



# City of San Marcos

## Special Meeting - Final City Council

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Thursday, June 18, 2020

4:00 PM

Virtual Meeting

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**Due to COVID-19, this will be a virtual meeting. To view the meeting please go to [www.sanmarcostx.gov/videos](http://www.sanmarcostx.gov/videos) or watch on Grande channel 16 or Spectrum channel 10.**

I. Call To Order

II. Roll Call

### PRESENTATIONS

1. Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.
2. Receive a presentation regarding a request to partner with the San Marcos River Foundation on an application to be submitted to Lyda Hill Philanthropies for their Lone Star Prize Competition; and provide direction to Staff.

### NON-CONSENT AGENDA

3. Consider approval, by motion, of the following meeting Minutes:
  - A. May 26, 2020 - Budget Work Session Minutes
  - B. June 2, 2020 - Work Session Minutes
  - C. June 2, 2020 - Regular Meeting Minutes
  - D. June 10, 2020 - Special Meeting Minutes
  - E. June 11, 2020 - Special Meeting Minutes
4. Consider approval of Ordinance 2020-46, on the second of two readings, amending the project plan and reinvestment zone financing plan for Tax Increment Reinvestment Zone No. 5, also known as the "Downtown TIRZ" to add eligible projects and associated eligible project costs, including the acquisition of property for parking and other public priorities and related operations and maintenance costs up to \$2,000,000.00; approving an amendment to the Tax Increment Participation Interlocal Agreement with Hays County to reduce the City's and the County's contribution rate of the tax increment deposited into the Tax Increment Fund from 70 percent to 25 percent for one year; authorizing the City Manager, or his designee, to execute such amendments on behalf of the City; including procedural provisions; and declaring an effective date.
5. Consider approval of Resolution 2020-136R, approving a grant agreement with the United States Department of Justice in the amount of \$51,345.00 to assist the City's Fire and Police Departments by providing funding to purchase personal protective equipment necessary to provide public safety services during the COVID-19 pandemic in the City of

San Marcos; authorizing the City Manager or his designee to execute the grant agreement on behalf of the City; and declaring an effective date.

6. Consider approval of Resolution 2020-137R, supporting and encouraging implementation of the proposed cite and divert program by the Hays County Criminal District Attorney's Office for citation-eligible offenses; and declaring an effective date.
7. Consider approval of Resolution 2020-138R, urging the United States Congress to adopt Criminal Justice Reform Legislation requiring local law enforcement agencies to report all deaths of citizens while in police custody to the United States Department of Justice; requiring the department to independently review and investigate each custodial death reported by a local law enforcement agency to determine if the unnecessary or improper use of force was a cause of death and expose patterns of discriminatory treatment; prohibiting the United States Government from supplying local law enforcement agencies with military hardware, vehicles, or weaponry for use against United States Citizens
8. Consider approval of Resolution 2020-139R, granting an easement to Pedernales Electric Cooperative, Inc. for the installation of Electric Utility facilities to serve the City's new Fire Station No. 2 in the La Cima Development; authorizing the City Manager, or his designee, to execute said easement on behalf of the City; and declaring an effective date.
9. Consider, by motion, approval of a joint letter from members of the City Council calling on Governor Greg Abbott to take specific actions to alleviate the disproportionate impact of COVID-19 on Latinx Texans and people of color.
10. Receive a Staff presentation and hold discussion regarding the return to normal utility billing operations for non-payment, and provide direction to Staff.
11. Hold discussion on Capes Dam, including but not limited to Hays County Parks proposals; and provide direction to the City Manager.

III. Adjournment.

**POSTED ON MONDAY, JUNE 15, 2020 @ 2:00PM**

**TAMMY K. COOK, INTERIM CITY CLERK**

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to [ADArequest@sanmarcostx.gov](mailto:ADArequest@sanmarcostx.gov)



## Legislation Text

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**File #:** ID#20-389, **Version:** 1

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**AGENDA CAPTION:**

Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.

**Meeting date:** June 18, 2020

**Department:** City Manager's Office

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action:** [Click or tap here to enter text.](#)

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

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**File #:** ID#20-389, **Version:** 1

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**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

# **City of San Marcos**

## **City Council Special Meeting**

June 18, 2020

# Status Report

## Item 1

Receive status reports and updates on response to COVID-19 pandemic; hold Council discussion, and provide direction to Staff.

# Known Cases – as of today

- **2,132,321 U.S. cases with at least 116,862 fatalities. (More than 27,975 new cases since yesterday)**

*\*source: Center for Disease Control and Prevention*

- **96,335 (31,905 active) cases in 237 Texas counties with 2,062 fatalities**

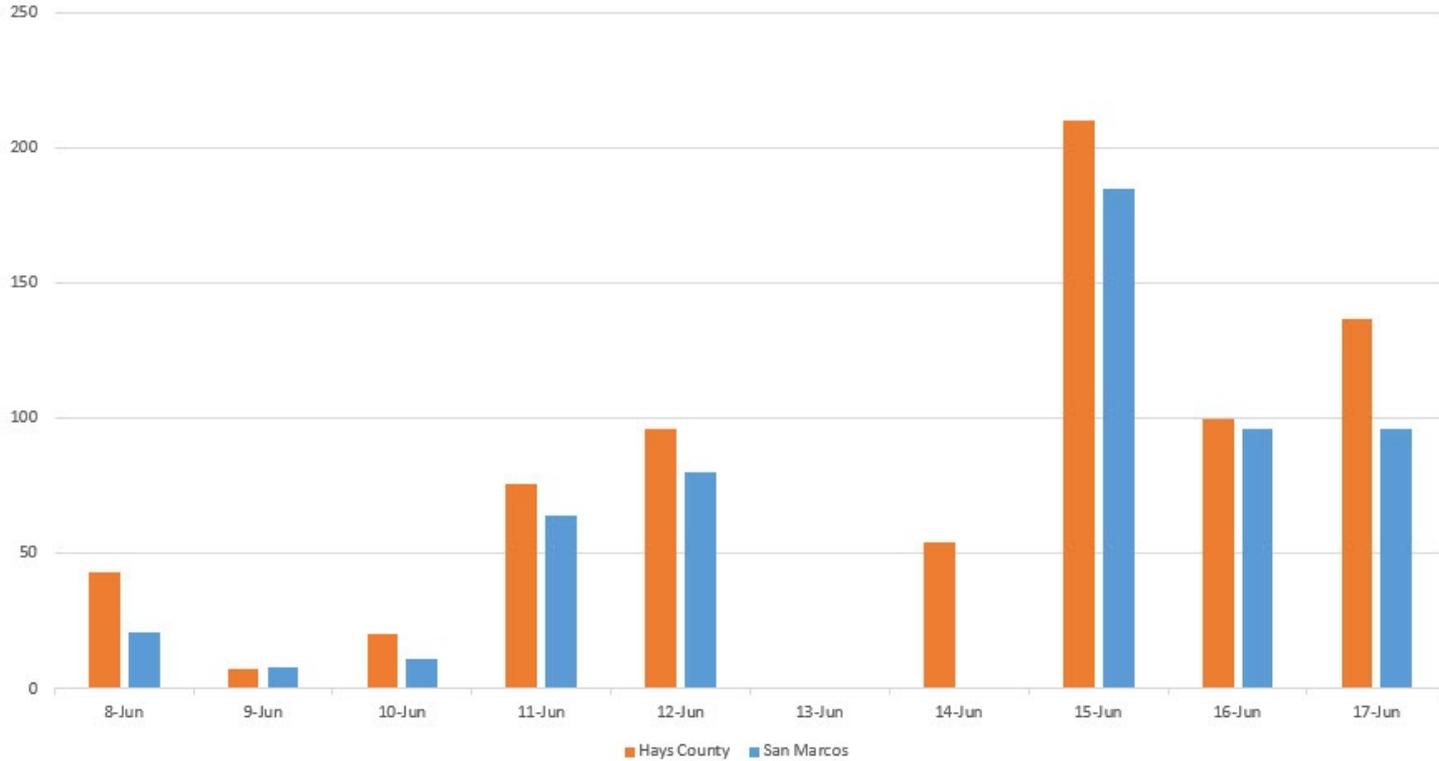
*\*source: Texas Department of State Health Services*

- **1,238 in Hays County with 5 fatalities (903 active and 330 recovered)**

- 5,109 tests returned negative
- 592 active and 93 recovered in San Marcos (2 fatalities)
- 42 cases have required hospitalization, 17 current

*\*source: Hays County Health Department*

Change in Active Cases from Previous Day



# SAN MARCOS Updates to Governor Abbott's Actions

- **June 16: Provided update on hospital capacity**
  - Noted that despite an uptick in positive cases, there continues to be abundant hospital capacity
    - 27% of total reported hospital beds are available (14,993 available, 54,844 total)
    - 1,675 total ICU beds available
    - 5,869 total classic ventilators available
- **June 16: Texas Workforce Commission to reinstate work search requirement**
  - Announced job search requirements suspended temporarily during the COVID-19 crisis will be reinstated July 6
  - Work search document required in order to continue receiving benefits

# Testing Overview

- **6,242 tests administered county wide**
  - 5,065 negative (81%)
  - 1,093 confirmed (17.5%)
- **County free testing – Live Oak Clinic on Broadway**
  - \$150,000 grant from DSHS through the Emergency Preparedness Program
  - Available to under-insured and uninsured
  - 180 tested since end of May
- **TDEM testing sites – Bonham 6/14 (701 tested) Bowie 6/20 (10-4)**
  - Simon Middle School, Kyle 6/17 (4-8 p.m.)
  - Uhland Elementary, Uhland 6/18 (4-8 p.m.)
  - McCormick Middle School, Buda (4-8 p.m.)
- **Future TDEM sites – July 12-15 preliminary identified**

- **CESF (Coronavirus Emergency Supplemental Fund) grant award letter received 6/8**
  - Just over \$51,000 is funding to reimburse City for overtime and supplies related to COVID-19
  - Applies to Police and Fire Department COVID-19 expenses such as PPE, overtime, other COVID-related equipment

# Helpful community links

- <http://www.sanmarcostx.gov/covid19info>
- <http://haysinformed.com/health-update/>
- <https://hayscountytexas.com/covid-19-information-for-hays-county-residents/>
- <https://www.txstate.edu/coronavirus>
- <https://www.smcisd.net/>
- <https://www.dshs.texas.gov/coronavirus/>
- <https://sanmarcostexas.com/>



## Legislation Text

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**File #:** ID# 20-400, **Version:** 1

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**AGENDA CAPTION:**

Receive a presentation regarding a request to partner with the San Marcos River Foundation on an application to be submitted to Lyda Hill Philanthropies for their Lone Star Prize Competition; and provide direction to Staff.

**Meeting date:** June 18, 2020

**Department:** Engineering/CIP

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Sustainability

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Public & Private Sector Partnership to Protect Water Quality & proper development in San Marcos and Blanco Rivers

Land Use - Choose an item.

Neighborhoods & Housing - Choose an item.

Parks, Public Spaces & Facilities - Collection of connected and easily navigated parks and public spaces

Transportation - Choose an item.

Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Parks, Recreation, & Open Space Master Plan

**Background Information:**

The San Marcos River Foundation (SMRF) is requesting a City partnership in the application for a \$10M Lone Star Grant. SMRF will also be partnering with the San Marcos Greenbelt Alliance (SMGA). The grant would fund the completion of a long-envisioned greenbelt corridor around western San Marcos with a trail connecting Purgatory Park to Spring Lake Natural Area. If awarded the grant SMRF is proposing to:

- Purchase parcels to complete trail connectivity
- Fund construction of 4.8 miles of trails with amenities
- Fund construction of three trail access parking lots with paid parking
- Fund 5-years of City operation and maintenance (O&M) costs
- Fund and provide associated project management, design and permitting costs

The City is not eligible to apply for the grant, but partnerships are encouraged for proposals meeting three key issues: health outcomes, environmental protection, and workforce development. SMRF believes that in partnership with the City and SMGA the proposed project can meet these goals.

The trail is proposed on land currently owned by the City and on two tracts to be purchased by SMRF known as the Elisk and Geiger tracts. As shown on the attached map the purchases and trail project meet the intent of the grant by:

- Improving mental and physical health outcomes via access to trails and nature.
- Conserving property in one of the fastest growing areas of the country for the protection of aquifer recharge and the reduction of impervious cover associated with development.
- Increasing public understanding of the recharge zone, wildlife corridors, and hill country characteristics through educational signage
- Providing job opportunities through the construction proposed and the establishment of City positions for stewardship of the project.

Not all the points of the project have been clearly developed including: ultimate ownership of the purchased parcels; design, permitting and construction requirements; funding of City staff after the grant period and financial responsibilities between the partners.

Applications are due for the grant on July 22nd. In addition to the resolution supporting the partnership, a Memorandum of Understanding (MOU) must be attached to the application. The MOU must clearly establish the relationship among the parties collaborating on the grant and will be in effect for the duration of the project. Currently the SMRF is working on a draft MOU for City review however an exact timeline for execution has not

been established.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Staff recommends support of the grant application

# CITY COUNCIL WORK SESSION

## LYDA HILL PHILANTHROPIES LONE STAR PRIZE

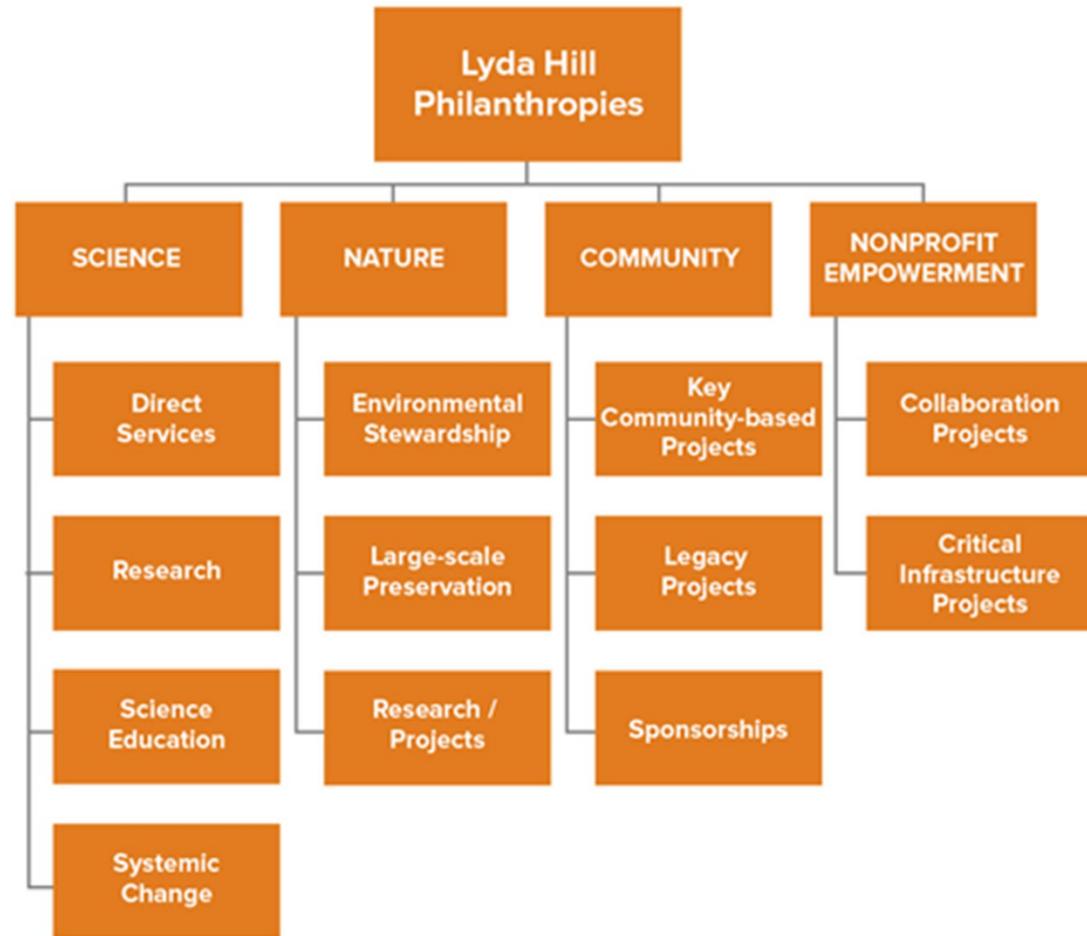
Thursday, June 18, 2020

# PURPOSE & AGENDA

- To inform the City Council of a grant award opportunity, the Lone Star Prize, via a partnership with the San Marcos River Foundation (SMRF) that is being offered through Lyda Hill Philanthropies.
- To seek City Council authorization to partner with the San Marcos River Foundation (SMRF) on this effort.

# LYDA HILL PHILANTHROPIES

- **Lyda Hill Philanthropies is an organization that is committed to funding transformational advances in science and nature, empowering nonprofit organizations and improving the Texas and Colorado communities.**



# WHAT IS THE LONE STAR PRIZE?

- The Lone Star Prize, is a statewide competition designed to source a pipeline of philanthropic “big bets” and scale a proven, transformative solution that improves the quality of life for Texans.
- Lone Star Prize was created to award one \$10 million grant to an innovative project focused on one or more key solution categories:
  - Improving Health Outcomes
  - Protecting the Environment
  - Boosting the Workforce
- Application deadline: July 22, 2020

# WHO IS ELIGIBLE TO PARTICIPATE?

According to the Eligibility Rules of the competition application:

- Local non-profit organizations
- Public colleges or universities
- Private foundations
- For-profit corporations organized under the laws of a State (or territory) in the United States.
- Benefit corporations, flexible purpose entity, or similar "hybrid" entity organized under the laws of a State (or territory) in the United States.
- Limited liability companies or partnerships organized under the laws of a State (or territory) in the United States.
- Entities that are recognized under the law of the applicable jurisdiction as a non-governmental organization, an educational organization, a charitable organization, a social welfare organization, a not-for-profit organization, or similar-type entity that is not a for-profit organization or government agency.

# WHO IS ELIGIBLE TO PARTICIPATE?

According to the Eligibility Rules of the competition application:

- Government Agencies are not eligible to apply on their own, but can partner with any of the aforementioned eligible organizations.
- The San Marcos River Foundation (SMRF) has approached the City of San Marcos to partner on this project.
  - SMRF would serve as the principle organization
  - A Memorandum of Understanding would be entered into by both entities to further define award terms and condition as well as roles and responsibilities of each entity.

# HOW ARE APPLICATIONS SCORED?

Once a valid application has been submitted, a minimum of five reviewers will be assigned to score each submission. Those judges will offer both scores and comments against each of four distinct traits. Each trait will be scored on a 0-5 point scale, in increments of 0.1. Those scores will combine to produce a total normalized score.

The four distinct traits are:

- **Transformative** : Clear vision to improve the quality of life for Texas residents. Well-defined outcomes are expected to result in systemic change and provide direct and indirect impact over time.
- **Scalable**: Sensible and appropriate approach to scale and serve as a model for other communities. Offers clear plans to successfully scale and to impact Texas residents.
- **Feasible**: Offers a qualified, capable team with demonstrated experience and community buy-in. Shares sensible plans to address challenges and sustain impact over time.
- **Evidence-Based**: Evidence-based approach that is proven effective. Demonstrates a track record of success and the understanding needed to deliver results for communities in Texas.

# GRANT SELECTION PROCESS / TIMELINE

## 2020

- June 23 – Registration deadline
- July 22 – Application deadline
- July – August – Administrative Review – Funder checking for compliance with application requirements
- Mid-August- Mid-September – Peer to Peer Review (utilizing scoring rubric)
- Late September – October – Evaluation Panel Review (utilizing scoring rubric)
- November –December - Finalists Selected – Each Eligible to receive \$40,000 planning grant

## 2021

- January – May – Proposal Strengthening
- May – **Grant Award** - Finalist Selected for \$10 million grant

# PROPOSED PROJECT

If awarded the grant award SMRF is proposing to:

- Purchase parcels to complete trail connectivity\*
- Fund construction of 4.8 miles of trails with amenities\*
- Fund construction of three trail access parking lots with a proposed paid parking area
- Fund 5-years of City operation and maintenance (O&M) costs
- Fund and provide associated project management, design and permitting costs

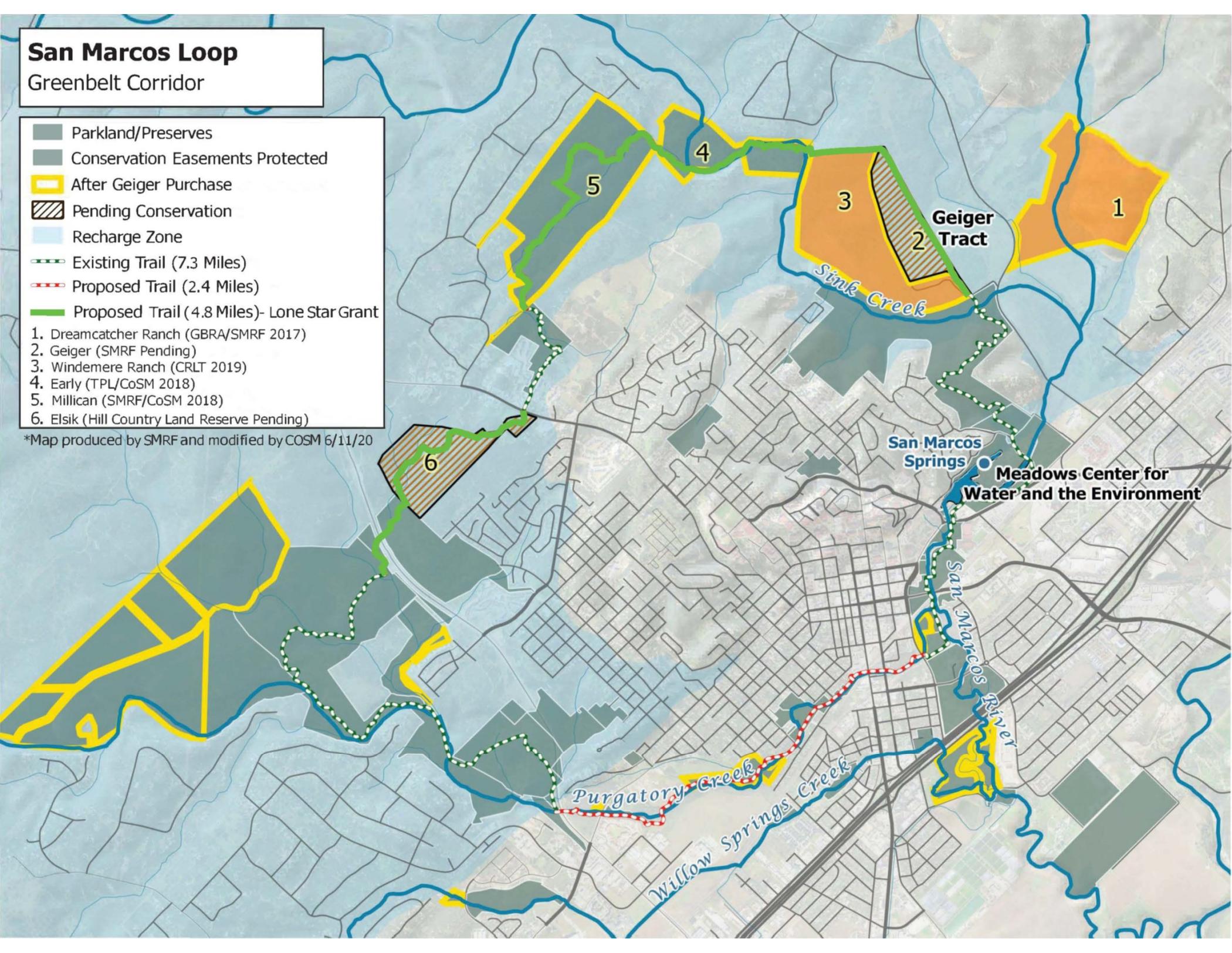
*\*Illustrated on the map on the next slide*

# San Marcos Loop

## Greenbelt Corridor

-  Parkland/Preserves
  -  Conservation Easements Protected
  -  After Geiger Purchase
  -  Pending Conservation
  -  Recharge Zone
  -  Existing Trail (7.3 Miles)
  -  Proposed Trail (2.4 Miles)
  -  Proposed Trail (4.8 Miles)- Lone Star Grant
1. Dreamcatcher Ranch (GBRA/SMRF 2017)
  2. Geiger (SMRF Pending)
  3. Windemere Ranch (CRLT 2019)
  4. Early (TPL/CoSM 2018)
  5. Millican (SMRF/CoSM 2018)
  6. Elsik (Hill Country Land Reserve Pending)

\*Map produced by SMRF and modified by COSM 6/11/20



# PROPOSED PROJECT ESTIMATES

Staff coordinated with SMRF to determine project estimates within \$10M award budget:

- High level cost estimates on the construction of the trail and parking lots are estimated at \$3.2M.
- Land acquisition costs are \$3.5M (per SMRF)
- Funding for SMGA & SMRF is \$500,000 (per SMRF)
- City staff positions to support the O&M for the trail and parking areas and their annual costs have been calculated at \$465,000 annually.
- O&M over the 5-year period approximately \$2.3M

# PROPOSED PROJECT ESTIMATES

Staff evaluated with SMRF the potential parking revenues that could fund O&M costs beyond grant proceeds. Assumptions made were:

- City residents would be exempt from any parking fees.
- Non-residents would pay \$2/hr.
- Parking turn-over, usage and distribution of resident & non-resident users were based on previous City studies.
- Three parking lots would accommodate 50 spaces each.
- Annual potential revenue ranges from \$90k to \$355k.
- SMRF has committed that any revenues collected during the grant period would be provided to the City as a reserve once the grant funding ended.

# CONCERNS/UNRESOLVED ISSUES

- A Memorandum of Understanding (MOU) would need to be negotiated and executed between SMRF and the City prior to application submittal on or before July 22, 2020 .
- SMRF would administer grant and provide direction, control, and supervision of the project during the grant period. This responsibility with construction on City land, hiring of City staff and associated City requirements is not completely understood.
- SMRF would purchase the outstanding parcels but it has not been determined if they would retain ownership of the tracts and grant a trail easement to the City or if they would dedicate the parcels to the City.

# CONCERNS/UNRESOLVED ISSUES

- The Greenbelt Alliance would participate in design/construction of the trail, but there are state requirements with the design and construction of public trails that would have to be taken into consideration.
- Sustainability for the project must be demonstrated - paid parking is currently the identified option.
- According to the Lone Star Prize Team “there will be opportunity to discuss the ways in which the solution/project is managed and sustained after the grant period with those who move on to later stages of the competition.”

# NEXT STEPS

- Receive Council direction
- If directed, bring back a Resolution of support and a Memorandum of Understanding for consideration at a Special Called Meeting prior to July 22.

# COUNCIL DIRECTION NEEDED

- Is the Council interested in partnering with SMRF on this project?
- Does staff have authorization to bring back a Resolution of support for the Lone Star Prize application?
- Does staff have authorization to draft and negotiate a Memorandum of Understanding (MOU) between the City and SMRF?

*QUESTIONS?*



# MEMO

ENGINEERING/CIP

**TO:** **BERT LUMBRERAS, CITY MANAGER**  
**JOE PANTALION, ASSISTANT CITY MANAGER**  
**STEPHANIE REYES, ASSISTANT CITY MANAGER**  
**CHASE STAPP, DIRECTOR OF PUBLIC SAFETY**

**FROM:** LAURIE MOYER, P.E., DIRECTOR OF ENGINEERING & CAPITAL IMPROVEMENTS  
DREW WELLS, DIRECTOR OF PARKS AND RECREATION

**DATE:** JUNE 12, 2020

**RE:** **SAN MARCOS RIVER FOUNDATION PARTNERSHIP REQUEST**

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The San Marcos River Foundation (SMRF) is requesting a City partnership in the application for a \$10M Lone Star Grant. SMRF will also be partnering with the San Marcos Greenbelt Alliance (SMGA). The grant would fund the completion of a long-envisioned greenbelt corridor around western San Marcos with a trail connecting Purgatory Park to Spring Lake Natural Area. If awarded the grant SMRF is proposing to:

- Purchase parcels to complete trail connectivity
- Fund construction of 4.8 miles of trails with amenities
- Fund construction of three trail access parking lots with paid parking
- Fund 5-years of City operation and maintenance (O&M) costs
- Fund and provide associated project management, design and permitting costs

The City is not eligible to apply for the grant, but partnerships are encouraged for proposals meeting three key issues: health outcomes, environmental protection, and workforce development. SMRF believes that in partnership with the City and SMGA the proposed project can meet these goals.

The trail is proposed on land currently owned by the City and on two tracts to be purchased by SMRF known as the Elisk and Geiger tracts. As shown on the attached map the purchases and trail project meet the intent of the grant by:

- Improving mental and physical health outcomes via access to trails and nature.
- Conserving property in one of the fastest growing areas of the country for the protection of aquifer recharge and the reduction of impervious cover associated with development.
- Increasing public understanding of the recharge zone, wildlife corridors, and hill country characteristics through educational signage
- Providing job opportunities through the construction proposed and the establishment of City positions for stewardship of the project.

Not all the points of the project have been clearly developed.

- SMRF would be responsible for receiving and taking accountability for the grant funds as well as provide direction, control, and supervision of the project during the grant period. This responsibility with construction on City land, hiring of City staff and associated City requirements would need to be defined.
- SMRF would purchase the outstanding parcels but it has not been determined if they would retain ownership of the tracts and grant a trail easement to the City or if they would dedicate the parcels to the City.
- The Greenbelt Alliance would partner in the construction of the trails, as has been done in existing parklands, but there are state requirements with the design and construction of public trails that would have to be taken into consideration.
- Sustainability for the project must be demonstrated and SMRF is proposing paid parking at three new trail access parking lots. Paid parking is not an issue that the City Council has discussed and if not approved would require another revenue stream be identified after the grant period.
- According to the Lone Star Prize Team “there will be opportunity to discuss the ways in which the solution/project is managed and sustained after the grant period with those who move on to later stages of the competition.”

The staff has evaluated the following with SMRF to determine if the project can be completed with the \$10M grant:

- High level cost estimates on the construction of the trail and parking lots have been developed and are estimated at \$3.2M.
- Per SMRF, the land acquisition costs are \$3.5M
- Per SMRF, funding for SMGA & SMRF is \$500,000
- City staff positions to support the O&M for the trail and parking areas and their annual costs have been calculated at \$465,000 annually.
- Grant funds for O&M over the 5-year period are approximately \$2.3M

Staff also evaluated with SMRF the potential parking revenues that could be generated from the three proposed lots. Assumptions made were:

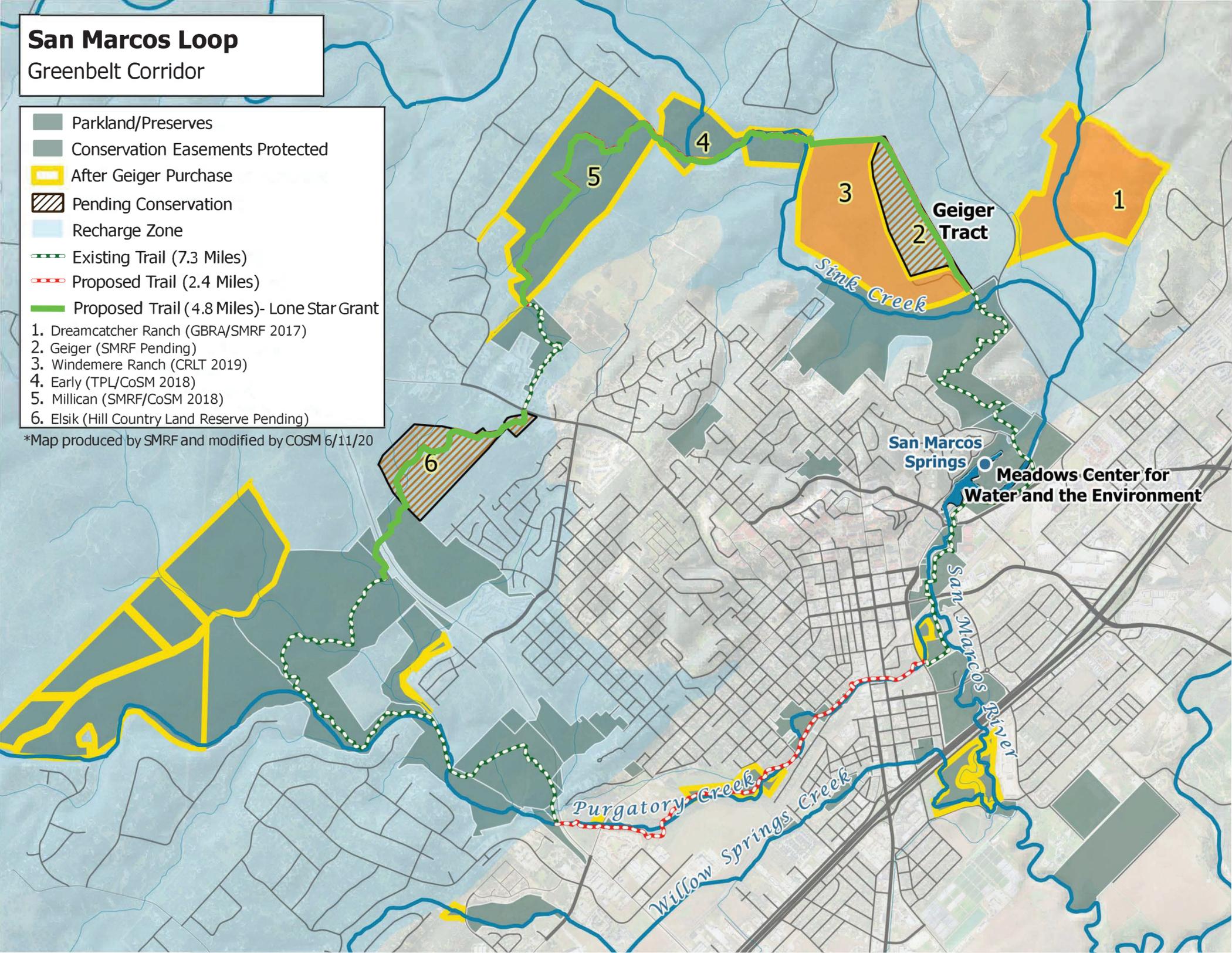
- City residents would be exempt from any parking fees.
- Non-residents would pay \$2/hr.
- Parking turn-over, usage and distribution of resident & non-resident users were based on previous City studies.
- Each parking lot would accommodate 50 spaces.
- Annual potential revenue was calculated under various scenarios and ranged from \$90,000 - \$355,000.
- SMRF has committed that any revenues collected during the grant period would be provided to the City as a reserve once the grant funding ended.

Applications are due for the grant on July 22<sup>nd</sup>. In addition to the resolution supporting the partnership, a Memorandum of Understanding (MOU) must be attached to the application. The MOU must clearly establish the relationship among the parties collaborating on the grant and will be in effect for the duration of the project. Currently the SMRF is working on a draft MOU for City review.

# San Marcos Loop Greenbelt Corridor

-  Parkland/Preserves
  -  Conservation Easements Protected
  -  After Geiger Purchase
  -  Pending Conservation
  -  Recharge Zone
  -  Existing Trail (7.3 Miles)
  -  Proposed Trail (2.4 Miles)
  -  Proposed Trail (4.8 Miles)- Lone Star Grant
1. Dreamcatcher Ranch (GBRA/SMRF 2017)
  2. Geiger (SMRF Pending)
  3. Windemere Ranch (CRLT 2019)
  4. Early (TPL/CoSM 2018)
  5. Millican (SMRF/CoSM 2018)
  6. Elsik (Hill Country Land Reserve Pending)

\*Map produced by SMRF and modified by COSM 6/11/20





Legislation Text

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**File #:** ID#20-393, **Version:** 1

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**AGENDA CAPTION:**

Consider approval, by motion, of the following meeting Minutes:

- A. May 26, 2020 - Budget Work Session Minutes
- B. June 2, 2020 - Work Session Minutes
- C. June 2, 2020 - Regular Meeting Minutes
- D. June 10, 2020 - Special Meeting Minutes
- E. June 11, 2020 - Special Meeting Minutes

**Meeting date:** 6/18/2020

**Department:** City Clerk

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action:** Approval of Previous Meeting Minutes

**City Council Goal:** [Please select goal from dropdown menu below]

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from below]

- Economic Development Choose an item.
- Environment & Resource Protection Choose an item.
- Land Use Choose an item.
- Neighborhoods & Housing Choose an item.
- Parks, Public Spaces & Facilities Choose an item.
- Transportation Choose an item.
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

The following minutes are attached for review:

- A. May 26, 2020 - Budget Work Session Minutes
- B. June 2, 2020 - Work Session Minutes
- C. June 2, 2020 - Regular Meeting Minutes
- D. June 10, 2020 - Special Meeting Minutes
- E. June 11, 2020 - Special Meeting Minutes

**Council Committee, Board/Commission Action:** Click or tap here to enter text.

**Alternatives:**

**Recommendation:** Approve Minutes as attached



# City of San Marcos

## Meeting Minutes City Council

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Tuesday, May 26, 2020

1:00 PM

Virtual Meeting

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This meeting was held using conferencing software due to the COVID-19 rules.

### I. Call To Order

**With a quorum present, the budget work session meeting of the San Marcos City Council was called to order by Mayor Hughson at 1:03 p.m. Tuesday, May 26, 2020. The meeting was held virtually.**

### II. Roll Call

**Deputy Mayor Pro Tem Rockeymoore arrived after roll call at 1:20 p.m.**

**Present:** 6 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

**Absent:** 1 - Council Member Joca Marquez

## PRESENTATIONS

1. Receive a Staff presentation and hold discussion regarding the Fiscal Year 2019-2020 Financial Update and preliminary Fiscal Year 2020-2021 Budget, and provide direction to Staff.

**Bert Lumbreras, City Manager provided a brief introduction. Melissa Neel, Assistant Director of Finance, provided a presentation of the Fiscal Year (FY) 2020 Financial Update and the preliminary 2020-2021 Budget.**

**The presentation will cover current economic outlook, revised FY20 financial update, and FY21 preliminary revenue assumptions. Staff is seeking Council direction on revenue assumptions and recommendations to address anticipated decline in revenues.**

**Ms. Neel presented the FY20 Financial Strategy and explained the following phases in regards to projected sales tax revenue shortfall:**

**Phase I - (20%)**

**Description: Sales tax revenue shortfall of \$6.4M**

**Cost Reduction Goal is \$5.5M (currently estimated at \$4,644,086)**

**Increase utility franchise fees from 7% 8% Goal is \$900,000 – Estimate, based on revenues so total will be seen at end of fiscal year.**

**Ms. Neel provided the current cost reductions that have been made from the FY20 General Fund. These include the following programs/line items: Managed Hiring Program; April '20 Merit/COLA delay; Capital Outlay (non essential); Homebuyer Incentive & BIG Grant; Dues/Subscriptions/Supplies, Professional Development, Travel, Meals; Departmental Line Item Reductions; Facility Repairs (non critical); and Street overlay. Total is \$5,500,000.**

**FY20 Other Funds Update**

**Hotel Occupancy Tax revenue shortfall (\$1,200,000)**

**HOT program reductions include Tourism, advertising, marketing, art, salary savings for a goal of \$600,000**

**Variance from goal \$474,000**

**Enterprise Fund revenue shortfall (\$300,000) which is offset by cost reductions \$300,000**

**Phase II - (25%)**

**\$8.0M net**

**\$6.4M Phase I + \$1.6M fund balance**

**Phase III - greater than (25%)**

**> \$8.0M**

**Fund balance**

**Service level reductions**

**Ch380 agreements**

**\*\*Phase II and III may need to be implemented to cover shortfall in Phase I**

**The current Phase I cost reductions goal is \$5.5M the estimate is currently \$4,644,086 (Variance of \$856,086)**

**The following are proposed considerations to fund projected variances from Phase I revenue shortfall:**

**Reduce economic incentive payments, Use of General Funds-Fund Balance**

and/or Service Level Reductions, Hotel Occupancy Tax fund, service level reductions.

<u>Home Value</u>	<u>Annual Tax Bill @ 3.5% Tax Cap</u>	<u>Annual Tax Bill @ Same Tax Rate 0.6139</u>	<u>Difference in Annual Tax Bill</u>
\$100,000	568.60	613.90	45.30
\$200,000	1,137.20	1,1227.80	90.60
\$300,000	1,705.80	1,841.70	135.90

For tax year 2020 the average home value is \$236K.

If the no-new revenue rate capped at 3.5% were adopted, the average homeowners tax bill would be reduced by ~ \$100. However, the impact to the General Fund would be a reduction of ~\$1.5M in revenue.

Sales Tax revenue will be hard to predict for the upcoming year.

Sales Tax Revenue Forecast

In FY19 sales tax exceeded budget 3.9%

FY20 revised – the year began strong. Through March exceeded budget.

Anticipate steep declines in April-June revenue perhaps up to 15%

FY21 will see impacts of unemployment, reduced tourism & disposable income perhaps up to 9%.

FY22-23 anticipate employment to increase as more cash flows into the economy increasing sales tax revenue p tp 10%. Comptroller Ruling effective May 31st will change this projection

User fees will be raised by the CPI as we have for several year except for some fees that were raised recently.

Ms. Neel provided the FY2021 Preliminary Revenue including property tax, sales tax and other revenue. The revenue gap from FY20 Adopted to FY21 Preliminary is \$6.6 million. Additional revenue will be needed to cover base expenditure increases. This funding gap will restrict current service levels if not recovered.

The FY2021 proposed funding options to decrease the revenue gap include an increased Road Maintenance Fee resulting in \$1.4M, Suspend FY21 and reduce FY22 Downtown TIRZ contributions resulting in an additional \$1.3M and Reduction of Incentive Rebates resulting in \$4.5M additional revenue.

Ms. Neel presented a proposed funding source for street maintenance. Ms. Neel stated that comparable cities have charged monthly for residential, multi-family and commercial fees to bring in revenue to support operating

**costs in the streets departments.**

**Council provided direction on the following items:**

**Tax Rate: Maintain current tax rate @ 61.39**

**Facility Franchise Fee: Keep @ 8% increase**

**The FY21 budget is zero-based so all departments will have to reduce all expenditures to minimum requirements.**

**Road Maintenance Fee: continue research on this fee in a way that does not affect residents. Council indicated interest in a fee on heavy trucks for construction and other uses if there is a way to charge a fee that doesn't cost more to collect than the revenue collected.**

**Fund Balance: Reduce required balance to 20%**

**Downtown TIRZ: Reduce FY21 contribution from 70% to 25% and re-evaluate after 1 year.**

**Economic Development Incentives: Reduce FY20 rebates by 50%, reduce FY21 rebates by 75% with an effort to make this up in a future year. As of now, 50% has already been paid. This would affect the rest of those funds. Council was cautious about FY21 but only if really needed. A small amount is preferable. Council also discussed making up those payments in the future. Staff has been directed to reach out to businesses that will be affected by this reduction.**

**Service Level Reductions: No proposal to reduce service levels at this time, but staff has been directed to come back with proposal at the next budget workshop scheduled in late June. Council showed hesitation to reduce any services at this time.**

**Mayor Hughson asked that staff review the community survey and note which services are appreciated and needed.**

**Staff provided the budget timeline and next steps:**

**Budget Workshop with revised revenue, expenditure details, employee innovation box, utility rate recommendation to be held on June 30th**

**Record vote on tax rate to be held on August 4th**

**Proposed Budget to be held on August 13th**

**Public Hearing and 1st reading to be held on Sept. 1st**

**2nd reading & Budget adoption to be held on Sept. 15th**

Laurie Moyer, Director of Engineering and Capital Improvements provided a presentation on the Ten-Year Capital Improvement Projects (CIP).

Mrs. Moyer provided an overview of the capital improvement plan process for FY21. Projects have been identified throughout the year and submitted for inclusion. The budget policy, City Council Initiatives, and rate and debt capacity frame the staff recommendation process and City Council adopts first year of 10-yr plan with annual budget. Final funding for adopted CIP occurs with debt sale in Spring of FY. Prior to Spring issuance adopted projects can access funds through reimbursement process. Debt issuance varies from adopted CIP amount based on funding readiness.

Ms. Moyer presented the General Fund Projects that have been removed or revised which results in an estimated cost reduction of \$1,754,000.

**“Business as Usual” vs. Lean & Mean” Summary**

<u>FY21 CIP</u>	<u>Business as Usual Totals</u>	<u>Lean &amp; Mean Totals</u>	<u>Difference</u>
<b>General Fund:</b>	<b>\$6,239,000</b>	<b>\$4,485,000</b>	<b>-\$1,754,000</b>
<b>Water Fund:</b>	<b>\$44,526,575</b>	<b>\$44,526,575 \$0</b>	
<b>Wastewater Fund:</b>	<b>\$9,534,000</b>	<b>\$9,454,000</b>	<b>-\$80,000</b>
<b>Stormwater Fund:</b>	<b>\$9,560,000</b>	<b>\$9,560,000</b>	<b>\$0</b>
<b>Electric Fund:</b>	<b>\$10,065,421</b>	<b>\$10,065,421</b>	<b>\$0</b>

**Key Considerations in “Lean & Mean”**

**General Fund already considerably constrained.**

**Significant amount of construction underway or beginning.**

**Funding for priority projects**

**Reviewing existing funds for potential reallocation for further reductions**

**General Fund Projects Removed/Revised**

<u>General Fund FY21 CIP</u>	<u>Action</u>	<u>Amount</u>
<b>#614 – Downtown Property Acquisition</b>	<b>Removed</b>	<b>\$224,000</b>
<b>#69 – Fiber Optic Infrastructure Expansions</b>	<b>Removed</b>	<b>\$80,000</b>
<b>#736 – Boy Scout Hut Stabilization</b>	<b>Pushed to FY22</b>	<b>\$50,000</b>
<b>#475 – City Facility HVAC Replacement</b>	<b>Reduced by 50%</b>	<b>\$250,000</b>
<b>#169 – City Facility Parking Lots</b>	<b>Reduced by 50%</b>	<b>\$125,000</b>

<b>#753 – City Facility Roof Replacements</b>	<b>Reduced by 50%</b>	<b>\$250,000</b>
<b>#526 – City Facility Major Maintenance/Repairs</b>	<b>Reduced by 50%</b>	<b>\$250,000</b>
<b>#732 – Animal Shelter Long Term Imps</b>	<b>Pushed to FY22</b>	<b>\$75,000</b>
<b>#616 – Cemetery Improvements</b>	<b>Pushed to FY22</b>	<b>\$225,000</b>
<b>#756 – Open Space Development Plan</b>	<b>Pushed to FY22</b>	<b>\$100,000</b>
<b>#703 – Traffic Signal Synchronization and Improvement Project</b>	<b>Removed</b>	<b>\$125,000</b>
<b>Estimated cost reductions</b>		<b>\$1,754,000</b>

**Mrs. Moyer presented the 2021 Strategic Initiative Funding and the below list are funded projects and not projects to be deferred.**

**Downtown Vitalization:**

- **Downtown Alley Reconstruction (TIRZ)**
- **Downtown Pedestrian Safety & Comfort Improvements (TIRZ)**
- **Downtown Property Acquisition (TIRZ)**

**Stormwater:**

- **Hills of Hays**
- **IH 35 Utility Relocations (Sunset DS Imp)**
- **Sessom/Academy Intersection Imps.**
- **Castle Forrest Channel**
- **Downtown Alley Reconstruction (TIRZ)**

**City Facilities:**

- **City Facilities HVAC Replacement**
- **City Facility Parking Lots**
- **City Facility Roof Replacements**
- **City Facility Major Maintenance/Repair**
- **Household Hazardous Waste New Facility (Solid Waste)**
- **Police Department Renovations**
- **Airport Ramp Grant (match)**

**Multi Modal Transportation:**

- **Sessom/Academy Intersection Improvements**
- **Downtown Pedestrian Safety & Comfort Improvements (TIRZ)**

**Mrs. Moyer stated that in FY2018 CIP, the Planning and Zoning Commission did not make recommendations to move up and remove projects due to the financial aspect being out of their responsibility and to only recommend what**

was important.

## P&Z Recommendation Response

Project P&Z	Recommendation	Staff Response
#650 – Sessom Shared Use Path	Expedite to within the 3 yr. plan	Complex project over multi years FY24/27/29, >\$3M
#464 – Old RR 12 – Craddock to Holland	Expedite to 2021	Hopkins required for detour route, FY23 for const.
#464 – Old RR 12 – Craddock to Holland	Include on-street buffered bike lanes, separated sidewalks, not widening the road and pedestrian crossings at the Franklin Intersection.	Yes -5' w/ 2' buffer, no – issues, only @ intersection for bike & turn lanes, no - 2018 ped study
#419 – Sessom/Academy Intersection Imp	Create road diet to encourage safety improvements	Under evaluation for lane reduction & buf bike lanes
#480 – Hopkins Sidewalk CM Allen to Thorpe	Support improved sidewalks and encourage safety improvements through a road diet to support bike infrastructure.	July 2020 bid opening with TxDOT approval of bid docs
#594 – Hopkins St. Imp Moore to Guadalupe	Include complete street improvements and no widening of the road	Yes
#629 – IH 35 Utility Relocations	Support pedestrian bike improvements to promote better east-west connectivity across IH 35. Do not include diverging diamond type intersections.	TxDOT project, does not include diverging diamond intersections, sidewalks along frontage, SH123 and San Marcos River
#712 – Downtown Pedestrian Safety Comfort Improvements	Support of project, highlight its importance	No change – will remain in FY21
#681 – Hills of Hays	Support of project, highlight its importance	No change – FY21 Construction funding
#732 – Animal Shelter	Support of project, highlight its importance	\$400K FY20 funding for immediate needs
#8 – Fire Station Airport	Move project up to 2021 or 2022	Currently in FY22/23 as a potential bond project
#739 – Dunbar Education Building	Move project up to 2021 with complete funding	FY20 funds differed. Potential CBDG project
New – Old RR12 Blanco to Holland	Create a new project for road, pedestrian and bicycle improvements in this area to be included within the 10 year CIP	Will be scoped and added to the FY 2022-2031 CIP

**Mayor Hughson asked when will the Council make decisions on the recommendations. Ms. Moyer mentioned that it will be presented to council for direction as it comes for design approval and move through design to construction process. Mrs. Moyer stated that some projects are not ready to go before Council due to the change of scope.**

**Recommendation is to continue to discuss the CIP but to reduce at this time. However, there is an impact to the funding for city facilities.**

III. Adjournment.

**Mayor Hughson adjourned the budget work session meeting of the San Marcos City Council at 3:17 p.m.**

**Tammy K. Cook, Interim City Clerk**

**Jane Hughson, Mayor**



# City of San Marcos

6

## Meeting Minutes City Council

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Tuesday, June 2, 2020

3:00 PM

Virtual Meeting

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**This meeting was held using conferencing software due to COVID-19 rules.**

### I. Call To Order

**With a quorum present, the work session of the San Marcos City Council was called to order by Mayor Hughson at 3:00 p.m. Tuesday, June 2, 2020. This meeting was held virtually.**

### II. Roll Call

**Present:** 6 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

**Absent:** 1 - Council Member Joca Marquez

### PRESENTATIONS

1. Receive a transit update presentation on the Five Year Transit Strategic Plan. Hold Council discussion regarding key Strategic Plan elements and provide direction to staff.

**Bert Lumbreras, City Manager, provided a brief introduction. Mr. Lumbreras stated that one of the key initiatives of this priority is a seamless transit system created by coordinating the City's transit service and the Texas State University Bobcat Shuttle. The City and University, in partnership with the Texas Department of Transportation, have been developing the plan with the consultanting firm Nelson-Nygaard. He thanked members of the community for responding to our request for input. That information is important for the plan. Lastly, Mr. Lumbreras mentioned that Council direction will be included in the Plan. We will bring the Transit Plan for Council consideration and adoption in August.**

**Lee Hitchcock, Director of General Services, provided Council with presentation on the Five-Year Transit Strategic Plan. He first thanked City staff Pete Binion, Transit Manager and Amy Cogdill, Transit Specialist. Next he thanked Texas State University staff Steven Herrera, Director of Transportation Services and Nancy Nusbaum, Associate Vice President for Finance and Support Services Planning. In addition, Nelson\Nygaard**

consultants James Gamez, Project Manager and Hazel Scher, Deputy Project Manager who have been instrumental in writing the proposed plan.

Mr. Hitchcock mentioned that the purpose for the transit plan is to determine the best approach to coordinating San Marcos Transit and Texas State University Bobcat Shuttle.

Mr. Hitchcock discussed the opportunities for the transit plan:

- Qualify for additional federal funding (Eligible uses: capital, operations, planning, engineering, design, etc.)
- Expand transit access for the entire community
- Improve multimodal connectivity, particularly downtown

Mr. Hitchcock presented the challenges of cost and ridership implications of COVID-19, infrequent local service and coordinating two vastly different systems.

Days & Hours of Service for the City are Mon-Fri 7am-8pm, for the university are Mon-Fri 7am-11pm and Sat 11am-6:30pm. The City has 7 routes, the university has 11. The City has 10 vehicles, the university has 48. The City has 118 stops, the university has 40. And the City's daily ridership is 350 while the ridership of the university is 17,000.

Mr. Hitchcock presented the community feedback of 700 comments that was received and included requests for more frequent and later city service, requests for more bus stop shelters and support for a downtown hub and elimination of fares.

Mr. Hitchcock presented the proposed City routes was to discontinue service along RR12, Bishop due to low ridership and to Redwood due to low ridership. Also, included in the proposed routes is to extend service to The Village, upgrade route 5 (Outlets) to 30 minute service, extend service to Amazon Fulfillment Center, increase service to Sunrise Village and Lamar School, increase service to Senior Shuttle and increase 30 minute service to 85% of city stops.

Mr. Hitchcock presented the service plans:

- Establish Downtown Transit Plaza (9-12 months)
- Phase 1:
  - Revise city routes
  - Expand Senior Shuttle from 2 to 4 days per week
  - Introduce new coordinated branding and information

- **Eliminate on-board fare collection**
- **Phase 2: Add Saturday service on city routes**
- **Phase 3: Extend weekday evening span on city routes**
- **Phase 4: Increase frequency during morning and evening periods**
- **Phase 5: Increase frequency on Route 1 to every 15 minutes**

**Mr. Hitchcock presented the proposed Downtown Transit Plaza:  
Transit Plaza Enhancement Opportunities**

- **Support bus operations, rider experience, and communications**
- **Extend beyond transit plaza to nearby sites (mobility hub and parking garage)**

**Bike and Pedestrian Enhancements**

- **Provide easy-to-find bike storage on Hutchinson**
- **Prioritize buses and pedestrians/riders on Edward Gary**

**Crosswalks & Pavement Treatments**

- **Highly-visible and attractive pavement treatments to support pedestrian access.**
- **Function as traffic calming tools, wayfinding tools, and placemaking features**

**Mr. Hitchcock presented the Paratransit Policy:**

- **Elimination of fares for fixed-route service would also eliminate paratransit fares (\$2 per trip or \$4 round trip)**
- **FTA minimum requirements**
  - **Persons with a disability traveling within  $\frac{3}{4}$  mile of a fixed route**
- **Current City policy**
  - **Also includes seniors age 65 and older and entire city limits**
- **Scenario 1**
  - **Reduce service area to  $\frac{3}{4}$  mile of fixed routes**
  - **Cost neutral**
- **Scenario 2**
  - **Maintain existing service area policy**
  - **Requires one extra vehicle and 2,000 additional hours**

**Mr. Hitchcock presented a potential Downtown Transit Center and also discussed the funding opportunities that the City has received under the CARES Act funding a \$6.4 million grant. He mentioned that \$3.8M of \$6.4M is allocated for operating costs through 2021. We propose to expend FTA 5339 funds (approximately \$500K) to purchase 5 new paratransit vehicles. And we expect our FTA 5303 Small Transit Intensive Cities Funding to be \$2.6 M for**

**FY19 and FY20. This was awarded based on combined performance of City and University systems and we will establish a reasonable and equitable share for both entities.**

**Council Member Derrick asked about the no fare policy and if this will be temporary. Mr. Hitchcock stated that this will be permanently for no fare to be collected. This will benefit long term effort for riders and using the funds from the CARES Act will help with funding for two years including fare collected and there will be funding opportunities in the future. Part of this recommendation is because the cost of collecting fares is close to the amount we collect. Part of this recommendation is because the cost of collecting fares is close to the amount we collect.**

**Council Member Baker asked if we can waive \$95.00 fee to Texas State University students and consider more what the City is offering. Eric Algoe, Vice President of Finance and Support Services, at Texas State University stated the interlocal agreement has not been drafted. The total amount of money collected annually is \$1.3M and to run the Texas State University bus system takes several millions of dollars. The University cannot eliminate the student fares but staff at Texas State University is trying not to increase fares.**

**Deputy Mayor Pro Tem Rockey Moore asked about the pandemic increase ridership and what is being done to get more on buses. Mr. Hitchcock stated that the city proactively implemented disinfecting and no riders fee. Mr. Hitchcock stated that there has been a decrease in ridership since February. Mr. Hitchcock stated that riders will increase when people feel comfortable to get on the buses.**

**Deputy Mayor Pro Tem Rockey Moore asked about how or what are we doing to get the ridership numbers to increase or the numbers will decrease into the fall, what measures are being taken moving forward. Mr. Hitchcock stated that we do not know that but we can advertise on the media, sanitize the buses and add real time data on when the buses will arrive. Mr. Hitchcock is looking for other ideas around the country to assist us.**

**Council provided direction on the following items:**

- Service Expansion Plan: Council provided consensus to move forward**
  
- Downtown Transit Plaza: Council is in support and provided consensus to move forward in the future. Council hopes that the loss of parking places will be offset by increased traffic downtown.**

- **Paratransit Policy: Council provided consensus to proceed with scenario 1 for now**

**"that is to reduce service area to 3/4 mile of fixed routes and will be cost neutral"**

**Direction to staff is to bring back to re-evaluate and have another opportunity to review what the cost will be to scenario 2 "Maintain existing service area policy and requires one extra vehicle and 2,000 additional hours" Depending on the cost and funding sources, Scenario 2 might be acceptable.**

- **Zero Fare Policy: Council provided consensus to move forward**
  - **a potential Transit Center: Council is in support and provided consensus**
  - **an Interlocal Agreement with Texas State University: Council provided consensus to move forward**
- Mr. Mihalkanin left discussion and recused himself from a vote due to his employment with Texas State University.**

## **EXECUTIVE SESSION**

2. Executive Session in accordance with the following Government Code Sections:
  - A. §Sec.551.071 of the Texas Government Code: Consultation with attorney - to receive advice of legal counsel regarding state law preemption of city ordinances regulating the sale or use of single-use packages and containers.
  - B. §Sec.551.071 of the Texas Government Code: Consultation with attorney - to receive advice of legal counsel regarding pending litigation, to wit: The Mayan at San Marcos River, LLC and City of Martindale v. City of San Marcos, Docket No. 04-19-00018-CV in the 4th Court of Appeals of Texas

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockey Moore, to enter into Executive Session at 4:15 p.m.**

**The motion carried by the following vote:**

**For:** 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockey Moore, Council Member Baker and Council Member Gonzales

**Against:** 0

**Absent:** 1 - Council Member Marquez

## III. Adjournment.

**Mayor Hughson stated Executive Session concluded at 5:50 p.m.**

**Mayor Hughson adjourned the work session meeting of the City Council at**

**5:52 p.m., June 2, 2020. The motion carried by the following vote:**

- For:** 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales
- Against:** 0
- Absent:** 1 - Council Member Marquez

**Tammy K. Cook, Interim City Clerk**

**Jane Hughson, Mayor**



# City of San Marcos

## Meeting Minutes City Council

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Wednesday, June 10, 2020

5:30 PM

Virtual Meeting

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**This meeting was held using conferencing software due to the COVID-19 rules.**

### I. Call To Order

**With a quorum present, the special meeting of the San Marcos City Council was called to order by Mayor Hughson at 5:30 p.m. Wednesday, June 10, 2020.**

### II. Roll Call

- Present:** 6 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales
- Absent:** 1 - Council Member Joca Marquez

### EXECUTIVE SESSION

1. Executive Session in accordance with Section §551.074 of the Texas Government Code: Personnel Matters - to discuss, review and finalize the Annual Appointee Evaluation goals for the City Attorney, Interim City Clerk and Municipal Court Judge.

**A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Gonzales to enter into Executive Session at 5:34 p.m. The motion carried by the following vote:**

- For:** 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales
- Against:** 0
- Absent:** 1 - Council Member Marquez

### RETURN FROM EXECUTIVE SESSION

2. Consider action, by motion, or provide direction to Staff regarding the following Executive Session item in accordance with Section §551.074 of the Texas Government Code: Personnel Matters - to discuss, review and finalize the Annual Appointee Evaluation goals for the City Attorney, Interim City Clerk and Municipal Court Judge.

**Prior to entering into Executive Session, Mayor Hughson stated that there is no action due but Council will discuss, review and finalize the Annual Appointee Evaluation goals with the City Attorney, Interim City Clerk and Municipal Court Judge.**

**Council will not come back into open session.**

III. Adjournment.

**Mayor Hughson adjourned the Special Meeting of the City Council at 7:16 p.m.**

**Tammy K. Cook, Interim City Clerk**

**Jane Hughson, Mayor**



Legislation Text

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**File #:** Ord. 2020-46(b), **Version:** 1

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Consider approval of Ordinance 2020-46, on the second of two readings, amending the project plan and reinvestment zone financing plan for Tax Increment Reinvestment Zone No. 5, also known as the “Downtown TIRZ” to add eligible projects and associated eligible project costs, including the acquisition of property for parking and other public priorities and related operations and maintenance costs up to \$2,000,000.00; approving an amendment to the Tax Increment Participation Interlocal Agreement with Hays County to reduce the City’s and the County’s contribution rate of the tax increment deposited into the Tax Increment Fund from 70 percent to 25 percent for one year; authorizing the City Manager, or his designee, to execute such amendments on behalf of the City; including procedural provisions; and declaring an effective date.

**Meeting date:** June 18, 2020

**Department:** Finance

**Amount & Source of Funding**

**Funds Required:** \$20,456,466

**Account Number:** [Click or tap here to enter text.](#)

**Funds Available:** \$20,456,466

**Account Name:** [Click or tap here to enter text.](#)

**Fiscal Note:**

**Prior Council Action:** [Click or tap here to enter text.](#)

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Downtown Vitality

Multi Modal Transportation

[Choose an item.](#)

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Diverse Local Economic Environment

Environment & Resource Protection - [Choose an item.](#)

Land Use - [Choose an item.](#)

- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Downtown Master Plan

**Background Information:**

A tax increment reinvestment zone (“TIRZ”) is a financing tool created by the State Legislature to assist cities and counties in developing or redeveloping unproductive, underdeveloped, or blighted areas. Cities may create a TIRZ where conditions exist that substantially impair an area’s sound growth plan and where development or enhancements financed by the TIRZ significantly enhance the value of all taxable real property in a TIRZ.

Prior to creation of a zone, the statute requires preparation of a preliminary project and financing plan identifying the specific projects and means to finance the projects.

Upon creation, the total appraised value of real property located in a TIRZ is established for the year in which it was created. This is referred to as the base value. The additional value above the base is referred to as the “tax increment.” This increment usually pays for the project improvements, including public infrastructure.

Once the improvements are completed and paid for, each jurisdiction receives their share of the collected tax.

This TIRZ consists of approximately 244 acres in the San Marcos TX downtown core. The history includes, but is not limited to: rewriting the zoning standards enabling a pedestrian-oriented mixed-use environment and updating the Development Code identifying the downtown core as a Character District 5 Downtown.

Under this proposed plan, the City and Hays County will participate equally in the reinvestment zone to generate approximately \$20,456,466 over the life of the Zone. These revenues will be dedicated to parking enhancements, acquisition of land, sidewalks, improved lighting and overall improvements to the downtown area.

The true value of the tax increment tool is to build economic development, increasing the tax base and possible job creation.

The geographic boundaries of the zone are from Texas State University to the North to IH-35 to the South, CM Allen and McKie on the East and several blocks to the West.

The proposed projects include: streetscape improvements, Alley Redevelopment, Chatham Street Flats Alley Paying, Pedestrian Safety and Comfort, Downtown Reconstructions and a one-year pilot of a downtown Shuttle.

The term of the TIRZ #5 is scheduled to terminate on December 31, 2027.

The TIRZ # 5 Board met again on June 6 to discuss the property tax dedication to the TIRZ #5 projects. Due to both the significant property tax assessed valuation and the COVID financial emergency, the TIRZ #5 Board agreed that the 2020 Property tax dedication will be only 25% of both City and County property tax receipts.

**Council Committee, Board/Commission Action:**

The TIRZ 5 Board met on April 29<sup>th</sup> and unanimously approved the Project and Financing Plans. On June 5 the Board unanimously agreed that only 25% of 2020 Property tax assessment taxes would be dedicated to the Tax Increment Zone for one year only.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Hold the Public Hearing and adopt the Ordinance for the first reading.

**ORDINANCE NO. 2020-46**

**AN ORDINANCE AMENDING THE PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN FOR TAX INCREMENT REINVESTMENT ZONE NO. 5, ALSO KNOWN AS THE “DOWNTOWN TIRZ,” TO ADD ELIGIBLE PROJECTS AND ASSOCIATED ELIGIBLE PROJECT COSTS, INCLUDING THE ACQUISITION OF PROPERTY FOR PARKING AND OTHER PUBLIC PRIORITIES AND RELATED OPERATIONS AND MAINTENANCE COSTS UP TO \$2,000,000.00; APPROVING AN AMENDMENT TO THE TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT WITH HAYS COUNTY TO REDUCE THE CITY’S AND THE COUNTY’S CONTRIBUTION RATE OF THE TAX INCREMENT DEPOSITED INTO THE TAX INCREMENT FUND FROM 70 PERCENT TO 25 PERCENT FOR ONE YEAR; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SUCH AMENDMENT ON BEHALF OF THE CITY; INCLUDING PROCEDURAL PROVISIONS; AND DECLARING AN EFFECTIVE DATE.**

**RECITALS:**

- 1.** The City Council (the "Council") of the City of San Marcos, Texas (the "City") adopted Ordinance No. 2011-74, which designated the San Marcos, Texas Reinvestment Zone No. 5 (the "Zone") pursuant to Section 311.005(a) of the Tax Increment Finance Act, Texas Tax Code, Chapter 311, as amended (the "Act").
- 2.** The Board of Directors of the Zone (the “Zone Board”) prepared and adopted a Project Plan and Reinvestment Zone Financing Plan (the “Project and Financing Plan”) for the Zone pursuant to Section 311.011 of the Act.
- 3.** The Council adopted Resolution No. 2011-145R on November 14, 2011, which gave effect to the Project and Financing Plan pursuant to Section 311.011(d) of the Act.
- 4.** The City desires to amend the Project and Financing Plan to include additional anticipated projects and cost estimates designed to promote connectivity between the San Marcos River and Downtown San Marcos and encourage residential and commercial development within the Zone and amend the contribution rate from the City and the County (as defined herein), all as set forth and further described in the amended Project and Financing Plan (the "Amended Project and Financing Plan") attached as Exhibit A.
- 5.** On April 29, 2020, the Zone Board adopted the Amended Project and Financing Plan and recommended that the City approve the Amended Project and Financing Plan pursuant to the Resolution attached hereto as Exhibit B.

6. The Zone Board made further revisions to the Amended Project and Financing Plan on June 5, 2020, as set forth in the meeting minutes of the Zone Board attached hereto as Exhibit C.

7. Pursuant to the Act, the City must amend the Project and Financing Plan by ordinance.

8. The City entered into an Interlocal Agreement Between Hays County and the City of San Marcos Related to San Marcos, Texas Tax Increment Reinvestment Zone No. 5 on February 7, 2011 (the "Interlocal Agreement") pursuant to Section 311.013 of the Act to permit Hays County, Texas (the "County") to make payments to the City of a portion of the County's tax increment revenues derived from increases in property values resulting from new development in the Zone, which payment would be used by the City to reimburse the developer for a portion of the project costs under the terms and conditions described in the Interlocal Agreement.

9. Pursuant to Section 311.013 of the Act, the City desires to approve and execute an amendment to the Interlocal Agreement (the "Interlocal Agreement Amendment") to amend the contribution rate of the tax increment attributed to the captured appraised value of the County in the Zone deposited into the Tax Increment Fund and incorporate certain revisions of the Amended Project and Financing Plan, attached hereto as Exhibit D.

10. Notice of a public hearing to be held on June 16, 2020, was duly published in the *San Marcos Daily Record* in its issue dated June 9, 2020, in compliance with Section 311.003(c) of the Act.

11. A public hearing was held on June 16, 2020, at 6:00 p.m. in City Hall, City Council Chambers, 630 E. Hopkins, San Marcos, Texas (the "Hearing") to consider the amendment to the Project and Financing Plan at which time the City provided a reasonable opportunity for protest in accordance with Section 311.003(d) of the Act.

12. The Council hereby finds and determines that the adoption of this Ordinance is in the best interests of the citizens of San Marcos, Texas.

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

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**SECTION 1.** The City, after conducting the Hearing and having heard such evidence and testimony, hereby finds, based upon the testimony presented, that the Hearing on the proposed Amended Project and Financing Plan has been properly called, held and conducted and that notice of the Hearing has been published at least seven (7) days before the Hearing in the *San Marcos Daily Record*, a newspaper of general circulation in the City.

**SECTION 2.** The Project and Financing Plan is hereby amended pursuant to Section 311.011 of the Act to include additional anticipated projects and cost estimates designed to promote connectivity between the San Marcos River and Downtown San Marcos and encourage residential and commercial development within the Zone and amend the contribution rate from the City and the County, all as set forth and further described in the Amended Project and Financing Plan attached as Exhibit A.

**SECTION 3.** The Council hereby approves the Amended Project and Financing Plan for the Zone, which shall take effect on such approval pursuant to Section 311.011 of the Act.

**SECTION 4.** The Interlocal Agreement Amendment is hereby approved and the City Manager, or his designee, is authorized to execute the Interlocal Agreement Amendment on behalf of the City.

**SECTION 5.** The officers of the City are authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the actions authorized hereby and the intent hereof.

**SECTION 6.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

**SECTION 7.** All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

**SECTION 8.** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**SECTION 9.** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 10.** It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

**SECTION 11.** This Ordinance will take effect immediately after its passage, approval and adoption on second reading.

**PASSED, APPROVED AND ADOPTED** on first reading on June 16, 2020.

**PASSED, APPROVED AND ADOPTED** on second reading and adopted on June 18, 2020.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael J. Cosentino  
City Attorney

**EXHIBIT A**

[Amended Project and Financing Plan]

**EXHIBIT B**

[Resolution of the Zone Board Adopting Amended Project and Financing Plan]

**EXHIBIT C**

[Meeting Minutes of June 5, 2020 Zone Board Meeting]

**EXHIBIT D**

[Interlocal Agreement Amendment]



# **TAX INCREMENT REINVESTMENT ZONE – NUMBER 5: DOWNTOWN PUBLIC HEARING**

June 16, 2020

April 29, 2020 Board met to change some changes to the project plan.

June 5, 2020 Board met to alter the 2020/2021 financing agreement.

**TIRZ #5: THE ZONE CONSISTS OF APPROXIMATELY 244 ACRES IN THE DOWNTOWN CORE.**

# **APRIL 29, 2020 CHANGES**

- Support Multi-modal transportation and mobility including sidewalks and downtown shuttle services**
- Provide overall enhancement of the downtown area, including:**
  - Lighting
  - Safety and other aesthetic features
- Acquisition of property for parking and other public priorities**
- Payment of other amounts for the required operation and maintenance costs within the Zone**
- Ensured addresses and locations of improvements were appropriately defined**

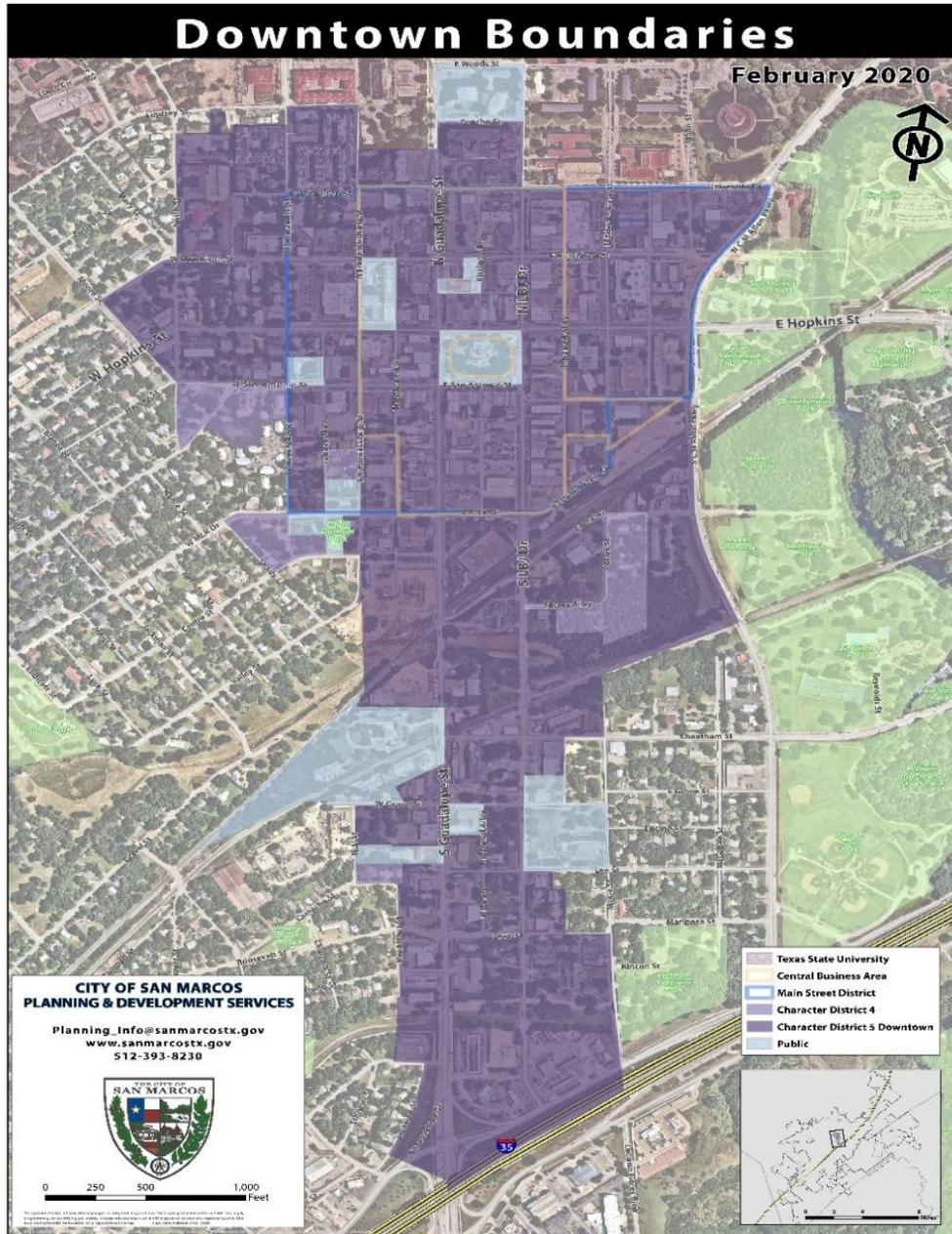
# **JUNE 5, 2020 CHANGES**

- Changed the City and County Property tax Contributions from 2020 Assessments from 70% to 25% for one year**
- The property tax assessments increased from \$268,922,632 to \$409,464,557**
  - 52% growth in assessed value
- At 70% contribution:**
  - City would have put in \$1,311,881 from \$692,450 in 2019
  - County would have contributed \$771,359 from \$387,578 in 2019
- At 25% contribution:**
  - City's contribution will be \$468,529 in 2021 from 2020 AV
  - County's contribution will be \$275,414 in 2021 from 2020
- Recommendation is this will change for only one year**
  - Did this to accommodate the impacts the City, in particular will have due to COVID 19 issues and other revenue shortfalls (short term positive revenue of nearly \$840,000)
  - County will have a one-year benefit of this change of \$495,745 due to this change

- Board unanimously passed the changes in April and in June
- The financial changes for one-year ensures the City can meet the financial requirements of the Project Plan

## QUESTIONS AND SUMMARY

**PROJECT PLAN  
AND  
REINVESTMENT ZONE FINANCING PLAN  
FOR CITY OF SAN MARCOS, TEXAS  
TAX INCREMENT REINVESTMENT ZONE NO. 5**



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**The TIRZ Concept Generally**

A tax increment reinvestment zone (“TIRZ”) is a financing tool created by the State Legislature to assist cities and counties in developing or redeveloping unproductive, underdeveloped or blighted areas.

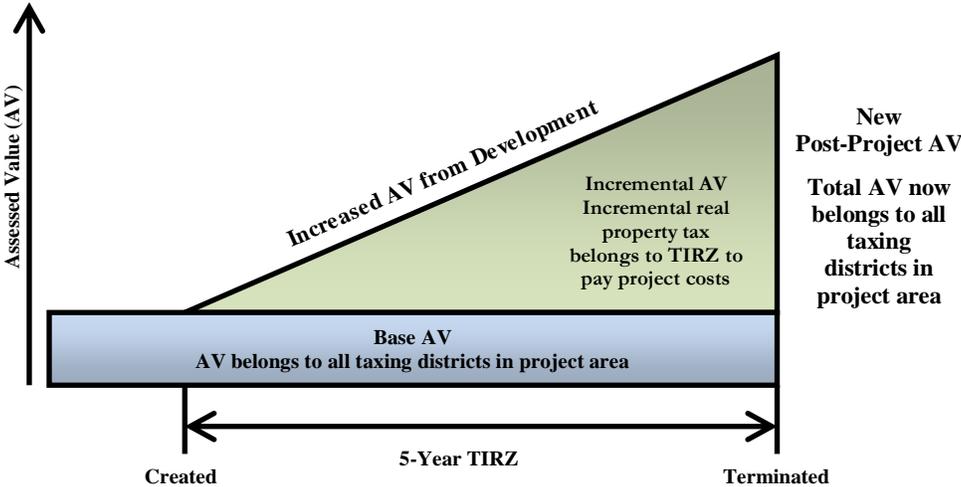
Cities may create a TIRZ where conditions exist that substantially impair an area’s sound growth and where development or enhancements financed by the TIRZ significantly enhance the value of all the taxable real property in a TIRZ and of general benefit to the city or county.

Prior to creation, the statute requires preparation of a preliminary project plan and reinvestment zone financing plan outlining specific projects to address the existing conditions and the method and means to finance those projects.

Upon creation, the total appraised value of real property located in a TIRZ is established for the year in which it was created. This is known as the base value. As new development occurs in a TIRZ, the value of real property increases.

This additional value above the base value is known as the tax increment. Such tax increment is typically set aside to finance improvements within a TIRZ including public infrastructure. Once all projects are complete or after a defined period of time, a TIRZ is dissolved.

During the life of a TIRZ, a city and other participating taxing jurisdictions collect tax revenue on the base value of a TIRZ as well as sales and use tax revenue generated by new development (unless a city or county agrees that sales tax and use revenue are also part of the increment). When a TIRZ is dissolved, a city and other participating taxing jurisdictions collect tax revenue on the tax increment value created by new development as well.



## Executive Summary

The proposed City of San Marcos, Texas (the "City") Tax Increment Reinvestment Zone No. 5 ("Zone No. 5") consists of approximately 244 acres in the downtown core. The City has addressed one challenge, zoning standards that are inconsistent and contrary to creating a downtown environment, with the adoption of the San Marcos SmartCode (the "SmartCode") in 2011, putting in place a zoning that is predictable and focused on preserving downtown character while enabling pedestrian-oriented mixed-use development. In 2018, the City updated the Development Code and relabeled the downtown core as Character District 5 Downtown (CD-5D). Some of the other downtown challenges remain: a shortage of Class A office space, parking and pedestrian mobility, lack of sufficient lighting and downtown amenities and aesthetic features, and the condition of the streetscape and sidewalks in parts of downtown.

One of the financial tools identified in the plan to help address these challenges is the creation of a tax increment reinvestment zone. Under this proposed plan, the City and Hays County (the "County") would participate equally in a tax increment reinvestment zone projected to generate approximately \$15,831,450 over the current life of Zone No. 5. It is currently proposed that Zone No. 5 increment revenues will be allocated for parking, including acquisition of land, multi-modal transportation/mobility, sidewalks, safety considerations, improved lighting, and overall enhancement of downtown as allowed by Section 311.010(h) of the Texas Tax Code.

In order to be eligible for Zone No. 5 tax increment revenues, projects must (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone No. 5

The true value of this approach is that it powerfully leverages tax increment revenues for economic development beyond streetscape or maintenance improvements on a given block. The potential increase in tax base can help in supporting possible future job creation through business relocation to the downtown area along with growth of existing businesses which create jobs. This approach also will encourage the engagement of higher education and other potential research partners through the focus on technology and research, ultimately ensuring that the site will be developed to its highest and best use.

**Location**

As proposed, Zone No. 5 extends from Texas State University to the North, to IH-35 to the South, CM Allen and McKie on the East and several blocks to the West.

All of the land within proposed Zone No. 5 is part of the Charter District-5 Downtown (CD-5D) and currently includes a number of different types of uses including commercial, retail, restaurants, residential and offices within the boundaries.

As provided in the April 1, 2010 economic analysis prepared for the City by Urban Advisors for the current Downtown Master Plan, the City's goal is to encourage a mix of new uses to accommodate additional housing, office space, retail, transportation, safety and parking facilities. Designation of Zone No. 5 assists the City in implementing the Downtown Master Plan and projects brought forth through future master plans.

**Project Overview and Project Costs**

**1. Infrastructure supporting cohesive redevelopment**

Zone No. 5 tax increment revenues shall be made available to facilitate investment in infrastructure or other improvements allowed by law that facilitate the following potential projects. This Project and Finance Plan will be amended as may be required by law to accommodate additional uses of the tax increment revenues within Zone No. 5:

- a. Projects that support multi-modal transportation and mobility including sidewalks and downtown shuttle services.
- b. Overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features.
- c. Acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs.

Table 1 - Proposed Project Costs

ITEM	Proposed Activity	ESTIMATED ZONE NO. 5 PROJECT COSTS
1	Multi-modal transportation/mobility including sidewalks and shuttle services	\$1,350,000
2	Overall enhancement of downtown including lighting, safety, and other aesthetic features	\$829,612
3	Acquisition of property for parking and other public priorities and related operations and maintenance costs	\$2,000,000
<b>TOTAL ESTIMATED PROJECT COSTS:</b>		<b>\$ 4,179,612</b>

This Table 1 summarizes the currently anticipated Project Costs to be financed within Zone No. 5.

## Project and Finance Plan

The purpose of Zone No. 5 is to (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone. No. 5.

Expenditures associated with the design and construction of Zone No. 5 Projects, as well as other specific project-related costs, will be funded by tax increment revenues derived from increases in property values resulting from the new development in Zone No. 5.

The City may amend this Project and Finance Plan as may be necessary in accordance with law to accommodate the other redevelopment goals and projects outlined under "Project Overview and Project Costs."

TEXAS TAX CODE  
SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS  
CHAPTER 311. TAX INCREMENT FINANCING ACT  
Sec. 311.011. PROJECT AND FINANCING PLANS

- (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that designated the zone.
- (b) The project plan must include:
  - (1) a description and map showing existing uses and conditions of real property in the zone and a map showing proposed uses of that property;
  - (2) proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;
  - (3) a list of estimated non-project costs; and
  - (4) a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.
- (c) The reinvestment zone financing plan must include:
  - (1) a detailed list describing the estimated project costs of the zone, including administrative expenses;
  - (2) a statement listing the proposed kind, number, and location of all proposed public works or public improvements to be financed by the zone;
  - (3) a finding that the plan is economically feasible and an economic feasibility study;
  - (4) the estimated amount of bonded indebtedness to be incurred;
  - (5) the estimated time when related costs or monetary obligations are to be incurred;
  - (6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone;
  - (7) the current total appraised value of taxable real property in the zone;
  - (8) the estimated captured appraised value of the zone during each year of its existence; and
  - (9) the duration of the zone.

Existing Uses

1. Map showing existing uses and conditions of real property in Zone No. 5

Zone No. 5 consists of approximately 244 acres of commercial, retail, restaurants, residential and office uses within the City's designated Charter District 5 Downtown (CD-5D).

Development and redevelopment of the property within Zone No. 5's boundaries is necessary because the area is undeveloped or underdeveloped and because of obsolete platting, deterioration of structures or site improvements, or other factors, arrests the sound growth of the City's downtown.

The map on this page illustrates the current condition of the land.



**PROPOSED PROJECTS**

**1. Table showing proposed improvements for the TIRZ area.**

Improvements proposed for Zone No. 5 are primarily related to: (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone. No. 5.

TABLE 2 – PROPOSED PROJECTS	
<b>Proposed Projects</b>	
Justice Center Streetscape Improvement Project (100 Block E Martin Luther King Street, San Marcos, TX)	
Alley Redevelopment Phase 1	
Cheatham Street Flats Alley Paving	
Pedestrian Safety and Comfort	
Downtown Reconstruction/Capital Area Metropolitan Planning Organization	
Downtown Shuttle (One Year Pilot)	

**Changes to Municipal Ordinances**

**1. Proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;**

The City does not expect any changes to zoning ordinances, the master plan, building codes or other ordinances as a result of the designation of Zone No. 5.

**Estimated Non-Zone No. 5 Projects**

**2. A list of estimated Non-Zone No. 5 Projects**

The City expects to continue developing projects included in its capital improvement plan ("CIP") that benefit areas within Zone No. 5 from CIP funds.

**Method of Relocation**

**3. A statement of a method of relocating persons to be displaced as a result of implementing the plan.**

Designation of Zone No. 5 is not anticipated to cause relocation of any residents.

## Finance Plan

### List of Estimated Zone No. 5 Project Costs

#### 1. A detailed list describing the estimated Project Costs of Zone No. 5, including administrative expenses

Table 1 itemizes the estimated Zone No. 5 Project Costs. Currently there are no administrative expenses estimated to be incurred over the life of Zone No. 5.

### Statement of Proposed Public Works

#### 2. A statement listing the kind, number, and location of all proposed public works or public improvements in Zone No. 5

The improvements that Zone No. 5 is designed to facilitate will be located throughout Zone No. 5. These improvements will assist with the development and redevelopment of Zone No. 5. The Map of Project Boundaries shown on the cover page hereof illustrates the location of the proposed improvements.

### Economic Feasibility Study/Information

#### 3. An Economic Feasibility Study/Information

In connection with the proposed development of the property within Zone No. 5 the City has previously commissioned studies outlining the goals and feasibility of the redevelopment of Zone No. 5 CD-5D as set forth in Schedule A. This Finance Plan is economically feasible since all Project Costs are paid only from tax increment revenues as they become available.

### Estimated Bonded Indebtedness

#### 4. The estimated bonded indebtedness to be incurred

The City currently anticipates paying Project Costs or reimbursing a developer for qualified Project Costs solely from tax increment revenues on an annual basis. No bond indebtedness will be incurred for Zone No. 5.

### Time when Costs/Obligations Incurred

#### 5. The time when costs or monetary obligations are to be incurred

When payment of costs or reimbursements of costs are to be made is a function of the availability of Zone No. 5 tax increment revenues. Schedule B is a projection of tax increment revenues which are available and expected to be available in the future to pay or reimburse Zone No. 5 Project Costs.

## Financing, Expected Sources of Revenue

**6. A description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay Project Costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies taxes on real property in Zone No. 5.**

**Methods of Financing.** The Project Costs will be paid directly for site improvements for certain Zone No. 5 Project Costs. Project Costs will be paid solely from tax increment revenues of Zone No. 5 as they are realized by Zone No. 5.

**Sources of Tax Increment Revenue.** The tax increment revenue necessary to pay the Zone No. 5 Project Costs is expected to come from increased property values in Zone No. 5. Schedule B displays the projected assessed valuations resulting from increases in value. These new tax increment revenues will be used to pay for Zone No. 5 Project Costs.

This Plan is based on a contribution rate (and current tax rates which are subject to change) shown from the City and County.

Taxing Jurisdiction	2019 Tax Rate (1)	% Dedicated
City of San Marcos	\$0.6139/\$100	70%
Hays County	\$0.3899/\$100	70%

(1) 2019 Tax Rate for purposes of illustration only. Tax Rate will be levied from year to year by the City and County, respectively, and will vary. The 2019 total tax rate does not include the Road and Bridge rate.

## Current Appraised Value of Property

**7. Current Total Appraised Value of Property in Zone No. 5**

The total current appraised value within Zone No. 5 as of July 22, 2019 is \$265,192,298.

## Estimated Captured Value

**8. Estimated Captured Value of Zone No. 5 in Each Year of Existence**

The estimated captured appraised value of Zone No. 5 during each year of its existence is shown on Schedule B - Projected Assessed Valuation.

## Duration of Zone

**9. Duration of Zone**

The duration of Zone No. 5 was through December 31, 2027. Zone No. 5 took effect on the date it was created, being December 14, 2011. The City Council established January 1, 2011 as the base year of Zone No. 5. The term of Zone No. 5 has been extended and is currently scheduled to terminate on December 31, 2027.

**Schedule A  
Economic Feasibility Study/Information**

**Schedule B  
Projected Assessed Valuations**

Tax Year	Total Valuation	Value Increase from Base Year	Yearly % Increase	70% City Tax	70% County Tax	Total Revenue	Cumulative Revenue
2012 Actual	\$105,083,437	\$899,281	0.86%	\$3,338	\$2,671	\$6,008	\$6,008
2013 Actual	\$116,524,339	\$12,356,933	10.9%	\$45,929	\$36,933	\$82,862	\$88,870
2014 Actual	\$143,130,508	\$41,268,182	24.7%	\$145,098	\$116,541	\$257,294	\$346,164
2015 Actual	\$145,033,604	\$42,341,838	0.7%	\$151,841	\$121,198	\$269,342	\$615,506
2016 Actual	\$151,017,107	\$48,375,011	4.1%	\$173,485	\$136,200	\$309,684	\$925,190
2017 Actual	\$190,650,978	\$86,366,376	24.9%	\$371,208	\$242,594	\$613,802	\$1,538,992
2018 Actual	\$226,246,103	\$119,056,967	31.3%	\$509,532	\$310,695	\$820,227	\$2,359,219
2019 Estimated	\$248,228,788	\$141,039,652	21.1%	\$606,090	\$384,940	\$991,029	\$3,350,249
2020 Estimated	\$297,874,546	\$190,685,410	20.0%	\$819,432	\$520,438	\$1,339,870	\$4,690,119
2021 Estimated	\$327,662,000	\$220,472,864	10.0%	\$947,438	\$601,737	\$1,549,175	\$6,239,293
2022 Estimated	\$344,045,100	\$236,855,964	5.0%	\$1,017,841	\$646,451	\$1,664,292	\$7,903,585
2023 Estimated	\$361,247,355	\$254,058,219	5.0%	\$1,091,764	\$693,401	\$1,785,165	\$9,688,751
2024 Estimated	\$379,309,723	\$272,120,587	5.0%	\$1,169,384	\$742,699	\$1,912,083	\$11,600,833
2025 Estimated	\$398,275,209	\$291,086,073	5.0%	\$1,250,884	\$794,461	\$2,045,345	\$13,646,179
2026 Estimated	\$418,188,970	\$310,999,834	5.0%	\$1,336,460	\$848,812	\$2,185,271	\$15,831,450

**Assumptions:**

Estimated Years

City Tax Rate \$0.6139

County Tax Rate \$0.3899

**REINVESTMENT ZONE NO. 5 RESOLUTION 2020-04**

**ADOPTING AMENDED PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN FOR THE SAN MARCOS, TEXAS TAX INCREMENT REINVESTMENT ZONE NO. 5 IN DOWNTOWN SAN MARCOS, RECOMMENDING THAT THE CITY OF SAN MARCOS, TEXAS APPROVE THE AMENDED PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN; AND OTHER MATTERS IN CONNECTION THEREWITH.**

**WHEREAS**, the City Council (the “Council”) of the City of San Marcos, Texas (the “City”) adopted Ordinance No. 2011-150R on December 6, 2011, which designated the San Marcos, Texas Reinvestment Zone No. 5 (the “Zone”) pursuant to Section 3111.005(a) of the Tax Increment Finance Act, Texas Tax Code, Chapter 311, as amended (the “Act”), and

**WHEREAS**, the Board of Directors of the Zone (the “Zone Board”) prepared and adopted a Project Plan and Reinvestment Zone Financing Plan (the “Project and Financing Plan”) for the Zone in Reinvestment Zone No. 5 Resolution 2020-04 pursuant to Section 311.011 of the Act, and

**WHEREAS**, the Council adopted Resolution No. 2011-145R on November 14, 2011, which gave effect to the Project and Financing Plan pursuant to Section 311.011(d) of the Act, and

**WHEREAS**, pursuant to Section 311.011(e) of the Act, the Zone Board at any time may adopt an amendment to the Project and Financing Plan consistent with the requirement and limitation of the Act, which shall take effect upon approval by the Council in accordance with Section 311.011(e) of the Act, and

**WHEREAS**, the Zone Board desires to amend the Project and Financing Plan to include additional anticipated projects and cost estimates designed to promote connectivity between the San Marcos River and Downtown San Marcos and encourage residential and commercial development within the Zone, all as set forth and further described in the amended Project and Financing Plan (the “Amended Project and Financing Plan”) attached as Exhibit A,

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN MARCOS, TEXAS REINVESTMENT ZONE NO. 5:**

**SECTION 1. ADOPTING THE AMENDED PROJECT AND FINANCING PLAN.** The Zone Board hereby adopts the Amended Project and Financing Plan for the Zone with modifications to conform to the final business terms as agreed to by the City Manager of the City and directs its submission to the Council for approval.

**SECTION 2. RECOMMENDING THE CITY APPROVE THE AMENDED PROJECT AND FINANCING PLAN.** The Zone Board recommends that the City approve the Amended

Project and Financing Plan reflecting the additional anticipated projects and cost estimates as set forth and further described in the amended Project and Financing Plan.

**SECTION 3. FURTHER PROCEEDINGS.** The Zone Board is authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the action authorized hereby and the intent hereof including revising any necessary documents to conform to the terms hereof or State law.

**SECTION 4. INCORPORATION OF RECITALS.** The Zone Board hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the Zone Board hereby incorporates such recitals as part of this Resolution.

**SECTION 5. SEVERABILITY.** If any provisions of this Resolution or the application thereof to any circumstances shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and the Zone Board hereby declares that this Resolution would have been enacted without such invalid provisions.

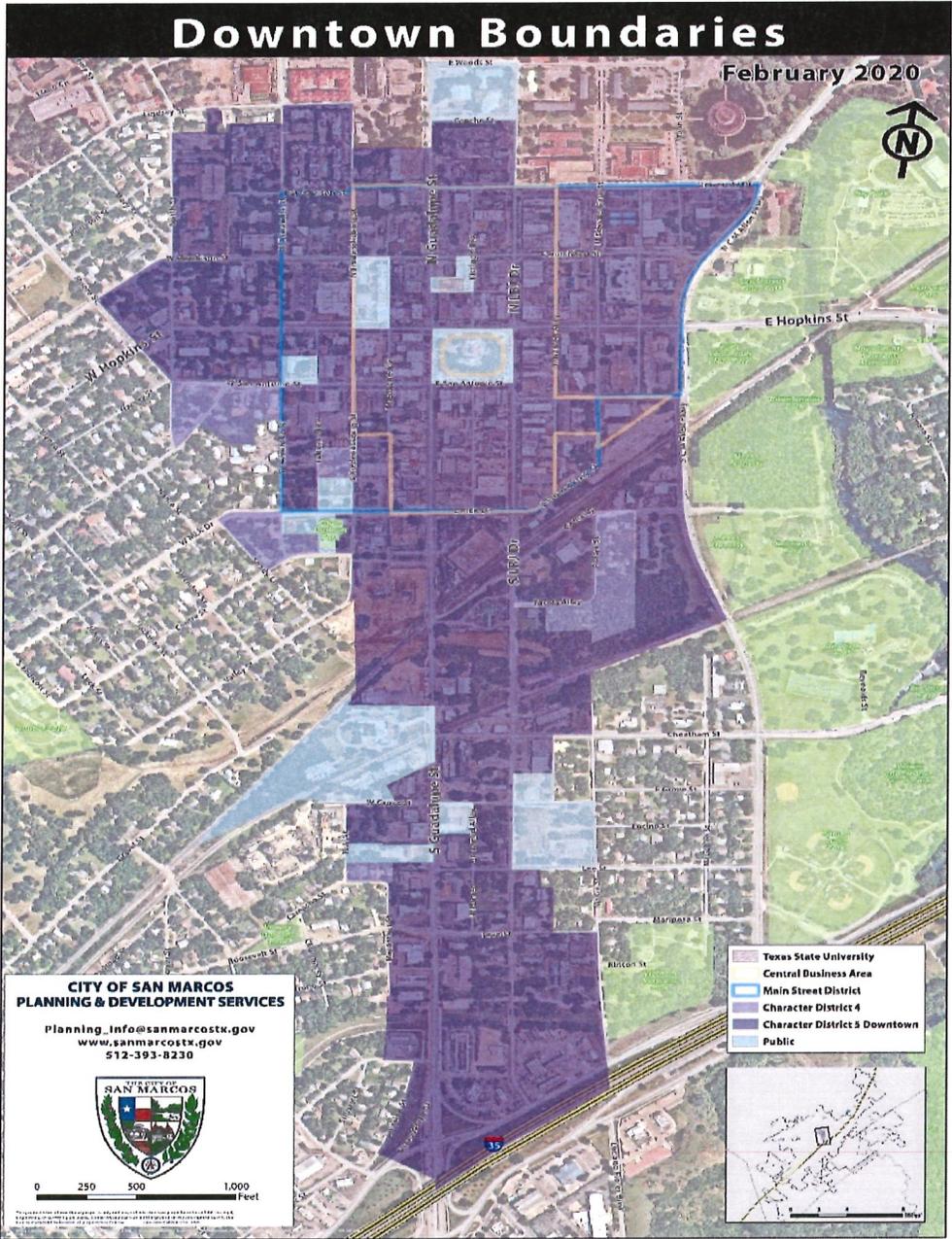
PASSED APPROVED THIS 29<sup>th</sup> DAY OF April, 2020.

By: Jane Hughson  
Jane Hughson, Mayor  
Chairperson, Board of Directors

**EXHIBIT A**

Amended Project and Financing Plan

**PROJECT PLAN  
AND  
REINVESTMENT ZONE FINANCING PLAN  
FOR CITY OF SAN MARCOS, TEXAS  
TAX INCREMENT REINVESTMENT ZONE No. 5**



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## The TIRZ Concept Generally

A tax increment reinvestment zone (“TIRZ”) is a financing tool created by the State Legislature to assist cities and counties in developing or redeveloping unproductive, underdeveloped or blighted areas.

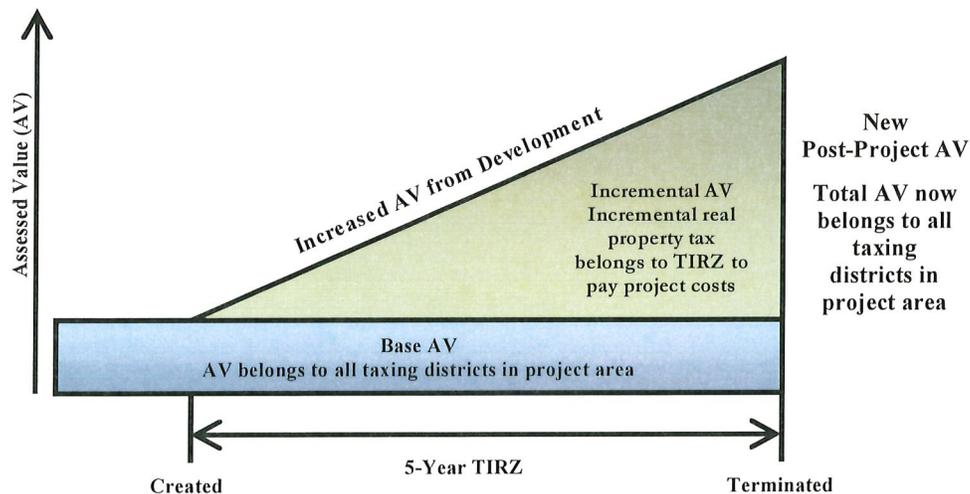
Cities may create a TIRZ where conditions exist that substantially impair an area’s sound growth and where development or enhancements financed by the TIRZ significantly enhance the value of all the taxable real property in a TIRZ and of general benefit to the city or county.

Prior to creation, the statute requires preparation of a preliminary project plan and reinvestment zone financing plan outlining specific projects to address the existing conditions and the method and means to finance those projects.

Upon creation, the total appraised value of real property located in a TIRZ is established for the year in which it was created. This is known as the base value. As new development occurs in a TIRZ, the value of real property increases.

This additional value above the base value is known as the tax increment. Such tax increment is typically set aside to finance improvements within a TIRZ including public infrastructure. Once all projects are complete or after a defined period of time, a TIRZ is dissolved.

During the life of a TIRZ, a city and other participating taxing jurisdictions collect tax revenue on the base value of a TIRZ as well as sales and use tax revenue generated by new development (unless a city or county agrees that sales tax and use revenue are also part of the increment). When a TIRZ is dissolved, a city and other participating taxing jurisdictions collect tax revenue on the tax increment value created by new development as well.



## Executive Summary

The proposed City of San Marcos, Texas (the "City") Tax Increment Reinvestment Zone No. 5 ("Zone No. 5") consists of approximately 244 acres in the downtown core. The City has addressed one challenge, zoning standards that are inconsistent and contrary to creating a downtown environment, with the adoption of the San Marcos SmartCode (the "SmartCode") in 2011, putting in place a zoning that is predictable and focused on preserving downtown character while enabling pedestrian-oriented mixed-use development. In 2018, the City updated the Development Code and relabeled the downtown core as Character District 5 Downtown (CD-5D). Some of the other downtown challenges remain: a shortage of Class A office space, parking and pedestrian mobility, lack of sufficient lighting and downtown amenities and aesthetic features, and the condition of the streetscape and sidewalks in parts of downtown.

One of the financial tools identified in the plan to help address these challenges is the creation of a tax increment reinvestment zone. Under this proposed plan, the City and Hays County (the "County") would participate equally in a tax increment reinvestment zone projected to generate approximately \$15,831,450 over the current life of Zone No. 5. It is currently proposed that Zone No. 5 increment revenues will be allocated for parking, including acquisition of land, multi-modal transportation/mobility, sidewalks, safety considerations, improved lighting, and overall enhancement of downtown as allowed by Section 311.010(h) of the Texas Tax Code.

In order to be eligible for Zone No. 5 tax increment revenues, projects must (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone No. 5

The true value of this approach is that it powerfully leverages tax increment revenues for economic development beyond streetscape or maintenance improvements on a given block. The potential increase in tax base can help in supporting possible future job creation through business relocation to the downtown area along with growth of existing businesses which create jobs. This approach also will encourage the engagement of higher education and other potential research partners through the focus on technology and research, ultimately ensuring that the site will be developed to its highest and best use.

**Location**

As proposed, Zone No. 5 extends from Texas State University to the North, to IH-35 to the South, CM Allen and McKie on the East and several blocks to the West.

All of the land within proposed Zone No. 5 is part of the Charter District-5 Downtown (CD-5D) and currently includes a number of different types of uses including commercial, retail, restaurants, residential and offices within the boundaries.

As provided in the April 1, 2010 economic analysis prepared for the City by Urban Advisors for the current Downtown Master Plan, the City's goal is to encourage a mix of new uses to accommodate additional housing, office space, retail, transportation, safety and parking facilities. Designation of Zone No. 5 assists the City in implementing the Downtown Master Plan and projects brought forth through future master plans.

**Project Overview and Project Costs**

**1. Infrastructure supporting cohesive redevelopment**

Zone No. 5 tax increment revenues shall be made available to facilitate investment in infrastructure or other improvements allowed by law that facilitate the following potential projects. This Project and Finance Plan will be amended as may be required by law to accommodate additional uses of the tax increment revenues within Zone No. 5:

- a. Projects that support multi-modal transportation and mobility including sidewalks and downtown shuttle services.
- b. Overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features.
- c. Acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs.

ITEM	Proposed Activity	ESTIMATED ZONE NO. 5 PROJECT COSTS
1	Multi-modal transportation/mobility including sidewalks and shuttle services	\$1,350,000
2	Overall enhancement of downtown including lighting, safety, and other aesthetic features	\$829,612
3	Acquisition of property for parking and other public priorities and related operations and maintenance costs	\$2,000,000
<b>TOTAL ESTIMATED PROJECT COSTS:</b>		<b>\$ 4,179,612</b>

This Table 1 summarizes the currently anticipated Project Costs to be financed within Zone No. 5.

## Project and Finance Plan

The purpose of Zone No. 5 is to (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone. No. 5.

Expenditures associated with the design and construction of Zone No. 5 Projects, as well as other specific project-related costs, will be funded by tax increment revenues derived from increases in property values resulting from the new development in Zone No. 5.

The City may amend this Project and Finance Plan as may be necessary in accordance with law to accommodate the other redevelopment goals and projects outlined under "Project Overview and Project Costs."

### TEXAS TAX CODE

#### SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

#### CHAPTER 311. TAX INCREMENT FINANCING ACT

#### Sec. 311.011. PROJECT AND FINANCING PLANS

- (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that designated the zone.
- (b) The project plan must include:
  - (1) a description and map showing existing uses and conditions of real property in the zone and a map showing proposed uses of that property;
  - (2) proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;
  - (3) a list of estimated non-project costs; and
  - (4) a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.
- (c) The reinvestment zone financing plan must include:
  - (1) a detailed list describing the estimated project costs of the zone, including administrative expenses;
  - (2) a statement listing the proposed kind, number, and location of all proposed public works or public improvements to be financed by the zone;
  - (3) a finding that the plan is economically feasible and an economic feasibility study;
  - (4) the estimated amount of bonded indebtedness to be incurred;
  - (5) the estimated time when related costs or monetary obligations are to be incurred;
  - (6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone;
  - (7) the current total appraised value of taxable real property in the zone;
  - (8) the estimated captured appraised value of the zone during each year of its existence; and
  - (9) the duration of the zone.

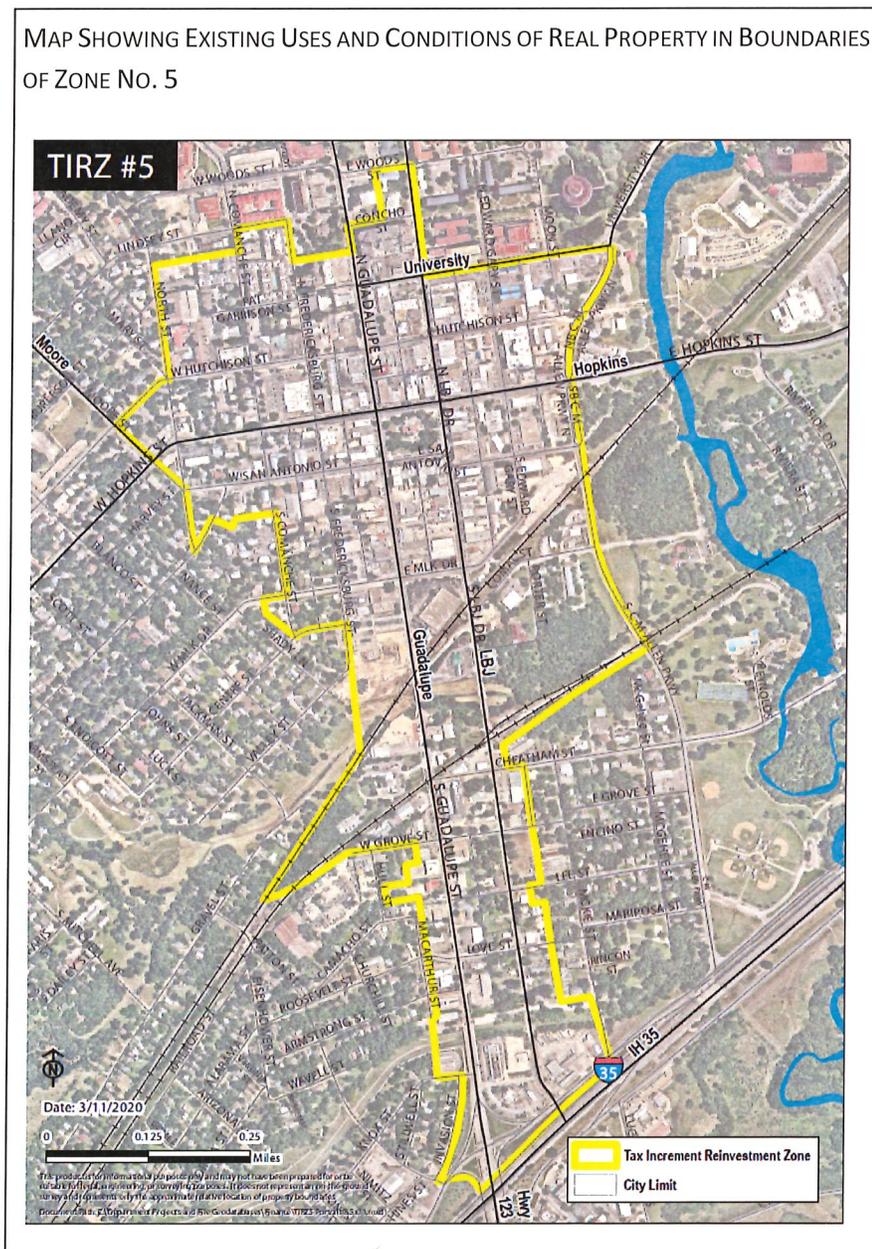
## Existing Uses

### 1. Map showing existing uses and conditions of real property in Zone No. 5

Zone No. 5 consists of approximately 244 acres of commercial, retail, restaurants, residential and office uses within the City's designated Charter District 5 Downtown (CD-5D).

Development and redevelopment of the property within Zone No. 5's boundaries is necessary because the area is undeveloped or underdeveloped and because of obsolete platting, deterioration of structures or site improvements, or other factors, arrests the sound growth of the City's downtown.

The map on this page illustrates the current condition of the land.



## PROPOSED PROJECTS

### 1. Table showing proposed improvements for the TIRZ area.

Improvements proposed for Zone No. 5 are primarily related to: (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone. No. 5.

Proposed Projects
Justice Center Streetscape Improvement Project (100 Block E Martin Luther King Street, San Marcos, TX)
Alley Redevelopment Phase 1
Ceatham Street Flats Alley Paving
Pedestrian Safety and Comfort
Downtown Reconstruction/Capital Area Metropolitan Planning Organization
Downtown Shuttle (One Year Pilot)

### Changes to Municipal Ordinances

#### 1. Proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;

The City does not expect any changes to zoning ordinances, the master plan, building codes or other ordinances as a result of the designation of Zone No. 5.

### Estimated Non-Zone No. 5 Projects

#### 2. A list of estimated Non-Zone No. 5 Projects

The City expects to continue developing projects included in its capital improvement plan ("CIP") that benefit areas within Zone No. 5 from CIP funds.

### Method of Relocation

#### 3. A statement of a method of relocating persons to be displaced as a result of implementing the plan.

Designation of Zone No. 5 is not anticipated to cause relocation of any residents.

## Finance Plan

### List of Estimated Zone No. 5 Project Costs

#### 1. A detailed list describing the estimated Project Costs of Zone No. 5, including administrative expenses

Table 1 itemizes the estimated Zone No. 5 Project Costs. Currently there are no administrative expenses estimated to be incurred over the life of Zone No. 5.

### Statement of Proposed Public Works

#### 2. A statement listing the kind, number, and location of all proposed public works or public improvements in Zone No. 5

The improvements that Zone No. 5 is designed to facilitate will be located throughout Zone No. 5. These improvements will assist with the development and redevelopment of Zone No. 5. The Map of Project Boundaries shown on the cover page hereof illustrates the location of the proposed improvements.

### Economic Feasibility Study/Information

#### 3. An Economic Feasibility Study/Information

In connection with the proposed development of the property within Zone No. 5 the City has previously commissioned studies outlining the goals and feasibility of the redevelopment of Zone No. 5 CD-5D as set forth in Schedule A. This Finance Plan is economically feasible since all Project Costs are paid only from tax increment revenues as they become available.

### Estimated Bonded Indebtedness

#### 4. The estimated bonded indebtedness to be incurred

The City currently anticipates paying Project Costs or reimbursing a developer for qualified Project Costs solely from tax increment revenues on an annual basis. No bond indebtedness will be incurred for Zone No. 5.

### Time when Costs/Obligations Incurred

#### 5. The time when costs or monetary obligations are to be incurred

When payment of costs or reimbursements of costs are to be made is a function of the availability of Zone No. 5 tax increment revenues. Schedule B is a projection of tax increment revenues which are available and expected to be available in the future to pay or reimburse Zone No. 5 Project Costs.

## Financing, Expected Sources of Revenue

**6. A description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay Project Costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies taxes on real property in Zone No. 5.**

**Methods of Financing.** The Project Costs will be paid directly for site improvements for certain Zone No. 5 Project Costs. Project Costs will be paid solely from tax increment revenues of Zone No. 5 as they are realized by Zone No. 5.

**Sources of Tax Increment Revenue.** The tax increment revenue necessary to pay the Zone No. 5 Project Costs is expected to come from increased property values in Zone No. 5. Schedule B displays the projected assessed valuations resulting from increases in value. These new tax increment revenues will be used to pay for Zone No. 5 Project Costs.

This Plan is based on a contribution rate (and current tax rates which are subject to change) shown from the City and County.

Taxing Jurisdiction	2019 Tax Rate (1)	% Dedicated
City of San Marcos	\$0.6139/\$100	70%
Hays County	\$0.3899/\$100	70%

(1) 2019 Tax Rate for purposes of illustration only. Tax Rate will be levied from year to year by the City and County, respectively, and will vary. The 2019 total tax rate does not include the Road and Bridge rate.

## Current Appraised Value of Property

### 7. Current Total Appraised Value of Property in Zone No. 5

The total current appraised value within Zone No. 5 as of July 22, 2019 is \$265,192,298.

## Estimated Captured Value

### 8. Estimated Captured Value of Zone No. 5 in Each Year of Existence

The estimated captured appraised value of Zone No. 5 during each year of its existence is shown on Schedule B - Projected Assessed Valuation.

## Duration of Zone

### 9. Duration of Zone

The duration of Zone No. 5 was through December 31, 2027. Zone No. 5 took effect on the date it was created, being December 14, 2011. The City Council established January 1, 2011 as the base year of Zone No. 5. The term of Zone No. 5 has been extended and is currently scheduled to terminate on December 31, 2027.

**Schedule A  
Economic Feasibility Study/Information**

**Schedule B  
Projected Assessed Valuations**

Tax Year	Total Valuation	Value Increase from Base Year	Yearly % Increase	70% City Tax	70% County Tax	Total Revenue	Cumulative Revenue
2012 Actual	\$105,083,437	\$899,281	0.86%	\$3,338	\$2,671	\$6,008	\$6,008
2013 Actual	\$116,524,339	\$12,356,933	10.9%	\$45,929	\$36,933	\$82,862	\$88,870
2014 Actual	\$143,130,508	\$41,268,182	24.7%	\$145,098	\$116,541	\$257,294	\$346,164
2015 Actual	\$145,033,604	\$42,341,838	0.7%	\$151,841	\$121,198	\$269,342	\$615,506
2016 Actual	\$151,017,107	\$48,375,011	4.1%	\$173,485	\$136,200	\$309,684	\$925,190
2017 Actual	\$190,650,978	\$86,366,376	24.9%	\$371,208	\$242,594	\$613,802	\$1,538,992
2018 Actual	\$226,246,103	\$119,056,967	31.3%	\$509,532	\$310,695	\$820,227	\$2,359,219
2019 Estimated	\$248,228,788	\$141,039,652	21.1%	\$606,090	\$384,940	\$991,029	\$3,350,249
2020 Estimated	\$297,874,546	\$190,685,410	20.0%	\$819,432	\$520,438	\$1,339,870	\$4,690,119
2021 Estimated	\$327,662,000	\$220,472,864	10.0%	\$947,438	\$601,737	\$1,549,175	\$6,239,293
2022 Estimated	\$344,045,100	\$236,855,964	5.0%	\$1,017,841	\$646,451	\$1,664,292	\$7,903,585
2023 Estimated	\$361,247,355	\$254,058,219	5.0%	\$1,091,764	\$693,401	\$1,785,165	\$9,688,751
2024 Estimated	\$379,309,723	\$272,120,587	5.0%	\$1,169,384	\$742,699	\$1,912,083	\$11,600,833
2025 Estimated	\$398,275,209	\$291,086,073	5.0%	\$1,250,884	\$794,461	\$2,045,345	\$13,646,179
2026 Estimated	\$418,188,970	\$310,999,834	5.0%	\$1,336,460	\$848,812	\$2,185,271	\$15,831,450

**Assumptions:**

Estimated Years

City Tax Rate \$0.6139

County Tax Rate \$0.3899



## Legislation Text

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**File #:** Res. 2020-136R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-136R, approving a grant agreement with the United States Department of Justice in the amount of \$51,345.00 to assist the City's Fire and Police Departments by providing funding to purchase personal protective equipment necessary to provide public safety services during the COVID-19 pandemic in the City of San Marcos; authorizing the City Manager or his designee to execute the grant agreement on behalf of the City; and declaring an effective date.

**Meeting date:** June 18, 2020

**Department:** Police

**Amount & Source of Funding**

**Funds Required:** \$51,345

**Account Number:** [Click or tap here to enter text.](#)

**Funds Available:** \$51,345

**Account Name:** [Click or tap here to enter text.](#)

**Fiscal Note:**

**Prior Council Action:** Council notified of application via Executive memo from CMO office on 5/1.

**City Council Strategic Initiative:** [\[Please select from the dropdown menu below\]](#)

N/A

[Choose an item.](#)

[Choose an item.](#)

**Comprehensive Plan Element (s):** [\[Please select the Plan element\(s\) and Goal # from dropdown menu below\]](#)

- Economic Development - [Choose an item.](#)
- Environment & Resource Protection - [Choose an item.](#)
- Land Use - [Choose an item.](#)
- Neighborhoods & Housing - [Choose an item.](#)
- Parks, Public Spaces & Facilities - [Choose an item.](#)
- Transportation - [Choose an item.](#)

- Core Services  
 Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

As a current Department of Justice, Bureau of Justice Assistance grantee, the City of San Marcos was allocated \$51,345 in CESF funding (BJA-2020-18553). The CESF program provides funding to assist eligible states, local units of government and tribes in preventing, preparing for, and responding to the coronavirus. The City completed and submitted an application in order to receive those funds.

There is no cost sharing or matching required.

Funding awarded will support the Police and Fire Departments' COVID-related purchases and efforts with equipment (personal protective equipment) and supplies (such as gloves, masks, sanitizer).

**The Council is being asked to approve the attached grant agreement for the CESF grant in the amount of \$51,345.**

The Program Point of Contact is **Chief Bob Klett**, [bklett@sanmarcostx.gov](mailto:bklett@sanmarcostx.gov) <<mailto:bklett@sanmarcostx.gov>>, 512.753.2102

**Council Committee, Board/Commission Action:**

NA

**Alternatives:**

NA

**Recommendation:**

Click or tap here to enter text.

**RESOLUTION NO. 2020-390R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A GRANT AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE IN THE AMOUNT OF \$51,345.00 TO ASSIST THE CITY'S FIRE AND POLICE DEPARTMENTS BY PROVIDING FUNDING TO PURCHASE PERSONAL PROTECTIVE EQUIPMENT NECESSARY TO PROVIDE PUBLIC SAFETY SERVICES DURING THE COVID-19 PANDEMIC IN THE CITY OF SAN MARCOS; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE GRANT AGREEMENT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The Grant Agreement between the United States Department of Justice and City of San Marcos in the amount of \$51,345.00 to assist the City's Fire and Police Departments by providing funding to purchase personal protective equipment necessary to provide public safety measures during the COVID-19 pandemic in the City of San Marcos is approved.

**PART 2.** The City Manager or his designee is authorized to sign the Grant Agreement on behalf of the City.

**PART 3.** This resolution shall be in full force and effect from and after its passage.

**ADOPTED** on June 18, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk



**Department of Justice (DOJ)**

Office of Justice Programs

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Office of the Assistant Attorney General

Washington, D.C. 20531

June 6, 2020

Mr. Bert Lumberras  
City of San Marcos  
630 East Hopkins Street  
San Marcos, TX 78666-6314

Dear Mr. Lumberras:

On behalf of Attorney General William P. Barr, it is my pleasure to inform you that the Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), has approved the application by City of San Marcos for an award under the OJP funding opportunity entitled "BJA FY 20 Coronavirus Emergency Supplemental Funding Program." The approved award amount is \$51,345. These funds are for the project entitled City of San Marcos FY 20 CESF Funding.

The award document, including award conditions, is enclosed. The entire document is to be reviewed carefully before any decision to accept the award. Also, the webpage entitled "Legal Notices: Special circumstances as to particular award conditions" ([ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm](http://ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm)) is to be consulted prior to an acceptance. Through that "Legal Notices" webpage, OJP sets out -- by funding opportunity -- certain special circumstances that may or will affect the applicability of one or more award requirements. Any such legal notice pertaining to award requirements that is posted through that webpage is incorporated by reference into the award.

Please note that award requirements include not only award conditions, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. Because these requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds), it is vital that all key staff know the award requirements, and receive the award conditions and the assurances and certifications, as well as the application as approved by OJP. (Information on all pertinent award requirements also must be provided to any subrecipient of the award.)

Should City of San Marcos accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Please direct questions regarding this award as follows:

- For program questions, contact Wendy Rose, Program Manager at (202) 598-7604; and
- For financial questions, contact the Customer Service Center of OJP's Office of the Chief Financial Officer at (800) 458-0786, or at [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov).

We look forward to working with you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Katharine T. Sullivan".

Katharine T. Sullivan  
Principal Deputy Assistant Attorney General

Encl.



**Department of Justice (DOJ)**

Office of Justice Programs

*Office of Civil Rights*

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Washington, DC 20531

June 6, 2020

Mr. Bert Lumbreras  
City of San Marcos  
630 East Hopkins Street  
San Marcos, TX 78666-6314

Dear Mr. Lumbreras:

Congratulations on your recent award. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, require recipients of federal financial assistance to give assurances that they will comply with those laws. In addition to those civil rights laws, many grant program statutes contain nondiscrimination provisions that require compliance with them as a condition of receiving federal financial assistance. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with OJP and other DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a non-discriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEO requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5). Please submit information about any adverse finding to the OCR at the above address.

We at the OCR are available to help you and your organization meet the civil rights requirements that are associated with OJP and other DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to let us know.

Sincerely,

A handwritten signature in black ink that reads "Michael L. Alston".

Michael L. Alston  
Director

cc: Grant Manager  
Financial Analyst



Department of Justice (DOJ)  
Office of Justice Programs  
**Bureau of Justice Assistance**

**Grant**

1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of San Marcos 630 East Hopkins Street San Marcos, TX 78666-6314		4. AWARD NUMBER: 2020-VD-BX-1623	
2a. GRANTEE IRS/VENDOR NO. 746002239		5. PROJECT PERIOD: FROM 01/20/2020 TO 01/31/2022 BUDGET PERIOD: FROM 01/20/2020 TO 01/31/2022	
2b. GRANTEE DUNS NO. 069462869		6. AWARD DATE 06/06/2020	7. ACTION Initial
3. PROJECT TITLE City of San Marcos FY 20 CESF Funding		8. SUPPLEMENT NUMBER 00	
		9. PREVIOUS AWARD AMOUNT \$ 0	
		10. AMOUNT OF THIS AWARD \$ 51,345	
		11. TOTAL AWARD \$ 51,345	
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).			
13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY20(BJA - CESF) Pub. L. No. 116-136, Div. B; 28 U.S.C. 530C			
14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16.034 - Coronavirus Emergency Supplemental Funding Program			
15. METHOD OF PAYMENT GPRS			
[REDACTED] AGENCY APPROVAL [REDACTED]		[REDACTED] GRANTEE ACCEPTANCE [REDACTED]	
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Katharine T. Sullivan Principal Deputy Assistant Attorney General		18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Bert Lumbreras City Manager	
17. SIGNATURE OF APPROVING OFFICIAL 		19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL	19A. DATE
[REDACTED] AGENCY USE ONLY [REDACTED]			
20. ACCOUNTING CLASSIFICATION CODES FISCAL YEAR    FUND CODE    BUD. ACT.    DIV. OFC.    REG.    SUB.    POMS    AMOUNT X            B            VD        80        00        00            51345		21. VVDUGT1647	



Department of Justice (DOJ)  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET  
Grant**

PAGE 2 OF 16

PROJECT NUMBER 2020-VD-BX-1623

AWARD DATE 06/06/2020

*SPECIAL CONDITIONS*

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" ([ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm](http://ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm)), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.



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2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2020 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2020 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2020 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.



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5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.



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8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



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9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify ([www.e-verify.gov](http://www.e-verify.gov)), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or



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any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at [E-Verify@dhs.gov](mailto:E-Verify@dhs.gov). E-Verify employer agents can email E-Verify at [E-VerifyEmployerAgent@dhs.gov](mailto:E-VerifyEmployerAgent@dhs.gov).

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.



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13. Unreasonable restrictions on competition under the award; association with federal government

**SCOPE.** This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.



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14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



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19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



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24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2020) The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions that may be set out in applicable appropriations acts are indicated at <https://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm>, and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



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27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at [OJP.ComplianceReporting@ojp.usdoj.gov](mailto:OJP.ComplianceReporting@ojp.usdoj.gov). For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

31. Signing Authority

This award must be signed by an authorized official of the applicant State, local, or tribal government, on behalf of that applicant State, unit of local government, or Tribe, unless the applicant designates an organizational unit to apply on its behalf. For example, if designated by a unit of local government, a Police Department or Sheriff's Office (or similar agency) may apply on behalf of the applicant jurisdiction, as long as the department, office, or agency is listed as the organizational unit on the SF-424. In that case, the head of the designated organizational unit (such as a Police Chief or Sheriff) may sign the award. Documentation of the designation by the appropriate governing body must be retained by the grant recipient.

32. The "Emergency Appropriations for Coronavirus Health Response and Agency Operations" law (Public Law 116-136) includes definitions, reporting requirements, and certain other provisions that apply (whether in whole or in part) to this award. In addition, consistent with the CESF Program's purposes, which involve preparing for, preventing, and responding to the coronavirus national emergency, OJP will provide notice of any additional CESF program-specific grants administrative requirements on an award page, accessible at <https://www.ojp.gov/funding/explore/CESF-program-specific-condition>, that is incorporated by reference here.



Department of Justice (DOJ)  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET  
Grant**

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PROJECT NUMBER 2020-VD-BX-1623

AWARD DATE 06/06/2020

*SPECIAL CONDITIONS*

33. The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

34. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

35. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

36. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

37. Justice Information Sharing

Recipients are encouraged to comply any information-sharing projects funded under this award with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) is encouraged to conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https://it.ojp.gov/gsp\\_grantcondition](https://it.ojp.gov/gsp_grantcondition). The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information.

38. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity.



Department of Justice (DOJ)  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET  
Grant**

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PROJECT NUMBER 2020-VD-BX-1623

AWARD DATE 06/06/2020

*SPECIAL CONDITIONS*

39. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA. The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are: a. New construction; b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places; c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size; d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories. The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/ or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bj.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations. Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

40. Establishment of interest-bearing account

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish an interest-bearing account dedicated specifically to this award. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The award funds, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Coronavirus Emergency Supplemental Funding (CESF) program. The recipient also agrees to obligate the award funds in the account (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

41. Expenditures requiring prior approval

No funds under this award may be expended on individual items costing \$500,000 or more, or to purchase Unmanned Aerial Systems (UAS), Unmanned Aircraft (UA), and/or Unmanned Aerial Vehicles (UAV) without prior written approval from BJA. Prior approval must be obtained post-award, through the submission and approval of a Grant Adjustment Notice (GAN) through OJP's Grant Management System (GMS).



Department of Justice (DOJ)  
Office of Justice Programs  
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**AWARD CONTINUATION  
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PROJECT NUMBER 2020-VD-BX-1623

AWARD DATE 06/06/2020

*SPECIAL CONDITIONS*

42. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after January 20, 2020

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (January 20, 2020), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds.

43. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

44. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.



**Department of Justice (DOJ)**

Office of Justice Programs

*Bureau of Justice Assistance*

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Washington, D.C. 20531

**Memorandum To:** Official Grant File

**From:** Orbin Terry, NEPA Coordinator

**Subject:** Categorical Exclusion for City of San Marcos

The Coronavirus Emergency Supplemental Funding (CESF) Program allows eligible states, local units of government, and tribes to support a broad range of activities including preventing, preparing for, and responding to the coronavirus.

All recipients of CESF funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a sub-grantee or third party.

BJA's expectation is that none of the following activities will be conducted whether under this federal award or a related third party action:

- (1) New construction
- (2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species
- (3) A renovation that will change the basic prior use of a facility or significantly change its size
- (4) Research and technology whose anticipated and future application could be expected to have an effect on the environment
- (5) Implementation of a program involving the use of chemicals (including the identification, seizure, or closure of clandestine methamphetamine laboratories) other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments.

Consequently, the subject federal action meets the Office of Justice Programs' criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations.

If, however, award funds are proposed to be used for any of the enumerated projects or activities above, grant recipients must contact their grant manager, and receive written approval prior to commencing that project or activity.

Questions about this determination may be directed to your grant manager or Orbin Terry, Environmental Coordinator for BJA.



Department of Justice (DOJ)  
Office of Justice Programs  
Bureau of Justice Assistance

## GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY

### Grant

PROJECT NUMBER

2020-VD-BX-1623

PAGE 1 OF 1

This project is supported under FY20(BJA - CESF) Pub. L. No. 116-136, Div. B; 28 U.S.C. 530C

1. STAFF CONTACT (Name & telephone number)

Wendy Rose  
(202) 598-7604

2. PROJECT DIRECTOR (Name, address & telephone number)

Bob Klett  
Acting Chief  
2300 S IH 35  
San Marcos, TX 78666-5962  
(512) 753-2102

3a. TITLE OF THE PROGRAM

BJA FY 20 Coronavirus Emergency Supplemental Funding Program

3b. POMS CODE (SEE INSTRUCTIONS  
ON REVERSE)

4. TITLE OF PROJECT

City of San Marcos FY 20 CESF Funding

5. NAME & ADDRESS OF GRANTEE

City of San Marcos  
630 East Hopkins Street  
San Marcos, TX 78666-6314

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 01/20/2020 TO: 01/31/2022

8. BUDGET PERIOD

FROM: 01/20/2020 TO: 01/31/2022

9. AMOUNT OF AWARD

\$ 51,345

10. DATE OF AWARD

06/06/2020

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Coronavirus Emergency Supplemental Funding (CESF) Program allows States, U.S. Territories, the District of Columbia, units of local government, and federally recognized tribal governments to support a broad range of activities to prevent, prepare for, and respond to the coronavirus. Funded projects or initiatives may include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

NCA/NCF



## Legislation Text

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**File #:** Res. 2020-137R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-137R, supporting and encouraging implementation of the proposed cite and divert program by the Hays County Criminal District Attorney's Office for citation-eligible offenses; and declaring an effective date.

**Meeting date:** June 18, 2020

**Department:** [Click or tap here to enter text.](#)

**Amount & Source of Funding**

**Funds Required:** [Click or tap here to enter text.](#)

**Account Number:** [Click or tap here to enter text.](#)

**Funds Available:** [Click or tap here to enter text.](#)

**Account Name:** [Click or tap here to enter text.](#)

**Fiscal Note:**

**Prior Council Action:** [Click or tap here to enter text.](#)

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Click or tap here to enter text.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS SUPPORTING AND ENCOURAGING IMPLEMENTATION OF THE PROPOSED CITE AND DIVERT PROGRAM BY THE HAYS COUNTY CRIMINAL DISTRICT ATTORNEY'S OFFICE FOR CITATION-ELIGIBLE OFFENSES; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**RECITALS**

**WHEREAS**, under Section 14.06 of the Texas Code of Criminal Procedure, law enforcement officers are authorized to issue citations instead of arresting individuals suspected of having committed certain Class A and Class B Misdemeanor offenses; and

**WHEREAS**, individuals cited and released for such offenses must still appear in court, enter a plea, and risk conviction of a crime that could result in imprisonment and establishment of a criminal record; and

**WHEREAS**, the Hays County Criminal Justice Reform Committee has received a presentation by Hays County Criminal District Attorney Wes Mau regarding a proposed Cite and Divert Program; and

**WHEREAS**, under a Cite and Divert program, an individual who has been issued a citation for an eligible Class A or Class B Misdemeanor offense and released in the field by a law enforcement officer would meet with a prosecutor, instead of appearing before a magistrate to enter a plea; and

**WHEREAS**, in the initial meeting the prosecutor determines if the individual meets the criteria established for participation in the Cite and Divert program and offers the individual the opportunity to enter an agreement to attend training or educational sessions, perform community service, and complete any other program requirements; and

**WHEREAS**, upon completion of the Cite and Divert Program requirements, the individual would not be formally charged with commission of the offense for which the citation was issued and would not have the offense appear on his or her record; and

**WHEREAS**, the San Marcos City Council has already expressed its support for the San Marcos Police Department to increase the use of the cite and release process and finds that the proposed Cite and Divert Program would further benefit those members of the community whose conduct may not warrant prosecution and conviction of a criminal offense if they are willing to appear and successfully complete the program requirements.

**PART 1.** The City Council supports the proposed Cite and Divert Program and encourages the Hays County Criminal District Attorney's Office to establish and implement the program as soon as possible.

**PART 2.** This resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on June 18, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk



Legislation Text

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**File #:** Res. 2020-138R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-138R, urging the United States Congress to adopt Criminal Justice Reform Legislation requiring local law enforcement agencies to report all deaths of citizens while in police custody to the United States Department of Justice; requiring the department to independently review and investigate each custodial death reported by a local law enforcement agency to determine if the unnecessary or improper use of force was a cause of death and expose patterns of discriminatory treatment; prohibiting the United States Government from supplying local law enforcement agencies with military hardware, vehicles, or weaponry for use against United States Citizens

**Meeting date:** June 18, 2020

**Department:** [Click or tap here to enter text.](#)

**Amount & Source of Funding**

**Funds Required:** [Click or tap here to enter text.](#)

**Account Number:** [Click or tap here to enter text.](#)

**Funds Available:** [Click or tap here to enter text.](#)

**Account Name:** [Click or tap here to enter text.](#)

**Fiscal Note:**

**Prior Council Action:** [Click or tap here to enter text.](#)

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Choose an item.

Land Use - Choose an item.

- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Click or tap here to enter text.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS URGING THE UNITED STATES CONGRESS TO ADOPT CRIMINAL JUSTICE REFORM LEGISLATION REQUIRING LOCAL LAW ENFORCEMENT AGENCIES TO REPORT ALL DEATHS OF CITIZENS WHILE IN CUSTODY TO THE UNITED STATES DEPARTMENT OF JUSTICE, REQUIRING THE DEPARTMENT TO INDEPENDENTLY REVIEW AND INVESTIGATE EACH CUSTODIAL DEATH REPORTED BY A LOCAL LAW ENFORCEMENT AGENCY TO DETERMINE IF THE UNNECESSARY OR IMPROPER USE OF FORCE WAS A CAUSE OF DEATH AND EXPOSE PATTERNS OF DISCRIMINATORY TREATMENT, AND PROHIBITING THE UNITED STATES GOVERNMENT FROM SUPPLYING LOCAL LAW ENFORCEMENT AGENCIES WITH MILITARY HARDWARE, VEHICLES, OR WEAPONRY FOR USE AGAINST UNITED STATES CITIZENS; AND PROVIDING AN EFFECTIVE DATE**

**RECITALS:**

**WHEREAS**, the death of George Floyd at the hands of members of the Minneapolis, Minnesota Police Department has focused national attention, once again, on law enforcement practices involving the use of force against citizens, and particularly against people of color; and

**WHEREAS**, the unnecessary and improper use of force by local law enforcement agencies continues to cause the senseless killing of citizens throughout the United States including, in some cases, individuals stopped or detained for non-violent offenses; and

**WHEREAS**, there is currently no requirement for local law enforcement agencies to report incidents involving the deaths of citizens while in their custody to any agency of the United States government; and

**WHEREAS**, internal investigations of custodial deaths and reviews by local prosecuting attorneys have proven insufficient, in many cases, to instill public confidence that officers who use unnecessary and improper force against any person, including persons of color, will be held accountable and brought to justice because an inherent conflict of interest arises from the close-working relationships that prosecutors develop with local law enforcement officers; and

**WHEREAS**, public confidence in law enforcement would be improved through a process that provides for independent investigation of custodial deaths by an agency of government that has no pre-existing relationship with the department employing the officer under investigation; and

**WHEREAS**, the United States Department of Justice currently has discretion to investigate complaints alleging violations of the constitutional rights of citizens by local law enforcement officers but does not have a statutory duty to investigate cases involving the death of a citizen while in custody; and

**WHEREAS**, a change in federal law to require local law enforcement agencies to report each custodial death to the United States Department of Justice and to provide for review and independent investigation of such deaths by the Department, would help restore public confidence in law enforcement and expose any patterns of discriminatory treatment of people based on their socio-economic status, the color of their skin, their gender identity or sexual orientation, their immigration status, or their religious beliefs; and

**WHEREAS**, the deployment and use of surplus military hardware, vehicles, and weaponry against United States citizens, including those engaged in the exercise of their rights under the first amendment to protest and to petition the government for the redress of grievances, is abhorrent to people who enjoy living in a constitutional democracy; and

**WHEREAS**, a change in federal law could prohibit the transfer, sale, or donation of military hardware, vehicles, and weaponry to local law enforcement agencies and deter use of them use against civilians including those who choose to peaceably assemble, march, and protest.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The City Council urges the United States Congress to adopt legislation that would:

- a.** Require local law enforcement agencies to report all deaths of citizens resulting from interactions with police or while in police custody to the United States Department of Justice;
- b.** Require the United States Department of Justice to review each report of a custodial death of a citizen at the hands of local law enforcement officers and conduct an investigation to determine if the death resulted from the unnecessary or improper use of force and whether the local law enforcement agency has a pattern of discrimination in the use of force against certain individuals or groups, including people of color; and
- c.** Prohibit the United States military from transferring, selling, or donating military hardware, vehicles, or weapons to local law enforcement agencies for use against civilians.

**PART 2.** This resolution is effective immediately upon adoption.

**ADOPTED** on June 18, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk



## Legislation Text

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**File #:** Res. 2020-139R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-139R, granting an easement to Pedernales Electric Cooperative, Inc. for the installation of Electric Utility facilities to serve the City's new Fire Station No. 2 in the La Cima Development; authorizing the City Manager, or his designee, to execute said easement on behalf of the City; and declaring an effective date.

**Meeting date:** June 18, 2020

**Department:** Fire Department (Les Stephens)

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

N/A

City Facilities

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.

- Core Services  
 Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

This resolution is required to grant the City Manager the authority to enter into an underground utility easement agreement with Pedernales Electric for the provision of electrical service to Fire Station #2.

**Council Committee, Board/Commission Action:**

N/A

**Alternatives:**

N/A

**Recommendation:**

Approve the resolution as requested.

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS GRANTING AN EASEMENT TO PEDERNALES ELECTRIC COOPERATIVE, INC. FOR THE INSTALLATION OF ELECTRIC UTILITY FACILITIES TO SERVE THE CITY'S NEW FIRE STATION NO. 2 IN THE LA CIMA DEVELOPMENT; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID EASEMENT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The attached Easement to Pedernales Electric Cooperative, Inc. for the installation of electric utility facilities to serve the City's new Fire Station No. 2 in the La Cima Development is hereby approved, subject to Part 3.

**PART 2.** The City Manager, or his designee, is authorized to execute said easement on behalf of the City, subject to Part 3.

**PART 3.** The easement shall include restrictions approved by the City Manager and City Attorney providing, in essence, that: a) the easement will subject to existing utility facilities located in the area covered by the easement, together with the right of the owners of such facilities to continue operating, maintaining, repairing and replacing same; and b) public utility easements may be dedicated by plat in specified locations as approved by the City's engineers.

**PART 4.** This resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on June 18, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk

UTILITY EASEMENT

Work Order No.: 131612

Property Owner Name: CITY OF SAN MARCOS

THE STATE OF TEXAS

§  
§  
§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HAYS

That **The City of San Marcos, a home rule municipality**, by and through

\_\_\_\_\_, in the capacity of \_\_\_\_\_, and  
(Printed Name) (Title)

not individually, hereinafter referred to as "Grantor" (whether one or more), for and in consideration of ONE DOLLAR (\$1.00) in hand paid by PEDERNALES ELECTRIC COOPERATIVE, INC. of Johnson City, Texas, has granted, sold, and conveyed and by these presents does grant, sell, and convey unto Pedernales Electric Cooperative, Inc. an easement and right-of-way as hereinafter described for the purpose of an underground electric distribution system consisting of a variable number of underground cables and all necessary or desirable appurtenances (including conduits, primary cables, secondary conductors, enclosures, concrete pads, ground rods, ground clamps, transformers, cable terminators, cable riser shields, cutouts, and lightning arrestors overground) at or near the general course which shall become fixed at the location of cables buried by Pedernales Electric Cooperative, Inc. through, across, and under the following described lands located in Hays County, Texas, to-wit:

Being 3.505 acres of land, more or less, out of the John Williams Survey, Abstract No. 490, in Hays County, Texas, as described on instrument (Deed) #17001899 recorded in the Official Property Records of Hays County, Texas.

Location of right-of-way and easement hereby conveyed shall be limited to a strip of land fifteen (15) feet in width, being ten (7.5) feet on each side of the centerline of the facilities as built, with guying easements as needed, or as indicated on Exhibit "A", attached hereto and incorporated herein for all pertinent purposes.

Together with the right of ingress and egress over Grantor's adjacent lands to or from said right-of-way for the purpose of constructing, reconstructing, inspecting, patrolling, hanging new wire on, maintaining and removing said lines and appurtenances; the right to relocate within the limits of said right-of-way; the right to remove from said lands all trees and parts thereof, or other obstructions which endanger or may interfere with the efficiency of said lines or their appurtenances.

Grantor warrants that Grantor is the owner of said property and has the right to execute this easement.

TO HAVE AND TO HOLD the above described easement and rights unto Pedernales Electric Cooperative, Inc. and their successors and assigns, until said easement and rights shall be relinquished.

Grantor, Grantor's heirs, and legal representatives do hereby bind themselves to warrant and forever defend all and singular the above described easement and rights unto Pedernales Electric Cooperative, Inc. their successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

**SIGN AND NOTARTIZE ON SECOND PAGE**

WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Printed Corporate or Business Name)

By: \_\_\_\_\_  
(Printed General Partner or Manager Name)

\_\_\_\_\_  
(Signature)

**THE STATE OF TEXAS**

**COUNTY OF \_\_\_\_\_**

BEFORE ME, the undersigned authority, on this day personally appeared

\_\_\_\_\_, acting on behalf of \_\_\_\_\_  
(Printed Name) (Printed Corporate or Business Name)

and known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that they executed the same on behalf of said Business or Corporation for the purposes and consideration therein expressed.

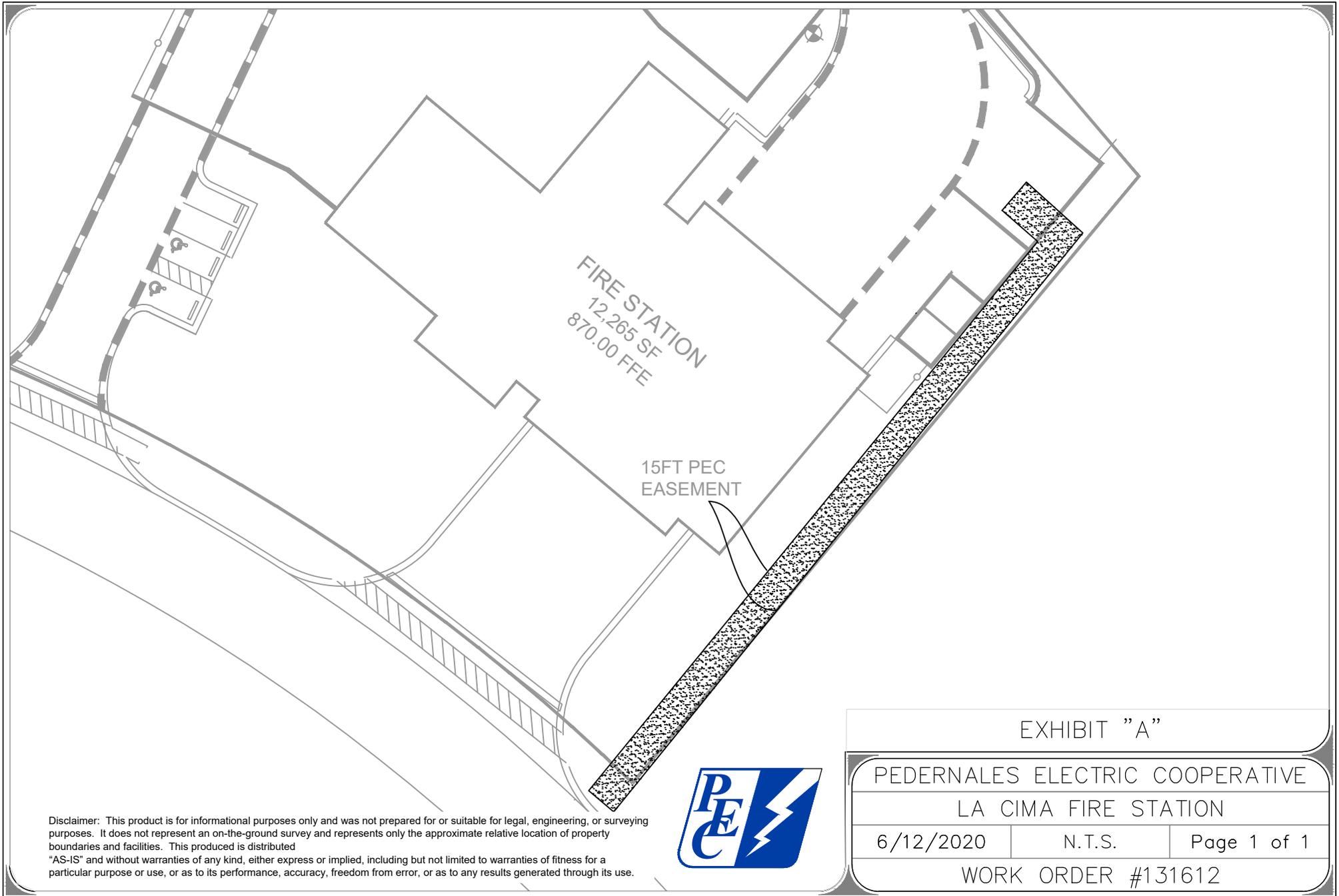
GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
The State of Texas

Please Return to:

Pedernales Electric Cooperative  
Attn: Kyle Planning Department  
1810 FM150 West  
Kyle, Texas 78640



Disclaimer: This product is for informational purposes only and was not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries and facilities. This produced is distributed "AS-IS" and without warranties of any kind, either express or implied, including but not limited to warranties of fitness for a particular purpose or use, or as to its performance, accuracy, freedom from error, or as to any results generated through its use.



EXHIBIT "A"		
PEDERNALES ELECTRIC COOPERATIVE		
LA CIMA FIRE STATION		
6/12/2020	N.T.S.	Page 1 of 1
WORK ORDER #131612		



## Legislation Text

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**File #:** ID#20-396, **Version:** 1

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**AGENDA CAPTION:**

Consider, by motion, approval of a joint letter from members of the City Council calling on Governor Greg Abbott to take specific actions to alleviate the disproportionate impact of COVID-19 on Latinx Texans and people of color.

**Meeting date:** June 11, 2020

**Department:** City Clerk per Council Member request

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Council Member Maxfield Baker has requested city council support for the attached letter to Governor Abbott. Signatures of individual council members will be added after council consideration of motion to approve the letter.

The letter includes a request for the governor to suspend provisions of state law, added by SB4 in 2017, regarding enforcement of immigration laws by local entities. A copy of these provisions, codified in Chapter 752 of the Texas Government Code, is attached as background information.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

Dear Governor Abbott:

Thank you for your service to the great State of Texas and for leading Texans during this very challenging time in the history of our nation. As we have seen in recent case statistics, the large majority of those who have tested positive for COVID-19 are people of color and low-income populations. Public health experts have confirmed that this is mainly because Latinx and people of color are overwhelmingly working on the front lines. Inaction to protect our frontline workers will result in predictable consequences, including loss of life. Our local democracies are trying to take every action allowable under the law to address this reality. Clearly, it is important for the State to join in this endeavor, so we ask for your leadership and assistance in addressing the disproportionate impact this virus has on Latinx Texans.

Please consider the following:

1. Take steps to expand Medicaid. Texas is the most uninsured state in America. The Latinx community lacks health insurance more than any other major population in Texas. These federal health dollars could be used to meet critical health care needs during the COVID-19 crisis.
2. Have the Attorney General drop the lawsuit that is blocking paid sick time policies. Paid sick time would be guaranteed for all workers in Austin, Dallas, and San Antonio if it were not for the state's lawsuit. Paid sick time is more important now, than ever.
3. Use the Economic Stabilization Fund (a.k.a. Rainy Day Fund) to provide immediate and continued financial relief to working class families, regardless of immigration status. Doing so will lead to fewer people being forced to return to work if they are vulnerable or at-risk.
4. Suspend the following sections of the Texas Government Code, added by SB4 in 2017, pertaining to the enforcement of immigration laws by local entities: Sections 752.053, 752.055, 752.056, and 752.0565. Because of these provisions in state law, many immigrants are too afraid to seek critical medical interventions or public assistance for fear of being separated from their families
5. Support Texas municipalities' efforts to manage the COVID-19 crisis. There is no "one size fits all" solution. Municipalities should be permitted to enforce CDC guidelines and emergency protocols that will protect and benefit their unique situations and constituents, which for San Marcos includes a large percentage of Latinx and low-income households. We must be supported in our efforts to save lives and prevent further devastation to these communities. Please adopt a revised Executive Order that allows cities that are seeing a surge in new COVID-19 cases to adopt and enforce mandatory face-covering and social distancing orders.

We have taken several steps at the local level to alleviate some of the economic burden faced by our citizens. However, there are many things outlined above that only you can approve or initiate to help our unique, diverse and low-income community and we respectfully request your assistance and consideration. Thank you again for all your work and leadership during this pandemic and we stand ready to work together on real and equitable solutions.

Sincerely,  
City Council Place One  
Maxfield Baker

City Council Place Four  
Mark Rockeymoore

City Council Place Six  
Melissa Derrick

{Add other signature lines after council approval}

SUBCHAPTER C. ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS  
BY LOCAL ENTITIES AND CAMPUS POLICE DEPARTMENTS

Sec. 752.051. DEFINITIONS. In this subchapter:

- (1) "Campus police department" means a law enforcement agency of an institution of higher education.
- (2) "Immigration laws" means the laws of this state or federal law relating to aliens, immigrants, or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).
- (3) "Institution of higher education" means:
  - (A) an institution of higher education as defined by Section [61.003](#), Education Code; or
  - (B) a private or independent institution of higher education as defined by Section [61.003](#), Education Code.
- (4) "Lawful detention" means the detention of an individual by a local entity, state criminal justice agency, or campus police department for the investigation of a criminal offense. The term excludes a detention if the sole reason for the detention is that the individual:
  - (A) is a victim of or witness to a criminal offense; or
  - (B) is reporting a criminal offense.
- (5) "Local entity" means:
  - (A) the governing body of a municipality, county, or special district or authority, subject to Section [752.052](#);
  - (B) an officer or employee of or a division, department, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and
  - (C) a district attorney or criminal district attorney.
- (6) "Policy" includes a formal, written rule, order, ordinance, or policy and an informal, unwritten policy.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. [4](#)), Sec. 1.01, eff. September 1, 2017.

Sec. 752.052. APPLICABILITY OF SUBCHAPTER. (a) This subchapter does not apply to a hospital or hospital district created under Subtitle C or D, Title 4, Health and Safety Code, a federally qualified health center as defined in Section [31.017](#), Health and Safety Code, a hospital owned or operated by an institution of higher education, or a hospital district created under a general or special law authorized by Article IX, Texas Constitution, to the extent that the hospital or hospital district is providing access to or delivering medical or health care services as required under the following applicable federal or state laws:

- (1) 42 U.S.C. Section 1395dd;
- (2) 42 U.S.C. Section 1396b(v);
- (3) Subchapter C, Chapter [61](#), Health and Safety Code;
- (4) Chapter [81](#), Health and Safety Code; and
- (5) Section [311.022](#), Health and Safety Code.

(b) Subsection (a) excludes the application of this subchapter to a commissioned peace officer:

- (1) employed by a hospital or hospital district during the officer's employment; or
- (2) commissioned by a hospital or hospital district.

(c) This subchapter does not apply to a commissioned peace officer employed or contracted by a religious organization during the officer's employment with the organization or while the officer is performing the contract.

(d) This subchapter does not apply to a school district or open-enrollment charter school, including a peace officer employed or contracted by a district or charter school during the officer's employment with the district or charter school or while the officer is performing the contract. This subchapter does not apply to the release of information contained in educational records of an educational agency or institution,

except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(e) This subchapter does not apply to the public health department of a local entity.

(f) This subchapter does not apply to:

(1) a community center as defined by Section [571.003](#), Health and Safety Code; or

(2) a local mental health authority as defined by Section [531.002](#), Health and Safety Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. [4](#)), Sec. 1.01, eff. September 1, 2017.

Sec. 752.053. POLICIES AND ACTIONS REGARDING IMMIGRATION ENFORCEMENT. (a) A local entity or campus police department may not:

(1) adopt, enforce, or endorse a policy under which the entity or department prohibits or materially limits the enforcement of immigration laws;

(2) as demonstrated by pattern or practice, prohibit or materially limit the enforcement of immigration laws; or

(3) for an entity that is a law enforcement agency or for a department, as demonstrated by pattern or practice, intentionally violate Article [2.251](#), Code of Criminal Procedure.

(b) In compliance with Subsection (a), a local entity or campus police department may not prohibit or materially limit a person who is a commissioned peace officer described by Article [2.12](#), Code of Criminal Procedure, a corrections officer, a booking clerk, a magistrate, or a district attorney, criminal district attorney, or other prosecuting attorney and who is employed by or otherwise under the direction or control of the entity or department from doing any of the following:

(1) inquiring into the immigration status of a person under a lawful detention or under arrest;

(2) with respect to information relating to the immigration status, lawful or unlawful, of any person under a

lawful detention or under arrest, including information regarding the person's place of birth:

(A) sending the information to or requesting or receiving the information from United States Citizenship and Immigration Services, United States Immigration and Customs Enforcement, or another relevant federal agency;

(B) maintaining the information; or

(C) exchanging the information with another local entity or campus police department or a federal or state governmental entity;

(3) assisting or cooperating with a federal immigration officer as reasonable or necessary, including providing enforcement assistance; or

(4) permitting a federal immigration officer to enter and conduct enforcement activities at a jail to enforce federal immigration laws.

(c) Notwithstanding Subsection (b) (3), a local entity or campus police department may prohibit persons who are employed by or otherwise under the direction or control of the entity or department from assisting or cooperating with a federal immigration officer if the assistance or cooperation occurs at a place of worship.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. [4](#)), Sec. 1.01, eff. September 1, 2017.

Sec. 752.054. DISCRIMINATION PROHIBITED. A local entity, campus police department, or a person employed by or otherwise under the direction or control of the entity or department may not consider race, color, religion, language, or national origin while enforcing immigration laws except to the extent permitted by the United States Constitution or Texas Constitution.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. [4](#)), Sec. 1.01, eff. September 1, 2017.

Sec. 752.055. COMPLAINT; EQUITABLE RELIEF. (a) Any citizen residing in the jurisdiction of a local entity or any citizen enrolled at or employed by an institution of higher education may file a complaint with the attorney general if the person asserts facts supporting an allegation that the entity or the institution's campus police department has violated Section [752.053](#). The citizen must include a sworn statement with the complaint stating that to the best of the citizen's knowledge, all of the facts asserted in the complaint are true and correct.

(b) If the attorney general determines that a complaint filed under Subsection (a) against a local entity or campus police department is valid, the attorney general may file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the principal office of the entity or department is located to compel the entity or department that is suspected of violating Section [752.053](#) to comply with that section.

(c) An appeal of a suit brought under Subsection (b) is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. The appellate court shall render its final order or judgment with the least possible delay.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. [4](#)), Sec. 1.01, eff. September 1, 2017.

Sec. 752.056. CIVIL PENALTY. (a) A local entity or campus police department that is found by a court of law as having intentionally violated Section [752.053](#) is subject to a civil penalty in an amount:

(1) not less than \$1,000 and not more than \$1,500 for the first violation; and

(2) not less than \$25,000 and not more than \$25,500 for each subsequent violation.

(b) Each day of a continuing violation of Section [752.053](#) constitutes a separate violation for the civil penalty under this section.

(c) The court that hears an action brought under Section [752.055](#) against the local entity or campus police department shall determine the amount of the civil penalty under this section.

Text of subsection effective until January 01, 2021

(d) A civil penalty collected under this section shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter B, Chapter [56](#), Code of Criminal Procedure.

Text of subsection effective on January 01, 2021

(d) A civil penalty collected under this section shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter J, Chapter [56B](#), Code of Criminal Procedure.

(e) Sovereign immunity of this state and governmental immunity of a county and municipality to suit is waived and abolished to the extent of liability created by this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. [4](#)), Sec. 1.01, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. [4173](#)), Sec. 2.51, eff. January 1, 2021.

Sec. 752.0565. REMOVAL FROM OFFICE. (a) For purposes of Section [66.001](#), Civil Practice and Remedies Code, a person holding an elective or appointive office of a political subdivision of this state does an act that causes the forfeiture of the person's office if the person violates Section [752.053](#).

(b) The attorney general shall file a petition under Section [66.002](#), Civil Practice and Remedies Code, against a public officer to which Subsection (a) applies if presented with evidence, including evidence of a statement by the public officer, establishing probable grounds that the public officer engaged in conduct described by Subsection (a). The court in which the petition is filed shall give precedence to proceedings relating to the petition in the same manner as provided for an election contest under Section [23.101](#).

(c) If the person against whom an information is filed based on conduct described by Subsection (a) is found guilty as charged, the court shall enter judgment removing the person from office.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. [4](#)), Sec. 1.01, eff. September 1, 2017.

Sec. 752.057. COMMUNITY OUTREACH POLICY. (a) Each law enforcement agency that is subject to the requirements of this subchapter may adopt a written policy requiring the agency to perform community outreach activities to educate the public that a peace officer may not inquire into the immigration status of a victim of or witness to an alleged criminal offense unless, as provided by Article [2.13](#), Code of Criminal Procedure, the officer determines that the inquiry is necessary to:

- (1) investigate the offense; or
- (2) provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.

(b) A policy adopted under this section must include outreach to victims of:

- (1) family violence, as that term is defined by Section [71.004](#), Family Code, including those receiving services at family violence centers under Chapter [51](#), Human Resources Code; and

(2) sexual assault, including those receiving services under a sexual assault program, as those terms are defined by Section [420.003](#).

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. [4](#)), Sec. 1.01, eff. September 1, 2017.



Legislation Text

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**File #:** ID#20-399, **Version:** 1

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**AGENDA CAPTION:**

Receive a Staff presentation and hold discussion regarding the return to normal utility billing operations for non-payment, and provide direction to Staff.

**Meeting date:** June 18, 2020

**Department:** Finance

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Council agreed to halt utility service terminations during the COVID emergency

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

In March, 2020 the City Council agreed to halt utility service terminations for non-payment for 90 days. The 90 days will expire on June 22. Staff recommends the City return to normal payment processing procedures.

This includes, but is not limited to, the following:

- Begin to inform customers of their unpaid bills
- Encourage customers to either make payment arrangements or recommend agencies who may have monies to help people pay their bills
- Terminate services, when applicable.

The City does not terminate services without letting the customer know. Also, the City funds an agreement with Community Action to help people with their outstanding utility bills. Currently, there is \$93,000 available for assistance.

Finally, the standard practice is the City does not terminate any services when the heat index is over 100 degrees. We will continue that practice.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

**Continue to not terminate services for a set period of time.**

**Recommendation:**

Return to the City's normal standard operating procedures as we can begin to help people bring their outstanding bills current through assistance or through payment arrangements.



# UTILITY SERVICES

COUNCIL SPECIAL CALLED MEETING  
JUNE 18, 2020

## BACKGROUND

- ❑ **Council agreed to put the standard utility service procedures in “hiatus” in during the immediate COVID 19 crisis**
  - In March Council agreed to not terminate any utility services for a period of 90 days
  - The 90 day limit expires on June 22
  - Staff members need direction on next steps
  - This is an administrative function

## **PAST DUE ACCOUNTS**

### **□ Past due accounts:**

- We currently have over 1,000 customers owing \$500,000 million in outstanding bills that are 60 or more days overdue
- Of these, approximately 300 are commercial accounts
- In addition, we have 250 customers making arrangements

## **REASONS TO “RESTART” OUR NORMAL PROCEDURES?**

- It is difficult for people to catch up, if they get too far behind**
- We will soon have an influx of new customers, and we want consistent procedures**
- Equity: There are customers who are paying**
- Rating agencies review outstanding accounts as a “financial management” indicator**
- Auditors want to know if our late or uncollectible accounts increase – why? And remedial actions?**

## **RESOURCES TO HELP PEOPLE**

- There are several social service agencies who can help people with their outstanding utility bills**
- We work with both residents and businesses to make long term payment arrangements**
- Examining options to use some COVID money to help customers**
- City financially supports a Community Action Fund to help people pay their outstanding bill**
  - Currently have \$93,000 available. If we need more, we will determine options

here are customers who are paying

## **RESTARTING “NORMAL” SLOWLY**

- We will follow our standard practices that include:**
  - Working with residents and commercial customers on payment arrangements
  - Not terminating service during difficult weather conditions
- Continue work with service agencies and others to determine if we can offer more help to customers**
- Once school begins, we want a standard practice to ensure everyone understands the processes**



## Legislation Text

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**File #:** ID#20-361, **Version:** 1

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**AGENDA CAPTION:**

Hold discussion on Capes Dam, including but not limited to Hays County Parks proposals; and provide direction to the City Manager.

**Meeting date:** June 18, 2020

**Department:** Requested by Council Member Mihalkanin and Gonzales

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Please see below for timeline.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

January 15, 2013, City Council approved Planned Development District (PDD) zoning for The Woodlands of San Marcos development project, and received 20 acres of dedicated parkland along the San Marcos River, which includes Cape's Dam and the Mill Race.

September 23, 2014, the Parks and Recreation Advisory Board received a presentation from Dr. Thom Hardy regarding work done by the Meadows Center in regard to a study of the safety and environmental issues associated with Cape's Dam. Scientific evaluation was completed which recommended the removal of Cape's Dam and filling of the Mill Race.

February 22, 2016, City Council held a Cape's Dam Workshop where they received a presentation from Dr. Thom Hardy, and provided direction to Staff to bring back an action item that would approve the removal of the dam and the filling of the mill race. Click to read minutes [here](http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/02222016-805).  
<<http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/02222016-805>>

March 15, 2016, City Council approved a motion to remove Cape's Dam. Click [here](http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/03152016-820).  
<<http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/03152016-820>> to read minutes.

June 21, 2016, a stakeholder meeting was held at fish hatchery, including US Fish and Wildlife Service (USFWS), Texas Historical Commission (THC), US Army Corps of Engineers (USACE), Hays County Historical Commission, and the City. THC stated that the dam, mill race and associated structures retain sufficient historic integrity to remain eligible for listing in the National Register. USFWS stated that leaving the dam in place, in whole or in part, would make the City ineligible for USFWS funding for the project.

August 16, 2016, Council received a presentation from USFWS regarding the Cape's Dam removal planning and permitting process. The USFWS report states that the dam, "acts as a barrier to fish and other aquatic species" and "is in severe disrepair and poses a safety hazard to recreational users." Due to the conflicting positions of USFWS and THC, and the competing interests of other interested stakeholders, the City determines that the best course of action is to suspend the UFWS permit process and further investigate removal, repair and replacement options. Click [here](http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/08162016-851).  
<<http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/08162016-851>> to read minutes.

October 4, 2018: Historic Preservation Commission recommended approval of designating Thompson/Cape Dam and Ditch Engineering Structure as a local historic landmark (4-2). Click [here](http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/10042018-1482).  
<<http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/10042018-1482>> to read minutes.

November 27, 2018: Planning and Zoning Commission recommended denial of designating Thompson/Cape Dam and Ditch Engineering Structure as a local historic landmark (5-4). Click [here](http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/11272018-1536).  
<<http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/11272018-1536>> to read minutes.

January 15, 2019: City Council was briefed in executive session to discuss possible partnership opportunities with Hays County and the Hays County Historical Commission.

January 29, 2019: City Council considered an item designating Cape's Dam as a historic landmark. This action was postponed for up to 6 months while staff gathered more information related to the project. Click [here](https://san-marcos-tx.legistar.com/View.ashx?M=M&ID=651926&GUID=D6B73902-0C86-4E25-A305-9B354DF051FA) <<https://san-marcos-tx.legistar.com/View.ashx?M=M&ID=651926&GUID=D6B73902-0C86-4E25-A305-9B354DF051FA>> to read minutes.

June 18, 2019: City Council was briefed in Work Session on status of possible partnership opportunities with Hays County and the Hays County Historical Commission. Presentation from County on proposed project anticipated in fall 2019. Click [here](http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/06182019-1757). <<http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/06182019-1757>> to read minutes

October 15, 2019: City Council received a presentation from Vista Planning & Design on behalf of Hays County and the Hays County Historical Commission regarding a visioning study for Cape's Dam, the Mill Race, Thompson's Island & San Marcos River. Council provided consensus for staff to seek what permissions and permits would be needed from State and Federal agencies to remove or repair the dam. Click [here](http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/10152019-1896). <<http://sanmarcostx.gov/AgendaCenter/ViewFile/Minutes/10152019-1896>> to read minutes.

January 7, 2020: City Council was briefed in Work Session regarding the possible permitting process depending on the direction of Council to remove, rehab or rebuild the dam. Council provided direction for Staff to conduct further studies and provided a number of items to be addressed. Click [here](http://san-marcos-tx.granicus.com/player/clip/1445?view_id=9) <[http://san-marcos-tx.granicus.com/player/clip/1445?view\\_id=9](http://san-marcos-tx.granicus.com/player/clip/1445?view_id=9)> to view the video of that meeting.

### **Funding Currently Available**

Currently there is \$174,628 remaining of the \$250,000 that was originally funded for the Cape's Camp Improvement and Dam Project. To date \$75,372 of the funds allocated have been used to fund previous studies on Cape's Dam and the Mill Race.

### **Council Committee, Board/Commission Action:**

Click or tap here to enter text.

### **Alternatives:**

Click or tap here to enter text.

### **Recommendation:**

Click or tap here to enter text.



# *Cape's Dam, Mill Race, Thompson's Island & San Marcos River*

## *Visioning Study*

*City Council Work Session  
October 15, 2019*

# Presentation

Receive presentation from Hays County regarding Cape's Dam and seek Council direction on proposed project and possible partnership opportunities with Hays County and the Hays County Historical Commission.

# Background

## February 22, 2016: Capes Dam Workshop

- Presentation by Dr. Thomas Hardy
- Effects of changing height of Cape's Dam on recreation, Texas wild rice and fountain darter habitat (Hardy Report – 10/12/15)

## August 15, 2016: Capes Dam Council Presentation

- Presentation by Mike Montagne, U.S. Fish and Wildlife Service
- Capes Dam Removal Analysis (Hydraulic Hardy Report – 3/27/2017)
- Supplement Cape's Dam and Mill Race Assessment (Supplemental Assessment-Hardy Report – 5/23/17)

## January 11, 2019: Capes Dam Memo Staff Update

# Background

January 15, 2019: City Council briefed in executive session to discuss possible partnership opportunities with Hays County and the Hays County Historical Commission.

January 29, 2019: City Council considered an item designating Cape's Dam as a historic landmark. This action was postponed for up to 6 months while staff gathered more information related to the project.

June 18, 2019: City Council briefed in Work Session on status of possible partnership opportunities with Hays County and the Hays County Historical Commission. Presentation from County on proposed project anticipated in fall 2019.

# City Council Direction Needed

- Does Council want to proceed with an agreement with Hays County to partner on renovation/rehabilitation of Cape's Dam?
- Does Council want to explore the larger visioning/master plan concept with Hays County?



## A note regarding this presentation:

**A master plan** by its very nature and definition seeks a broad perspective from as many voices as possible to craft a plan and strategy that serves the most amount of residents in the best possible manner.

**This presentation** and the maps, comments, and strategies are conceptual only. The information contained in the work is only to explore the potential of a more comprehensive master plan.

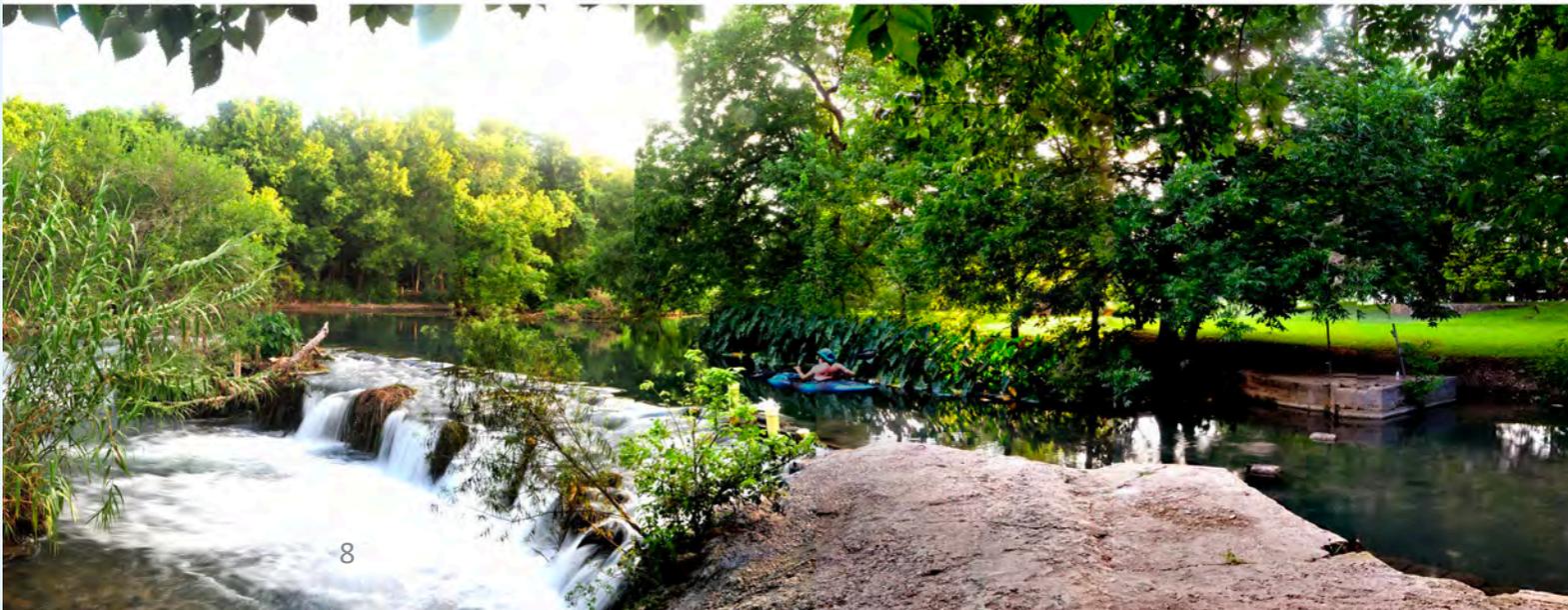


# The vision presented here;

Seeks to promote the rehabilitation and interpretation of the Thompson/Cape dam, mill race, Thompson/Cape mill site and turbine structure, as a special place;

*the very beginning of San Marcos industry.*





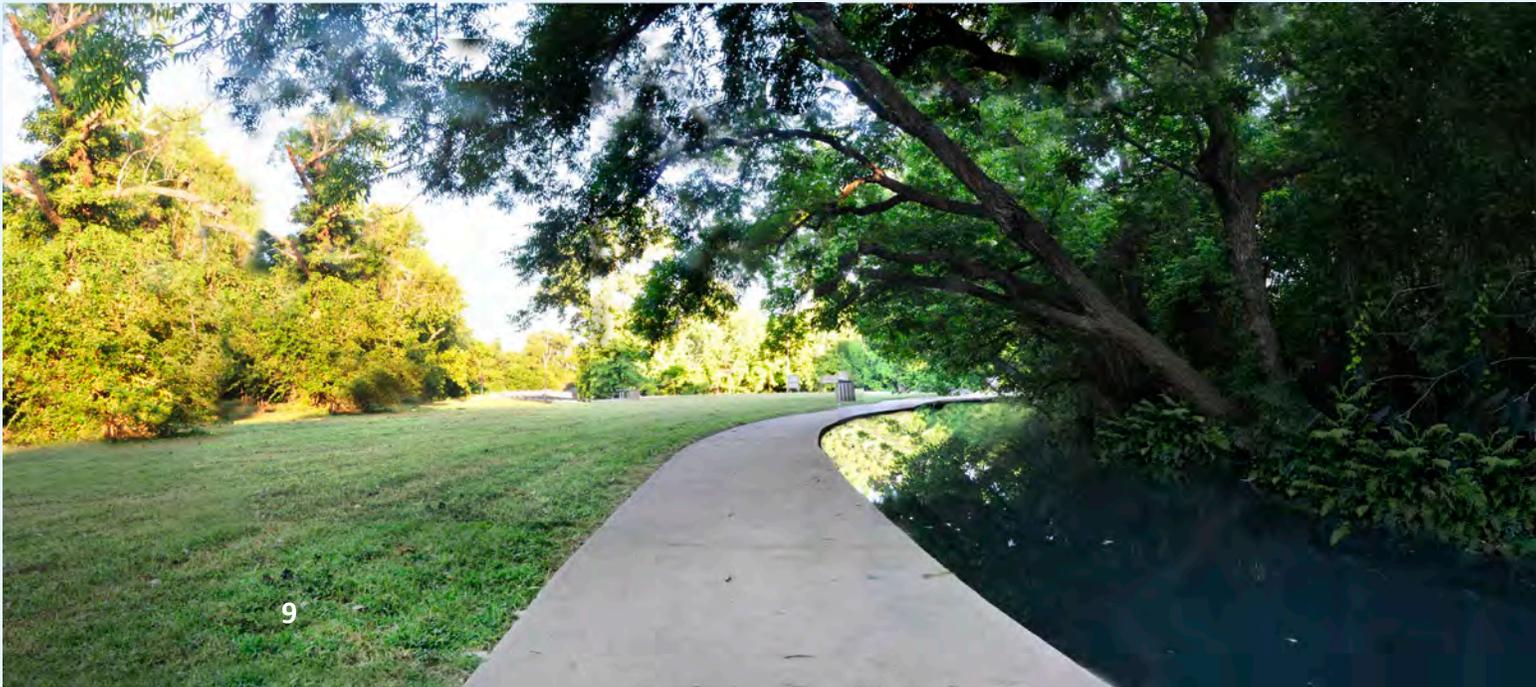
## Thompson/Cape Dam & Mill Race Gate,

- Crib dam  
rehabilitation
- Limited River  
Access points
- Historic  
interpretation



## Mill Race

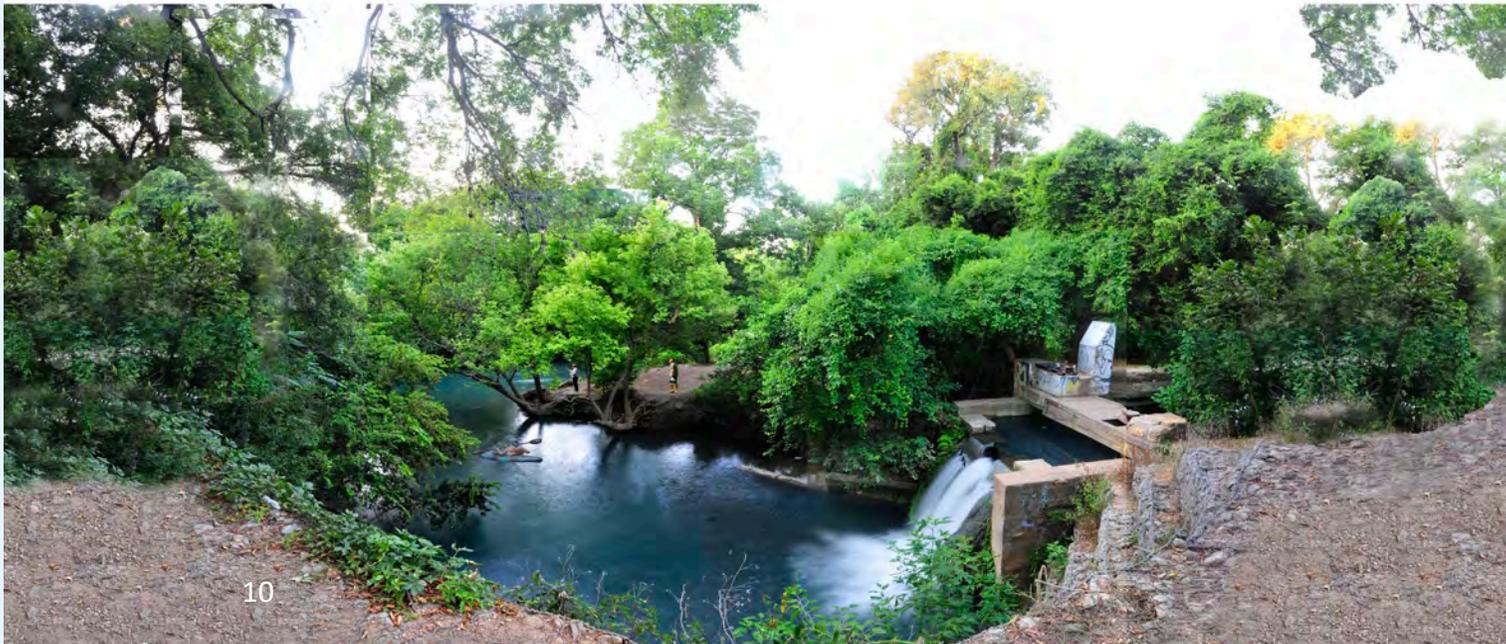
- Higher water level in the Mill Race
- Safety access
- Passive, low level development





## Thompson Dam & Mill Pond

- Safety railing & Access
- Observation platform
- Kayak ingress/egress
- Bank Stabilization



# Overall Goals:



# Overall Goals:



*Prioritize historic features & environmental beauty*

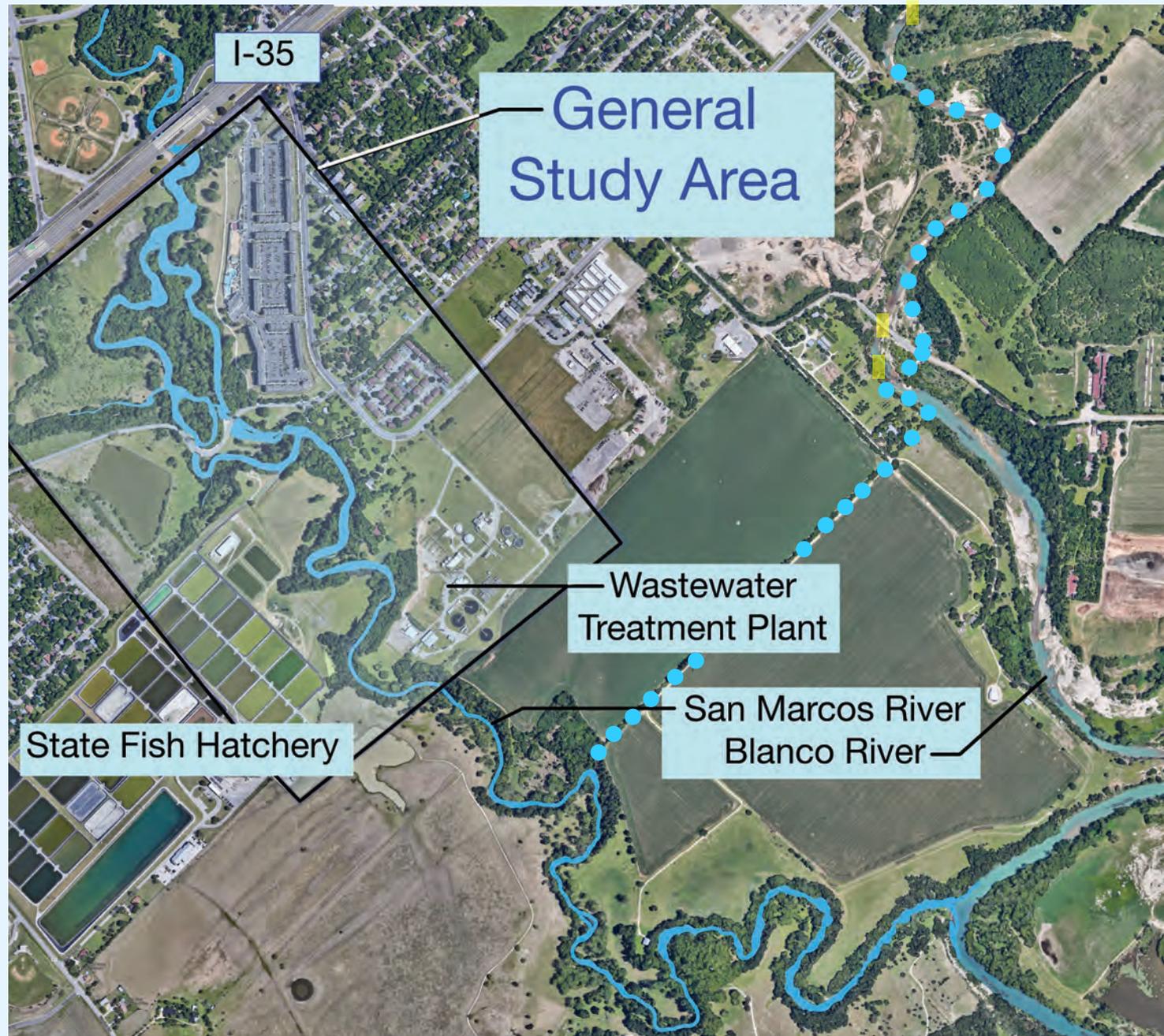


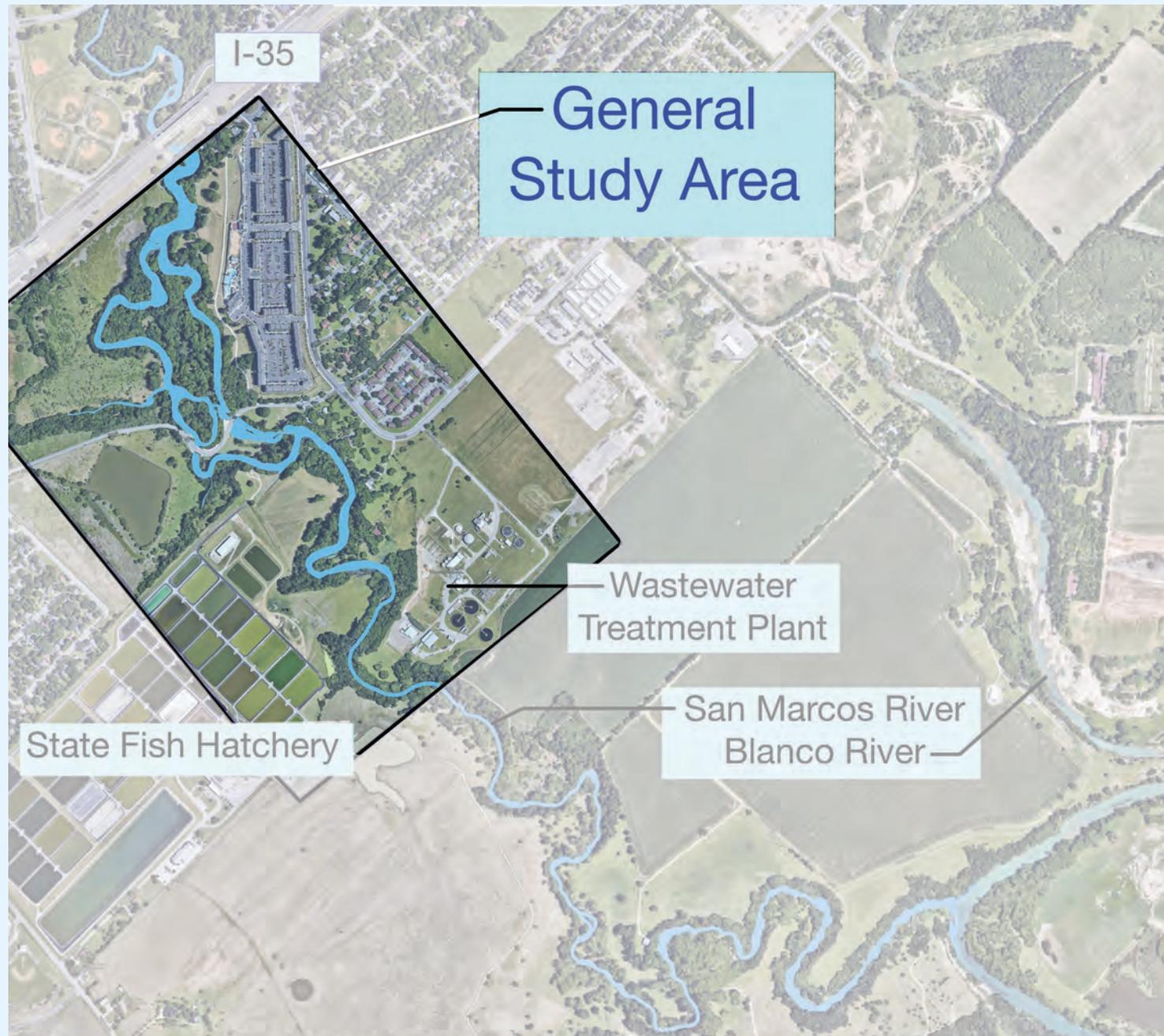
# Overall Goals:

*Achieving a balanced approach* for historic structure rehabilitation, educational interpretation, and leisurely activities while preserving the ecological integrity of the San Marcos River through pragmatic conservation and restoration initiatives.

*Providing a special & diverse asset* to be enjoyed by San Marcos and Hays County residents, accessed by trails reaching out in all directions.

*Providing comprehensive safety and access,* focusing on ADA, EMS servicing, Trails, & Water Access.







# *#1 Achieving a Balanced Approach:*

Vision Study Caters to Three Main Areas:

*Environmental Integrity;* A level of respect and action for the habitat and the sensitive species that exist there.

*Historic Rehabilitation + Interpretation;*  
Understanding our history to learn and guide us forward.

*Social and Leisure Access Equity;*  
New asset for an underserved area of San Marcos.

## *#1 Achieving a Balanced Approach:*

*Environmental Integrity;* A level of respect and action for the habitat and the sensitive species that exist there.

## Analysis & Strategies

- Coordination with all necessary City and County departments
- Existing conditions assessment
- Flow-through design modeling of a rehabilitated Cape's Dam as part of the assessment informing design
- Post assessment after first phase improvements completed
- Monitoring to include recreational activity seasonal levels
- Establishment for strategies including river access points
- Terrestrial survey conducted on sensitive landscapes.
- Invasive species removal

*#1 Achieving a Balanced Approach:*

*Historic Rehabilitation + Interpretation;*

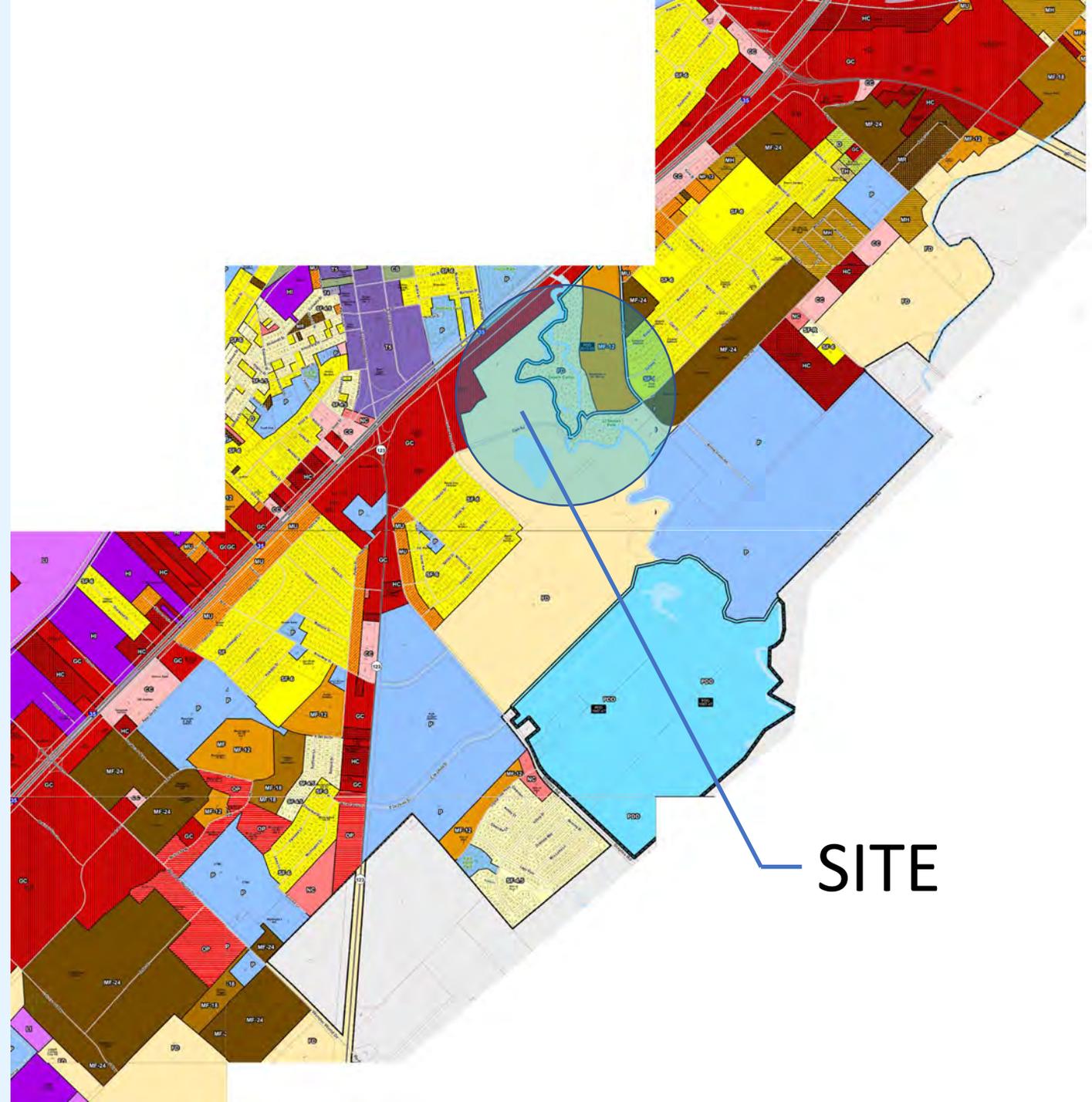
Understanding our history to learn and guide us forward.



# *#1 Achieving a Balanced Approach:*

## *Social Equity;*

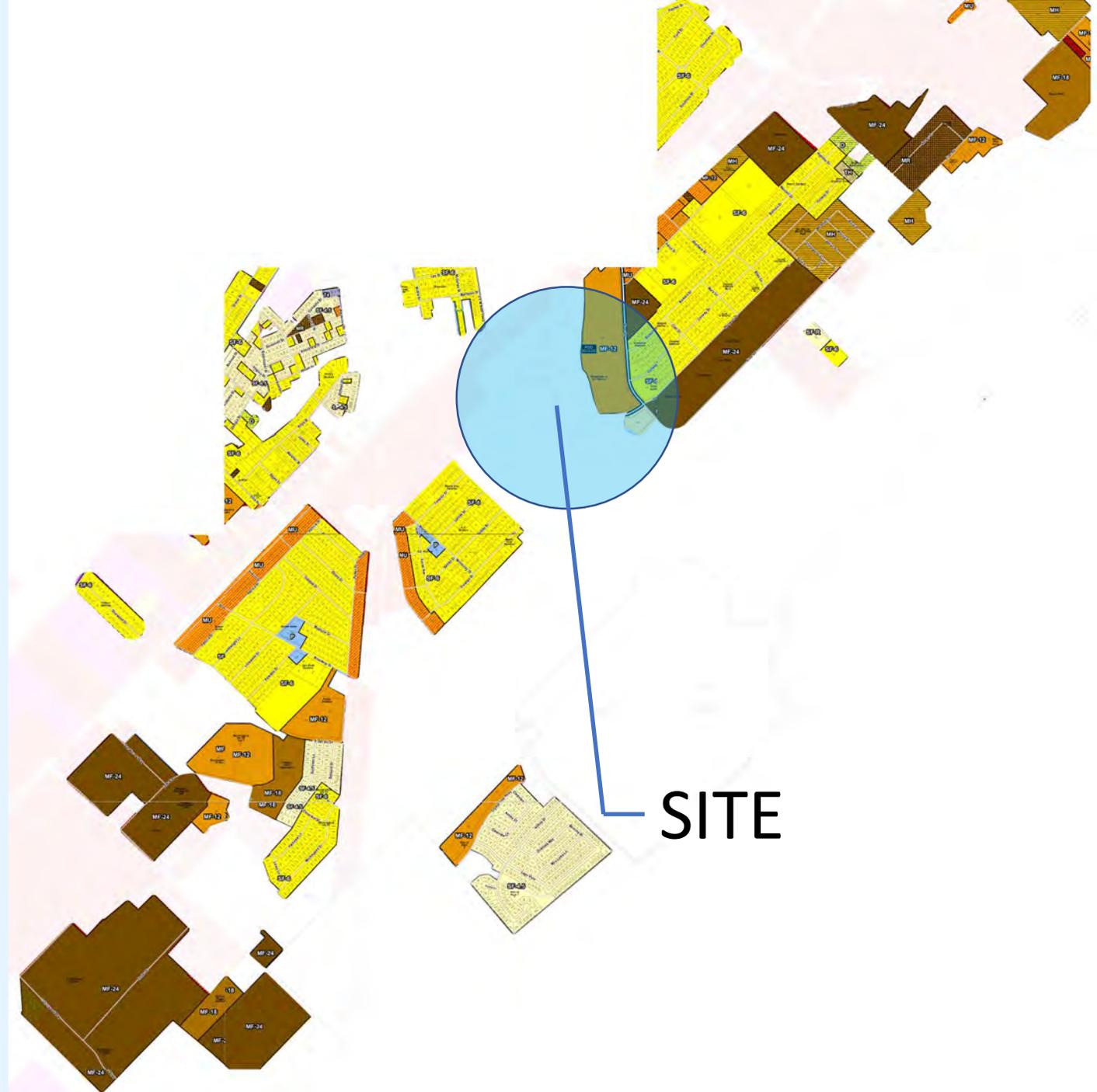
New asset for an underserved areas of San Marcos.



# *#1 Achieving a Balanced Approach:*

## *Social Equity;*

New asset for an underserved areas of San Marcos.

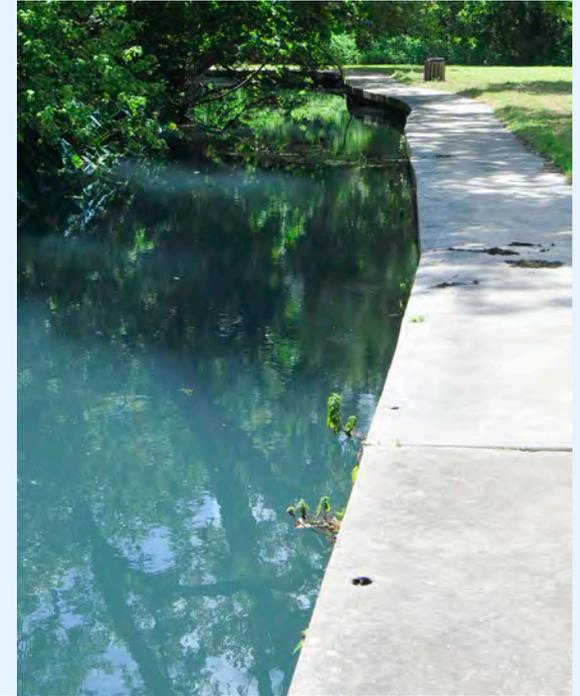


## *#2 Providing a Special and Diverse Asset:*

- A place for historians to understand San Marcos History better
- A place for people interested in natural places for bird watching, hiking, relaxing, environmental study
- A place to learn about urban impacts on the environment
- A place to relax and enjoy being outdoors

## #3 Access & Safety:

- Mill race water level to low; ingress/egress challenges
- Cape Road, sight distance, speed, dangerous edge.
- Waterfall; tragedy
- Cape's Dam; swimming and boating hazard
- ADA access upgrades on Cape's Road
- Comprehensive ADA review necessary



### *#3 Access & Safety:*

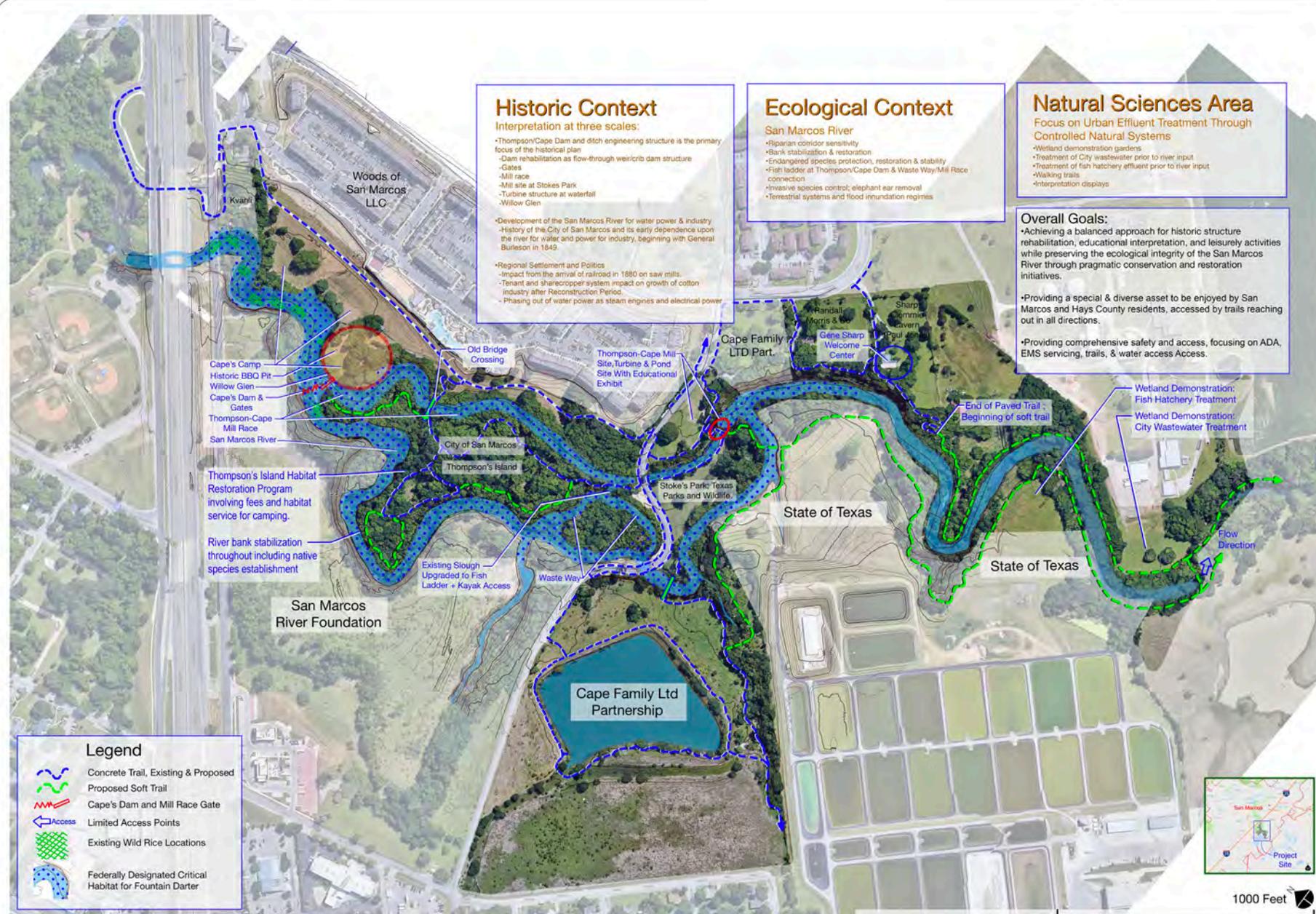
A master planning process includes the lens of emergency services and stakeholder discussions.

- Structural systems for natural grass EMS drives
- Emergency call boxes
- Safe ingress/egress places
- Traffic calming
- Addressing existing unsafe conditions
- Lighting as appropriate



First Map:

# Historic & Ecological Framework



### Historic Context

Interpretation at three scales:

- Thompson/Cape Dam and ditch engineering structure is the primary focus of the historical plan
- Dam rehabilitation as flow-through weir/crib dam structure
- Gates
- Mill race
- Mill site at Stokes Park
- Turbine structure at waterfall
- Willow Glen

- Development of the San Marcos River for water power & industry
- History of the City of San Marcos and its early dependence upon the river for water and power for industry, beginning with General Burleson in 1849.

- Regional Settlement and Politics
- Impact from the arrival of railroad in 1880 on saw mills.
- Tenant and sharecropper system impact on growth of cotton industry after Reconstruction Period.
- Phasing out of water power as steam engines and electrical power

### Ecological Context

San Marcos River

- Riparian corridor sensitivity
- Bank stabilization & restoration
- Endangered species protection, restoration & stability
- Fish ladder at Thompson/Cape Dam & Waste Way/Mill Race connection
- Invasive species control; elephant ear removal
- Terrestrial systems and flood inundation regimes

### Natural Sciences Area

Focus on Urban Effluent Treatment Through Controlled Natural Systems

- Wetland demonstration gardens
- Treatment of City wastewater prior to river input
- Treatment of fish hatchery effluent prior to river input
- Walking trails
- Interpretation displays

### Overall Goals:

- Achieving a balanced approach for historic structure rehabilitation, educational interpretation, and leisurely activities while preserving the ecological integrity of the San Marcos River through pragmatic conservation and restoration initiatives.
- Providing a special & diverse asset to be enjoyed by San Marcos and Hays County residents, accessed by trails reaching out in all directions.
- Providing comprehensive safety and access, focusing on ADA, EMS servicing, trails, & water access Access.

### Legend

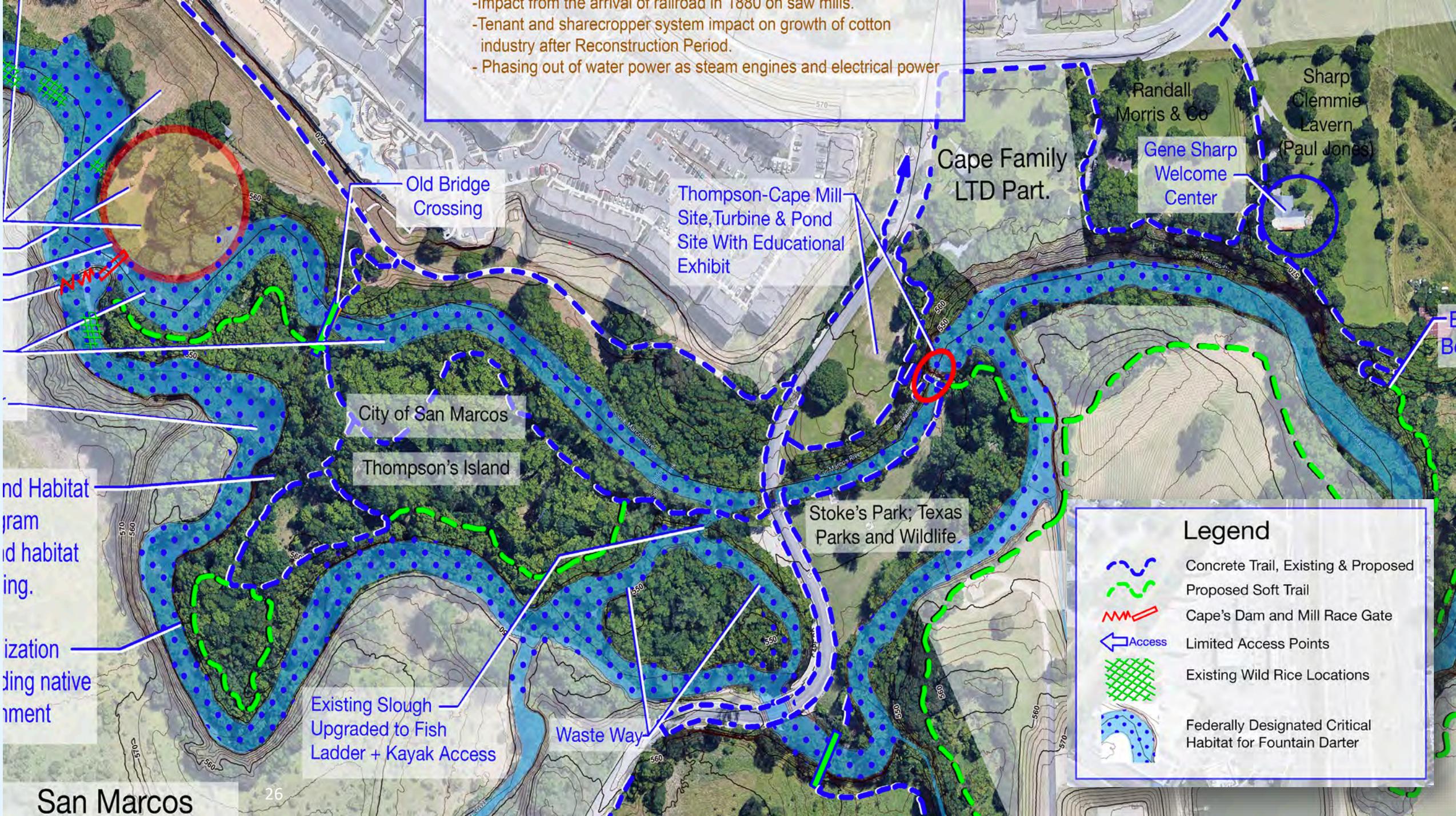
- Concrete Trail, Existing & Proposed
- Proposed Soft Trail
- Cape's Dam and Mill Race Gate
- Limited Access Points
- Existing Wild Rice Locations
- Federally Designated Critical Habitat for Fountain Darter

Vista Planning & Design  
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Site Planning  
Master Planning  
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San Marcos River Vision Study  
San Marcos, Texas



- Impact from the arrival of railroad in 1880 on saw mills.  
 - Tenant and sharecropper system impact on growth of cotton industry after Reconstruction Period.  
 - Phasing out of water power as steam engines and electrical power



Old Bridge Crossing

Thompson-Cape Mill Site, Turbine & Pond Site With Educational Exhibit

Cape Family LTD Part.

Gene Sharp Welcome Center

Sharp Clemmie Lavern (Paul Jones)

City of San Marcos

Thompson's Island

Stoke's Park; Texas Parks and Wildlife

Existing Slough Upgraded to Fish Ladder + Kayak Access

Waste Way

### Legend

- Concrete Trail, Existing & Proposed
- Proposed Soft Trail
- Cape's Dam and Mill Race Gate
- Access
- Existing Wild Rice Locations
- Federally Designated Critical Habitat for Fountain Darter

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## Ecological Context

- Riparian corridor sensitivity
- Bank stabilization & restoration
- Endangered species protection, restoration & stability
- Fish ladder at Thompson/Cape Dam & Waste Way/Mill Race connection
- Invasive species control
- Terrestrial systems
- Leave No Trace/ controlled access
- Regional Riparian Water Quality; Mitigation of City & State impacts
- Program of extensive assessment
- Program of conservation projects

## Historic Context

- Thompson/Cape Dam and ditch engineering structure is the primary focus of the historical plan
  - Dam rehabilitation as flow-through weir/crib dam structure
  - Mill site, gates, mill race, turbine structure/ waterfall, mill pond
- Development of the San Marcos River for water power & industry
- History of regional settlement and politics; The industrial beginnings of San Marcos
- Program of assessment and comprehensive interpretation

## Natural Sciences Park

- Wetland demonstration gardens
  - Treatment of City wastewater
  - Treatment of fish hatchery effluent
- Walking trails
- Program of Education
  - Interpretation displays

**Legend**

- Concrete Trail, Existing & Proposed
- Proposed Soft Trail
- Cape's Dam and Mill Race Gate
- Limited Access Points
- Existing Wet River Locations
- Federally Designated Critical Habitat for Fountain Darter

**Historic Context**  
Interpretation of three sites

•Thompson/Cape Dam and ditch engineering structure is the primary focus of the historical plan

•Dam rehabilitation as flow-through weir/crib dam structure

•Mill site, gates, mill race, turbine structure/ waterfall, mill pond

•Development of the San Marcos River for water power & industry

•History of regional settlement and politics; The industrial beginnings of San Marcos

•Program of assessment and comprehensive interpretation

**Ecological Context**

• Riparian corridor sensitivity

• Bank stabilization & restoration

• Endangered species protection, restoration & stability

• Fish ladder at Thompson/Cape Dam & Waste Way/Mill Race connection

• Invasive species control

• Terrestrial systems

• Leave No Trace/ controlled access

• Regional Riparian Water Quality; Mitigation of City & State impacts

• Program of extensive assessment

• Program of conservation projects

**Natural Sciences Park**  
Focus on Urban Ecosystem (Stream/Thruway) Controlled Natural Systems

•Wetland demonstration gardens

•Treatment of City wastewater

•Treatment of fish hatchery effluent

•Walking trails

•Program of Education

•Interpretation displays

Overall Goals:

•Developing a special & diverse asset to be enjoyed by San Marcos and Hays County residents

•Historic preservation and educational interpretation of ecological richness

•Providing comprehensive ADA access, Parking, Trails, & Water Access

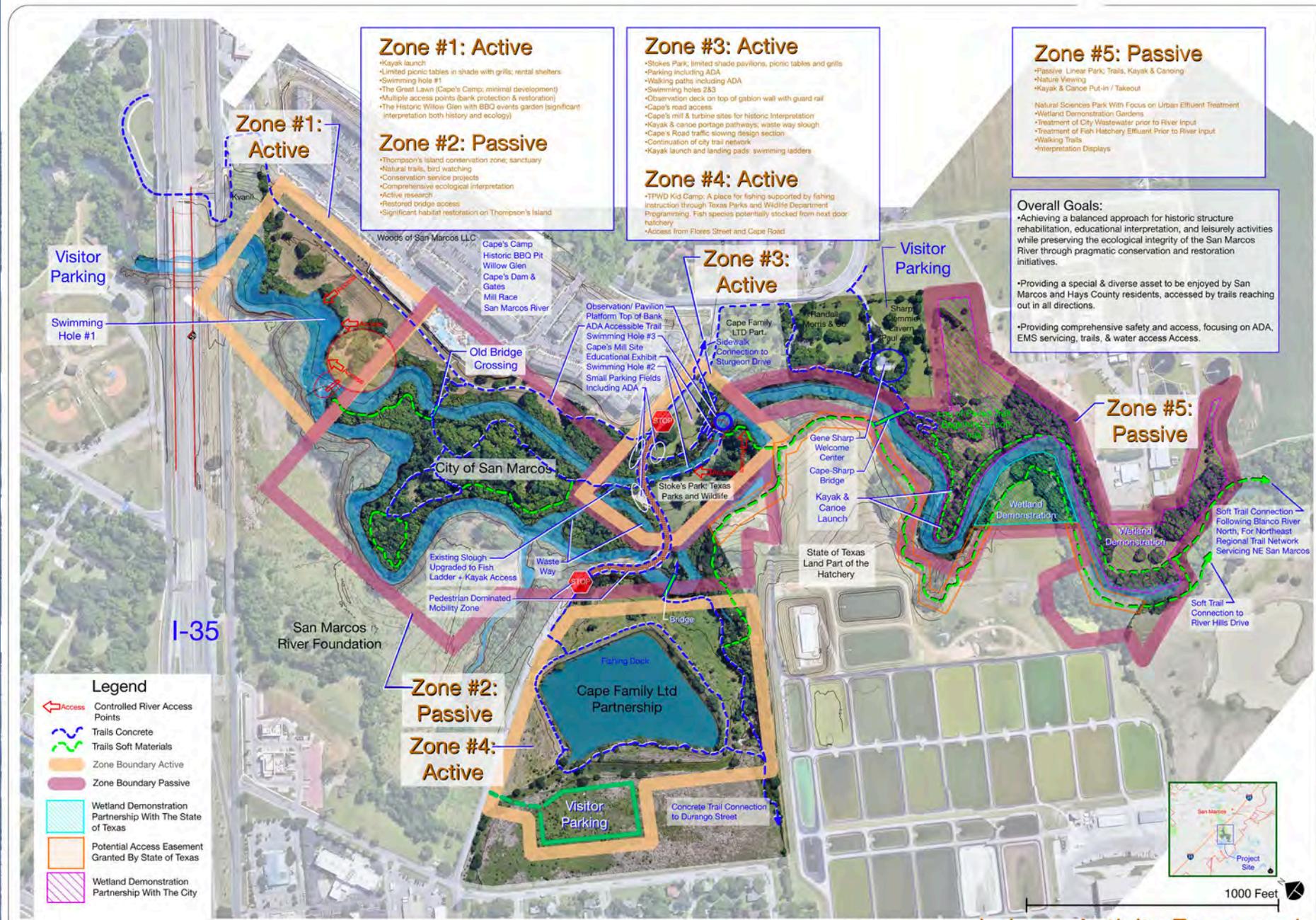
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San Marcos, TX 78666  
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San Marcos River Master Plan  
San Marcos, Texas



Second Map:

# *Leisure Activity Framework*



**Zone #1: Active**

- Kayak launch
- Limited picnic tables in shade with grills, rental shelters
- Swimming hole #1
- The Great Lawn (Cape's Camp; minimal development)
- Multiple access points (bank protection & restoration)
- The Historic Willow Glen with BBO events garden (significant interpretation both history and ecology)

**Zone #2: Passive**

- Thompson's Island conservation zone, sanctuary
- Natural trails, bird watching
- Conservation service projects
- Comprehensive ecological interpretation
- Active research
- Restored bridge access
- Significant habitat restoration on Thompson's Island

**Zone #3: Active**

- Stokes Park, limited shade pavilions, picnic tables and grills
- Parking including ADA
- Walking paths including ADA
- Swimming holes 2&3
- Observation deck on top of gabion wall with guard rail
- Cape's road access
- Cape's mill & turbine sites for historic interpretation
- Kayak & canoe portage pathways, waste way slough
- Cape's Road traffic slowing design section
- Continuation of city trail network
- Kayak launch and landing pads: swimming ladders

**Zone #4: Active**

- THWD Kid Camp: A place for fishing supported by fishing instruction through Texas Parks and Wildlife Department Programming. Fish species potentially stocked from next door hatchery
- Access from Flores Street and Cape Road

**Zone #5: Passive**

- Passive Linear Park; Trails, Kayak & Canoeing
- Nature Viewing
- Kayak & Canoe Put-in / Takeout

Natural Sciences Park With Focus on Urban Effluent Treatment

- Wetland Demonstration Gardens
- Treatment of City Wastewater prior to River Input
- Treatment of Fish Hatchery Effluent Prior to River Input
- Walking Trails
- Interpretation Displays

**Overall Goals:**

- Achieving a balanced approach for historic structure rehabilitation, educational interpretation, and leisurely activities while preserving the ecological integrity of the San Marcos River through pragmatic conservation and restoration initiatives.
- Providing a special & diverse asset to be enjoyed by San Marcos and Hays County residents, accessed by trails reaching out in all directions.
- Providing comprehensive safety and access, focusing on ADA, EMS servicing, trails, & water access Access.

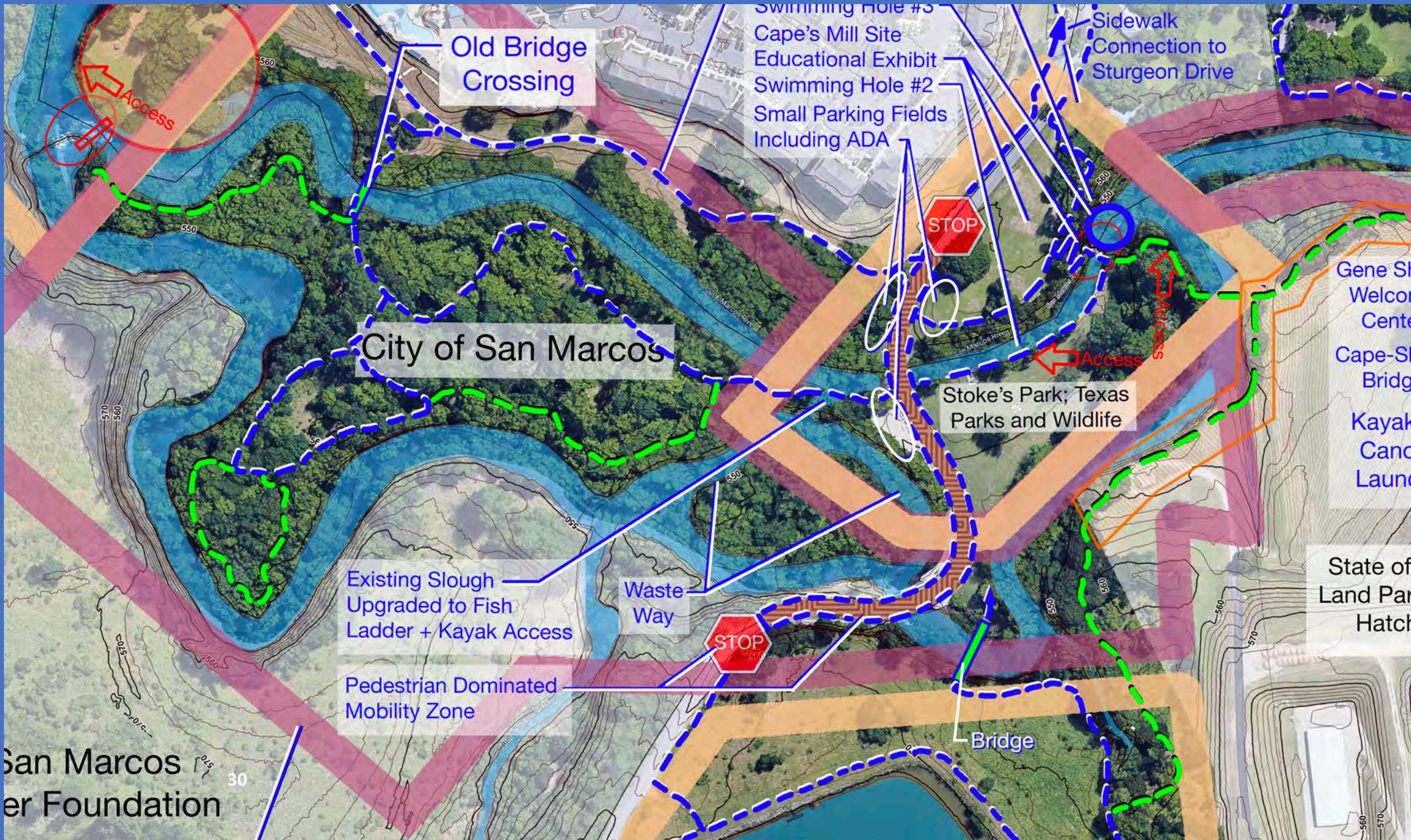
- Legend**
- ← Access
  - Controlled River Access Points
  - Trails Concrete
  - Trails Soft Materials
  - Zone Boundary Active
  - Zone Boundary Passive
  - Wetland Demonstration Partnership With The State of Texas
  - Potential Access Easement Granted By State of Texas
  - Wetland Demonstration Partnership With The City



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San Marcos River Vision Study  
 San Marcos, Texas





Old Bridge Crossing

Swimming Hole #3  
Cape's Mill Site  
Educational Exhibit  
Swimming Hole #2  
Small Parking Fields Including ADA

Sidewalk Connection to Sturgeon Drive

City of San Marcos

Stoke's Park; Texas Parks and Wildlife

Existing Slough Upgraded to Fish Ladder + Kayak Access

Waste Way

Pedestrian Dominated Mobility Zone

Bridge

San Marcos River Foundation

Gene S...  
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Kayak...  
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# Leisure Activity Goals:



Z1

## Zone #1: Active

- Kayak launch
- Cape's Camp- The Great Lawn; minimal development)
- Multiple access points (bank protection & restoration)
- The historic Willow Glen with BBQ events garden (significant interpretation both history and ecology)

- Prioritize local residents by limited parking areas
- Prioritize safety
- Controlled river access
- Provide wide variety of experiences
- Low level improvements not detracting from natural beauty

Z3

## Zone #3: Active

- Stokes Park; limited improvements
- Parking including ADA
- Walking paths including ADA
- Observation deck on top of gabion wall with guard rail
- Cape road access
- Cape's mill & turbine sites for historic interpretation
- Kayak & canoe portage pathways; waste way slough
- Cape Road traffic slowing design
- Continuation of City trail network
- Kayak launch and landing pads; swimming ladders

Z4

## Zone #4: Active

- TPWD Kid Fish: A place for fishing supported by fishing instruction through Texas Parks and Wildlife Department programming. Fish species potentially stocked from next door hatchery
- Access from Flores Street and Cape Road

# Leisure Activity Goals:

- Prioritize local residents by limited parking areas
- Prioritize safety
- Controlled river access
- Provide wide variety of experiences
- Low level improvements not detracting from natural beauty

## Zone #5: Passive

- Passive linear park; trails, kayak & canoeing
- Nature viewing
- Kayak & canoe put-in / takeout
- Natural sciences park with focus on effluent treatment with wetland demonstration gardens
- Interpretation displays

## Z2 Zone #2: Passive

- Thompson's Island conservation zone; sanctuary
- Natural trails, bird watching

## Zone #4: Active

- Conservation service projects
- Comprehensive ecological interpretation
- Active research
- Restored bridge access
- Significant habitat restoration on Thompson's Island

**Legend**

- Controlled River Access Points
- Trails Concrete
- Trails Soft Materials
- Zone Boundary Active
- Zone Boundary Passive
- Wetland Demonstration Partnership With The State of Texas
- Potential Access Easement Granted By State of Texas
- Wetland Demonstration Partnership With The City

vista  
Planning  
Design

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San Marcos River Master Plan  
San Marcos, Texas

Exhibit

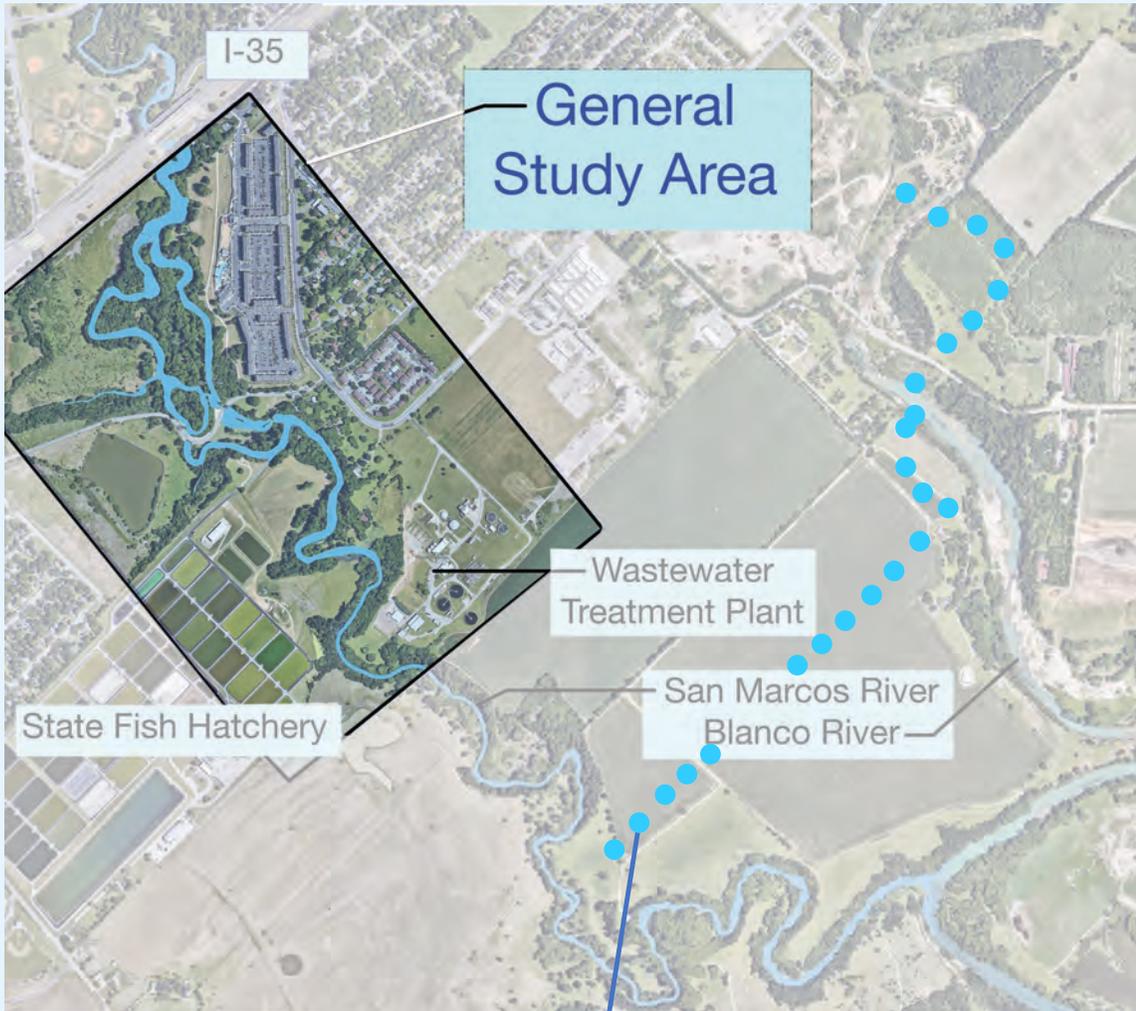
The information on this page is intended for informational purposes only. Property boundaries are shown in general information for this plan and are not to be used as a legal document.

A scenic photograph of a river flowing through a lush green forest. In the foreground, a large, light-colored rock ledge slopes down towards the water. The river features a small waterfall with white, frothy water cascading over rocks. A person in a blue kayak is positioned in the middle ground, navigating the river. The background is filled with dense, vibrant green trees, and sunlight filters through the canopy, creating a bright and airy atmosphere. The overall scene conveys a sense of natural beauty and outdoor recreation.

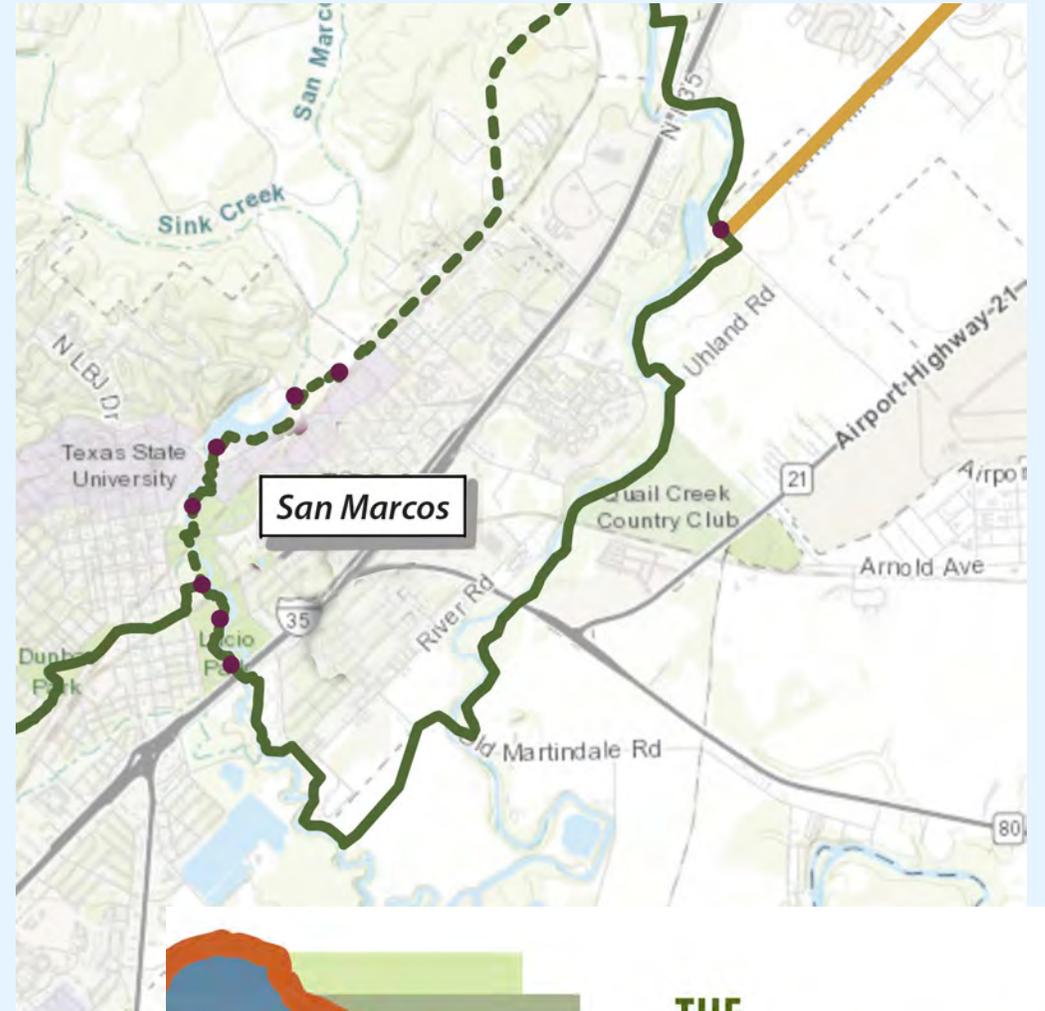
*Opportunities!*

# Unique Leisure Opportunities

- Multiple Public Jurisdictions working together.
- Providing a beautiful asset to an underserved area of San Marcos
- Creating potential trail linkages, including the Emerald Crown Trail.
- An area for educational aspects of natural and cultural interpretation, demonstration, and restoration to a high value environmental quality, and leisure activities.



Emerald Crown Trail

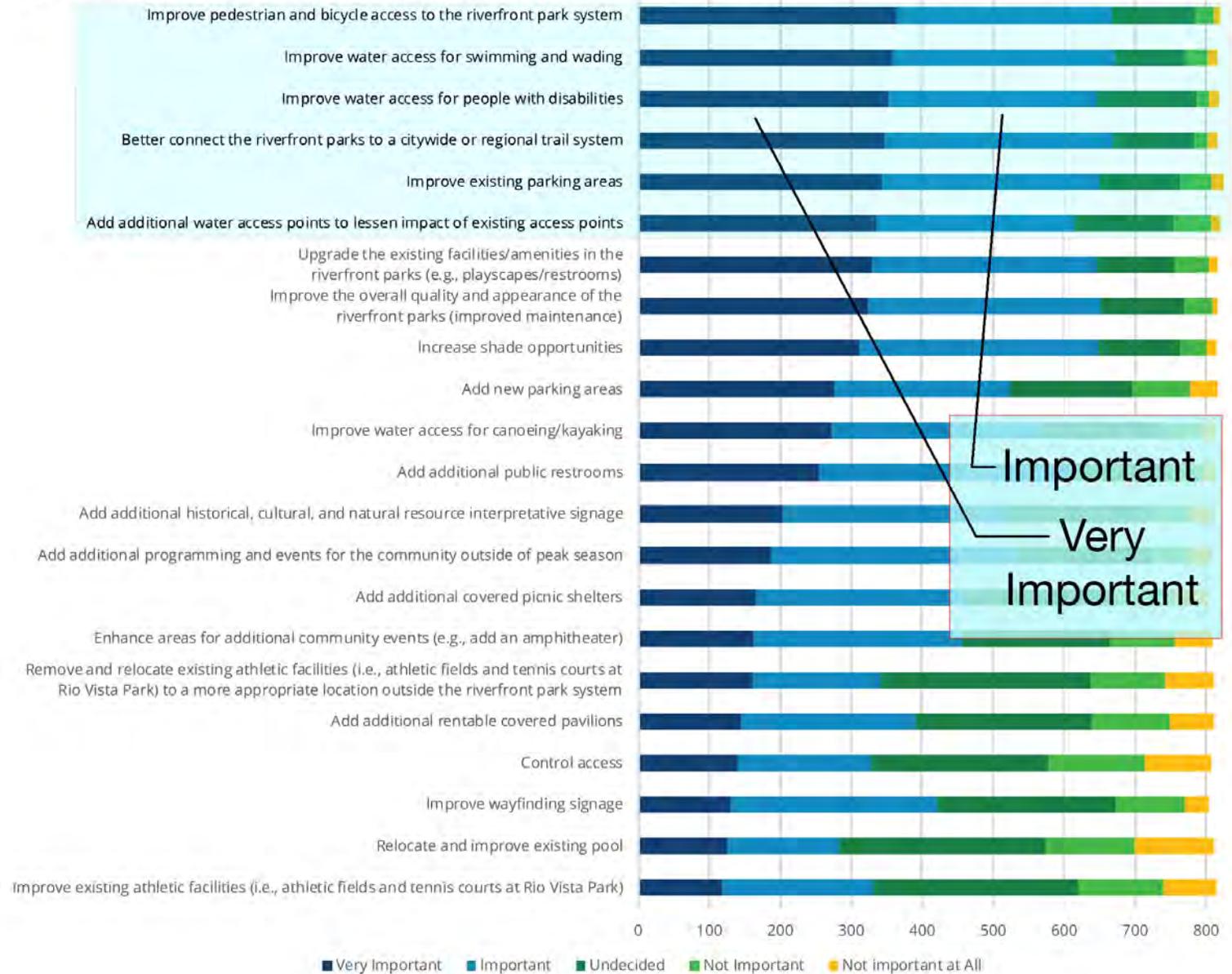


**THE  
EMERALD CROWN TRAIL  
MASTER PLAN**

March 2019

# San Marcos Parks, Recreation, and Open Space Master Plan

Figure 3.18, How Important Is It For the City to Address the Following Parks, Recreation, and Trail Issues?



# *How Important Is it For the City to Address the Following Parks, Recreation, and Trail Issues?*

- 1) Improve pedestrian and bicycle access to the riverfront park system
- 2) Improve water access for swimming and wading
- 3) Improve water access for people with disabilities
- 4) Better connect the riverfront parks to a citywide or regional trail system
- 5) Improve existing parking areas
- 6) Add additional Water access points to lessen impact of existing access points

# On a separate survey...again...

- 1) Places to swim in the river
- 2) Nature trails
- 3) Shade trees
- 4) Running/walking/biking shared use paths/trails

to be provided or added in San Marcos.

**Figure 3.16, Importance of Park Facilities to be Provided or Added in San Marcos**



## City Council Direction Needed

- Does Council want to proceed with an agreement with Hays County to partner on renovation/rehabilitation of Cape's Dam?
- Does Council want to explore the larger visioning/master plan concept with Hays County?

# Next Steps

- If Council provides direction on proposed project concept at a future council meeting, the City would negotiate an interlocal agreement designating the terms of the partnership covering items such as:
  - Financial participation of City
  - Design, permitting, and construction participation and responsibilities
  - Termination clause
  - Land acquisition and/or related leases
  - Compliance with HCP conservation measures
  - Operation and maintenance responsibilities
  - Safety of park users and emergency access
  - Park Rules and Enforcement
  - Neighboring developments and conflicts with access or alcohol
  - Public participation, outreach and engagement in master plan
  
- Any special considerations or concerns from Council?
- Future work session to review formal plan?

*QUESTIONS?*