Zoning

In order to challenge a zoning ordinance, one must show that the ordinance is

- 1. arbitrary or
- 2. unreasonable

because it bears no substantial relationship to the:

- public health,
- safety.
- morals or
- general welfare.



A regulatory taking may occur if a regulation deprives a property owner of all economically beneficial use of his land. governmental interest.<sup>63</sup> Further, regulations may be deemed as takings if they unreasonably interfere with an owner's investment-backed expectations while also considering the economic impact of the regulation on the property owner, and the character of the governmental action.<sup>64</sup>

### Substantive due process

Regulations may be subject to a substantive due process challenge if they fail to further a legitimate State interest or fail to have any relation to the public health, safety or welfare. The regulations must first be "rationally related to legitimate government interests." Further, the regulations must not be arbitrary, unreasonable or capricious and must have a substantial relationship to the public health, safety or welfare.

"When a zoning determination is challenged on substantive due process grounds, if reasonable minds could differ as to whether the city's zoning action had a substantial relationship to the public health, safety, morals or general welfare, the action must stand as a valid exercise of the city's police power."

### Procedural due process

Procedural due process mandates that a property owner who is deprived of a property right must have been given an "appropriate and meaningful opportunity to be heard." A city satisfies this standard if it provides notice and an opportunity to be heard.70

### Failure to comply with Statutory or local procedures

Zoning ordinances are invalid, and not merely voidable, if the statutory procedure is not followed. "(F)ull compliance with the statute is necessary to the validity of amendatory, temporary or emergency zoning ordinances."<sup>71</sup> Further, the "right to have notice and appear before a zoning commission is a

<sup>63</sup> Mayhew at 935
64 Sheffield Development Company, Inc. v City of Glenn Heights, 140 S.W. 3d 660, 672
(Tex. 2004)
65 Mayhew at 938
66 Id.
67 Id.
68 City of Waxahachie v. Watkins, 154 Tex. 206, 275 S.W.2d 477, 481 (1955)
69 Mayhew at 939
70 Id. at 940
71 Bolton v. Sparks, 362 S.W. 946, 950 (Tex. 1962)



statutory right, not a due-process requirement."72 Therefore, one complaining of defective notice, based solely on noncompliance with the statute, does not have a constitutional claim.

### **Equal protection**

An equal protection challenge may be brought if an individual can demonstrate that the city treated the individual differently from other similarly situated individuals without any reasonable basis. Such an ordinance generally must only be rationally related to a legitimate state interest unless the ordinance discriminates against a suspect class or infringes.73 "Economic regulations, including zoning decisions, have traditionally been afforded only rational relation scrutiny under the equal protection clause."74

Cities cannot treat individuals differently from other similarly situated individuals without any reasonable basis.

### Free Exercise

Regulations that attempt to regulate religious activities may be challenged if they interfere with the exercise of religious freedoms in violation of the First Amendment of the U.S. Constitution. The Religious Land Use and Institutionalized Persons Act (RLUIPA), provides further protection by prohibiting:

zoning and landmarking laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest. This prohibition applies in any situation where: (i) the state or local government entity imposing the substantial burden receives federal funding; (ii) the substantial burden affects, or removal of the substantial burden would affect, interstate commerce; or (iii) the substantial burden arises from the state or local government's formal or informal procedures for making individualized assessments of a property's uses. In addition, RLUIPA prohibits zoning and landmarking laws that:

- Treat churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions;
- Discriminate against any assemblies or institutions on the basis of religion or religious denomination;

Murmur Corporation v. Board of Adjustment of the City of Dallas, 718 S.W. 2d 790, ,792 (Tex. App- Dallas, 1986, writ ref'd n.r.e.) 73 Mayhew at 939 74 Id.



- 3. Totally exclude religious assemblies from a jurisdiction; or
- 4. Unreasonably limit religious assemblies, institutions, or structures within a jurisdiction. laws." 75

### **Spot Zoning**

Some zoning changes may be challenged if the rezoning is deemed to be "Spot Zoning". "Spot Zoning" is the process of singling out a small tract of land and treating it differently from similar surrounding land "without any showing of justifiable changes in conditions." In City of Pharr v. Tippitt, the Texas Supreme Court identified the following factors to be reviewed in determining whether a rezoning is Spot Zoning:

- 1. Whether the City has disregarded the zoning ordinance or long-range master plans and maps that have been adopted by ordinance;
- The nature and degree of an adverse impact on surrounding properties;i.e. is the change substantially inconsistent with surrounding properties; and,
- 3. Whether the use of the property as presently zoned is suitable or unsuitable;
- 4. Whether the rezoning ordinance bears a substantial relationship to the public health, safety, morals or general welfare or protect and preserve historical and cultural places and areas.

### **Contract Zoning**

Zoning ordinances whereby the City commits itself to rezone land in consideration of the landowner to use or not use his land in a particular manner, or provide some other consideration in exchange for the zoning may be challenged as "Contract Zoning." Contract zoning is invalid because the city dele-

<sup>75</sup> Religious Land Use and Institutionalized Persons Act of 2000; The United States Department of Justice

<sup>76</sup> City of Pharr v. Tippitt, 616 S.W.2d 173, 177 (Tex.1981)

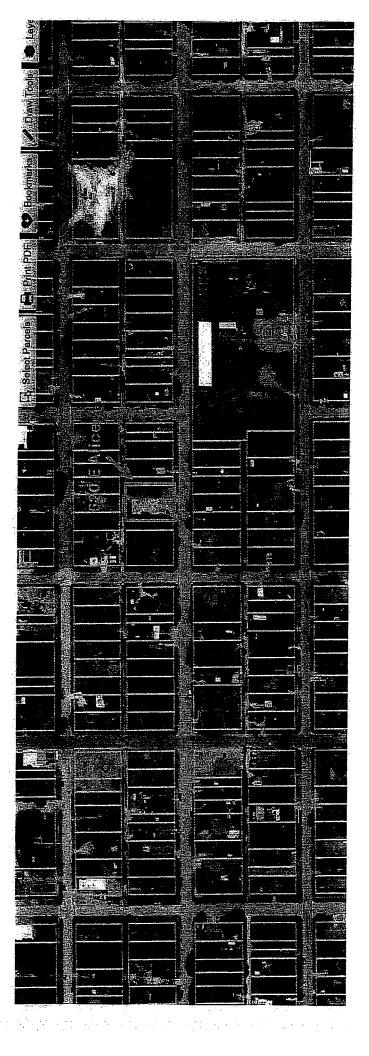


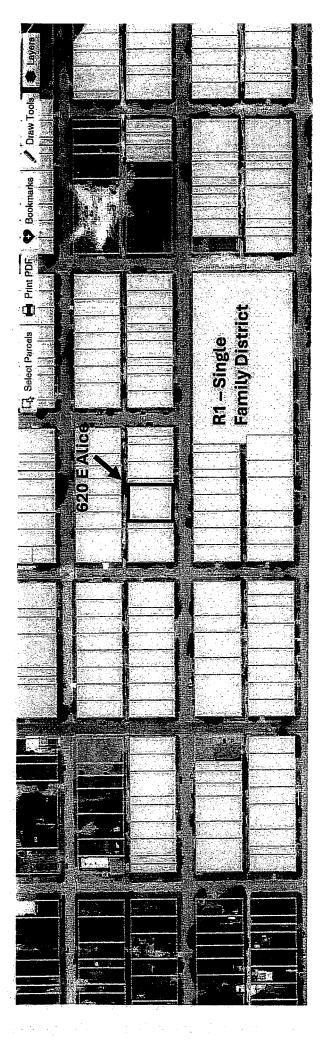
gates its legislative authority and bypasses the legislative process.<sup>77</sup> Zoning is legislative function of municipalities that they cannot contract away.<sup>78</sup>

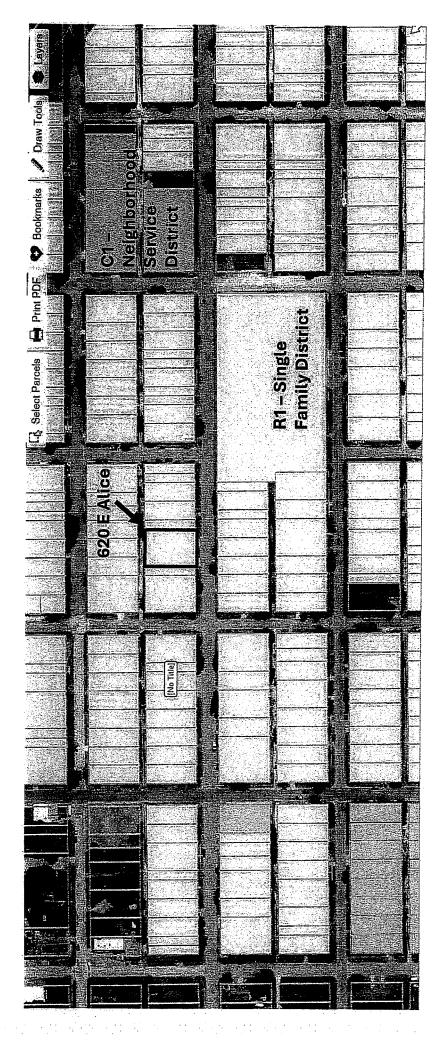
### CONCLUSION

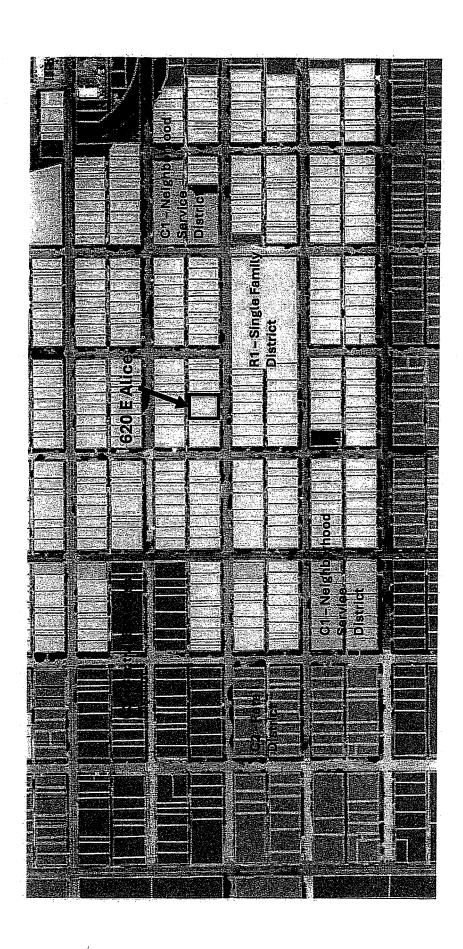
Comprehensive plans are intended to set forth a city's goals and objectives for future growth and identify a strategy by which the city will strive to achieve them. Zoning is an essential tool, if not the essential tool, used to implement the comprehensive plan along with subdivision regulations, infrastructure planning, and economic strategies. As evidenced above, there are numerous technical, legal and political issues that must be evaluated in the enactment and modification of zoning regulations. This article was intended to introduce these concepts at a broad level and not penetrate the deeper judicial analyses and more developed standards of review. A fundamental awareness of zoning should include the basics of the grant of authority, purposes, police power, process, and enforcement just as those same basic concepts were imperative in the Standard Zoning Enabling Act of 1926.

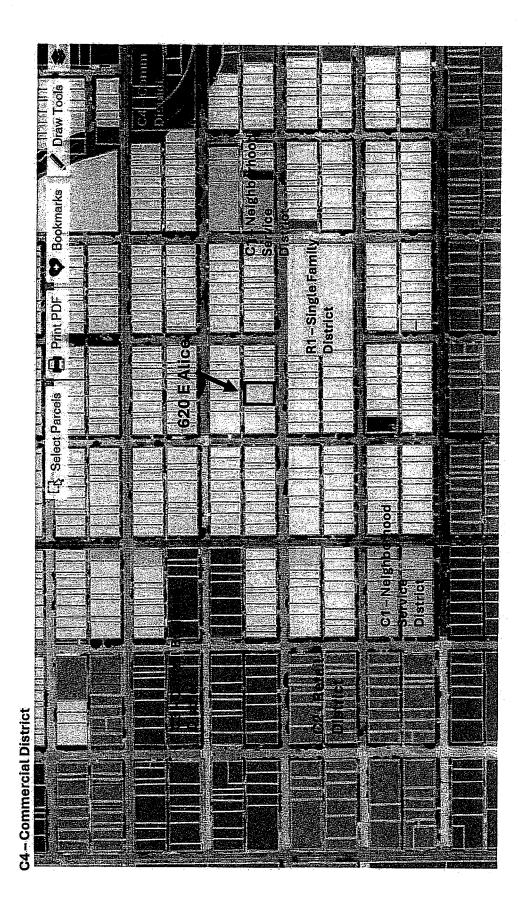
<sup>77</sup> Super Wash, Inc. v City of White Settlement, 131 S.W.3d 249,257 (Tex. App.-Fort Worth, 2004) 78 Id.











### City of Kingsville Legal Department

TO:

Erik Spitzer, Director of Planning and Development Services

CC:

Charlie Sosa, Interim City Manager

FROM:

Courtney Alvarez, City Attorney

DATE:

March 24, 2025

SUBJECT:

Zoning at 620 E. Alice

**Summary:** An ordinance to request the rezone of 620 E. Alice, Kingsville, Texas from R1 (Residential Use) to C2 (Commercial Use) and for an ordinance to request a Special Use Permit for a Wholesale Bakery Use in C2 can move forward to the Planning & Zoning Commission and the City Commission for consideration.

### Background:

The property located at 620 E. Alice, Kingsville, Texas was the site of a tortilla factory (Wholesale Bakery Use) from approximately 1970-2020. Recently, the property was sold and the new owner wishes to reopen the tortilla factory at that site. When the new owner came to the Planning Department for permits, it was discovered that City records show 620 E. Alice to be zoned R1 (Residential Use) despite the fifty-year long commercial use at that location. Texas state law sets out the process for rezoning a property. That process is codified in the City of Kingsville's Code of Ordinances.

The rezoning of property involves a specific process and the analysis of a variety of factors. The rezoning of a property from R1 to C2 in a largely residential area would typically raise concerns of spot zoning. However, an analysis of all the facts surrounding a rezone should be considered before making a final decision.

In this instance, the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location. There is another non-residential use on the same block at the property proposed for rezone. Several commercially zoned properties exist within two blocks of the property proposed for rezone.



### City of Kingsville Legal Department

The property proposed for rezone existed as a tortilla factory for at least fifty years at this same site, so if the same proposed use were to have a detrimental impact on the valuation of surrounding properties, then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades. The property in question is within the City's Historical District. When the tortilla factory first opened at this site in 1970, the area was geared toward uses that largely served Hispanic persons and commerce as pockets of commerce existed to serve different neighborhoods at that time. While times have changed during the last fifty years the factory operated at this site, the business' historical significance to the community should not be overlooked. The proposed rezone could be viewed as serving a substantial public purpose as reopening the factory could increase employment and increase sale tax revenues. Had the same use not recently existed at this site for fifty years, then the analysis might be different.

The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Commercial Use) with a Special Use Permit for Wholesale Bakery Use. A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area.

Financial Impact: There is no expense to the City by considering and approving the requested actions.

**Recommendation:** Allow the process to move forward following state law and city ordinances so that the Planning and Zoning Commission and City Commission can determine whether to allow the proposed zoning changes (rezone from R1 to C2 & a Special Use Permit for Wholesale Bakery Use) to the site.



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ratheduples university

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Maria I Garcia 603 E Richard Kingsville, TX 78363 #17279

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18035

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18815

Frances T Olivarez 611 E Richard Ave Kingsville, TX 78363 #19595

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Michael W Bars 823 S 23<sup>rd</sup> St Kingsville, TX 78363 #10672

Jose Arturo Rodriguez ETUX Rosa Laura 607 E Alice Ave Kingsville, TX 78363 #25983

### PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3<sup>RD</sup>, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

### PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3<sup>RD</sup>, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

# NEWS

### for May 3, early voting begins April 22

By Ted Figueroa Reporter

The Bishop CISD School Board is prepared for the next school board elections that will take place on Satur-

clay, May 3. In Place 2, incumbent Judy Mur-doch with 18 years experience will face off against Billy Kinsel.

In Place 6, incumbent Dawn Ca-analigh who is completing her 28th ear on the board will face challenger year on the co... Italie Chancler.

pulse Chancier.

Early voting will begin on April 22-25 from 8 a.m. to 5 p.m. and will resume on April 28 and 29 from 7 a.m.

Voters can vote at the Bashop Multipurpose Building, Petronila School, Nucces County Court House, The David Berlaina County Court House, The David Berlaina County Court House, The David Berlaina County Court House, The David Residual County Court House, The David Residual County County County In Agon Dulic, the Island Presbytetian Church in Corpus Christi and the Janes of House Elbaray in Corpus Christi. In other husiness, the school board passed also file the county County Christia. In other husiness, the school board passed also file the county of the Co

tary. The board also discussed the MOU

Bishop CISD is already advertish for the head coach/offensive coord nater position.



### **Jane Anne Sellers Keese**

years.
Born on October
8, 1936, in Kingsville
to William Samuel Sellers and Elsie
Catherine Glasscock Catherine Glassock.
Compton, Jane Anne
came from pioneering
families who helped
shape the Kingsville
community. Her father was a respected
local businessman
who owned and operated a procesy store in
Kingsville for many
years.

Amgaville for many years.

Jane Anne dedicated 30 years of her life to education, fourting countless young lives with her passion for teaching. Her impact on her students remained evident ilmospout her life, as former pupils would often enthusiastically greet her when ly greet her when-ever she returned to Kingswille for special

ccasions. Following her retion, Jane Anne devot-ed much of her time to service at First Bap-tist Church of Three

Jame Anne Sellers Keese

Cerober 3, 1936 - Marri 28, 2025

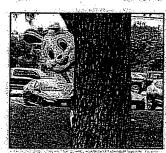
Jame Anne Sellers
Rivers, where she
keese, a lifelong restilent of Kingsville,
Texas and longtime
resident of Three
Rivers, lexis, passed,
Jany Berns, Sir could reguresident of the past for various communithist. Texas, where
the had made herlome for the past four
case of the past four

William Edward Sellers, and her beloved husband, James Milton Keese.

The family will receive condolences at 10 a.m. on Friday, April 4, 2025, at Turonte-Piper Morthany, with a chapel service beginning at 10:30 a.m. officiated by Darin Griffiths, Rite of committed and interment will follow at Chambertam Cemetry in Knigwille.

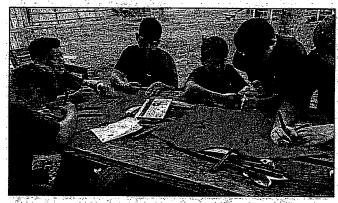
etery in Kingsville, Texas. Her family would like to thank her lovilke to thank her lov-ing caregivers from Warm Hearts, that provided wonderful care to her in the past few years. Your kind-ness will never be for-rotten.

gotten.
In lieu of flowers, donations may be made to South Texas Children's Home in Beeville, Texas, re-flecting Jane Arme's lifelong commitment to children and edit-cation.



### Eighth Annual Easter Eggstravaganza set

It's almost time for the 4th annual Ensire Eggstrangueza-located by the Klobery County Atharwey's Office. The event-will EEP off on Set. April 12 from 11 am. to 1 p.m. at the Elderry County Currelinouse (West side launa). Keberg County Atharwey Kim Talpy Sonchez moties the community to come out end only the festivalies. This is one 8th annual Eggstrangueza from a monterful community. There will be egg hants according to age, counce launes, rendors and prizes given out. As almose newlying in free to the com-nuinty Come on out and eaply had logs and snow cours. Talpy-Sanchez said. (Contributed Photo)



### Boy Scouts take time to help The Purple Door

Boy Scaut Troop 186 has partnered with The Euryle Door and have decorated T-shirts with positive messages for local survi-vors of abuse. The clothes will be displayed at La Palmera Mall in Corpus Cliristi during the month of April for Sexual Assault Auxerness month. At the end of the month the T-shirts will be donated to The Purple Doon (Cantributed photo)

### PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

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The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

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Jose Flores and Jaine Flores, Applicant/Owners, requesting approval of Re-Zaning from R-1 (Single Family) in C-2 (Retail) for a Wholesair Bakery Use (Torilla Factory) at 30% (Block 22: Lot 24-27, (Franssa Torilla Factory), abor known as 620 E. Alice Ave., Kingsville, LX 78363 (Property ID 1738S).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the itelen Kleberg Groves Community Room: If you have any is on the agenda, please contact the Planning

PUBLIC HEARING NOTICE The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m., wherein the City Commission will

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The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595 8002

ORDIN	IANCE	#2025-	

AMENDING THE ZONING ORDINANCE BY CHANGING THE ZONING MAP IN REFERENCE TO 3<sup>RD</sup>, BLOCK 22, LOT 24-27 (PROPERTY ID 17385) ALSO KNOWN AS 620 E. ALICE AVE., KINGSVILLE, TEXAS FROM R1 (SINGLE FAMILY DISTRICT) TO C2 (RETAIL DISTRICT); AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; AND PROVIDING FOR PUBLICATION.

**WHEREAS**, the Planning & Zoning Commission has forwarded to the City Commission it's reports and recommendations concerning the application of Jose Flores & Jaime Flores, property owners/ applicants, for amendment to the zoning map of the City of Kingsville;

WHEREAS, the property was the site of a tortilla factory for at least fifty years though zoning maps show the property to be zoned R1-Single Family District, and there are other non-residential uses on this block and several other uses within two blocks of this previous existing use, so that any potential impact to surrounding properties would already have been experienced due to the long term prior same use;

WHEREAS, it is desired for the area to be used as a wholesale bakery use (tortilla factory), which is the same use that had existed at this same location for at least fifty years up until about three years ago and while notice letters were sent to neighbors and a notice was published in the newspaper, no one has contacted city staff about this;

WHEREAS, with proper notice to the public, public hearings were held on Wednesday, April 16, 2025, during a meeting of the Planning & Zoning Commission, and on Monday, April 28, 2025, during a meeting of the City Commission, in the Helen Kleberg Groves Community Room/Commission Chambers, at City Hall, in the City of Kingsville, during which all interested persons were allowed to appear and be heard; and

**WHEREAS,** the item was APPROVED with a 6-0 vote of the Planning & Zoning Commission regarding the requested rezone with no abstentions; and

WHEREAS, the City Commission has determined that this amendment would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

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

**SECTION 1.** That the Zoning Ordinance of the City of Kingsville, Texas, is amended by changing the zoning of the premises known as 620 E. Alice Ave., Kingsville, Texas, also known as 3<sup>RD</sup>, Block 22, Lot 24-27 (Property ID 17385), from R1-Single Family District

to C2-Retail District, as more specifically described on the Zone Change Map, attached as Exhibit A.

**SECTION 2.** That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendments to the Zoning Ordinance made by Section 1 of this ordinance.

**SECTION 3.** That the Zoning Ordinance and Zoning Map of the City of Kingsville, Texas, as amended from time to time, except as changed by this ordinance and any other ordinances adopted on this date, remain in full force and effect.

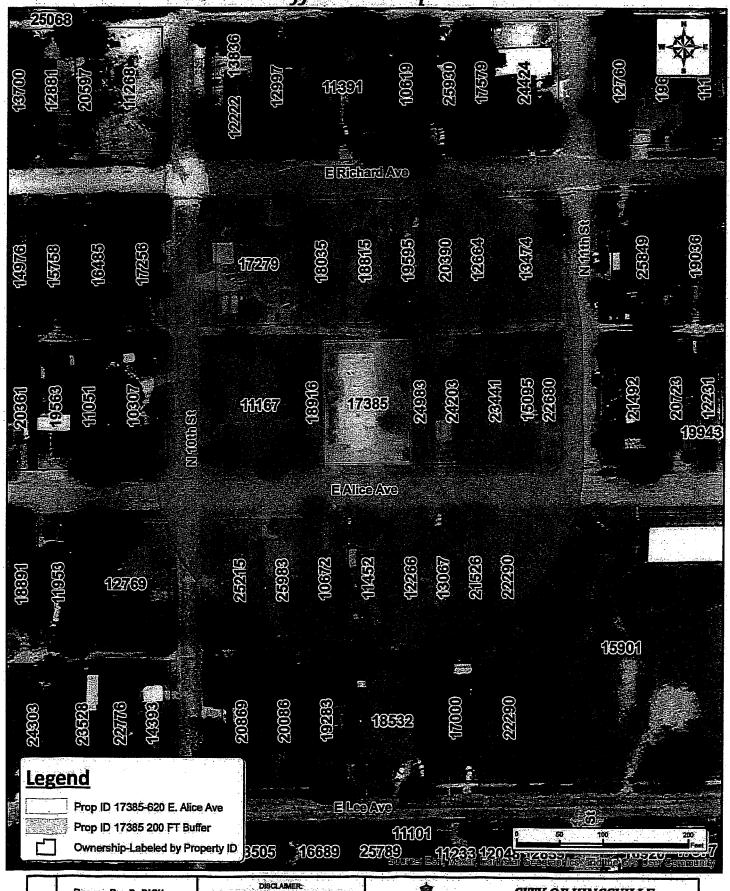
SECTION 4. That to the extent that these amendments to the Zoning Ordinance represent a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.

**SECTION 5.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.

**SECTION 6.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

INTRODUCED on this the 28th day of April, 2025.
PASSED AND APPROVED on this the <u>12th</u> day of <u>May</u> , 2025.
Effective Date:
THE CITY OF KINGSVILLE
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED:
Courtney Alvarez, City Attorney

200-FT Buffer at Prop ID: 17385



Drawn By: R. PICK

Last Update: 2/20/2025

Note: Ownership is labeled with its Prop ID.

DISCLAMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY.
THE INFORMATION ON THIS SHEET MAY
CONTAIN MACCINCLES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IF THE INFORMATION
CONTAINED PREFIX IS USED FOR ANY
DESIGN, CONSTRUCTION, PLANNING, BUILDING,
OR ANY OTHER PURPOSE.



### CITY OF KINGSVILLE ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064

# **AGENDA ITEM #7**

Action Item - SUr (balan)

**Planning and Development Services** 410 W King Kingsville, TX 78363 PH: 361-595-8055



### **MEMO**

Date:

April 17th, 2025

To:

Charlie Sosa (Interim City Manager)

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor for a Special Use Permit (SUP) for a Wholesale Bakery (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E.

Alice Ave., Kingsville, TX 78363 (Property ID 17385).

Summary: Jose Flores and Jaime Flores, Applicants/Owners, approached the Planning Department on February 20th, 2025, requesting approval of a Special Use Permit (SUP) to support re-opening a tortilla factory that was open for ~ 50 years at the parcel of land located at 620 E Alice. The property has been vacant for 3 years and is located in the city's Historic District.

Background: 620 E Alice was recently purchased after remaining vacant for approximately 3 years. It is currently zoned R1 (Single Family District). The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Retail District) with a Special Use Permit for Wholesale Bakery use.

Discussion: Referencing the City Attorney's memo from March 24th, 2025, "A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area."

The Planning and Zoning Commission meeting was held on April 16th, 2025, with 6 of 7 members in attendance.

Members deliberated over the request to approve a Special Use Permit (SUP) to support re-opening a tortilla factory that was open for ~ 50 years at the parcel of land located at 620 E Alice. 25 Notice Letters were sent out to neighbors within the 200 feet buffer and the city has received no feedback as of today.

The Planning and Zoning Commission board members voted to recommend approval of a Special Use Permit (SUP) to support re-opening a tortilla factory at 620 E Alice. A recorded vote of all members present was taken and board members Steve Zamora, Larry Garcia, Rev. Idotha Battle, Debbie Tiffee, Mike Klepac and Krystal Emery all voted "YES."

The meeting was adjourned at 7:10 p.m.

The department recommends approval.

### Erik Spitzer

Director of Planning and Development Services

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



### **MEMO**

Date:

April 9th, 2025

To:

Planning & Zoning Commission

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the Planning & Zoning Commission to approve a Special Use Permit (SUP) for a Wholesale Bakery (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E.

Alice Ave., Kingsville, TX 78363 (Property ID 17385).

Summary: <u>Items 5 & 6</u>: Jose Flores and Jaime Flores, Applicants/Owners, approached the Planning Department on February 20<sup>th</sup>, 2025, requesting approval of a Special Use Permit (SUP) to support reopening a tortilla factory that was open for ~50 years at the parcel of land located at 620 E Alice. The property has been vacant for 3 years and is located in the city's Historic District.

Background: <u>Items 5 & 6</u>: 620 E Alice was recently purchased after remaining vacant for approximately 3 years. It is currently zoned R1 (Single Family District). The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Retail District) with a Special Use Permit for Wholesale Bakery use.

**Discussion:** <u>Items 5 & 6</u>: Referencing the City Attorney's memo from March 24th, 2025, "A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area."

### Erik Spitzer

Director of Planning and Development Services



# CITY OF KINGSVILLE PLANNING AND ZONING DIVISION MASTER LAND USE APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TYPE)	
Project Address 620 E Alice Nearest Intersection 10th St	
(Proposed) Subdivision NameLot 24-27 Block 22	
Legal Description 3ed, Block 22, 1st 24-27 (famosa Tortilla factor	<u> 24</u> )
Existing Zoning Designation Pl Future Land Use Plan Designation C-2	
OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)	
Applicant/Authorized Agent Jose and Jime Flores Phone 361 - 215 - 9449	<u>i                                    </u>
Email Address (for project correspondence only):	
Mailing Address 427 W Ave A city Kingsville State To Zip 78	363
Property Owner Jaime Flores Phone 361-215-9449 FAX	
Email Address (for project correspondence only):	<u> </u>
Mailing Address 42) W Ave A City Kingsville State Tr zip 78	363
5 (C)	
Select appropriate process for which approval is sought. Attach completed checklists with this application.	
Annexation Request No Fee Preliminary Plat Fee \	/aries
Administrative Appeal (ZBA) \$250.00 Final Plat Fee	
Comp. Plan Amendment Request \$250.00 Minor Plat \$100	0.00
Re-zoning Request \$250 Re-plat \$250	0.00
SUP Request/Renewal	.00
	0.00
PUD Request \$250	.uu ea
Please provide a basic description of the proposed project: Would like to open Famosa Tortilla factory but it	1
Zoned RI. The Building was used as cracking Cache	<u> </u>
For many years.	7
Rezone From R1 - to C2	
	•
I hereby certify that I am the owner and /or duly authorized agent of the owner for the purposes of	this
application. I further certify that I have read and examined this application and know the same to b	ie
true and correct. If any of the information provided on this application is incorrect the permit or	
approval may be revoked.	
Applicant's Signature	25
Property Owner's Signature	
Accepted by:Date: Zo F68 Zo.	25
This form available on any website, this flowers situation the confidence of the state of the st	<del></del>

nis form available on our website: https://www.cityofkingsville.com/departments/planning-and-development-services

### Kleberg CAD Property Search

### **■** Property Details

Account

Property ID:

17385

Geographic ID: 100502224000192

Type:

R

Zoning: R1

**Property Use:** 

Location

Situs Address:

620 E ALICE

Map ID:

C1

Mapsco:

**Legal Description:** 

3RD, BLOCK 22, LOT 24-27, (FAMOSA TORTILLA FACTORY)

Abstract/Subdivision:

S005

Neighborhood:

**Owner** 

Owner ID:

15566

Name:

LA FAMOSA DRC INC

Agent:

**Mailing Address:** 

620 E ALICE AVE

KINGSVILLE, TX 78363-4637

% Ownership:

100.0%

**Exemptions:** 

For privacy reasons not all exemptions are shown online.

### ■ Property Values

Improvement Homesite Value:

\$0 (+)

Improvement Non-Homesite Value:

\$127,130 (+)

Land Homesite Value:

\$0 (+)

Land Non-Homesite Value:

\$15,000 (+)

**Agricultural Market Valuation:** 

\$0 (+)

------

Market Value:

\$142,130 (=)

Agricultural Value Loss: 2

\$0 (-)

**Appraised Value:** 

\$142,130 (=)

HS Cap Loss: 0

\$0 (-)

Circuit Breaker: @

\$0 (-)

### **Assessed Value:**

\$142,130

### Ag Use Value:

\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.

### ■ Property Taxing Jurisdiction

Owner: LA FAMOSA DRC INC %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$142,130	\$142,130	\$1,097.06
CKI	CITY OF KINGSVILLE	0.770000	\$142,130	\$142,130	\$1,094.40
SKI	KINGSVILLE I.S.D.	1.410400	\$142,130	\$142,130	\$2,004.60
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$142,130	\$142,130	\$93.37
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$142,130	\$142,130	\$0.00

Total Tax Rate: 3.017965

Estimated Taxes With Exemptions: \$4,289.43

Estimated Taxes Without Exemptions: \$4,289.43

### ■ Property Improvement - Building

Type: COMMERCIAL Living Area: 520.0 sqft Value: \$22,380

Type	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	RS2A	1970	520
OP1	OPEN PORCH BASIC (20%)	<b>*</b> .	1970	120
CON	CONCRETE SLAB COMMERCIAL	*	1970	3554

Type: COMMERCIAL Living Area: 3480.0 sqft Value: \$104,750

Type	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	IN2A	1970	3480

### **■** Property Land

Type	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
F1	F1	0.32	14,000.00	100.00	140.00	\$15,000	\$0

### ■ Property Roll Value History

Year	<b>Improvements</b>	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$127,130	\$15,000	\$0	\$142,130	\$0	\$142,130
2023	\$129,330	<b>\$15,000</b>	\$0	\$144,330	<b>\$0</b>	\$144,330
2022	\$113,590	\$7,000	\$0	\$120,590	\$0	\$120,590
2021	\$121,540	\$7,000	\$0	\$128,540	\$0	\$128,540
2020	\$52,010	\$7,000	\$0	\$59,010	\$0	\$59,010
2019	\$59,460	\$7,000	\$0	\$66,460	\$0	\$66,460
2018	\$61,500	\$7,000	\$0	\$68,500	<b>\$0</b>	\$68,500
2017	\$56,110	\$7,000	<b>\$0</b>	\$63,110	\$0	\$63,110
2016	\$54,510	\$7,000	\$0	\$61,510	\$0	<b>\$6</b> 1,510

### WRITTEN CONSENT TO USE OF SIMILAR ENTITY NAME

# of LA FAMOSA DRC, INC. a Texas corporation

This written consent is made and tendered in accordance with 1 Texas Administrative Code 79.42 to provide unequivocal consent to Jose L. Flores and/or Jaime Antonio Flores, or either of them, their agents, and assigns, the right to use the name "LA FAMOSA DRC" in the creation of any other entity authorized by the laws of any political subdivision of the United States, including but not limited to the creation of their planned limited liability company to be created under the laws of the State of Texas or

IN WITNESS WHEREOF, the undersigned officer authorized by the Company in accordance with a unanimous resolution of all shareholders of the Company, executes this written consent in the presence to be effective immediately.

Rosa Maria Torres, its Vice President

STATE OF TEXAS

COUNTY OF KI. beau

This instrument was acknowledged before me on Norwego 17, 2025, by Rosa Maria Flores, Vice President of La Famosa DRC, LLC, a Texas corporation on behalf of said corporation.

ANTONIO ARREDONDO Notery Public, Stees of Texas Comm. Expires 05-10-2026 Notery IO 131562673

Sec 1:-Landuse-chart.
The following chartistial section the land uses within the city:
P. Permited
S=Special use permit required.
X=Special review required
= Not permittee (absence of any symbol)

### [Land Use Chart on the following pages]

Land Use Chart													
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	С3	C4	11	12	Ag
Dwelling, one-family det.	Р	Р		Р	Р	Р	Р	Р	Р				Р
Dwelling, one-family att.		Р	P	P	Ρ		S	Р			-		Р
Dwelling, two-family		Р		P	Р		S	Р					
Dwelling, multi- family				Ρ	Р		Ρ	Ρ	Р				
Tiny Homes		Р	P			Р							

Bakery or confectionery shop, retail sales (less than 2,500 square feet)				Р	P	Р	Р			
Bakery, wholesale					( <u>G</u> )	Р	Ρ			
Brewpub					Р	S	P	P	Р	
Building materials sales					S	P	Р	S		
Cafeteria or restaurant				ൃത	P	Ρ.		<u>a-</u>		
Camera shop				S	Р	Ρ	Р			
Laundry or self- service laundry shop (limited area)				S	P	Р	P			
Clinic, medical, dental, chiropractor, optometrist or other office of licensed Health related profession				S	P	P	P	P		
Drug store or pharmacy				Р	Р	Р	P			



## CERTIFICATE OF FILING OF

La Famosa DRC, LLC File Number: 805863291

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/17/2025

Effective: 01/17/2025



John Melson

Jane Nelson Secretary of State

### City of Kingsville Legal Department

TO:

Erik Spitzer, Director of Planning and Development Services

CC:

Charlie Sosa, Interim City Manager

FROM:

Courtney Alvarez, City Attorney

DATE:

March 24, 2025

SUBJECT:

Zoning at 620 E. Alice

**Summary:** An ordinance to request the rezone of 620 E. Alice, Kingsville, Texas from R1 (Residential Use) to C2 (Commercial Use) and for an ordinance to request a Special Use Permit for a Wholesale Bakery Use in C2 can move forward to the Planning & Zoning Commission and the City Commission for consideration.

### Background:

The property located at 620 E. Alice, Kingsville, Texas was the site of a tortilla factory (Wholesale Bakery Use) from approximately 1970-2020. Recently, the property was sold and the new owner wishes to reopen the tortilla factory at that site. When the new owner came to the Planning Department for permits, it was discovered that City records show 620 E. Alice to be zoned R1 (Residential Use) despite the fifty-year long commercial use at that location. Texas state law sets out the process for rezoning a property. That process is codified in the City of Kingsville's Code of Ordinances.

The rezoning of property involves a specific process and the analysis of a variety of factors. The rezoning of a property from R1 to C2 in a largely residential area would typically raise concerns of spot zoning. However, an analysis of all the facts surrounding a rezone should be considered before making a final decision.

In this instance, the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location. There is another non-residential use on the same block at the property proposed for rezone. Several commercially zoned properties exist within two blocks of the property proposed for rezone.



### City of Kingsville Legal Department

The property proposed for rezone existed as a tortilla factory for at least fifty years at this same site, so if the same proposed use were to have a detrimental impact on the valuation of surrounding properties; then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades. The property in question is within the City's Historical District. When the tortilla factory first opened at this site in 1970, the area was geared toward uses that largely served Hispanic persons and commerce as pockets of commerce existed to serve different neighborhoods at that time. While times have changed during the last fifty years the factory operated at this site, the business historical significance to the community should not be overlooked. The proposed rezone could be viewed as serving a substantial public purpose as reopening the factory could increase employment and increase sale tax revenues. Had the same use not recently existed at this site for fifty years, then the analysis might be different.

The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Commercial Use) with a Special Use Permit for Wholesale Bakery Use. A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area.

Financial Impact: There is no expense to the City by considering and approving the requested actions.

**Recommendation:** Allow the process to move forward following state law and city ordinances so that the Planning and Zoning Commission and City Commission can determine whether to allow the proposed zoning changes (rezone from R1 to C2 & a Special Use Permit for Wholesale Bakery Use) to the site.



Guillermo Gonzalez ETUX Brenda Gonzalez 528 E Alice Ave Kingsville, TX 78363 #10307

Ruben R Est Melinda Kerwin 916 E Santa Gertrudis Kingsville, TX 78363 #17256

Maria I Garcia 603 E Richard Kingsville, TX 78363 #17279

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18035

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18815

Frances T Olivarez 611 E Richard Ave Kingsville, TX 78363 #19595

Manuel Trevino EST ETUX Esabel EST % Nelda Aguilar 1301 Clearfield Dr Austin, TX 78758-7314 #20390

> Eduardo Gonzalez Oralia Gonzalez 701 E Richard Kingsville, TX 78363 #13474

Laura L Elizondo Garrick A Phillips 603 E Alice Ave Kingsville, TX 78363 #25215

## `gogī yze∃ azsmadjā kuri∻aoji∃

Ruben G Soliz 1624 N Armstrong Ave Kingsville, TX 78363 #22680

Francisco P Chapa Est Mrs. Yolanda R Torres PO Box 290 Kingsville, TX 78364 #15095

Belinda J Lopez 9699 Southmeadow Beaumont, TX 77706 #23441

David Michael Isassi 1631 Connell Villa Kingsville, TX 78363 #24203

Eliseo M Torres 620 E Alice Ave Kingsville, TX 78363 #24983

John Edward Cadriel 1949 Zenaida Ave McAllen, TX 78504-5626 #18916

Daniel Avendano ETUX Idalia 8001 Morelos St Pharr, TX 78577-8705 #11167

K I S D PO Box 871 Kingsville, TX 78364 #22290

Yolanda Saenz 74 Lake Shore DR Corpus Christi, TX 78413-2634 #18175

> Kleberg County PO Box 72 Kingsville, TX 78364 #15901

Gregorio Islas ETUX Teodula (Life EST) Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #13067

Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #12266

Michael W Bars 823 S 23<sup>rd</sup> St Kingsville, TX 78363 #11452

Michael W Bars 823 S 23<sup>rd</sup> St Kingsville, TX 78363 #10672

Jose Arturo Rodriguez ETUX Rosa Laura 607 E Alice Ave Kingsville, TX 78363 #25983

# **EWS**

# Bishop CISD school board elections scheduled for May 3, early voting begins April 22

By Ted Figueroa

By Ted Figueroa
Reporter

Voters can vote at the Bishop Millipurpose Building, Petronitis School, Nucces County Court House. The Dravid Bertangs Community Center in prepared for the next school board elections that will take place on Saturday, May 3.

In Place 2, incumbent Judy Murdoch with 18 years experience will face of against Billy Kinsel.

In Place 6, incumbent Dawn Cavanuph who is competing ber 28th year on the board will face challenge Judic Churder.

Early voining will begin on April 22 5 from 8 am. to 5 pm. and will resume on April 28 and 29 from 7 am. to 7 pm.

The board also discussed the MOU

with the City of Richop Folice De-partment who has provided an SRO during this school year.

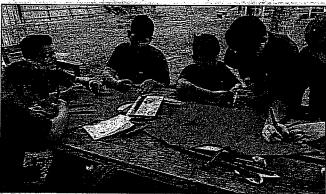
The board decided to move on from that agreement and will pursue other options for security.

Superintendent Christina Guiterre-sald that for the 2023-26 school year, the district may hire a salety and secu-rity director and will be looking into hiring armed guanties a well.

The board also accepted the resigna-tion of Head Coach Rigo Morales who has taken on a position of head coach and affiliatic coordinates in the Valley-Rishop CISO is already adventising for the head coach/loftensive coordi-nator position.

# Eighth Annual Easter Eggstravaganza set

It's alwast lines for the 8th annual Enter Egystratosparas nested by the Releng County Attorney's Office. The count will list off on Set. April 12 from Ta an. In 1 par. at the Lichery County Attorney (West side launch. Ethery County Attorney Kim Tally Sometice transits the community to come and early the featureies. This is our life annual Egystratospara for our sunderful community. There will be egy hunts succeiving to age, bound houses, penders and prices your earl. As always energiating is fee to the community. Come on earl and early the days and some comes. Talp-Souther said. (Contributed Planto)



# Boy Scouts take time to help The Purple Door

may 186 has partnered with The Purple Door and have decorated T-shirts with positive messages for local st The clothes will be displayed at La Painera Mell in Corpus Caristi during the moutle of April for Securid Ass wanth. At the end of the mouth the T-shirts will be danated to The Purple Door, (Contributed plants)

# **Obituaries**



# Jane Anne Sellers Keese

Jatic Annie Selliers

October 3, 1936 - Marke 28, 2025

Jane Annie Selliers
Rivers, where she
Rivers, a lifeloog reslident of Kingsville,
Tiesas and longtime
resident of Three
Rivers, Texas, passed
away peacefully
an Friday, March
18, 2025, in Corpus
Christi, Texas, where
she had made her
loome for the past four
years.
Born on October
8, 1936, in Kingsville
to William Samuel, Sellers and Elsie
to William Samuel, Sellers and Elsie
to William Samuel, Sellers and Elsie
to William Edward Sellto Kingsville
community. Her father was a respective
local businessman
who owned and operdard groups stare in.
Kingsville for many
particular in the sellier
and the late husband, for each large ware
were devoted mentour late husband, in the specific particular in the particular in the sellier
specific particular in the sellier in the sellier
specific particular in the sellier in the sellier
specific particular in the sellier in the sellier
sp years.
Boen on October 8, 1936, in Kingsville to William Samuel, Sellers and Elsie Catherine Glassock Compton, Jane Anneceme from ploneering familles who helped shape the Kingsville community. Her father was a respected local businessman who owned and operated a grocery store in Kingsville for many years.

Kingsville for many years.

Jane Anne dedicated 50 years of her life to education, touching countless young lives with her passion for teaching, fire impact on her students rainained evident throughout her life, as former pupils would often enthusastically great her whenever site returned to Kongsville for special occasions.
Following her re-

occasions.
Following her re-threment from educa-tion, Jane Anne devot-ed much of her time to service at First Bap-tist: Church of Three

of committal and in-terment will follow at Chamberlain Cem-etery in Kingsville, Texas.

Her family would like to thank her lov-

ince to thank her lov-ing caregivers from Warm Hearts, that provided wonderful care to her in the past few years. Your kind-ness will never be for-gotten.

In lieu of flowers, formations war be

in lieu of flowers, donations may be made to South Texas Children's Home in Berville. Texas, reflecting Jane Anne's lifelong commitment to children and education.

PUBLIC HEARING NOTICE

The Planting & Zoning Commission of the City of Kongyulle will hold a Public Hearing Wednesday, April-16, 2025, at 600 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be beard.

Jose Flores and Januar Flores, Applicated Owners, respecting approval of a Special Use Ferrali for a Wholesale Bakery Use (facilità Factory) in E.-7 (Renical) at 310, Block 32, Lat 34-27, (Fanest Terifalta Factory), also known as 628 F. Alice Ave. Kingsville, TX 78363 (Property ID 17345).

The meeting will be held at City Hall. 400 West King Ase., Kingsville, TX in the Helen Kleberg Groves Community Room: It won have any questions about the terms on the agenda, please contact the Planning Department at (361) 595-8055.

PUBLIC HEARING NOTICE
The City Commission of the City The City Commission of the City of Kingsynle will hold a Public Hearing Monday April 78, 2025 of 500 pm, wherein the City Commission will discuss the consideration of the following them and at which time all

Monday, April 26, Area, discuss the consideration of the following many discuss the consideration of the following many discussions will be heard:

Joseph Phaces and Jaime Phores, Applicant/Owners, requesting approval at a Special Line Permit Tars, Wholende Balcey Use Tourists Factory) in C-2 (Permit) at 320. Black 22, Line 24-27, (Famous Sartin Factory), also known as 2002. After Arc. Kingsville, TX 7833 (Property ID)

The Company of th

The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the firms on the agencia, please contact the Cely Secretary at (361) 595-8002

# PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

# PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-I (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

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The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

AMENDING THE ZONING ORDINANCE BY GRANTING A SPECIAL USE PERMIT FOR WHOLESALE BAKERY USE (TORTILLA FACTORY) IN C2 (RETAIL DISTRICT) AT 620 E. ALICE AVE., KINGSVILLE, TEXAS, ALSO KNOWN AS 3<sup>RD</sup>, BLOCK 22, LOT 24-27 (PROPERTY ID 17385); AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; PROVIDING FOR PUBLICATION.

WHEREAS, the Planning & Zoning Commission has forwarded to the City Commission it's reports and recommendations concerning the application of Jose Flores & Jaime Flores, property owners/ applicants, for amendment to the zoning map of the City of Kingsville;

**WHEREAS**, the property was recently zoned R1-Single Family Residential District but was rezoned to C2-Retail District and it is desired for the area to be used as a wholesale bakery use (tortilla factory), which is the same use that had existed at this same location for at least fifty years up until about three years ago;

WHEREAS, there are other non-residential uses on this block and several other uses within two blocks of this previous existing use, and while notice letters were sent to neighbors and a notice was published in the newspaper, no one has contacted city staff about this;

WHEREAS, the City Code of Ordinances, Chapter XV-Land Usage, Appendix A- Land Use Categories states that in C2 a special use permit is required to have a wholesale bakery use (tortilla factory); and

WHEREAS, the City of Kingsville Code of Ordinances section 15-6-142 regulates special use permits; and

WHEREAS, with proper notice to the public, public hearings were held on Wednesday, April 16, 2025, during a meeting of the Planning & Zoning Commission, and on Monday, April 28, 2025, during a meeting of the City Commission, in the Helen Kleberg Groves Community Room/Commission Chambers, at City Hall, in the City of Kingsville, during which all interested persons were allowed to appear and be heard; and

**WHEREAS**, a majority of the Planning & Zoning Commission voted 6-0 to APPROVE, with no abstentions, the requested special use permit; and

**WHEREAS**, the City Commission has determined that this amendment would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

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

**SECTION 1.** That the Zoning Ordinance of the City of Kingsville, Texas, is amended and a Special Use Permit is granted for a Wholesale Bakery Use (tortilla factory) in C2 (Retail District) on the premises known as 620 E. Alice Ave., Kingsville, Texas, also known as 3<sup>RD</sup>, Block 22, Lot 24-27 (Property ID 17385), as more specifically describe on site plan attached as Exhibit A.

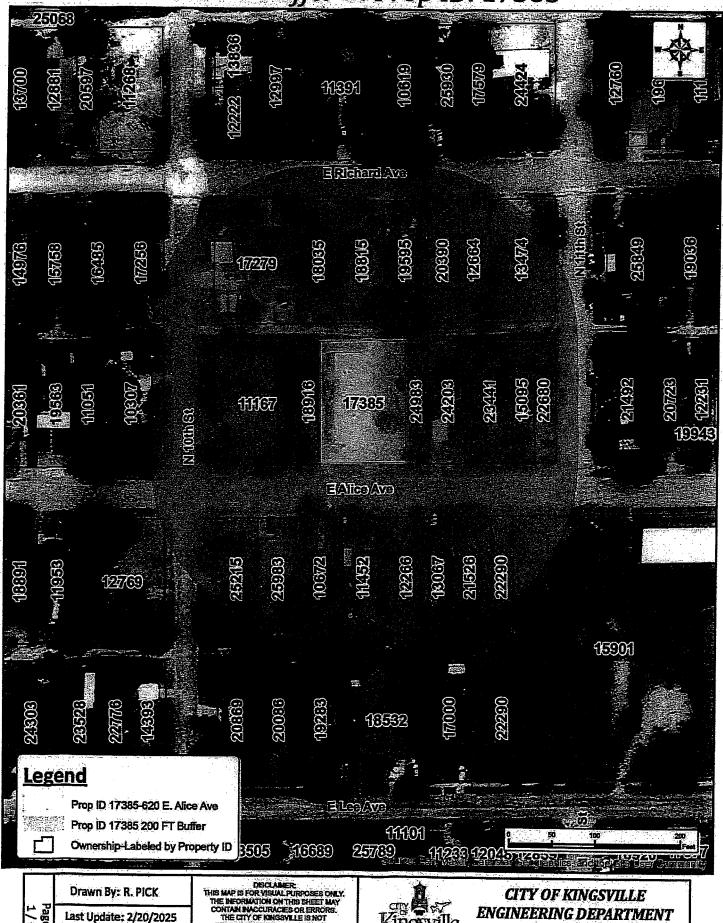
**SECTION 2.** That the Special Use Permit granted in Section 1 of this Ordinance is subject the following conditions:

- 1. ALLOWED USE: The only uses authorized by this Special Permit other than the permitted "C2" Retail District uses is as a Wholesale Bakery Use (tortilla factory).
- 2. STATE LICENSE: The premises or operator be licensed or registered by the State of Texas, if required.
- 3. TIME LIMIT: This Special Permit is good for the duration of the business from the date of this ordinance unless the property is not being used for the purpose outlined in Condition 1 or any other conditions have not been complied with.
- 4. SPECIAL CONDITION: The applicant shall obtain all required background checks, business licenses and cooperation with all annual fire safety, health, and sanitation inspections, as required by the State and the City of Kingsville, and any other laws or regulations regarding such business in order to maintain compliance with state and city regulations for the tortilla factory.
- **SECTION 3.** That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendment to the Zoning Ordinance made by Section 1 of this ordinance.
- **SECTION 4.** That the Zoning Ordinance and Zoning Map of the City of Kingsville, Texas, as amended from time to time, except as changed by this ordinance and any other ordinances adopted on this date, remain in full force and effect.
- **SECTION 5.** That to the extent that this amendment to the Zoning Ordinance represents a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.
- **SECTION 6.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.
- **SECTION 7.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

**INTRODUCED** on this the <u>28th</u> day of <u>April</u>, 2025.

PASSED AND APPROVED on this	the <u>12<sup>th</sup></u> d	ay of <u>May</u>	2025.
Effective Date:	, 202		
THE CITY OF KINGSVILLE			
Sam R. Fugate, Mayor	<del>*</del>		
ATTEST:			
Mary Valenzuela, City Secretary	<del></del>		
APPROVED AS TO FORM:			
Courtney Alvarez, City Attorney	<del></del>		

200-FT Buffer at Prop ID: 17385



Note: Ownership is labeled

with its Prop ID.

DISCLAMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY.
THE INFORMATION ON THIS SHEET MAY
CONTAIN INACCURACIES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IF THE INFORMATION
CONTAINED HEREIN IS USED FOR ANY
DESIGN, CONSTRUCTION, PLANNING, BUILDING,
OR ANY OTHER PURPOSE.



# ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064

# **AGENDA ITEM #8**

**Planning and Development Services** 410 W King Kingsville, TX 78363 PH: 361-595-8055



# **MEMO**

Date:

April 17th, 2025

To:

Charlie Sosa (Interim City Manager)

From:

Erik Spitzer (Director of Planning and Development Services)

**Subject:** 

The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor for a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole antenna in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also

known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Summary: Vincent Gerard & Associates, Applicant and Robert De Pol, Owner, approached the Planning Department on March 17th, 2025, requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole antenna in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Background: In accordance with the City of Kingsville's Land Use Chart, telecommunication mounting structures over 100' tall require a Special Use Exception (SUE); we accomplish this requirement with a Special Use Permit (SUP) application.

Discussion: AT&T Mobility is proposing a wireless site at 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758) to improve coverage in the area. AT&T radio frequency engineers have received numerous complaints from NAS Kingsville customers. This solution will benefit both NAS Kingsville and existing interior sites within the City of Kingsville. An existing monopole antenna located approximately 2300' northwest (owned by Cellco) has zero additional ground space for increasing capacity, nor does it have adequate height to optimize coverage. This proposed unmanned site will be accessed once per month by a maintenance worker. In addition, the FAA confirmed the future planned structure would not exceed obstruction standards, nor would be a hazard to air navigation. The request also has approval recommendation from Commander, Training Air Wing TWO.

The Planning and Zoning Commission meeting was held on April 16th, 2025, with 6 of 7 members in attendance.

Members deliberated over the request to recommend approval of a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole antenna at 1025 E General Cavazos, Kingsville, TX 78363. 5 Notice Letters were sent out to neighbors within the 200 feet buffer and the city has received no feedback as of today.

The Planning and Zoning Commission board members voted to approve the recommendation of a Special Use Permit for a Wireless Telecommunications Facility with a 120' monopole antenna at 1025 E General Cavazos, Kingsville, TX 78363. A recorded vote of all members present was taken and board members Steve Zamora, Larry Garcia, Rev. Idotha Battle, Debbie Tiffee, Mike Klepac and Krystal Emery all voted "YES."

The meeting was adjourned at 7:10 p.m.

The department recommends approval.

**Erik Spitzer**Director of Planning and Development Services

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



# **MEMO**

Date:

April 9th, 2025

To:

Planning & Zoning Commission

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the Planning & Zoning Commission for a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Summary: <u>Items 1 & 2</u>: Vincent Gerard & Associates, Applicant and Robert De Pol, Owner, approached the Planning Department on March 17<sup>th</sup>, 2025, requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with a 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Background: <u>Items 1 & 2</u>: In accordance with the City of Kingsville's Land Use Chart, telecommunication mounting structures over 100' tall require a Special Use Exception (SUE); we accomplish this requirement with a Special Use Permit (SUP) application.

Discussion: <u>Items 1 & 2</u>: AT&T Mobility is proposing a wireless site at 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758) to improve coverage in the area. AT&T radio frequency engineers have received numerous complaints from NAS Kingsville customers. This solution will benefit both NAS and existing interior sites within the City of Kingsville. An existing monopole antenna located approximately 2300' northwest (owned by Cellco) has zero additional ground space for increasing capacity, nor does it have adequate height to optimize coverage. This proposed unmanned site will be accessed once per month by a maintenance worker. In addition, the FAA confirmed the future planned structure would not exceed obstruction standards, nor would be a hazard to air navigation.

# Erik Spitzer

Director of Planning and Development Services



# PLANNING AND ZONING DIVISION MASTER APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TYPE)						
Project Address 2025 E GENERAL CAVAZOS BLVD Near	est Intersection PAULSON FALLS RD & E GENER	RAL CAVAZOS				
(Proposed) Subdivision Name_PAULSONS SUB	Lot B Block					
Legal Description PAULSONS SUB, LOT B, ACRES .0						
Existing Zoning Designation C4 COMMERCIAL DISTRICT Future	re Land Use Plan Designation					
OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)	<del> </del>					
Applicant/Authorized Agent VINCENT GERARD & ASSOCIATE	ES Phone 512-328-2693					
Email Address (for project correspondence only): HUNTERB@						
Email Address (for project correspondence only): HONTEXBE	WINCEN I GERARD.COM	<del></del>				
Mailing Address 5524 Bee Caves Road #K4 City Austin	State TX Zip	78746				
Property Owner DE POL ROBERT Phon	eFAX					
Email Address (for project correspondence only):						
Mailing Address 1702 E 5TH ST. City PA		o 34221				
Select appropriate process for which approval is sought. Attac	ch completed checklists with this applica	ition.				
Annexation Request No Fee	Preliminary Plat	Fee Varies				
Administrative Appeal (ZBA) \$250.00  Comp. Plan Amendment Request \$250.00	Final Plat	_ Fee Varies				
Recogning Request 5250.00	Minor Plat	_\$100.00				
Re-zoning Request       \$250         ✓ SUP Request/Renewal       \$250	Re-plat	\$250.00				
Zoning Variance Request (ZBA) \$250	Vacating Plat	\$50.00				
L Zoning variance nequest (ZDA)	Development Plat	_ \$100.00				
PUD Request \$250	Subdivision Variance Request	_ \$25.00 ea				
Please provide a basic description of the proposed project: PROPOSED WIRELESS TELECOMMUNICATIONS FACILITY WITH 120' MONO	POLE AND EQUIPMENT. TXDOT DRIVEWAY PER	MIT PENDING.				
		· · · · · · · · · · · · · · · · · · ·				
		<del></del>				
	*					
I hereby certify that I am the owner and /or duly authoriz	ed agent of the owner for the purpo	ses of this				
application. I further certify that I have read and examine	ed this application and know the sam	e to be				
true and correct. If any of the information provided on the	nis application is incorrect the permit	or				
approval may be revoked.						
Applicant's Signature	2/47/5005					
Applicant's Signature Application WITH APPLICATION	Date: 3/17/2025					
Applicant's Signature  Property Owner's Signature LOA PROVIDED WITH APPLICATION  Accepted by:						

# Kleberg CAD Property Search

# **■** Property Details

Account

Property ID:

25758

Geographic ID: 152700002000192

Type:

R

Zoning:

**Property Use:** 

Location

Situs Address:

2029 E GENERAL CAVAZOS TX

Map ID:

B2

Mapsco:

**Legal Description:** 

PAULSON'S SUB, LOT B, ACRES .0

Abstract/Subdivision:

S527

Neighborhood:

Owner

Owner ID:

65801

Name:

**DE POL ROBERT** 

Agent:

**Mailing Address:** 

1702 E 5TH ST

PALMETTO, FL 34221

% Ownership:

100.0%

**Exemptions:** 

For privacy reasons not all exemptions are shown online.

# **■** Property Values

Improvement Homesite Value:

\$0 (+)

Improvement Non-Homesite Value:

\$0 (+)

Land Non-Homesite Value:

Land Homesite Value:

\$0 (+) \$22,470 (+)

and the second s

\$0 (+)

Agricultural Market Valuation:

\$22,470 (=)

Agricultural Value Loss:0

\$0 (-)

Appraised Value:0

\$22,470 (=)

HS Cap Loss: 0

Market Value:

\$0 (-)

Circuit Breaker: 0

. . . .

Assessed Value:

\$2,886 (-) \$19,584

Ag Use Value:

\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal

District to verify all information for accuracy.

# ■ Property Taxing Jurisdiction

Owner: DE POL ROBERT %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$22,470	\$19,584	\$151.16
CKI	CITY OF KINGSVILLE	0.770000	\$22,470	\$19,584	\$150.80
SKI	KINGSVILLE I.S.D.	1.410400	\$22,470	\$19,584	\$276.21
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$22,470	\$19,584	\$12.87
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$22,470	\$19,584	\$0.00

Total Tax Rate: 3.017965

**Estimated Taxes With Exemptions: \$591.04** 

**Estimated Taxes Without Exemptions: \$678.14** 

₽PI	roperty Land						
Туре	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
C1	C1	0.93	40,510.80	0.00	0.00	\$22,470	\$0

# ■ Property Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$0	\$22,470	\$0	\$22,470	\$0	\$19,584
2023	\$0	\$16,320	\$0	\$16,320	\$0	\$16,320
2022	\$0	\$14,930	\$0	\$14,930	\$0	\$14,930
2021	\$0	\$15,000	\$0	\$15,000	\$0	\$15,000
2020	\$0	\$13,700	\$0	\$13,700	\$0	\$13,700
2019	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2018	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2017	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2016	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300

# ■ Property Deed History

Deed Date		Description	Grantor	Grantee	Volume	Page	Number
3/5/2019	WD	WARRANTY DEED	JOHNSON JOE VAUGHN	DE POL ROBERT			317522
5/12/2008	WDW/ASMP	WARRANTY DEED W/ASSUMPTION	JOHNSON JOE V	JOHNSON JOE VAUGHN	390	270	

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	Land Use Chart												
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	C3	<b>C</b> 4	11	12	Ag
Dwelling, one-family det.	P	P		Р	Р	Р	Р	Р	Р				Р
Dwelling, one-family att.		P	P	Р	Р		S	Р					Р
Dwelling, two-family	7	Р		Р	Р		S	Р					
Dwelling, multi- family				Р	P		P	Р	Р				
Tiny Homes		Р	Р			Р							
Dwelling, above business									Р				
Work/live units									Р				

Kingsville, TX Code of Ordinances

Radio, television or microwave towers (without telecommunications facility)	P	P		P	P	P	P	Р	P	P			
Telecommunications	Court of the Court	The state of the s	Appe nce	Control of the last of the las	<u>C</u> i	elecç	เกลาเ	inica	tions	-   5	he z	อกแ	18
Commercial radio or television transmitting	S	S		S	S	S	S	P	Р	P	P	P	Р
Sewage or water pumping and control stations	P	P		Р	P	Р	P	Р	Р	P	Р	P	P
Railroad tracks and right-of-way	P	Р		P	Р	P	Р	P	P	P	P	P	P
Telephone business office	Exe	mpt,	see T	ex. L	_OC.	Gov't	Cod	e, §§	51.0	01 a	nd 5	4.00	01
Telephone switching, relay, and transmitting equipment	S	S		S	S	P	P	P	Р	Р	Р	Р	Р

Sec. 15-6-142. - Special use permits.

- (A) All requests for permits in districts which involve uses listed as special uses in § 15-6-19 and areas designated as an overlay district shall be referred to the City Planner.
- (B)—Special uses are conditional upon a demonstration of conditions and facts by the applicant that the special use is appropriate to the site.
  - (C) The Planning Department shall collect a fee of \$250.00 to cover the cost of advertising and the mailing of announcements regarding pending special use permit applications to all property owners within 200 feet of the site for which the special use permit is requested.
- (D) Applicants shall supply suitable plans and information concerning the location, function and characteristics of any use proposed to the Planning Department prior to the scheduling of any hearing. The Planning Department shall evaluate the proposed use and submit preliminary recommendations to the Planning and Zoning Commission.
- (E) The City Planner shall evaluate all requests for special use permits and shall submit the application to the Planning Commission and to the City Commission unless he finds:
  - (1) There is inadequate information upon which to evaluate the request;
  - (2) The applicant requests a deferral; or
  - (3) The applicant withdraws the application.
- (F) The Planning Department, after receiving authorization from the City Commission by ordinance, shall authorize the Building Inspector to issue a special use permit. Conditions may be attached to the permit to assure compliance with the intent and purposes of this article and further the public welfare.

(1962 Code, § 11-6-6)

Sec. 1. - Zoning districts where telecommunications facilities are authorized.

Telecommunication		Code			
Facility Type	Nonresidential	onresidential Residential <sup>2</sup>		Reference	
Amateur Radio Towers under 50 feet (15 m)	Yes	Yes	No	<u>§ 15-6-48(B)</u>	
Self-supporting Latti	ce, Guyed and Ot	her Towers	<u> </u>		
- 0 to 50 feet (15 m)	Yes	No	No	§ 15-6-48(D)	
- over 50 feet (15 m)	SUE <sup>3,4</sup>	No	No	<u>§ 15-6-48(</u> D)	
Monopole Towers		L			
- 0 to 85 feet (26 m)	Yes	SUE 3	No	<u>§ 15-6-48(</u> C)	
- over 85 feet (26 m)	SUE <sup>34</sup>	No	No	§ 15-6-48(D)	
Alternative Mounting	Structures		ļ		
- 0 to 100 feet (30 m)	Yes	SUE <sup>3,5</sup>	Stealth	§ 15-6-48(E) (1)	
- over 100 feet (30 m)	SUE <sup>3</sup>	SUE	Stealth	§ 15-6-48(E) (2)	
Antenna Only Mounti	ings				
- electronic transmission towers	Yes	Yes		<u>§ 15-6-49(</u> B) (3)	

- existing telecom towers over 40 feet (12 m)	Yes	Yes	Stealth	<u>§ 15-6-49(</u> B) (1)
- utility poles over 40 feet 12 m)	Yes	Yes	Stealth	<u>§ 15-6-49(B)</u> (1)
- light poles over 40 feet (12 m)	Yes	Yes	Stealth	§ 15-6-49(B) (1)
- conforming billboards	Yes	Yes	Stealth	§ 15-6-49(B) (5)
- building-mounted panels	Stealth	Stealth <sup>6</sup>	Stealth	§ 15-6-49(B) (6)
- building-mounted whips	Yes	Yes <sup>6</sup>	Stealth	<u>§ 15-6-49(B)</u> (7)
- roof-mounted arrays	Yes <sup>7</sup>	Yes <sup>7</sup>	Stealth	§ 15-6-49(B) (7)
Dish Antenna Mount	ings			
- building/roof- mounted under 3.3 feet (1 m) in diameter	Yes	Yes	Stealth	§ 15-6-49(C) (4)
- building/roof- mounted under 6.6 feet (2 m) in diameter	Yes <sup>7</sup>	Yes <sup>7</sup>	Stealth	§ 15-6-49(C) (5)

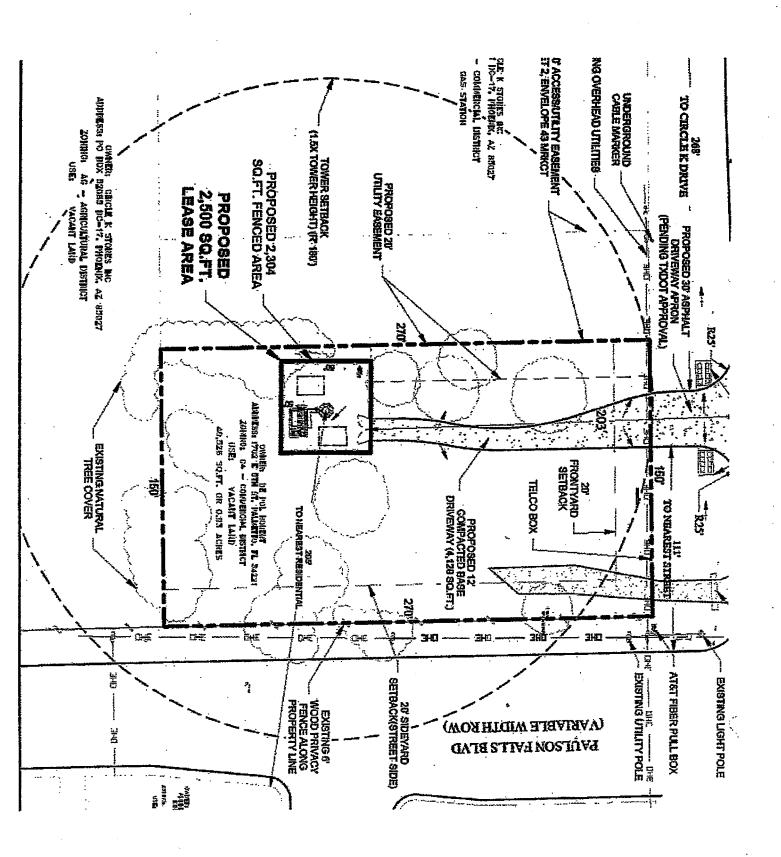
- building/roof- mounted over 6.6 feet (2 m) in diameter	Yes <sup>8</sup>	Yes <sup>8</sup>	Stealth	<u>§ 15-6-49(C)</u> (6)
- ground-mounted under 10 feet (3 m) in diameter	Yes	Yes	Stealth	<u>§ 15-6-49(</u> C) (3)
- ground-mounted over 10 feet (3 m) in diameter	Yes	No	Stealth	<u>§ 15-6-49(</u> C) (3)

# Notes:

- <sup>1</sup> For the purpose of this article and table, *NONRESIDENTIAL* means zoning districts C-1, C-2, C-3, C-4, I-1 and I-2.
- <sup>2</sup> For the purpose of this article and table, *RESIDENTIAL* means zoning districts R-1, R-2, R-3, R-4, MH and Ag.
- <sup>3</sup> SUE means a special use exception, obtained under § 15-6-142, is required by § 15-6-48(B).
- <sup>4</sup> In an <u>I-2 zoning</u> district, there is no tower-height limitation and SUE is not required.
- <sup>5</sup> Alternative mounting structures 100 feet (30 meters) or less in height that are also used to provide lighting to parks, stadiums, athletic fields, school playgrounds, tennis courts and other recreational areas are permitted, by right, in residential districts.
- <sup>6</sup> Nonresidential and multifamily structures only.
- <sup>7</sup> Nonresidential and multifamily structures.

<sup>8</sup> Structures in excess of 100,000 square feet (900 square meters) of floor area.

(Ord. 2001-15, passed 8-13-01)



# Kingsville Coverage Evaluation Plots

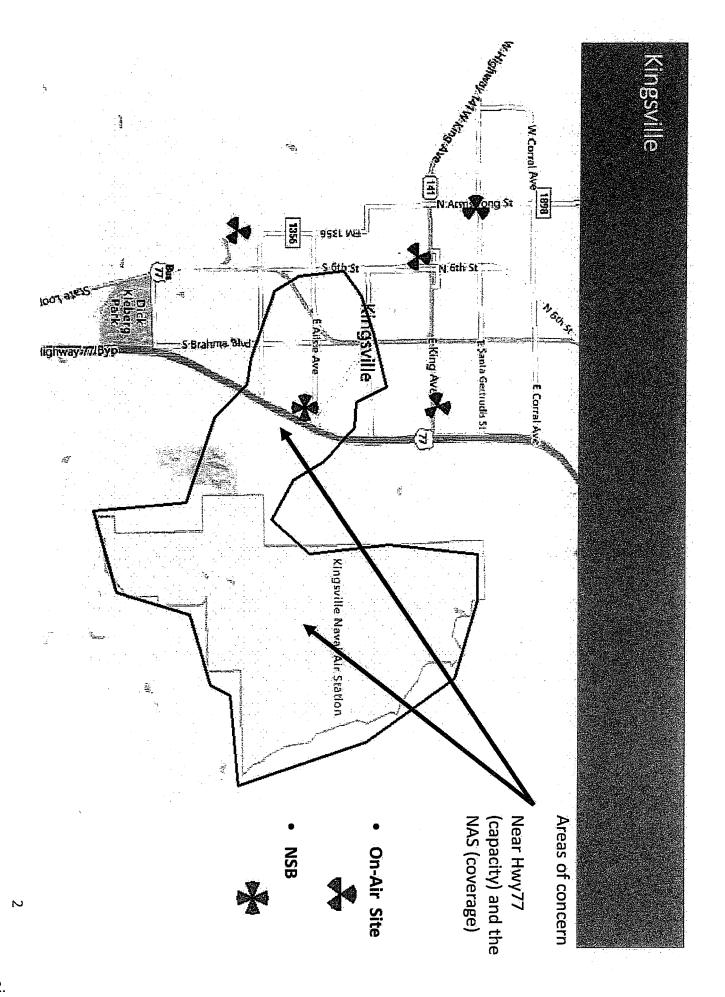
02/25/2025

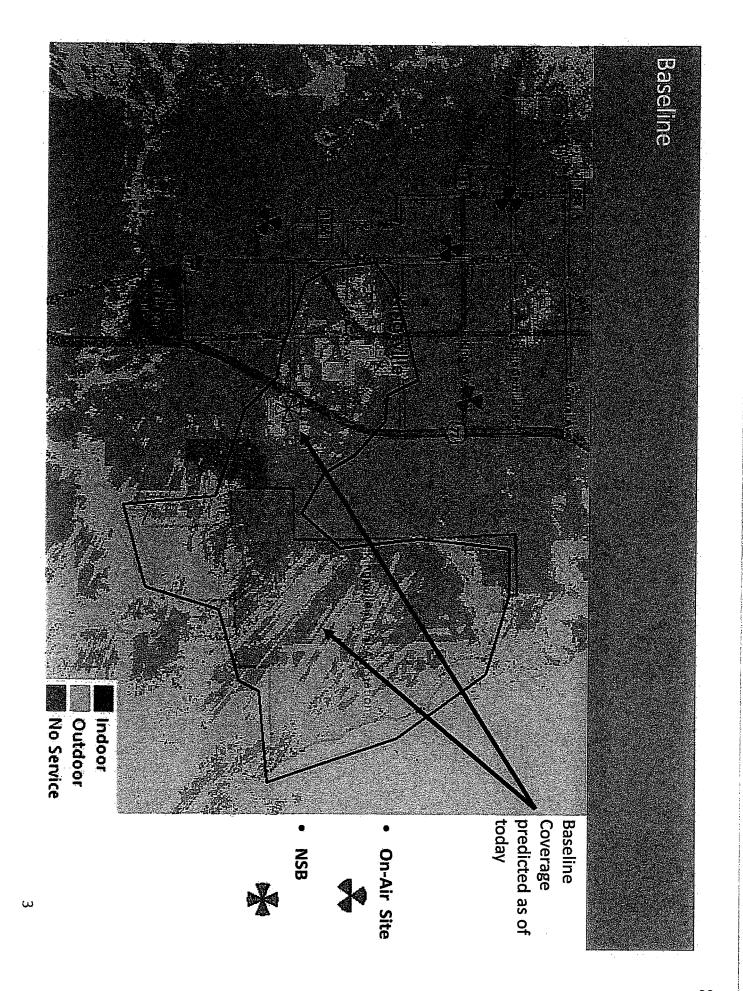
New Site Solution — FA 15470650 Neesen

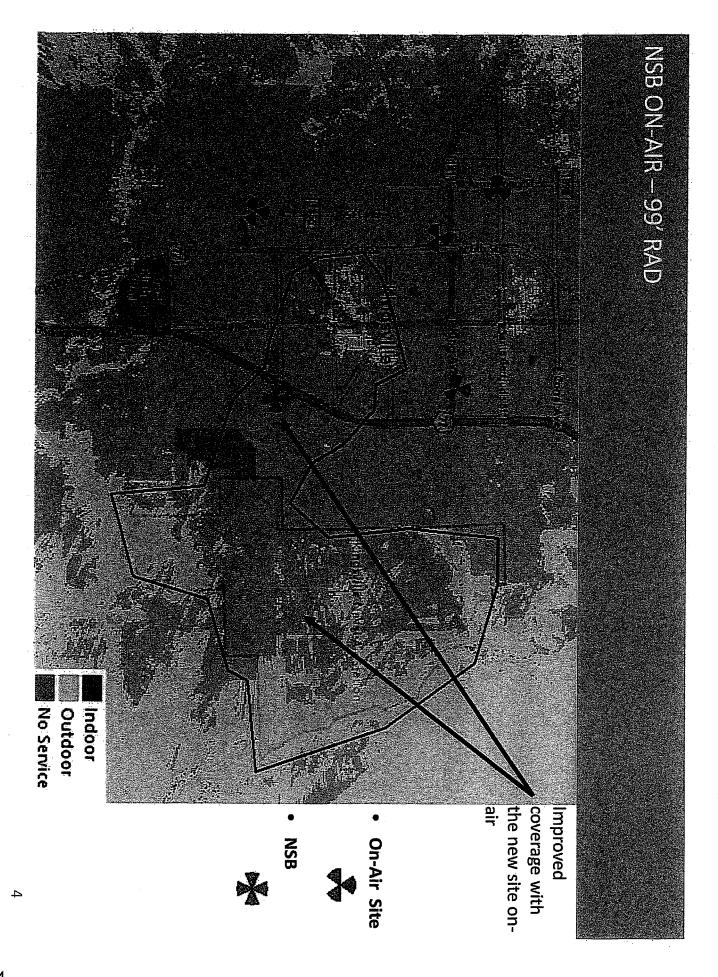
Damon Bindock – Assoc Director STX

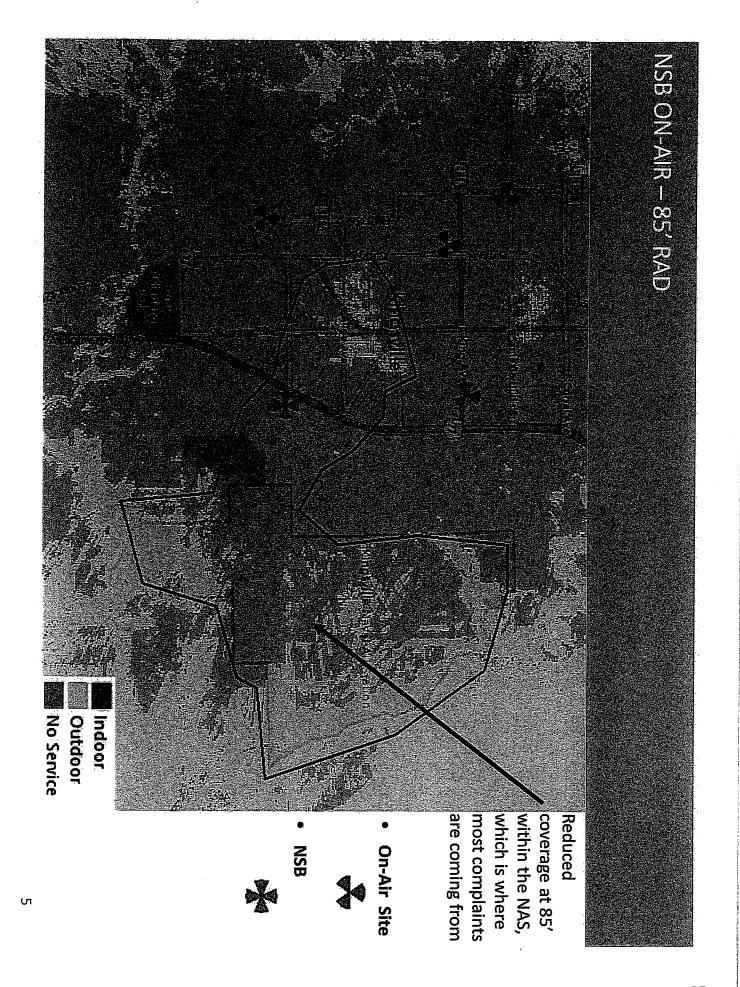


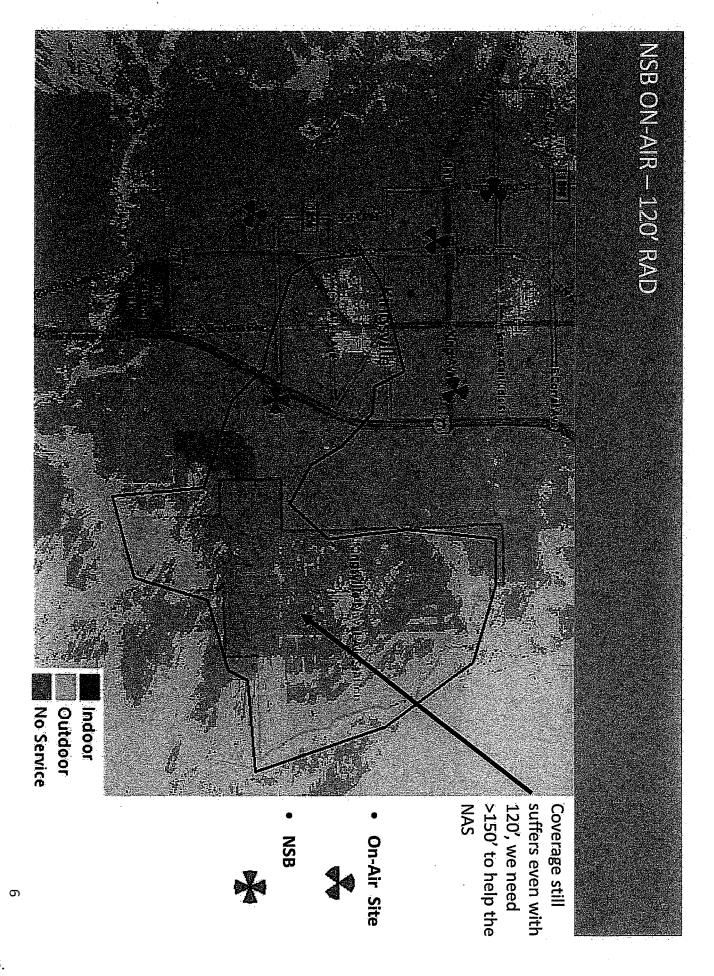
2025 AT&T mellectuel Property All Kights beserved, AT&T, Globe lago, Modillang Your Werld and Different and explained before markes of AT&T philliefuel property of their respective owners. AT&T Proprietary (Internal Use Only), Not for use or disclosing outside the AT&T combelling exception per a state of the AT&T combelling exception per a state of the AT&T combelling exception of the AT&T com





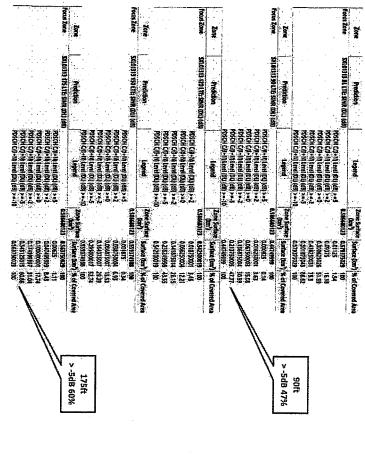


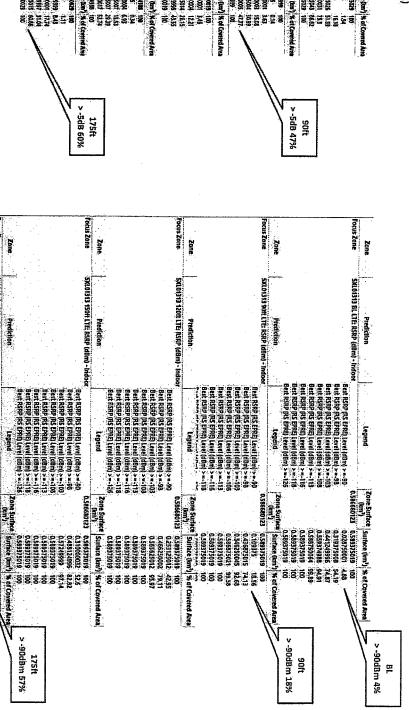




# lvan's old analysis shows the need for >150' for the NAS

1900 SINR and RSRP area % in HotSpot (Navy Base)





Intellectual Property - AT&T Proprietary (Internal Use Only) HXL06097 NSB 4 Sectors / Oct 8th, 2024 / @ 2024 AT&T

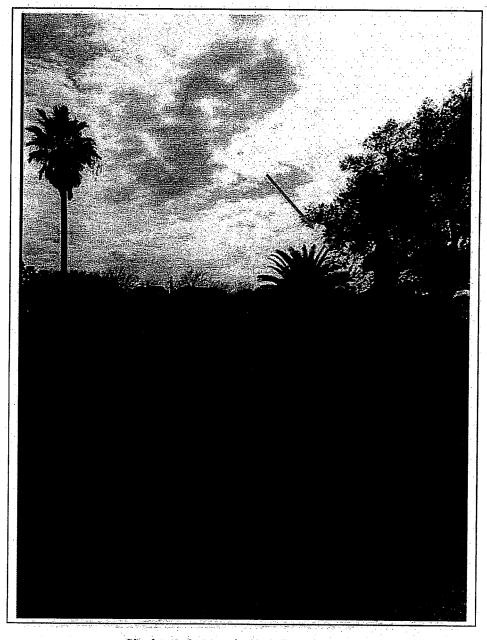
ocus Zone

SXLO1313 175ft LTE: RSRP (dBm) - Indoor

> -90dBm 57%

175ft

Zone



Site located strategically behind tree cover



# Vincent Gerard & Associates, Inc.

Mr. Erik Spitzer
Director – Kingsville Development & Planning
Kingsville Texas

March 17th, 2025

# Summary Letter for TVT III General Cavasos Wireless Facility Site, 2029 E General Cavasos Blvd. Kingsville Texas

Mr. Erik Spitzer,

After a request from AT&T Mobility and a search of all properties within a 1/6-mile search ring study, we believe we have found an excellent location and solution for a wireless site in the Southeast corridor of Kingsville along General Cavasos Boulevard for better coverage in this area. This site will accommodate all the major carriers. AT&T radio frequency engineers have received numerous complaints from Kingsville NAS customers. This proposed site upgrades existing interior sites in Kingsville and the Naval Air Station coverages. There is an existing monopole approximately 2,300. Northwest owned by Cellco. It has zero additional ground space for equipment and does not have the adequate height to allow AT&T Mobility to optimize their customers' coverage and their "FirstNet" equipment. AT&T made an economic business decision to request Tower Ventures III to construct a new 120' monopole at this location. By code Article 6 Chapter 15-6-45 through 51, this site complies with the requirements listed for wireless and we are respectfully requesting an Special Use Exception for this land use from the Planning and Zoning commission and City Council. It is at 1.5x height from a Major Arterial and over 120' away from the residential lots to the east. The managed site will be accessed 1x per month by maintenance worker by pickup truck. We are proposing to use the existing tree cover as landscape screening. If a waiver is necessary for the landscaping plans, consider this summary for that specific purpose.

The current tract of land is vacant, zoned C4 Commercial and has adequate space for leasing to other carriers' equipment. Tower Ventures will actively pursue other carriers on this site. It is located along busy US Highway 77. Please review the SUE package, the site plan and the additional supplemental information required and let us know if you have any questions.

Sincerely

Vincent G. Huebinger

Xc: Kobby Agyelam, City of Kingsville

# TVT III, LLC 495 Tennessee Street Suite 152 Memphis, Tennessee 38103

Phone:

(901) 794-9494

Toll Free:

(800) 875-5109

March 5, 2025

Re: Agent Authorization Letter, Vincent Gerard & Associates Inc.

To Whom it may Concern:

TVT III, LLC, authorizes Vincent Gerard & Associates to represent their interest in zoning, site plan submittals variances and building permits within the State of Texas. If there are any questions regarding this agreement, please contact us.

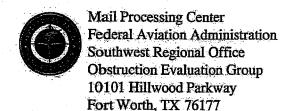
Should you have any questions about this, please call Benjamin Orgel at 901-428-3381.

Sincerely,

Benjamin Orgel

Principal/Real Estate Director

Office: 901-244-4001 Cell: 901-428-3381



Issued Date: 03/12/2025

Craig Royal TVT III, LLC 495 Tennessee Street, Suite #152 Memphis, TN 38103

# \*\* DETERMINATION OF NO HAZARD TO AIR NAVIGATION \*\*

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:

Monopole TX1036 Kingsville E. General Cavazos

Location:

Kingsville, TX

Latitude:

27-29-26.94N NAD 83

Longitude:

97-50-39.77W

Heights:

54 feet site elevation (SE)

128 feet above ground level (AGL) 182 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Emissions from this site must be in compliance with the parameters set by collaboration between the FAA and telecommunications companies and reflected in the FAA 5G C band compatibility evaluation process (such as power, frequencies, and tilt angle). Operational use of this frequency band is not objectionable provided the Wireless Providers (WP) obtain and adhere to the parameters established by the FAA 5G C band compatibility evaluation process. Failure to comply with this condition will void this determination of no hazard.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

At least 10 days prior to start of construction (7460-2, Part 1)	
_X_ Within 5 days after the construction reaches its greatest height (7-	460-2, Part 2)

# See attachment for additional condition(s) or information.

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/ lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M Change 1.

This determination expires on 09/12/2026 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (817) 222-5922, or debbie.cardenas@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2025-ASW-1820-OE.

Signature Control No: 647599671-650169363

(DNE)

Debbie Cardenas Technician

Attachment(s)
Additional Information
Frequency Data

Map(s)

cc: FCC

#### Additional information for ASN 2025-ASW-1820-OE

Part 77 authorizes the FAA to evaluate a structure or object's potential electromagnetic effects on air navigation, communication facilities, and other surveillance systems. It also authorizes study of impact on arrival, departure, and en route procedures for aircraft operating under visual or instrument flight rules, as well as the impact on airport traffic capacity at existing public use airports. Broadcast in the 3.7 to 3.98 GHz frequency (5G C band) currently causes errors in certain aircraft radio altimeters and the FAA has determined they cannot be relied upon to perform their intended function when experiencing interference from wireless broadband operations in the 5G C band. The FAA has adopted Airworthiness Directives for all transport and commuter category aircraft equipped with radio altimeters that prohibit certain operations when in the presence of 5G C band.

This determination of no hazard is based upon those mitigations implemented by the FAA and operators of transport and commuter category aircraft, and helicopters operating in the vicinity of your proposed location. It is also based on telecommunication industry and FAA collaboration on acceptable power levels and other parameters as reflected in the FAA 5G C band evaluation process.

The FAA 5G C band compatibility evaluation is a data analytics system used by FAA to evaluate operational hazards related to aircraft design. The FAA 5G C band compatibility evaluation process refers to the process in which the telecommunication companies and the FAA have set parameters, such as power output, locations, frequencies, and tilt angles for antenna that mitigate the hazard to aviation. As the telecommunication companies and FAA refine the tools and methodology, the allowable frequencies and power levels may change in the FAA 5G C band compatibility evaluation process. Therefore, your proposal will not have a substantial adverse effect on the safe and efficient use of the navigable airspace by aircraft provided the equipment and emissions are in compliance with the parameters established through the FAA 5G C band compatibility evaluation process.

Any future changes that are not consistent with the parameters listed in the FAA 5G C band compatibility evaluation process will void this determination of no hazard.

# Frequency Data for ASN 2025-ASW-1820-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
FREQUENCI	PREQUENCI	UNIX	ERI	OHII
6	7	GHz	55	dBW
6	7	GHz	42	dBW
10	11.7	GHz	55	dBW
10	11.7	GHz	42	dBW
17.7	19.7	GHz	55	dBW
17.7	19.7	GHz	42	dBW
21.2	23.6	GHz	55	dBW
21.2	23.6	GHz	42	dBW
614	698	MHz	2000	W
614	698	MHz	1000	W
698	806	MHz	1000	W
806	824	MHz	500	W
806	901	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
929	932	MHz	3500	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1670	1675	MHz	500	$\mathbf{w}$
1710	1755	MHz	500	$\mathbf{w}$
1850	1910	MHz	1640	W
1850	1990	MHz	1640	W
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W
3700	3980	MHz	3280	W
3700	3980	MHz	1640	W
				• •

"Year year leasurag beauteupita

Circle K Stores INC PO Box 52085 DC-17 Phoenix, AZ 85027-2085 #4001444

Circle K Stores INC PO Box 52085 DC-17 Phoenix, AZ 85027-2085 #28657

Robert De Pol 1702 E 5th St Paimetto, FL 34221 #25758

Elda Nora Lopez 1725 Mildred `Kingsville, TX. 78363 #43178

Axel Messenger LLC 1210 Cypher St Kingsville, TX 78363 #43201

# News



(Above) Marta Hamilton received the honor of being selected Secondary Delivit Too her of the Year. She was also moved as the HMK High School Teacher of the Year. She was also moved as the HMK High School Teacher of the Year. She was acknown by bear and processed by the peers, Superimendent Lie Ciny Republic Peers and HMRIST Principal Dana Moore are pictured with her. Relevin's Yearsh Robinskap accircled the honor of being selected Planemarky Delivit Teacher of the Year. She was also selected than Himmoury School Teacher of the Year and was selected by her peers. She is pictured with D.R. Republic Peers and Harrel Principal Nicole Lovelady at the Mirch 25 KISD School Beard meeting. (Photos by Gleris Bigger-Choto).



### **KISD**

CONTINUED FROM PAGE I

updates at the lengthy school board meeting

The Inst action approved was the National Library Week Proclamation. The proclamation designated the week of April 5-12 as National Library Week. The appointment of the School Health Advisory Council members and officers was tabled.

SHAC is a health advisory.

SHACTS a health advisory council which consists of five members with the majority being KISD student parents and not employed with the

unznimously approved the agreement for clinical services between the University of Texas Rio Grande Valley and Kings-ville Independent School District. The services pertain to mental health issues tangto menta users to the be-ing from depression to be-havioral problems. Students receive clinical services via receive clinic video calls

Also approved was the In-terlocal Student Transfer and Tuition Agreement between KISD and Ricardo ISD for the 2025-26 school year. Ri-cardo ISD does not have a

posed by the 2025 calendar

The first and second reading of Localized Policy Up-date: 124 was unanimously approved. The policy deals with financial ethics, investwan anatom content ments, intellectual proper-ty, employee standards of conduct, special programs, gifted and talemed students, child shoise and neglect, con-duct on school premises.

At the beginning of the meeting mimerous students and teachers received recognitions. Kindergarten to eighth grade students were recognized for the District and Coastal Bend Science

Fair honors.
Also announced were the District UIL Academic Meet Recognitions for elementary and middle school particmants. Several stude nte in he Fine Arts Band and choir

were recognized.

Elementary and Secondary
Campus Teachers of the Year
and District Elementary and
Secondary Teachers of the Year announcements were

Recognized were Yacula Robalcaba, Hacrel Elemen-tary School; Elizabeth Garza, bigh school. Harvey Elementary School, The trustees approved the Mclissa Gonzalez, Perez Ele10 non-business days promentary School, Tina Leyba,

Gillett Middle School: Maissa Hamilton: HMK High School Cindy Davils; Alexis Villanueva-Pierre. Rubakaba was named Elementary District Teacher of the Year. Hamilton was named Sec-

ondary District of the Year Teacher. The teachers were selected

by their peers. Reports were also pre ed pertaining to the Gillett Middle School CTB Pro-grams of Study 2025-26. The report stated that GMS will expand the Career & Tech-nical Education Course of ferings to seventh and eighth grade students.

The Brahma Blueprint, a. career exploration course, will offer students hands-on exposure to 14 different programs of study throughout the school year. Also reported was the fact that the Education Service

that the Education Service Center Region 2, ESC-2 has received a grant to upgrade school libraries in the area. Harrel Elementary School is one of the schools that will

receive funding to upgrade the library. The total amount of the

grant is \$138,500. The next school board meeting will be held on April

#### Battle

CONTINUED FROM PAGE 1

ed to the all-around most favored participant

of the event.

• Give Me More Award: Amberosa Which • Give Me More Award: Amberoas Which we main's table did you cropy the most and find yourself wanting to go back for accounts?
• Sweet Tooth Award: Maddle from La Pescal Witt's Bakery Recognizing the table with the most stresselfible denser.

Wow Factor Award: Flowers with Atti-tude Honoring the table that leaves a lasting impression and is truly unforgettable.

Mayor Sam Fugate and Interim Chember

President Kasey Zumwalt spoke at the event, followed by remarks from Lyte Fiber President and CEO Carter Old, who emphasized the company's commitment to delivering world-class connectivity and meaningful

ommunity investment. In addition to techno In addition to technological advancement, Lyte Fiber piedged to donate 1% of its annual revenue to local charities and causes, rein-forcing their role as a long-term community

Bishop CONTINUED FROM PAGE 1

edo reace acaomy in euro and served two years ar a deputy, sheriff in Jim Hogg County. She also served as a Kinga-ville Folice officer for one year before being hired with the

forcement career as a failer Blahop Police Department in Jun Hoog County in 2014. where the has risen through She graduated from the Lar-edo Police Academy in 2016 detective and school renurers. officer.

"I'm all about our commo nity and kids and I want to be an example for our youth and anyone who wants to pursue officer.
Torres has spent the last couple of weeks meeting with continuity members and preparing to take over her countries.



Chanks of street surface remain broken and missing, following structural failure of the resurfacing provided by Andale. The \$600,000 project was completed last year: (Photo by JT Strasner)

## City

CONTINUED FROM PAGE 1.

me back in late April, but it may be mid-May before they return.

for us, Sosa said.
"Wow, good," Mayor Sam Bugate replied,

expressing that he was pleased the entire project would be re-done. In other business, the commission ap

a resolution naming the city girls' youth soft-nall field as David Chavez Field.

Parks Dept. Director Susan key said Chavez was an umpire for local baseball and softball games for more than three decades. "He had a great sense of humor and served

ar community for many years. Twy said.

The family of Charer secured more than, 500 signatures in support of re-naming the 2.500 signatu

2,500 signatures in support or re-naming use park, she added, Members of Chaver, family were in attendance at the meeting

A commony will be held once the plaque is secured.

"He was a good man and a good friend," Pulay before they return.

"Yes, they are gonna re-do the whole thing out there."

"It's Sara wild"

Commissioners also approved a resolution for a ride along program agreement between the Kingsville Fire Department and DelMar College students for training EMS students;

Courge materials for training IMA students, DelMart students personally had to do their ride-alongs in Corpus Christi. "Sometimes it's difficult to get a schedule there," Fire Chief] Adams said. Sosts said the Street Department funished scallocating the surface of Santa Gertrudia

from Sixth Street to Armstrong last week.
Sosa added that any residual loose gravel
would be removed. He said the distributor machine "was working much better" on this particular project.

The city will field its annual spring Trash

Off event on April 12 from 8:30 a.m. to noun.
The next city commission meeting will be

held April 14 at 5 p.m.

#### PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Vincent Gerard & Associates Applicant, Robert De Pol, Owner; requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with 120 Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

The meeting will be held at City Hall, 400 West King Ave, Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

#### PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Vincent Gerard & Associates Applicant, Robert De Pol, Owner; requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

The meeting will be held at City Hall, 400 West King Ave. Kingsville, Texas in the Helen Kleberg Groves Community Room, If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002





The SGA Lady Lions, ranked No. 23 of the latest TGHSCA Class 3A rankings, defeated the London Lady Pirates 9-1 doring a district showdown Monday night Lady Lion lexy De Los Santos hit a grand slam and Kiauna Cruz a grand slam and a numb blasted a 2-run homer in the victo-beld an overall ry. The Lady Lions held an overall record of 20-7 overall and 5-1 in district action after the victory. (Contributed photo)

ORDINANCE #2025-	0	RD	INA	NCE	#2025-	1
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AMENDING THE ZONING ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A WIRELESS TELECOMMUNICATIONS POLE TOWER IN C4-COMMERCIAL AT PAULSON'S SUB, LOT B, ALSO KNOWN AS 1025 E. GENERAL CAVAZOS, KINGSVILLE, TEXAS (PROPERTY ID 25758); AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; PROVIDING FOR PUBLICATION.

WHEREAS, the City Commission approved a wireless telecommunications facilities ordinance (sections 15-6-45 through 15-6-51) in 2001, as allowed by the Federal Telecommunications Act of 1996, and modified it in 2004 to regulate the placement, construction, and modification of cellular telephone facilities and other personal wireless telecommunication service facilities in order to protect and promote public safety, minimize and mitigate any adverse visual or aesthetic impacts on the community and promote the orderly development of telecommunication facilities within the city; and

WHEREAS, city staff has received an application from Vincent Gerard & Associates, applicant, for Robert De Pol, owner, for the installation of an up to 120-foot monopole antenna/wireless telecommunications pole in a C4-Commercial District area; and

WHEREAS, the applicant plans to install an up to 120-foot monopole tower on private property in a C2-Retail District area, but Appendix C to the City ordinance requires a Special Use Permit process as the pole monopole tower is up to 120 feet and is to be located in a C4-Commercial District area; and

**WHEREAS**, the Planning and Zoning Commission has forwarded to the City Commission it's reports and recommendations concerning the application of Vincent Gerard & Associates for amendment to the zoning map of the City of Kingsville with the request based on City Code sections 15-6-45 and 15-6-46;

WHEREAS, with proper notice to the public, public hearings were held on Wednesday, April 16, 2025, during a meeting of the Planning and Zoning Commission, and on Monday, April 28, 2025, during a meeting of the City Commission, in the Helen Kleberg Groves Community Room at City Hall, in the City of Kingsville, during which all interested persons were allowed to appear and be heard; and

**WHEREAS**, on a motion to approve the item, a majority of the Planning Commission voted 6-0, to APPROVE the requested Special Use Permit; and

**WHEREAS**, the City Commission has determined that this amendment would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

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

**SECTION 1.** That the Zoning Ordinance of the City of Kingsville, Texas, is amended and a Special Use Permit is granted for an up to 120-foot wireless telecommunications monopole tower in a C4-Commercial District area at Paulson's Sub, Lot B, also known as 1025 E. General Cavazos, Kingsville, Texas (Property ID 25728) as more specifically described on the site plan attached as Exhibit A.

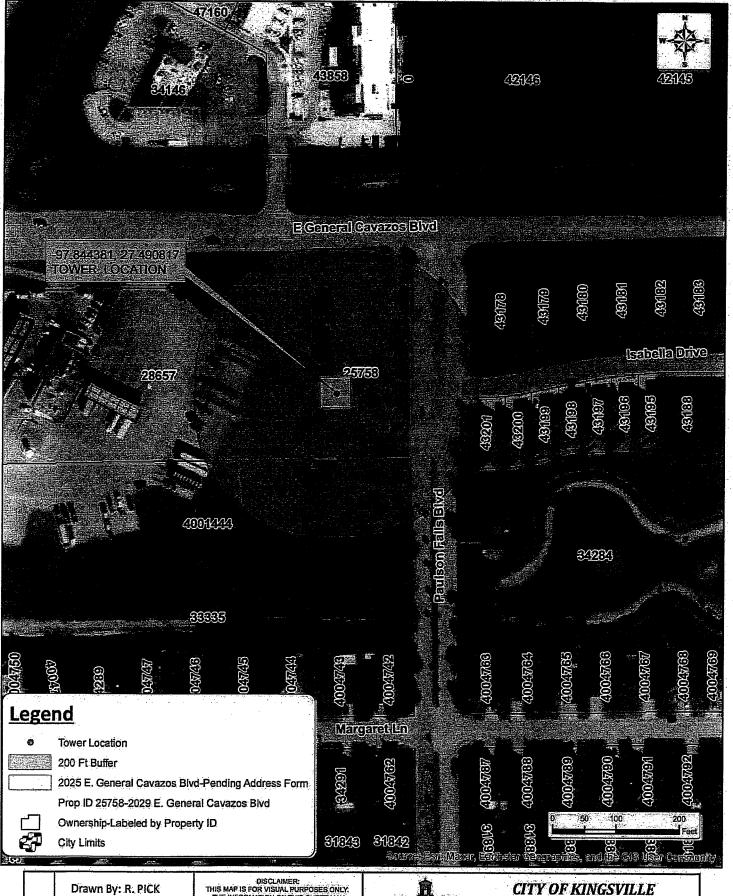
**SECTION 2.** That the Special Use Permit granted in Section 1 of this Ordinance is subject the following conditions:

- 1. ALLOWED USE: The only use authorized by this Special Use Permit is for the development and operation of a wireless telecommunications monopole tower (hereafter referred to as the "Special Permit Business") in C4-Commercial District at Paulson's Sub, Lot B, also known as 1025 E. General Cavazos, Kingsville, Texas (Property ID 25728).
- 2. TIME LIMIT: This Special Permit is good for the duration of the Special Permit Business from the date of this ordinance **unless** (a) the property is not being used for the purpose outlined in Condition 1, or (b) any other conditions have not been complied with.
- 3. <u>SPECIAL CONDITION</u>: (3.1) The applicant shall obtain all required licenses for operating the Special Permit Business and permits as applicable for building, fire and health thereby meeting all adopted codes to operate said Special Permit Business, and shall cooperate with all annual fire safety, health, and sanitation inspections, in order to maintain compliance with federal, state, and city regulations for such a structure/use at the location. (3.2) All activity on site shall be in complete compliance with all City codes, especially the telecommunications, nuisance, fire, building and zoning codes. (3.3) The applicant shall install and maintain a brick or masonry 8-foot fence. (3.4) The applicant shall install and maintain landscaping at the site.
- **SECTION 3.** That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendments to the Zoning Ordinance made by Section 1 of this ordinance.
- **SECTION 4.** That the Zoning Ordinance and Zoning Map of the City of Kingsville, Texas, as amended from time to time, except as changed by this ordinance and any other ordinances adopted on this date, remain in full force and effect.
- **SECTION 5.** That to the extent that these amendments to the Zoning Ordinance represent a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.
- **SECTION 6.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.
- **SECTION 7.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

**INTRODUCED** on this the <u>28<sup>th</sup></u> day of <u>April</u>, 2025.

PASSED AND APPROVED on this t	he <u>12<sup>th</sup> day of May</u> , 2025.
EFFECTIVE DATE:	
THE CITY OF KINGSVILLE	
Sam R. Fugate, Mayor	-
ATTEST:	
Mary Valenzuela, City Secretary	
APPROVED AS TO FORM:	
By:	
Courtney Alvarez, City Attorney	-

# 200-FT Buffer at 2500 SF Leased Area



Page:

Last Update: 3/18/2025

Note: Ownership is labeled with its Prop ID.

DISCLAIMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY.
THE INFORMATION ON THIS SHEET MAY
CONTAIN INACCURACIES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IF THE INFORMATION
CONTAINED HERBIN SUSED FOR ANY
DESIGN, CONSTRUCTION, PLANNING, BUILDING,
OR ANY OTHER PURPOSE.



## CITY OF KINGSVILLE ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064

# **AGENDA ITEM #9**

# City of Kingsville Human Resources Department

TO:

**Mayor and City Commissioners** 

CC:

Charles Sosa, Interim City Manager

FROM:

Diana Gonzales, HR Director

DATE:

April 17, 2025

SUBJECT:

All-Risk Property Insurance Renewal

#### **Summary:**

This item authorizes the City to continue with Texas Municipal League Intergovernmental Risk Pool (TMLIRP) for all-risk property insurance coverage, except for windstorm, for May 1, 2025 to September 30, 2025 at a cost of \$61,802. This policy covers fire, flood, earthquake, lightning and equipment breakdowns.

The renewal premium includes a 9% rate increase, 3% inflation factor to both building and contents. The City's total insured values are approximately \$64,701,493 which includes TMLIRP's additional 3% for inflationary factors.

The policy period is for five (5) months, which will bring the all-risk policy with TMLIRP to the same renewal schedule as the City's other coverages of vehicles and mobile equipment. Starting October 1, 2025, all policies with TMLIRP will have the same effective dates which will provide the city with accurate numbers for budgetary purposes.

See attached Schedule of Values (SOV).

#### **Background:**

The City approved TMLIRP as the carrier for the City's all-risk insurance policy, with the exclusion of windstorm, in April 2024.

TMLIRP is an intergovernmental risk-sharing partnership and currently serves over 2,500 members including cities, housing authorities, fire and emergency services districts and council of governments. TMLIRP provides a means for cities and other local governments to protect themselves from the fluctuations of the commercial insurance market and ensure long-range stability for coverage and costs.

TMIRP is governed by a Board of Trustees comprised of elected and appointed officials from local governments participating in the programs and Citizen Members who are recognized in their field and who possess particular expertise to aid the Board in governing the Funds. The Board works

# City of Kingsville Human Resources Department

on behalf of all Fund Members, overseeing the Funds' commitment to quality service and financial stability.

### **Financial Impact:**

The cost of all-risk property insurance, apart from windstorm coverage, is approximately \$61,802.

Property Insurance premiums are budgeted in the Pre-paid Liability account and subsequently charged to specific lines items in the different funds ending in 33501. The increase costs for the all-risk policies is to be funded with the savings realized from the decrease in the windstorm insurance policies.

**Recommendation:** Continue with TMLIRP to provide All Risk Property Insurance Coverage, except for windstorm coverage, for partial policy year May 1, 2025 – September 30, 2025.

		Вох	ank																								ation/Storage	0						
	Occupancy	2008 Signal Lights and Control Box	1984 1M Gal Elevated Water Tank	7 Fence	0 230KW Generator w/ATS	7 Brookshire Pool House	Storage Building #7	S S Plant I IV Shed	4 Golf Clubbouse	4 Golf Cart Shop	8 Lab/Office	0 250KW Generator w/ATS		2010 Restroom - Socret Field	O Socrer Field Rleachers	O Dusout #8	2000 Restroom	1970 Concession/Restroom	1970 Dilgolit #4	1970 Dugout #7	1970 Dugout #2	1970 Storage	1970 Pressbox	1970 Dugout #6	1970 Covered Seating #2	1970 Dugout #6	1980 Maintenance Bldg/Lift Station/Storage	2010 Generator 275kw	2008 Lift Station Building	0 250KW Generator	1980 Radio Tower #2	2000 Equipment Storage/South	1972 Public Works Dept	1998   aw Encorcement Contor
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Member ID ID Address Line 1	e 1	# of Stories	Roof S	Square	enter a contraction		÷	
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8955 65 2602 S 6th St	th St	0		324	661344	38500		2008 Pirmphoise/Well#23/Telemetry/Chlorington
95	Caesar	0	-		5062			1994 Fence
	ing Ave	0			0	1341400		IT Asserts
	condido Rd	0		22	3550			1970 Radio Tower Storage #3
	condido Rd	0		200	1614	0		1970 Digout #3
	Kenedy	0			1987			1962 Fence
	lwy 77	0	_	2143	361900	20000		1988 Tourism Office
	Lee	0			00006			0 275kw Generator
	St	0			50828	0		2008 Signal Lights and Control Roy
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	ondido Rd	0		400	50979			1950 Restroom #2
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8955 151 501 E Escondido Rd	ondido Rd	0		200	1614		1970	1970 Dugout #2
	lve C	0		324	55000	28040	1996	1996 Pilm House/Water Well/Telemetter/Chledianter
8955 68 2602 S 6th St	th St	0			7088		2008	2008 Fence
8955 9 1100 E Ge	1100 E General Cavazos	0	L		163620		2002	2002 212k Gallon Ground Mater Tank
97	ng Ave	33	-	23910	5260206	1250000	2013	City Hall
71	2801 E Santa Gertrudis Dr.	0		009	125000	0	2015	Large Equipment Storage Shed
	2130	0	-	9843	540100		2005	Heavy Foliament Shed/Storage
	ondido Rd	0		1000	6883		1970	1970 Covered Seating #2
134	ondido Rd	0		200	1936		1970	1970 Covered Seating #1
	eberg Ave	0	-	300	25312	0	2004	2004 Bandstand (Pavilion)
30	nd Kenedy St	0			150000	0	2010	2010 85k Gal Ground Water Tank
	e Rd	0			87000		C	250KW Generator w/ATC
	condido	0	-	5500	11300		2014	Metal Storage Ruilding
	ng Ave	0		3296	702900	10000	2017	2017 Cottage Building
	ondido Rd	0	-	1000	75000		2010	2010 Restroom #1
- 1	ondido Rd	0	-	2500	88046	ō	1970 Shon	choo
	ondido Rd	0		192	36652	312000	2002	800mx Equipment Building
	ondido Rd	0		200	1506	0	1970	Dugout #3
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8922	160	501 E Escondido Rd	0		Ιğ	18	0		2007 Pavilion #5
8955	180	180 May St	0			10500	30000		2000 Lift Station
8955	182	182 Sage and Hwy 77	0			263000	25000		Lift Station
8955			0			2632	123483	2001	2001 Portable Enclosure/(2) Ammonia Tanks
8955			0			66150	20000		1979 Lift Station
8955			0			170973	0	1980	1980 Radio Tower #2
8955	77	1300 E Corral	0	2	2562	137500	0	1992	1992 Equipment Storage/North
8955	92	1300 E Corral	0		009	100000	0		2008 Fuel Station w/Canopy
8955	8	133 W Ave C	0			87000	0		230KW w/ATS
8955	45	200 E Kleberg	1	13	13188	2813800	384540	1960	1960 Municipal Building
8955	23	202A W Lee	0	2	2625	964700	145000	1960	1960 Police Annex Building
8955	61	251 N 6th St	0	2	2500	60750	0	2012	2012 Covered Pavilion
8955	67	2602 S 6th St	0		36	1721	0	2008	2008 Portable Polymer Building
8955	69	2602 S 6th St	0			87000	0	0	250KW Generator
8955	75	2801 E Santa Gertrudis Dr.	0	Ä	1085	178200	35000		1965 Office/Break Room
8955	9/	2801 E Santa Gertrudis Dr.	0		216	13200	10000		1970 N Plant Chemical Storage Bldg
8955	83	309 N 6th St	0		160	1924	0		1985 Storage Building #1
8955	88	348 E CR 2130	0		200	293425	30000		1992 Weigh Station Office
8955	93	93 3rd and Caesar	0		403	254584	303463		1994 Pump House/Water Well/Chlorinator
8955	101	101 485 Santiago Park Ln	0	1(	1000	40332	0	1970	1970 BBQ Building
8955	106	106 501 E Escondido Rd	0	•	009	20000	0	1959	1959 Concession/Pressbox #2
8955	110	110 501 E Escondido Rd	0	47	200	20000	0	1966	1966 Concession/Pressbox #3
8955	117	117 501 E Escondido Rd	0	)	009	81277	0	1980	1980 Concessions/Restroom/Pressbox
8955	123	501 E Escondido Rd	0		_	104947	0	1970	1970 Ballfield Fence/Lights/Score Board
8955	133	501 E Escondido Rd	0	. `	200	1614	0	1970	1970 Dugout #1
8922		501 E Escondido Rd	0	15	1970	1828	0	1970	1970 Covered Seating #4
8955	141	501 E Escondido Rd	0	,,	200	3764	0	1970	1970 Covered Seating #2
8955	147	501 E Escondido Rd	0		200	1506	0	1970	1970 Dugout #1
8955	164	164 5th and Ave C	0			5265	0	1996 Fence	ence
8955	167	167 6th and Henrietta	0	13	1350	220000	76810	1967	1967 Pump House/Water Well/Telemetry/Chlorinator
8922	169	169 701 N 6th St	0			50828	0	2008	2008 Signal Lights and Control Box
8955	172	Carlos Truan	0			10500	30000	2000	2000 Lift Station
8955	179	179 Kenedy and Armstrong	0			1511561	0006	1956	1956 500k Gal Elevated Tank/Telemetry
8955	186	186 Various Locations	0			331088	0	2012	2012 Wastequip Dumpsters (600 units)

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Vear Built Occumence	0	2012 Morgan Tool Shed	1955 Central Fire Station	2010 Water Well #24/Telemetry	1965 N Plant Blower Building	1970 Covered Seating #1	0 230KW Generator w/ATS	O Stationary Siren	2010 Polymer Building	2017 Fence		1977 N Plant	1995 Heavy Equipment Shed	1970 Dugant #4	1070 Cugout #4	25/0 Dugout #5	1070 A -: 1 E -:	1970 Animal Sherter	1951 2M Gal Ground Water Tank (Well 21)	2010 Restroom - Soccer Field	1970 Covered Seating #3	0 Cyclone Replace for 1GPM Sewer	2008 Polymer Building	2001 Portable Building	1970 Storage	1970 Radio Tower Storage #1	1970 Dugout #1	2005 Heavy Farrinment Shed	1970 Shed	1988 S Plant Blower Building	1966 Concession/Presshox #4	1970 Dugout #5	1950 Fire Station #2	1967 Fence	2007 Train Depot
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20 12th and Kenedy St	enedy St	0			1511561	0006	1956	1956 500k Gal Flevated Tank/Telemetry
27 1300 E Corral	ral	0		2500	110000	100000	2022	2022 Recycling Building
37 1519 E Kenedy	nedy	0			7971		2017	2017 Fence
43 17th and Lee	Lee	0			57485		2010	2010 Generator 275kw
89 348 E CR 2130	2130	0	Γ		00009	0	2005	2005 Scales
91 348 E CR 2130	2130	0	Γ		10000	0	2005	2005 Catwalk
3 501 E Esc	113 501 E Escondido Rd	O		200	30867	0	2000	2000 Restroom
1 501 E Esc	114 501 E Escondido Rd	0	Γ	100	53000	C	2014 Pier	Dier
5 501 E Es	146 501 E Escondido Rd	0		1000	6883		2010	2010 Covered Cesting #1
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3 501 E Es	158 501 E Escondido Rd	0	T	200	10000	0	2007	2007 Pavilion #3
173 Carlos Truan	ruan	0	T		27000	C	C	0 Stationary Siren
175 FM 1717	7	0	T		75938			Generator 150km
General	176 General Cavazos and 6th St	0	T		150000	0	1975	1975 RAP Gal Ground Water Tonk
South Cr	183 South Creek Subdivision	0	T		10500	30000	2000	2000 lift station
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\$ 62,825,721 \$ 1,884,772 \$ 64,710,493

TMLIRP Inflationary Factor 3%

# **AGENDA ITEM #10**

# City of Kingsville Human Resources Department

TO:

**Mayor and City Commissioners** 

CC:

Charles Sosa, Interim City Manager

FROM:

Diana Gonzales, HR Director

DATE:

April 17, 2025

SUBJECT:

Windstorm & Hail Insurance

#### **Summary:**

This item authorizes the City of Kingsville to enter into a contract with Victor Insurance Managers LLC, 500 Dallas, Suite 1400, Houston, Texas 77002 for Windstorm & Hail Coverage including named storms for May 1, 2025 to April 30, 2026.

See Attachment 1 - Schedule of Values (SOV) totaling \$53,632,031.

### **Background:**

Victor Insurance Managers, LLC (Victor) sought proposals for windstorm coverage from different carriers. Victor received 30 responses, which included several companies declining to quote. See Attachment 2 – Market Responses from Carriers.

#### **Financial Impact:**

Quote for Windstorm coverage under Victor Insurance Managers, LLC is \$326,714 annually for May 1, 2025 – April 30, 2026. This is a decrease of \$55,677. See Victor insurance Managers, LLC premium breakdown in Attachment 3 – Proposal Summary.

Property Insurance premiums are budgeted in the Pre-paid Liability account and subsequently charged to specific line items in the different funds ending in 33501.

#### Recommendation:

After discussion with Interim City Manager, Staff recommends proceeding with Option 1 provided by Victor Insurance Managers, LLC, which utilizes the following carriers to provide windstorm and named storm insurance coverage:

<u>Carrier</u>	<u>Premium</u>
TWIA	\$ 18,075
Lexington (LEAD)	\$ 108,299
Spectrum	\$ 55,854
CORE	\$ 54,281
Markel	\$ 30,243
RSUI	\$ 59,962
Total	\$ 326,714

A Hachment 1

Flood Zone FEMA Flood# 48273C030SE 48273C030SE 48273C011SE 48273CO305E 48273CO115E 48273CO115E 48273C009SE pase 1012 1,520,561 1,520,561 778,446 2,576,306 558,047 335,400 175,700 ,046,344 150,000 150,000 Total TV BI Value Other Value \$75,000 \$75,000 \$75,000 \$50,000 \$50,000 \$31,512 \$40,332 20 S 88888 Cont. Value \$396,500 \$250,000 \$250,000 \$0 \$303,463 \$9,000 \$9,000 \$168,000 \$280,400 \$385,000 \$30,000 \$76,810 S \$610,448 \$2,576,306 \$254,584 \$220,000 \$150,000 Values \$293,425 \$150,000 \$361,900 \$151,875 Ş ဒ္ဓ Updates 2013 2019 2019 2019 2022 Open Market Schedule 05/01/2025-05/01/2026 15299 1085 2562 7395 324 3150 200 20064 1350 507 324 909 1955 1977 2010 1959 1960 1966 1966 1970 2000 2000 Stories 2801 E Santa Gertrudis Dr 2801 E Santa Gertrudis Dr 2801 E Santa Gertrudis Dr 1300 E Corral 1300 E Corral 5th And Ave C E Santa Gertrudis Dr 20000 FM 1717 1100 E General Cavazos 1100 E General Cavazos 348 E CR 2130
348 E CR 2130
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501 E Escondido Rd 12th and Kenedy St 3rd and Caesar 6th And Henrietta 1131 W Kenedy 20000 FM 1717 20000 FM 1717 3421 N FM 1355 1501 N Hwy 77 Equipment Storage/South
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500k gal Elevated Tank/Telemetry
500k gal Elevated Tank/Telemetry
Fump House/Water Well/Booster Pump/Telem
1M gal Elevated Water Tank
Pump House/Water Well/Booster 84k gal Ground Storage Tank
Heavy Equipment Shed
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Heavy Equipment Shed
Pumphouse/Weil #23frelemetry/Chlorinator
85K gal Ground Water Tank Kingsville Fire Dept Training Ctr Entire Water Well #24/Telemetry 85k gal Ground Water Tank S Plant Sewer Pump Station S Plant Blower Building
N Plant UV Shed
N Plant Blower Building
Office/Break Room S Plant Sewer Treatment Restroom - Soccer Field Concession/Pressbox # 1 Restroom # 1 Equipment Storage/North Concession/Pressbox #2 Concession/Pressbox # 3 Concession/Pressbox #4 City Hall Cottage Building Central Fire Station S Plant UV Shed Animal Shelte Tourism Office Generator800kw Train Depot Restroom #2 BBC Building 196 237 237 238 240 246 247 88 **8** 0 9673077 9673079 9673085 9673106 9673107 9673108 9673105

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# A Hachment 2

# Market Responses from Carriers

AmRisc: unable to compete with target pricing and would need updated roof information to consider

Arrowhead: declined due to construction and distance to the coast

Aspen: unable to compete; would need over \$250K premium to consider primary terms

AXA XL: would need over \$500K premium to consider primary terms

Axis: Excess only due to location

Beazley: declined; unable to compete with incumbent terms/pricing

Catalytic: declined due to heavy outdoor property and ancillary structures

CoAction: decline as few of the items and construction types are not in appetite for South TX

CrossCover: declined, not currently targeting wind/hail only coverage Ethos: would need a minimum 5% wind/hail deductible to consider

Helix: indicated \$105K premium (plus taxes and fees) for \$15M  $\times$  \$10M layer

Intact: declined due to Named Storm exposure

Ironshore: declined, outside of appetite

James River: Excess only, unable to compete with current pricing

Kinsale: indicated \$100K premium (plus taxes and fees) for \$15M x \$10M  $\,$ 

Lancashire: indicated over \$250K to consider a primary

Munich Re: indicated \$150K premium (plus taxes and fees) for  $$15M \times $10M$ Navigators: indicated \$10M primary starting at \$350K with limited capacity

Palomar: outside of appetite (single peril and Tier 1 location) Paragon: Excess only, unable to compete with current pricing Risk Smith: Excess only, unable to compete with currently pricing Rivington: indicated \$100K+ (plus taxes and fees) for excess

RLI: excess only Sompo: excess only

TRIUM: declined; unable to compete with incumbent terms/pricing Velocity: declined; unable to compete with incumbent terms/pricing

Ventus: declined due to heavy ancillary exposure Westchester/Chubb: declined; unable to compete Westfield: would need \$400K+ premium for \$10M limit

Zurich E&S: declined due to size

Attachment 3

City of Kingsville Proposal Summary 05/01/2025-05/01/2026

Based on TIV: 653 633 034 Dan 6-1-1-1-1		ð	05/07/2025-05/01/2026		
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	Option 1-Expiring	\$25M Open Market I is	mite & 3% Doduntihis Car	Option 1-Expiring \$25M Oben Market I imits 2:3% Dodington Co.	
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		9/25.55	\$5,000,000	Named Storm: 3% Per Location, \$100K Min. / All Other Wind/Hall:	
RSU	\$15,000,000 - Excess of \$10,000 nnn	700.00		1% Per Location, \$100K Min.	\$30,243.00
	200/200/20	00.07	\$10,000,000.00	Named Storm: 3% Per Location, \$100K Min. / All Other Wind/Hail:	
				1% Per Location, \$100K Min.	\$59,962.00
					•

TWILL         Layer         Participation         Limits-Total Exposure         Limits-Total Exposure         Limits-Total Exposure         TWILL         ST0,000,000 - Primary / \$1M Wind Driven         Total Cost         Total Cost           Lexington (LEAD)         \$10,000,000 - Primary / \$1M Wind Driven         \$5,000,000         \$5,000,000         1% Per Location, \$100K Min. I All Other Wind/Hait:         \$18,075,00           Spectrum         \$10,000,000 - Primary         \$2,000,000         \$2,500,000         Named Storm: 3% Per Location, \$100K Min. I All Other Wind/Hait:         \$55,85,854,00           CORE         \$10,000,000 - Primary         \$2,500,000         Named Storm: 3% Per Location, \$100K Min. I All Other Wind/Hait:         \$55,854,00           Markel         \$15,000,000 - Excess of \$10,000,000         66,67%         \$10,000,000         Named Storm: 3% Per Location, \$100K Min. I All Other Wind/Hait:         \$54,281,00           Lloyd's         Wind Deductible Buy Back         \$10,000,000 to Named Storm: 3% Per Location, \$100K Min. I All Other Wind/Hait:         \$59,952,00           Lloyd's         Wind Deductible Buy Back         \$10,000,000 to Named Storm: 3% Per Location, \$100K Min. I All Other Wind/Hait:         \$59,952,00           Loyd's         Wind Deductible Buy Back         Lowers NS Deductible from 3% Per Location ito 2% Per Storm: 3,000K Min. I All Other Wind/Hait:         \$55,600,00	Carrier				n Markot 1% Dodinatiki mana	
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TWIA			\$4.214.000	1% Per Item / Minimum S1 000 Par Item	\$18 075 00
Lexington (LEAD)	\$10,000,000 - Primary / \$1M Wind Driven Rain Sublimit Included	50.00%	\$5,000,000	Named Storn: 3% Per Location, \$100K Min. / All Other Wind/Hail: 1% Per Location, \$100K Min.	\$126,392.00
Spectrum	\$10,000,000 - Primary	25.00%	\$2,500,000	Named Storm: 3% Per Location, \$100K Min. / All Other Wind/Hail: 1% Per I nealion, \$100K Min.	\$65,032.00
CORE	\$10,000,000 - Primary	25.00%	\$2,500,000	Named Storm: 3% Per Location, \$100K Min. / All Other Wind/Hait: 1% Per Location, \$100K Min.	\$63,458.00
Markol	\$15,000,000 - Excess of \$10,000,000	33.33%	\$5,000,000	Named Storm: 3% Per Location, \$100K Min. J. All Other Wind/Hail: 1% Per Location, \$100K Min.	\$35,487.00
RSUI	\$15,000,000 - Excess of \$10,000,000	66.67%	\$10,000,000.00	Named Storm: 3% Per Location, \$100K Min. / All Other Wind/Hail: 1% Per Location, \$100K Min.	\$73,947.00
			•		\$382,391.00

Option Statement Children Option 1, 2 or 3);

By accepting this proposal, you acknowledge and understand that (1) a mininum policy premium may apply, (2) you have met all eligibility requirements regarding flood coverage at certain locations and (3) you have reviewed the windstorm location schedules and are in ogreement with the locations and limits used in this proposal.

Signature of Authorized Official:

I, the undersigned, as an authorized representative of: City of Kingsville do hereby accept on behalf of the above-named political subdivision the portions of the proposal as indicated above.

Date:	
<u>ا</u>	
Tit	

# **AGENDA ITEM #11**

### RESOLUTION NO. 2025-

A RESOLUTION OF THE CITY OF KINGSVILLE, TEXAS PROVIDING FOR THE CITY TO BECOME A MEMBER OF THE AMERICAN FLOOD COALITION.

**WHEREAS,** the City of Kingsville recognizes the importance of flood prevention awareness, education, and mitigation;

**WHEREAS**, the American Flood Coalition is committed to driving transformational adaptation to protect communities from higher seas, stronger storms, and more frequent flooding, and

WHEREAS, proactively investing to prevent flooding is a wiser use of resources than spending on flooding recovery, as exemplified by FEMA research showing that \$1 of spent on disaster prevention saves up to \$7 in recovery costs, and

**WHEREAS**, national coordination and support are necessary for communities to fully address the challenge of flooding, and the American Flood Coalition provides a platform advocating for national solutions to flooding that invest in and protect our communities, and

**WHEREAS**, the American Flood Coalition is a no-cost forum for best practices and a source of support in developing local and state-level responses to flooding that will enhance the City's resilience effort, and

**WHEREAS**, flooding is an important issue that our residents deserve to understand and the American Flood Coalition provides opportunities and tools to communicate with residents on flooding challenges and solutions, and

**WHEREAS**, joining the American Flood Coalition will aid the City's efforts to protect against flooding without requiring any financial support or dues from the Kingsville City Commission, and

**WHEREAS**, the City is working on millions of dollars of storm water drainage improvement projects throughout town using various General Land Office grants;

**WHEREAS**, the Kingsville City Commission finds that joining the American Flood Coalition will promote the welfare of Kingsville residents and ensure the prosperity of the City's economy by accelerating solutions to flooding, and

NOW,	THEREFORE,	BE	IT	<b>RESOLVED</b>	BY	THE	<b>KINGSVILLE</b>	CITY
COMM	IISSION:							

1.

**THAT** the City of Kingsville, acting through its governing body, hereby recognizes the need to advance national solutions to flooding and will join and work as a member of the American Flood Coalition to safeguard the welfare of Kingsville residents.

II.

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

Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

PASSED AND APPROVED this 28th day of April, 2025.

# **AGENDA ITEM #12**

# City of Kingsville Engineering Dept.

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Rutilio P. Mora Jr, P.E., City Engineer

DATE:

April 28, 2025

SUBJECT:

Consider Approving Construction Contract to Mor-Wil LLC for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 Project 3 – E. Caesar Ave. Storm Water

**Improvements** 

### **Summary:**

Bid 25-11 Project 3 was awarded on April 14,2025, we are requesting the construction contract be awarded in the amount of \$7,026,961.60.

## **Background:**

We received approval to award the fifth GLO CDBG-MIT Hurricane Harvey State Mitigation Competition Round 1 grant. Project 3 – E. Caesar Ave. Storm Water Improvements is a critical component of the city's flood management infrastructure upgrades. This project includes the installation of 4,406 linear feet of reinforced concrete culvert, 5 inlets, and related appurtenances to improve stormwater drainage and reduce future flood risks. The project will be completed within 420 consecutive calendar days after giving the Notice to Proceed.

This project was advertised in the local newspaper on February 13<sup>th</sup> and 20<sup>th</sup> and city's website. Sealed bids for Bid No. 25-11 (Project 3) were received prior to the deadline of March 18, 2025, at 2:00pm and read out loud, from two bidders:

- 1. Mor-Wil LLC, Mission, Texas
- 2. CK Newberry LLC, Karnes City, Texas

The base bids range from \$6,051,030.20 to \$6,397,455.00. Alternate No. 1 bids range from \$975,931.40 to \$936,125.00. The total bids range from \$7,026,961.60 to \$7,333,580.00. After review, staff recommends awarding the project to the lowest bidder, Mor-Wil LLC, for the total base bid amount of \$7,026,961.60. Also, the bid is 30% below the engineer's estimate which is considered reasonable.

## **Financial Impact:**



# City of Kingsville Engineering Dept.

Project 3 will be funded by the General Land Office Hurricane Harvey Mitigation Grant (Fund 122) in the amount of \$7,026,961.60.

## **Recommendation:**

Staff recommendations.

- 1. Approving Construction Contract between City and Mor-Will LLC in the amount \$7,026,961.60.
- 2. Authoring the Interim City Manager to sign the Construction Contract.

### **Attachments:**

**Construction Contract** 



RESOLUTION	l #2025-
------------	----------

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT WITH MOR-WIL LLC FOR THE GLO CDBG-MIT CONTRACT 22-085-009-D237 PROJECT 3: E. CAESAR AVE. STORM WATER IMPROVEMENTS; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Kingsville (City) intends to make some storm water improvements through a General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) Program via Contract #22-085-009-D237 Project 3: E. Caesar Ave. Storm Water Improvements (from 18<sup>th</sup> St. to 240 ft. east of 24<sup>th</sup> St.) and went out for bids via Bid #25-11 which was advertised on February 13<sup>th</sup> & 20<sup>th</sup>, 2025;

**WHEREAS**, the two bids were received by the March 18, 2025 deadline that were responsive to Bid #25-11 and after reviewing the bid submittals staff and the outside engineer (ICE) recommended the bid be awarded to the low bidder, which was Mor-Wil LLC, from Mission, Texas (Vendor);

**WHEREAS**, the City awarded Bid#25-11 to Vendor at a Commission meeting on April 14, 2025 for a total amount of \$7,026,961.60 and 420 consecutive calendar days from the Notice to Proceed;

WHEREAS, the City and Vendor worked to prepare a contract for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 3: E. Caesar Ave. Storm Water Improvements and the parties both agree to the terms of the proposed contract for the base bid (\$6,051,030.20) and for alternate no. 1 (\$975,931.40), which together is a total amount of \$7,026,961.60;

**WHEREAS**, staff is recommending the City Commission approve the construction contract with vendor as presented for a total amount of \$7,026,961.60 with a contract time of 420 calendar days;

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

L

**THAT** the City Commission of the City of Kingsville, Texas to approves and authorizes the Interim City Manager to execute the Construction Contract for General Land Office (GLO) Community Development Block Grant (CDBG) - Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 3: E. Caesar Ave. Storm Water Improvements between the City of Kingsville, Texas and Mor-

Wil LLC, from Mission, Texas as per staff recommendation and in accordance with Exhibit A hereto attached and made a part hereof.
11.
<b>THAT</b> all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.
III.
<b>THAT</b> this Resolution shall be and become effective on and after adoption.
PASSED AND APPROVED by a majority vote of the City Commission on the 28th day of April , 2025.
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

# **CONSTRUCTION CONTRACT**

THIS AGREEMENT made this the _28th day ofApr organized and existing under the laws of the State of _1 hereinafter called the "City"	ril , <u>2025</u> , by and between <u>Mor-Wil, LLC.</u> ( <i>a corporation</i> Fexas) hereinafter called the "Contractor", and City of Kingsville
WITNESSETH, that the Contractor and the City for the co	onsiderations stated herein mutually agree as follows:
machinery, tools, equipment and services, including utility required for the construction of the Improvements embra AVE.) STORM WATER IMPROVEMENTS (CDBG-MIT) Development Block Grant – Mitigation (CDBG-MIT) projections	Ill furnish all supervision, technical personnel, labor, materials, y and transportation services, and perform and complete all work aced in the Project; namely, (GLO SW PROJECT 3 (E. CAESAR GLO CONTRACT NO. 22-085-009-D237) for the Community ect, all in strict accordance with the contract documents including d N/A and N/A, all as prepared by International Consulting preparation, referred to as the "Engineer".
	ontractor for the performance of the Contract in current funds, for s stipulated in the Bid for the several respective items of worked in the Total Bid \$7,026,961.60 hereof.
ARTICLE 3. The Contract. The executed contract docum	nents shall consist of the following components:
a. This Agreement (pgs. 1-3)	f. General Conditions, Part I
b. Addenda	g. Special Conditions
c. Invitation for Bids	h. Technical Specifications
d. Instructions to Bidders	i. Drawings (as listed in the Schedule of Drawings)
e. Signed Copy of Bid	j. [Add any applicable documents]
consecutive calendar days thereafter. The date of col	2025, and Contractor shall complete the WORK within 420 mpletion of all WORK is thereforeJuly 26 <sup>th</sup> ,
part of the Contract as if hereto attached or herein repeat that any provision in any component part of this Contract	ted in this ARTICLE 3, which said other documents are as fully a sted, forms the Contract between the parties hereto. In the event conflicts with any provision of any other component part, the RTICLE 3 shall govern, except as otherwise specifically stated.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in <u>triplicate</u> original copies on the day and year first above written.

Mor-Wil, LLC. 808 S. Shary Rd., Ste. 5, PMB 274	-	
Mission, Tx. 78572		
By Prisciliano Gracia		
Title Owner		
FOR CITY		
	_	
City Of Kingsville		•
400 West King Ave., 78363		
P.O. Box 1458		
Kingsville, TX 78364		
By <u>Charlie Sosa</u>		
Title Interim City Manager	_	
FOR CONTRACTOR		
Corporate Certifications		
	_, certify that I am the of the c who signed this Agreement on behal	
corporation by authority of its governing	who signed this Agreement on behal aid corporation; that said Agreement was duly s body, and is within the scope of its corporate pow	igned for and in behalf of saiders.
Corporate		
Seal	(Corporate Secretary)	

FOR CONTRACTOR

# **AGENDA ITEM #13**

(E. Carlos Truen Blud. to to 18th St.)

## City of Kingsville Engineering Dept.

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Rutilio P. Mora Jr, P.E., City Engineer

DATE:

April 28, 2025

SUBJECT:

Consider Approving Construction Contract to Mor-Wil LLC for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 Project 5 – E. Caesar Ave. Storm Water

**Improvements** 

## **Summary:**

Bid 25-12 Project 5 was awarded on April 14,2025, we are requesting the construction contract be awarded in the amount of \$3,420,657.39.

## **Background:**

We received approval to award the sixth GLO CDBG-MIT Hurricane Harvey State Mitigation Competition Round 1 grant. Project 5 – E. Caesar Ave. Storm Water Improvements is a critical component of the city's flood management infrastructure upgrades. This project includes the installation of 1,698 linear feet of reinforced concrete culvert, 5 inlets, and related appurtenances to improve stormwater drainage and reduce future flood risks. The project will be completed within 360 consecutive calendar days after giving the Notice to Proceed.

This project was advertised in the local newspaper on February 13<sup>th</sup> and 20<sup>th</sup> and city's website. Sealed bids for Bid No. 25-12 (Project 5) were received prior to the deadline of March 18, 2025, at 2:00pm and read out loud, from two bidders:

- 1. Mor-Wil LLC, Mission, Texas
- 2. CK Newberry LLC, Karnes City, Texas

The base bids range from \$840,911.45 to \$1,632,451.00. Alternate No. 1 bids range from \$205,846.54 to \$678,430.00. Alternate No. 2 bids range from \$2,373,889.40 to \$2,422,815.00. The total bids range from \$3,420,657.39 to \$4,733,696.00. After review, staff recommends awarding the project to the lowest bidder, Mor-Wil LLC, for the total base bid amount of \$3,420,657.39. Also, the bid is 18% below the engineer's estimate which is considered reasonable.



## **Financial Impact:**

Project 5 will be funded by the General Land Office Hurricane Harvey Mitigation Grant (Fund 122) in the amount of \$3,420,657.39.

## **Recommendation:**

Staff recommendations.

- 1. Approving Construction Contract between City and Mor-Wil LLC in the amount \$3,420,657.39.
- 2. Authoring the Interim City Manager to sign the Construction Contract.

#### **Attachments:**

**Construction Contract** 



A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT WITH MOR-WIL LLC FOR THE GLO CDBG-MIT CONTRACT 22-085-009-D237 PROJECT 5: E. CAESAR AVE. STORM WATER IMPROVEMENTS; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Kingsville (City) intends to make some storm water improvements through a General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) Program via Contract #22-085-009-D237 Project 5: E. Caesar Ave. Storm Water Improvements (from E. Carlos Truan Blvd. to 18<sup>th</sup> St.) and went out for bids via Bid #25-12 which was advertised on February 13<sup>th</sup> & 20<sup>th</sup>, 2025;

**WHEREAS**, the two bids were received by the March 18, 2025 deadline that were responsive to Bid #25-12 and after reviewing the bid submittals staff and the outside engineer (ICE) recommended the bid be awarded to the low bidder, which was Mor-Wil LLC, from Mission, Texas (Vendor);

**WHEREAS**, the City awarded Bid#25-12 to Vendor at a Commission meeting on April 14, 2025 for a total amount of \$3,420,657.39 and 360 consecutive calendar days from the Notice to Proceed;

WHEREAS, the City and Vendor worked to prepare a contract for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 5: E. Caesar Ave. Storm Water Improvements and the parties both agree to the terms of the proposed contract for the base bid (\$840,911.65) and for alternates no. 1 (\$205,846.54) & 2 (\$2,373,889.40), which together is a total amount of \$3,420,657.39;

**WHEREAS**, staff is recommending the City Commission approve the construction contract with vendor as presented for a total amount of \$3,420,657.39 with a contract time of 360 calendar days;

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

I.

**THAT** the City Commission of the City of Kingsville, Texas to approves and authorizes the Interim City Manager to execute the Construction Contract for General Land Office (GLO) Community Development Block Grant (CDBG) - Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 5: E. Caesar Ave. Storm Water Improvements between the City of Kingsville, Texas and Mor-

Wil LLC, from Mission, Texas as per staff recommendation and in accordance with Exhibit A hereto attached and made a part hereof.
II.
<b>THAT</b> all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.
III.
<b>THAT</b> this Resolution shall be and become effective on and after adoption.
PASSED AND APPROVED by a majority vote of the City Commission on the
Sam R. Fugate, Mayor
ATTEST
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

## **CONSTRUCTION CONTRACT**

THIS AGREEMENT made this the <u>28<sup>th</sup></u> day of organized and existing under the laws of the S hereinafter called the "City"	April , <u>2025</u> , by and between <u>Mor-Wil, LLC.</u> ( <i>a corporation tate of <u>Texas</u></i> ) hereinafter called the " <i>Contractor</i> ", and <u>City of Kingsville</u>
WITNESSETH, that the Contractor and the City	for the considerations stated herein mutually agree as follows:
machinery, tools, equipment and services, inclured for the construction of the Improvement AVE.) STORM WATER IMPROVEMENTS (Construction (CDBG-Indication) (C	actor shall furnish all supervision, technical personnel, labor, materials, ding utility and transportation services, and perform and complete all work at sembraced in the Project; namely, (GLO SW PROJECT 5 (E. CAESAR DBG-MIT GLO CONTRACT NO. 22-085-009-D237) for the Community WIT) project, all in strict accordance with the contract documents including, dated _N/A_ and _N/A_, all as prepared by International Consulting cuments preparation, referred to as the "Engineer".
the total quantities of work performed at the t	pay the Contractor for the performance of the Contract in current funds, for unit prices stipulated in the Bid for the several respective items of work as provided in the Total Bid \$3,420,657.39 hereof.
ARTICLE 3. The Contract. The executed contra	act documents shall consist of the following components:
a. This Agreement (pgs. 1-3)	f. General Conditions, Part I
b. Addenda	g. Special Conditions
c. Invitation for Bids	h. Technical Specifications
d. Instructions to Bidders	i. Drawings (as listed in the Schedule of Drawings)
e. Signed Copy of Bid	j. [Add any applicable documents]
commence on or before June 2 <sup>nd</sup> consecutive calendar days thereafter. The da 2026  This Agreement, together with other documents part of the Contract as if hereto attached or her	dance with the Contract dated April 28 <sup>th</sup> , 2025, shall 1, 2025, and Contractor shall complete the WORK within 360 ate of completion of all WORK is therefore May 27 <sup>th</sup> , enumerated in this ARTICLE 3, which said other documents are as fully a rein repeated, forms the Contract between the parties hereto. In the event is Contract conflicts with any provision of any other component part, the
provision of the component part first enumerated	d in this ARTICLE 3 shall govern, except as otherwise specifically stated.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in <u>triplicate</u> original copies on the day and year first above written.

Mor-Wil, LLC.		
808 S. Shary Rd., Ste. 5, PMB 274		
Mission, Tx. 78572		
By Prisciliano Gracia		
Title Owner	<del>_</del>	
	_	
FOR CITY		
City Of Kingsville		
400 West King Ave., 78363		
P.O. Box 1458		
Kingsville, TX 78364		
By <u>Charlie Sosa</u>		
Title Interim City Manager	<u></u>	
FOR CONTRACTOR		
TORGONTRACTOR		
Corporate Certifications		
I,herein; that	, certify that I am the of the who signed this Agreement on beha	corporation named as Contractor  If of the Contractor was then
of	f said corporation; that said Agreement was duly s	signed for and in behalf of said
corporation by authority of its governi	ing body, and is within the scope of its corporate pow	/ers.
Cornorate	•	
Corporate Seal	(Corporate Secretary)	

FOR CONTRACTOR

# **AGENDA ITEM #14**

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Rutilio P. Mora Jr, P.E., City Engineer

DATE:

April 28, 2025

SUBJECT:

Consider Approving Construction Contract to D&J Utility Services LLC for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 Project 10 – N. Armstrong St.

Storm Water Improvements

## **Summary:**

Bid 25-13 Project 10 was awarded on April 14,2025, we are requesting the construction contract be awarded in the amount of \$1,087,788.00.

## **Background:**

We are seeking approval to award the seventh GLO CDBG-MIT Hurricane Harvey State Mitigation Competition Round 1 grant. Project 10 – N. Armstrong St. Storm Water Improvements is a critical component of the city's flood management infrastructure upgrades. This project includes the installation of 310 linear feet of reinforced concrete culvert, 15 curb inlets with throat extension, and related appurtenances to improve stormwater drainage and reduce future flood risks. The project will be completed within 180 consecutive calendar days after given the Notice To Proceed.

This project was advertised in the local newspaper on February 13<sup>th</sup> and 20<sup>th</sup> and city's website. Sealed bids for Bid No. 25-13 (Project 10) were received prior to the deadline of March 18, 2025, at 2:00pm and read out loud, from three bidders:

- D&J Utility Services LLC, Sinton, Texas
- 2. Mor-Will LLC, Mission, Texas
- 3. CK Newberry LLC, Karnes City, Texas

The base bids range from \$489,440.00 to \$1,097,565.00. Alternate No. 1 bids range from \$453,918.00 to \$655,019.40. The total bids range from \$1,087,788.00 to \$1,551,483,00. After review, staff recommends awarding the project to the lowest bidder, D&J Utility Services LLC, for the total base bid amount of \$1,087,788.00. Also, the bid is 17% below the engineer's estimate which is considered reasonable.



## **Financial Impact:**

Project 10 will be funded by the General Land Office Hurricane Harvey Mitigation Grant (Fund 122) in the amount of \$1,087,788.00.

### **Recommendation:**

Staff recommendations.

- 1. Approving Construction Contract between City and D&J Utility Services LLC in the amount \$1,087,788.00.
- 2. Authoring the Interim City Manager to sign the Construction Contract.

#### **Attachments:**

**Construction Contract** 



RESOLUTION #2025-	
-------------------	--

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT WITH D&J UTILITY SERVICES LLC FOR THE GLO CDBG-MIT CONTRACT 22-085-009-D237 PROJECT 10: N. ARMSTRONG AVE. STORM WATER IMPROVEMENTS; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Kingsville (City) intends to make some storm water improvements through a General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) Program via Contract #22-085-009-D237 Project 10: N. Armstrong Ave. Storm Water Improvements (from Corral Ave. to Santa Gertrudis Ave.) and went out for bids via Bid #25-13 which was advertised on February 13<sup>th</sup> & 20<sup>th</sup>, 2025;

**WHEREAS**, the three bids were received by the March 18, 2025 deadline that were responsive to Bid #25-13 and after reviewing the bid submittals staff and the outside engineer (ICE) recommended the bid be awarded to the low bidder, which was D&J Utility Services LLC, from Sinton, Texas (Vendor);

**WHEREAS**, the City awarded Bid#25-13 to Vendor at a Commission meeting on April 14, 2025 for a total amount of \$1,087,788.00 and 180 consecutive calendar days from the Notice to Proceed;

**WHEREAS**, the City and Vendor worked to prepare a contract for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 10: N. Armstrong Ave. Storm Water Improvements and the parties both agree to the terms of the proposed contract for the base bid (\$489,440.00) and for alternate no. 1 (\$598,348.00), which together is a total amount of \$1,087,788.00;

**WHEREAS**, staff is recommending the City Commission approve the construction contract with vendor as presented for a total amount of \$1,087,788.00 with a contract time of 180 calendar days;

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

ĺ.

**THAT** the City Commission of the City of Kingsville, Texas to approves and authorizes the Interim City Manager to execute the Construction Contract for General Land Office (GLO) Community Development Block Grant (CDBG) - Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 10: N. Armstrong Ave. Storm Water Improvements between the City of Kingsville, Texas and D&J Utility Services LLC, from Sinton, Texas as per staff

recommendation and in accordance with Exhibit A hereto attached and made a part hereof.
II.
<b>THAT</b> all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.
III.
<b>THAT</b> this Resolution shall be and become effective on and after adoption.
PASSED AND APPROVED by a majority vote of the City Commission on the 28th day of April , 2025.
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

## **CONSTRUCTION CONTRACT**

	the laws of the State of <u>Texas</u> ) hereinafter called the "Contractor", and <u>City or</u>
WITNESSETH, that the Contractor and th	e City for the considerations stated herein mutually agree as follows:
machinery, tools, equipment and services required for the construction of the Impartment ARMSTRONG ST.) STORM WATER IMCOmmunity Development Block Grant – Mincluding all addenda thereto, numbered	Contractor shall furnish all supervision, technical personnel, labor, materials, including utility and transportation services, and perform and complete all work provements embraced in the Project; namely, (GLO SW PROJECT 10 (NIPROVEMENTS (CDBG-MIT GLO CONTRACT NO. 22-085-009-D237) for the litigation (CDBG-MIT) project, all in strict accordance with the contract documents N/A, dated N/A, all as prepared by Internationa these contract documents preparation, referred to as the "Engineer".
the total quantities of work performed at	by will pay the Contractor for the performance of the Contract in current funds, for the <i>unit prices</i> stipulated in the Bid for the several respective items of work tions as provided in <u>the Total Bid \$1,087,788.00</u> hereof.
ARTICLE 3. The Contract. The executed	contract documents shall consist of the following components:
a. This Agreement (pgs. 1-3)	f. General Conditions, Part I
b. Addenda	g. Special Conditions
c. Invitation for Bids	h. Technical Specifications
d. Instructions to Bidders	i. Drawings (as listed in the Schedule of Drawings)
e. Signed Copy of Bid	j. [Add any applicable documents]
commence on or beforeJune 2 <sup>nd</sup>	accordance with the Contract dated <u>April 28<sup>th</sup></u> , <u>2025</u> , shall, <u>2025</u> , and Contractor shall complete the WORK within <u>180</u> e date of completion of all WORK is therefore <u>November 29<sup>th</sup></u> ,
part of the Contract as if hereto attached that any provision in any component part	ments enumerated in this ARTICLE 3, which said other documents are as fully a or herein repeated, forms the Contract between the parties hereto. In the event tof this Contract conflicts with any provision of any other component part, the herated in this ARTICLE 3 shall govern, except as otherwise specifically stated.
<b>IN WITNESS WHEREOF</b> , the parties here day and year first above written.	eto have caused this Agreement to be executed in <u>triplicate</u> original copies on the

FOR CONTRACTOR		,	
D & J Utility Services LLC			
113 Candlelite Ln			
Sinton, Tx 78387			
By _David Flores Jr and Jeffrey B	urkhead		
Title Owners			
FOR CITY			
City Of Kingsville			
400 West King Ave., 78363			
P.O. Box 1458			
Kingsville, TX 78364			
By <u>Charlie Sosa</u>			
Title Interim City Manager			
FOR CONTRACTOR			
Corporate Certifications			
I,	, certify that I am the	of the co	rporation named as Contracto
herein; that corporation by authority of its gover	who signed this of said corporation; that said rning body, and is within the sco	Agreement was duly sig	ned for and in behalf of said
Cornerate			
Corporate			
Seal	(Corporate Secre	tary)	

# **AGENDA ITEM #15**

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Rutilio P. Mora Jr, P.E., City Engineer

DATE:

April 28, 2025

SUBJECT:

Consider Approving Change Order No. 2 (CO-2) for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 – Project 2: N. 19<sup>th</sup> Street Storm Water Improvements

Project

## **Summary:**

We seek approval of Change Order No. 2 (CO-2) ) for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 – Project 2: N. 19<sup>th</sup> Street Storm Water Improvements Project. There was an error in the wage rate schedule for this project. A highway classification was used instead of a heavy classification and the change order is to correct the error. There are no funds needed for this change order as it is being corrected administratively. There is also a request for additional time to the project due to manufacturing delays for an additional 60 calendar days.

## GLO Change Order No. 2 - Contract Time

Description	Calendar Days
Reinforced Concrete Box – lead time	60
Deviced Contract Time	21F Colondor Dove

Revised Contract Time 315 Calendar Days

#### **Background:**

GLO Change Order No. 1 Total

(\$0.07)

## GLO Change Order No. 1 – Contract Time

Description	Calendar Days
Reinforced Concrete Box – lead time	75

Revised Contract Amount and Time

\$1,630,840.89 and 255 Calendar Days



On October 28, 2024, the City Commission approved to award the construction contract in the amount of \$1,630,804.89. The contract time is 180 calendar days.

This project was advertised in the local newspaper and on the city's website on August 22<sup>nd</sup> and 29<sup>th</sup>. Sealed bids for Bid No. 24-19 (Project 2) were received prior to the deadline of September 17, 2024, at 2:00pm and read out loud, from three bidders:

- 1. R.S. Parker Construction LLC, Corpus Christi, Texas
- 2. JE Construction Services, Corpus Christi, Texas
- 3. PM Construction & Rehab LLC, Pasadena, Texas

The base bids range from \$1,630,804.89 to \$2,623,783.00. After careful evaluation, the staff recommends awarding the contract to the lowest bidder, R.S. Parker Construction LLC, for \$1,630,804.89.

## **Financial Impact:**

No financial impact.

#### **Recommendation:**

Staff recommends approving Change Order No. 2 (CO-2) for CDBG-MIT Contract No. 22-085-009-D237 – Project 2: N. 19<sup>th</sup> Street Storm Water Improvements Project to correct the wage rate schedule to heavy classification and add 60 calendar days to the contract time.

#### Attachments:

Highway classification – wage rate schedule Heavy classification – wage rate schedule Change Order No. 2 ACT Pipe and Supply Letter – Lead Time Delay R.S Parker Const. Project Delay Start Request No. 2





March 10, 2025

To Whom It May Concern:

Project: CITY OF KINGSVILLE GLO SW PROJECT 2 (N. 19TH ST.)

The lead time on Reinforced Concrete Boxes has been and is even more extensive than expected. While the orders were placed and lay schedules were approved months ago, the current projected completion date for the RCB portion of this project is Mid-May with estimated delivery dates starting May 15th. These boxes will be delivered as produced, as not all will be able to be delivered at once.

This is an estimate, and can potentially move forward. The winter season was extensive and had many production days where temperatures fell below what is suitable for production. There has even been a shortage of RCP in some degrees which is not typically an issue. As soon as we can get material here and on the ground, we will. And all parties are putting their best foot forward to move this project along in an efficient and timely manner.

If you have any questions, please do not hesitate to contact me. My email is cjames@actpipe.com and cell 832-588-4421. Thank you for your time and consideration to this matter.

> Respectfully, Casey James **Outside Sales**

## R. S. Parker Construction, LLC.

455 Hereford Rd.

Corpus Christi, TX 78408

Phone: 361-289-0222 Fax: 361-289-2413

## Project Delay Start Request

March 10th, 2025

ATTN: Martin Medrano, Charlie Cardenas, Rudy Mora

Re: City of Kingsville GLO SW Project 2 (N. 19th Street) Storm Water Improvements

The purpose of this letter is to request an additional 60 day delay to the start of the City of Kingsville GLO SW Project 2 (N. 19<sup>th</sup> Street) Storm Water Improvements project. R. S. Parker Construction is requesting this delay due to further delays associated with the delivery of materials required to start and complete the proposed work. Specifically, the issue regarding the production of the reinforced concrete boxes is unresolved at the manufacturer, with the latest estimated delivery date estimated to be mid-May. As such, R.S. Parker Construction is requesting a further 60-Day delay to the start of .Project 2 until May 12th, with an equal delay to the proposed project end-date, to October 11<sup>th</sup>, 2025. Thank you for your understanding and consideration.

If you have any questions please contact Rodney Parker on his cell 361-533-1307 or Derek Parker on his cell 361-960-1662.

Respectfully Submitted, Rodney S. Parker/Derek Parker HUB Contractor #: 1943428306500 "General Decision Number: TX20240088 01/05/2024

Superseded General Decision Number: TX20230088

State: Texas

Construction Type: Heavy

Counties: Bee, Colorado, Fayette, Gonzales, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Refugio and Wharton Counties in Texas.

HEAVY CONSTRUCTION PROJECTS (Including Water and Sewer Lines; does not include Flood Control)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an |. The contractor must pay option is exercised) on or after January 30, 2022:

- . Executive Order 14026 generally applies to the contract.
- all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.

If the contract was awarded on . or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:

- Executive Order 13658 generally applies to the contract.
- The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

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Modification Number

Publication Date 01/05/2024

#### SUTX2009-125 04/21/2009

		Rates	Fringes
CEMENT MAS	ON/CONCRETE FINISHER	.\$ 13.00 **	0.00
LABORER:	Common or General	.\$ 9.11 **	0.00
LABORER:	Pipelayer	.\$ 13.75 **	0.00
OPERATOR:	Backhoe/Trackhoe	.\$ 13.25 **	0.00
OPERATOR:	Bulldozer	.\$ 14.25 **	0.00
OPERATOR:	Loader (Front End)	.\$ 11.13 **	0.00
TRUCK DRIV	ER	.\$ 10.49 **	0.24

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at

https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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

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and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

#### WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations Wage and Hour Division U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION"

"General Decision Number: TX20240027 01/05/2024

Superseded General Decision Number: TX20230027

State: Texas

Construction Type: (Highway)

Counties: Bee, Blanco, Burnet, Colorado, De Witt, Fayette, Frio, Gillespie, Gonzales, Jackson, Jim Wells, Karnes, Kerr, Kleberg, Lavaca, Lee, Live Oak, Llano, Mason, Matagorda, Refugio and Wharton Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:

- Executive Order 14026 generally applies to the contract.
- The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:

- Executive Order 13658 generally applies to the contract.
- The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker

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protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number

Publication Date 01/05/2024

Fringes

SUTX2011-008 08/03/2011

CONCRETE FINISHER (Paving and Structures). \$ 13.04 **  FORM BUILDER/FORM SETTER     Paving & Curb. \$ 12.54 **     Structures. \$ 12.98 **  LABORER     Asphalt Raker. \$ 12.05 **     Concrete Saw. \$ 17.33     Flagger. \$ 9.71 **     Laborer, Common. \$ 10.45 **     Laborer, Utility. \$ 11.80 **     Pipelayer. \$ 12.66 **     Work Zone Barricade     Servicer. \$ 12.20 **  POWER EQUIPMENT OPERATOR:     Asphalt Distributor. \$ 15.62 **     Asphalt Paving Machine. \$ 14.68 **     Asphalt Roller. \$ 12.36 **
Paving & Curb
Asphalt Raker\$ 12.05 ** Concrete Saw\$ 17.33 Flagger\$ 9.71 ** Laborer, Common\$ 10.45 ** Laborer, Utility\$ 11.80 ** Pipelayer\$ 12.66 ** Work Zone Barricade Servicer\$ 12.20 **  POWER EQUIPMENT OPERATOR: Asphalt Distributor\$ 15.62 ** Asphalt Paving Machine\$ 14.68 ** Asphalt Roller\$ 12.36 **
Asphalt Distributor\$ 15.62 ** Asphalt Paving Machine\$ 14.68 ** Asphalt Roller\$ 12.36 **
Broom or Sweeper Operator\$ 11.41 ** Crane, Hydraulic 80 ton or less\$ 18.04 Crawler Tractor\$ 13.15 ** Excavator over 50,000 lbs\$ 18.80 Foundation Drill Operator, Truck Mounted\$ 20.20
Front End Loader 3 cu yd or less\$ 12.64 ** Front End Loader over 3 cu
yd
Motor Grader, Fine Grade\$ 18.35 Motor Grader, Rough\$ 16.44 ** Pavement Marking Machine\$ 14.60 ** Roller, Asphalt\$ 12.36 ** Roller, other\$ 10.59 ** Scraper\$ 11.88 ** Spreader Box\$ 13.84 **
Servicer\$ 14.31 **
Steel Worker (Reinforcing)\$ 12.74 **
TRUCK DRIVER  Lowboy-Float\$ 16.39 **  Single Axle\$ 13.40 **  Single or Tandem Axle Dump  Truck\$ 11.45 **  Tandfem Axle Tractor with  semi trailer\$ 16.22 **

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\_\_\_\_\_

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

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in 2.) and 3.) should be followed.

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Administrative Review Board U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION"

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE CHANGE ORDER NO.2 FOR THE CONSTRUCTION CONTRACT WITH R.S. PARKER CONSTRUCTION LLC FOR THE GLO CDBG-MIT CONTRACT 22-085-009-D237 PROJECT 2: N. 19<sup>TH</sup> STREET- STORM WATER IMPROVEMENTS PROJECT; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Kingsville (City) intends to make some sanitary sewer improvements through a General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 2: N. 19<sup>th</sup> Street- Storm Water Improvements Project and went out for bids via BID #24-19 which was advertised on August 22<sup>nd</sup> & 29<sup>th</sup>, 2024;

**WHEREAS**, three bids were received on September 17, 2024 responsive to BID #24-19 and after reviewing the bid submittals staff and the outside engineer (ICE) recommended the bid be awarded to the low bidder, which was R.S. Parker Construction LLC, from Corpus Christi, Texas (Vendor);

**WHEREAS**, the City awarded BID#24-19 to Vendor at a Commission meeting on October 15, 2024 for a total amount of \$1,630,804.89;

WHEREAS, the City and Vendor worked to prepare a contract for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 2: N. 19<sup>th</sup> Street Storm Water Improvements Project; the parties both agreed to the terms of the proposed contract for a total amount of \$1,630,804.89 with a contract time of 180 calendar days, which was approved by City Commission on October 28, 2024 via Resolution #2024-85;

WHEREAS, the total award and the contract price showed a minor difference due to a clerical error so an increase of \$0.07 was proposed and 75 additional days were requested due to delays in receiving materials (reinforced concrete boxes) for the project that are beyond the control of the Vendor, and these changes were approved by City Commission on February 24, 2025 via Resolution #2025-24 authorizing Change Order No.1 for a new total contract price of \$1,630,804.96 and a new contract time of 255 calendar days;

WHEREAS, there have been additional delays beyond the control of the Vendor for the delivery of the reinforced concrete boxes for this project so an additional 60 days has been requested for the contract time period, also the wage schedule rate needs to be changed from a highway classification to a heavy classification, which requires Change Order No.2 that would result in no change to the total contract price of \$1,630,804.96 and a new contract time of 315 calendar days;

BE IT RESOLVED I	y the Cit	y Commission	of the C	ity of Kingsville	Texas:
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1.

**THAT** the City Commission approves and the Interim City Manager is authorized and directed as an act of the City of Kingsville, Texas to execute Change Order No.2 for the Construction Contract for General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 2: N. 19<sup>th</sup> Street -Storm Water Improvements Project between the City of Kingsville, Texas and R.S. Parker Construction LLC as per staff recommendation and in accordance with Exhibit A hereto attached and made a part hereof.

II.

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

III.

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

PASSED AND APPROVED by a 28th day of April , 2025.	majority vote of the City Commission on the
Sam R. Fugate, Mayor	
ATTEST:	
Mary Valenzuela, City Secretary	
APPROVED AS TO FORM:	

Courtney Alvarez, City Attorney



### **COMMUNITY DEVELOPMENT & REVITALIZATION**

#### The Texas General Land Office

Construction Change Order Request

NOTE: Texas Local Government Code Sec. 262.031 "CHANGES IN PLANS AND SPECIFICATIONS" regulations apply. Generally, a cumulative <u>increase</u> in the contract price in excess of 25% or a cumulative <u>decrease</u> in excess of 18% are disallowed.

Subrecipient	City of Kingsville	GLO Contract Number: 22-085-009-D237			Date:	4/15/2025		
Engineer	Name Address & Phone	Subrecipient N	lame, Address, & Phone Number:	Contractor Nar	ne, Addres	ss & Phone Number:		
261 Saratog	nal Consulting Engineers  Oga Blvd.  risti, TX 78417  City of Kingsville 400 W. King Ave. Kingsville, TX 78363		R.S. Parker Construction 455 Hereford Rd. Corpus Christi, TX 78408 361-289-0222					
Project #:	SW 2 (N. 19th St)	Bid Package #:	1	Change Order #:		2		
Contract Orig	ntract Origination Date 10/28/2024 Project Description:			Drainage improvements				
			ith the following changes from the c	contract plans and	specificati	ons.		
Item No.	Description of Changes:	Quantities, Units, Unit	Unit Prices, Change in Completion to.	Decrease in Contra	act Price	Increase in Contract Price		
	_		7 Highway published 1/05/2024 8 Heavy published 1/05/2024	N/A		N/A		
					-			
		-						
	· · · · · · · · · · · · · · · · · · ·							
						·.		
·	See sheet 2 to add additional entries							
	nge in Construction Contra			in Contract Time (Ca		ays)		
Original Con	stract Price: \$1,630,804.89	) 	Original Conti	ract Time in Days: 1	180			
Cumulati Change Ord	ve Previous 0 der(s) Total:		Net Change from Previous Change	e Order(s) in Days 7	75			
	rice Prior to \$1,630 ange Order:	,804.96	Contract Time Prior to this Cha	nge Order in Days		255		
Net Increase	_	0 :	Net Increase/Decrease of this Char	nge Order in Days:		60		



## **COMMUNITY DEVELOPMENT & REVITALIZATION**

## The Texas General Land Office

Construction Change Order Request

Contract Price with All Approved Change Orders:	Change		Contract Time with All Approved Change O			ders in 315 Days:	
Cumulative Percent Change in Contract Price (+/-)		·		Subrecipient (	Contract End Da		
Construction Contract Start Date:	1/2/2025			Construction (	Contract End Da	te: 11/13/202	25
*This document may be amendm	executed prior t	o submission for	GLO-CDR review,	te order are subject but all parties invote in compliance v	olved will be he	ld responsible	-
Subrecipient Sign	nature		Engineer Signature	)		Contractor Sig	nature
Sam Fugate, M	ayor	Juan Carlos	Cardenas, PE, Ser	ior Engineer	Rodney S. Parker, President		
Subrecipient Nam and	Fitle (Printed)	Enginee	r Name and Title (	Printed)	Contra	ctor Name and	Title (Printed)
Subrecipient Sign	nature	1	Engineer Signature	•		Contractor Sig	nature
Justification for Change C  1. Will this change order in  If there is a change,	ncrease or decre			Total	☐ Increase	[Decrease	☑ No Change
2. Effect of this change on				Total	☐ Increase	 Decrease	✓ No Change
Effect on operation and maintenance costs:					Increase	Decrease	☑No Change
4. Are all prices in the cha If "no", explain:	nge order deper	ndent upon unit pr	ices found in the c	rigina! bid?	✓ Yes	E No	
5. Has the change created the project's impact, such construction?					☐ Yes	E No	
If "yes", is an environmenta	al assessment r	equired?					<del></del>



## COMMUNITY DEVELOPMENT & REVITALIZATION

#### The Texas General Land Office

Construction Change Order Request

<ul><li>6. Is the Texas Council on Environmental Quality (TCEQ) clearance still valid (if applicable)?</li><li>7. Is the CCN permit still valid? (sewer projects only)</li></ul>	✓ Yes ✓ Yes	□ No	
<ul><li>8. Are the disability access requirements/approval still valid (if applicable)?</li><li>9. Are other Disaster Recovery contractural special condition clearances still valid?</li></ul>	✓ Yes ✓ Yes	[ No	
If "no", explain:	·	·	

Disclaimer: The Texas General Land Office has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the Texas General Land Office assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the Texas General Land Office's standard review and update schedule.

# **AGENDA ITEM #16**

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Rutilio P. Mora Jr, P.E., City Engineer

DATE:

April 28, 2025

SUBJECT:

Consider Approving Change Order No. 1 (CO-1) for the General Land Office

(GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract

No. 22-085-009-D237 - Project 6: Carlos Truan Blvd - Storm Water

Improvements Project

#### **Summary:**

We are seeking approval of Change Order No. 1 (CO-1) for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 – Project 6: Carlos Truan Blvd - Storm Water Improvements Project. There was an error in the wage rate schedule for this project. A highway classification was used instead of a heavy classification and the change order is to correct the error. There are no funds needed for this change order as it is being corrected administratively.

## **Background:**

Construction contract in the amount of \$149,124.00 was approved by City Commission on October 28, 2024. The contract time is 120 calendar days.

This project was advertised in the local newspaper on August 22<sup>nd</sup> and 29<sup>th</sup> and city's website. Sealed bids for Bid No. 24-20 (Project 6) were received prior to the deadline of September 17, 2024, at 2:00pm and read out loud, from five bidders:

- 1. R.S. Parker Construction LLC, Corpus Christi, Texas
- 2. JE Construction Services, Corpus Christi, Texas
- 3. PM Construction & Rehab LLC, Pasadena, Texas
- 4. RXDX, Sinton, Texas
- 5. Donald Hubert Construction Co., Kingsville, Texas

The base bids ranged from \$149,124.00 to \$450,146.00. After review, staff recommends awarding the project to the lowest bidder, Donald Hubert Construction Co., for the base bid amount of \$149,124.00.



## **Financial Impact:**

No financial impact.

### Recommendation:

Staff recommends approving Change Order No. 1 (CO-1) for CDBG-MIT Contract No. 22-085-009-D237 – Project 6: Carlos Truan Blvd - Storm Water Improvements Project to correct the wage rate schedule to heavy classification.

### **Attachments:**

Highway classification – wage rate schedule Heavy classification – wage rate schedule Change Order No. 1



"General Decision Number: TX20240088 01/05/2024

Superseded General Decision Number: TX20230088

State: Texas

Construction Type: Heavy

Counties: Bee, Colorado, Fayette, Gonzales, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Refugio and Wharton

Counties in Texas.

HEAVY CONSTRUCTION PROJECTS (Including Water and Sewer Lines; does not include Flood Control)

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If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:

- Executive Order 14026 generally applies to the contract.
- The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:

- Executive Order 13658 generally applies to the contract.
- . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number

Publication Date 01/05/2024

SUTX2009-125 04/21/2009

		Rates	Fringes
CEMENT MAS	SON/CONCRETE FINISHER	13.00 **	0.00
LABORER:	Common or General	9.11 **	0.00
LABORER:	Pipelayer	13.75 **	0.00
OPERATOR:	Backhoe/Trackhoe\$	3 13.25 **	0.00
OPERATOR:	Bulldozer	5 14.25 **	0.00
OPERATOR:	Loader (Front End)\$	3 11.13 **	0.00
TRUCK DRIN	/ER	10.49 **	0.24

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

#### WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
- an existing published wage determination
- a survey underlying a wage determination
- a Wage and Hour Division letter setting forth a position on a wage determination matter
- a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

> Branch of Construction Wage Determinations Wage and Hour Division U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

> Wage and Hour Administrator U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

> Administrative Review Board U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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

END OF GENERAL DECISION"

"General Decision Number: TX20240027 01/05/2024

Superseded General Decision Number: TX20230027

State: Texas

Construction Type: Highway

Counties: Bee, Blanco, Burnet, Colorado, De Witt, Fayette, Frio, Gillespie, Gonzales, Jackson, Jim Wells, Karnes, Kerr, Kleberg, Lavaca, Lee, Live Oak, Llano, Mason, Matagorda, Refugio and Wharton Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

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protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number

Publication Date 01/05/2024

Fringes

SUTX2011-008 08/03/2011

	Rates
CONCRETE FINISHER (Paving and Structures)	\$ 13.04 **
FORM BUILDER/FORM SETTER Paving & Curb	5 12.54 ** 5 12.98 **
LABORER Asphalt Raker	5 12.05 **
FlaggerLaborer, Common	9.71 ** 10.45 **
Pipelayer Work Zone Barricade Servicer	12.66 **
POWER EQUIPMENT OPERATOR: Asphalt Distributor	
Asphalt Paving Machine	14.68 ** 12.36 **
Broom or Sweeper Operator Crane, Hydraulic 80 ton or less	18.04
Crawler Tractor Excavator over 50,000 lbs Foundation Drill Operator,	18.80
Truck Mounted Front End Loader 3 cu yd or less	
Front End Loader over 3 cu yd Loader/Backhoe	13.58 **
Mechanic	14.35 ** 18.35
Motor Grader, Rough\$ Pavement Marking Machine\$ Roller, Asphalt\$	14.60 ** 12.36 **
Roller, other\$ Scraper\$ Spreader Box\$	11.88 **
Servicer\$	14.31 **
Steel Worker (Reinforcing)\$	12.74 **
TRUCK DRIVER Lowboy-Float\$ Single Axle\$	
Single or Tandem Axle Dump Truck\$ Tandfem Axle Tractor with	
semi trailer\$	16.22 **

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Superseded General Decision Number: TX20230027

State: Texas

Construction Type: (Highway)

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LABORER Asphalt Raker	17.33 9.71 ** 10.45 ** 11.80 **
Pipelayer	
POWER EQUIPMENT OPERATOR: Asphalt Distributor	14.68 **
Broom or Sweeper Operator Crane, Hydraulic 80 ton or less Crawler Tractor	11.41 **
Excavator over 50,000 lbss Foundation Drill Operator, Truck Mounteds Front End Loader 3 cu yd	18.80
or less Front End Loader over 3 cu	
yd	13.58 **
Milling Machine	18.35
Pavement Marking Machine Roller, Asphalt Roller, other Scraper	14.60 ** 12.36 ** 10.59 ** 11.88 **
Spreader Box	
Steel Worker (Reinforcing)	12.74 **
TRUCK DRIVER Lowboy-FloatSingle Axle	
Single or Tandem Axle Dump Truck Tandfem Axle Tractor with semi trailer	

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#### WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
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END OF GENERAL DECISION"

F	RES	O	L	J٦	ΓΙΟ	N	#2025	-
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A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE CHANGE ORDER NO.1 FOR THE CONSTRUCTION CONTRACT WITH DONALD HUBERT CONSTRUCTION CO. FOR THE GLO CDBG-MIT CONTRACT 22-085-009-D237 PROJECT 6: CARLOS TRUAN BLVD. STORM WATER IMPROVEMENTS PROJECT; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Kingsville (City) intends to make some sanitary sewer improvements through a General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 6: Carlos Truan Blvd. Storm Water Improvements Project and went out for bids via BID #24-20 which was advertised on August 22<sup>nd</sup> & 29<sup>th</sup>, 2024;

**WHEREAS**, five bids were received on September 17, 2024 responsive to BID #24-20 and after reviewing the bid submittals staff and the outside engineer (ICE) recommended the bid be awarded to the low bidder, which was Donald Hubert Construction Co. from Kingsville, Texas (vendor);

**WHEREAS**, the City awarded BID#24-20 to Vendor at a Commission meeting on October 15, 2024 for a total amount of \$149,124.00;

WHEREAS, the City and Vendor worked to prepare a contract for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 6: Carlos Truan Blvd. Storm Water Improvements Project and the parties both agreed to the terms of the proposed contract for a total amount of \$149,124.00 with a contract time of 120 calendar days, which was approved by City Commission on October 28, 2024 via Resolution #2024-87;

**WHEREAS**, the wage schedule rate needs to be changed from a highway classification to a heavy classification, which requires approval of Change Order No.1 that would result in no change to the total contract price of \$149,124.00 and no change in the contract time of 120 calendar days;

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

I.

THAT the City Commission approves and the City Manager is authorized and directed as an act of the City of Kingsville, Texas to execute Change Order #1 for the Construction. Contract for General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 6: Carlos Truan Blvd. Storm Water Improvements Project

between the City of Kingsville, Texas and Donald Hubert Construction Co. as per staff recommendation and in accordance with Exhibit A hereto attached and made a part hereof.
II.
<b>THAT</b> all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.
III.
<b>THAT</b> this Resolution shall be and become effective on and after adoption.
PASSED AND APPROVED by a majority vote of the City Commission on the 28th day of April , 2025.
Sam R. Fugate, Mayor
ATTEST:

Mary Valenzuela, City Secretary

Courtney Alvarez, City Attorney

APPROVED AS TO FORM:



## The Texas General Land Office

Construction Change Order Request

NOTE: Texas Local Government Code Sec. 262.031 "CHANGES IN PLANS AND SPECIFICATIONS" regulations apply. Generally, a cumulative <u>increase</u> in the contract price in excess of 25% or a cumulative <u>decrease</u> in excess of 18% are disallowed.

Subrecipient	City of Kingsville	GLO Contract I	Number: 22-085-009-D237	Da	te: 4/15/2025
Engineer	Name Address & Phone	Subrecipient N	lame, Address, & Phone Number:	Contractor Name, Add	Iress & Phone Number:
261 Saratog	ti, TX 78417		City of Kingsville 400 W. King Ave. Kingsville, TX 78363 361-595-8040	P.O. I Kingsvile	rt Construction 30x 84 TX 78363 92-9593
Project #:	SW 6 (E. Carlos Truan Blvd	) Bid Package #:	1.	Change Order #:	1
Contract Orig	·	28/2024	Project Description	: Drainage in	nprovements
	You are hereby requ	ested to comply w	ith the following changes from the	contract plans and specific	cations.
Item No.	Description of Changes:	Quantities, Units, U	Unit Prices, Change in Completion tc.	Decrease in Contract Price	e Increase in Contract Price
			7 Highway published 1/05/2024 8 Heavy published 1/05/2024	N/A	N/A
:					
		e P			
	<u> </u>		<u> </u>		
			sheet 2 to add additional entries		
	ange in Construction Contra	ICE Price		in Contract Time (Calenda	r Days) .
Original Cor	ntract Price: \$149,124.00		Original Con	tract Time in Days: 120	
	ve Previous 0 der(s) Total:		Net Change from Previous Chang	ge Order(s) in Days 0	
	rice Prior to \$149,	124.00	Contract Time Prior to this Cha	ange Order in Days	120
Net Increase of this Cha	e/Decrease ange Order:	0	Net Increase/Decrease of this Cha	nge Order in Days:	0



# The Texas General Land Office

Construction Change Order Request

Contract Price with All Approved Change Orders:			Contract Time with All Approved Change Order Da		s in 120 lys:		
Cumulative Percent Change in Contract Price (+/-)	0			Subrecipient	Contract End Da	1/31/2027 ite:	
Construction Contract Start Date:	1/2/2025			Construction	Contract End Da	5/2/2025 ite:	
*This document may be amendm	executed prior to	o submission for	uded in this change GLO-CDR review, b change order is no	out all parties inv	olved will be he	ld responsible i	_
Subrecipient Sig	nature		Engineer Signature			Contractor Sign	nature
Sam Fugate, N	layor	Juan Carlos	Cardenas, PE, Sen	or Engineer	Do	nald W. Hubert,	President
Subrecipient Nam and	Title (Printed)	Enginee	r Name and Title (F	Printed)	Contra	ctor Name and	Title (Printed)
						· · · · · · · · · · · · · · · · · · ·	
Subrecipient Sig	nature	<u>.</u>	Engineer Signature			Contractor Sign	nature
Justification for Change C  1. Will this change order in  If there is a change,  2. Effect of this change or  3. Effect on operation and  4. Are all prices in the chall if "no", explain:	ncrease or decre how many bene the scope of wo	ficiaries will be af rk: sts:	fected?	Total [ iginal bid?	☐ Increase ☐ Increase ☐ Increase ☐ Yes	Decrease  LMI Decrease Decrease No	☑ No Change ☑ No Change ☑ No Change
5. Has the change created the project's impact, such construction?					☐ Yes	Ū No	
If "yes", is an environment	al assessment re	equired?					



## The Texas General Land Office

Construction Change Order Request

6. Is the Texas Council on Environmental Quality (TCEQ) clearance still valid (if applicable)?	V	Yes		No		
7. Is the CCN permit still valid? (sewer projects only)	· 🗸	Yes	Ε	No		
8. Are the disability access requirements/approval still valid (if applicable)?	V	Yes	Γ	No		
9. Are other Disaster Recovery contractural special condition clearances still valid?	V	Yes	Ε	No		
If "no", explain:						
						Ì
						İ

Disclaimer: The Texas General Land Office has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the Texas General Land Office assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the Texas General Land Office's standard review and update schedule.

# **AGENDA ITEM #17**

# City of Kingsville Engineering Dept.

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Rutilio P. Mora Jr, P.E., City Engineer

DATE:

April 28, 2025

SUBJECT:

Consider Approving Change Order No. 1 (CO-1) for the General Land Office

(GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract

No. 22-085-009-D237 Project 8 - Alice Ln/Margaret Ln - Storm Water

Improvements Project

# **Summary:**

We are seeking approval of Change Order No. 1 (CO-1) for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 Project 8 – Alice Ln/Margaret Ln - Storm Water Improvements Project. There was an error in the wage rate schedule for this project. A highway classification was used instead of a heavy classification and the change order is to correct the error. There are no funds needed for this change order as it is being corrected administratively.

# **Background:**

We received approval to award the construction contract to R.S. Parker Construction LLC in the amount of \$84,550.00 on February 24, 2025. Project is to be completed in 120 calendar days.

We are seeking approval to award the construction contract for the fourth GLO CDBG-MIT Hurricane Harvey State Mitigation Competition, round 1. Project 8 - Alice Ln./Margaret Ln. Storm Water Improvements is the fourth project under this grant and represents a crucial step towards enhancing the city's flood management infrastructure. The project includes the installation of a 150-linear-feet of 24" diameter RCP, and demo/replace concrete and asphalt, and other related appurtenances to improve storm water drainage and minimize future flood risks.

# Background:

This project was advertised in the local newspaper and on the city's website on August 22<sup>nd</sup> and 29<sup>th</sup>. Sealed bids for Bid No. 24-21 (Project 8) were received prior to the deadline of September 17, 2024, at 2:00pm and read out loud, from three bidders:



# City of Kingsville Engineering Dept.

- 1. R.S. Parker Construction LLC, Corpus Christi, TX
- 2. JE Construction Services, Corpus Christi, TX
- 3. PM Construction & Rehab LLC, Pasadena, TX

Base bids ranged from \$84,550.00 to \$278,521.00. After reviewing the bids, staff recommends awarding the project to the lowest bidder, R.S. Parker Construction LLC, for \$84,550.00.

# **Financial Impact:**

No financial impact.

## **Recommendation:**

Staff recommendations approving Change Order No. 1 (CO-1) for CDBG-MIT Contract No. 22-085-009-D237 Project 8 — Alice Ln/Margaret Ln - Storm Water Improvements Project to correct the wage rate schedule to heavy classification.

# **Attachments:**

Highway classification – wage rate schedule Heavy classification – wage rate schedule Change Order No. 1



"General Decision Number: TX20250088 01/03/2025

Superseded General Decision Number: TX20240088

State: Texas

Construction Type: Heavy

Counties: Bee, Colorado, Fayette, Gonzales, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Refugio and Wharton

Counties in Texas.

HEAVY CONSTRUCTION PROJECTS (Including Water and Sewer Lines; does not include Flood Control)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:

- . Executive Order 14026
  generally applies to the
  contract.
- . The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:

- Executive Order 13658 generally applies to the contract.
- The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number 0

Publication Date 01/03/2025

SUTX2009-125 04/21/2009

		Rates	Fringes
CEMENT MAS	SON/CONCRETE FINISHER	\$ 13.00 **	0.00
LABORER:	Common or General	\$ 9.11 **	0.00
LABORER:	Pipelayer	\$ 13.75 **	0.00
OPERATOR:	Backhoe/Trackhoe	\$ 13.25 **	0.00
OPERATOR:	Bulldozer	\$ 14.25 **	0.00
OPERATOR:	Loader (Front End)	<b>11.1</b> 3 **	0.00
	/ER	\$ 10.49 **	0.24

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.75) or 13658 (\$13.30). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at

https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the

type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

#### Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

## Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

#### Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

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#### WAGE DETERMINATION APPEALS PROCESS

- 1) Has there been an initial decision in the matter? This can be:
  - a) a survey underlying a wage determination
  - b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations Wage and Hour Division U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

The request should be accompanied by a full statement of the

interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210.

END OF GENERAL DECISION"

"General Decision Number: TX20250027 01/03/2025

Superseded General Decision Number: TX20240027

State: Texas

Construction Type: Highway

Counties: Bee, Blanco, Burnet, Colorado, De Witt, Fayette, Frio, Gillespie, Gonzales, Jackson, Jim Wells, Karnes, Kerr, Kleberg, Lavaca, Lee, Live Oak, Llano, Mason, Matagorda, Refugio and Wharton Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:

- Executive Order 14026 generally applies to the contract.
- . The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:

- Executive Order 13658 generally applies to the contract.
- . The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker

protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number Publication Date 0 01/03/2025

SUTX2011-008 08/03/2011

	Rates	Fringes
CONCRETE ETHICHED (Devices and		
CONCRETE FINISHER (Paving and Structures)\$	5 13.04 **	
FORM BUILDER/FORM SETTER		
Paving & Curb		
Structures\$	12.98 **	
LABORER		
Asphalt Raker		
Concrete Saw\$ Flagger\$		
Laborer, Common\$		
Laborer, Utility\$		
Pipelayer\$		
Work Zone Barricade	40.00 ##	
Servicer\$	12.20 **	
POWER EQUIPMENT OPERATOR:		
Asphalt Distributor\$		
Asphalt Paving Machine\$		
Asphalt Roller\$		
Broom or Sweeper Operator\$ Crane, Hydraulic 80 ton or	11.41	
less\$	18.04	
Crawler Tractor\$	13.15 **	
Excavator over 50,000 lbs\$	18.80	
Foundation Drill Operator,	20.20	
Truck Mounted\$  Front End Loader 3 cu yd	20.20	
or less\$	12.64 **	
Front End Loader over 3 cu		
yd\$		
Loader/Backhoe\$		
Mechanic\$ Milling Machine\$		
Motor Grader, Fine Grade\$		
Motor Grader, Rough\$	16.44 **	
Pavement Marking Machine\$		
Roller, Asphalt\$ Roller, other\$		
Scraper\$		
Spreader Box\$		
Servicer\$	14.31 **	* .
Steel Worker (Reinforcing)\$	12.74 **	
TRUCK DRIVER		
Lowboy-Float\$		
Single Axle\$	13.40 **	
Single or Tandem Axle Dump	11 / = **	
Truck\$  Tandfem Axle Tractor with	11.45 **	
semi trailer\$	16.22 **	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.75) or 13658 (\$13.30). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

https://www.dol.gov/agencies/whd/government-contracts.

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rate.

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A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

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State Adopted Rate Identifiers

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WAGE DETERMINATION APPEALS PROCESS

be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
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Branch of Wage Surveys Wage and Hour Division U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

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Branch of Construction Wage Determinations Wage and Hour Division U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

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The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210.

END OF GENERAL DECISION"

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE CHANGE ORDER NO.1 FOR THE CONSTRUCTION CONTRACT WITH R.S. PARKER CONSTRUCTION LLC FOR THE GLO CDBG-MIT CONTRACT 22-085-009-D237 PROJECT 8: ALICE LN/MARGARET LN STORM WATER IMPROVEMENTS PROJECT; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Kingsville (City) intends to make some sanitary sewer improvements through a General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 8: Alice Ln/Margaret Ln Storm Water Improvements Project and went out for bids via BID #24-21 which was advertised on August 22<sup>nd</sup> & 29<sup>th</sup>, 2024;

**WHEREAS**, three bids were received by the deadline of September 17, 2024 that were responsive to BID #24-21 and after reviewing the bid submittals staff and the outside engineer (ICE) recommended the bid be awarded to the lowest bidder, which was R.S. Parker Construction LLC, from Corpus Christi, Texas (Vendor);

**WHEREAS**, the City awarded BID#24-21 to Vendor at a Commission meeting on February 24, 2025 for a total amount of \$84,550, after Vendor agreed to honor the price via email dated February 6, 2025;

WHEREAS, the City and Vendor worked to prepare a contract for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 8: Alice Ln/Margaret Ln Storm Water Improvements Project and the parties both agreed to the terms of the proposed contract for a total amount of \$84,550 with a contract time of 120 calendar days, which was approved by City Commission on February 24, 2025 via Resolution #2025-22;

**WHEREAS**, the wage schedule rate needs to be changed from a highway classification to a heavy classification, which requires approval of Change Order No.1 that would result in no change to the total contract price of \$84,550 and no change in the contract time of 120 calendar days:

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

**THAT** the City Commission approves and the Interim City Manager is authorized and directed as an act of the City of Kingsville, Texas to execute Change Order #1 for the Construction Contract for General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 8: Alice Ln/Margaret Ln Storm Water Improvements Project between the City of Kingsville, Texas and R.S. Parker Construction LLC as per staff recommendation and in accordance with Exhibit A hereto attached and made a part hereof.

II.

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

Ш.

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

PASSED AND APPROVED by a 28th_day ofApril, 2025.	majority vote of the City Commission on the
Sam R. Fugate, Mayor	· · ·
ATTEST:	
Mary Valenzuela, City Secretary	<u>.</u>
APPROVED AS TO FORM:	
Courtney Alvarez, City Attorney	•



# The Texas General Land Office

Construction Change Order Request

NOTE: Texas Local Government Code Sec. 262.031 "CHANGES IN PLANS AND SPECIFICATIONS" regulations apply. Generally, a cumulative <u>increase</u> in the contract price in excess of 25% or a cumulative <u>decrease</u> in excess of 18% are disallowed.

Subrecipient City of Kingsville		GLO Contract I	Number: 22-085-00	9-D237	Date: 4/15/2025			
Engineer Name Address & Phone		Subrecipient Name, Address, & Phone Number:			Contractor Name, Address & Phone Number:			
International Consulting Engineers 261 Saratoga Blvd. Corpus Christi, TX 78417 361-826-5805			City of Kingsville 400 W. King Ave. Kingsville, TX 78363 361-595-8040			R.S. Parker Construction 455 Hereford Rd. Corpus Christi, TX 78408 361-289-0222		
Project #:	SW 8 (Alice L	n/Margaret Ln	Bid Package #: 1			Change Order #: 1		
، Contract Origi	nation Date	2/24	/2025	Pro	ject Description:	Drai	nage impr	ovements
	You ar	e hereby reque	ested to comply w	ith the following cha	anges from the o	contract plans and	specificati	ons.
Item No.	Descriptio	n of Changes: (	Quantities, Units, U Schedule et	Jnit Prices, Change i tc.	n Completion	Decrease in Contr	act Price	Increase in Contract Price
				7 Highway published 8 Heavy published 1		N/A		N/A
		<u> </u>						
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				sheet 2 to add add				
		ruction Contra	ct Price			in Contract Time (C		lays)
Original Contract Price: \$84,550.00			Original Contract Time in Days:					
Cumulative Previous \$0.00 Change Order(s) Total:		0.00	Net Change from Previous Change Order(s) in Days 0					
Contract Price Prior to this Change Order:		\$84,5	50.00	Contract Time Prior to this Change Order in Days			120	
Net Increase/Decrease of this Change Order:			0	Net Increase/Decr	ease of this Cha	nge Order in Days: 0		0
	<del>-</del>	-						



# The Texas General Land Office

Construction Change Order Request

Contract Price with All \$84,5 Approved Change Orders:		50.00	Contract Time with All Approved Change Ord			ers in 120 Days:			
Cumulative Percent O Change in Contract Price (+/-)		· · · · · · · · · · · · · · · · · · ·	Subrec	cipient (	Contract End Da	1/31/2027 te:			
Construction Contract 4/21/2025 Start Date:			Construction Contract End Date: 8/19/2025						
	executed prior t	o submission fo	cluded in this change order are r GLO-CDR review, but all part s change order is not in compl	ies invo	olved will be he	ld responsible			
Subrecipient Sig	nature	Engineer Signature			Contractor Signature				
Sam Fugate, N	1ayor	Juan Carlos Cardenas, PE, Senior Engineer			Rodney S. Parker, President				
Subrecipient Nam and	Title (Printed)	Engineer Name and Title (Printed)			Contractor Name and Title (Printed)				
Subrecipient Sig	nature		Engineer Signature			Contractor Signature			
Justification for Change 0  1. Will this change order in		ase the number	of beneficiaries?		☐ Increase		☑No Change		
If there is a change,			ffected?	Total		LMI			
2. Effect of this change or					☐ Increase	Decrease	☑No Change		
3. Effect on operation and maintenance costs:					☐ Increase	_Decrease	☑ No Change		
<ol><li>4. Are all prices in the cha If "no", explain:</li></ol>	inge order deper	ident upon unit p	rices found in the original bid?		✓ Yes	L No			
			nental conditions which may aff ditions discovered during actua		☐ Yes	E No			
If "yes", is an environment	al assessment re	equired?							
					e e				



## The Texas General Land Office

Construction Change Order Request

6. Is the Texas Council on Environmental Quality (TCEQ) clearance still valid (if applicable)?	☑ Yes □ No
7. Is the CCN permit still valid? (sewer projects only)	✓ Yes [ No
8. Are the disability access requirements/approval still valid (if applicable)?	☑ Yes ☐ No
9. Are other Disaster Recovery contractural special condition clearances still valid?	✓ Yes [ No
If "no", explain:	

Disclaimer: The Texas General Land Office has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the Texas General Land Office assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the Texas General Land Office's standard review and update schedule.

# **AGENDA ITEM #18**

# City of Kingsville Engineering Dept.

TO:

Mayor and City Commissioners

CC:

Charlie Sosa, Interim City Manager

FROM:

Rutilio P. Mora Jr, P.E., City Engineer

DATE:

April 28, 2025

SUBJECT:

Consider Approving Change Order No. 3 (CO-3) for the General Land Office

(GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract

No. 22-085-009-D237 - Project 13: W. Johnston Ave. Storm Water

Improvements Project

# **Summary:**

We seek approval of Change Order No. 3 (CO-3) for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 – Project 13: W. Johnston Ave. Storm Water Improvements Project. There was an error in the wage rate schedule for this project. A highway classification was used instead of a heavy classification and the change order is to correct the error. There are no funds needed for this change order as it is being corrected administratively.

# **Background:**

GLO Change Order No. 2 - Contract Price

<u>Item</u>	<u>Description</u>	<u>Unit</u>	Quantity	Unit Cost	<u>Total</u>
<u>A4</u>	Waterline Relocation	<u>LF</u>	<u>260</u>	<u>\$61.36</u>	\$15,954.00

GLO Change Order No. 1 Total \$15,954.00

Revised Contract Amount

\$627,588.49

# GLO Change Order No. 2 - Contract Time

Description	Calendar Days		
Additional Contract Time	21		



# City of Kingsville Engineering Dept.

Revised Contract Price and Time

\$627,588.49 and 171 Calendar Days

On February 24, 2025, we seek approval of Change Order No. 1 (CO-1) for the General Land Office (GLO) Community Development Block Grant Mitigation (CDBG-MIT) Contract No. 22-085-009-D237 — Project 13: W. Johnston Ave. Storm Water Improvements Project

GLO Change Order No. 1 Total	\$10.00
Revised Contract Amount	\$611,634.49

On October 28, 2024, the City Commission approved to award the construction contract in the amount of \$611,624.49. The contract time is 150 calendar days.

This project was advertised in the local newspaper and on the city's website on August 22<sup>nd</sup> and 29<sup>th</sup>. Sealed bids for Bid No. 24-22 (Project 13) were received prior to the deadline of September 17, 2024, at 2:00pm and read out loud, from two bidders:

- 1. R.S. Parker Construction LLC, Corpus Christi, Texas
- 2. JE Construction Services, Corpus Christi, Texas

The base bids range from \$611,624.49 to \$791,798.00. Alternate No. 1 bids range from \$764,999.00 to \$991,552.43. The total bids range from \$1,556,797.00 to \$1,603,186.92. After review, staff recommends awarding the project to the lowest bidder, R.S. Parker Construction LLC, for the base bid amount of \$611,624.49.

### **Recommendation:**

Staff recommends approving Change Order No. 3 (CO-3) for CDBG Contract No. 22-085-009-D237 – Project 13: W. Johnston Ave. Storm Water Improvements Project to correct the wage rate schedule to heavy classification.

### **Attachments:**

Highway classification – wage rate schedule Heavy classification – wage rate schedule Change Order No. 3



"General Decision Number: TX20240088 01/05/2024

Superseded General Decision Number: TX20230088

State: Texas

Construction Type: Heavy

Counties: Bee, Colorado, Fayette, Gonzales, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Refugio and Wharton Counties in Texas.

HEAVY CONSTRUCTION PROJECTS (Including Water and Sewer Lines; does not include Flood Control)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:

- Executive Order 14026 generally applies to the contract.
- . The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:

- Executive Order 13658 generally applies to the contract.
- The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number

Publication Date 01/05/2024

#### SUTX2009-125 04/21/2009

		Rates	Fringes
CEMENT MAS	SON/CONCRETE FINISHER	.\$ 13.00 **	0.00
LABORER:	Common or General	.\$ 9.11 **	0.00
LABORER:	Pipelayer	.\$ 13.75 **	0.00
OPERATOR:	Backhoe/Trackhoe	.\$ 13.25 **	0.00
OPERATOR:	Bulldozer	.\$ 14.25 **	0.00
OPERATOR:	Loader (Front End)	.\$ 11.13 **	0.00
TRUCK DRIV	/ER	.\$ 10.49 **	0.24

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at

https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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

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and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

#### WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
- \* an existing published wage determination
- \* a survey underlying a wage determination
- a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION"

"General Decision Number: TX20240027 01/05/2024

Superseded General Decision Number: TX20230027

State: Texas

Construction Type: Highway

Counties: Bee, Blanco, Burnet, Colorado, De Witt, Fayette, Frio, Gillespie, Gonzales, Jackson, Jim Wells, Karnes, Kerr, Kleberg, Lavaca, Lee, Live Oak, Llano, Mason, Matagorda, Refugio and Wharton Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:

- Executive Order 14026 generally applies to the contract.
- The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:

- Executive Order 13658 generally applies to the contract.
- The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker

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protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number

Publication Date 01/05/2024

Fringes

SUTX2011-008 08/03/2011

Rates	
CONCRETE FINISHER (Paving and Structures) \$ 13.04 **	*
FORM BUILDER/FORM SETTER Paving & Curb\$ 12.54 ** Structures\$ 12.98 **	
LABORER  Asphalt Raker	* * *
POWER EQUIPMENT OPERATOR:  Asphalt Distributor\$ 15.62 ** Asphalt Paving Machine\$ 14.68 ** Asphalt Roller\$ 12.36 ** Broom or Sweeper Operator\$ 11.41 **	*
Crane, Hydraulic 80 ton or less\$ 18.04 Crawler Tractor\$ 13.15 ** Excavator over 50,000 lbs\$ 18.80 Foundation Drill Operator,	ķ
Truck Mounted\$ 20.20 Front End Loader 3 cu yd or less\$ 12.64 ** Front End Loader over 3 cu yd\$ 13.75 **	
Loader/Backhoe\$ 13.58 **  Mechanic\$ 18.94  Milling Machine\$ 14.35 **  Motor Grader, Fine Grade\$ 18.35  Motor Grader, Rough\$ 16.44 **	ķ
Pavement Marking Machine\$ 14.60 **  Roller, Asphalt\$ 12.36 **  Roller, other\$ 10.59 **  Scraper\$ 11.88 **  Spreader Box\$ 13.84 **	* * *
Servicer\$ 14.31 **	
Steel Worker (Reinforcing)\$ 12.74 **	¥
TRUCK DRIVER Lowboy-Float\$ 16.39 ** Single Axle\$ 13.40 ** Single or Tandem Axle Dump Truck\$ 11.45 **	*
Tandfem Axle Tractor with semi trailer 16.22 **	*

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

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### WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
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Branch of Construction Wage Determinations Wage and Hour Division U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

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Administrative Review Board U.S. Department of Labor 200 Constitution Avenue, N.W. Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION"

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П	EOUL		I #ZUZO-	

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE CHANGE ORDER NO.3 FOR THE CONSTRUCTION CONTRACT WITH R.S. PARKER CONSTRUCTION LLC FOR THE GLO CDBG-MIT CONTRACT 22-085-009-D237 PROJECT 13: W. JOHNSTON AVE. STORM WATER IMPROVEMENTS PROJECT; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Kingsville (City) intends to make some storm sewer improvements through a General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 13: W. Johnston Ave. Storm Water Improvements Project and went out for bids via BID #24-22 which was advertised on August 22<sup>nd</sup> & 29<sup>th</sup>, 2024;

**WHEREAS**, two bids were received on September 17, 2024 responsive to BID #24-22 and after reviewing the bid submittals staff and the outside engineer (ICE) recommended the bid be awarded to the low bidder, which was R.S. Parker Construction LLC, from Corpus Christi, Texas (vendor);

**WHEREAS**, the City awarded BID#24-22 to Vendor at a Commission meeting on October 15, 2024 for a total amount of \$611,624.49;

WHEREAS, the City and Vendor worked to prepare a contract for GLO CDBG-MIT Contract No. 22-085-009-D237 Project 13: W. Johnston Ave. Storm Water Improvements Project; parties both agreed to the terms of the proposed contract for a total amount of \$611,624.49 with a contract time of 150 calendar days, which was approved by City Commission on October 28, 2024 via Resolution #2024-86;

**WHEREAS**, the total award and the contract price showed a minor difference due to a clerical error so an increase of \$10.00 was proposed via Change Order No.1, resulting in a new total contract price of \$611,634.49, and was approved by City Commission on February 24, 2025 via Resolution #2025-23;

WHEREAS, a waterline is impeding the original project and needs to be relocated for an additional price of \$15,953.60 and additional time of 21 days via Change Order #2, which results in a new total contract price of \$627,588.09 and new contract time of 171 calendar days, which was approved by City Commission on April 14, 2025 via Resolution #2025-39;

**WHEREAS**, the wage schedule rate needs to be changed from a highway classification to a heavy classification, which requires approval of Change Order No.1 that would result in no change to the total contract price of \$627,588.09 and no change in the contract time of 171 calendar days;

NOWTHEREFORE BE IT RESOLVED by the City Commission of the City of Kingsville, Texas:

Ι.

THAT the City Commission approves and the Interim City Manager is authorized and directed as an act of the City of Kingsville, Texas to execute Change Order No. 3 for the Construction Contract for General Land Office (GLO) Community Development Block Grant (CDBG) -Mitigation (MIT) program via Contract No. 22-085-009-D237 Project 13: W. Johnston Ave. Storm Water Improvements Project between the City of Kingsville, Texas and R.S. Parker Construction LLC as per staff recommendation and in accordance with Exhibit A hereto attached and made a part hereof.

II.

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

III.

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

PASSED AND APPROVED by a majority vote of the City Commission o 28th day of April , 2025.	n the
Sam R. Fugate, Mayor	
ATTEST.	

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney



# **COMMUNITY DEVELOPMENT & REVITALIZATION**

# The Texas General Land Office

Construction Change Order Request

NOTE: Texas Local Government Code Sec. 262.031 "CHANGES IN PLANS AND SPECIFICATIONS" regulations apply. Generally, a cumulative <u>increase</u> in the contract price in excess of 25% or a cumulative <u>decrease</u> in excess of 18% are disallowed.

Subrecipient City of Kingsville	GLO Contract Number: 22-085-009-D237	Date:	4/15/2025
Engineer Name Address & Phone	Subrecipient Name, Address, & Phone Number:	Contractor Name, Addres	ss & Phone Number:
International Consulting Engineers 261 Saratoga Blvd. Corpus Christi, TX 78417 361-826-5805	City of Kingsville 400 W. King Ave. Kingsville, TX 78363 361-595-8040	R.S. Parker Co 455 Herefo Corpus Christi, 361-289-	ord Rd. TX 78408
Project #: SW 13 (W. Johnston Ave)	Bid Package #: 1	Change Order #:	3
Contract Origination Date 10/28	8/2024 Project Description:	Drainage impr	ovements
You are hereby reque	sted to comply with the following changes from the c	contract plans and specificat	ions.
Item No. Description of Changes: C	Quantities, Units, Unit Prices, Change in Completion Schedule etc.	Decrease in Contract Price	Increase in Contract Price
	sion: TX20240027 Highway published 1/05/2024 sion: TX20240088 Heavy published 1/05/2024	N/A	N/A 
		-	
	See sheet 2 to add additional entries		· · · · · · · · · · · · · · · · · · ·
Change in Construction Contract Original Contract Price: \$611,624.49		in Contract Time (Calendar Description	<u>Jays)</u>
Original Contract Price: \$611,624.49	·	<u> </u>	
Cumulative Previous \$15,953.60 Change Order(s) Total:	Net Change from Previous Chang	ge Order(s) in Days 21	
Contract Price Prior to \$627,5 this Change Order:	Contract Time Prior to this Cha	ange Order in Days	171
Net Increase/Decrease of this Change Order:	Net Increase/Decrease of this Cha	nge Order in Days:	0



# **COMMUNITY DEVELOPMENT & REVITALIZATION**

# The Texas General Land Office

Construction Change Order Request

Contract Price with All \$627,588.09 Approved Change Orders:		Contract Time with All Approved Change Orders ir Days		1	5:			
Cumulative Percent Change in Contract Price (+/-)	0		Subrecipien	1/31/202 te:	7			
Construction Contract Start Date:	<u>.</u>			n Contract End Da		5		
	executed prior	to submission for	uded in this change order are subju GLO-CDR review, but all parties in change order is not in compliance	nvolved will be he	ld responsible			
Subrecipient Sig	nature		Engineer Signature		Contractor Sig	gnature		
Sam Fugate, M	layor	Juan Carlos	Cardenas, PE, Senior Engineer	Ro	dney S. Parker	, President		
Subrecipient Nam and	Title (Printed)	Enginee	er Name and Title (Printed)	Contra	ctor Name and	l Title (Printed)		
Subrecipient Sig	nature	<u> </u>	Engineer Signature		Contractor Sig	nature		
Justification for Change 0 1. Will this change order in		ease the number o	of beneficiaries?	☐ Increase	Decrease	☑No Change		
If there is a change,	. how many bene				LMI			
•		eficiaries will be at	fected? Total		LIVII			
<ol><li>Effect of this change or</li></ol>			fected? Total	☐ Increase		☑No Change		
_	n the scope of w	ork:	fected? Total			☑No Change ☑No Change		
	n the scope of w	ork: osts:	fected? Total	☐ Increase	Decrease	·		
3. Effect on operation and 4. Are all prices in the cha	n the scope of w	ork: osts:		☐ Increase	[Decrease	·		
3. Effect on operation and 4. Are all prices in the cha	n the scope of w	ork: osts:		☐ Increase	[Decrease	·		
3. Effect on operation and 4. Are all prices in the cha	n the scope of w	ork: osts:		☐ Increase	[Decrease	·		
3. Effect on operation and 4. Are all prices in the cha If "no", explain:  5. Has the change created the project's impact, such	n the scope of will maintenance conge order dependence order dependence order dependence or dependen	ork: osts: ndent upon unit pi		☐ Increase	[Decrease	·		
3. Effect on operation and 4. Are all prices in the cha If "no", explain:  5. Has the change created the project's impact, such construction?	n the scope of with maintenance conge order dependence order dependence of the maintenance of the maintenanc	ork: osts: ndent upon unit pi	ices found in the original bid?	☐ Increase ☐ Increase ☑ Yes	[Decrease [Decrease [ No	·		
3. Effect on operation and 4. Are all prices in the cha If "no", explain:  5. Has the change created the project's impact, such	n the scope of with maintenance conge order dependence order dependence of the maintenance of the maintenanc	ork: osts: ndent upon unit pi	ices found in the original bid?	☐ Increase ☐ Increase ☑ Yes	[Decrease [Decrease [ No	·		
3. Effect on operation and 4. Are all prices in the cha If "no", explain:  5. Has the change created the project's impact, such construction?	n the scope of with maintenance conge order dependence order dependence of the maintenance of the maintenanc	ork: osts: ndent upon unit pi	ices found in the original bid?	☐ Increase ☐ Increase ☑ Yes	[Decrease [Decrease [ No	·		



# COMMUNITY DEVELOPMENT & REVITALIZATION

## The Texas General Land Office

Construction Change Order Request

6. Is the Texas Council on Environmental Quality (TCEQ) clearance still valid (if applicable)?	V	Yes	Г	No	
7. Is the CCN permit still valid? (sewer projects only)	V	Yes	Ε	No	
8. Are the disability access requirements/approval still valid (if applicable)?	<b>V</b>	Yes	Г	No	
9. Are other Disaster Recovery contractural special condition clearances still valid?	V	Yes	Г	No	
If "no", explain:					
·					

Disclaimer: The Texas General Land Office has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the Texas General Land Office assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the Texas General Land Office's standard review and update schedule.

# **AGENDA ITEM #19**

# City of Kingsville Public Works, Wastewater Collection Division

TO:

**Mayor and City Commissioners** 

CC:

Charley Sosa, Interim City Manager

FROM:

William Donnell, Director of Public Works

DATE:

April 17, 2025

SUBJECT:

**Wastewater Lift Station Repairs** 

### **Summary:**

This item authorizes an increase for repairs to the South Creek Lift Station and the Golf Course Road Lift Station to satisfy TCEQ inspections requirements.

### **Background:**

South Creek Lift Station was built in 1993 to service the South Creek Subdivision at the south end of Kingsville on US Hwy-77. Although maintenance repairs have been made to maintain the lift station to current the status, repairs to the bottom concrete floor and lower wall are currently required for TCEQ compliance. This repair is estimated to be \$18,650.00 by Donald Hubert Construction.

The lift station located on Golf Course Road built in 1994 is also in need of repairs. Exposed rebar is to be coated with anticorrosive paint/epoxy and two inches of special mix cement on the ceiling and two feet below the ceiling line for TCEQ compliance. This repair is estimated to be \$15,145.00. by Donald Hubert Construction.

### **Financial Impact:**

This will reduce the Budget Amendment Reserve line account 051-5-7001-86000 balance by \$33,795.00 and increase the North Wastewater Treatment Utility Plant account 051-5-7001-54300 by \$33,795.00.

### Recommendation:

Donald Hubert Construction is the only responsive bidder, staff is requesting adoption of the proposed budget amendment to cover the cost of repairs of these two lift stations to maintain TCEQ compliance.

ORDINANCE NO. 2025-	
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AN ORDINANCE AMENDING THE FISCAL YEAR 2024-2025 BUDGET TO PROVIDE ADDITIONAL FUNDING FOR SOUTH CREEK AND GOLF COURSE ROAD LIFT STATIONS.

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

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2024-2025 budget be amended as follows:

# CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT – BA#37

Dept No.	Dept Name	Account Name	Account Number	Budget Increase	Budget Decrease
Fund (	051 – Utility Fu	nd			
Expen	<u>ditures</u>				
7001	North Plant	Budget Amend Reserve	86000		\$33,795
7001	North Plant	Utility Plant	54300	\$33,795	

[To amend the City of Kingsville FY 24-25 budget to provide additional funding for repairs to the South Creek and Golf Course Rd lift stations. There is \$150,000 available in the UF Budget Amendment Reserve line item for this request.]

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.

<b>THAT</b> this Ordinance	shall not be codified	d but shall become	e effective on and	d after adoption and
publication as require	ed by law.			•

INTRODUCED on this the 28th day of April 2025.

PASSED AND APPROVED on this the 12th day of May 2025.
EFFECTIVE DATE:
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez City Attorney

# **AGENDA ITEM #20**

# City of Kingsville Public Works, Wastewater Collection Division

TO:

**Mayor and City Commissioners** 

CC:

Charley Sosa, Interim City Manager

FROM:

William Donnell, Director of Public Works

DATE:

April 17, 2025

SUBJECT:

Wastewater Collections 18" Emergency Sewer line repair

### **Summary:**

This item authorizes an increase for Emergency Repairs to 500 linear feet of 18" clay sewer line crossing under US Hwy-77 along E Corral Ave.

## **Background:**

This 18" clay sewer line services the Northeast portion of Kingsville and crosses under US Hwy-77 then continues to gravity feed sewer to the North Treatment Plant. Wastewater Collection crews work to clean and remove debris from the line but breaks and offsets continue to hinder the line from being successfully cleared to allow maximum flow. Equipment is constantly getting stuck in the line and many times requires long hours working the jetter hose back and forth to free it. PM Construction & Rehab, currently working with the City on several projects, submitted a quote for an emergency repair to the 500-foot section of 18" clay pipe crossing under US Hwy-77 in the amount of \$101,500.00. This repair is deemed an emergency repair based on the complexity and location of the line and to further avoid the potential risk of sticking the jetter hose that would lead to a very expensive new sewer crossing.

### **Financial Impact:**

This will reduce the Budget Amendment Reserve line account 051-5-7001-86000 balance by \$56,714.00 and decrease ARP Utility Fund balance by \$44,786.00 and increase the Wastewater Collections Utility Plant account 051-5-7003-54300 by \$101,500.00.

### Recommendation:

PM Construction & Rehab submitted this great quote since they are already mobilized and working in Kingsville, staff is requesting adoption of the proposed budget amendment to cover the cost of this Emergency repair to 500 linear feet of 18" clay sewer line crossing under US Hwy-77 along E Corral Ave.

N #2025-		ON	TI	U	L	O	S	E	R
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A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE CONTRACT WITH PM CONSTRUCTION & REHAB LLC FOR EMERGENCY REPAIR CURED-IN-PLACE 18" CIPP ON E. CORRAL AVE. FOR THE PUBLIC WORKS, WASTEWATER COLLECTIONS DIVISION; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Kingsville ("City") has an old 18" clay sewer line that services the northeast portion of town and crosses under US Highway 77/ I-69 East where it goes to the North Wastewater Treatment Plant;

**WHEREAS**, a section of the line under the interstate is experiencing increasing maintenance issues and causing concerns of equipment damage and possible collapse, which has resulted in this request for emergency repairs to the 500-foot section of 18: clay pipe crossing under US Highway 77/ I-69 East;

WHEREAS, the City contacted PM Construction & Rehab LLC ("Vendor"), who is currently in town working on other projects for the City, and is capable and qualified to perform the needed emergency repairs;

**WHEREAS**, the City and Vendor worked to prepare a contract and the parties both agree to the terms of the proposed contract for the amount of \$101,500.00;

**WHEREAS**, staff is recommending the City Commission approve the construction contract with Vendor as presented;

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

١.

**THAT** the City Commission approves and the Interim City Manager is authorized and directed as an act of the City of Kingsville, Texas to execute the Contract with PM Construction & Rehab LLC For Emergency Repair Cured-In-Place 18" CIPP on E. Corral Ave. for the Public Works, Wastewater Collections Division as per staff recommendation and in accordance with Exhibit A hereto attached and made a part hereof.

II.

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

<b>THAT</b> this Resolution shall be and become effective on and after adoption.	
PASSED AND APPROVED by a majority vote of the City Commission on the 28th day of April , 2025.	те
Sam R. Fugate, Mayor	
ATTEST:	
Mary Valenzuela, City Secretary	
APPROVED AS TO FORM:	
Courtney Alvarez City Attorney	

# Contract Between the City of Kingsville, Texas ("City") and PM Construction & Rehab LLC ("Contractor") for Emergency Repair Cured-In-Place 18" CIPP on E Corral Ave for the Public Works, Wastewater Collections Division

WHEREAS: **CITY OF KINGSVILLE**, (hereinafter referred to as "OWNER"), a Texas home-rule municipal corporation, engages PM Construction & Rehab, LLC (hereinafter referred to as "CONTRACTOR") to perform the "SERVICES" described in the "PROPOSAL" attached as <u>Exhibit A</u> to this Agreement.

## PART I. SERVICES

- A. The scope and pricing, and performance schedule, for the SERVICES is set forth on the PROPOSAL and related documents. The PROPOSAL has been executed by OWNER and CONTRACTOR, and shall be attached and is hereby made a part of this Services Agreement.
- B. After receiving and verifying the performance bond, payment bond, insurance, disclosure and conflict of interest documents, OWNER shall set a pre-construction meeting and shall authorize notice to proceed and CONTRACTOR shall commence work within 14 days of CONTRACTOR's receipt of OWNER approved submittals and the properly executed and signed PROPOSAL [along with the initial project payment as outlined in the PROPOSAL].
- C. CONTRACTOR shall be responsible for the professional quality and timely completion of all SERVICES outlined and described in the Project Proposal and Project Specifications. If a conflict exists between the Project Proposal and/or the Project Specifications, the project Proposal will govern for the project.
- D. OWNER and CONTRACTOR have designated points of contact so that any issues or problems may be identified and resolved in the most efficient manner. The OWNER's contact is William Donnell, and CONTRACTOR's contact is Linda Sifuentes.
- E. CONTRACTOR will hold periodic conferences with the OWNER or its representatives throughout the term of the project. CONTRACTOR will keep OWNER informed as to project progress on a regular basis.

F. CONTRACTOR shall complete the SERVICES within 14 calendar days from the approval of submittals by the OWNER. Should the project be delayed by inclement weather or other circumstances outside of CONTRACTOR's reasonable control, one additional business day will be added to this agreement for each day so delayed. Each day of delay caused by stoppage of work or other failure to timely perform by OWNER will result in an extension of one business day to the target completion date of this project. If the SERVICES are not completed within the time stipulated herein, the CONTRACTOR shall pay to the OWNER as fixed, agreed, and liquidated damages (it being impossible to determine the actual damages occasioned by the delay) the amount of \$200.00 for each calendar day of delay, until the work is completed. The CONTRACTOR and CONTRACTOR'S sureties shall be liable to the OWNER for the amount thereof.

# PART II. OWNER'S RESPONSIBILITIES

- A. OWNER has directed the CONTRACTOR to provide SERVICES as outlined in the PROPOSAL.
- B. Prior to the commencement of the SERVICES, OWNER shall secure any permits needed to have the work performed.
- C. OWNER shall timely perform all of its obligations under this Services Agreement and the PROPOSAL.

## PART III. CHANGE ORDERS

- A. The SERVICES may be amended or revised only via written Change Order, executed by OWNER and CONTRACTOR. The OWNER may at any time request changes to the PROPOSAL. If such changes cause an increase or decrease in the CONTRACTOR's cost of, or time required for, performance of any services under the PROPOSAL, an equitable adjustment shall be made and reflected in a properly executed Change Order.
- B. No SERVICES for which an additional compensation will be charged by the CONTRACTOR shall be furnished without a properly executed Change Order signed by OWNER prior to the start of the additional SERVICES.
- C. In the event that there are modifications and/or additions to regulatory requirements relating to the services to be performed under this Agreement after the date of execution of this Agreement, the increased or decreased cost of performance of the services provided for in this Agreement and PROPOSAL shall be reflected in an appropriate Change Order.

### PART IV. COMPENSATION TO CONTRACTOR

OWNER agrees to pay CONTRACTOR for SERVICES in accordance with the descriptions, definitions, terms and conditions as set forth herein and in the Exhibits attached hereto and any Change Orders subsequently attached hereto.

# PART V. PAYMENTS

See Attachment 2-Exhibit B attached hereto for additional compensation details. After final inspection and the acceptance by the OWNER of all SERVICES under the PROPOSAL, the CONTRACTOR shall prepare the requisition for final payment which shall be based upon the careful inspection of each item of SERVICES at the applicable unit prices stipulated in the PROPOSAL. Before paying the final estimate, OWNER shall require the CONTRACTOR to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the PROPOSAL) and services to the CONTRACTOR. The OWNER may make payment in part or in full to the CONTRACTOR without requiring the furnishing of such releases or receipts and any payments made shall in no way impair the obligations of any surety or sureties furnished under this AGREEMENT. Any amount due the OWNER under liquidated damages shall be deducted from the final payment due the CONTRACTOR.

## PART VI. INSURANCE

CONTRACTOR agrees to maintain worker's compensation insurance to cover all of its own personnel engaged in performing services for OWNER under this Agreement. CONTRACTOR also agrees to maintain commercial liability insurance covering claims against CONTRACTOR for damages resulting from bodily injury, death or property damage from accidents arising in the course of services performed under this Agreement. OWNER shall be solely responsible for maintaining proper and adequate insurance coverage for its premises and its employees and representatives.

# PART VII. MISCELLANEOUS

### A. Late Payment

If OWNER fails to make any payment due CONTRACTOR for services, in accordance with Part V herein, within twenty days after receipt of CONTRACTORS's invoice, thereafter the amounts due CONTRACTOR shall include a charge at the rate of 1% per month starting on the tenth day past the due date, and in addition, CONTRACTOR may, after giving seven days written notice to OWNER, suspend services under this Agreement until he has been paid in full all amounts due him for services.

## B. Attorney's Fees

In the event CONTRACTOR's invoices for services are given to an attorney for collection, or if suit is brought for collection, or if they are collected through probate, bankruptcy, or other judicial proceeding, then OWNER shall pay CONTRACTOR all costs of collection awarded by the court, including the reasonable and necessary attorney's fees allowed by law and court costs, in addition to other amounts due, all if ordered by the court, otherwise, each party pays its own costs unless the court orders differently.

### C. Mediation

Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to non-binding mediation as a condition precedent to the institution of legal proceedings by either party.

The parties shall share the mediator's fee and any filing fees equally. Each party shall be responsible for its own attorney's fees and any other fees or expenses not stated herein. The mediation shall be held in the county where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

D. The CONTRACTOR does not at the time of this AGREEMENT, nor will it during the course of this AGREEMENT, boycott Israel.

### PART VIII. MODIFICATIONS

The written signature of both OWNER and CONTRACTOR shall be required to effect a Change Order or to otherwise amend, modify or extend the terms of this Agreement. Only Linda Sifuentes, Manager of CONTRACTOR, shall have the authority to execute such change or amendment on behalf of CONTRACTOR.

## PART IX. MISCELLANEOUS PROVISIONS

A. <u>Notice</u>. Notice required by this Agreement may be given or served by depositing the notice in the United States Mail, in certified or registered form, postage prepaid, addressed to the other party, or by delivering the notice in person to the other party. Notice deposited in the United States Mail in the manner prescribed in this subsection is effective upon deposit. The addresses of the parties are:

City of Kingsville, Texas
Attention: Interim City Manager
P.O. Box 1458
Kingsville, Texas 78364
Telephone: (361) 595-8002
Email: csosa@cityofkingsville.com

PM Construction & Rehab, LLC
Attention: Linda Sifuentes, Manager
131 N Richey St
Pasadena, Texas 77506
Telephone:361-779-3424
Email:imagelinda.sifuentes@puriscorp.com

- B. <u>Effect of Waivers</u>. No waiver by either party of any default, violation, or breach of the terms, provisions, and covenants contained in this Agreement may be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants of this Agreement. Any and all rights and remedies which either party may have under this Agreement, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, shall be deemed to be an exclusion of any other.
- C. <u>Amendment of Agreement</u>. This Agreement may be amended at any time. Any amendment to this Agreement must be in writing and agreed to by the governing bodies of the parties. No officer or employee of any of the parties has authority to waive or otherwise modify the limitations in this Agreement, without the express action of the governing body of the party.
- D. <u>Not For Benefit of Third Parties</u>. This Agreement and all activities under this Agreement are solely for the benefit of the parties and not the benefit of any third parties.
- E. <u>Exercise of Police Powers</u>. This Agreement and all activities under this Agreement are undertaken solely as an exercise of the police power of the parties, exercised for the health, safety, and welfare of the public generally, and not for the benefit of any particular person or persons. The parties do not have and may not be deemed to have any duty to any particular person or persons.
- F. <u>Immunities Not Waived</u>. Nothing in this Agreement waives any governmental, official, or other immunity or defense of any of the parties or their officers, employees, representatives, and agents as a result of the execution of this Agreement and the performance of the covenants contained in this Agreement.
- G. <u>Mutual Indemnification:</u> To the extent allowed by the Constitution and Laws of the State of Texas, the CONTRACTOR and OWNER agree that each party

assumes any and all risks of liability, loss, damages, claims, or causes of action and related expenses, including attorney fees, caused or asserted to have been caused directly or indirectly by or as the result of the negligent acts or omissions of that party and the officers, employees, and agents thereof.

- H. <u>Captions</u>. Captions to provisions of this Agreement are for convenience and shall not be considered in the interpretation of the provisions.
- I. <u>Fiscal Obligations</u>. Each party which performs services or furnishes aid under this Agreement must do so with funds available from current revenues of the party, which are subject to annual appropriations.
- J. <u>Approval by Governing Bodies</u>. Each party represents that this Agreement has been duly passed and approved by the governing body of the party or that proper power and authority has been delegated by the governing body.
- K. <u>Entirety of Agreement</u>. No other oral or written commitments of the parties with respect to the usage of facilities or signage may have any force or effect if not contained in this Agreement or any amendments thereto.
- L. <u>Severability</u>. If any provision contained in this Agreement is held invalid for any reason, the invalidity does not affect other provisions of the Agreement that can be given effect without the invalid provision, and to this end the provisions of this Agreement are severable.
- M. <u>Validity and Enforceability</u>. If any current or future legal limitations affect the validity or enforceability of a provision of this Agreement, then the legal limitations are made a part of this Agreement and operate to amend this Agreement to the minimum extent necessary to bring this Agreement into conformity with the requirements of the limitations, and so modified, this Agreement continues in full force and effect.
- N. <u>Warranty</u>. The individuals executing this agreement on behalf of each party represent and warrant that they are each the duly authorized representatives of such party on whose behalf the individuals are signing, each with full power and authority to bind said party to each term and condition set forth in this agreement.
- O. <u>Governing Laws</u>. This Agreement shall be governed by the laws of the State of Texas.
- P. <u>Venue</u>. Venue for an action arising under this Agreement is in Kleberg County, Texas.
- Q. <u>Effective Date</u>. This Agreement is effective on the date when the last party executes this agreement.

- Q. <u>Effective Date</u>. This Agreement is effective on the date when the last party executes this agreement.
- R. <u>Multiple Originals</u>. Two (2) copies of this Agreement are executed; each shall be deemed an original.

## PART X. ATTACHMENTS

Attachment 1- Exhibit A-Scope of Work Attachment 2- Exhibit B-Compensation

Executed as of the effective date set forth above:

Authorized and accepted this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2025.

PM CONSTRUCTION & REHAB, LLC

BY:\_\_\_\_\_\_\_ Linda Sifuentes

\_\_\_\_\_\_\_ Manager

Title

Authorized and accepted this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2025.

CITY OF KINGSVILLE, TEXAS

BY:\_\_\_\_\_\_\_ Charlie Sosa

\_\_\_\_\_\_\_ Interim City Manager

Title

# EXHIBIT A SCOPE OF WORK

## **Section I. General Information**

- **1.1** The Contractor shall furnish all labor, superintendence, machinery, equipment, tools, materials, services, and other facilities to install Five hundred (500) feet of 18" CIPP Sanitary Sewer and Two (2) Manhole rehab fiberglass liners.
- **1.2** Any equipment or repair parts contemplated within the Work shall be new and ready for use and shall be capable of performing in accordance with the requirements set forth in the specifications unless otherwise specified below.

# Section II. Scope of Work by PM Construction & Rehab, LLC:

- **2.1** Provide pre-work submittals.
- **2.2** PMC will perform pre-rehab CCTV & cleaning (normal only). Two-wheel drive vehicle access to manholes is required for this work.
- **2.3**CIPP rehabilitation to be completed per ASTM 1216 standards utilizing water or air inversion & water or steam curing methods.
- 2.4 Reinstatement of service laterals is via internal robotic cutter only (if required).
- **2.5** PMC will perform post lining CCTV inspection upon completion of our CIPP to confirm rehab work.
- 2.6 This includes bypass
- **2.7** CIPP rehabilitation pricing is based on completing diameters & associated quantities as listed in this proposal's schedule of values. Any change in overall or segmental length, diameters or liner thickness could result in pricing changes.
- **2.8** CIPP rehabilitation pricing is based on completing diameters & associated quantities as listed in this proposal's schedule of values. Any change in overall or segmental length, diameters or liner thickness could result in pricing changes.
- **2.9** Demobilize all construction equipment and clean-up of all identifiable debris generated by PMC crew(s).
- **2.10** Proposal includes costs for one mobilization. Additional mobilizations could result in additional charges.

### **EXHIBIT B**

### COMPENSATION

# **Section I. Compensation**

- 1.1 Contractor shall be compensated for the Work and Equipment provided under this Contract in a lump sum total not-to-exceed price of **one hundred one thousand**, **five hundred zero dollars and zero cents (\$101,500.00)** after the Work and materials have been accepted by the City.
- **1.2** Unless otherwise approved in writing by the City and formalized by amendment, the Work and Materials provided under this Contract shall not exceed the total price set forth in Section 1.1above.

# Section II. Payment Terms and Invoicing

- **2.1** The City normally will pay properly submitted Contractor invoices within thirty (30) days of receipt providing goods and/or services have been delivered and accepted as specified.
- **2.2** Invoices must be received in the City Finance and Administration Department and presented for payment in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the following address for processing:

Mailing Address:

**Physical Address:** 

City of Kingsville

City of Kingsville

P.O. Box 1458

400 W. King Ave.

Kingsville, Texas 78364

Kingsville, Texas 78363

- **2.3** The Contractor is asked to submit invoices electronically to the following Accounts Payable email address: wdonnell@cityofkingsville.com. Contractors who use the electronic service should not mail the original invoice.
- **2.4** The City is exempt from paying Texas sales and use taxes. The Contractor shall not charge the City for such taxes. Proof of exemption is available upon request.
- **2.5** Invoices will be sent to the City by the Contractor and payment made within 30 Days by the City to the Contractor according to the pay schedule below.
  - 100% Upon Approval and Substantial Completion and Acceptance.
- **2.6** ACH Payments will be the accepted method of payment. The City will provide bank account and routing information with their purchase order and the Contractor will provide bank accounting and routing information on the invoice.