

# SMART Terminal Amendment FAQ

Original FAQ created in February 2023  
updates from March 2023 indicated in **BLUE text**  
updates from April, 2023 indicated in **GREEN text**  
updates from May, 2023 indicated in **RED text**

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Franklin Mountain San Marcos I, L.P. requested an amendment to the SMART Terminal and Cotton Center Development Agreements in order to move +/-660 acres from Cotton Center to SMART Terminal. These amendments were approved by the San Marcos City Council in January 2023. **The original SMART Terminal agreement covered approximately 890 acres. The 2023 amendment added the Cotton Center land as well as an additional +/-470 acres acquired by Franklin Mountain. The current SMART Terminal agreement covers approximately 2,020 acres of land.**

The applicant hopes to attract corporate tenants that will provide quality jobs and make significant capital investment in our community. The site is located just east of the alignment for the new FM110 loop which is jointly financed by the City of San Marcos, Hays County and the Texas Department of Transportation (TXDOT) through a Transportation Reinvestment Zone (TRZ). The site's proximity to the San Marcos Regional Airport and the FM 110 roadway provides easy access to rail, major highways, and air transport.

At this time the applicant is requesting annexation into the City Limits and Heavy Industrial zoning for some of the land covered by the agreement. The annexation and zoning are requirements of the agreement. **Land which is covered by the agreement but not being annexed at this time is within the Cotton Center Municipal Utility District, which limits the City's ability to annex, however does not limit the City's ability to apply in-city development standards.**

Without City of San Marcos annexation and zoning, this development could occur in the City's Extraterritorial Jurisdiction (ETJ) with limited regulatory oversight by the City. **If the project were to remain in the ETJ, Caldwell County Standards would apply.** Since there is a development agreement and the applicant has requested annexation, the City has the ability to require standards for development of the project that exceed current standards adopted under the development code, and which would not apply if the development occurred outside the city limits in the ETJ. These higher standards include:

- ✓ Floodplain development and stormwater management standards that protect adjacent and downstream property owners.
- ✓ A 70% overall impervious cover limitation when 80% would have otherwise been permitted.
- ✓ Water quality standards.
- ✓ Land uses that are considered potentially significant sources of pollution to the river are prohibited.
- ✓ Development will comply with adopted international fire and building codes.
- ✓ Dedication of necessary right-of-way for installation of reclaimed / reuse water infrastructure.
- ✓ **A Traffic Impact Analysis (TIA) is required with the first subdivision plat, before any development occurs. Additional TIA will be required per Code if trips per day increase over time.**

**On May 2, 2023 City Council voted to approach the applicant with potential amendments to the development agreement. In response, the City received the following letter:**

May 10, 2023

Amanda Hernandez  
Director of Planning & Development Services  
City of San Marcos  
630 East Hopkins  
San Marcos, Texas 78666

**Re: SMART Terminal Amended & Restated Development Agreement 1/17/2023**

Dear City Staff,

Following the Tuesday, May 2, 2023 City Council meeting, city staff was authorized to present Smart Terminal ownership an extensive list of additional major amendments to the Smart Terminal Development Agreement, recently approved by City Council on January 17, 2023. Our development team has reviewed the requested amendments and will not agree to make additional changes to the Agreement.

Scarborough is committed to the terms of our existing Agreement with the City, which include development restrictions and environmental regulations that go above and beyond standard requirements. We are proud to include these high standards in the Agreement as well as the additional changes that were voluntarily agreed to after hosting two neighborhood meetings and obtaining zoning approval on March 28, 2023. We will continue to meet or exceed these standards of excellence and will strive to be the example for other developers that come after us.

Additionally, we have some exciting news to share regarding the marketing of the project. We are open for business; ownership has decided to immediately market the property. A press release marketing the property with our new name, Axis Logistics Park, will be released by the end of the week. These are exciting times and we are thankful to have the opportunity to begin a legacy project that will impact future generations in San Marcos and the surrounding region for many years to come.

Sincerely,

*Clayton Kendall*

Clayton Kendall  
Executive Vice President – Industrial Division  
Scarborough Lane Development

The following are questions asked of City staff during the 2019 development agreement process and have carried into 2022 & 2023. Additional responses to 2023 questions were added in February and March, 2023.

What terms and standards are proposed under the SMART Terminal development agreement?

- Owner agrees to future annexation and zoning of the entire project.
- A potential exchange of adjacent city-owned land for land owned by the developer to provide contiguous city ownership and contiguous private ownership
- Developer construction of public improvements.
  - Includes additional roadways intended to carry truck traffic to and from FM 110 / IH 35.
- Imperious cover cannot exceed 70% for the entire site
- Development waivers of the following standards:
  - Maximum blank wall area requirement
  - Increased block perimeter requirement.
  - Allowing chain link fences when coated in black vinyl.
  - Landscaping modifications in trailer parking lots, with trees be placed elsewhere on the lot.
  - Modified outdoor storage standards when located 200 feet from a street.
  - Sidewalks would be required along a new east/west arterial roadway, Highway 80, West side of FM 110, and for pedestrian access to hotels, day cares, retail, entertainment, bars, and restaurants
- Additional cut & fill in certain areas to allow large pads for industrial buildings.
  - [Code requires City Council approval for cut or fill greater than 8 ft. The development agreement allows 15-25 feet of cut or fill in certain locations, and this provision was approved by City Council.](#)
  - [As it relates to flooding, the development must still comply with the City's Flood Prevention Ordinance and the development agreement. The development agreement dictates a 10% reduction in runoff when comparing current conditions to post-development conditions which exceeds the City's current stormwater Code requirements.](#)

What uses are prohibited in the agreement?

Acid manufacturing  
Gas manufacturing  
Vehicle wrecking yard  
Junk yard, including storage, sorting, bailing or processing of rags  
Manufacturing or storage of hazardous materials or explosives, except for fuels contained in vehicles, locomotives, or railcars  
Manufacturing or storage of fertilizer  
Manufacturing of carbon batteries  
Manufacturing of paint, lacquer, oil, turpentine, varnish, enamel and similar products  
Manufacturing of rubber, glucose, or dextrin  
Manufacturing of paper or pulp  
Manufacturing or distillation of tar  
Monument or marble works  
Oil compounding and barreling plant

Operation of a business that provides the services of disposal, storage, reduction or incineration of solid or hazardous waste (including garbage, refuse, trash, sewage, offal, dead animals)  
Extraction or refining of petroleum or its products  
Distillation of bones  
Smelting of iron, tin, zinc, copper or other ores  
Fat rendering  
Stockyards or slaughter of animals  
Cemeteries  
Labor camps  
Jails or honor farms  
Refining or retail sale or bulk storage of fuel, liquified petroleum and flammable liquids  
Manufacturing of cement, lime, and gypsum plaster  
Rock crushers  
Sugar refining

[For a full list of permitted and prohibited uses please visit the following website and select "ZC-23-01 Code Comparison":  
<https://san-marcos-tx.legistar.com/LegislationDetail.aspx?ID=6019235&GUID=E347057C-9140-4639-95A3-757328342CF2&Options=&Search=>](https://san-marcos-tx.legistar.com/LegislationDetail.aspx?ID=6019235&GUID=E347057C-9140-4639-95A3-757328342CF2&Options=&Search=)

Is there another location that could accommodate a similar commercial and industrial park?

- There are no other similarly situated properties within the City limits or ETJ of San Marcos.
- [At this time there are no end users identified. Prior communications with previous applicants indicated:](#) A minimum of 500 acres, and at least one mile or rail frontage, is necessary to justify the capital expense of a ~\$15M rail spur for development of this kind.
- The SMART Terminal fronts a dual-service rail line that is served by Union Pacific and BNSF railroads. Rail Service south of downtown is only Union Pacific Rail. A dual service rail adds an additional layer of opportunity for the City of San Marcos.
- Securing approval of a rail spur from Union Pacific can take many years.
- The property is directly adjacent to the San Marcos Regional Airport and the FM 110 roadway currently under construction with City and Hays County funds.
- [The state of Texas \(through TCEQ\) regulates the transportation of hazardous waste and certain nonhazardous waste through rules established in Texas Administrative Code \(Title 30 Hazardous waste and industrial nonhazardous waste\). Federal agencies, such as the U.S. Department of Transportation \(USDOT\) and the U.S. Environmental Protection Agency \(EPA\), also regulate some of these same wastes. In addition, the City has developed a Hazardous Materials and Oil Spill Response in case of an emergency.](#)

How will this affect the number of trains in the area?

- [City Staff has reached out to Union Pacific Railroad in order to determine how many trains are on this line on an average day.](#)
- Rail use is a permitted use; however, rail development will be based on market demand and railroad approval. Data regarding an increase in the number of trains is unavailable at this time. End users could add a small number of rail cars to many of the trains that already travel thisline.
- Deferring to rail transportation can reduce a company's road miles by up to 80%.

How will development of this property affect the San Marcos Regional Airport?

- The proposed SMART Terminal can benefit the San Marcos Regional Airport by generating increased private air traffic, and attracting commercial development that requires proximity or access to air, rail and truck transportation services.
- The Airport will benefit from wastewater infrastructure constructed by the developer.

What roadway improvements are planned in this area?

- [Required roadway improvements are not defined at this time, however a Traffic Impact Analysis \(TIA\) will be required prior to development to identify required roadway improvements. These improvements will be installed with the development.](#)
- TIA is the tool used by the City of San Marcos, as well as TxDOT, to determine what, if any, roadway improvements are required as a result of the development.
- The developer will be required to conduct a TIA for the City and TxDOT which will [be reviewed by staff and](#) identify transportation improvements needed due to the development's impact.
- City and TxDOT anticipate that the TIA will indicate a need for improvements to Hwy. 80 and possibly FM 110. Such improvements are likely to include center and right turn lanes on Hwy. 80, which will improve safety in the area.
- The project will also include a number of new roads which will include signage to encourage new truck traffic away from existing roadways.
- FM 110 will help alleviate traffic congestion in the area.
- A new east/west arterial roadway is planned to connect FM 110 to FM 1984 which could alleviate traffic on HWY 80.

Who will provide utilities to the site?

- Bluebonnet Electric Cooperative will provide electric service.
- The City of San Marcos, Martindale Water Supply Corporation, and Maxwell Water Supply Corporation will provide water service.
- City of San Marcos will provide wastewater service.
- The cost of installing utilities within the development is the responsibility of the developer or subsequent owners and would be addressed at the time of platting.

Does the City have lighting standards that protect residential development from adjacent property owners?

- The City of San Marcos land development code includes lighting and glare standards that will apply to the SMART Terminal upon annexation and zoning.
- Specifically, "No lighting plan shall distribute light greater than .25-foot candles across a lot line...no lighting plan shall distribute light onto a residential lot other than light from street lights."
- A photometric plan is submitted for City approval with each development site plan.

Fire Service / ISO Rating

- ISO is an independent insurance rating that reflects the ability of the Fire Department to protect the community. The SMART Terminal is within five miles of existing Fire Station #5, which gives the property a sufficient ISO rating, and helps minimize hazard insurance premiums for commercial properties located within the development.
- The SMART Terminal agreement includes provisions for dedication of land for 2 future fire stations.

What are the City's adopted floodplain regulations?

- The City's development code treats all "floodplain" as "floodway."
- Hydraulic analysis is required for all modification of, or improvements within the floodplain and flood modeling must show "no-rise" in the floodplain elevation as a result of the improvements.
- Floodplain storage volume under existing conditions must be maintained.
- A building's lowest floor elevation must be 2-feet above the floodplain.
- [A comprehensive flood plain analysis will be conducted in order to accurately identify the location of the existing floodplain. Any changes to the FEMA maps will follow the City and FEMA process.](#)

What are the City's adopted water quality requirements?

- The City's development code provides enhanced water quality standards in environmentally sensitive areas, including the application of low impact development (LID) features, and best management practices (BMP's), to ensure certain levels of total suspended solids (TSS) are removed from the generated stormwater runoff.
- The SMART Terminal site is located outside the defined environmentally sensitive areas (Edwards Aquifer Recharge Zone, Transition Zone, San Marcos River Protection Zone, and the San Marcos River Corridor); therefore, under adopted code stormwater quality treatment is not required.
- Even though not required to provide water quality treatment, the SMART Terminal will meet enhanced water quality treatment standards including removing 70% of the TSS from the developed areas and provide a water quality volume capture of a 1.25-inch rainfall [in accordance with the City Stormwater Technical Manual](#).

What are the City's adopted impervious cover restrictions?

- Impervious cover is limited to 80% in the Heavy Industrial (HI) zoning district.
  - SMART Terminal is limited to 70% impervious cover overall, however individual lots may have up to 90% so long as the overall never exceeds 70%
- Existing slopes between 15% and 25% are limited to 35% impervious cover.
- Existing slopes greater than 25% are limited to 20% impervious cover.
- No impervious cover is allowed within a Water Quality Zone, except for limited instances.
- Limited impervious cover is allowed within a Buffer Zone.



What other adopted drainage requirements apply to the SMART Terminal?

- Per City Code increased impervious cover is not permitted to result in increased runoff.
- Specifically, the rate of runoff after development must be equal to, or less than the rate of runoff prior to development.
  - The SMART Terminal will be required to exceed City Code and provide on-site stormwater controls designed to reduce overall post development peak rates of discharge by at least 10 percent less than existing pre- development peak rates at each point of discharge.
- Improvements may not increase water surface elevations off-site/downstream.
- Upstream flow, based on ultimate buildout conditions, must be conveyed through site.
- Drainage infrastructure must be designed for the 25-year storm with the 100-year contained within a drainage easement or ROW.

What is the economic benefit to San Marcos?

- Property taxes paid by these companies will support City and County services, as well as the San Marcos Consolidated Independent School District (SMCISD).
- [At this time there are no end users identified, so the wages and salary of future employees are unknown at this time.](#)
- When manufacturing companies create jobs, there is an employment multiplier effect beyond the job itself. Jobs spur demand for goods and services from suppliers, and stimulate economic activity when employed workers spend their paychecks. The SMART Terminal will indirectly support small and local businesses throughout the community.
- Depending on the operation of future users, sales tax may be captured from industrial/ commercial uses.

Additional questions submitted by surrounding property owners (March, 2023):

- What does the impact on property values look like? [This is not something staff can forecast.](#)
- How will pollution and byproducts from the higher use of rail and larger amount of traffic be mitigated? [Traffic mitigation is addressed above. Pollution mitigation will be governed by, as noted above USDOT, or by Texas Commission on Environmental Quality \(TCEQ\).](#)
- Will there be buffers between existing residential and this new development? What do those buffers look like? How big are they? Will there be a sound barrier? What standards define these requirements since they are not listed in the development agreement? [The City's Development code will define standards for buffers, screening, landscaping, etc. Buffers are not required between properties in City Limits and properties in the ETJ.](#)
- There is already 888 acres zoned heavy industrial along a railspur at this location, why does the developer need to increase the heavy industrial zoning by 1200 acres when a minimum of 500 acres will do? [The 500 acre minimum was provided in prior conversations with a prior applicant as the minimum amount necessary to have a rail-oriented business.](#)
- Can you clarify what "manufacturing not listed" means? [This means a manufacturing business which is not listed in the prohibited uses a. Is nuclear permitted? Nuclear would be a Hazardous Material, see below.](#)
- What definition of Hazardous Material will be used? [Since this term is not defined in the City's Development Code staff would use Merriam Webster or Planning Dictionary. Some of the examples include: flammable liquids, unstable / reactive materials, corrosives, and carcinogens. Will inspections be mandatory / who will monitor this? Staff will review the use of buildings at the time of permitting – this is not an allowable use which would need inspected or monitored.](#)
- Does the development agreement allow equipment or buildings to be taller than 80 feet high? What, if any, is the height requirement for building height for Heavy Industrial and is this something that the watershed below can support? [Structures in Heavy Industrial may be up to 62 ft in height. Outdoor Storage may be up to 80 ft. in height in certain locations per the development agreement. Equipment, such as cranes, are not considered structures. Watersheds should not be impacted by heights of structures.](#)
- How will the soil be supported during construction? Will soil tests be done prior to construction? Is this part of the requirements when the developer breaks ground? What type of foundation will the developer be using for their construction projects and buildings? [It will be the responsibility of the developer to provide this information during the permitting process.](#)

Additional technical questions received by City Staff (March, 2023):

- Is it acceptable for the flow of the springs to be altered by construction on this property? [The City is not aware of the existence of any Springs on this property.](#)
- Why are contributing springs not designated as part of the San Marcos River Protection Zone? [The San Marcos River Protection Zone was established over the contributing watershed of the River to provide a level of water quality treatment within the City to protect critical habitat.](#)
- How is a Water Quality Zone determined? Where are they currently identified on the property? [Water Quality Zones are determined based on a watershed size as outlined in the City's Development Code, Section 6.2.2.1. The identification of these zones occurs at the time of a Preliminary or Final Plat.](#)
- In what types of "limited instances" will impervious cover be allowed in these Water Quality Zones? [Water Quality Zones may be reclaimed thereby allowing impervious cover if properly mitigated in accordance with the City's Development Code and Stormwater Technical Manual.](#)
- If "limited impervious cover" is allowed within a "buffer zone" how is this determined and can objections be made? [30% impervious cover is allowed within the Buffer Zone based on the gross acreage. This is approved administratively by staff, there would be no objection if the applicant complies with the development standards.](#)
- Drainage infrastructure established for a 25-year storm is to be based on what time period? [The criteria for this can be found in the City's Stormwater Technical Manual.](#)
- Is this a historical average or a current average? [It is a historical average. This data can be found in the NOAA Atlas 14 Precipitation-Frequency Atlas of the United States.](#)
- Will this be adjusted as increased storm severity is seen and measured? [Yes, over time this has been adjusted.](#)
- Will the "drainage easement ROW" be contained on the developer's property or allowed to flow onto neighboring properties? [Unless acquired elsewhere, easements and ROW will be contained on the developer's property.](#)

Additional questions submitted by surrounding property owners (April, 2023):

- Can the city provide a cost-benefit analysis of the short and long-term costs and benefits for the city and the developer? [The City's Finance Department is working on revenue estimates based on a handful of assumptions – future use, current tax rate, percent build-out, etc. These will be part of the presentation on April 18th.](#)
- What is the cost of fire protection? [At today's costs, the total amount of O&M funding needed annually for each station would be \\$2.5M, of which about 90%-92% would be related to personnel compensation and benefits. There would also need to be two stations constructed. Architecture and Engineering \(A&E\) would be about \\$500K per station. The actual constructions costs vary widely, but in today's current market, we would anticipate a construction price per square foot of a low of \\$650/sq ft \(\\$7,268,300 total construction price\) to a high of \\$1,100/sq ft \(\\$12,300,200 total construction price\). Each station would also need a fire apparatus. At today's prices, a new pumper apparatus would be \\$1,100,000 and a new aerial apparatus/ladder truck \\$2M+.](#)
- Can the city afford to support itself given the cost of providing services for a 2000 acre HI complex? [This question is unclear, what is meant by "support itself" – the city will provide services in the same manner as it would to any other property in City Limits, the properties pay taxes for these services](#)
- Since the current ISO rating is a 10, does that mean that a new station in the project needs to be constructed as soon as the development has an operational tenant? What about during construction? [No, a station does not need to be constructed, but to lower the ISO in the area, sooner is better. Any or all of the proposed project that is beyond five road-miles from an existing San Marcos Fire Station and/or beyond 1,000 feet from an accredited fire hydrant will be an Insurance Services Office \(ISO\) Public Protection Classification \(PPC\) of 10 and their insurance rates will be calculated accordingly until such time that a station is constructed that meets both of those requirements](#)
- Can you explain what happened with the Cotton Center's purported inability to get fire insurance and maybe

wastewater? Staff is not familiar with the prior developers conversations on these topics.

- If the additional land is not annexed, won't we still have an HI SMART Terminal? Why does it need to be larger? Approximately 900 acres of the development is already in City limits. Staff does not have a response as to "why." The property owner is requesting the expansion and has the right to make this request.
- How do the infrastructure costs for HI differ from the costs for housing? The developer pays the cost of extending infrastructure. While pipes and roads are usually larger for industrial, there are typically fewer pipes and roads to install when compared to a residential development. This CAN make the overall cost lower for industrial however there are many factors which would affect cost.
- How do the tax revenues compare, after deducting funds from the Texas Opportunity Zone (or does TOZ affect SMTX revenues)? The City's Finance Department is researching any effect an Opportunity Zone may have on City revenues. This will be part of the presentation on April 18th.
- Can we discuss the staff evaluations on the Criteria for Approval form? No Response from Staff
- What percentage of land is in the floodplain per each tract. Staff does not have this information – we can ask the applicant to provide it, however the applicant is required to conduct detailed floodplain analysis and any number provided today will be subject to change. \*The administrative amendment approved on 4/12 requires the applicant double the size of the buffer zones and no build near these areas.
- Katerra had 60% impervious cover. Can we amend the agreement to 50 or 60% in order to account for climate change? From the original SMART Terminal agreement Section 5:04 (a) "the Katerra Tract will be permitted for up to 70 percent impervious cover"
- Martindale is currently working on a River Protection Zone. What type of coordination and communication have you had with the Martindale City Council? This question was asked of the Mayor. No Response from Staff
- What avenues do we have to hold developers accountable should they violate regulations or should a company have an accident? City staff reviews all plans to ensure compliance with Code regulations from the start. If the company has an accident, it would likely not be a violation of Code so the reporting and enforcement would be with the organization with the authority and responsible for regulating the standard which was violated.
- Is there anything besides the right to sue? The City and other regulatory organizations have means for enforcing their applicable standards
- Is there a way that the community can get a seat at the table? The only community input anyone is listening to from the community is SMRF and their focus is limited and has nothing to do with the people. There seems to be nobody who is representing the community in this matter and we need representation because we are the ones being impacted. The public hearings are the community's opportunity to provide their opinions on future developments.
- According to the developers they said that since they will be following the development agreement that when a disaster occurs that will need to be brought to the cities attention. Is this true that the development agreement protects them from accountability? The development agreement does not remove their responsibility to comply with all local, state, and federal regulations. It does require a business to notify the city if an unexpected odor is occurring so staff has the information if phone calls are received.
- I know that marginalized communities being impacted has become normalized in our society. However, does the council take into consideration how SMART is directly impacting an area of mostly retired and hispanic communities? We have directly heard from them and they want to know what they are supposed to do since they cant afford to relocate. This question is directed to City Council. No Response from Staff
- Has the impact of this massive complex on our Fire Services been looked into? What is the current response rate to the entire city of San Marcos today? This question is unclear. The City's average response time, city-wide, in 2022 was roughly 8.5 minutes. It is important to remember, for this and other answers, "today's" numbers will change over time.
- How many fire stations are we currently lacking and how much of a burden on the Fire support will this complex add to both taxpayers and Fire staff? We are "behind" by two fire stations currently. There are two fire station sites included in the development agreement which can be constructed to cover this area.
- What is the CoSM's current Fire response rating at the national level? Is this sustainable? The City of San Marcos currently has an ISO PPC of 2/9/10. Although unlikely, it is not beyond the realm of possibility that we could receive a downgrade in our PPC from a 2 to a 3 in 2025 when we are due to be regraded by ISO. ISO considers the



### City's growth and investment in fire protection when making their decision

- Have the taxpayers been properly made aware of this new potential expense? The owners of SMART Terminal land and future tenants will also be taxpayers if they are brought into City limits.
- Can you share with us the positives you see in the SMART Development? What are your concerns about it? This question was asked of the Mayor. No Response from Staff
- Is it possible to renegotiate the Development Agreement? If so, what does that look like and how do we get that conversation started? Terms for amending the development agreement are included in the agreement itself. Section 6.04.B. "Owner may make minor changes..."
- This project is pure speculation - does council wish to gamble with the taxpayers' money and the city's future? No Response from Staff – see above re: property tax payments
- How much new debt will the city have to take on in association with this project? Sell more bonds? The City's Codes place responsibility on the developer of property. developer will be required to pay for the infrastructure to serve the project. The city has agreed and has capacity to treat the wastewater after infrastructure is in place. A majority of the property is not in the City's water service area so water connections will come from multiple providers. The developer will pay for construction of roads.
- Can we get more clear protections for adjacent residents? Larger buffers? Will residential properties outside of city limits have the same protections as within city limits? A 100 foot buffer, from the Reedville neighborhood, was approved in an administrative amendment to the Development Agreement on 4/12.
- What is the largest contiguously zoned area in San Marcos? Will SMART be it? Without completing a technical calculation of our zoning layer – the airport is about 1600 acres and appears to be our largest contiguously zoned area.
- When tourists or residents refer to San Marcos, what do they typically talk about? Do you think that SMART will become part of that conversation? Is that a good thing in your eyes? This question was asked of the Mayor. No Response from Staff
- Will it be an issue if the city advertises the SMART Terminal as "Air" and "Rail" but not actually have air or rail related industry? The city will not advertise the property, it is a private development.
- A large portion of this property is in the bypass watershed according to the MS4 Program. How will illicit discharge be monitored and regulated by the city with the SMART terminal property? Has anything changed with the Blanco River bypass channel that was talked about during the 2019 SMART Terminal hearings? No changes have occurred. The bypass channel is proposed west of FM 110 and would not be impacted by the SMART Terminal development. Pursuant with state law and City Ordinance Sec 86.527, a person who is responsible or has knowledge of an illicit discharge must immediately notify emergency response agencies if the spill is hazardous. If the spill is non-hazardous, they must notify the authorized enforcement agency (CoSM MS4) no later than the next business day. Stormwater/MS4 staff will respond to all reported illicit discharges as they are received and use appropriate resources and actions to contain the situation. Discharges that violate both CoSM ordinances and/or TCEQ regulations will require additional investigation, reporting, and/or remediation. *Authorized enforcement agency: Employees or designees of the City Manager of the City of San Marcos or the Director of the Texas Commission on Environmental Quality (TCEQ) or the Environmental Protection Agency (EPA) have authority to enforce this division and/or the TPDES regulations. Authorized individual(s) shall have the authority to enforce this division in its entirety and shall be designated as a stormwater systems manager and/or inspector.*
- Who will be doing the initial study of stormwater runoff amounts to get the baseline for the 10% reduction? How many points of measurement will be used for a property of this size? If there is a violation of this, who pays for the resources to enforce this violation? What are the repercussions for the violation? The developer will be responsible to conduct the stormwater analysis in accordance with the City's Stormwater Technical Manual. The points of analysis will be determined at the time of development based on the flow patterns of the area. The City's review and approval of the development plans will help ensure compliance with City regulations and standards.
- What is the overall timeline for reporting of illicit discharge? I know it is 24 hours from MS4 to TCEQ, but what are the timelines from the user in violation being aware of the issue and reporting to MS4. What is the timeline for reporting to the public? Pursuant with state law and City Ordinance Sec 86.527, a person who is responsible or has knowledge of an illicit discharge must immediately notify emergency response agencies if the spill is

hazardous. If the spill is non-hazardous, they must notify the authorized enforcement agency (CoSM MS4) no later than the next business day. The responsible party must follow TCEQ's reporting guidelines. For more information on TCEQ spill reporting and public notification, please visit:

<https://www.tceq.texas.gov/response/spills>

- Since a majority of the property drains into Martindale, how will runoff numbers be calculated. Are these measured at the edge of the property or beyond (San Marcos River). This analysis will be conducted in accordance with the City's Stormwater Technical Manual. The analysis takes into account the entire watershed both upstream and downstream of the property.
- Since the City of San Marcos performs monthly bacteriological testing of the San Marcos River as part of the MS4, will testing locations be added further downstream because of the SMART Terminal? The bacteriological (E. coli) sampling conducted weekly at six locations on the San Marcos River is for the purpose of monitoring for EPA/TCEQ recreational use criteria in the Upper San Marcos River Segment. All of the six locations are located along City owned property within City limits. It is not our intention to add sites downstream that are not located within the Upper San Marcos River Segment or City limits. The Lower San Marcos River Segment is monitored by TCEQ, GBRA and the Texas Stream Team. The Lower San Marcos River Segment is below the confluence with the Blanco River. Since the Smart Terminal is supposed to be located in the Lower San Marcos River, then any sampling conducted would be influenced by the Blanco River. It would be difficult to identify the source of any non-point contamination.
- The City's current goal for Capacity Management Operations and Maintenance Program is to inspect and clean 10% of City owned sanitary sewer lines annually. The City will document and report the total linear feet inspected and cleaned annually as part of the SWMP annual report. Has the city been meeting this goal currently? How much more tax payer money will it cost to add in the sewer lines from SMART to this inspection and cleaning? The City's current goal for Capacity Management Operations and Maintenance Program is to inspect and clean 10% of City owned sanitary sewer lines annually. The City will document and report the total linear feet inspected and cleaned annually as part of the SWMP annual report. The City is meeting the goal, a new crew was added in FY23 to keep up with inspections over the Edwards Aquifer, 20% of it is done annually. This will free up the other crew to do more inspections and maintain a high level of service. The SMART terminal will not have a significant impact since the other crew has already been funded. The owners of SMART Terminal land and future tenants will also be taxpayers if they are within City limits.
- The City's current goal for construction site compliance monitoring is set at 100%. Has this goal been consistently met? The City employs inspectors who inspect 100% of development occurring in the City (site and building)
- What will the added cost be when SMART is added in as a continuous construction site over the next 30 years? There should be no added "cost" – the development will pay permit fees which are intended to cover the cost of plan review and inspection.
- The City will continue to monitor and document that inspections and maintenance of privately-owned structural controls are performed at least once every three (3) years. The City will enforce, through an ordinance, if sites do not submit inspection reports or perform required maintenance. The City will report the total number of sites that submitted inspections as part of the SWMP annual report. What is this enforcement? What are the repercussions? If a private property owner fails to submit the required inspection by the annual deadline, the Stormwater/MS4 Department will issue three (3) enforcement letters with progressively shorter deadlines to complete the inspection (60 days, 30 days, 14 days). If the private property owner fails to comply by the deadline of the third letter, the Stormwater/MS4 Department will file a complaint at Municipal Court. Enforcement action may include initiating legal action in a court of competent jurisdiction; assessing fines; terminating utility services; and/or, in cases of risk to human health and the environment, having the City perform the inspection and/or required maintenance and filing a lien on the property until compliance and/or restitution is met.
- Can you anticipate that there will be "high priority specific - SOPs" at SMART? The City's MS4 program requires SOPs for city facilities. However, the City's MS4 program does not require SOPs for private entities. Private entities with hazardous materials will be required to register and comply with TCEQ rules and regulations.
- Will there be any other goals added or adjusted in MS4 to accommodate SMART Terminal? The MS4 General Permit expires on January 19, 2024. The Stormwater Division of the Public Works Department will have 180 days from the date of the permit expiration to develop a new SWMP. The TCEQ is currently updating the SWMP to

have prescribed best management practices. The MS4 program is a citywide TCEQ authorized discharge permit to minimize stormwater pollution. It is unlikely that the MS4 program will specifically accommodate the SMART Terminal.