

AGENDA
REGULAR CITY COUNCIL MEETING
March 24, 2020 – 6:00 PM

Due to the COVID-19 pandemic, this meeting is being held telephonically only as allowed by the Governor of Texas during this public health emergency. Please do not attend the meeting in person.

You may join the City Council Meeting:

Join Zoom Meeting by computer:

<https://zoom.us/j/867072678>

or by phone:

877 853 5247 US Toll-free

888 788 0099 US Toll-free

Meeting ID: 867 072 678

1. CALL TO ORDER – 6:00 PM

2. CONFLICTS OF INTEREST

3. PUBLIC COMMENTS: This is the opportunity for visitors and guests to address the City Council on any issue, in compliance with LGC Section 551.007. City Council may not discuss any presented issue, nor may any action be taken on any issue at this time. (Attorney General opinion – JC-0169)

The City Council will allot a maximum of 30 minutes for Public Comments. Presentations will be limited to 3 minutes per speaker.

Instructions will be given at the beginning of the meeting to participate in the Public Comments/Public Hearing agenda items.

4. CONSENT AGENDA: All items listed below within the Consent Agenda are considered to be routine by the City Council and may be enacted with one motion. There will be no separate discussion of items unless a Council Member or citizen so requests, in which event the item may be moved to the general order of business and considered in its normal sequence.

4.A. [2020-256](#) CONSIDER THE MINUTES OF THE SPECIAL CALLED CITY COUNCIL MEETING OF MARCH 4, 2020 (TRANSPORTATION MEETING) AND REGULAR CITY COUNCIL MEETING OF MARCH 10, 2020

Attachments: [Minutes 20.0304 transportation](#)
[Minutes. 20.0310](#)

- 4.B. [2020-258](#) CONSIDER ON SECOND READING ORDINANCE NO. 2020-07; AN ORDINANCE AMENDING THE CITY OF BOERNE ZONING ORDINANCE NO. 2007-64, CAPTIONED, "ZONING ORDINANCE OF THE CITY OF BOERNE, TEXAS", DATED DECEMBER 18, 2007, BY AMENDING ARTICLE 3, SECTION 14, REZONING 0.35 ACRES LOCATED AT 32828 INTERSTATE HIGHWAY 10 WEST (KAD NO. 26885) FROM I, INDUSTRIAL DISTRICT TO B-2, HIGHWAY COMMERCIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SEVERANCE CLAUSE; AND DECLARING AN EFFECTIVE DATE. (Christine Jacques)

Attachments: [Summary - Make Recommendation](#)
[Ordinance No. 2020-07](#)
[Att 1 - 32828 IH 10 - Location Map](#)
[Att 2 - 32828 IH 10 - Aerial Map](#)
[Att 3 - 32828 IH 10 - I - Current Zoning Map](#)
[Att 4 - 32828 IH 10 - B-2 - Proposed Zoning Map](#)
[Att 5 - 32828 IH 10 - Future Land Use Map](#)
[Att 6 - I Uses](#)
[Att 7 - B-2 Uses](#)

- 4.C. [2020-263](#) CONSIDER RESOLUTION NO. 2020-R22; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS, POSTPONING THE GENERAL ELECTION SCHEDULED FOR MAY 2, 2020, FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER FOR DISTRICT 3, TO THE NOVEMBER 3, 2020 UNIFORM ELECTION DATE; AND AUTHORIZING EXECUTION OF A JOINT ELECTION CONTRACT FOR THE NOVEMBER 3, 2020 ELECTION.

Attachments: [AIS. Postpone election until November](#)
[Resolution No. 2020-R22](#)

5. [2020-257](#) DISCUSSION OF ANY MATTERS RELATED TO COVID-19 STATE OF DISASTER AND PUBLIC HEALTH EMERGENCY AND CONSIDER RESOLUTION NO. 2020-R23; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS CONTINUING DECLARATION OF STATE OF LOCAL DISASTER AND PUBLIC HEALTH EMERGENCY; ADOPTING THE PREVIOUS DECLARATIONS

OF MAYOR HANDREN; PROVIDING PROMPT AND GENERAL PUBLICITY; GRANTING THE MAYOR THE POWER AND AUTHORITY TO REVIEW, ADOPT, RATIFY, AND EXECUTE SUBSEQUENT EMERGENCY ORDERS ON BEHALF OF THE CITY COUNCIL; SUSPENDING THE APPLICABILITY OF THE REQUIREMENTS OF THE PUBLIC INFORMATION ACT DUE TO CATASTROPHE; AND PROVIDING AN EFFECTIVE DATE.

Attachments: [AIS. Continue Declaration of State of Local Disaster Resolution No. 2020-R23](#)
[Boerne COVID-19 Declaration 1 Executed with Ex 1](#)
[Second Declaration of Local Disaster Public Health Emergency](#)

6. [2020-252](#) DISCUSSION OF CURRENT AND POTENTIAL CITY OF BOERNE COVID-19 MEASURES.

Attachments: [AIS. COVID-19 Operational update](#)

7. PUBLIC HEARING – To Hear Comments On The Following:

- 7.A. [2020-260](#) PROPOSED BOERNE PACE PROGRAM.

Attachments: [AIS. Public Hearing PACE](#)
[Public Hearing 20.0324 Boerne PACE Program](#)

8. TAKE ANY NECESSARY ACTION RESULTING FROM THE PUBLIC HEARING:

- 8.A. [2020-261](#) CONSIDER RESOLUTION NO. 2020-R24; A RESOLUTION OF THE CITY OF BOERNE CITY COUNCIL ESTABLISHING THE CITY OF BOERNE PACE PROGRAM.

Attachments: [AIS. PACE Program](#)
[Resolution No. 2020-R24](#)

- 8.B. [2020-262](#) CONSIDER RESOLUTION NO. 2020-R25; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE A PACE PROGRAM INTERLOCAL AGREEMENT BY AND BETWEEN THE ALAMO AREA COUNCIL OF GOVERNMENTS AND THE CITY OF BOERNE, TEXAS.

Attachments: [AIS. PACE Program Interlocal AACOG](#)
[Resolution No. 2020-R25](#)
[AACOG Interlocal Agreement](#)

9. COMMENTS FROM COUNCIL/LEGAL COUNSEL/STAFF – No discussion or action may take place.

10. EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE: CITY COUNCIL MAY, AS PERMITTED BY LAW, ADJOURN INTO EXECUTIVE SESSION AT ANY TIME TO DISCUSS ANY MATTER LISTED ABOVE INCLUDING IF THEY MEET THE QUALIFICATIONS IN SECTIONS 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATION REGARDING REAL PROPERTY), 551.073 (DELIBERATION REGARDING GIFTS), 551.074 (PERSONNEL/OFFICERS), 551.076 (DELIBERATION REGARDING SECURITY DEVICES), AND SECTION 551.087 (DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS) OF CHAPTER 551 OF THE TEXAS GOVERNMENT CODE.
(If needed)

11. ADJOURNMENT

s/s Ronald C. Bowman
City Manager

CERTIFICATION

**I hereby certify that the above notice of meeting was posted on the 20th day of
March, 2020 at 5:00 p.m.**

s/s Lori A. Carroll
City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS

**Requests for special services must be received forty-eight (48) hours prior to the
meeting time by calling the City Secretary at 830-249-9511.**

MINUTES
SPECIAL CALLED CITY COUNCIL MEETING
KRONKOSKY CENTER
17 Old San Antonio Road
Boerne, TX 78006
March 4, 2020 – 7:00 PM

Minutes of the Special Called City Council meeting of March 4, 2020.

Present: **4 -** Mayor Tim Handren, Mayor Pro Tem Nina Woolard, Council Member Quinten Scott, and Council Member Joseph Macaluso

Absent: **2 -** Council Member Ty Wolosin, and Council Member Brian Fowler

Staff Present: Jeff Thompson, Jeff Carroll and Lori Carroll.

Recognized/Registered Guests: Due to the nature of the meeting, guests did not register.

1. CALL TO ORDER – 7:00 PM

Mayor Handren called the meeting to order at 7:09 p.m.

2. PUBLIC COMMENTS:

Public Comments were received throughout the meeting.

3. TRANSPORTATION BEST PRACTICES WORKSHOP.

Kendall County Judge Darrel Lux introduced Ms. Jennifer Fening from Columbus, Ohio. Ms. Fening stated that Columbus, Ohio was the winner of the U.S. Department of Transportation's first-ever Smart City Challenge and was awarded \$50 million in grant funding and the designation as America's Smart City. The goals of the challenge are to drive economic growth, improve quality of life, foster sustainability, and improve safety. She reviewed the steps Columbus is taking to transform mobility.

Fair Oaks Ranch Mayor Garry Manitzas introduced Mr. Jeremy Kashman, City

Engineer from Carmel, Indiana. Mr. Kashman displayed photos of various roundabouts constructed in Carmel. He stated that Carmel builds roundabouts because of their proven safety record; compatibility with the environment; aesthetics, and ability to make it easier for pedestrians and bicyclists. Roundabouts reduce injury accidents by about 80% and accidents overall by about 40%.

4. ADJOURNMENT

Mayor Handren adjourned the meeting at 9:12 p.m.

Approved:

Mayor

Attest:

City Secretary

MINUTES
REGULAR CITY COUNCIL MEETING
Municipal Court Complex
124 Old San Antonio Road
Boerne, TX 78006
March 10, 2020 – 6:00 PM

Minutes of the Regular City Council meeting of March 10, 2020 at 6:00 p.m.

Present: **6 -** Mayor Tim Handren, Council Member Ty Wolosin, Mayor Pro Tem Nina Woolard, Council Member Quinten Scott, Council Member Brian Fowler, and Council Member Joseph Macaluso

Staff Present: Ron Bowman, Siria Arreola, Pam Bransford, Lori Carroll, Jim Kohler, Mike Mann, Sandy Mattick, Doug Meckel, Nick Montagno, Barbara Quirk, Mike Raute, Angie Rios, Cheryl Rogers, Chris Shadrock, Kelly Skovbjerg, Laura Talley, Jeanette Teague, Larry Woods, and Danny Zincke.

Registered/Recognized Guests: Robert Imler, Michael Tracey, Ben Eldredge, Lance Kyle, Brian Cartwright, Steve Brown, and Wendy Chapman.

1. CALL TO ORDER – 6:00 PM

Mayor Handren called the City Council meeting to order at 6:00 p.m.

INVOCATION

Mayor Handren called on Father David from the St. Helena's Episcopal Church to provide the invocation.

Mayor Handren led the Pledge of Allegiance to the United States Flag and to the Texas Flag.

2. CONFLICTS OF INTEREST

No conflicts were declared.

3. PUBLIC COMMENTS:

Ben Eldredge, 212 Azalea Trail discussed his view on the Mayor's recommendations to the Water Planning Committee.

Robert Imler, 215 East Bandera Road asked that the City Council deny the Resolution , deny the Resolution establishing the Water Planning Committee.

Wendy Chapman stated she was speaking as a concerned citizen regarding the Water Planning Committee and the goals.

4. CONSENT AGENDA:

4.A. [2020-227](#) CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF FEBRUARY 25, 2020.

THE MINUTES WERE APPROVED.

4.B. [2020-208](#) CONSIDER RESOLUTION NO. 2020-R13; A RESOLUTION AUTHORIZING THE CITY MANAGER TO PROCEED WITH PURCHASES AS PER SECTION 6.08 OF THE CITY OF BOERNE'S HOME RULE CHARTER. (Sewer line video inspection camera truck)

THE RESOLUTION WAS APPROVED.

4.C. [2020-233](#) CONSIDER RESOLUTION NO. 2020-R14; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN AGREEMENT BETWEEN THE CITY OF BOERNE AND SB CONSTRUCTION FOR CONSTRUCTION OF A METAL BUILDING FOR THE PARKS AND RECREATION DEPARTMENT.

THE RESOLUTION WAS APPROVED.

4.D. [2020-238](#) CONSIDER RESOLUTION NO. 2020-R15; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF BOERNE AND PENGUIN SUITS FOR 2020 PARKS AND RECREATION GUIDE BOOKS. (Additional work outside of the original scope)

THE RESOLUTION WAS APPROVED.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN TO APPROVED THE CONSENT AGENDA AS PRESENTED. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

5. [2020-241](#) RECEIVE THE COMPREHENSIVE ANNUAL REPORT (CAFR) FROM ABIP, PC FOR FISCAL YEAR 2018-2019.

Mayor Handren called on Ms. Sandy Mattick, Finance Director. Ms. Mattick introduced Mr. Jeremy Barbatto and Janet Pickman from the the audit firm ABIP, PC. Mr. Barbatto explained the Comprehensive Annual Financial Report (CAFR) and what is included in the report.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN, RECEIVE THE COMPREHENSIVE ANNUAL REPORT (CAFR) FROM ABIP, PC FOR FISCAL YEAR 2018-2019. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

6. [2020-229](#) CONSIDER RESOLUTION NO. 2020-R16; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS OF INTENT TO ESTABLISH A CITY PACE PROGRAM ADMINISTERED BY AACOG, REFERENCING THE REQUIRED REPORT, AND SETTING A PUBLIC HEARING. (Property Assessed Clean Energy)

Mayor Handren introduced Mr. John Clamp, CEO of Alamo Area Council of Governments (AACOG) and asked that he review and explain the PACE Program.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN, TO APPROVE RESOLUTION NO. 2020-R16; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS OF INTENT TO ESTABLISH A CITY PACE PROGRAM ADMINISTERED BY AACOG, REFERENCING THE REQUIRED REPORT, AND SETTING A PUBLIC HEARING (PROPERTY ASSESSED CLEAN ENERGY). THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

7. PUBLIC HEARING – To Hear Comments On The Following:

Mayor Handren opened the Public Hearings at 6:45 p.m.

7.A. [2020-246](#) PROPOSED REZONING OF 0.35 ACRES LOCATED AT 32828 INTERSTATE HIGHWAY 10 WEST (KAD NO. 26885) FROM I, INDUSTRIAL DISTRICT TO B-2, HIGHWAY COMMERCIAL DISTRICT. (Christine Jacques)

No comments were received.

Mayor Handren closed the Public Hearing at 6:45 p.m.

7.B. [2020-249](#) PROPOSED USE OF A RETIREMENT COMMUNITY IN A B-2, HIGHWAY COMMERCIAL DISTRICT, FOR 6.479 ACRES LOCATED ON OLD SAN ANTONIO ROAD (KAD NO. 300529). (Hunt Properties)

Mayor Handren opened the Public Hearing at 6:46 p.m.

Ryan Springer with Hunt Properties stated he grew up in the area. He discussed the features of the proposed retirement community.

Mark Little, Architect addressed the Planning and Zoning Commission's concerns with the proposed development.

Mayor Handren closed the Public Hearing at 6:54 p.m.

8. TAKE ANY NECESSARY ACTION RESULTING FROM THE PUBLIC HEARINGS:

8.A. [2020-248](#) CONSIDER ON FIRST READING ORDINANCE NO. 2020-07; AN ORDINANCE AMENDING THE CITY OF BOERNE ZONING ORDINANCE NO. 2007-64, CAPTIONED, "ZONING ORDINANCE OF THE CITY OF BOERNE, TEXAS", DATED DECEMBER 18, 2007, BY AMENDING ARTICLE 3, SECTION 14, REZONING 0.35 ACRES LOCATED AT 32828 INTERSTATE HIGHWAY 10 WEST (KAD NO. 26885) FROM I, INDUSTRIAL DISTRICT TO B-2, HIGHWAY COMMERCIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SEVERANCE CLAUSE; AND DECLARING AN EFFECTIVE DATE (Christine Jacques)

Mayor Handren called on Ms. Laura Talley, Planning and Community Development Director. Ms. Talley displayed a location map of the property and stated that the Planning and Zoning Commission voted 7-0 in favor of the rezoning.

A MOTION WAS MADE BY COUNCIL MEMBER WOLOSIN, SECONDED BY COUNCIL MEMBER FOWLER, TO APPROVE ON FIRST READING ORDINANCE NO. 2020-07; AN ORDINANCE AMENDING THE CITY OF BOERNE ZONING ORDINANCE NO. 2007-64, CAPTIONED, "ZONING ORDINANCE OF THE CITY OF BOERNE, TEXAS", DATED DECEMBER 18, 2007, BY AMENDING ARTICLE 3, SECTION 14, REZONING 0.35 ACRES LOCATED AT 32828 INTERSTATE HIGHWAY 10 WEST (KAD NO. 26885) FROM I, INDUSTRIAL DISTRICT TO B-2, HIGHWAY COMMERCIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SEVERANCE CLAUSE; AND DECLARING AN EFFECTIVE DATE (CHRISTINE JACQUES). THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

8.B. [2020-250](#) CONSIDER ON FIRST READING ORDINANCE NO. 2020-08; AN ORDINANCE AMENDING THE CITY OF BOERNE ZONING ORDINANCE NO. 2007-64 CAPTIONED, "ZONING ORDINANCE OF THE CITY OF BOERNE, TEXAS", DATED DECEMBER 18, 2007, ARTICLE 5, SECTION 3 PERMITTED USES, TABLE 5-1, AUTHORIZING

THE USE OF A RETIREMENT COMMUNITY IN A B-2, HIGHWAY COMMERCIAL DISTRICT LOCATED ON OLD SAN ANTONIO ROAD (KAD NO. 300529- SURVEY 183 J SMALL), A TOTAL OF 6.479 ACRES. (Hunt Properties)

Ms. Talley continued with displaying the location map of the property and the proposed site plan. Ms. Talley addressed the Council Member's concerns with the proposed development.

A MOTION WAS MADE BY COUNCIL MEMBER FOWLER, SECONDED BY COUNCIL MEMBER SCOTT, TO TABLE ON FIRST READING ORDINANCE NO. 2020-08; AN ORDINANCE AMENDING THE CITY OF BOERNE ZONING ORDINANCE NO. 2007-64 CAPTIONED, "ZONING ORDINANCE OF THE CITY OF BOERNE, TEXAS", DATED DECEMBER 18, 2007, ARTICLE 5, SECTION 3 PERMITTED USES, TABLE 5-1, AUTHORIZING THE USE OF A RETIREMENT COMMUNITY IN A B-2, HIGHWAY COMMERCIAL DISTRICT LOCATED ON OLD SAN ANTONIO ROAD (KAD NO. 300529- SURVEY 183 J SMALL), A TOTAL OF 6.479 ACRES. (HUNT PROPERTIES) UNTIL THE SPECIFIC NUISANCES: LIGHTING, NOISE, FENCING, DUMPSTER LOCATION ARE ADDRESSED. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 3 - Council Member Scott, Council Member Fowler, and Council Member Macaluso

Nay: 2 - Council Member Wolosin, and Mayor Pro Tem Woolard

9. [2020-234](#) SEMI-ANNUAL STAFF PRESENTATION FROM THE CONVENTION AND VISITORS BUREAU.

Mayor Handren called on Mr. Larry Woods, Convention and Visitors Bureau Director to provide the semi-annual update on the Convention and Visitors Bureau. Mr. Woods distributed an information packet to the Council Members.

10. [2020-231](#) REVIEW OF THE CITY OF BOERNE PARKS, RECREATION, AND OPEN SPACE MASTER PLAN AND DISCUSSION ON CURRENT PROJECT PRIORITY LIST.

Mayor Handren called on Mr. Danny Zincke, Community Services Director. Mr. Zincke discussed the current priorities in Parks Master Plan.

Council Member Macaluso left the meeting at 7:53 p.m. and returned at 7:56 p.m.

11. [2020-247](#) CONSIDER A ONE-TIME READING OF ORDINANCE NO. 2020-09; AS PERMITTED BY THE CITY OF BOERNE'S HOME RULE CHARTER, SECTION 3.11.A. (as described below)

A MOTION WAS MADE BY COUNCIL MEMBER WOLOSIN, SECONDED BY MAYOR PRO TEM WOOLARD, TO APPROVE A ONE-TIME READING OF ORDINANCE NO. 2020-09; AS PERMITTED BY THE CITY OF BOERNE'S HOME RULE CHARTER, SECTION 3.11.A. (AS DESCRIBED BELOW). THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

12. [2020-251](#) RECEIVE THE PROPOSED DRAFT OF THE UNIFIED DEVELOPMENT CODE AND CONSIDER ORDINANCE NO. 2020-09, SETTING PUBLIC HEARINGS FOR MARCH 31, 2020, AT 5:00 P.M., AND APRIL 14, 2020, AT 5:00 P.M., EACH TO BE HELD JOINTLY WITH A HEARING BEFORE THE PLANNING AND ZONING COMMISSION.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER MACALUSO, TO RECEIVE THE PROPOSED DRAFT OF THE UNIFIED DEVELOPMENT CODE AND CONSIDER ORDINANCE NO. 2020-09, SETTING PUBLIC HEARINGS FOR MARCH 31, 2020, AT 5:00 P.M., AND APRIL 14, 2020, AT 5:00 P.M., EACH TO BE HELD JOINTLY WITH A HEARING BEFORE THE PLANNING AND ZONING COMMISSION. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

13. [2020-203](#) CONSIDER RESOLUTION NO. 2020-R17; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN AGREEMENT BETWEEN THE CITY OF BOERNE AND HALFF ASSOCIATES FOR A DRAINAGE MASTER PLAN.

Mayor Handren called on Ms. Cheryl Rogers, City Engineer. Ms. Rogers briefly

discussed the necessity of the Drainage Master Plan and the scope of the agreement.

A MOTION WAS MADE BY COUNCIL MEMBER MACALUSO, SECONDED BY MAYOR PRO TEM WOOLARD, TO APPROVE RESOLUTION NO. 2020-R17; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN AGREEMENT BETWEEN THE CITY OF BOERNE AND HALFF ASSOCIATES FOR A DRAINAGE MASTER PLAN. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

14. [2020-237](#) CONSIDER RESOLUTION NO. 2020-R18; A RESOLUTION OF THE CITY OF BOERNE, TEXAS ESTABLISHING THE BOERNE COMMUNITY WATER PLANNING COMMITTEE AND APPOINTING MEMBERS.

Mayor Handren provided information on the proposed Boerne Community Water Planning Committee, his recommendations for committee members and the goals of committee.

A MOTION WAS MADE BY COUNCIL MEMBER MACALUSO, SECONDED BY MAYOR PRO TEM WOOLARD, TO APPROVE RESOLUTION NO. 2020-R18; A RESOLUTION OF THE CITY OF BOERNE, TEXAS ESTABLISHING THE BOERNE COMMUNITY WATER PLANNING COMMITTEE AND APPOINTING MEMBERS, GIVING CHAIRMAN COHOON THE ABILITY TO ADD UP TO THREE MEMBERS TO THE COMMITTEE. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

15. [2020-242](#) CONSIDER RESOLUTION NO. 2020-R19; A RESOLUTION IN SUPPORT OF ELIMINATING LEFT TURNS OFF OF STATE HIGHWAY 46 WESTBOUND TOWARDS BOERNE ONTO CITY PARK ROAD.

Mayor Handren called on Ms. Cheryl Rogers, City Engineer. Ms. Rogers displayed a location map of the area for the proposed median on State Highway 46 East which will eliminate left turns off of State Highway 46 Westbound onto City Park Road.

A MOTION WAS MADE BY COUNCIL MEMBER SCOTT, SECONDED BY COUNCIL MEMBER WOLOSIN, TO APPROVE RESOLUTION NO. 2020-R19; A RESOLUTION IN SUPPORT OF ELIMINATING LEFT TURNS OFF OF STATE HIGHWAY 46 WESTBOUND TOWARDS BOERNE ONTO CITY PARK ROAD. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

16. [2020-240](#) **RECEIVE BIDS AND AWARD CONTRACT FOR A FACILITIES MASTER PLAN FOR THE PATRICK HEATH PUBLIC LIBRARY AND CONSIDER RESOLUTION NO. 2020-R20; A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT BETWEEN THE CITY OF BOERNE AND _____ FOR A FACILITIES MASTER PLAN FOR THE PATRICK HEATH PUBLIC LIBRARY.**

Mayor Handren called on Ms. Kelly Skovbjerg, Library Director. Ms. Skovbjerg discussed the process in selecting the consultant to assist in the Facilities Master Plan for the Patrick Heath Public Library.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN, TO RECEIVE BIDS AND AWARD CONTRACT FOR A FACILITIES MASTER PLAN FOR THE PATRICK HEATH PUBLIC LIBRARY AND APPROVE RESOLUTION NO. 2020-R20; A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT BETWEEN THE CITY OF BOERNE AND LPA FOR A FACILITIES MASTER PLAN FOR THE PATRICK HEATH PUBLIC LIBRARY. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

17. [2020-239](#) **CITY MANAGER'S REPORT.**

Mayor Handren called on City Manager Mr. Bowman to provide the City Manager's Report.

18. COMMENTS FROM COUNCIL/LEGAL COUNSEL/STAFF – No discussion or action may take place.

Council Member Macaluso discussed the Water Planning Committee.

Council Member Fowler discussed his meeting with a local business and resident regarding nuisance issues. He also noted that he recently purchased a home on Oak Park but is not living there.

Council Member Wolosin expressed appreciation to the City's Street Department for the job they did in striping the street.

Mayor Handren expressed appreciation to City Staff for a successful move into the new City Hall, and to the members who have volunteered to be on the Water Planning Committee.

19. EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE:

Mayor Handren convened the City Council into Executive Session at 9:31 p.m.

**19.A.[2020-243](#) SECTION 551.072 - DELIBERATION REGARDING REAL PROPERTY.
(Potential land purchase in south Boerne)**

No action was taken.

**19.B.[2020-244](#) SECTION 551.071 - CONSULTATION WITH ATTORNEY AND
SECTION 551.087 - DELIBERATION REGARDING ECONOMIC
DEVELOPMENT NEGOTIATIONS. (Guy Sanders)**

No action was taken.

**20. RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION
RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.**

Mayor Handren reconvened the City Council into Open Session at 10:20 p.m.

20.A.[2020-245](#) CONSIDER RESOLUTION NO. 2020-R21; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE CITY OF BOERNE, TEXAS AND GUY SANDERS FOR 153 S MAIN.

A MOTION WAS MADE BY COUNCIL MEMBER WOLOSIN, SECONDED BY MAYOR PRO TEM WOOLARD THAT WE FIND THAT THE ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT FOR 153 SOUTH MAIN MEETS THE FOLLOWING PRIORITIES FOR ECONOMIC DEVELOPMENT INCENTIVES OUTLINED IN THE CITY OF BOERNE INCENTIVE POLICY; LOCATIONS WHERE NEW DEVELOPMENT BRINGS ABOUT ENHANCEMENT OF PUBLIC INFRASTRUCTURE; REDEVELOPMENT OF AGED OR UNDER-PERFORMING BUSINESS AREAS; BUSINESSES AND IMPROVEMENTS WHICH ENHANCE THE DOWNTOWN, HILL COUNTRY MILE, AND HISTORIC DISTRICT AND THAT WE APPROVE RESOLUTION NO. 2020-R21; AUTHORIZING THE CITY MANAGER TO EXECUTE AND MANAGE AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH GUY SANDERS FOR 153 SOUTH MAIN FOR A REIMBURSEMENT AMOUNT UP TO \$76,172.85. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

21. EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE: CITY COUNCIL MAY, AS PERMITTED BY LAW, ADJOURN INTO EXECUTIVE SESSION AT ANY TIME TO DISCUSS ANY MATTER LISTED ABOVE INCLUDING IF THEY MEET THE QUALIFICATIONS IN SECTIONS 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATION REGARDING REAL PROPERTY), 551.073 (DELIBERATION REGARDING GIFTS), 551.074 (PERSONNEL/OFFICERS), 551.076 (DELIBERATION REGARDING SECURITY DEVICES), AND SECTION 551.087 (DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS) OF CHAPTER 551 OF THE TEXAS GOVERNMENT CODE. (If needed)

No further discussion in Executive Session was necessary.

22. ADJOURNMENT


Mayor Handren adjourned the City Council meeting at 10:22 p.m.

Approved:

Mayor

Attest:

City Secretary

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right; margin-top: 10px;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input checked="" type="checkbox"/> 5 = Macaluso <input type="checkbox"/> All </div>
AGENDA DATE	March 24, 2020
DESCRIPTION	CONSIDER ON SECOND READING ORDINANCE NO. 2020-07; AN ORDINANCE AMENDING THE CITY OF BOERNE ZONING ORDINANCE NO. 2007-64, CAPTIONED, "ZONING ORDINANCE OF THE CITY OF BOERNE, TEXAS", DATED DECEMBER 18, 2007, BY AMENDING ARTICLE 3, SECTION 14, REZONING 0.35 ACRES LOCATED AT 32828 INTERSTATE HIGHWAY 10 WEST (KAD NO. 26885) FROM I, INDUSTRIAL DISTRICT TO B-2, HIGHWAY COMMERCIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SEVERANCE CLAUSE; AND DECLARING AN EFFECTIVE DATE. <i>(Christine Jacques)</i>
STAFF'S RECOMMENDED ACTION (be specific)	Approve On Second Ordinance No. 2020-07; Amending Zoning Ordinance No. 2007-64, By Amending Article 3, Section 14, Rezoning 0.35 Acres Located At 32828 Interstate Highway 10 West (KAD No. 26885) To B-2, Highway Commercial District.
CONTACT PERSON	Laura Talley, Planning and Community Development Director
SUMMARY	<p>The property located at 32828 Interstate 10 West is currently zoned as I, Industrial District. The owner is requesting B-2, Highway Commercial District. This property is located next door to the property that was rezoned to B-2 in October.</p> <p>Per the Planning and Zoning Commission's and City Council's direction, it has been determined that the Land Use Plan, which identifies this area along IH-10 as Industrial (Business/Office Park), is incorrect and needs modification. Modifications to the Land Use Plan will take place after the UDC is complete. Staff plans to reassess the Land Use Plan based on actions by the P&Z and Council and the establishment of the new zoning districts. It has been stated that the properties fronting IH-10 should be B-2, Highway Commercial Districts. Based on those discussions, this property should follow suit and also be zoned B-2.</p> <p>While changing the zoning to B-2 would allow retail, restaurant, office type uses; it does not automatically require the B-2 type design standards. Only if they choose to add onto or remodel the building by more than 50%, would they be required to comply. Of course, the change of uses may now allow a use that would encourage a more aesthetic appearance.</p>

	Staff recommends approval of the request for rezoning. The Planning and Zoning commission voted 7-0 (with one recusal) in favor of the rezoning. Council voted 5-0 in favor of the rezoning.
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	

This summary is not meant to be all inclusive. Supporting documentation is attached.

ORDINANCE NO. 2020-07

AN ORDINANCE AMENDING THE CITY OF BOERNE ZONING ORDINANCE NO. 2007-64, CAPTIONED, "ZONING ORDINANCE OF THE CITY OF BOERNE, TEXAS", DATED DECEMBER 18, 2007, BY AMENDING ARTICLE 3, SECTION 14, REZONING 0.35 ACRES LOCATED AT 32828 INTERSTATE HIGHWAY 10 WEST (KAD NO. 26885) FROM I, INDUSTRIAL DISTRICT TO B-2, HIGHWAY COMMERCIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SEVERANCE CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Boerne has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of Boerne; and

WHEREAS, the City Council held a public hearing on March 10, 2020 on the proposed rezoning; and

WHEREAS, the City Council is required to permanently zone properties that have been annexed into the City; and

WHEREAS, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

WHEREAS, the City Council desires to amend the Zoning Map by rezoning 0.35 acres located at 32828 Interstate Highway 10 West (KAD No. 26885) to B-2, Highway Commercial District.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

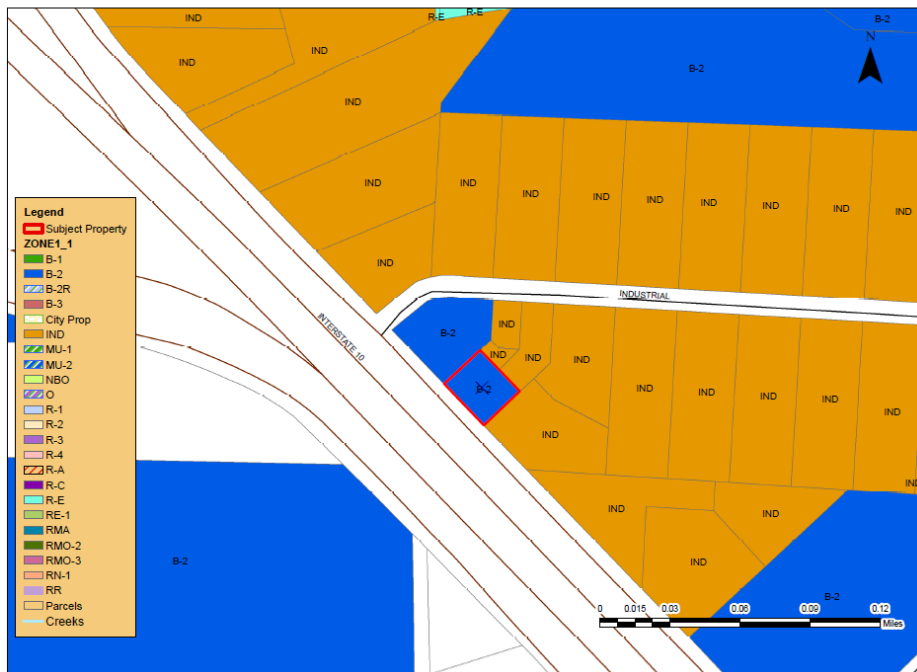
Section 1.

That Article 3, Section 14, of the Zoning Ordinance of the City of Boerne, Texas, and particularly the Zoning Map of the City of Boerne, is amended by rezoning the following described tract of land:

32828 Interstate Highway 10 West (KAD No. 26885) to B-2, Highway Commercial District.

Section 2.

That the Zoning Maps of the City of Boerne be amended to indicate the previously described change.



Section 3.

That all provisions of the Code of Ordinances of the City of Boerne not herein amended or repealed shall remain in full force and effect.

Section 4.

That all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 5.

That if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

Section 6.

This ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED on this the first reading the 10th day of March, 2020.

PASSED, APPROVED AND ADOPTED on this the second reading the ____ day of March, 2020.

APPROVED:

ATTEST:

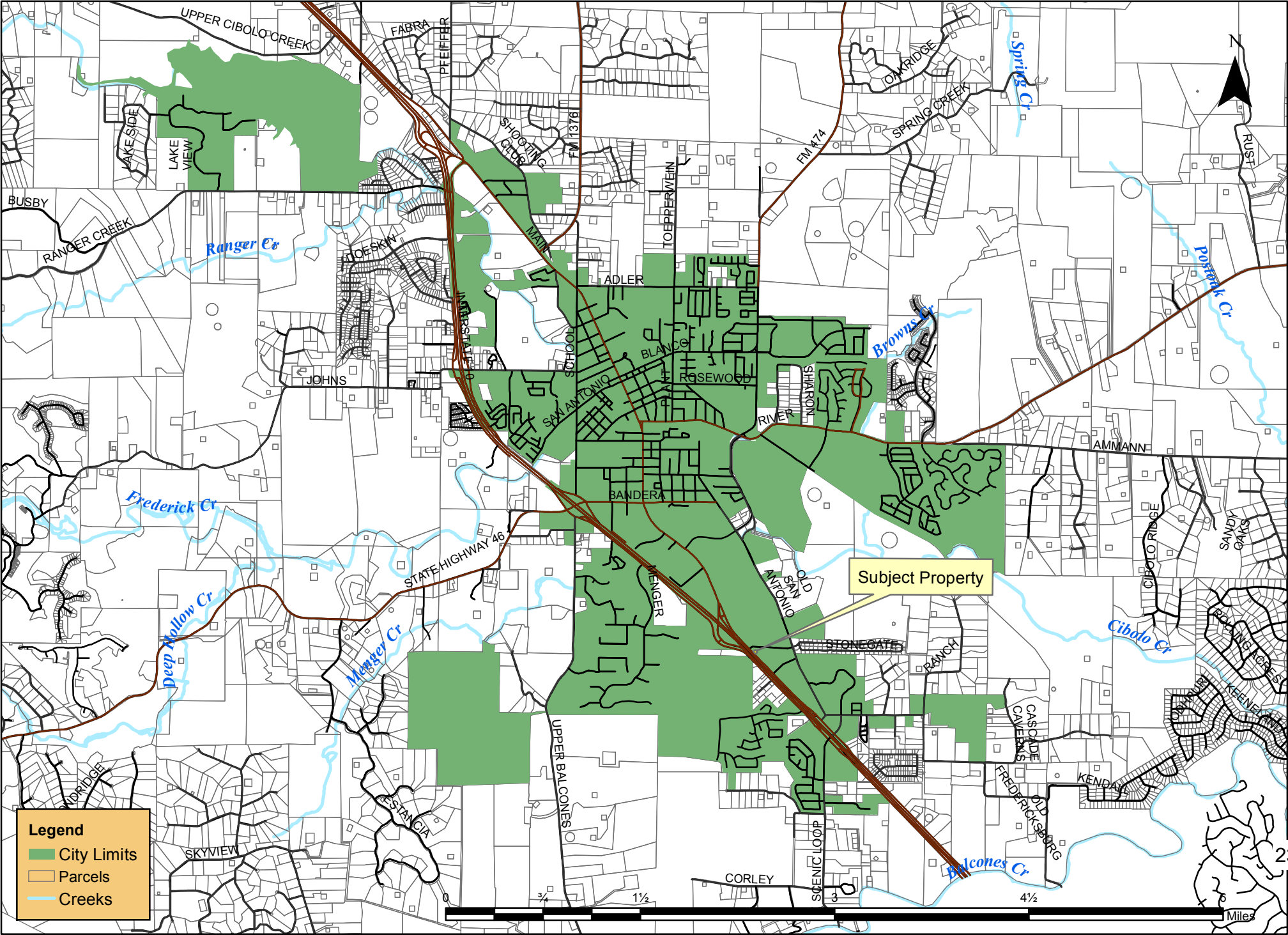
Mayor

City Secretary

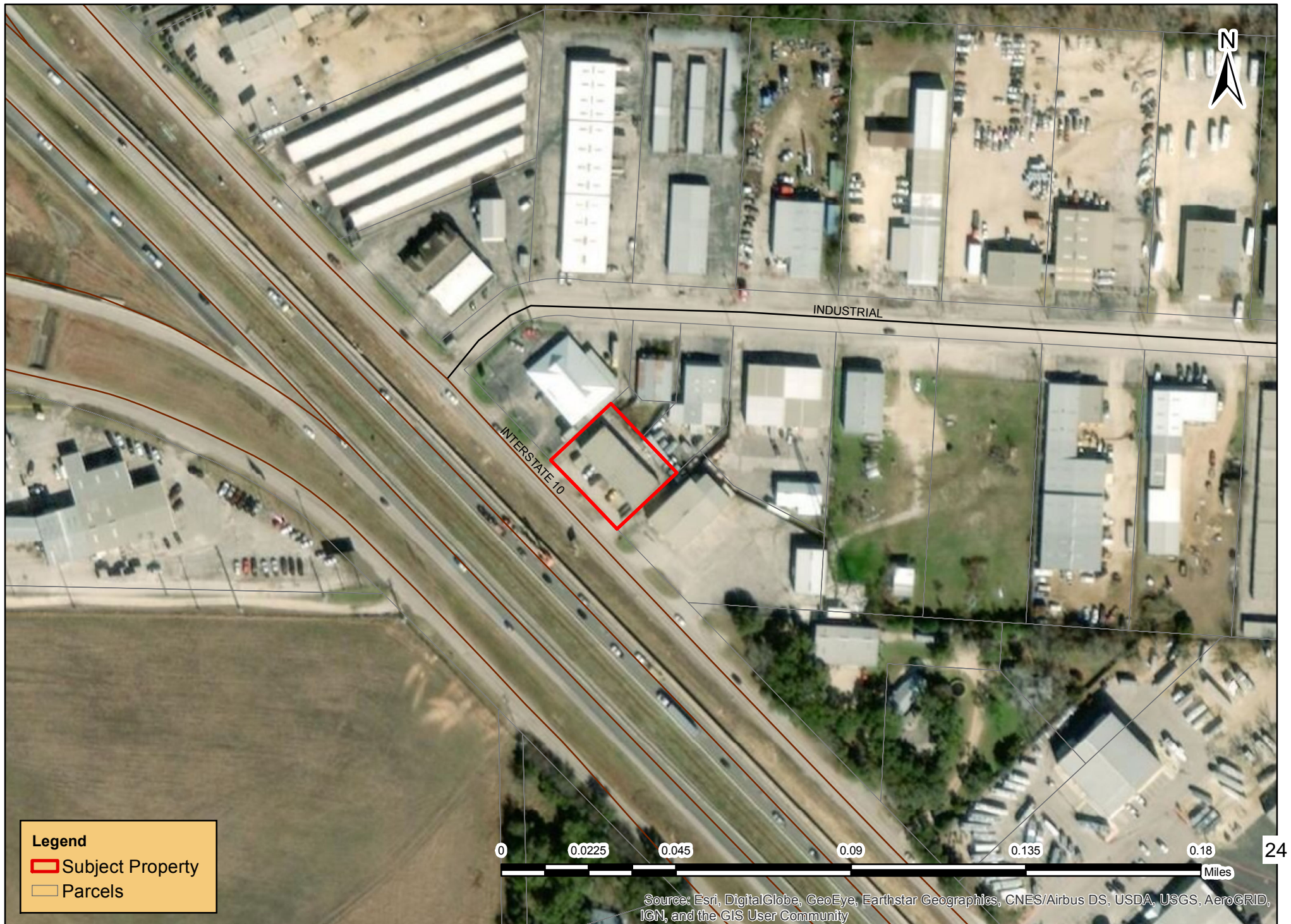
APPROVED AS TO FORM:

City Attorney

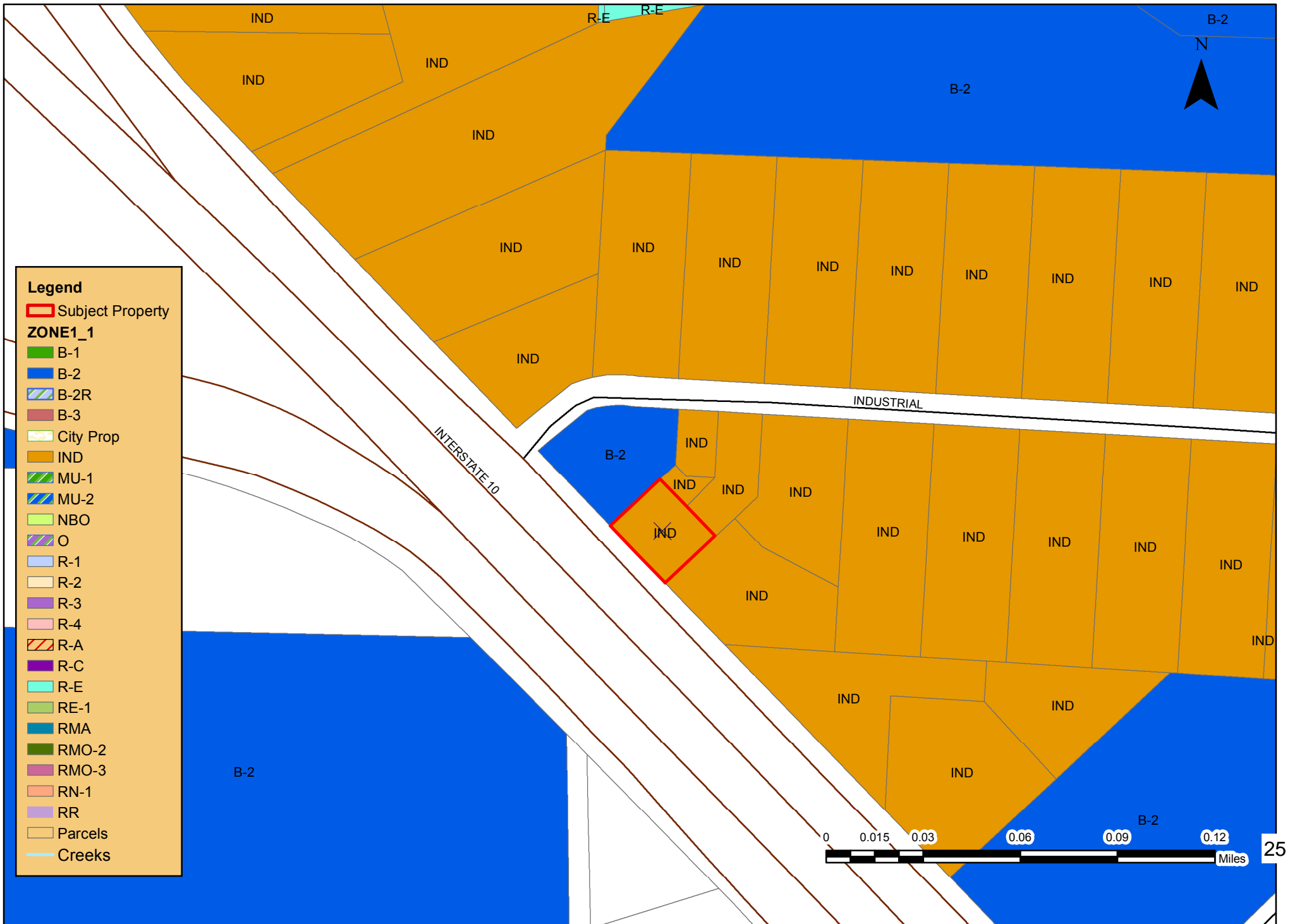
32828 IH 10 - LOCATION MAP



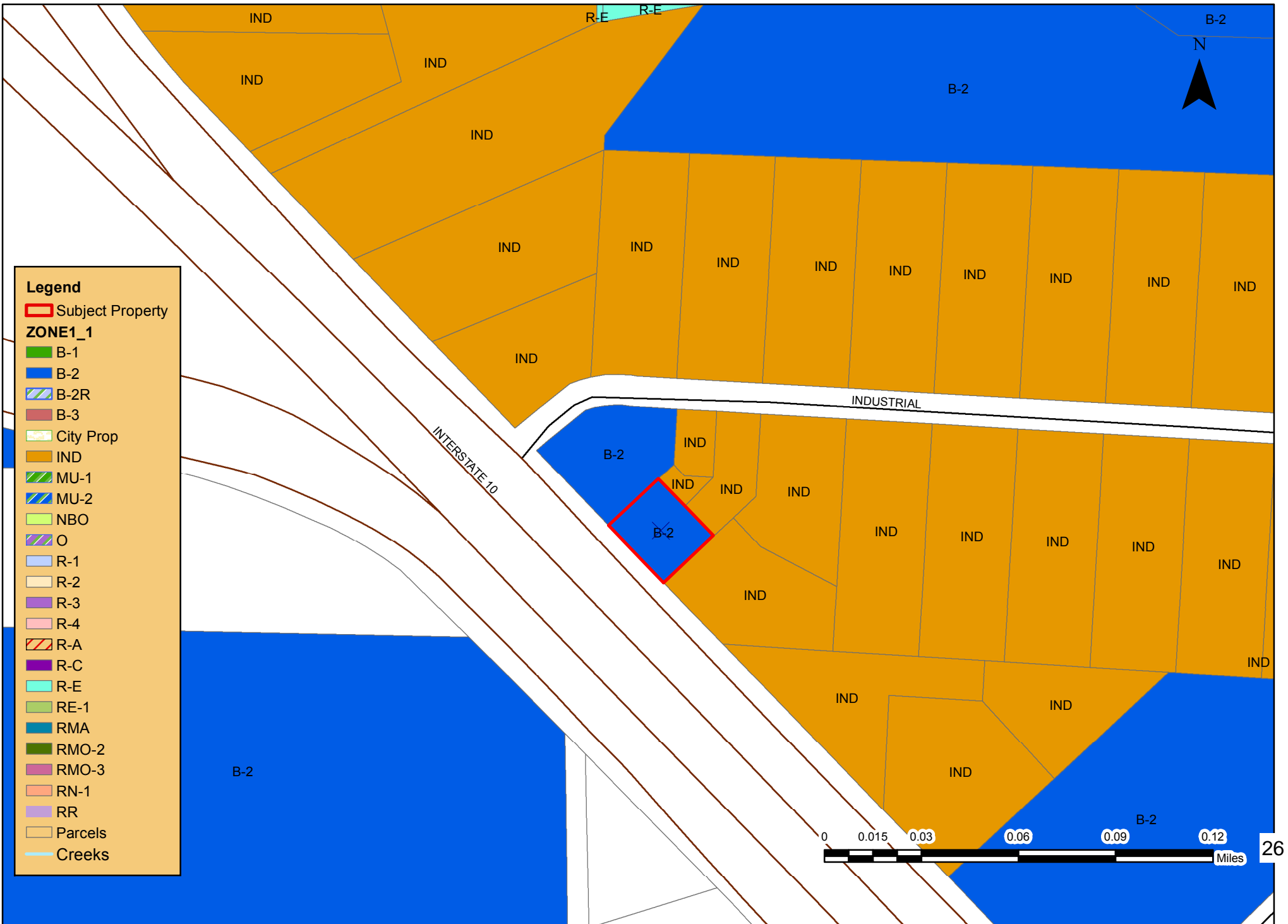
32828 IH 10 - AERIAL MAP



32828 IH 10 - CURRENT ZONING MAP



32828 IH 10 - PROPOSED ZONING MAP



32828 IH10 - FUTURE LAND USE MAP



SECTION 23. I – INDUSTRIAL DISTRICT

- A. **Purposes.** These districts are areas suitable for warehousing, manufacturing and general industrial uses, where the operation of these uses would not adversely affect nearby residential and business uses. They are usually separated from residential districts by business districts or natural barriers. The district regulations are designed to allow a wide variety of industrial activities, subject to limitations designed for mutual protection of adjacent land uses.
- B. **Applicability.** The I district is applicable to larger land areas that are capable of providing substantial buffers to adjacent sites, buildings, and land uses to minimize the potential for incompatible and negative impacts of uses in the district. This district is most appropriate with a special district transportation network in the Subdivision Regulations, and with access to major thoroughfares in order to accommodate more intense traffic and larger vehicles that serve land uses in this district.

C. **Required Lot and Building Dimensions.**

MINIMUM LOT AREA	22,000 square feet
MINIMUM LOT WIDTH	None
MINIMUM FRONT YARD	25 feet
MINIMUM SIDE YARD	10 feet, unless a firewall is built on the lot line.
MINIMUM REAR YARD	Same as Side Yard
MAXIMUM BUILDING HEIGHT	38'

- D. **Permitted Uses.** The uses permitted in the I district are specified in Table 5-1 as either “permitted” or “conditional” or “restricted.” Any permitted use located in the Industrial district that allows exterior operations 24-hours a day requires City Council approval. (Ord. No. 2013-23, §5, 7-23-2013)

E. **Restrictions on Particular Uses.**

1. A kennel must conform to all of the requirements of the City's Animal Control Ordinance.
2. Any business that operates external activities 24-hours a day shall require City Council approval. (Ord. No. 2013-23, §5, 7-23-2013)
3. An adult or sexually oriented business, per the City of Boerne Sexually Oriented Businesses ordinance, must be located at least 1,500 feet from the following. (Ord. No. 2013-23, §5, 7-23-2013)
 - (a) A church;
 - (b) A public or private elementary or secondary school;
 - (c) A boundary of a residential district;
 - (d) A public park adjacent to any residential district;
 - (e) The property line of a lot devoted primarily to residential use;
 - (f) A continuous care retirement center or nursing care facility,
 - (g) A family oriented recreation facility including but not limited to a roller skating rink, an ice skating rink or a public swimming pool;
 - (h) A day nursery or licensed child care facility;
 - (i) A public library.
4. Mobile Food Vendors must meet the following specific criteria: (Ord. No. 2014-49, §5 12-16-14)
 - a. Shall be located on private property with the permission of the owner and shall not park in the right-of-way of any street or state highway.
 - b. Shall remain only on a temporary basis and shall not remain overnight.

PERMITTED USES BY DISTRICT	
P= Permitted generally, subject to ordinance standards	
R= Restricted, subject to specific conditions in this Ordinance	
CC= Conditional, subject to City Council review and approval	
L= Limitations as provided in Article 3, Section 18	—
Civic Use Category	
<i>Government Facility</i>	CC
Employment Use Category	
<i>Major Office or Office Complex</i>	CC
<i>Business Park or Campus</i>	CC
Retail Use Category	
<i>Brewery</i>	P
<i>Mobile Food Vendor</i>	R
<i>Thrift Store (with outside storage/donation bin)</i>	P
<i>Warehouse Retail</i>	CC
<i>Winery</i>	P
<i>Outdoor Retail Sales Area</i>	CC
<i>Outdoor Retail Sales Yard</i>	P
Service Use Category	
<i>Automobile Service w/ outside storage</i>	CC
<i>Automobile Service w/o outside storage</i>	P
<i>Bank Kiosks</i>	P
<i>Bus Terminal</i>	P
<i>Car Wash</i>	P
<i>Day Care / Adult</i>	P
<i>Funeral Home or Mortuary</i>	P
<i>Kennel</i>	R

PERMITTED USES BY DISTRICT	
P= Permitted generally, subject to ordinance standards	
R= Restricted, subject to specific conditions in this Ordinance	
CC= Conditional, subject to City Council review and approval	
L= Limitations as provided in Article 3, Section 18	—
<i>Laboratory</i>	P
<i>Trade School</i>	P
<i>Veterinary Clinic</i>	P
<i>Veterinary Clinic w/ kennel</i>	P
<i>Wholesale</i>	P
Manufacturing and Utility Use Category	
<i>Contractor</i>	P
<i>Commercial Communication System</i>	P
<i>Industrial Park</i>	P
<i>Junk Yard</i>	CC
<i>Large Vehicle and Machinery Rental, Sales and Service</i>	P
<i>Manufacturing</i>	P
<i>Mini-Warehouse</i>	P
<i>Portable Building Sales</i>	P
<i>Processing</i>	P
<i>Utility Station, Sub-station, or Service Center</i>	CC
<i>Warehousing</i>	P
Agriculture and Natural Resource Use Category	
<i>Plant Nursery</i>	P
<i>Stable</i>	P
Sexually Oriented Business Use Category	
<i>Adult Bookstore</i>	R
<i>Adult Entertainment Establishment</i>	R
<i>Adult Motion Picture Theater</i>	R

B-2 – Highway Commercial

SECTION 17. B-2 - HIGHWAY COMMERCIAL DISTRICT

- A. **Purposes.** The B-2 districts are located along principal arterial streets, adjacent to other non-residential districts. They are areas suitable for general retail trade and a wide variety of other commercial uses. The district regulations are designed to encourage these uses, while also protecting the abutting and nearby areas.
- B. **Applicability.** This district is applicable in areas where large scale and regional businesses are appropriate, and where the impacts on other more walkable development patterns can be minimized, both in terms of physical design and in terms of uses that have a regional draw. Therefore it should be limited in application to areas with good highway access, and away from areas where smaller-scale, and neighborhood oriented businesses are desired.
- C. **Required Lot and Building Dimensions.**

MINIMUM LOT AREA	10,000 square feet
MINIMUM LOT WIDTH	60 feet
MINIMUM FRONT YARD	0 - 20 feet
MINIMUM SIDE YARD	0 feet, if party wall; 5' if not party wall;
MINIMUM REAR YARD	0' - See Combined Commercial Design Standards for rear/side location parking requirements
MAXIMUM BUILDING HEIGHT	75' - See 3.05.001 for Height exceptions

- D. **Permitted Uses.** The uses permitted in the B-2 district are specified in Table 5-1 as either "permitted" or "conditional" or "restricted".

E. Restrictions on Particular Uses.

1. A trailer court must provide water and sewer service for each unit.
2. Mixed-use Dwelling Units must meet the following specific site and building design standards:
 - a. Each unit, residential and commercial, shall have two clearly distinct areas.
 - b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
 - c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district. The use shall not by reason of noise, odor, or physical operation create any impacts on adjacent lots that are adverse to adjacent uses. Uses with a tendency to create external impacts or visible signs of operation may be further limited in terms of site design or hours of operation in order to minimize potential impacts.
 - d. Required parking shall be based on the greater of the parking required for the non-living area or the living area.
(Ord. No. 2012-04, §5, 4-24-2012)
3. Bed and Breakfasts shall meet the restrictions in Article 3, Section 04.

F. Specific Site and Building Design Standards.

1. Due to the more compact development pattern, and the important relationship between the design of buildings, sites, open spaces and streetscapes in creating a walkable, mixed-use environment integrated into adjacent neighborhoods, the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance shall apply to all lots in the B-2 District.
2. All lots in the B-2 District which are located in the Entrance Corridor Overlay as specified in Article 5, Section 25 of the Zoning Ordinance shall meet the standards of that section.

PERMITTED USES BY DISTRICT P= Permitted generally, subject to ordinance standards R= Restricted, subject to specific conditions in this Ordinance CC= Conditional, subject to City Council review and approval L= Limitations as provided in Article 3, Section 18	B-2
Residential Use Category	
<i>Detached Dwelling</i>	P

** Buildings in a B-2 and B-3 are limited to three stories and 40' in height, anything over three stories or 40' in height will require City Council approval. 31

B-2 – Highway Commercial

PERMITTED USES BY DISTRICT P= Permitted generally, subject to ordinance standards R= Restricted, subject to specific conditions in this Ordinance CC= Conditional, subject to City Council review and approval L= Limitations as provided in Article 3, Section 18	B-2**
<i>Multi-Dwelling Structure</i>	CC
<i>Mixed-Use Dwelling</i>	P
<i>Accessory Dwelling</i>	CC
<i>Personal Care Home</i>	P
<i>Retirement Community</i>	CC
Civic Use Category	
<i>Assembly</i>	CC
<i>Club or Lodge</i>	P
<i>Community Athletic Field</i>	P
<i>Developed Athletic Field or Stadium</i>	CC
<i>Government Facility</i>	CC
<i>Museum or Library</i>	P
Employment Use Category	
<i>Neighborhood Office</i>	P
<i>General Office</i>	P
<i>Major Office or Office Complex</i>	P
<i>Business Park or Campus</i>	CC
Retail Use Category	
<i>Automobile Gas Station</i>	CC
<i>Automobile Gas Station fronting IH-10</i>	P
<i>Automobile Convenience Store</i>	CC
<i>Automobile Convenience Store fronting IH-10</i>	P
<i>Automobile Parts & Parts Sales</i>	P
<i>Automobile Sales</i>	CC
<i>Brew Pub</i>	P
<i>Mobile Food Vendor</i>	P
<i>Restaurant (Convenience – non drive-thru)</i>	P
<i>Restaurant (Convenience – drive-thru)</i>	P
<i>Restaurant (Limited)</i>	P
<i>Restaurant (General)</i>	P
<i>Grocery Store</i>	CC
<i>Supermarket Store</i>	CC
<i>Retail (Drive-thru)</i>	P
<i>Retail (Neighborhood)</i>	P
<i>Retail (General)</i>	P
<i>Retail (Major)</i>	CC
<i>Thrift Store (without outside storage/donation bin)</i>	P
<i>Thrift Store (with outside storage/donation bin)</i>	CC
<i>Warehouse Retail</i>	CC
<i>Winery</i>	P
<i>Outdoor Retail Display</i>	P
<i>Outdoor Retail Sales Area</i>	CC
<i>Shopping Center</i>	CC

** Buildings in a B-2 and B-3 are limited to three stories and 40' in height, anything over three stories or 40' in height will require City Council approval. 32

B-2 – Highway Commercial


PERMITTED USES BY DISTRICT P= Permitted generally, subject to ordinance standards R= Restricted, subject to specific conditions in this Ordinance CC= Conditional, subject to City Council review and approval L= Limitations as provided in Article 3, Section 18	B-2**
Service Use Category	
<i>Automobile Rental</i>	P
<i>Automobile Service w/outside storage</i>	CC
<i>Automobile Service w/o outside storage</i>	P
<i>Bank and Financial Institutions</i>	P
<i>Bank Kiosks</i>	P
<i>Bar</i>	P
<i>Barber and Beauty Shop (also see Spa)</i>	P
<i>Bed & Breakfast</i>	R
<i>Bus Terminal</i>	P
<i>Car Wash</i>	P
<i>Day Care Nursery (more than 6 children with or without home occupation)</i>	P
<i>Day Care / Before or After School</i>	P
<i>Day Care / Adult</i>	P
<i>Funeral Home or Mortuary</i>	P
<i>Group Home</i>	L
<i>Gym (Neighborhood)</i>	P
<i>Gym (General)</i>	P
<i>Gym (Major)</i>	CC
<i>Health Clinic</i>	P
<i>Hospital</i>	CC
<i>Hotel or Motel</i>	P
<i>Hotel (Boutique)</i>	P
<i>Laundry (Self Service)</i>	P
<i>Long Term Care Facility</i>	P
<i>Medical Office</i>	P
<i>Nightclub</i>	P
<i>Parking Lot or Parking Garage</i>	CC
<i>Pawn Shop</i>	P
<i>Recreational and Entertainment Facility</i>	CC
<i>Spa</i>	P
<i>Theater</i>	P
<i>Trade School</i>	P
<i>Trailer Court</i>	CC
<i>Veterinary Clinic</i>	P
<i>Video or Pinball Arcade</i>	P
<i>Wholesale</i>	CC
Manufacturing and Utility Use Category	
<i>Contractor</i>	CC
<i>Commercial Communication System</i>	CC
<i>Large Vehicle and Machinery Rental, Sales and Service</i>	CC
<i>Manufacturing</i>	CC
<i>Mini-Warehouse.</i>	CC
<i>Utility Station, Sub-station, or Service Center</i>	CC

** Buildings in a B-2 and B-3 are limited to three stories and 40' in height, anything over three stories or 40' in height will require City Council approval. 33

B-2 – Highway Commercial

PERMITTED USES BY DISTRICT P= Permitted generally, subject to ordinance standards R= Restricted, subject to specific conditions in this Ordinance CC= Conditional, subject to City Council review and approval L= Limitations as provided in Article 3, Section 18	B-2**
Agriculture and Natural Resource Use Category	
<i>Plant Nursery</i>	P

** Buildings in a B-2 and B-3 are limited to three stories and 40' in height, anything over three stories or 40' in height will require City Council approval. 34

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right; margin-top: 10px;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso <input checked="" type="checkbox"/> All </div>
AGENDA DATE	<i>March 24, 2020</i>
DESCRIPTION	CONSIDER RESOLUTION NO. 2020-R22; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS, POSTPONING THE GENERAL ELECTION SCHEDULED FOR MAY 2, 2020, FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER FOR DISTRICT 3, TO THE NOVEMBER 3, 2020 UNIFORM ELECTION DATE; AND AUTHORIZING EXECUTION OF A JOINT ELECTION CONTRACT FOR THE NOVEMBER 3, 2020 ELECTION
STAFF'S RECOMMENDED ACTION (be specific)	Approve Resolution No. 2020-R22; Postponing The General Election Scheduled For May 2, 2020, For The Purpose Of Electing A City Council Member For District 3, To The November 3, 2020 Uniform Election Date; And Authorizing A Joint Election Contract For The November 3, 2020 Election.
CONTACT PERSON	Lori Carroll, City Secretary
SUMMARY	<p>With the COVID-19 pandemic, the City finds it in the best interest of the citizens to postpone the General Election until November 3, 2020.</p> <p>The Governor issued a proclamation suspending certain provisions of the Texas Election Code and Texas Water Code to allow all local political subdivisions that are utilizing the May 2, 2020 uniform election date to postpone their election to the November 3, 2020 uniform election date.</p> <p>The postponement does not reopen candidate filings. All Council Members currently holding office will continue to exercise the same duties until the new officers take their oaths of office, following the November uniform election.</p>
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	

This summary is not meant to be all inclusive. Supporting documentation is attached.

RESOLUTION NO. 2020-R22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS, POSTPONING THE GENERAL ELECTION SCHEDULED FOR MAY 2, 2020, FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER FOR DISTRICT 3, TO THE NOVEMBER 3, 2020 UNIFORM ELECTION DATE; AND AUTHORIZING EXECUTION OF A JOINT ELECTION CONTRACT FOR THE NOVEMBER 3, 2020 ELECTION

WHEREAS, in accordance with the general laws and Constitution of the State of Texas and the Charter of the City of Boerne, and pursuant to Resolution No. 2020-R01, a Municipal Election was ordered to be held on May 2, 2020, for the purpose of electing Council Members for District 1, 3, and 5; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, on March 18, 2020, the Governor of the State of Texas signed a proclamation suspending certain provisions of the Texas Election Code and the Texas Water Code to allow all local and political subdivisions that are utilizing the May 2, 2020 uniform election date to postpone their elections to the November 3, 2020 uniform election date; and

WHEREAS, pursuant to the Governor's proclamation authorizing the City of Boerne to postpone the May 2, 2020 election date, the City Council does by this Resolution exercise its authority to postpone the General Election ordered for May 2, 2020, for the purpose of electing a Council Member for District 3 to November 3, 2020;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS THAT:

Section 1. That the election previously ordered for May 2, 2020, for the City of Boerne, Texas, for the purpose of electing a City Council Member for District 3 is hereby postponed to November 3, 2020.

Section 2. That the candidate filings for the Municipal election for May 2, 2020 for the City of Boerne, Texas, for the purpose of electing a City Council Member for District 3 shall remain valid for the election to be held on November 3, 2020, and that the filing period for candidates will not be re-opened for the election to be held on November 3, 2020.

Section 3. That all annual applications for ballot by mail (ABBM) for voters that are voting by mail due to being over the age of 65 or due to disability will still be valid for the November 3, 2020, election; and that ABBMs for voters who submitted ABBMs based on expected absence from the county shall not be valid for the postponed November 3, 2020 election.

Section 4. That the voter registration deadline for the November 3, 2020, election is October 5, 2020, the deadline to submit an ABBM is October 23, 2020, and the dates for

early voting are October 19, 2020 through October 30, 2020.

Section 5. That the City Manager is authorized to negotiate and execute an election contract with Kendall County for the purpose of conducting the postponed election on November 3, 2020.

Section 6. This Resolution shall take effect immediately from and after its passage.


PASSED, APPROVED and ADOPTED this the ____ day of March, 2020.

APPROVED:

ATTEST:

Mayor

City Secretary

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right; margin-top: 10px;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso <input checked="" type="checkbox"/> All </div>
AGENDA DATE	<i>March 24, 2020</i>
DESCRIPTION	DISCUSSION OF ANY MATTERS RELATED TO COVID-19 STATE OF DISASTER AND PUBLIC HEALTH EMERGENCY AND CONSIDER RESOLUTION NO. 2020-R23; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS CONTINUING DECLARATION OF STATE OF LOCAL DISASTER AND PUBLIC HEALTH EMERGENCY; ADOPTING THE PREVIOUS DECLARATIONS OF MAYOR HANDREN; PROVIDING PROMPT AND GENERAL PUBLICITY; AND GRANTING THE MAYOR THE POWER AND AUTHORITY TO REVIEW, ADOPT, RATIFY, AND EXECUTE SUBSEQUENT EMERGENCY ORDERS ON BEHALF OF THE CITY COUNCIL; AND PROVIDING AN EFFECTIVE DATE.
STAFF'S RECOMMENDED ACTION (be specific)	Approve Resolution No. 2020-R23; Continuing Declaration Of State Of Local Disaster And Public Health Emergency; Adopting The Previous Declarations Of Mayor Handren; Providing Prompt And General Publicity; And Granting The Mayor The Power And Authority To Review, Adopt, Ratify, And Execute Subsequent Emergency Orders On Behalf Of The City Council, Suspending The Applicability Of The Requirements Of The Public Information Act Due To Catastrophe; And Providing An Effective Date.
CONTACT PERSON	Mayor Tim Handren
SUMMARY	This will give City Council the opportunity to discuss matters related to COVID-19 and continue the Declaration of State of Local Disaster and Public Health Emergency.
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	

This summary is not meant to be all inclusive. Supporting documentation is attached.

RESOLUTION NO. 2020-R23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS CONTINUING DECLARATION OF STATE OF LOCAL DISASTER AND PUBLIC HEALTH EMERGENCY; ADOPTING THE PREVIOUS DECLARATIONS OF MAYOR HANDREN; PROVIDING PROMPT AND GENERAL PUBLICITY; GRANTING THE MAYOR THE POWER AND AUTHORITY TO REVIEW, ADOPT, RATIFY, AND EXECUTE SUBSEQUENT EMERGENCY ORDERS ON BEHALF OF THE CITY COUNCIL; SUSPENDING THE APPLICABILITY OF THE REQUIREMENTS OF THE PUBLIC INFORMATION ACT DUE TO CATASTROPHE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, beginning in December 2019, a novel coronavirus, which causes the disease COVID-19, has spread through the world and has now been declared a global pandemic by the World Health Organization; and

WHEREAS, symptoms of COVID-19 include fever, coughing, and shortness of breath, and in some cases, the virus has caused death; and

WHEREAS, on March 16, 2020, the Mayor of the City of Boerne, Texas, issued and duly filed with the City Secretary's Office, a Declaration of Public Health Emergency for the City, which is attached hereto and incorporated herein; and

WHEREAS, on March 20, 2020, the Mayor of the City of Boerne, Texas, issued and duly filed with the City Secretary's Office, a Second Declaration of Local Disaster and Public Health Emergency, which is attached hereto and incorporated herein; and

WHEREAS, in accordance with Texas Government Code Section 418.109(b), the declaration of local state of disaster may not be continued or renewed for a period of more than seven (7) days except with the consent of the City Council of the City of Boerne; and

WHEREAS, a declaration of disaster activates the Emergency Management Plan utilized by the City in conjunction with the Kendall County Emergency Management Plan; and

WHEREAS, pursuant to guidance from the President of the United States and the CDC, extraordinary measures must be taken to contain COVID-19 and prevent its spread throughout the City of Boerne, including the quarantine of individuals, groups of individuals, and property and, additionally, including compelling individuals, groups of individuals, or property to undergo additional health measures that prevent or control the spread of disease; and

WHEREAS, the Mayor of the City of Boerne, Texas, has determined that extraordinary measures must be taken to alleviate the suffering of people and to protect the health, safety and welfare of its citizens; and

WHEREAS, the City Council of the City of Boerne, Texas, pursuant to Texas Government code Section 418.108(b) has determined that it is necessary to continue the declarations of local state of disaster and public health emergency for the City of Boerne, Texas; and

WHEREAS, the City Council of the City of Boerne, Texas, has determined that because of the reduction in staff at City offices and the number of staff working from home during this public health emergency and because access to City Hall and City Administrative Offices has been restricted, the COVID-19 pandemic is a catastrophe for purposes of Section 552.233 of the Texas Government Code and interferes with the ability of the City to comply with the requirements of the Texas Public Information Act, Sections 552.001, et seq, of the Government Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

1. That the local state of disaster and public health emergency declared by Mayor Tim Handren on March 16, 2020 and on March 20, 2020, for the COVID-19 pandemic is hereby continued for the City of Boerne;
2. That the emergency orders issued by the Mayor in those Declarations shall continue in full force and effect and that the City of Boerne Mayor be delegated and given the full power and authority of the City Council to review, ratify, and adopt any subsequent City of Boerne emergency orders relating to the COVID-19 pandemic,
3. This Declaration continues to activate the Emergency Management Plan utilized by the City in conjunction with the Kendall County Emergency Management Plan;
4. This Declaration continues to activate the recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans, as well as the preparedness and response aspects of those plans, and authorizes the furnishing of aid and assistance under the Declaration;
5. This Declaration continuing a local state of disaster and public health emergency shall be effective for thirty (30) days on and from its date of issuance, provided however that this Declaration may be terminated before the expiration of thirty days by subsequent order of the Mayor, and may be continued or renewed beyond thirty days from its date of issuance only with the consent of the City Council of the City of Boerne, Texas;
6. That pursuant to Section 552.233 of the Texas Government Code, the City Council of the City of Boerne hereby suspends the requirements of the Public Information Act for a period of seven (7) days from the date of this enactment, orders that notice of this suspension be provided as required by law, and authorizes the City Manager of the City of Boerne to extend this suspension by an additional seven (7) days if necessary without additional approval from this body;
7. The sections, paragraphs, sentences, clauses and phrases of this Declaration are severable and if any phrase, clause, sentence, paragraph or section of this Declaration should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Declaration that can be given effect without the invalid provision, and to this end the provisions of this Declaration are severable;

8. This Declaration shall be given prompt and general publicity and shall be filed promptly with the City Secretary of the City of Boerne, Texas and forwarded to the State of Texas; and

That this Resolution and the Declaration herein shall take effect immediately from and after its issuance.

PASSED and APPROVED on this the _____ day of March, 2020.

APPROVED:

Mayor

ATTEST:

City Secretary

DECLARATION OF PUBLIC HEALTH EMERGENCY

WHEREAS, in the City of Boerne on the 16th day of March, 2020, there is imminent threat of widespread severe illness and loss of life resulting from

The novel COVID-19 virus pandemic, and

WHEREAS, the Mayor of the City of Boerne has determined that extraordinary measures must be taken to alleviate the suffering of people and to protect the ability of the City's medical and emergency services to handle this crisis,

NOW, THEREFORE, BE IT PROCLAIMED BY THE MAYOR OF THE CITY OF BOERNE:

1. That a local state of public health emergency is hereby declared for the City of Boerne pursuant to §418.108(a) of the Texas Government Code.
2. Pursuant to §418.018(b) of the Government Code, the state of disaster shall continue for a period of not more than seven days from the Effective date of this declaration unless continued or renewed by the City Council of the City of Boerne.
3. Pursuant to §418.108(c) of the Government Code, this declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
4. Pursuant to §418.108(d) of the Government Code, this declaration of a local state of disaster activates the City emergency management plan.
5. Pursuant to §418.020(c) of the Government Code, this Declaration authorizes the City to commandeer or use any private property, temporarily acquire, by lease or other means, sites required for temporary housing units or emergency shelters for evacuees, subject to compensation requirements.
6. Pursuant to §122.006 of the Health and Safety Code, this Declaration authorizes the City to take any actions necessary to promote health and support disease, including quarantine, examining and regulating hospitals, regulating ingress and egress from the City, and fining those who do not comply with the City's rules.
7. Pursuant to the Texas Disaster Act of 1975, I, Tim Handren, Mayor of the City of Boerne, and consistent with the declaration being issued by Kendall County, issue further guidance and restrictions set forth in the Declaration Regarding Public and Private Gatherings attached hereto as Exhibit 1, and incorporated herein.
8. Restrictions set out in Exhibit 1 may be updated as necessary to respond to the evolving circumstances of this outbreak during the duration of this Declaration and any extension by the City of Boerne City Council without the issuance of a new Declaration.
9. As Mayor, I further reserve all other authority and powers conferred by state law to respond as necessary to this situation.

Exhibit “1”

Declaration regarding Public and Private Gatherings and Other Matters

I. Declaration Regarding Public and Private Gatherings:

- a. This Exhibit “1” incorporates and adopts, except as where noted below, the Centers for Disease Control (“CDC”) Interim Guidance for Coronavirus Disease 2019 (COVID-19) dated March 15, 2019.
- b. The virus that causes COVID-19 is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to protect the ability of public and private health care providers to handle an influx of patients and safeguard public health and safety.
- c. Because of the risk of the rapid spread of the virus, and the need to protect the most vulnerable members of the community, this declaration prohibits all indoor public and private gatherings and outdoor gatherings within an enclosed space of fifty persons or more anywhere in the City of Boerne, Texas, beginning at 07:00 p.m. on March 17, 2020 and continuing for seven (7) days, unless extended consistent with requirements of state law.
- d. For all other gatherings, it is strongly recommended that social distancing protocols established by the United States Center for Disease Control and Prevention (CDC) and found within the “Implementation of Mitigation strategies for Communities with Local COVID-19 Transmission” issued by the CDC on or around March 11, 2020, including canceling, rescheduling, or not attending events with more than fifty persons.
- e. Further, organizations that serve high-risk populations (defined below) should follow CDC guidance for social distancing.
- f. Definitions and further guidance:
 - i. For purposes of this Declaration, a “Mass Gathering” is any event or convening, subject to the exceptions and clarifications below, that brings together fifty (50) or more persons at the same time in a single room or other single confined or enclosed space, such as, by way of example and without limitation, an auditorium, theater, stadium (indoor or outdoor), arena or event center, meeting hall, conference center, large cafeteria, or any other confined indoor or confined outdoor space.
 - ii. A Mass Gathering includes events in confined outdoor spaces, which means an outdoor space that (1) is enclosed by a fence, physical barrier, or other structure and (2) where people are present and they are within arm’s length of one another for extended periods.
 - iii. This Declaration also does not prohibit gatherings of people in multiple, separated enclosed spaces in a single building such as a multiplex movie theater, so long as fifty people are not present in any single space at the same time. This Declaration also does not prohibit use of enclosed spaces where fifty or more people may be present at different times during the day, so long as fifty or more people are not present in the space at the same

time. For any gathering covered by this subsection compliance with Social Distancing Recommendations, including providing hand sanitizer and tissues and increasing cleaning of commonly touched surfaces is strongly encouraged.

- iv. For purposed of clarity, a Mass Gathering does not include the following: (1) public or private school and places of worship; (2) museums (so long as visitors are generally are not within arm's length of one another for extended periods); (3) Spaces where fifty or more persons may be in transit or waiting for transit such as bus stops; (4) office space, hotels, or residential buildings; (5) grocery stores, shopping malls, outdoor markets, or other retail establishments where large numbers of people are present but it is unusual for them to be within arm's length of one another for extended periods; (6) hospitals, medical facilities and shelters; and (7) jails and detention centers. In all such settings, it is recommended that the public follow Social Distancing Recommendations, and harm reduction measures such as hand sanitizer and tissues should be provided when possible. However, any specific large gathering space that is part of any building included in this subparagraph "d" is subject to the prohibition on Mass Gatherings if the space holds fifty or more people.
- v. " High-risk Populations" include people who are:
 - 1. 60 years old and older;
 - 2. People with certain health conditions such as heart disease, lung disease, diabetes, kidney disease and weakened immune systems;
 - 3. People who are pregnant or were pregnant in the last two weeks.
 - 4. People experiencing homelessness.
- vi. The Mayor of the City of Boerne may update restrictions set out in this Exhibit as necessary to respond to the evolving circumstances of this outbreak during the duration of the next 7 days and any extension by the City of Boerne City Council.


- II. I hereby direct City of Boerne utility personnel to suspend disconnection of utility services for non-payment during the term of this Declaration;
- III. City of Boerne Municipal Courts are directed to the protocol established by the FIRST EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER issued March 13, 2020, jointly by the Texas Supreme Court and the Texas Court of Criminal Appeals. (See Attachment 1-A).

This proclamation shall take effect on March 17, 2020, at 7:00 p.m.

ORDERED this the 16 day of MARCH, 2020.


Mayor Tim Handren

ATTEST:


Lori Carroll, City Secretary

CITY OF BOERNE
SECOND DECLARATION OF LOCAL DISASTER
PUBLIC HEALTH EMERGENCY

WHEREAS, in December 2019 a novel coronavirus, now designated COVID-19, has been recognized globally as a contagious respiratory virus; and

WHEREAS, on March 13, 2020, Greg Abbott, the Governor of the State of Texas, issued a proclamation that declared COVID-19 as an imminent threat of disaster; and

WHEREAS, I, Tim Handren, Mayor of the City of Boerne, Texas, issued a Declaration of Health Emergency effective on March 17, 2020, declaring that COVID-19 poses an imminent threat of public health disaster for the City of Boerne, Texas; and

WHEREAS, COVID-19 continues to spread and to pose an increasing, imminent threat of disaster throughout the City of Boerne, Kendall County, Texas, the United States, and the World; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) has advised that person-to-person; and contact heightens the risk of COVID-19 transmission, and

WHEREAS, the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the CDC on March 16, 2020, call upon Americans to slow the spread of COVID-19 by avoiding social gatherings in groups of more than ten (10) people, using drive-thru, pickup, or delivery options in restaurants and bars, and avoiding visitation at nursing homes, among other steps; and

WHEREAS, the Texas Department of State Health Services has now determined that, as of March 19, 2020, COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, the City acknowledges and supports the decisions and efforts made by Public Works and Utilities to not disconnect services to persons during the time of this emergency; and

WHEREAS, pursuant to the Texas Disaster Act of 1975, the Mayor of the City may declare a local state of disaster in and for the City and may exercise the powers granted therein on an appropriate local scale; and

NOW THEREFORE, I, Tim Handren, the Mayor of the City of Boerne, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a city-wide basis, effective 11:59 p.m. on March 20, 2020, and continuing until 11:59 p.m. on April 3rd, 2020, subject to extension thereafter based on the status of COVID-19 in the City of Boerne and the recommendations of the CDC;

- Order No. 1 In accordance with the Guidelines from the President and the CDC, every person in the City of Boerne, shall avoid social gatherings in groups of more than ten (10) people. At all times and locations everyone shall follow the CDC distancing guidelines between individuals.
- Order No. 2 In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking in bars, restaurants, and food courts, having garage sales, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged throughout the limited duration of this executive order.
- Order No. 3 In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes or retirement or long-term care facilities unless to provide critical assistance.
- Order No. 4 In accordance with the Guidelines from the President and the CDC, schools in the City of Boerne shall temporarily close.
- Order No. 5 My previous directive that the City of Boerne utility personnel suspend disconnection of utility services for non-payment during the term of my Declaration shall remain for the duration of this Order and any extension hereof;
- Order No. 6 Child care facilities shall strictly adhere to CDC guidelines found at [CDC.gov](https://www.cdc.gov) for daycare facilities.
- Order No. 7 Penalties from Government Code Sec 418.173 are invoked for violation of these provisions, which include \$1.00 to \$1000 fines or up to 180 days in jail. Persons observing violations of these provisions shall report same to the City at 830-249-8645.

This Declaration does not prohibit people from visiting a variety of places, including grocery stores, gas stations, parks, and banks, so long as the necessary precautions are maintained to reduce the transmission of COVID-19. This Declaration does not mandate sheltering in place. All critical infrastructure will remain operational, domestic travel will remain unrestricted, and government entities and businesses will continue providing essential services. For offices and workplaces that remain open, employees should practice good hygiene, and, where feasible, work from home in order to achieve optimum isolation from COVID-19. The more that people reduce their public contact, the sooner COVID-19 will be contained and the sooner this executive order will expire.

This Declaration supersedes all previous declarations and orders on this matter that are in conflict or inconsistent with the terms, and this Declaration shall remain in effect and in full force until 11:59 p.m. on April 3, 2020, subject to being extended, modified, amended, rescinded, or superseded.

Given under my hand this the 20th day of March 2020.



MAYOR TIM HANDREN


City of Boerne, Texas

ATTEST:



Lori Carroll, City Secretary



	<div data-bbox="1235 216 1474 457"> <p>District Impacted</p> <p><input type="checkbox"/> 1 = Wolosin</p> <p><input type="checkbox"/> 2 = Woolard</p> <p><input type="checkbox"/> 3 = Scott</p> <p><input type="checkbox"/> 4 = Fowler</p> <p><input type="checkbox"/> 5 = Macaluso</p> <p><input checked="" type="checkbox"/> All</p> </div> <p style="text-align: center;">AGENDA ITEM SUMMARY</p>
AGENDA DATE	March 24, 2020
DESCRIPTION	DISCUSSION OF CURRENT AND POTENTIAL CITY OF BOERNE COVID-19 MEASURES.
STAFF'S RECOMMENDED ACTION (be specific)	Discussion only.
CONTACT PERSON	Mayor Tim Handren
SUMMARY	<p>Since the declaration of emergency by the Mayor, city staff has been proactively working to modify operations to best operate the city with the highest priority of providing public safety and essential services to include; police, fire, and utilities. Attached is the COVID-19 action response update for the City of Boerne.</p> <p>There will be a discussion about other potential best practices or ideas from staff and input from the City Council for business practices going forward.</p>
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	

This summary is not meant to be all inclusive. Supporting documentation is attached.

City of Boerne

March 20, 2020 Update – currently 2 confirmed cases in Kendall County
(this is a constantly changing document and is not all-inclusive)

COVID responses/actions

- 2ND DECLARATION OF PUBLIC HEALTH EMERGENCY ISSUED – SCHOOLS TO CLOSE FOR 2 WEEKS; BARS, RESTAURANTS TO-GO ONLY; FOLLOW CDC GUIDELINES; AVOID CLOSE CONTACT
- BEGINNING 3/23 – 4/3, CITY EMPLOYEES, EXCEPT POLICE AND FIRE PERSONNEL, ARE OPERATING ON MODIFIED WORK SCHEDULES TO MINIMIZE INTERACTIONS WITHIN OFFICES AND AMONG FIELD CREWS. STAFF IS COMMITTED TO PROVIDING ESSENTIAL CITY SERVICES AND WILL GET THEIR JOBS DONE WITH LIMITED PERSONAL CONTACT.

City operations update – new info is highlighted in each service category

Police and Fire Departments

- Captain Steve Perez is our Emergency Management Coordinator.
- Police and Fire are conducting business as usual to keep everyone at peace and not instill panic.

City Hall

- All staff and visitors are to use the Main Entrance doors to City Hall.
- Standard hours effective 3/23 will be 8am to 5pm for all employees
- Visitors are being visually screened, temperature scanned, COVID-19 visitor questionnaire required
- City Hall is closed to the public unless an appointment is made between the hours of 9am – 11am or 1pm – 3pm.

Boerne Utilities

- Customer Service windows are closed; parking lot drop box being checked through out the day for payments
- Utilities customers being encouraged to pay bills online using various payment options or over the phone
- Customer service reps continue taking phone calls and answering questions

Patrick Heath Public Library

- Curbside pick and BOOKDROP are closed as Saturday, March 21.
- Closed to the public through Saturday, March 28. Staff will be available via text at 830-308-4606 or call the library during regular hours at 830-249-3053. Fines will not accrue during this time and due dates may be extended.
- All programming has been suspended until March 30.
- Exterior spaces will be open to access WIFI.
- Library news available through social media and website at www.boernelibrary.org.
- Conduct library business on their app " PhDigital"
- Patrons may reserve items online and pick them at curbside. This service is available Monday—Thursday 9am-7pm and Friday 9am-6pm.
- Facebook Live Storytimes happening each Wednesday and Thursday at 10:30am

Parks and Community Services Department

- All city public playgrounds are closed until further notice.
- Boerne City Lake, City Park, River Road Park, Veterans Park, Northside Community Park and all Trails are open; all public restrooms and water fountains are closed.
- All programs and events scheduled on City of Boerne facilities have been canceled through the end of March.

Animal Services

- The Boerne Animal Care Service Office is closed to the public.
- Staff will be available via phone and e-mail and at the shelter during regular weekday business hours at 830-249-2456. Monday – Friday, 8:00 am – 5:00 pm.
- Latest news, as well as animals up for adoption is available through social media and their website at <http://www.ci.boerne.tx.us/79/Animal-Services>.

Municipal Court

- Court lobby remains open.
- Boerne Municipal Court will be rescheduling all dockets.

- If anyone was scheduled to appear before Judge Phillips on March 18, April 1, April 15, or May 6, 2020, they will receive a written notice from the Court advising of the new date, and time of your hearing, or trial.
- People can submit payments online or by mail.

Convention and Visitors Bureau

- The Visitors Center is closed to the public.
- Staff is available via phone and email
- Tourism updates are provided through social media and the CVB website.

Human Resources

- If travel plans are made, employees should reconsider, if possible. Stay in Boerne area and away from populated areas.
- Encouraging staff to take care of themselves and follow CDC guidelines
- Temporary adjustments in place for personnel policies that relate to employee benefits.

Code Enforcement

- Waive enforcement of temporary signage with regard to advertising for curb-side pick-up and directional signage directing citizens to areas for safe pick-up.
- Taking all application and payments online.
- Staff is available via phone and email.
- Make available permit application and drop box in City Hall foyer.
- Contacted all contractors regarding inspection for health safety.
- Inspections carry on as before with the stipulation that no trades can be on the job site for new single-family residence construction.
- Working toward getting plan review done using email.

Public Utilities Services

- Forms for utility applications (new utility service or upgrades) are available in the first-floor entrance lobby.

- Staff has been instructed to assist customers with filling them out via telephone and accepting verbal confirmation for what would normally be signed.
- Instructing customers needing to pay impact fees for new utility services to use the payment drop box just like customers use to pay their bills.

Special Projects


- Special Events is maintaining normal hours, 8 AM to 5 PM, Mon-Fri
- Visitors must make arrangements in advance to meet us at City Hall.
- Staff is available via phone and email during normal hours.
- Updates regarding Hill Country Mile businesses and events will be shared through social media via HCM FB page, and to the Boerne Retailers page (closed group) as appropriate.

List of known Canceled or Postponed Community Events and public meetings

Dates: March 18-May 2, 2020

1. **March 20, 2020:** Skate Battle canceled event.
2. **March 21, 2020:** Family Fair canceled event.
3. **March 21, 2020:** Soda Pops Hot Rod Night 10th season Kick-Off is canceled.
4. **March 21:** Opening of new Art al Fresco Sculpture exhibit postponed; new date TBD
5. **March 21, 2020:** Retailer's Style Show and Shopping Event; postponed until May 16.
6. **March 23, 2020:** Citizen's Law Enforcement Academy 2020 postponed; new date TBD
7. **March 28, 2020:** Italian Car show postponed; new date TBD.

8. **March 28, 2020:** Boerne City Limits canceled their event at the Amphitheater.
9. **March 28, 2020:** The AgriCultural Gala has postponed their event to Fall 2020.
10. **March 28, 2020:** Bluegrass Jam at The Agricultural; live streaming on FB 1-2 PM.
11. **March 29, 2020:** Jump In 1910 Church has canceled their event at Main Plaza.
12. **April 2, 2020:** Diva Night will be postponed; new date TBD
13. **April 4, 2020:** Boerne Easter Egg Hunt has been canceled.
14. **April 4, 2020:** Bier Fest has postponed this event; new date TBD.
15. **April 4, 2020:** Picnic in the Park has canceled their event at the Amphitheater.
16. **April 4, 2020:** Hot Rod Night canceled event.
17. **April 11, 2020:** Boerne Market Days Bluebonnets and Bluegrass Festival and Market Saturday / check w/Parks
18. **April 12, 2020:** Church on the Square **has not** canceled their event at the Plaza.
19. **April 18, 2020:** Corvette show has been postponed, this event may move to November 2020, new date TBD
20. **May 2, 2020:** Boerne .5K has been postponed; new date TBD.

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right; margin-top: 10px;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso <input checked="" type="checkbox"/> All </div>
AGENDA DATE	<i>March 24, 2020</i>
DESCRIPTION	PUBLIC HEARING – To Hear Comments On The Following: (The City Council will allot a maximum of 30 minutes for Public Comments. Presentations will be limited to 3 minutes per speaker.) A. PROPOSED BOERNE PACE PROGRAM.
STAFF'S RECOMMENDED ACTION (be specific)	No Action.
CONTACT PERSON	Mayor Tim Handren
SUMMARY	Receive public comments from the citizens. Due to the COVID-19 pandemic, the meeting will only be available by telephone.
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	

This summary is not meant to be all inclusive. Supporting documentation is attached.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Boerne, Texas will hold a Public Hearing on March 24, 2020 at 6:00 p.m., in the City Council Chambers, located at Boerne City Hall, 447 N Main Street, Boerne, Texas, to discuss the following:


A. Proposed Boerne PACE program.

All interested parties are encouraged to attend.

s/s Lori A. Carroll
City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS

The Boerne City Hall is wheelchair accessible. Access to the building and special parking are available at the north entrance of the building. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 830-249-9511.

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso <input checked="" type="checkbox"/> All </div>
AGENDA DATE	<i>March 24, 2020</i>
DESCRIPTION	CONSIDER RESOLUTION NO. 2020-R24; A RESOLUTION OF THE CITY OF BOERNE CITY COUNCIL ESTABLISHING THE CITY OF BOERNE PACE PROGRAM.
STAFF'S RECOMMENDED ACTION (be specific)	Approve Resolution No. 2020-R24; Establishing the City of Boerne PACE Program.
CONTACT PERSON	Mayor Tim Handren
SUMMARY	<p>Texas Property Assessed Clean Energy (PACE) Program is a simple and affordable way to finance energy and water efficiency upgrades for commercial properties. PACE provides low cost, long-term, 100% financing for these qualified “Green” improvements. Eligible upgrades are financed over time through a voluntary property tax assessment attached to the property. PACE improvements add value to the property and reduce utility bills with the upgrades typically paying for themselves with positive cash flow over time.</p>
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	

This summary is not meant to be all inclusive. Supporting documentation is attached.

RESOLUTION NO. 2020-R24

A RESOLUTION OF THE CITY OF BOERNE CITY COUNCIL ESTABLISHING THE CITY OF BOERNE PACE PROGRAM

WHEREAS, the 83rd Regular Session of the Texas Legislature enacted the Property Assessed Clean Energy Act, Texas Local Government Code Chapter 399 (the “PACE Act”), which allows the governing body of a local government, including a City, to designate an area of the territory of the local government as a region within which an authorized representative of a local government and the record owners of commercial, industrial, and large multifamily residential (5 or more dwelling units) real property may enter into written contracts to impose assessments on the property to repay the financing by the owners of permanent improvements fixed to the property intended to decrease energy or water consumption or demand;

WHEREAS, the installation or modification by property owners of qualified energy or water saving improvements to commercial, industrial, and large multifamily residential real property in the City will further the goals of energy and water conservation without cost to the public;

WHEREAS, the City Council finds that third-party financing of energy and water conserving projects through contractual assessments maintained by the City (“PACE financing”) furthers essential government purposes, including but not limited to, economic development, reducing energy consumption and costs, conserving water resources, and reducing greenhouse gas emissions;

WHEREAS, the City Council adopted a Resolution of Intent to establish a PACE program for City on March 10, 2020, including a reference to the report on the proposed program prepared as required by Section 399.009 of the PACE Act and made the report available to the public on the City website and for inspection in the City Manager’s office;

WHEREAS, The City Council finds that the administration of the PACE program by a qualified non-profit organization as an independent third-party Authorized Representative contracted by the City and compensated by application and administration fees paid by the participating property owners, will enable the program to be administered without use of City resources, will assure the objectives of impartiality and confidentiality of owner information, and will be convenient and advantageous to the City; and

WHEREAS, The City intends to enter into an interlocal agreement with the Alamo Area Regional Council of Government, which will serve as the independent third-party Authorized Representative; and

WHEREAS, the City Council held a public hearing on March 24, 2020 at 6:00 p.m. in the City Council Chambers, 447 N Main, Boerne, Texas, at which the public could comment on the proposed program, including the report available for public inspection as mentioned above and as required by Section 399.008(a)(2):

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

1. Recitals. The recitals to this Resolution are true and correct and are incorporated into this resolution for all purposes.

2. Establishment of Program. The City of Boerne, Texas hereby adopts this Resolution Establishing the City of Boerne Property Assessed Clean Energy Program ("Boerne PACE"), herein called "the Program," and finds that financing qualified projects through contractual assessments pursuant to the PACE Act is a valid public purpose and is convenient and advantageous to the City and its citizens.
3. Contractual Assessments. The City will, at the property owner's request, impose contractual assessments on the property to repay PACE financing for qualified energy and water conserving projects available to owners of privately owned commercial, industrial, and large multifamily property.
4. Qualified Projects. The following types of projects are qualified projects for PACE financing that may be subject to such contractual assessments:

Projects that (a) involve the installation or modification of a permanent improvement fixed to privately owned commercial, industrial, or residential real property with five (5) or more dwelling units, and (b) are intended to decrease energy or water consumption or demand, including a product, device, or interacting group of products or devices on the customer's side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature.

An assessment may not be imposed to repay the financing of facilities for undeveloped lots or lots undergoing development at the time of the assessment or the purchase or installation of products or devices not permanently fixed to real property.

5. Region. The boundaries of the entire geographic area within the City's jurisdiction are included in the boundaries of the region where PACE financing and assessments can occur. [A City program can include its ETJ].
6. Third- Party Financing. Financing for qualified projects under the Program will be provided by qualified third-party lenders chosen by the owners. Such lenders will execute written contracts with the Authorized Representative to service the debt through assessments, as required by the PACE Act. The contracts will provide for the lenders to determine the financial ability of owners to fulfill the financial obligations to be repaid through assessments, advance the funds to owners on such terms as are agreed between the lenders and the owners for the installation or modification of qualified projects, and service the debt secured by the assessments, directly or through a servicer, by collecting payments from the owners pursuant to financing documents executed between the lenders and the owners. The City will maintain and continue the assessments for the benefit of such lenders and will enforce the assessment lien for the benefit of a lender in the event of a default by an owner. The City will not, at this time, provide financing of any sort for the City of Boerne PACE program.
7. Authorized Representative. The City Council will enter into an interlocal agreement with the Alamo Area Council of Governments (AACOG) through which AACOG will act as the Authorized Representative with authority to enter into written contracts with the record owners of real property in the City to impose

assessments pursuant to the PACE Act to repay the financing of qualified projects on the owners' property, to enter into written contracts with the parties that provide third-party financing for such projects to service the debts through assessments, and to file written notice of each contractual assessment in the real property records of Kendall County, all on behalf of the City. The Authorized Representative may make technical and conforming updates as necessary so long as the changes are consistent with the resolution to establish the PACE program and the statute. The City Manager or his designee will be the liaison with the Authorized Representative.

8. Enforcement. The City will enforce the collection of past due assessments and may contract with a qualified law firm to assist in collection efforts.
9. Report. The final report on the - PACE program, prepared in accordance with Section 399.009 of the Texas Local Government Code is attached and incorporated into this resolution. The City will post the resolution and report on the City's website.
10. Amendment of Program. The City Council may amend the Boerne PACE Program by resolution. However, another public hearing is required before the Program may be amended to provide for City financing of qualified improvements through assessments.

PASSED and APPROVED on this the ____ day of March, 2020.

APPROVED:

Mayor

ATTEST:

City Secretary

Adopted this ___ day of March, 2020.

Honorable Tim Handren, Mayor

Honorable Ty Wolosin
Place 1

Honorable Nina Woolard, Mayor Pro Tem
Place 2

Honorable Quintin Scott
Place 3

Honorable Brian Fowler
Place 4

Honorable Joseph Macaluso
Place 5

REPORT REQUIRED BY TEXAS LOCAL GOVERNMENT CODE SECTION 399.009
FOR PROPOSED MUNICIPAL
PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM

This Report is adopted by the City Council for the City of Boerne Property Assessed Clean Energy (PACE) Program (**the “Program”**) in accordance with the requirements of the Property Assessed Clean Energy Act (**the “PACE Act”**) as set forth in Texas Local Government Code Chapter 399.

The City of Boerne and its constituents benefit when older existing buildings are modified with new technology and equipment that increases energy efficiency and reduces water consumption. As described in this Report, the City is establishing the commercial PACE Program to encourage private sector investment in energy efficiency and water conservation. The PACE Program will be offered to property owners on a strictly voluntary basis and will not require the use of any public funds or resources.

Authorized under the PACE Act enacted in 2013, the PACE program is an innovative financing program that enables private sector owners of privately owned commercial, industrial, and multi-family residential properties with five or more dwelling units to obtain low-cost, long-term loans to pay for water conservation, energy-efficiency improvements, and renewable energy retrofits. PACE loans provide up to 100% financing of all project costs, with little or no up-front out-of-pocket cost to the owner. The City has chosen to follow the administrative principles, program processes, and model documents of the uniform Texas PACE in a Box model program.¹

Loans made under the PACE Program will be secured by assessments on the property that are voluntarily imposed by the owner. Assessments may be amortized over the projected life of the improvements. The utility cost savings derived from improvements financed with PACE loans are expected to equal or exceed the amount of the assessment. In turn, these improvements are able to generate positive cash flow upon installation because the debt service will be less than the savings.

PACE assessments are tied to the property and follow title from one owner to the next. Each owner is responsible only for payment of the assessments accruing during its period of ownership. When the property is sold, the payment obligation for the remaining balance of the assessment is transferred automatically to the next owner. As a result, the program will help property owners overcome market barriers that often discourage investment in energy efficiency and water conservation improvements.

1. Eligible Properties

The City of Boerne PACE program is a strictly voluntary program. All private sector owners of Eligible Properties located within the City PACE region may participate in PACE financing.

¹ <https://www.keepingpaceintexas.org/pace-in-a-box>

“Eligible Properties” include commercial, industrial, and multi-family residential properties with five or more dwelling units. Government, residential², and undeveloped property and property undergoing development at the time of the assessment are not Eligible Properties.

2. Qualified Improvements

PACE financing may be used to pay for Qualified Improvements to Eligible Properties.

“Qualified Improvements” are permanent improvements intended to decrease water or energy consumption or demand, including a product, device, or interacting group of products or devices on the customer’s side of the meter that use energy technology to generate electricity, provide thermal energy, or regulate temperature. Under the PACE Act, products or devices that are not permanently fixed to real property are not considered to be Qualified Improvements.

The following items may constitute Qualified Improvements:

- High efficiency heating, ventilating and air conditioning (“HVAC”) systems
- High efficiency chillers, boilers, and furnaces
- High efficiency water heating systems
- Energy management systems and controls
- Distributed generation systems
- High efficiency lighting system upgrades
- Building enclosure and envelope improvements
- Water conservation and wastewater recovery and reuse systems
- Combustion and burner upgrades
- Heat recovery and steam traps
- Water management systems and controls (indoor and outdoor)
- High efficiency irrigation equipment

3. Benefits of PACE to Property Owners

The PACE program will enable owners of Eligible Properties to overcome traditional barriers to capital investments in energy efficiency and water conservation improvements, such as unattractive returns on investment, split incentives between landlords and tenants, and uncertainty of recouping the investment upon sale of the property.

By financing Qualified Improvements through the program, property owners may achieve utility cost savings that exceed the amount of the assessment and reduce their exposure to utility price volatility. As a result, the value of the property will be enhanced, and the owner will only be obligated to pay the assessment installments that accrue during its period of ownership of the property. Additionally, by investing in energy efficiency and water conservation with PACE financing, property owners may also qualify for various rebate, tax credit, and incentive programs offered by utility providers and state or federal governmental authorities to encourage these types of investments.

4. Benefits of PACE to the City

² This encompasses single family residential and any multi-family properties with fewer than five units.

Among other things, projects financed through PACE will:

- Enable property owners and occupants to save substantial amounts in utility costs,
- Reduce demand on the electricity grid
- Mitigate greenhouse gas emissions associated with energy generation
- Enhance the value and efficiency of existing buildings
- Boost the local economy by creating new job opportunities and new business opportunities for contractors, engineers, commercial lenders, professionals, and equipment vendors and manufactures
- Increase business retention and expansion in the PACE region by enabling cost effective energy and water saving updates to existing property
- Improve productivity through optimized energy usage
- Support the State's water conservation plan
- Better enable the City to meet its water conservation goals

Finally, through the reduction in energy consumption as a result of the PACE program, there will be a decreased demand for power resulting in lower emissions from power plants. EPA regulations have significant impacts on air quality standards in Texas. For example, the most recent adjustment in the NAAQS to a lower standard increased the difficulty for the City to bring the area into attainment. Being non-attainment for priority pollutants in the Clean Air Act endangers federal transportation funding.

The PACE program requires minimal support from the City. It is designed to be self-sustaining. Furthermore, because the PACE program is tax neutral, it achieves all of the benefits listed in this Report without imposing a burden on the City's general fund.

The 84th Texas Legislature added a provision that explicitly shields the City and its employees, members of the governing body of a local government, employees of a local government, and board members, executives, employees, and contractors of a third party who enter into a contract with a local government to provide administrative services for a program under this chapter.³

5. The Benefits of PACE to Lenders

PACE loans are attractive to lenders because they are very secure investments. Like a property tax lien, the assessment lien securing the PACE loan has priority over other liens on the property. Therefore, the risk of loss from non-payment of a PACE loan is low compared to most other types of loans. PACE assessments provide lenders with an attractive new product to assist existing and new customers in addressing an almost universal pent-up demand for needed commercial and industrial property equipment modernization. In order to protect the interests of holders of existing mortgage loans on the property, the PACE Act requires their written consent to the PACE assessment as a condition to obtaining a PACE loan.

³ TX. Local Gov't Code §399.019. In the 85th legislature, HB 2654 clarified that the personal immunity provisions apply to all elected officials performing rights and duties under chapter 399 of the Local Government Code.

6. The Benefits of PACE to Contractors, Engineers, and Manufacturers

PACE loans provide attractive sources of financing for water and energy saving retrofits and upgrades, thereby encouraging property owners to make substantial investments in existing commercial and industrial buildings. As a result, PACE will unlock business opportunities for contractors, engineers, and manufacturers throughout the commercial and industrial sectors.

7. Administration of the Boerne PACE Program

Under the PACE Act, the establishment and operation of the program are considered to be governmental functions.⁴ The PACE Act further authorizes the City to enter into a contract with a third party to provide administrative services for the PACE program (the “**Authorized Representative**”). City will delegate administration of the PACE program to the Alamo Area Council of Governments through an interlocal agreement.

The Authorized Representative’s role is to serve as an extension of the local government staff to provide oversight of the program to ensure best practices and consumer protections at the lowest possible cost to the property owner in a transparent and ethical manner and to provide education and outreach.

The Authorized Representative will be funded by administrative fees paid by the property owners establishing a PACE project, charitable grants or other authorized sources of revenue. The Authorized Representative will not receive compensation or reimbursement from the City.

8. Eligible Lenders

The PACE Act does not set criteria for financial institutions or investors to be PACE lenders. The City will follow best practices of the Texas PACE in a Box model program by recommending that lenders be:

- Any federally insured depository institution such as a bank, savings bank, savings and loan association and federal or state credit union;
- Any insurance company authorized to conduct business in one or more states;
- Any registered investment company, registered business development company, or a Small Business
- Small business investment company;
- Any publicly traded entity; or
- Any private entity that:
 - Has a minimum net worth of \$5 million; and
 - Has at least three years’ experience in business or industrial lending or commercial real estate lending (including multifamily lending), or has a lending officer that has at least three years’ experience in business or industrial lending or commercial real estate lending; and
 - Can provide independent certification as to availability of funds; and
- All lenders must have the ability to carry out, either directly or through a servicer, the bookkeeping and customer service work necessary to manage the assessment accounts.

⁴

TX Local Government Code §399.003(b)

Any lender can participate in the PACE program as long as it is a financially stable entity with the ability to carry out, either directly or through a servicer, the bookkeeping and customer service work necessary to manage the assessment accounts. The property owner, not the City or the Authorized Representative, selects the lender.

The Authorized Representative will not guarantee or imply that funding will automatically be provided from a third-party lender, imply or create any endorsement of, or responsibility for, any lender; or create any type of express or implied favoritism for any eligible lender.

9. Components of the PACE Program

As required under Section 399.009 of the PACE Act, the following describes all aspects of the PACE Program:

- a. Map of Region. A map of the boundaries of the region included in the program is attached to this Report as Exhibit 1. The region encompasses the City limits [and its extra-territorial jurisdiction].
- b. Form Contract with Owner. A form contract between the City and the record owner of the Eligible Property is attached as Exhibit 2. It specifies the terms of the assessment under the PACE program and the financing to be provided by an Eligible Lender of the property owner's choosing.
- c. Form Contract with Lender. A form contract between the City and the Eligible Lender chosen by a property owner is attached to this Report as Exhibit 3. It specifies the financing and servicing of the debt through assessments.

Form Notice of Contractual Assessment Lien. A form Notice of Assessment Lien to be filed by the City with the County Clerk is attached to this Report as Exhibit 4.

- d. Qualified Improvement. The following types of projects are qualified improvements that may be subject to contractual assessments under the PACE program:

Projects that (a) involve the installation or modification of a permanent improvement fixed to privately owned commercial, industrial or residential real property with five (5) or more dwelling units;⁵ and (b) are intended to decrease energy or water consumption or demand by installing a product, device, or interacting group of products or devices on the customer's side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature.⁶

⁵ TX. Local Gov't Code §399.002(5).

⁶ TX. Local Gov't Code §399.002(3).

A sample list of potential Qualified Improvements appears in Section 2 above.

The PACE program may not be used to finance improvements to undeveloped lots or lots undergoing development at the time of the assessment, or for the purchase or installation of products or devices not permanently fixed to real property.⁷

- e. Authorized Representative. HB 3187 was signed into law on June 16, 2015. It authorizes the City to delegate administration of the PACE program to a third-party “Authorized Representative.” The City of Boerne intends to delegate all official administrative responsibilities, such as the execution of individual contracts with property owners and lenders, to the Alamo Area Council of Governments as the Authorized Representative, through an interlocal agreement. This relationship will be monitored and maintained by the City Manager].
- f. Project Review. Track and provide a public overview with savings metrics for all PACE projects
- g. Plans for Insuring Sufficient Capital⁸. Lenders will extend loans to finance Qualified Improvements. Financing documents executed between owners and lenders will impose a contractual assessment on Eligible Property to repay the owner’s financing of the Qualified Improvements. The lenders will ensure that property owners demonstrate the financial ability to fulfill the financial obligations to be repaid through contractual assessments.
- h. No Use of Bonds or Public Funds. The City does not intend to issue bonds or use any other public monies to fund PACE projects. Property owners will obtain all financing from the Eligible Lenders they choose.
- i. Limit on Length of Loan. One of the statutory criteria of a PACE loan is that the assessment payment period cannot exceed the useful life of the Qualified Improvement that is the basis for the loan and assessment. As part of the application process, the property owners will submit an independent third-party review prepared by a licensed engineer showing the water or energy baseline conditions and the projected water or energy savings. This review will aid the Authorized Representative in making a determination that the period of the requested assessment does not exceed the useful life of the Qualified Improvement.
- j. Application Process. The Authorized Representative will accept applications from property owners seeking to finance Qualified Improvements under the

⁷ TX. Local Gov’t Code §399.004.

⁸ The Texas PACE Authority’s website (www.texaspaceauthority.org) offers a non-exhaustive list of interested and qualified lenders to assist property owners in funding PACE projects in Texas.

program. Each application must be accompanied by the required application fee and must include:

- (1) A description of the specific Qualified Improvements to be installed or modified on the property,
- (2) A description of the specific real property to which the Qualified Improvements will be permanently fixed, and
- (3) The total amount of financing, including any transaction costs, to be repaid through assessments.

Based on this information, the Authorized Representative may issue a preliminary letter indicating that, subject to verification of all requirements at closing, the proposed project appears to meet program requirements. Based on this preliminary letter, the property owner may initiate an independent third-party review of the project and submit the project to Eligible Lenders for approval of financing.

Once the above processes are completed, the property owner will submit the application to the Authorized Representative to obtain preliminary approval. The property owner is expected to produce the following documentation prior to closing on the PACE loan:

- (1) A Report conducted by a qualified, independent third-party reviewer, showing water or energy baseline conditions and the projected water or energy savings, or the amount of renewable energy generated attributable to the project;
- (2) Such financial information about the owner and the property as the lender chosen by the owner deems necessary to determine that the owner has demonstrated the financial ability to fulfill the financial obligations to be paid through assessments; and
- (3) All other information required by the Authorized Representative.

k. Financial Eligibility Requirements. The Authorized Representative will determine whether the owner, the property and the improvements are eligible for financing under the program. The Eligible Lender chosen by the owner will determine whether the owner has demonstrated the financial ability to repay the financial obligations to be collected through contractual assessments. The statutory method⁹ for ensuring such a demonstration of financial ability must be based on appropriate underwriting factors, including the following:

- (1) verification that the person requesting to participate in the program is the legal record owner of the benefitted property,
- (2) the applicant is current on mortgage and property tax payments,
- (3) the applicant is not insolvent or in bankruptcy proceedings,
- (4) the title of the benefitted property is not in dispute; and
- (5) there is an appropriate ratio of the amount of the assessment to the assessed value of the property. The City determines that a 20% loan to assessed value of the property is appropriate and acknowledges that in

⁹ TX. Local Gov't Code §399.009(b).

some circumstances a variance of this ratio may be appropriate. The Authorized Representative will consider factors in a variance request, including:

- (a) What is the existing debt to assessed value of the property prior to closing the PACE loan?
- (b). What is the estimated fair market value of the property? How was the value determined (e.g., market appraisal, desktop appraisal, insurance valuation, etc.)?
- (c). What is the estimated post-renovation fair market value of the property (including an explanation on how this value was determined)?

The City determines to be eligible for PACE financing, the projected savings derived from the Qualified Improvement must be greater than the cost of the PACE assessment and lien over the life of the assessment (i.e., the Savings to Investment Ratio (SIR) should be greater than one, $SIR > 1$). A third-party lender and a for profit-property owner may request a waiver in writing for a project with an $SIR < 1$ and address the interests of tenants and future property owners. The Authorized Representative may consider factors in a variance request including:

- (a). Are there other environmental benefits such as air or water quality or resiliency that are not captured in the SIR analysis;
- (b) Will the proposed qualifying improvements generate environmental marketable credits that can be monetized?
- (c). What is the SIR calculation for the project (how far below 1?);
- (d). If the SIR is < 1 over the term of the assessment, is the $SIR > 1$ over the useful life of the equipment?
- (e). What is the impact of a variance request on affected third parties? and
- (f) Other information the owner and lender wish to submit regarding the impact of the qualified improvements on the company and the community.

1. Mortgage Holder Notice and Consent. As a condition to the execution of a written contract between the Authorized Representative and the property owner imposing an assessment under the program, the holder of any mortgage lien on the property must be given notice of the owner's intention to participate in the program on or before the 30th day before the date the contract is executed, and the owner must obtain the written consent of all mortgage holders.¹⁰

¹⁰ TX. Local Gov't Code §399.010.

- m. Imposition of Assessment. The Authorized Representative will enter into a written contract with the property owner, only after:
- (1) The property owner delivers to the Authorized Representative written consent of all mortgage lien holders;
 - (2) The Authorized Representative's determination that the owner and the property are eligible to participate in the program, that the proposed improvements are reasonably likely to decrease energy or water consumption or demand, and that the period of the requested assessment does not exceed the useful life of the Qualified Improvements; and
 - (3) The Eligible Lender notifies the Authorized Representative that the owner has demonstrated the financial ability to fulfill the financial obligations to be repaid through contractual assessments.

The contract will impose a contractual assessment on the owner's Eligible Property to repay the lender's financing of the Qualified Improvements. The Eligible Lender will file "A Notice of Contractual Assessment Lien," in substantially the form in Exhibit 4 in the Official Public Records of Kendall County, depending on where the Eligible Property is located, as notice to the public of the assessment, from the date of filing. The contract and the notice must contain the amount of the assessment, the legal description of the property, the name of the property owner, and a reference to the statutory assessment lien provided under the PACE Act.

- n. Collection of Assessments. The execution of the written contract between the Authorized Representative and the property owner and recording of the Notice of Contractual Assessment Lien incorporate the terms of the financing documents executed between the property owner and with the lender to repay the financing secured by the assessment. The third-party lender will advance financing to the owner, and the terms for repayment will be such terms as are agreed between the lender and the owner. Under the form lender contract attached as Exhibit 3, the lender or a designated servicer will agree to service the debt secured by the assessment.¹¹

With funds from the lender, the property owner can purchase directly the equipment and materials for the Qualified Improvement and contract directly, including through lease, power purchase agreement, or other service contract, for the installation or modification of the Qualified Improvements. Alternatively, the lender may make progress payments to the property owner as the Qualified Improvement is installed.

The lender will receive the owner's assessment payments to repay the debt and remit to the Authorized Representative any administrative fees. The lender will have the right to assign or transfer the right to receive the installments of the debt secured by the assessment, provided all of the following conditions are met:

¹¹ The servicer will be responsible for maintaining payment records, account balances, and reporting to the Authorized Representative as required.

- (1) The assignment or transfer is made to an Eligible Lender, as defined above;
- (2) The property owner and the Authorized Representative are notified in writing of the assignment or transfer and the address to which payment of the future installments should be mailed at least 30 days before the next installment is due according to the schedule for repayment of the debt; and
- (3) The assignee or transferee, by operation of the financing documents or otherwise, written evidence of which shall be provided, assumes lender's obligations under the lender contract.

- o. Verification Review. After a Qualified Improvement is completed, the Authorized Representative will require the property owner to provide verification by a qualified independent third-party reviewer that the Qualified Improvement was properly completed and is operating as intended.¹² The verification report conclusively establishes that the improvement is a Qualified Improvement and the project is qualified under the PACE program.¹³
- p. Marketing and Education Services. The Program Administrator will provide service provider training workshops for contractors, engineers, property managers and other stakeholders, provide outreach and education for all stakeholders including presentations, conference booths and individual meetings, and provide written and electronic materials such as case studies, flyers, and webinars.
- q. The City may subsequently enter into agreements with one or more other local governments or non-profit organizations that promote energy and water conservation and/or economic development to provide marketing and education services for the PACE program.
- r. Quality Assurance and Antifraud Measures. The Authorized Representative will institute quality assurance and antifraud measures for the Program. The Authorized Representative will review each PACE application for completeness and supporting documents through independent review and verification procedures. The application and required attachments will identify and supply the information necessary to ensure that the property owner, the property itself, and the proposed project all satisfy PACE program underwriting and technical standard requirements. Measures will be put in place to provide safeguards, including a review of the energy and water savings baseline and certification of compliance with the technical standards manual from an independent third-party reviewer (ITPR), who must be a registered professional engineer, before the project can proceed. This review will include a site visit, report, and a letter from the ITPR certifying that he or she has no financial interest in the project and is an independent reviewer. After the construction of the project is complete, an

¹² TX Local Gov't Code §399.011.

¹³ TX Local Government Code §399.011(a-1)

ITPR will conduct a final site inspection and determine whether the project was completed and is operating properly. The reviewer's certification will also include a statement that the reviewer is qualified and has no financial interest in the project.

- s. Delinquency. Under the terms of the form lender contract attached as Exhibit 3, if a property owner fails to pay an agreed installment when due on the PACE assessment, the lender will agree to take at least the following steps to collect the delinquent installment:
- (1) Mail to the owner a written notice of delinquency and demand for payment by both certified mail (return receipt requested) and first-class mail, and
 - (2) Mail to the owner a second notice of delinquency and demand for payment by both certified mail (return receipt requested) and first-class mail, at least 30 days after the date of the first notice if the delinquency is continuing.

If the owner fails to cure the delinquency within 30 days after mailing the second notice of delinquency, the lender may notify the Authorized Representative of the owner's default. Pursuant to Texas Local Government Code Section 399.014(c), the Authorized Representative will initiate steps for the City to enforce the assessment lien in the same manner as a property tax lien against real property may be enforced, to the extent the enforcement is consistent with Section 50, Article XVI, of the Texas Constitution. Delinquent installments will incur penalties and interest in the same manner and at the same rate as delinquent property taxes, according to Texas Local Government Code Section 399.014(d), and such statutory penalties and interest will be due to the City to offset the cost of collection.

If the City files suit to enforce collection, the City may also recover costs and expenses, including attorney's fees, in a suit to collect a delinquent installment of an assessment in the same manner and at the same rate as in suit to collect a delinquent property tax. If a delinquent installment of an assessment is collected after the filing of a suit, the City will remit to the lender the net amount of the delinquent installments and contractual interest collected and remit to the Authorized Representative the amount of any administrative fees collected but will retain any statutory penalties, interest, and attorney's fees collected.

EXHIBIT 1
MAP OF CITY OF BOERNE PACE REGION

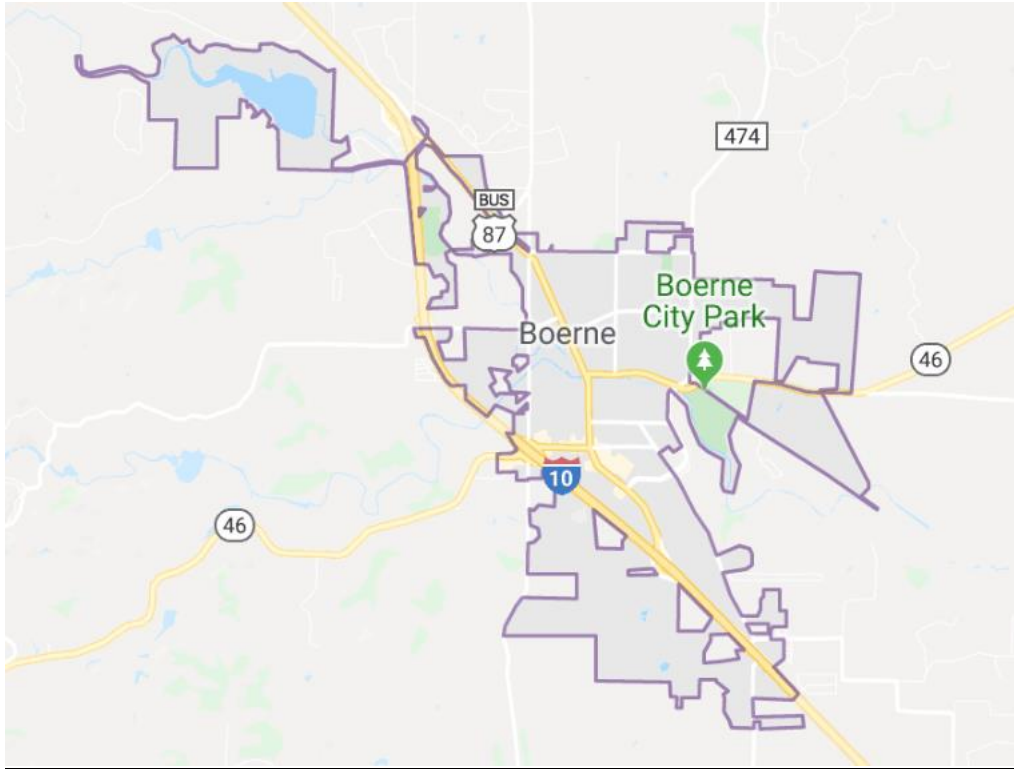


EXHIBIT 2
FORM OWNER CONTRACT

PACE OWNER CONTRACT

THIS PROPERTY ASSESSED CLEAN ENERGY ("**PACE**") OWNER CONTRACT including the attached exhibits ("**Owner Contract**") is made as of the _____ day of _____, _____ ("**Effective Date**"), by and between the City of Boerne, Texas ("**Local Government**"), and _____ ("**Property Owner**").

RECITALS

A. The Property Assessed Clean Energy Act ("**PACE Act**"), Texas Local Government Code Chapter 399, authorizes the governing body of a local government to establish a program and designate a region within the local government's jurisdiction within which an authorized representative of the local government may enter into written contracts with the record owners of privately owned commercial, industrial, and large multifamily residential (5 or more dwelling units) real property to impose assessments on the property to finance the cost of permanent improvements fixed to the property intended to decrease water or energy consumption or demand.

B. Local Government has established a program under the PACE Act pursuant to a resolution dated _____, adopted by the City Council ("**PACE Program**"), and has designated the Alamo Area Regional Council of Governments (AACOG) ("**Authorized Representative**") authorized to enter into the written contracts with the owners of such property and the providers of such financing described herein, and has designated the entire territory within the City of Boerne, Texas jurisdiction as a region (**the "Region"**) within which the Authorized Representative and the record owners of such real property may enter into written contracts to impose assessments to repay the financing by owners of qualified improvements on the owners' property pursuant to the PACE Program.

C. Property Owner is/are the sole legal and record owner of the qualified "real property," as defined in Section 399.002 of the PACE Act, within the Region located at _____, Boerne, Texas _____ - _____ (the "**Property**").

D. Pursuant to Application number _____, Property Owner has applied to Local Government to participate in the PACE Program by installing or modifying on the Property certain permanent improvements which are intended to decrease water or energy consumption or demand, and which are or will be fixed to the Property as "qualified improvements", as defined in Section 399.002 of the PACE Act ("**Qualified Improvements**"). The installation or modification of such Qualified Improvements on the Property will be a "qualified project" as defined in Section 399.002 of the PACE Act (the "**Project**"). Property Owner has requested that Local Government enter into this Owner Contract pursuant to the PACE Act and the PACE Program and has requested Local Government to impose an assessment (the "**Assessment**") on the Property as set forth in the Notice Of Contractual Assessment Lien Pursuant To Property Assessed Clean Energy Act to be filed in the in the real property records of Kendall, County, Texas (the "**Notice of Contractual Assessment Lien**", to repay the financing of such Qualified Improvements. A copy of the Notice of Contractual Assessment Lien is attached hereto as Exhibit A and made a part hereof. The Property, Qualified Improvements and Assessment are more fully described in the Notice of Contractual Assessment Lien.

E. Financing for the Project ("**Financing**") will be provided to Property Owner by [REDACTED] ("**Lender**"), a qualified lender selected by Property Owner, pursuant to a written contract executed by Lender and Local Government as required by Section 399.006(c) of the PACE Act (the "**Lender Contract**"). The financing will include only those costs and fees for which an assessment may be imposed under Section 399.006(e) of the PACE Act. Local Government has agreed to maintain and continue the Assessment for the benefit of Lender until the Financing, all contractual interest due to Lender ("**Contractual Interest**"), any prepayment penalty, and any penalties, interest, fees, and costs due under or authorized by the PACE Act are paid in full and to release the Assessment upon notice from Lender of such payment, or to foreclose the lien securing the Assessment for the benefit of Lender upon notice from Lender of a default in payment by Property Owner.

F. As required by Section 399.010 of the PACE Act, Property Owner has notified the holder(s) of any mortgage liens on the Property at least thirty (30) days prior to the date of this Owner Contract of Property Owner's intention to participate in the PACE Program. The written consent of each mortgage holder to the Assessment was obtained prior to the date of this Owner Contract and is attached hereto as Exhibit B and made a part hereof.

AGREEMENT

The parties agree as follows:

1. Imposition of Assessment. In consideration for the Financing advanced or to be advanced to Property Owner by Lender for the Project under the PACE Program pursuant to the Lender Contract, Property Owner hereby requests and agrees to the imposition by Local Government of the Assessment in the principal amount of \$ [REDACTED], as set forth in the Notice of Contractual Assessment Lien. In the event the actual total of costs and fees for which an assessment may be imposed under the PACE Act is different from the stated amount or any other term requires correction, Local Government, Property Owner, and Lender agree to execute an amended Owner Contract and Lender Contract, and Authorized Representative will record an amended Notice of Contractual Assessment Lien. The Assessment includes the application and administration fees authorized by the PACE Program and Section 399.006(e) of the PACE Act. Property Owner promises and agrees to pay the Assessment, Contractual Interest thereon, any prepayment penalty, and all penalties, interest, fees, and costs due under or authorized by the PACE Act and the financing documents executed between Property Owner and Lender (the "**Financing Documents**") described in or copies of which are attached as Exhibit C attached hereto and made a part hereof by reference. Property Owner will pay such amount in care of or as directed by Lender, in satisfaction of the Assessment imposed pursuant to this Owner Contract and the PACE Act. Accordingly, Local Government hereby imposes the Assessment on the Property to repay the Financing of the Project, Contractual Interest, any prepayment penalty, and any penalties, interest, fees and costs due under or authorized by the PACE Act and the Financing Documents, in accordance with the requirements of the PACE Program and the provisions of the PACE Act.

2. Maintenance and Enforcement of Assessment. In consideration for Lender's agreement to advance Financing to Property Owner for the Project pursuant to the Financing Documents, Local Government agrees to maintain and continue the Assessment on the Property for the benefit of Lender until the Assessment, Contractual Interest, any prepayment penalty, and any penalties, interest, fees, and costs, due under or authorized by the PACE Act and the Financing Documents are paid in full, and to release the Assessment upon notice from Lender of such payment. Local Government agrees to enforce the assessment lien against the Property at

the request of Lender in the event of a default in payment by Property Owner, in accordance with the provisions set forth in paragraph 5. Authorized Representative will deliver an annual notice of assessment to Property Owner by electronic mail each year until the Assessment is released. If requested by Property Owner by marking the box below, Local Government agrees to also deliver an annual notice of assessment to Property Owner by first-class mail in the envelop with the tax bill of the Property each year until the Assessment is released.

☐ Property Owner requests an annual notice of assessment from Local Government. Any failure of Local Government or Authorized Representative to deliver an annual notice of assessment to Property Owner will not affect the Assessment or Property's Owner's obligations under this Owner Contract.

3. Installments. The Assessment and Contractual Interest thereon are due and payable to Lender in installments ("**Installments**"), according to the payment schedule set forth in the Financing Documents attached hereto as Exhibit C. The Assessment includes (1) an application fee paid by Property Owner to Authorized Representative at closing of the Financing, and (2) a recurring administration fee paid by Property Owner to Authorized Representative until the Assessment is released. The recurring administration fee amount will be collected by Lender and paid to Authorized Representative within thirty (30) days of receipt by Lender, unless otherwise agreed to in writing by Authorized Representative. Notwithstanding the foregoing, in the event of a delinquency in the payment of any Installment, Lender will, upon notice to Authorized Representative, withhold payment of any administration fee due to Authorized Representative in connection with such Installment until the Installment is paid. Any such temporary withholding will not reduce the amount of the administration fees included in the Assessment. The amounts due to Authorized Representative are identified in Exhibit C hereto. When the Assessment, Contractual Interest, any prepayment penalty, and any penalties, interest, fees and costs due under or authorized by the PACE Act and the Financing Documents, have been paid in full, Local Government's rights under this Owner Contract will cease and terminate. Upon notice from Lender that all amounts due have been paid in full, Authorized Representative will execute a release of the Assessment and this Owner Contract and record the release. As required by Section 399.009(a) (8) of the PACE Act, the period during which such Installments are payable does not exceed the useful life of the Project.

4. Assignment of Right to Receive Installments or Require Enforcement of Lien. Lender will have the right, with or without the consent of Property Owner, to assign or transfer the right to receive the Installments or require Local Government to enforce the assessment lien in the event of a default in payment, together with all corresponding obligations, provided that all of the following conditions are met:

(a) The assignment or transfer is made to a qualified lender as defined in the Lender Contract;

(b) Property Owner and Authorized Representative are notified in writing of the assignment or transfer and the address to which payment of the future Installments should be mailed at least 30 days before the next Installment is due according to the payment schedule included in the Financing Documents, and

(c) The assignee or transferee executes a written assumption agreement according to the Financing Documents of all of Lender's rights and obligations under this Lender Contract related to the receipt of the Installments or the enforcement of the

assessment lien and provides a copy of such assumption to Property Owner and Authorized Representative within 10 days after execution of the agreement.

Lender may assign or transfer the right to receive the Installments or the right to require enforcement of the assessment lien separately. Upon written notice to Property Owner and Authorized Representative of an assignment or transfer that meets all of these conditions, the assignor will be released of all of the rights and obligations of the Lender under such Lender Contract accruing after the date of the assignment that are specified in the assignment or transfer document, and all of such rights and obligations will be assumed by and transferred to the assignee. Any attempt to assign or transfer the right to receive the Installments or require enforcement of the assessment lien that does not meet all of these conditions is void. Lender will retain all of the rights and obligations of Lender under the Lender Contract until such rights and obligations are assigned or transferred according to this paragraph.

5. Lien Priority and Enforcement. Pursuant to Section 399.014 of the PACE Act:

(a) Delinquent Installments will incur penalties and interest on the principal of the Installment in the same manner and in the same amount as delinquent property taxes, that is, a delinquent Installment incurs a penalty of 6% of the principal amount of the Installment for the first calendar month it is delinquent plus 1% for each additional month or portion of a month the Installment remains unpaid prior to July 1 of the year in which it becomes delinquent. However, an Installment delinquent on July 1 incurs a total penalty of 12% of the principal amount of the delinquent Installment without regard to the number of months it has been delinquent. A delinquent Installment will also accrue interest on the principal of the Installment at the rate of 1% for each month or portion of a month that the Installment remains unpaid. Subject to paragraph 16 below, penalties, interest, fees, and costs payable under this paragraph will be retained by Local Government to compensate it for the cost of enforcing the Assessment. Additional interest at any default rate imposed by Lender pursuant to the Financing Documents, along with any other fees that become due pursuant to the Financing Documents, may be imposed and retained by Lender.

(b) The Assessment and any interest or penalties thereon,

(1) are a first and prior lien against the Property from the date on which the Notice of Contractual Assessment Lien is recorded in the real property records of Kendall County, Texas as provided by Section 399.013 of the PACE Act, until the Assessment, interest, or penalty is paid; and

(2) such lien has the same priority status as a lien for any other advalorem tax.

(c) The lien created by the Assessment runs with the land, and according to Section 399.014(b) of the PACE Act, any portion of the Assessment that has not yet become due will not be eliminated by foreclosure of (i) a property tax lien, or (ii) the lien for a delinquent installment of the Assessment. In the event of a sale or transfer of the Property by Property Owner, the obligation for the Assessment and the Property Owner's obligations under the Financing Documents will be transferred to the succeeding owner without recourse to Lender, Local Government, or Authorized Representative.

(d) In the event of a default by Property Owner in payment of an Installment called for by the Financing Documents or the filing of a case under the U.S. Bankruptcy

Code by or against Property Owner, the lien created by the Assessment will be enforced by Local Government for the benefit of Lender, in the same manner according to Texas Tax Code Secs. 33.41 to 34.23 that a property tax lien against real property may be enforced by a local government, to the extent the enforcement is consistent with Section 50, Article XVI, Texas Constitution.

(e) In a suit to collect a delinquent Installment of the Assessment, Local Government will be entitled to recover costs and expenses, including attorney's fees in the amount of 15% of the total principal amount of the delinquent Installment, penalties, and interest due, in the same manner according to Texas Tax Code Sec. 33.48 as in a suit to collect a delinquent property tax. Lender will be entitled to any additional sums due to it under the Financing Documents in connection with a suit to collect a delinquent Installment of the Assessment.

(f) As provided in Section 399.014 (a-1) of the PACE Act, after the Notice of Contractual Assessment Lien is recorded in the real property records of the county in which the Property is located, the lien created by the Assessment may not be contested on the basis that the improvement is not a "qualified improvement" or the project is not a "qualified project", as such terms are defined in Section 399.002 of the PACE Act.

6. Written Contract Required by PACE Act. This Owner Contract constitutes a written contract for the Assessment between Property Owner and Local Government as required by Section 399.005 of the PACE Act. The Notice of Contractual Assessment Lien will be recorded in the real property records of Kendall County, Texas as public notice of the contractual Assessment, in accordance with the requirements of Section 399.013 of the PACE Act.

7. Qualified Improvements. Property Owner agrees that all improvements purchased, constructed, or installed through the Financing obtained pursuant to this Owner Contract will be permanently affixed to the Property and will transfer with the Property to the transferee in the event of a sale or transfer of the Property. Property Owner agrees to provide to Authorized Representative within 30 days after the completion of the Project a verification by an independent third party reviewer ("ITPR") that the project was properly completed and is operating as intended. Property Owner agrees that Lender may retain the final advance of Financing until such verification is submitted or require Property Owner to pay liquidated damages for a failure to do so, according to paragraph 19 below.

8. Water or Energy Savings. For so long as the Assessment encumbers the Property, Property Owner agrees, on or before January 31st of each year, to report to Authorized Representative the water or energy savings realized through the Project in accordance with the reporting requirements established by Authorized Representative.

9. Construction and Definitions. This Owner Contract is to be construed in accordance with and with reference to the PACE Program and PACE Act. Terms used herein and not otherwise defined herein have the meanings ascribed to them in the PACE Program and/or the PACE Act.

10. Binding Effect. This Owner Contract is binding upon and inures to the benefit of the parties hereto and their respective heirs, representatives, successors, and assigns.

11. Notices. Unless otherwise specifically provided herein, all notices and other communications required or permitted by this Owner Contract shall be in writing and delivered by

first-class mail or by electronic mail, addressed to the other party at the address stated below the signature of such party or at such other address as such party may from time to time designate in writing to the other party, and shall be effective from the date of receipt.

12. Governing Law. This Owner Contract shall in all respects be governed by and construed in accordance with the laws of the State of Texas.

13. Entire Agreement. This Owner Contract constitutes the entire agreement between Local Government and Property Owner with respect to the subject matter hereof and may not be amended or altered in any manner except by a document in writing executed by both parties.

14. Captions. Paragraph and section titles are for convenience of reference only and shall not be of any legal effect.

15. Counterparts. This Owner Contract may be executed in any number of counterparts, and each counterpart may be delivered on paper or by electronic transmission, all of which when taken together will constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart.

16. Interest. Interest and penalties in the event of default, as provided above, are explicitly authorized by Section 399.014(d) of the PACE Act. However, in no event will the total amount of interest on the Assessment, including statutory interest payable to Local Government and Contractual Interest payable to Lender under the Financing Documents, exceed the maximum amount or rate of nonusurious interest that may be contracted for, charged, or collected under Texas law (the “**usury limit**”). If the total amount of interest payable to Local Government and Contractual Interest payable to Lender exceeds the usury limit, the interest payable to Local Government will be reduced and any interest in excess of the usury limit will be credited to the amount payable to Local Government or refunded. This provision overrides any conflicting provisions in this Owner Contract.

17. Costs. No provision of this Owner Contract will require Local Government to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder.

18. Further Assurances. Property Owner further covenants and agrees to do, execute and deliver, or cause to be done, executed, and delivered all such further acts for implementing the intention of this Owner Contract as may be reasonably necessary or required.

19. Construction Terms. The Financing Documents executed by Lender and Property Owner must include a requirement that Lender will withhold _____% of the Financing until verification that the Project was properly completed and is operating as intended is provided to Authorized Representative by an Independent Third Party Reviewer (“ITPR”), or Property Owner will pay liquidated damages to Lender of \$_____ per day for every day after 30 days following completion of the Project that such verification of completion is not provided. If verification of completion is not provided by Property Owner within 30 days after completion of the Project, such verification shall be submitted by Lender. If the Lender Contract includes requirements related to the construction of the Project and disbursement of Financing, such requirements are set forth in Exhibit D attached hereto and incorporated herein by reference. Such requirements may include, among other things, (1) the disbursement schedule and (2) any holdback amount to be funded following verification of final project completion.

PROPERTY OWNER:

By: _____

Name: _____

Title: _____

Address: _____

Email address: _____

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF _____ §

This Property Assessed Clean Energy (“**PACE**”) Owner Contract was acknowledged before me on _____, _____ by _____, _____, on behalf of _____.

_____ (print name)

NOTARY PUBLIC, STATE OF TEXAS

LOCAL GOVERNMENT:

BOERNE, TEXAS

By: ALAMO AREA COUNCIL OF GOVERNMENTS
AUTHORIZED REPRESENTATIVE
Pursuant to Tex. Local Gov't Code §399.006(b)

By: _____

Name: _____

Title: _____

Address: _____

Email Address: _____

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF _____ §

This PACE Owner Contract pursuant to Property Assessed Clean Energy Act was acknowledged before me on _____, 20____ by [NAME], [TITLE], [ORGANIZATON], a Texas nonprofit corporation, on behalf of said corporation and as Authorized Representative for the Local Government.

_____(print name)

NOTARY PUBLIC, STATE OF TEXAS

EXHIBIT A

NOTICE OF CONTRACTUAL ASSESSMENT LIEN
PURSUANT TO
PROPERTY ASSESSED CLEAN ENERGY ACT

EXHIBIT B

MORTGAGE HOLDER(S) CONSENT

EXHIBIT C
FINANCING DOCUMENTS

Assessment Payment Schedule

Assessment Total:

Payment Frequency:

Payment t Date	Total Payment	Principal Paid	Interest Paid	Administratio n Fee	Remaining Balance

Financing Documents

Document Title	Parties	Date Executed

EXHIBIT D
CONSTRUCTION TERMS

Retainage or Liquidated Damages:

Lender will retain _____% of the Financing until a report of completion by a qualified Independent Third Party Reviewer ("ITPR") is provided to Authorized Representative.

OR

Property Owner will pay liquidated damages to Lender of \$_____ per day for every day after 30 days following completion of the Project that such a report of completion is not provided. Lender will then provide the report of completion to Authorized Representative.

Additional Construction Terms

Date	Draw down Amount	Purpose

EXHIBIT 3
FORM LENDER CONTRACT

PACE LENDER CONTRACT

THIS PROPERTY ASSESSED CLEAN ENERGY ("**PACE**") LENDER CONTRACT including the attached exhibits ("**Lender Contract**") is made as of the [REDACTED] day of [REDACTED], [REDACTED], ("**Effective Date**") by and between the City of Boerne, Texas ("**Local Government**") and [REDACTED] ("**Lender**").

RECITALS

A. The Property Assessed Clean Energy Act ("**PACE Act**"), Texas Local Government Code Chapter 399, authorizes the governing body of a local government to establish a program and designate a region within the local government's jurisdiction within which an authorized representative of the local government may enter into written contracts with the record owners of privately owned commercial, industrial, and large multifamily residential (5 or more dwelling units) real property to impose assessments on the property to finance the cost of permanent improvements fixed to the property intended to decrease water or energy consumption or demand.

B. Local Government has established a program under the PACE Act pursuant to a Resolution dated [REDACTED], adopted by the City Council ("**PACE Program**"), and has designated the Alamo Area Regional Council of Governments (AACOG) ("**Authorized Representative**") authorized to enter into the written contracts with the owners of such property and the providers of such financing described herein, and has designated the entire territory within the City of Boerne, Texas jurisdiction as a region (the "**Region**") within which the Authorized Representative and the record owners of such real property may enter into written contracts to impose assessments to repay the financing by owners of qualified improvements on the owner's property pursuant to the PACE Program.

C. Pursuant to Application number [REDACTED], [REDACTED] ("**Property Owner**"), the sole legal and record owner of the following qualified "real property," as defined in Section 399.002 of the PACE Act, within the Region has/have applied to Local Government to participate in the PACE Program with respect to certain real property located at [REDACTED], Boerne, Texas, [REDACTED] - [REDACTED] (the "**Property**") by installing or modifying on the Property certain permanent improvements which are intended to decrease water or energy consumption or demand, and which are or will be fixed to the Property as "qualified improvements", as defined in Section 399.002 of the PACE Act ("**Qualified Improvements**"). The installation or modification of such Qualified Improvements on the Property will be a "qualified project" as defined in Section 399.002 of the PACE Act (the "**Project**").

D. Property Owner and Local Government have entered into a written contract as required by Section 399.005 of the PACE Act, a copy of which is attached hereto as Exhibit A and made a part hereof (the "**Owner Contract**"), in which Property Owner has requested that Local Government impose an assessment (the "**Assessment**") on the Property as set forth in the Notice Of Contractual Assessment Lien Pursuant To Property Assessed Clean Energy Act to be filed in the in the real property records of Kendall County, Texas (the "**Notice of Contractual Assessment Lien**"), to repay the financing of such Qualified Improvements. A copy of the Notice of Contractual Assessment Lien is attached as Exhibit A to the Owner Contract and made a part

hereof. The Property, Qualified Improvements, and Assessment are more fully described in the Notice of Contractual Assessment Lien.

E. Financing for the Project ("**Financing**") will be provided to Property Owner by Lender in accordance with financing documents which are described in or copies of which are attached as Exhibit B attached hereto and made a part hereof (the "**Financing Documents**"). Such Financing will include only those costs and fees for which an assessment may be imposed under Section 399.006 (e) of the PACE Act. This Lender Contract is entered into between Local Government and Lender as required by Section 399.006(c) of the PACE Act to provide for repayment of the Financing through the Assessment.

F. As required by Section 399.010 of the PACE Act, Property Owner has notified the holder(s) of any mortgage liens on the Property at least thirty (30) days prior to the date of the Owner Contract of Property Owner's intention to participate in the PACE Program. The written consent of each mortgage lien holder to the Assessment was obtained prior to the date of the Owner Contract, as shown by the copy of such consent(s) attached as Exhibit B to the Owner Contract.

AGREEMENT

The parties agree as follows:

1. Maintenance and Enforcement of Assessment. Lender agrees to provide Financing for the Project in the total principal amount of \$, according to the terms set out in the Financing Documents attached hereto as Exhibit B. In the event the actual total of costs and fees for which an assessment may be imposed under the PACE Act is different from the stated amount or any other term requires correction, Local Government, Property Owner, and Lender agree to execute an amended Owner Contract and Lender Contract, and Authorized Representative will record an amended Notice of Contractual Assessment Lien. In consideration for the Financing provided or to be provided by Lender for the Project, and subject to the terms and conditions of this Lender Contract, Local Government agrees to maintain and continue the Assessment for the benefit of Lender until the Assessment, all contractual interest due to Lender according to the Financing Documents ("**Contractual Interest**"), any prepayment penalty, and any penalties, interest, fees, or costs due under or authorized by the PACE Act and the Financing Documents are paid in full, and to release the Assessment upon notice from Lender of such payment. Local Government will not release, sell, assign or transfer the Assessment or the lien securing it without the prior written consent of Lender. Local Government agrees to enforce the assessment lien against the Property at the request of Lender in the event of a default in payment by Property Owner in accordance with the provisions set forth in paragraph 6. Local Government shall have no obligation to repurchase the Assessment and no liability to Lender should there be a default in the payment thereof or should there be any other loss or expense suffered by Lender or under any other circumstances.

2. Installments. The Assessment and Contractual Interest thereon are due and payable to Lender in installments ("**Installments**") according to the payment schedule set forth in the Financing Documents attached hereto as Exhibit B. The Assessment includes (1) an application fee paid by Property Owner to Authorized Representative at closing of the Financing and (2) a recurring administration fee paid by Property Owner to Authorized Representative until the Assessment is released. The recurring administration fee amount will be collected by Lender and paid to Authorized Representative within thirty (30) days of receipt by Lender, unless otherwise agreed to in writing by Authorized Representative. Notwithstanding the foregoing, in

the event of delinquency in the payment of any Installment, Lender will, upon notice to Authorized Representative, withhold payment of any amounts due to Authorized Representative in connection with such Installment until the Installment is paid. Any such temporary withholding will not reduce the amount of administration fees included in the Assessment. The amounts due to Authorized Representative are identified in Exhibit B hereto. As required by Section 399.009(a)(8) of the PACE Act, the period during which such Installments are payable does not exceed the useful life of the Project.

3. Assignment of Right to Receive Installments or Require Enforcement of Lien. Lender will have the right, with or without the consent of Property Owner, to assign or transfer the right to receive the Installments or require Local Government to enforce the assessment lien in the event of a default in payment, together with the corresponding obligations, provided that all of the following conditions are met:

(a) The assignment or transfer is made to a qualified lender, which may be one of the following:

(1) Any federally insured depository institution such as a bank, savings bank, savings and loan association and federal or state credit union;

(2) Any insurance company authorized to conduct business in one or more states;

(3) Any registered investment company, registered business development company, or a Small Business Administration small business investment company;

(4) Any publicly traded entity; or

(5) Any private entity that:

(i) Has a minimum net worth of \$5 million;

(ii) Has at least three years' experience in business or industrial lending or commercial real estate lending (including multifamily lending), or has a lending officer that has at least three years' experience in business or industrial lending or commercial real estate lending;

(iii) Can provide independent certification as to availability of funds; and

(iv) Has the ability to carry out, either directly or through a servicer, the bookkeeping and customer service work necessary to manage the assessment accounts

(6) A financially stable entity, whether or not from the list above, with the ability to carry out, either directly or through a servicer, the obligations of this Lender Contract related to the receipt and accounting of the Installments or the enforcement of the assessment lien.

(b) Property Owner and Authorized Representative are notified in writing of the assignment or transfer and the address to which payment of the future Installments should be mailed at least 30 days before the next Installment is due according to the payment schedule included in the Financing Documents; and

(c) The assignee or transferee executes a written assumption agreement according to the Financing Documents of all of Lender's rights and obligations under this Lender Contract related to the receipt of the Installments or enforcement of the assessment lien and provides a copy of such assumption to Property Owner and Authorized Representative within 10 days after execution of the agreement. Lender may assign or transfer the right to receive the Installments or the right to require enforcement of the assessment lien separately. Upon written notice to Property Owner and Authorized Representative of an assignment or transfer that meets all of these conditions, the assignor will be released of all of the rights and obligations of the Lender under this Lender Contract accruing after the date of the assignment that are specified in the assignment or transfer document, and all of such rights and obligations will be assumed by and transferred to the assignee. Any attempt to assign or transfer the right to receive the Installments or to require enforcement of the assessment lien that does not meet all of these conditions is void. Lender will retain all of the rights and obligations of Lender under this Lender Contract until such rights and obligations are assigned or transferred according to this paragraph.

4. Financing Responsibility. Lender assumes full responsibility for determining the financial ability of the Property Owner to repay the Financing and for advancing the funds as set forth in the Financing Documents and performing Lender's obligations and responsibilities thereunder. In the event the assessment lien on the Property is enforced by foreclosure as provided below, Lender will have no further obligations to Property Owner with respect to the Installments that were the subject of the foreclosure, but Lender will retain the rights to enforcement of the lien for any Installments that are not eliminated by the foreclosure, and the succeeding owner of the Property will be subject to such lien.

5. Lien Priority and Enforcement. As provided in the Owner Contract and Section 399.014 of the PACE Act:

(a) Delinquent Installments will incur penalties and interest on the principal of the Installment in the same manner and in the same amount as delinquent property taxes, that is, a delinquent Installment incurs a penalty of 6% of the principal amount of the Installment for the first calendar month it is delinquent plus 1% for each additional month or portion of a month the Installment remains unpaid prior to July 1 of the year in which it becomes delinquent. However, an Installment delinquent on July 1 incurs a total penalty of 12% of the principal amount of the delinquent Installment without regard to the number of months it has been delinquent. A delinquent Installment will also accrue interest on the principal of the Installment at the rate of 1% for each month or portion of a month that the Installment remains unpaid. Subject to paragraph 16 below, penalties, interest, fees, and costs payable under this paragraph will be retained by Local Government to compensate it for the cost of enforcing the Assessment. Additional interest at any default rate imposed by Lender pursuant to the Financing Documents, along with any other fees and charges

that become due pursuant to the Financing Documents may be imposed and retained by Lender.

(b) The Assessment and any interest or penalties thereon,

(1) are a first and prior lien against the Property from the date on which the Notice of Contractual Assessment Lien is recorded in the real property records of Kendall County, Texas, as provided by Section 399.013 of the PACE Act, until the Assessment, interest, or penalty is paid; and

(2) such lien has the same priority status as a lien for any other ad valorem tax.

(c) The lien created by the Assessment runs with the land, and according to Section 399.014(b) of the PACE Act, any portion of the Assessment that has not yet become due will not be eliminated by foreclosure of (i) a property tax lien, or (ii) the lien for a delinquent Installment of the Assessment. In the event of a sale or transfer of the Property by Property Owner, the obligation for the Assessment and the Property Owner's obligations under the Financing Documents will be transferred to the succeeding owner without recourse to Lender, Local Government or Authorized Representative

(d) In the event of a default by Property Owner in payment of an Installment

called for by the Financing Documents or the filing of a case under the U.S. Bankruptcy Code by or against Property Owner, the lien created by the Assessment will be enforced by Local Government for the benefit of Lender according to paragraph 6(c) below in the same manner according to Texas Tax Code Secs. 33.41 to 34.23 that a property tax lien against real property may be enforced by a local government, to the extent the enforcement is consistent with Section 50, Article XVI, Texas Constitution.

(e) In a suit to collect a delinquent Installment of the Assessment, Local

Government will be entitled to recover costs and expenses, including attorney's fees in the amount of 15% of the total principal amount of the delinquent Installment, penalties, and interest due, in the same manner according to Texas Tax Code Sec. 33.48 as in a suit to collect a delinquent property tax. Lender will be entitled to any additional sums due to it under the Financing Documents in connection with a suit to collect a delinquent Installment of the Assessment.

(f) As provided in Section 399.014(a-1) of the PACE Act, after written notice

of the Assessment is recorded in the real property records of the county in which the Property is located, the lien created by the Assessment may not be contested on the basis that the improvement is not a "qualified improvement" or the project is not a "qualified project", as such terms are defined in Section 399.002 of the PACE Act.

6. Servicing and Enforcement of Assessment.

(a) Servicing. The Installments and other amounts due under the Financing Documents will be billed, collected, received, and disbursed in accordance with the procedures set out in the Financing Documents. Lender or its designee will be responsible

for all servicing duties other than those specifically undertaken by Local Government in this Lender Contract. Authorized Representative will deliver an annual notice of assessment to Property Owner by electronic mail each year until the Assessment is released. If requested by Property Owner in the Owner Contract, Local Government agrees to also send an annual notice of assessment to Property Owner by first class mail in the envelop with the tax bill of the Property each year until the Assessment is released. However, any failure of Local Government or Authorized Representative to deliver an annual notice of assessment to Property Owner will not affect the Assessment or Property Owner's obligations under the Owner Contract.

(b) Remittances. Each of the parties covenants and agrees to promptly remit to the other party any payments incorrectly received by such party with respect to the Assessment after the execution of this Lender Contract.

(c) Default and Enforcement. In the event of a default in payment of any Installment according to the Financing Documents, Lender agrees to take at least the following steps to collect the delinquent Installment:

(1) Mail a written notice of delinquency and demand for payment to the Property Owner by both certified mail, return receipt requested, and first class mail; and

(2) Mail a second notice of delinquency to the Property Owner and the holder of any mortgage lien on the property by both certified mail, return receipt requested, and first-class mail at least 30 days after the date of the first notice if the delinquency is continuing.

The holder of any mortgage lien on the property will have not less than a 30-day right to cure the delinquency by paying the amount of the delinquent installment. If the Property Owner fails to cure the delinquency within 30 days after the mailing of the second notice of delinquency, Lender or its designee may notify Authorized Representative in writing of a default in payment by Property Owner. Upon receipt of such notice and after doing its own due diligence, including delivering a notice of foreclosure to Freddie Mac not less than 30 days prior to the foreclosure if the mortgage lien is held by Freddie Mac, Authorized Representative will certify the default to Local Government, which will enforce the assessment lien for the benefit of Lender pursuant to Sec. 399.014(c) of the PACE Act, in the same manner as a property tax lien against real property may be enforced, to the extent the enforcement is consistent with Section 50, Article XVI, Texas Constitution. However, if a case under the U.S. Bankruptcy Code is filed by or against Property Owner or if the enforcement of the assessment lien is prevented by the order of a court, Local Government will notify Authorized Representative and will file a proof of claim for the balance of the assessment, accrued interest and penalties, and all costs and expenses, including attorney's fees, as authorized by Section 399.014 of the PACE Act. Authorized Representative will notify Lender of the filing of the proof of claim. Lender will not be required to mail a notice of delinquency to Property Owner or a notice of default to Local Government. Lender will reimburse Local Government for any costs and expenses, including attorney's fees, required to file and present the claim.

(d) Priority. If the assessment lien is enforced by foreclosure or collected through a bankruptcy or similar proceeding, the assessment balance and any

interest or penalties on the assessment will have the same priority status as a lien for any other ad valorem tax, pursuant to Sec. 399.014(a)(2) of the PACE Act.

(e) Final Payment and Release. When the Assessment, Contractual Interest

any prepayment penalty, and any penalties, interest, fees, or costs due under or authorized by the PACE Act or the Financing Documents have been paid in full, Local Government's rights under the Owner Contract will cease and terminate. Upon notice from Lender that all amounts due have been paid in full, Authorized Representative will execute a release of the Assessment and the Owner Contract and record the release.

(f) Limitations on Local Government's Actions. Without the prior written consent of Lender, Local Government will not enter into any amendment or modification of or deviation from the Owner Contract. Local Government or Authorized Representative will not institute any legal action with respect to the Owner Contract, the Assessment, or the assessment lien without the prior written request of Lender.

(g) Limitations of Local Government's Obligations. Local Government undertakes to perform only such duties as are specifically set forth in this Lender Contract, and no implied duties on the part of Local Government are to be read into this Lender Contract. Local Government will not be deemed to have a fiduciary or other similar relationship with Lender. Local Government may request written instructions for action from Lender and refrain from taking action until it receives satisfactory written instructions. Local Government will have no liability to any person for following such instructions, regardless of whether they are to act or refrain from acting.

(h) Costs. No provisions of this Lender Contract will require Local Government to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder.

7. Lender's Warranties and Representations. With respect to this Lender Contract, Lender hereby warrants and represents that on the date on which Lender executes this Lender Contract:

(a) Lender is a qualified lender under the PACE Program, as defined in paragraph 3(a) above, and is fully qualified under the PACE Program to enter into this Lender Contract and the Financing Documents;

(b) Lender has independently and without reliance upon Local Government conducted its own credit evaluation, reviewed such information as it has deemed adequate and appropriate, and made its own analysis of the Owner Contract, the Project, and Property Owner's financial ability to perform the financial obligations set out in the Financing Documents; and

(c) Lender has not relied upon any investigation or analysis conducted by, advice or communication from, or any warranty or representation by Local Government, Authorized Representative, or any agent or employee of Local Government, express or implied, concerning the financial condition of the Property Owner or the tax or economic benefits of an investment in the Assessment.

8. Written Contract Required by the PACE Act. This Lender Contract constitutes a written contract between Local Government and Lender, as required under Section 399.006 (c) of the PACE Act.

9. Construction and Definitions. This Lender Contract is to be construed in accordance with and with reference to the PACE Program and PACE Act. Terms used herein and not otherwise defined herein have the meanings ascribed to them in the PACE Program, and/or the PACE Act.

10. Binding Effect. This Lender Contract is binding upon and inures to the benefit of the parties hereto and their respective heirs, representatives, successors, and assigns.

11. Notices. Unless otherwise specifically provided herein, all notices and other communications required or permitted hereunder shall be in writing and delivered by first-class mail or by electronic mail, addressed to the other party at the address stated below the signature of such party or at such other address as such party may from time to time designate in writing to the other party, and shall be effective from the date of receipt.

12. Governing Law. This Lender Contract shall in all respects be governed by and construed in accordance with the laws of the State of Texas.

13. Entire Agreement. This Lender Contract constitutes the entire agreement between Local Government and Lender with respect to the subject matter hereof and shall not be amended or altered in any manner except by a document in writing executed by both parties.

14. Captions. Paragraph and section titles are for convenience of reference only and shall not be of any legal effect.

15. Counterparts. This Lender Contract may be executed in any number of counterparts, and each counterpart may be delivered on paper or by electronic transmission, all of which when taken together will constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart.

16. Interest. Interest and penalties in the event of default, as provided above, are explicitly authorized by Section 399.014(d) of the PACE Act. However, in no event will the total amount of interest on the Assessment, including statutory interest payable to Local Government and Contractual Interest payable to Lender under the Financing Documents, exceed the maximum amount or rate of nonusurious interest that may be contracted for, charged, or collected under Texas law (the “**usury limit**”). If the total amount of interest payable to Local Government and Contractual Interest payable to Lender exceeds the usury limit, interest payable to Local Government will be reduced and any interest in excess of the usury limit will be credited to the amount payable to Local Government or refunded. This provision overrides any conflicting provisions in this Lender Contract.

17. Certification. Local Government certifies that the PACE Program has been duly adopted and is in full force and effect on the date of this Lender Contract. Property Owner has represented to Lender and Local Government that the Project is a “qualified project” as defined in the PACE Program and Section 399.002 of the PACE Act. The Assessment has been imposed on the Property as a lien in accordance with the PACE Owner Contract and the PACE Act. Local Government has not assigned or transferred any interest in the Assessment or the PACE Owner Contract.

18. Construction Terms. The Financing Documents executed by Lender and

Property Owner must include a requirement that Lender will withhold [REDACTED] % of the Financing until verification that the Project was properly completed and is operating as intended is provided to Authorized Representative by an Independent Third Party Reviewer ("ITPR), or Property Owner will pay liquidated damages to Lender of \$ [REDACTED] per day for every day after 30 days following completion of the Project that such verification of completion is not provided. If verification of completion is not provided by Property Owner within 30 days after completion of the Project, such verification shall be submitted by Lender. If this Lender Contract includes any additional requirements related to construction of the Project and disbursement of Financing, such requirements are set forth in Exhibit C attached hereto and incorporated herein by reference. Such requirements may include, among other things, (1) the disbursement schedule and (2) any holdback amount to be funded following verification of final project completion.

LENDER:

By: _____

Name: _____

Title: _____

Address: _____

Email Address: _____

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF _____ §

This PACE Lender Contract pursuant to Property Assessed Clean Energy Act was acknowledged before me on _____, _____ by _____, _____, on behalf of _____.

_____(print name)

NOTARY PUBLIC, STATE OF TEXAS

LOCAL GOVERNMENT:

BOERNE, TEXAS

By: ALAMO AREA REGIONAL COUNCIL OF GOVERNMENTS

AUTHORIZED REPRESENTATIVE

Pursuant to Tex. Local Gov't Code §399.006(b)

By: _____

Name: _____

Title: _____

Address: _____

Email Address:

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF _____ §

This PACE Lender Contract pursuant to Property Assessed Clean Energy Act was acknowledged before me on _____, 20__ by [NAME], [TITLE], [ORGANIZATON], a Texas nonprofit corporation, on behalf of said corporation and as Authorized Representative for the Local Government.

_____(print name)
NOTARY PUBLIC, STATE OF TEXAS

EXHIBIT A

OWNER CONTRACT

EXHIBIT B

FINANCING DOCUMENTS

Assessment Payment Schedule

Assessment Total:

Payment Frequency:

Payment t Date	Total Payment	Principal Paid	Interest Paid	Administratio n Fee	Remaining Balance

Financing Documents

Document Title	Parties	Date Executed

EXHIBIT C
CONSTRUCTION TERMS

Retainage or Liquidated Damages:

Lender will retain _____% of the Financing until a report of completion by a qualified Independent Third Party Reviewer ("ITPR") is provided to Authorized Representative.

OR

Property Owner will pay liquidated damages to Lender of \$_____ per day for every day after 30 days following completion of the Project that such a report of completion is not provided. Lender will then provide the report of completion to Authorized Representative.

Date	Draw down Amount	Purpose

EXHIBIT 4
FORM NOTICE OF CONTRACTUAL ASSESSMENT LIEN
PURSUANT TO PROPERTY ASSESSED CLEAN ENERGY ACT

**NOTICE OF CONTRACTUAL ASSESSMENT LIEN
PURSUANT TO
PROPERTY ASSESSED CLEAN ENERGY ACT**

STATE OF TEXAS §
 §
CITY OF BOERNE §

RECITALS

A. The Property Assessed Clean Energy Act ("**PACE Act**"), Texas Local Government Code Chapter 399, authorizes the governing body of a local government to establish a program and designate a region within the local government's jurisdiction within which an authorized representative of the local government may enter into written contracts with the record owners of privately owned commercial, industrial, and large multifamily residential (5 or more dwelling units) real property to impose assessments on the property to finance the cost of permanent improvements fixed to the property intended to decrease water or energy consumption or demand. Unless otherwise expressly provided herein, all terms used herein have the same meanings ascribed to them in the PACE Act.

B. The City of Boerne, Texas ("**Local Government**") has established a program under the PACE Act ("**PACE Program**") pursuant to a resolution dated March 24, 2020, adopted by the City Council and has designated the Alamo Area Regional Council of Governments (AACOG) as the representative of Local Government ("**Authorized Representative**") authorized to enter into and enforce the written contracts with the owners of such property and the providers of such financing described herein, and has designated the entire territory within the City's jurisdiction as a region (the "**Region**") within which the Authorized Representative and the record owners of such real property may enter into written contracts to impose assessments to repay the financing by owners of qualified improvements on the owners' property pursuant to the PACE Program.

C. [REDACTED] ("**Property Owner**") is/are the sole legal and record owner of the qualified "real property," as defined in Section 399.002 of the PACE Act, within the Region located at [REDACTED], Boerne, Texas [REDACTED] - [REDACTED] and more fully described in Exhibit A attached hereto and made a part hereof (the "**Property**").

D. Property Owner has applied to Local Government to participate in the PACE Program by installing or modifying on the Property certain permanent improvements described in Exhibit B attached hereto and made a part hereof, which are intended to decrease water or energy consumption or demand and which are or will be fixed to the Property as "qualified improvements", as defined in Section 399.002 of the PACE Act (the "**Qualified Improvements**"). The installation or modification of such Qualified Improvements on the Property will be a "qualified project" as defined in Section 399.002 of the PACE Act (the "**Project**"). Property Owner has entered into a written contract (the "**Owner Contract**") with Local Government pursuant to the PACE Act and the PACE Program and has requested Local Government to impose an assessment on the Property to repay the financing of such Qualified Improvements.

E. The financing of such Qualified Improvements will be provided to Property Owner by [REDACTED] ("**Lender**"), a qualified lender selected by Property Owner,

pursuant to a written contract executed by Lender and Local Government as required by Section 399.006(c) of the PACE Act (the “**Lender Contract**”). Lender will be responsible for all servicing duties other than those specifically undertaken by Local Government in the Lender Contract.

THEREFORE, Local Government hereby gives notice to the public pursuant to Section 399.013 of the PACE Act that it has imposed an assessment on the Property in the principal amount of \$ [REDACTED] (the “**Assessment**”). The Assessment includes only those costs and fees for which an assessment may be imposed under Section 399.006(e) of the PACE Act. In the event that the actual total of costs and fees for which an assessment may be imposed is different from the amount stated or any other term requires correction, Local Government, Property Owner, and Lender will execute an amended Owner Contract and Lender Contract, and Authorized Representative will record an amended Notice of Contractual Assessment Lien.

The Assessment and contractual interest thereon due to the Lender (the “**Contractual Interest**”) are due and payable in installments (“**Installments**”) in accordance with the terms and payment schedule included in the financing documents executed between Property Owner and Lender that are described in or copies of which are attached hereto as Exhibit C (the “**Financing Documents**”).

Pursuant to Section 399.014 of the PACE Act,

1. The Assessment and any interest or penalties thereon,
 - (i) are a first and prior lien against the Property from the date on which this Notice of Contractual Assessment Lien is recorded in the real property records of Kendall County, Texas, until the Assessment, interest, or penalty is paid; and
 - (ii) such lien has the same priority status as a lien for any other ad valorem tax.
2. The lien created by the Assessment runs with the land, and according to Section 399.014(b) of the PACE Act, any portion of the Assessment that has not yet become due will not be eliminated by foreclosure of: (i) a property tax lien, or (ii) the lien for a delinquent Installment of the Assessment. In the event of a sale or transfer of the Property by Property Owner, the obligation for the Assessment and the Property Owner’s obligations under the Financing Documents will be transferred to the succeeding owner without recourse to Local Government, or Authorized Representative.

As provided in Section 399.014(a-1) of the PACE Act, after this Notice of Contractual Assessment Lien is recorded in the real property records of the county in which the Property is located, the lien created by the Assessment may not be contested on the basis that the improvement is not a “qualified improvement” or the project is not a “qualified project”, as such terms are defined in Section 399.002 of the PACE Act.

EXECUTED on _____, _____.

LOCAL GOVERNMENT:

CITY OF BOERNE, TEXAS

By: ALAMO AREA COUNCIL OF
GOVERNMENTS

Pursuant to Tex. Local Gov't Code §399.006(b)

By: _____

Name: _____

Title: _____

Address: _____

E-mail: _____

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF _____ §

This Notice of Contractual Assessment Lien pursuant to Property Assessed Clean Energy Act was acknowledged before me on _____, 20____ by [NAME], [TITLE], [ORGANIZATON], a Texas nonprofit corporation, on behalf of said corporation and as Authorized Representative for the Local Government.

_____ (print name)

NOTARY PUBLIC, STATE OF TEXAS

EXHIBIT A

PROPERTY DESCRIPTION

EXHIBIT B
QUALIFIED IMPROVEMENTS

EXHIBIT C
FINANCING DOCUMENTS

Assessment Payment Schedule

Assessment Total:

Payment Frequency:

Payment Date	Total Payment	Principal Paid	Interest Paid	Administration Fee	Remaining Balance

Financing Documents

Document Title	Parties	Date Executed


INDEXING INSTRUCTION:

Grantor: _____, Property Owner

Grantees: _____, Local Government

_____, Lender

After recording, return to- _____

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso <input checked="" type="checkbox"/> All </div>
AGENDA DATE	<i>March 24, 2020</i>
DESCRIPTION	CONSIDER RESOLUTION NO. 2020-R25; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE A PACE PROGRAM INTERLOCAL AGREEMENT BY AND BETWEEN THE ALAMO AREA COUNCIL OF GOVERNMENTS AND THE CITY OF BOERNE, TEXAS.
STAFF'S RECOMMENDED ACTION (be specific)	Approve Resolution No. 2020-R25; Entering into a PACE Program Interlocal Agreement with Alamo Area Council of Governments.
CONTACT PERSON	Mayor Tim Handren
SUMMARY	<p>Texas Property Assessed Clean Energy (PACE) Program is a simple and affordable way to finance energy and water efficiency upgrades for commercial properties. PACE provides low cost, long-term, 100% financing for these qualified "Green" improvements. Eligible upgrades are financed over time through a voluntary property tax assessment attached to the property. PACE improvements add value to the property and reduce utility bills with the upgrades typically paying for themselves with positive cash flow over time.</p> <p>Alamo Area Council of Governments will be providing the program administration services needed to implement and administer the Property Assessed Clean Energy (PACE) Program.</p>
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	

This summary is not meant to be all inclusive. Supporting documentation is attached.

RESOLUTION NO. 2020-R25

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
AND MANAGE A PACE PROGRAM INTERLOCAL AGREEMENT BY
AND BETWEEN THE ALAMO AREA COUNCIL OF GOVERNMENTS
AND THE CITY OF BOERNE, TEXAS**

WHEREAS, the City of Boerne finds it necessary to enter into an interlocal agreement for the purpose of providing the program administration services needed to implement and administer the Property Assessed Clean Energy (PACE) Program.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF BOERNE, TEXAS:**

that the City Council hereby authorizes the City Manager to enter into and manage an interlocal agreement with Alamo Area Council of Governments for the purpose of providing the program administration services needed to implement and administer the Property Assessed Clean Energy (PACE) Program.

PASSED and APPROVED on this the ____ day of March, 2020.

APPROVED:

Mayor

ATTEST:

City Secretary

**PACE PROGRAM INTERLOCAL AGREEMENT
BY AND BETWEEN THE ALAMO AREA COUNCIL OF GOVERNMENTS
AND THE CITY OF BOERNE, TEXAS**

This Interlocal agreement is entered into between the Alamo Area Council of Governments ("AACOG"), a regional Planning Commission and political subdivision of the State of Texas and the City of Boerne, Texas (**Local Government**), a body politic and a political subdivision of the State of Texas.

1. STATEMENT OF PURPOSE:

This Interlocal agreement is for the purpose of providing the program administration services needed to implement and administer the Property Assessed Clean Energy (PACE) Program for Local Government.

2. STATEMENT OF SERVICES TO BE PERFORMED BY THE AACOG:

In recognition of the economic benefits for Local Government, AACOG agrees to administer these services in order to help the county create and/or retain jobs and to assist in the growth and stability of the business sector. Businesses in Local Government will be able to take advantage of low-cost, long-term loans for 100% of the cost of energy-efficiency and water conservation improvements. The services to be performed under this agreement are as follows:

A. Community Outreach

1. Establish a PACE Program information page on AACOG's website;
2. Develop a marketing plan and market PACE financing and promote owner participation in the Program;
3. Respond to inquiries from property owners, vendors, contractors, consultants, and the general public;
4. Publish link to the Technical Standards Manual on AACOG's website;
5. List interested, qualified lenders on the Program website or link to another neutral non-profit directory of lenders to enable property owners to identify potential sources of private third-party financing;
6. Coordinate training of contractors and independent third-party reviewers on how to apply for PACE financing and comply with the PACE-in-a-Box Technical Standards Manual; and
7. Establish quality assurance measures

B. Application and Approval Process

1. Publish a Project Application Form based on PACE-in-a-Box model application form on the Program website;
2. Review submitted Application forms for administrative completeness and notify the applicants of any missing information;
3. Maintain the confidentiality of owner information;
4. When Applications are complete, make a preliminary determination of eligibility for participation in the PACE Program and issue preliminary letters to owners and lenders indicating whether, subject to verification of all lender underwriting and closing requirements, the information submitted indicates that the proposed project meets Program requirements;
5. Require independent third-party verification of expected energy or water savings resulting from a project (provided by engineer or consultant retained by applicant), according to the PACE-in-a-Box Technical Standards Manual;
6. Require independent third-party verification, according to the PACE-in-a-Box Technical Services Manual, that the period of an assessment does not exceed the expected life of the improvements or thoroughly review waiver application and justification (provided by engineer or consultant retained by applicant);
7. Confirm that the lender has determined, based on underwriting factors established by the lender, that the owner has demonstrated the financial ability to repay the financial obligations to be repaid through assessment;
8. Require the owner to notify the holder of any mortgage lien on the property of the owner's intention to participate in the Program and obtain the lienholder's written consent prior to the imposition of the PACE assessment;
9. Review and finalize the terms of every Owner Contract and Lender Contract prior to execution;
10. Collect and retain owner application fees as compensation for administrative services;
11. Perform closing verification reviews and schedule assessment transaction closing when all requirements are met;
12. Coordinate and take part in assessment transaction closings;

13. Arrange for recording of a Notice of Contractual Assessment Lien for each approved project in the official public records of the county where the project is located;
14. Require independent post-closing third-party verification (by engineer or consultant retained by Applicant) that each project was properly completed and is operating as intended; and
15. Collect and retain administration fees collected by lenders from owners that receive PACE financing.

C. MANAGEMENT AND REPORTING:

1. Manage communications with lenders regarding assessment servicing, payment, and default;
2. Upon notification by a lender of an owner's default in payment of an assessment and the lender's compliance with the requirements of the Lender Contract on collection after default, notify the Local Government to enforce the assessment lien in accordance with law and the agreements between the parties;
3. Receive and store owner reports on energy and water savings;
4. At the request of property owners, prepare annual notices of assessment to be issued by Local Government to the owners, stating the total amount of the payments due on each assessment in the coming calendar year according to the Owner Contract and the financing documents;
5. Determine the amounts of the application and administration fees to be paid by owners; and
6. Report annually to Local Government on Program usage and the resulting energy and water savings enabled through PACE Assessments.

3. PAYMENT FOR SERVICES:

It is agreed and understood that Local Government will not pay nor be liable to AACOG for any services provided by AACOG or its agents, employees, subcontractors, lenders, or any other related entity. All expenses, application and servicing fees, or costs are paid by the Program applicants pursuant to an established fee structure. AACOG will collect and retain for its own use fees paid by Program applicants during the application process and the subsequent administration of the Program. These fees will be used primarily to offset the costs of administering the program.

Program application and administrative fees are allowed to be included in the total amount financed through the assessments.

4. COUNTY RESPONSIBILITIES:

The County will negotiate with its enforcement contractor to add PACE Loans to its enforcement policies. Reference Local Government Code, Section 399.014(c).

County will collect and retain interest and penalties as properly assessed.

5. CONFIDENTIALITY:

During the process of the loan and/or services to be provided under this agreement, AACOG will treat as confidential the information or knowledge that becomes known during the application process and shall disclose it only to its officers, directors, or employees with a specific need to know. It will not release, use, copy, or disclose such information and agrees not to share it with any third party or individual except with the specific prior written authorization of the loan applicant. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. AACOG shall promptly notify Local Government of any misuse or unauthorized disclosure of its confidential information. This Program will comply with all security policies that may apply. The parties agree and understand that AACOG is subject to the Texas Public Information Act and other applicable state and federal open records laws.

6. TERM OF AGREEMENT:

This contract shall begin upon the last date of execution by a party to this agreement for a term of one year and shall automatically renew for successive one year terms unless otherwise terminated as provided herein.

7. TERMINATION:

This contract may be terminated by either party for any reason, with or without cause, upon thirty (30) days written notice.

8. AMENDMENTS:

Amendments to this Interlocal Agreement shall be in writing and signed upon final approval by both Parties.

9. INDEMNIFICATION:

To the extent permitted by the Texas Constitution and Texas State Laws without the creation of sinking fund, each party shall indemnify and hold the other party, its affiliated entities, and their respective directors, officers, employees, agents, and representatives, harmless from and against any claims liabilities, damages and expenses arising out of the indemnifying party's act or omissions, or the acts omissions of the indemnifying party's employees, students, facility, staff, agents or representatives, under this Agreement excluding claims, liabilities, damages, expenses resulting from the negligence or willful misconduct of the other party, its employees, staff,

agents or representatives.

10. IMMUNITY:

No provision of this Agreement shall affect or waive any sovereign or governmental immunity available to LOCAL GOVERNMENT and/or its elected officials, officers, employees and agents under Federal or Texas law nor waive any defenses or remedies at law available to the County and/or its elected officials, officers, employees and agents under Federal or Texas law.

11. CHOICE OF LAW/VENUE:

This Agreement shall be construed and enforceable in accordance with the laws of the State of Texas, without regard to its conflict of laws principles. Exclusive venue shall be in a court of competent jurisdiction in Bexar County, Texas.

12. SEVERABILITY

If a court of competent jurisdiction determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

13. AUTHORIZATION:

This Agreement is entered into by the duly authorized officials of each respective party. Each person signing this Agreement on behalf of a party hereby confirms for the benefit of the other party to this Agreement that any requisite approvals from the governing body of such party have been obtained, and all prerequisites to the execution, delivery and performance hereof have been obtained by or on behalf of that party.

BOERNE, TEXAS

ALAMO AREA COUNCIL OF
GOVERNMENTS

By: _____

By: _____
Diane Rath,
Executive Director

Date: _____

Date: _____