

#13914

Jesus Ruiz
Mayor

Rene Rodriguez
At Large

Sergio Cox
District 1



Gloria M. Rodriguez
District 2

Victor Perez
District 3 / Mayor-Pro Tem

Anthony Gandara
District 4

Adriana Rodarte
Interim City Manager

ORDINANCE 378

AN ORDINANCE OF THE CITY OF SOCORRO, TEXAS, CREATING A BUILDINGS AND STANDARDS COMMISSION, APPOINTING THE MEMBERS OF THE PLANNING AND ZONING COMMISSION TO SERVE IN THE BUILDINGS AND STANDARDS COMMISSION, AMENDING CHAPTERS 6, ARTICLE IV, AND CHAPTER 28, ARTICLE II, OF THE CODE OF ORDINANCES OF THE CITY OF SOCORRO, TEXAS TO APPOINT THE NEW BUILDINGS AND STANDARDS COMMISSION TO HOLD PUBLIC HEARINGS RELATING TO SUBSTANDARD BUILDINGS AND ADMINISTRATIVE NUISANCE HEARINGS

WHEREAS, Chapter 6, Article IV, of the Code of Ordinances of the City of Socorro, Texas provides for the regulation of substandard buildings and establishes the process for enforcement of the same, including a public hearing; and,

WHEREAS, Chapter 28, Article II, of the Code of Ordinances of the City of Socorro, Texas provides for the regulation of nuisances and establishes the process for enforcement and abatement of the same, including a public hearing, when properly requested; and,

WHEREAS, Chapter 54 of the Texas Local Government Code permits a municipality to create a Buildings and Standards Commission to hold public hearings, among other things, for substandard buildings and nuisances; and,

WHEREAS, the City of Socorro, Texas wishes to create a Buildings and Standards Commission and charge such commission with holding public hearings on substandard buildings and nuisances; and,

WHEREAS, the City Council has determined that the following Ordinance is necessary for the proper administration of the City, as well as to protect the public health, safety, and welfare of its citizens.

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

SECTION 1.

The recitals set forth above are hereby found to be true and correct and are incorporated into the body of this Ordinance for all purposes as if fully set forth herein.

SECTION 2.

Chapter 2, Article IV, Division 8, of the Code of Ordinances of the City of Socorro, Texas is hereby enacted and added, as follows:

DIVISION 8 – BUILDINGS AND STANDARDS COMMISSION

Section 1 – Established.

The City of Socorro, Texas hereby establishes the Buildings and Standards Commission pursuant to Chapter 54 of the Texas Local Government Code.

Section 2 – Purpose.

The purpose of this Division is to provide procedures and powers for the Building and Standards Commission to hold public hearings in substandard buildings cases pursuant to Chapter 6, Article IV of this Code and administrative hearings for nuisance cases pursuant to Chapter 28, Article II of this Code.

Section 3 – Members and Terms.

The Buildings and Standards Commission shall consist of one panel of seven members. The members of the Planning and Zoning Commission shall serve as the members of the panel of the Buildings and Standards Commission, including any alternates. An appointment to the Planning and Zoning Commission in accordance with Chapter 2, Article IV, Division 2, constitutes an appointment to the Buildings and Standards Commission without further action by the City. The members of the Buildings and Standards Commission shall serve for the same terms as the term they serve for the Planning and Zoning Commission. A member of the Buildings and Standards Commission may be removed by City Council for cause on a written charge. Before a decision regarding removal is made, the appointing authority must hold a public hearing on the matter if requested by the Commission member subject to removal. The vacancy shall be filled for the unexpired term in the same manner as a vacancy for the Planning and Zoning Commission would be filled.

Section 4 – Funding.

The Buildings and Standards Commission may spend public funds in conformity with the adopted City budget for sending, recording and publishing public notices and related expenses.

Section 5 – Procedures of the Commission.

- A. The Buildings and Standards Commission shall adopt bylaws that are consistent with this Division, the City Code and the City Charter and that are approved by the City Attorney. The bylaws shall be submitted to the City Clerk and be available to the public upon request. The bylaws shall provide for the election of a Chair and a Vice-Chair to preside over the meetings and public hearings of the Buildings and Standards Commission. The Chair shall preside at all meetings and shall have the power to vote on all matters before the Buildings and Standards Commission and shall be counted toward the establishment of a quorum.
- B. Whenever possible, the meetings and hearings of the Buildings and Standards Commission shall be held following the meetings of the Planning and Zoning Commission. All meetings of the Buildings and Standards Commission are open to the public. The Buildings and Standards Commission Chair, Acting Chair, or Vice-Chair may administer oaths and compel the attendance of witnesses.
- C. The City Manager or a designee shall act as Secretary to the Buildings and Standards Commission. The Secretary shall not be a member of the panel, shall not have a vote and shall not be counted in determining a quorum. The Secretary shall cause the minutes of each meeting to be kept and filed with the City Clerk. The Secretary shall keep all evidence admitted or a description of the evidence in accordance with the duly adopted bylaws.

Section 6 – Hearing procedures.

- A. The City Manager shall designate a representative to represent the City at each hearing before the Buildings and Standards Commission. In addition to a City representative, the City Attorney may appear as counsel for the City at each hearing. The City is entitled to present evidence and testimony and cross-examine any witness.
- B. Each interested party may represent themselves or may appoint a representative to appear on their behalf at hearings before the Buildings and Standards Commission. Each interested party may also be represented by counsel at hearings. Each interested party or his representative is entitled to present evidence and testimony and cross-examine any witness.
- C. Orders of the Buildings and Standards Commission are final as to administrative remedies.
- D. Within 30 days after being notified of an order of the Buildings and Standards Commission, an interested party may appeal the order by filing a verified petition in state district court.

Section 7 – Powers and orders.

- A. The Buildings and Standards Commission may hear the following cases: (1) public hearings for substandard buildings cases pursuant to Chapter 6, Article IV of this Code and administrative hearings for nuisance cases pursuant to Chapter 28, Article II of this Code, when properly requested.
- B. The Buildings and Standards Commission may enter orders pursuant to Section 6-81 of Chapter 6, Article IV of this Code and pursuant to Section 28-23 of Chapter 28, Article II of this Code, which orders may include the assessment of civil penalties provided therein.

Section 8 – Failure to comply with Commission order.

- A. In addition to any civil penalties in the order, a person commits a misdemeanor offense if he or she fails to comply with an order of the Buildings and Standards Commission, and, upon conviction, shall be fined as provided by Chapter 1, Section 1-15 of this Code. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.
- B. It is a defense to prosecution under subsection A of this section that the Buildings and Standards Commission order has been appealed to the state district court and the case is pending or the Commission order was not upheld on appeal.

Section 9 – Request for continuance or reconsideration.

An interested party may request to have a hearing rescheduled by submitting the request in writing to the Buildings and Standards Commission. An interested party may also request in writing that the Buildings and Standards Commission reconsider an order issued after a hearing. The Buildings and Standards Commission may, in its discretion, grant a continuance or a re-hearing of a case. However, neither a request nor the granting of a re-hearing shall extend the deadline for an interested party to appeal the order of the Buildings and Standards Commission to the state district court.

SECTION 3.

Chapter 6, Article IV, Sections 6-76, 6-77, 6-80, 6-81, 6-82, and 6-90 of the Code of Ordinances of the City of Socorro, Texas are hereby amended set forth below.

Sec. 6-76. - Notice to property owners and others of public hearing.

- (a) If the building official determines that a public nuisance exists and such public nuisance requires the vacation, securing, repair, or removal of a building, structure, or condition, or the relocation of the occupants of the property, the building official shall:

- (1) Give notice of the nuisance to the owner of the property as well as any known tenant or occupant, by personal service or by certified mail (with a duplicate copy addressed to such owner, tenant or occupant as shown in the most recent tax roll or utility records of the city and deposited in the U. S. Mail, postage paid);
 - (2) Provide detail in such notice of the standard(s) violated under this article and the necessary action to abate the public nuisance (a copy of the building official's report is sufficient for this purpose);
 - (3) Advise such owner, tenant or occupant of the date and time of the public hearing at which a determination will be made by the Buildings and Standards Commission as to whether the public nuisance exists and whether the real property, building, structure, premises or any portion thereof complies with the standards of this article;
 - (4) Include a statement in such notice that the owner, lienholder or mortgagee will be required to submit proof of the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work; and
 - (5) Provide a copy of such notice of public nuisance, details thereof, the required action necessary to abate the nuisance, and the date and time of the public hearing to any mortgagee or lienholder of record after a diligent effort to discover such mortgagee or lienholder.
- (b) If the city mails a notice in accordance with this Article IV to a property owner, lienholder, or mortgagee and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.
- (c) The city satisfies the requirements of this article to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the city searches the following records:
- (1) El Paso County real property records;
 - (2) El Paso Central Appraisal District records;
 - (3) Records of the Secretary of State;
 - (4) Assumed name records of El Paso County;
 - (5) Tax records of the City of Socorro, Texas; an;
 - (6) Utility records of any utility doing business in the City of Socorro, Texas.

- (d) Nothing in this article shall be interpreted to limit the powers of the City of Socorro, Texas to declare other acts, conditions or things to be public nuisances or the powers of the City or the building official to abate nuisances as provided by the City's nuisance ordinance or as provided by other ordinances of the City of Socorro, Texas.

Sec. 6-77. - Date of public hearing.

The date of the public hearing before the Buildings and Standards Commission shall not be fewer than 30 days from the date of personal service or deposit of same in the U.S. Mail, whichever is earliest.

Sec. 6-80. - Conduct of public hearing.

The Buildings and Standards Commission shall conduct the public hearing to determine compliance with the standards set out in this article. At the public hearing, the owner, lienholder or mortgagee shall have the burden of proof to demonstrate the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work.

Sec. 6-81. - Orders and notice after public hearing.

- (a) If, after a public hearing, the Buildings and Standards Commission finds that a public nuisance exists as defined by this article, the Buildings and Standards Commission shall require the owner, lienholder, or mortgagee of the real property, building, structure or premises to within 30 days:
 - (1) Secure the offending building or agricultural structure from unauthorized entry; or
 - (2) Abate the nuisance or repair, remove or demolish the building unless the owner, mortgagee or lienholder establishes at the hearing that the work cannot reasonably be performed within the 30 days allowed. The Buildings and Standards Commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.
- (b) If, after the public hearing, a building, structure or premises is found to be in violation of the minimum standards set forth in this Article IV, the Buildings and Standards Commission may order that the building, structure, or premises be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this section. The Buildings and Standards Commission also may order that the occupants be relocated within a reasonable time, at the cost of the owner. The Buildings and Standards Commission reserves the right to determine what is a reasonable amount of time to perform the ordered work or what is a reasonable amount of time to relocate occupants. In the event the owner fails to comply with the order

within the time provided for action by the owner, the Buildings and Standards Commission may order any of the mortgagees or lienholders of the building, structure, or premises to be vacated, secured, repaired, removed, or demolished to comply with the order within a reasonable time as provided by this Section. The Buildings and Standards Commission also may order that the occupants be relocated within a reasonable time, at the cost of any of the mortgagees or lienholders. Under this section, the City is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

- (c) If the owner, lienholder or mortgagee establishes at the public hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work, and if the owner, lienholder or mortgagee has submitted at the hearing a detailed plan and time schedule, and the Buildings and Standards Commission allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to abate the nuisance or repair, remove or demolish the building or agricultural structure, the Buildings and Standards Commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the Buildings and Standards Commission through the building official to demonstrate compliance with time schedules for commencement and performance of the work and may require appearance before the building official, the Buildings and Standards Commission, or their designees, to demonstrate compliance. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City's boundaries that exceeds \$100,000.00 in total value, the Buildings and Standards Commission may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the Buildings and Standards Commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the Buildings and Standards Commission. The bond must be posted, or the letter of credit or third-party guaranty provided, not later than the 30th day after the date the City issues the order.

- (d) Within ten days after the date that the order is issued, the City Secretary shall:
 - (1) File a copy of the order in the City Clerk's office; and
 - (2) Publish in a newspaper of general circulation in the City notice containing:
 - a. The street address or legal description of the property;
 - b. The date of the hearing;
 - c. A brief statement indicating the results of the order; and
 - d. Instructions stating where a complete copy of the order may be obtained.

- (e) After the public hearing, the City Clerk shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The City shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building, structure or premises.
- (f) If the public nuisance is not abated, or the building, structure or premises is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the City may abate, vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of the City to collect on a bond or other financial guaranty that may be required by subsection (c) of this section.

Sec. 6-82. - Repair, vacation or demolition.

The following standards shall be followed by the Buildings and Standards Commission in ordering the repair, vacation or demolition of any building, structure, or premises, and any building, structure, or premises declared a public nuisance under this Article shall be made to comply with one or more of the following:

- (1) The building, structure, or premises shall be repaired in accordance with the current building code or other current codes applicable to the type of substandard conditions requiring repair.
- (2) Repairs shall be deemed feasible only if less than 50 percent of the building or agricultural structure must be repaired or replaced, and the repairs amount to less than 50 percent of the building or agricultural structure's value.
- (3) If the building or agricultural structure is in such a condition as to make it dangerous to the health, safety and welfare of the occupants, it shall be ordered vacated and secured from unlawful entry.
- (4) If the building or agricultural structure requires repairs over greater than 50 percent of its surface or amounting to greater than 50 percent of its value, it shall be demolished. Further, if a building or agricultural structure cannot be repaired so that it will be brought into compliance with this article, it shall be demolished. Additionally, if the building or agricultural structure as it stands presents an incurable fire hazard in violation of the terms of this article or any ordinance of the City or statute of the State, it shall be demolished. For the purpose of this article, the term "demolished" includes the cleaning and grading of the property and the removal of all debris and trash.
- (5) If the building or agricultural structure is not vacated, secured, repaired, removed or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove or demolish the building or agricultural structure or relocate the

occupants at its own expense, and may thereafter assess expenses, and establish a lien against the property, as set forth in Section 6-88 of this Article.

- (6) If, after the expiration of the time allotted under Section 6-81 of this Article the owner, lienholder or mortgagee fails to comply, the City may do or cause to be done the repairs necessary to bring the building into compliance with this article and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds the minimum standards, as defined by this article, and expenses may be assessed as provided in section 6-81 of this article.

Sec. 6-90. - Judicial review.

Any owner, lienholder, or mortgagee aggrieved by an order of the Buildings and Standards Commission issued under this article shall be entitled to review by a state district court pursuant to the V.T.C.A., Local Government Code § 214.0012, as amended, and if the City of Socorro, Texas prevails, it shall be entitled to an award of attorney's fees, costs and expenses, and judgment therefore, pursuant to and as authorized by the V.T.C.A., Local Government Code § 214.0012(h).

SECTION 4.

Chapter 28, Article II, Section 28-23 of the Code of Ordinances of the City of Socorro, Texas is hereby amended as set forth below.

Sec. 28-23. - Abatement procedure; penalties.

- (a) *Service of notice of violation* If the building official determines that a nuisance exists, the building official shall:
- (1) Give notice of the nuisance to the owner of the property as well as any known tenant or occupant, by personal service or by certified mail (with a duplicate copy addressed to such owner, tenant or occupant as shown in the most recent tax roll or utility records of the City and deposited in the U. S. Mail, postage paid);
 - (2) Provide detail in such notice of the nature of the nuisance and the necessary action to abate the nuisance (a copy of the building official's report is sufficient for this purpose);
 - (3) Advise such owner of the right to request an administrative hearing as provided by this Section; and,
 - (4) Provide a copy of such notice to any mortgagee or lienholder of record after a diligent effort to discover such mortgagee or lienholder.

If the City mails a notice in accordance with this Section to a property owner, lienholder, or mortgagee and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered. The City satisfies the requirements of this Section to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the City searches the following records:

- (1) El Paso County real property records;
 - (2) El Paso Central Appraisal District records;
 - (3) Records of the Texas Secretary of State;
 - (4) Assumed name records of El Paso County;
 - (5) Tax records of the City of Socorro, Texas; and
 - (6) Utility records of any utility doing business in the City of Socorro, Texas.
- (b) *Repeat violations.* In a notice provided under this section, the City may inform the owner that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the City, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the municipality without notice may take any action permitted under this article and assess expenses against the owner and the property as provided in this article.
- (c) *Administrative hearing.* The Buildings and Standards Commission shall conduct an administrative hearing on the abatement of a violation of this article if, not later than the fifth calendar day after the date of the notice of the nuisance, the property owner files with the City's code enforcement department a written request for a hearing. The fact that a hearing has been requested shall not affect the City's right to abate weeds and grass nuisances prior to such hearing. An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the City's abatement of the nuisance.
- (d) *Abatement by City* If the owner of property does not cure any violation of this article within seven days of notice of a violation, the City may do the work or make the improvements required, pay for the work done or improvements made and charge the expenses to the owner of the property.
- (e) *Lien for abatement costs.* Amounts due the City for abatement of a violation of this article may be assessed against the real estate on which the work is done or

improvements made. To obtain a lien against the property, the City Manager or their designee must file a statement of expenses with the county clerk. The lien statement must include the name of the owner (if known) and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk. The lien created shall stand as security for the expenditures made and interest shall accrue at the rate of ten percent on the amount due from the date of payment of the expenses. A lien under this section is inferior only to tax liens and liens for street improvements.

- (f) *Foreclosure of lien.* The City Council may bring a suit for foreclosure in the name of the municipality to recover the expenditures and interest due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the City in doing the work or making the improvements.
- (g) *Civil penalties.* In addition to all other penalties, the City Attorney is authorized to file suit against the property owner for abatement of the violation and civil penalty not to exceed \$1,000.00 per day. Violations of this article shall constitute a misdemeanor.
- (h) *Remedies nonexclusive.* The remedies provided by this section are in addition to all other remedies provided by law.

SECTION 5.

Any provision of any prior ordinance of the City of Socorro, Texas, whether codified or uncodified, which is in conflict with any provision of this Ordinance is hereby repealed to the extent of the conflict; however, all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 6.

It is the intent of the City Council that each word, paragraph, sentence, subdivision, clause, phrase or section of this Ordinance be deemed severable, and should such word, paragraph, sentence, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of this Ordinance left standing, or the validity of any other ordinances of the City of Socorro, Texas.

SECTION 7.

This Ordinance shall take effect and shall be in full force from and after its adoption and publication as provided by law.

SECTION 8.

The City Clerk is hereby ordered to cause this Ordinance to be incorporated into the Code of Ordinances of the City of Socorro, Texas.

READ, ADOPTED AND APPROVED this 15 day of October, 2015.

CITY OF SOCORRO, TEXAS

Jesus Ruiz, Mayor

ATTEST:

Olivia Navarro, City Clerk

APPROVED AS TO FORM:

James A. Martinez
Socorro City Attorney

Introduction and First Reading: October 1, 2015
Second Reading and Adoption: October 15, 2015



#15916

ORDINANCE 379

AMENDING CHAPTER 42 OF THE CITY CODE OF SOCORRO, TEXAS, BY ADDING CHAPTER 42, ARTICLE II, SECTION 42.40; CREATING A CIVIL PENALTY; AND PROVIDING FOR A CIVIL FINE AND PENALTIES

WHEREAS, Section 545.066 of the Texas Transportation Code creates a criminal offense for passing a stopped school bus that is operating certain visual signals required by Section 547.701 of the Texas Transportation Code (including red flashing lights and extended stop arms) while loading and unloading students; and

WHEREAS, studies have shown that motor vehicles frequently unlawfully pass stopped school buses that are operating visual signals while loading and unloading students; and

WHEREAS, the City Council finds that unlawfully passing a stopped school bus while operating a moving motor vehicle is a traffic hazard, a danger to the public and creates a particular danger or probability of danger in the City of Socorro; and

WHEREAS, the City Council believes that creating a civil penalty for unlawfully passing a stopped school bus would further and protect the public health, safety, and welfare; and

WHEREAS, the City Council wishes to establish such a program pursuant to its home rule authority and the authority granted under Section 542.202 of the Texas Transportation Code, which allows a city to provide for civil enforcement of certain traffic regulations within its jurisdiction and in the reasonable exercise of its police power;

NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOCORRO:

That Chapter 42 Article II of the City Code of Socorro, Texas, Section 42.40 is hereby added, which shall read as follows:

1. DEFINITIONS

- A. **ADMINISTRATOR** means the governmental entity designated by the City Council to administer and enforce the Ordinance.
- B. **SCHOOL BUS SAFETY/STOP ARM ENFORCEMENT PROGRAM** means the installation of Photographic School Bus Safety/Stop Arm Enforcement Program

Systems on School Buses operated within the city for the purpose of reducing School Bus Safety/Stop Arm Violations and injuries to students citywide.

- C. CAMERA-ENFORCED SCHOOL BUS means a School Bus equipped with a Photographic School Bus Safety/Stop Arm Enforcement Program System.
- D. DATE OF ISSUANCE means the date that Notice of Violation is approved and mailed by a Law Enforcement Officer in accordance with this article.
- E. DEPARTMENT means the department or departments of the city designated to enforce and administer this article, or the Department's designated representative.
- F. DIRECTOR means the Director of the Department or the Director's authorized representative.
- G. HEARING OFFICER means an individual designated by the Director to administratively adjudicate all School Bus Safety/Stop Arm Violations for which a Notice of Violation has been issued.
- H. LAW ENFORCEMENT OFFICER means an individual licensed as a Law Enforcement Officer by the Texas Commission on Law Enforcement Officers, including a peace officer, as defined under Article 2.12, Texas Statutes, Code of Criminal Procedure.
- I. MAIL DATE means the date that a Notice of Violation is mailed in accordance with this article.
- J. PHOTOGRAPHIC SCHOOL BUS SAFETY/STOP ARM ENFORCEMENT PROGRAM SYSTEM ("SYSTEM") means a system that:
 - i. consists of cameras installed on the exterior of a School Bus that work in conjunction with an automatic stop arm on the School Bus, which stop arm, along with flashing warning lights and other equipment required by Section 547.701(c) of the Texas Transportation Code, as amended, warns drivers that the School Bus is stopped for the purpose of loading or unloading students; and
 - ii. is capable of producing a recorded image depicting the license plate attached to the front or the rear of a motor vehicle that passes the School Bus in violation of the Ordinance.
- K. RECORDED IMAGE means a photographic or digital image recorded by a System that depicts the front or the rear of a motor vehicle.
- L. SCHOOL BUS has the meaning given that term in Section 541.201 of the Texas Transportation Code, as amended.

- M. SCHOOL BUS SAFETY/STOP ARM NOTICE OF VIOLATION (“NOTICE OF VIOLATION”) means a notice of a School Bus Safety/Stop Arm Violation issued under the Ordinance.
- N. SCHOOL BUS SAFETY/STOP ARM VIOLATION (“VIOLATION”) means a violation of the Ordinance.
- O. VEHICLE OWNER means:
 - i. the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country;
 - ii. the person named under Section 6 of these Procedures as the lessee of the motor vehicle at the time of a Violation; or
 - iii. the person named under Section 6 of these Procedures as holding legal title to the motor vehicle at the time of a Violation.

2. SCHOOL BUS SAFETY/STOP ARM VIOLATIONS AS CIVIL OFFENSES

- A. The owner of a motor vehicle that is operated in violation of Section 545.066 of the Texas Transportation Code, as amended, by passing a stopped school bus displaying the visual signals required by Section 547.701(c) of the Texas Transportation Code, as amended, commits a civil offense and is liable for a civil fine per violation.
- B. The City Council may contract with another local government(s) in accordance with Chapter 791 of the Texas Government Code to enforce and administer this section (“Administrator”). The City or Administrator shall implement and enforce this section and may establish such rules or regulations, not inconsistent with this section, as are necessary to effect this section.

3. SCHOOL BUS SAFETY/STOP ARM VIOLATIONS AS CIVIL OFFENSES; DEFENSES; PRESUMPTIONS

- A. The Ordinance provides that the owner of a motor vehicle that is operated in violation of Section 545.066 of the Texas Transportation Code, as amended, by passing a stopped Camera-Enforced School Bus displaying the visual signals required by Section 547.701(c) of the Texas Transportation Code, as amended, commits a civil offense and is liable for a civil fine assessed under Section 2 of the Ordinance.
- B. It is a defense to a charge of a Violation under this section:
 - i. the School Bus was not operating the visual signals required by Section 547.701(c) of the Texas Transportation Code, as amended;

- ii. the operator of the motor vehicle was acting in compliance with the lawful order or direction of a Law Enforcement Officer;
 - iii. the operator of the motor vehicle was in the process of passing the School Bus before the School Bus operated a visual signal described by Section 547.701(c) of the Texas Transportation Code, as amended;
 - iv. the operator of the motor vehicle passed the stopped School Bus so as to yield the right of way to an immediately approaching authorized emergency vehicle;
 - v. the motor vehicle was being operated as an authorized emergency vehicle under Chapter 546 of the Texas Transportation Code, as amended, and the operator was acting in compliance with that chapter;
 - vi. the motor vehicle was a stolen vehicle being operated by a person other than the Vehicle's Owner without the consent of the Vehicle Owner and proof is submitted to the Hearing Officer that the theft of the motor vehicle had been timely reported to the appropriate law enforcement agency;
 - vii. the license plate depicted in the recorded image of the Violation was a stolen plate being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued and proof is submitted to the Hearing Officer that the theft of the license plate had been timely reported to the appropriate law enforcement agency; or
 - viii. the presence of ice, snow, unusual amounts of rain, or other unusually hazardous road conditions existed that would have made compliance with this section more dangerous under the circumstances than non-compliance.
- C. It is presumed that the registered owner of the vehicle depicted in the recorded image of a Violation for which a Notice of Violation is issued is the Vehicle Owner who committed the Violation. Proof of ownership may be made by a computer-generated record of the registration of the vehicle with the Texas Department of Transportation showing the name of the Vehicle Owner to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the Vehicle Owner to whom the certificate of registration was issued.
- D. A Vehicle Owner who is in the business of selling, renting, or leasing vehicles will not be liable for the civil School Bus Safety/Stop Arm Enforcement Program fines, penalties, and costs imposed by the city on a vehicle for sale or a rented or leased vehicle if the Vehicle Owner presents evidence establishing that the vehicle depicted in the recorded image was at the time of the alleged violation being rented, leased, or test driven by another person. Evidence sufficient to establish that the vehicle was being rented, leased, or test driven includes:

- i. the true name, address, and driver's license number and state of issuance of the person renting, leasing, or test driving the vehicle at the time the recorded image of the Violation was taken; or
 - ii. a true copy of the lease or rental agreement in effect at the time the recorded image of the Violation was taken.
- E. Evidence presented under Subsection (d) of this section must be presented through oral testimony or by affidavit under penalty of perjury. Evidence through oral testimony must be presented at the administrative adjudication hearing. Evidence by affidavit under penalty of perjury may be presented by mail.
- F. If the owner of a vehicle presents evidence under Subsections (d) and (e) of this section establishing that the vehicle depicted in the recorded image was being rented, leased, or test driven at the time of the Violation, the Vehicle Owner may not be held liable for civil School Bus Safety/Stop Arm Enforcement Program fines, penalties, and costs, and the Law Enforcement Officer shall send the Notice of Violation to the test driver or lessee who is presumed to have committed the Violation. An owner of a vehicle who fails to comply with Subsections (d) or (e) of this section will be treated as any other Vehicle Owner and will be liable for the Violation.
- G. If, at the time the recorded image of the Violation was taken, the vehicle depicted in the recorded image was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the Vehicle Owner shall, within thirty (30) calendar days after the date the Notice of Violation is received, provide to the Administrator the name and address of the individual who was renting or leasing the motor vehicle depicted in the recorded image and a statement of the period during which that individual was renting or leasing the vehicle. This information must be provided regardless of whether the Vehicle Owner provides evidence under Subsections (d) and (e) of this section that the vehicle was being rented, leased, or test driven at the time of the Violation.
- H. A registered Vehicle Owner named in the Notice of Violation who did not hold legal title to the motor vehicle at the time of a Violation will not be liable for the civil School Bus Safety/Stop Arm Enforcement Program fines, penalties, and costs imposed by the city on that vehicle if the registered Vehicle Owner presents evidence establishing that another Vehicle Owner held legal title to the vehicle at the time the recorded image of the Violation was taken. Evidence sufficient to establish that the vehicle was owned by another Vehicle Owner at the time of the Violation includes:
 - i. the true name, address, and driver's license number and state of issuance of the Vehicle Owner who held legal title to the vehicle at the time the recorded image of the Violation was taken; or

- ii. a true copy of any purchase or sale documentation (including proof of transfer of title) showing the name of the Vehicle Owner who held title to the vehicle at the time the recorded image of the Violation was taken (that Vehicle Owner’s address must also be provided if not contained in the documentation).
- I. Evidence presented under Subsection (h) of this section must be presented through oral testimony or by affidavit under penalty of perjury. Evidence through oral testimony must be presented at the administrative adjudication hearing. Evidence by affidavit under penalty of perjury may be presented by mail.
 - J. If the registered Vehicle Owner named in the Notice of Violation complies with Subsections (h) and (i) of this section, the registered Vehicle Owner may not be held liable for civil S School Bus Safety/Stop Arm Enforcement Program fines, penalties, and costs, and Law Enforcement Officer shall send the Notice of Violation to the Vehicle Owner who held legal title to the vehicle at the time the recorded image of the Violation was taken. A registered Vehicle Owner named in the Notice of Violation who fails to comply with Subsections (h) and (i) of this section will be treated as any other Vehicle Owner and will be liable for the Violation.

4. FINES, COSTS AND FEES

That the following schedule of cumulative fines, costs and fees are adopted and shall be assessed:

FINES, COSTS AND FEES	
SCHOOL BUS SAFETY/STOP ARM VIOLATION FINE	\$300.00
30 DAY LATE PAYMENT PENALTY	\$25.00
NON-SUFFICIENT FUNDS – RETURNED CHECK FEE	\$35.00
FAILURE TO APPEAR PENALTY	\$50.00
ADMINISTRATIVE ADJUDICATION HEARING FILING FEE	\$25.00
MUNICIPAL OR JP COURT APPEAL HEARING FILING FEE	\$20.00
HEARING RESCHEDULING FEE	\$20.00

* Delinquent accounts over 60 days past due may be turned over to a collection agency and may be charged a collection charge in an amount of 30% of the total amount due.

5. That the attached "Procedures for Administration of the City of Socorro School Bus Safety/Stop Arm Enforcement Program Ordinance" shall take effect and remain in effect unless and until revised by the City or Administrator.
6. That the remainder of Chapter 42 of the City Code of Socorro, Texas will remain in full force and effect, save and except as amended by this Ordinance.
7. Should any article, section, part, paragraph, sentence, phrase, clause, or word of this Ordinance, for any reason, be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.
8. The publishers of the City Code of Socorro, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.
9. The City Clerk of the City of Socorro is hereby directed to publish notice of this Ordinance as required by Section 3.14 of the Charter of the City of Socorro and the laws of the State of Texas.
10. This Ordinance shall take effect upon publication in accordance with Section 9 above.

PASSED AND APPROVED this _____ day of _____, 2015.

Jesus Ruiz, Mayor

ATTEST:

APPROVED AS TO FORM:

Olivia Navarro, City Clerk

City Attorney

First Reading: October 1, 2015
Second Reading and Adoption: October 15, 2015

PROCEDURES FOR ADMINISTRATION OF THE CITY OF SOCORRO

SCHOOL BUS SAFETY/STOP ARM ENFORCEMENT PROGRAM ORDINANCE

The following procedures (“Procedures”) for the administration of the School Bus Safety/Stop Arm Enforcement Program ordinance (“Ordinance”), codified as Section 42 City Code of the City of Socorro, provide for the enforcement of the Ordinance through a Photographic School Bus Safety/Stop Arm Enforcement Program System (“System”) as defined in the Ordinance.

1. LAW ENFORCEMENT OFFICERS – POWERS, DUTIES, AND FUNCTIONS

- A. The Administrator shall appoint Law Enforcement Officers to issue Notice of Violations.
- B. A Law Enforcement Officer shall have the following powers, duties, and functions:
 - i. To review recorded images from the System to determine whether a School Bus Safety/Stop Arm Violation (“Violation”), as defined in the Ordinance, has occurred.
 - ii. To order a Notice of Violation to be issued based on evidence from the recorded images.
 - iii. To void recorded images due to lack of evidence or due to knowledge that a defense described in Section 4 of these Procedures applies.

2. HEARING OFFICERS – POWERS, DUTIES, AND FUNCTIONS

- A. The Director shall designate Hearing Officers to administratively adjudicate all Violations for which a Notice of Violation has been issued.
- B. A Hearing Officer shall have the following powers, duties, and functions:
 - i. To administer oaths.
 - ii. To accept admissions to, and to hear and determine contests of, Violations under this article.
 - iii. To issue orders compelling the attendance of witnesses and the production of documents, which orders may be enforced by a municipal court.
 - iv. To assess civil fines, penalties, and other costs for a Violation as outlined in these Procedures.
 - v. To waive penalties assessed for a Violation in accordance with these Procedures.

3. NOTICE OF VIOLATION; FORM

- A. A Notice of Violation serves as the summons and complaint for purposes of the Procedures.
- B. The Notice of Violation must be on a form prescribed by the Administrator and must include the following information:
 - i. The name and address of the owner of the vehicle involved in the Violation.
 - ii. A description of the Violation alleged.
 - iii. The date and time of the Violation and the location of the School Bus where the Violation occurred.
 - iv. The Notice of Violation issuance date.
 - v. The registration number displayed on the license plate of the vehicle involved in the Violation.
 - vi. A copy of a recorded image of the Violation that includes a depiction of the registration number displayed on the license plate of the vehicle involved in the Violation.
 - vii. The amount of the civil fine to be imposed for the Violation.
 - viii. The date by which the civil fine must be paid or the request for an administrative adjudication hearing must be made.
 - ix. A statement that, in lieu of requesting an administrative adjudication hearing, the Vehicle Owner named in the Notice of Violation may pay the civil fine in person or by mail at an address designated on the Notice of Violation.
 - x. A notification that the Vehicle Owner has the right to contest the imposition of the civil fine in an administrative adjudication hearing by submitting a written request for an administrative adjudication hearing within thirty (30) calendar days after the date the Notice of Violation is issued.
 - xi. A notification that any request by the Vehicle Owner to have the Law Enforcement Officer who issued the Notice of Violation, present at the hearing must be made in writing as part of the written request for an administrative adjudication hearing and that failure to timely make this request constitutes a waiver of the Vehicle Owner's right to require the presence of the Law Enforcement Officer at the hearing.

- xii. A notification that failure to pay the civil fine or to timely request an administrative adjudication hearing is considered an admission of liability for the Violation, is a waiver of the Vehicle Owner's right to appeal the imposition of the civil fine, and will result in the assessment of appropriate civil fines, penalties, and costs.
 - xiii. A statement that the Vehicle Owner will incur a late payment penalty if the Vehicle Owner fails to pay the civil fine or request an administrative adjudication hearing within thirty (30) calendar days after the Date of Issuance of the Notice of Violation.
 - xiv. A statement that the Vehicle Owner will incur a late payment penalty and may incur a 30% collection fee if the Vehicle Owner fails to pay the civil fine within thirty (30) calendar days after the Date of Issuance of the Notice of Violation.
 - xv. A notification that an arrest warrant may not be issued for failure to timely pay the civil fines, penalties, and costs and that the imposition of the civil penalty may not be recorded on the Vehicle Owner's driving record.
- C. The original or any copy of a Notice of Violation is a record kept in the ordinary course of city business and is prima facie evidence of the facts contained in the Notice of Violation.

4. SERVICE OF A NOTICE OF VIOLATION

- A. In order to impose a civil fine under these Procedures, a Law Enforcement Officer shall mail a Notice of Violation to the owner of the motor vehicle involved in the Violation within thirty (30) calendar days after the date the Violation is alleged to have occurred. The Notice of Violation must be mailed, by United States mail, to:
- i. the Vehicle Owner's address as shown on the registration records of the Texas Department of Transportation;
 - ii. if the vehicle is registered in another state or country, the Vehicle Owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Transportation;
 - iii. if the Vehicle Owner presents evidence or information that the vehicle was being rented, leased, or test driven at the time of the Violation, the address provided by the seller or lessor; or
 - iv. if the registered Vehicle Owner presents evidence that another person had legal title to the vehicle at the time of the Violation, the address provided.

5. ANSWERING A NOTICE OF VIOLATION

- A. A Vehicle Owner who has been issued a Notice of Violation shall, either personally or through a representative, answer to the charge of the Violation by the date shown on the Notice of Violation, which date may not be earlier than the 30th day after the Mail Date of the Notice of Violation issued. An answer may be made in any of the following ways:
 - i. An admission of liability with a payment of the applicable civil fine, and any additional penalties and costs.
 - ii. A written request to schedule an administrative adjudication hearing, along with a filing fee, as assessed under Section 2 of the Ordinance, to either deny liability or admit liability with an explanation before a Hearing Officer.
 - iii. A denial of liability accompanied by an affidavit under penalty of perjury presenting evidence that the vehicle depicted in the recorded image was at the time of the Violation being rented, leased, or test driven.
 - iv. A denial of liability accompanied by an affidavit under penalty of perjury presenting evidence that the person named in the Notice of Violation was not the owner of the vehicle depicted in the recorded image at the time of the Violation.
 - v. A written request, along with a filing fee assessed under Section 2 of the Ordinance, for permission from a Hearing Officer to adjudicate by mail.
- B. Payment of the civil fine and any additional penalties and costs may be made in person or by mailing the Notice of Violation to the address shown on the Notice of Violation, accompanied by payment of the amount shown on the Notice of Violation. Payment by mail may be made only by credit card, money order or check. Payment of the civil fine and all penalties and costs assessed under this article operates as a final disposition of the Violation charge, except when payment is made to reset a scheduled hearing as assessed under Section 15.

6. ADJUDICATION BY MAIL

- A. If a Vehicle Owner charged with a Violation shows good cause for not attending a hearing, either personally or through a representative, the Hearing Officer may permit the matter to be adjudicated by mail, which adjudication must be completed within ninety (90) calendar days after the Mail Date of the Notice of Violation.
- B. Letters, memoranda, affidavits, photographs, and other documentary materials will be admissible as evidence for the purposes of adjudication by mail. The Hearing Officer may exclude from consideration any material that is not relevant to the adjudication of the alleged violation.

- C. Failure of the Vehicle Owner to proceed with adjudication by mail after requesting and receiving permission to adjudicate by mail is an admission of liability for the Violation and will subject the Vehicle Owner to the appropriate civil fines, penalties, and costs assessed by the Hearing Officer.
- D. If a Hearing Officer determines that adjudication cannot proceed by mail, the Hearing Officer shall advise the Vehicle Owner by first class mail that the Vehicle Owner must appear to answer the charge at a hearing.

7. HEARINGS FOR DISPOSITION OF A NOTICE OF VIOLATION; NOTICE OF VIOLATION AND PHOTOGRAPHIC RECORDED IMAGES AS PRIMA FACIE EVIDENCE

- A. Every hearing for the adjudication of a Violation under this article must be scheduled for a hearing date held before a Hearing Officer not later than the 30th day after the Administrator receives written request for an administrative adjudication hearing. The Administrator shall notify, by mail, the Vehicle Owner requesting a hearing of the date, time, and location of the hearing.
- B. A Vehicle Owner may make a written request to reset a scheduled administrative adjudication hearing. A scheduled administrative adjudication hearing may not be reset more than once unless the Vehicle Owner pays an amount equal to the applicable civil fine for the Violation, with any additional penalties and costs. A receipt shall be issued for any amounts paid under this subsection. After presentation of the receipt, all amounts paid will be refunded to the Vehicle Owner if the Hearing Officer, or a municipal court on appeal, finds that the Vehicle Owner is not liable for the Violation.
- C. At a hearing, the Notice of Violation and the recorded image produced by the System are prima facie proof of the Violation, and the Law Enforcement Officer who issued the Notice of Violation is not required to be present unless requested by the Vehicle Owner charged or by the Hearing Officer. A Vehicle Owner's request to have the Law Enforcement Officer, who issued the Notice of Violation, present at the hearing must be in writing as part of the Vehicle Owner's request for an administrative adjudication hearing.
- D. At a hearing, the Hearing Officer shall hear and consider evidence presented by the Administrator and by the Vehicle Owner. The formal rules of evidence do not apply to a hearing under this article, and the Hearing Officer shall make a decision based upon a preponderance of the evidence presented at the hearing, after giving due weight to all presumptions and prima facie evidence established by this article or other applicable law.
- E. At a hearing, the reliability of the System used to produce the recorded image of the Violation may be attested to by affidavit of the Administrator, officer or employee of the city, or of the entity with which the city contracts to install or operate the system, who is responsible for inspecting and maintaining the system.

An affidavit of the Administrator, officer or employee of the city that alleges a Violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this article, is evidence of the facts contained in the affidavit, and is prima facie evidence of the Violation alleged in the Notice of Violation.

- F. At the conclusion of the hearing, the Hearing Officer shall immediately render an order or decision, either by:
 - i. finding the Vehicle Owner liable for the Violation, assessing the applicable civil fine and any penalties and other costs in accordance with this article, and notifying the Vehicle Owner of the right to appeal to municipal court; or
 - ii. finding the Vehicle Owner not liable for the Violation.
- G. An order of a Hearing Officer must be in writing, signed, and dated by the Hearing Officer and filed with the Administrator in a separate index and file. The order may be recorded using computer printouts, microfilm, microfiche, or similar data processing techniques.

8. FAILURE TO ANSWER A NOTICE OF VIOLATION OR APPEAR AT A HEARING

- A. The failure of a Vehicle Owner charged with a Violation to answer to the charge within thirty (30) calendar days after the Mail Date or to appear at any hearing, including a hearing on appeal, when required to appear is an admission of liability for the Violation, and the Hearing Officer, or the municipal court in the case of an appeal, shall issue an order of liability and assess against the Vehicle Owner the appropriate civil fines, penalties, and other costs.
- B. Within seven (7) calendar days after filing an order of liability issued under these Procedures, a Hearing Officer or the entity with which the city contracts, shall mail notice to the Vehicle Owner of the order. The notice must be sent by United States mail to the address required for service of a Notice of Violation or to the address of the Vehicle Owner last known to the Hearing Officer. The notice must include a statement of:
 - i. the amount of the civil fines, penalties, and costs assessed; and
 - ii. the right to appeal to municipal court.
- C. Regardless of any other provision of this article, a Vehicle Owner who receives a Notice of Violation and who fails to timely pay the civil fine or fails to timely request an administrative adjudication hearing is still entitled to an administrative adjudication hearing if:
 - i. the Vehicle Owner submits to the Hearing Officer a written request for a hearing, accompanied by an affidavit and filing fee assessed under

Section 2 of the Ordinance, that attests to the date on which the Vehicle Owner received the Notice of Violation; and

- ii. the written request, filing fee assessed under Section 2 of the Ordinance, and affidavit are submitted to the Hearing Officer within thirty (30) calendar days after the date the Vehicle Owner received the Notice of Violation.

9. CIVIL FINES FOR VIOLATIONS; PENALTIES AND OTHER COSTS

- A. If a civil fine is assessed, it must be in accordance with this section. A fine may not be waived or modified by a Hearing Officer, or by a municipal court on appeal, when a Vehicle Owner is found liable for a Violation, except that additional penalties and other costs may be added in accordance with this section.
- B. The owner of a motor vehicle liable for a Violation shall pay a civil fine for each Violation, as assessed under Section 2 of the Ordinance.
- C. An additional late payment penalty will apply for each of the following occurrences, as assessed under Section 2 of the Ordinance, if the Vehicle Owner fails to:
 - i. answer a Notice of Violation in accordance with these Procedures;
 - ii. appear at a hearing scheduled to adjudicate the Violation charge; or
 - iii. after being found liable, pay all civil fines, penalties, fees, and costs assessed for a Violation within the time designated by the Hearing Officer, or by the municipal court on appeal.
- D. The owner of a motor vehicle liable for a Violation shall pay a late fee assessed under Section 2 of the Ordinance for Violation(s) if the Vehicle Owner fails to pay all civil fines, penalties, filing fees and court costs within sixty (60) days after the time designated by the Notice of Violation(s) or by the Hearing Officer or municipal court on appeal.
- E. A penalty assessed under Subsection (c) of this section may be waived by a Hearing Officer, or by a municipal court on appeal, if the Vehicle Owner can establish that:
 - i. through no fault of the Vehicle Owner:
 - a. no Notice of Violation was received as required by these Procedures;
 - b. no notice of the hearing officer's order was received as required by these Procedures; or

- c. payment of the civil fine assessed for the Notice of Violation was not posted in a timely manner; or
- ii. the penalty was assessed in error.

10. APPEAL FROM HEARING

- A. A Vehicle Owner determined by a Hearing Officer at an administrative adjudication hearing to be liable for a Violation may appeal this determination to the municipal court by filing an appeal petition, along with a filing fee, as assessed under Section 2 of the Ordinance, with the municipal court clerk or a deputy clerk before the 31st calendar day after the date the Hearing Officer's order is entered. If the Hearing Officer's order is reversed, the filing fee will be returned to the appellant.
- B. Upon receipt of an appeal petition, the municipal court clerk or deputy clerk shall schedule an appeal hearing and notify all parties of the date, time, and location of the hearing. The Law Enforcement Officer who issued the Notice of Violation is not required to be present at the appeal hearing unless requested by the Vehicle Owner charged or by the Hearing Officer. A Vehicle Owner's request to have the Law Enforcement Officer, who issued the Notice of Violation, present at the appeal hearing must be in writing and included in the Vehicle Owner's request for an appeal to municipal court.
- C. The appeal hearing must be a trial de novo in municipal court and is a civil proceeding. The decision of the municipal court is final.
- D. Service of notice of appeal under this section stays the enforcement and collection of any civil fines, penalties, and costs ordered by the Hearing Officer. An appeal petition must be accompanied by a notarized statement in which the Vehicle Owner agrees to pay all civil fines, penalties, and costs ordered by the Hearing Officer, if the Vehicle Owner is still found liable by the municipal court upon appeal.
- E. At an appeal hearing, the Notice of Violation and the recorded image produced by the System are prima facie proof of the Violation, and the Law Enforcement Officer who issued the Notice of Violation is not required to be present unless requested by the Vehicle Owner.
- F. At an appeal hearing, the reliability of the System used to produce the recorded image of the Violation may be attested to by affidavit of the Administrator, an officer or employee of the city, or of the entity with which the city contracts to install or operate the system, who is responsible for inspecting and maintaining the system. An affidavit of the Administrator, an officer or employee of the city that alleges a Violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this article, is evidence of the facts contained in the affidavit, and is prima facie evidence of the Violation alleged in the Notice of Violation.

11. EFFECT OF LIABILITY; EXCLUSION OF CIVIL REMEDY; ENFORCEMENT

- A. The imposition of a civil fine under the Ordinance is not a conviction or criminal offense and may not be considered a conviction or criminal offense for any purpose. Failure to timely pay a civil fine may not result in an arrest warrant being issued for the Vehicle Owner and may not be recorded on the Vehicle Owner's driving record.
- B. A civil fine may not be imposed on the owner of a motor vehicle if the operator of the vehicle was arrested or was issued a criminal citation by a Law Enforcement Officer under Section 545.066 of the Texas Transportation Code, as amended, for the Violation recorded by the System.
- C. The city attorney and Administrator are authorized to file suit or take other action to collect any civil fines, penalties, late fees and costs assessed under Section 2 of the Ordinance and these Procedures.

#17918

**CITY OF SOCORRO
REQUEST FOR CITY COUNCIL AGENDA ITEM**

Note: Regular Council meetings are held on the 1st and 3rd Thursday of each month. Requests **MUST** be submitted to the City Clerk by **12:00 p.m.** on the **THURSDAY** one week before the scheduled meeting date. **Late items (received by 5:00 p.m.) on the Friday prior the meeting will be placed as an Addendum. NO AGENDA ITEMS WILL BE RECEIVED AFTER 5:00 ON FRIDAY.**

Date Submitted: September 24, 2015

Department:  9/24/2015
Planning & Zoning

1st. Signature: _____

2nd. Signature: _____

DESCRIBE REQUEST:

INTRODUCTION, FIRST READING, AND CALLING FOR A PUBLIC HEARING OF ORDINANCE _____, AN ORDINANCE AMENDING THE CITY OF SOCORRO MASTER PLAN AND CHANGING THE ZONING OF LOT 4, BLOCK 15, COUNTRY GREEN, AT 10905 NORTH LOOP DR., FROM R-1 (SINGLE FAMILY RESIDENTIAL) TO C-2 (GENERAL COMMERCIAL).

THE PLANNING AND ZONING COMMISSION RECOMMENDS APPROVAL WITH CONDITIONS.

_____ **FOR OFFICE USE ONLY** _____
Please check one:

- | | |
|--|--|
| <input type="checkbox"/> Executive Session | <input checked="" type="checkbox"/> Regular Agenda |
| <input type="checkbox"/> Presentation Agenda | <input type="checkbox"/> Consent Agenda |

This item is to be placed on the agenda for: October 1, 2015

Received by City Clerk on: _____, 2015. Time: _____

Approved to be placed on the agenda : _____
City Council / City Manager

- ACTION TAKEN:**
- Approved
 - Not approved
 - Tabled
 - Other

Jesus A. Ruiz
Mayor

Rene Rodriguez
At Large

Sergio Cox
District 1



Gloria M. Rodriguez
District 2 / Mayor Pro Tem

Victor Perez
District 3

Anthony Gandara
District 4

ORDINANCE 381

AN ORDINANCE AMENDING THE CITY OF SOCORRO MASTER PLAN AND CHANGING THE ZONING OF LOT 4, BLOCK 15, COUNTRY GREEN SUBDIVISION, AT 10905 NORTH LOOP DR., FROM R-1 (SINGLE FAMILY RESIDENTIAL) TO C-2 (GENERAL COMMERCIAL).

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

That pursuant to Chapter 50 of the Codification of Ordinances of the City of Socorro, Texas, Ordinance No. 76 Amendment 1 A of the City of Socorro, as amended, the zoning of Lot 4, Block 15, Country Green Subdivision, located at 10905 North Loop Dr., is changed from R-1 (Single Family Residential) to C-2 (General Commercial) with the conditions that the business shall be a restaurant only. No beer and wine shall be served or consumed in the restaurant.

READ, APPROVED AND ADOPTED this 15TH day of October, 2015.

CITY OF SOCORRO, TEXAS

Jesus Ruiz, Mayor

ATTEST:

Olivia Navarro, Assistant City Clerk

APPROVED AS TO FORM:

James A. Martinez
Socorro City Attorney

Introduction and First Reading: October 1, 2015
Second Reading and Adoption: October 15, 2015

Jesus A. Ruiz
Mayor

Rene Rodriguez
At Large

Sergio Cox
District 1



Gloria M. Rodriguez
District 2 / Mayor Pro-Tem

Victor Perez
District 3

Anthony Gandara
District 4

DATE: October 1, 2015
TO: MAYOR AND CITY COUNCIL
FROM: Sam Leony, Planning and Zoning Director
CC: Adriana Rodarte, Interim City Manager

SUBJECT:

Introduction, first reading and calling for a public hearing for the proposed amendment to the City of Socorro Master Plan, and rezoning of Lot 4, Block 15, Country Green Subdivision, from R-1 (Single Family Residential) to C-2 (General Commercial).

SUMMARY:

The property matter of this request is located at 10905 North Loop Dr., northwesterly located at 200 feet from the intersection of North Loop Dr. and Milo Dr. This property has an estimated area of 9,100 sq. ft., owned by Marcelino Garcia, 7608 Yuma Dr., El Paso, TX 79915.

BACKGROUND:

Country Green Subdivision was recorded in 1972 with 252 residential lots classified as R-1 (SFR) after the City's reactivation in 1986.

According to our Future Land Use map, the projected land use for this property is: Commercial.

According to the Flood Insurance Rate Maps, the referenced property lies within an area determined to be outside of the 500-year flood plain, more particularly described as **Zone X**; this classification is the safest area with the less possibility of being flooded (Community Panel # 480212 0250-B / FEMA, September 4, 1991).

The current use of the property is: Restaurant.

The proposed use of the property: restaurant without beer & wine consumption.

Adjacent Land Uses: North: C-2 (GC), South: C-1 (LC), East: R-1 (SFR), West: A-1 (AGR).

STATEMENT OF THE ISSUE:

The Planning and Zoning department is currently conducting a revision to all the business to verify if the classification assigned to the property is correct based upon the land use. This is the case of this property: they started business several year ago without changing the zoning of the property to commercial.

ALTERNATIVE:

Due to the fact that this property has been in business for years, this rezoning is necessary for them to formalize their business registration.

STAFF RECOMMENDATION:

The Planning and Zoning Commission recommends APPROVAL contingent to the following:

- 1) This business shall be a **restaurant only**.
- 2) Beer and wine shall be **prohibited** in restaurant.

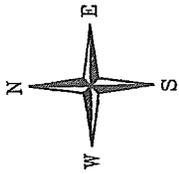
FINANCIAL IMPACT:

Not Applicable.

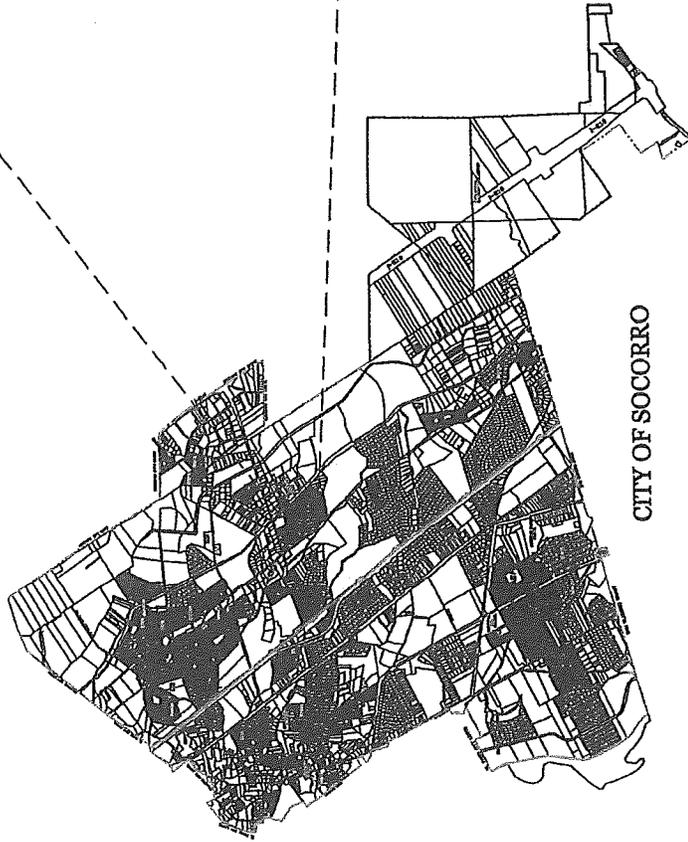
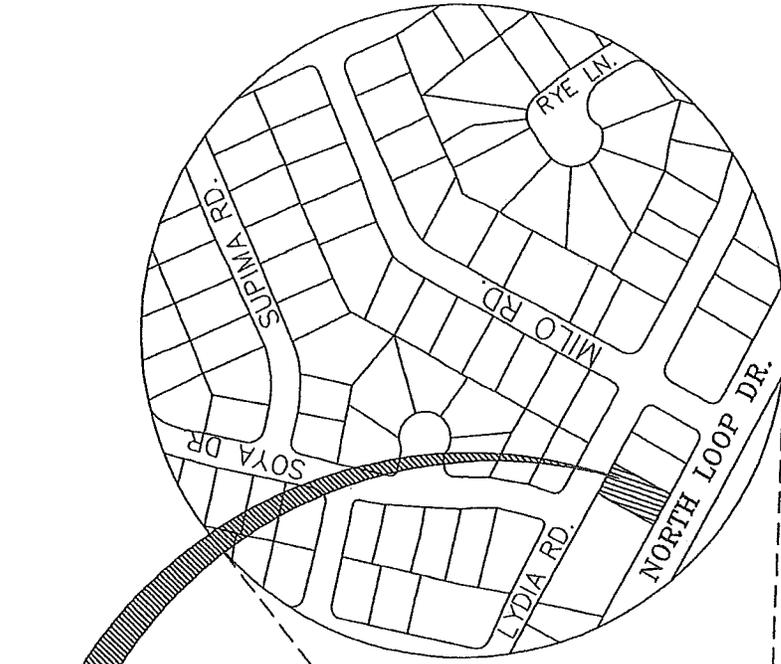
AUTHORIZATION:

1. City Manager: _____ Date: _____

2. Attorney: _____ Date: _____



PROJECT SITE:
10905 NORTH LOOP DR.
LOT 4, BLOCK 15,
COUNTRY GREEN SUBDIVISION,



CITY OF SOCORRO



LOCATION MAP

Scale: AS SHOWN

Planning and Zoning Department

500 N. 11th Ave. Socorro, Texas 78787 Tel. (915) 872-4331 Fax (915) 872-4870



REC'D JUL 14 2015

LAD

PLANNING AND ZONING DEPARTMENT Request for Rezoning

1. Name: Marcelino Gaccia
 Address: 7608 Yuma Dr Phone: 915-593-2402
 Representative: Marisela Nava
 Address: 700 Bundala Phone: 915-253-4253
 Email Address: manava@icloud.com
2. Property Location: 10905 Northloop
 Legal Description: 15 Country Green Lot 4

If legal description is not available, a metes and bounds description will be required.

<u>9100 Sq. Ft.</u>	<u></u>	<u>Restaurant</u>
Area (Sq. ft. or Acreage)	Current Zoning	Current Land Use
<u>C2</u>	<u></u>	<u>Restaurant</u>
Proposed Zoning		Proposed Land Use

3. All owners of record must sign document.

Marcelino Gaccia

Each item on this form must be completed and all exhibits must be submitted before this request can be scheduled for a public hearing.

Rezoning Fees: Less than one acre - \$650.00
 1 to 10 acres - \$750.00
 10.1 to 30 acres- \$950.00
 30.1 to 50 acres- \$1,150.00
 50.1 to 75 acres- \$1,400.00
 75.1 or more - \$1,650.00

ALL FEES ARE NONREFUNDABLE

19920

CITY OF SOCORRO
REQUEST FOR CITY COUNCIL AGENDA ITEM

Note: Regular Council meetings are held on the 1st and 3rd Thursday of each month. Requests **MUST** be submitted to the City Clerk by **12:00 p.m.** on the **THURSDAY** one week before the scheduled meeting date. **Late items (received by 5:00 p.m.) on the Friday prior the meeting will be placed as an Addendum. NO AGENDA ITEMS WILL BE RECEIVED AFTER 5:00 ON FRIDAY.**

Date Submitted: October 8, 2015

Department:  10/8/2015

Planning & Zoning

1st. Signature: _____

2nd. Signature: _____

DESCRIBE REQUEST:

SECOND READING AND ADOPTION OF ORDINANCE _____, AN ORDINANCE AMENDING THE CITY OF SOCORRO MASTER PLAN AND CHANGING THE ZONING OF LOT 11, BLOCK 2, LYNN PARK REPLAT, AT 301 TANIA DR., FROM R-2 (MEDIUM DENSITY RESIDENTIAL) TO C-1 (LIGHT COMMERCIAL).

THE PLANNING AND ZONING COMMISSION RECOMMENDS APPROVAL WITH CONDITIONS.

_____ FOR OFFICE USE ONLY _____

Please check one:

- () Executive Session
() Presentation Agenda

- (X) Regular Agenda
(X) Consent Agenda ✓

S.C.

This item is to be placed on the agenda for: October 15, 2015

Received by City Clerk on: _____, 2015. Time: _____

Approved to be placed on the agenda : _____

City Council / City Manager

ACTION TAKEN: () Approved
() Not approved
() Tabled
() Other

Jesus A. Ruiz
Mayor

Rene Rodriguez
At Large

Sergio Cox
District 1



Gloria M. Rodriguez
District 2 / Mayor Pro Tem

Victor Perez
District 3

Anthony Gandara
District 4

ORDINANCE 380

AN ORDINANCE AMENDING THE CITY OF SOCORRO MASTER PLAN AND CHANGING THE ZONING OF LOT 11, BLOCK 2, LYNN PARK SUBDIVISION, AT 301 TANIA DR., FROM R-2 (MEDIUM DENSITY RESIDENTIAL) TO C-1 (LIGHT COMMERCIAL).

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

That pursuant to Chapter 50 of the Codification of Ordinances of the City of Socorro, Texas, Ordinance No. 76 Amendment 1 A of the City of Socorro, as amended, the zoning of Lot 11, Block 2, Lynn Park Subdivision, located at 301 Tania Dr., is changed from R-2 (Medium Density Residential) to C-1 (Light Commercial) with the conditions of using Horizon Blvd. as the main access to the restaurant and using Tania Rd. as the main access to the apartments. The City's right-of-way shall not be used as a parking for business customers.

READ, APPROVED AND ADOPTED this 15 day of October 2015.

CITY OF SOCORRO, TEXAS

Jesus Ruiz, Mayor

ATTEST:

Olivia Navarro, City Clerk

APPROVED AS TO FORM:

James A. Martinez
Socorro City Attorney

Introduction and First Reading: October 1, 2015
Second Reading and Adoption: October 15, 2015

Jesus A. Ruiz
Mayor

Rene Rodriguez
At Large

Sergio Cox
District 1



Gloria M. Rodriguez
District 2 / Mayor Pro-Tem

Victor Perez
District 3

Anthony Gandara
District 4

Adriana Rodarte
Interim City Manager

DATE: October 15, 2015

TO: MAYOR AND CITY COUNCIL

FROM: Sam Leony, Planning and Zoning Director

CC: Adriana Rodarte, Interim City Manager

SUBJECT:

Second reading and adoption of Ordinance _____, an ordinance to amend the City of Socorro Master Plan and rezoning of Lot 11, Block 2, Lynn Park Subdivision, from R-2 (Medium Density Residential) to C-1 (Light Commercial).

SUMMARY:

The property matter of this request is located at 301 Tania Dr., right at the intersection of Horizon Blvd. and Donna Marie Dr. This property has an estimated area of 5,936 sq. ft., owned by Jaime & Guillermina Jordan, 4931 Guadalupe Dr., El Paso, TX 79904.

BACKGROUND:

Lynn Park Subdivision was recorded in 1971 with 168 residential lots classified as R-1 (SFR) after the City's reactivation in 1986.

According to our Future Land Use map, the projected land use for this property is: Residential.

According to the Flood Insurance Rate Maps, the referenced property lies within an area determined to be outside of the 500-year flood plain, more particularly described as **Zone X**; this classification is the safest area with the less possibility of being flooded (Community Panel # 480212 0250-B / FEMA, September 4, 1991).

The current use of the property is: property with two residential dwellings.

The proposed use of the property: small restaurant facing Horizon Blvd., and residential dwelling facing Tania Dr.

Adjacent Land Uses: North: A-1 (AGR), South: R-1 (SFR), East: C-2 (GC), West: R-1 (SFR).

STATEMENT OF THE ISSUE:

The C-1 (Light Commercial) classification is the only zone that allows a limited mixture of Commercial-Residential within the same lot (Socorro Municipal Code Sec. 46-378).

ALTERNATIVE:

N/A.

STAFF RECOMMENDATION:

The Planning and Zoning Commission recommends APPROVAL contingent to the following:

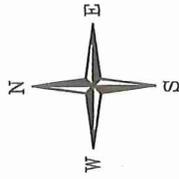
- 1) Access to proposed **restaurant** shall be on Horizon Blvd.
- 2) Entrance for **apartment** renters shall be on Tania Rd.
- 3) No public right-of-way shall be used as parking for restaurant customers.

FINANCIAL IMPACT:

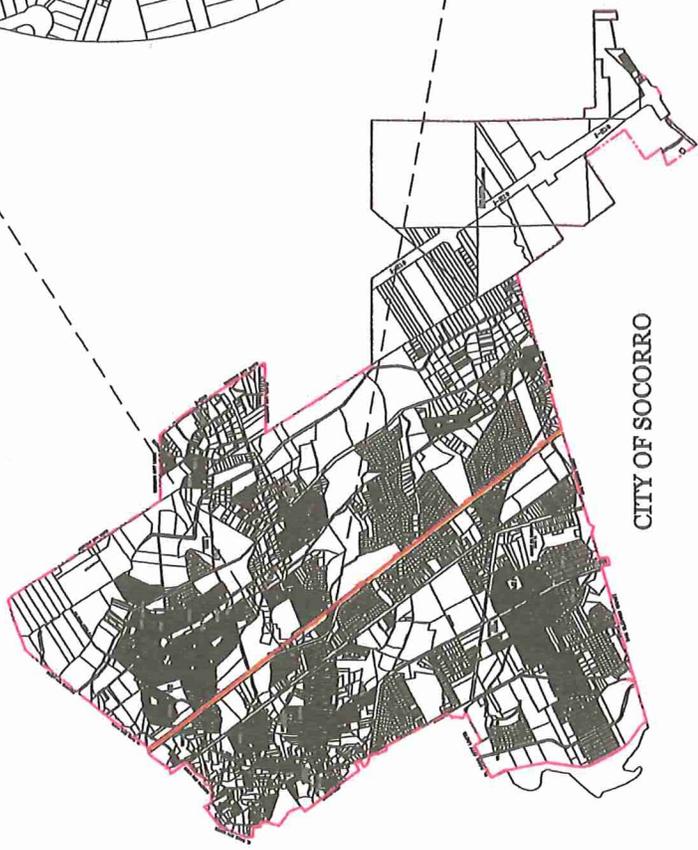
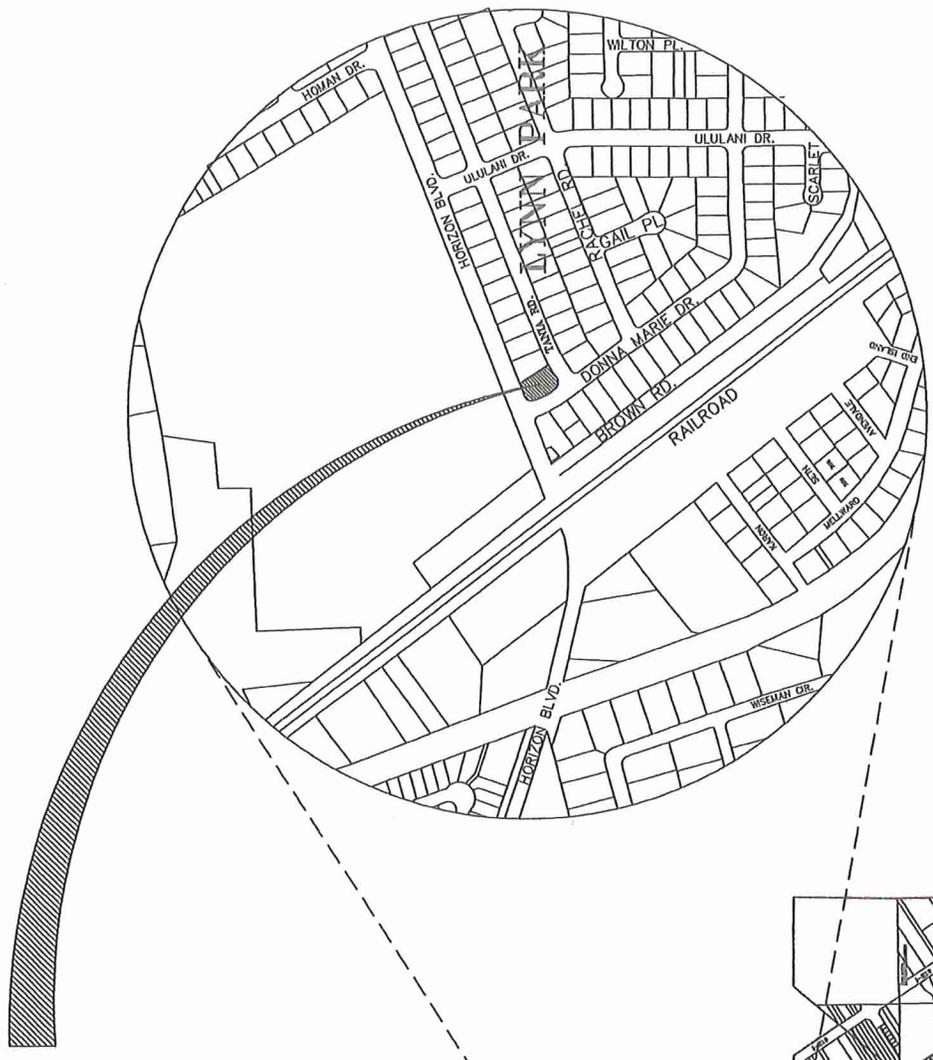
Not Applicable.

AUTHORIZATION:

1. City Manager: _____ Date: _____
2. Attorney: _____ Date: _____
3. CFO: _____ Date: _____



PROJECT SITE;
301 TANIA DR.
LOT 11, BLOCK 2,
LYNN PARK REPLAT



CITY OF SOCORRO



LOCATION MAP

Scale: AS SHOWN



#21

DATE: October 5, 2015

TO: Mayor and City Council

FROM: Anibal Olague, Special Projects

SUBJECT:

Resolution adopting the Multi-Jurisdictional Hazard Mitigation Plan

SUMMARY

The purpose of hazard mitigation is to implement actions that eliminate the risk from hazards, or reduce the severity of the effects of hazards on people and property. Mitigation actions are both short-term and long-term activities that reduce the cause or occurrence of hazards; reduce exposure to hazards; or reduce effects of hazards through various means to include preparedness response and recovery measures.

Last year the Special Projects office facilitated the participation of the City of Socorro to amend this plan, which did not include information pertaining to the City's flooding problems.

BACKGROUND

Last year the special projects office was seeking funds from the Texas Department of Public Safety Hazard Mitigation Grant to implement additional flood prevention measures. One grant identified requires that the proposed improvement is reflected as a priority in the region's hazard mitigation plan. After reviewing the existing plan it was concluded that no information or participation from the City was included in the draft plan. Our office coordinated with the Rio Grande Council of Governments and requested to amend the finished plan to include the City's flood priorities. Mr. Leony provided the required information and plan was approved last week by FEMA. The approval of the plan will allow the City to seek additional funds to implement flood projects.

STATEMENT OF THE ISSUE

FINANCIAL IMPACT

0

ALTERNATIVE

STAFF RECOMMENDATION

Approval

REQUIRED AUTHORIZATION

1. City Manager _____ Date _____
2. CFO _____ Date _____
3. Attorney _____ Date _____

Jesus Ruiz
Mayor
Rene Rodríguez
Representative At-Large
Sergio Cox
Representative District 1



Gloria M. Rodríguez
Representative District 2/Mayor Pro
Tem

Victor Perez
Representative District 3

Anthony Gándara
Representative District 4

Adriana Rodarte
Interim City Manager

RESOLUTION 489

WHEREAS, the purpose of hazard mitigation is to implement actions that eliminate the risk from hazards, or reduce the severity of the effects of hazards on people and property. Mitigation actions are both short-term and long-term activities that reduce the cause or occurrence of hazards; reduce exposure to hazards; or reduce effects of hazards through various means to include preparedness response and recovery measures; and

WHEREAS, the City of Socorro assisted and participated in the development and implementation of the Multi-Jurisdictional Hazard Mitigation Action Plan in collaboration with the Rio Grande Council of Governments (RGCOG) who is a voluntary association of local governments that was established under state law to promote coordination and cooperation in the delivering of governmental services within the Upper Rio Grande State Planning Region in accordance with the Texas Local Government Code, Chapter 391; and

WHEREAS, the plan has been reviewed by community residents, business owners, and representatives of Federal, State, and local agencies to reflect their concerns; and,

WHEREAS, the City of Socorro's portion of the Multi-Jurisdictional Hazard Mitigation Action Plan has been completed; and

WHEREAS, the Federal Emergency Management Agency (FEMA) requires approval of the City's portion of the Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOCORRO hereby officially adopts and approves the City's portion of the Multi-Jurisdictional Hazard Mitigation Action Plan. The Multi-Jurisdictional Hazard Mitigation Plan is an official plan of the City of Socorro; minor revisions of a nature that will not require funding to implement which are recommended by the Federal Emergency Management Agency and/or the Governor's Division of Emergency Management, Mitigation Section, may be incorporated by the City's Mayor or his designee without further action of City Council.

APPROVED AND ADOPTED on this date 15 th day of October, 2015.

ATTEST:

Jesus Ruiz, Mayor City of Socorro

Olivia Navarro, City Clerk

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001
512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
DAVID G. BAKER
ROBERT J. BODISCH, SR.
DEPUTY DIRECTORS



COMMISSION
A. CYNTHIA LEON, CHAIR
MANNY FLORES
FAITH JOHNSON
STEVEN P. MACH
RANDY WATSON

September 23, 2015

The Honorable Veronica Escobar
Judge, County of El Paso
500 E. San Antonio
El Paso, TX 79901

RE: Approval Pending Adoption of the County of El Paso Local Mitigation Plan, DR 1931-003.

Dear Judge Escobar,

Congratulations! FEMA has concluded the review of the El Paso County, Texas, local mitigation action plan, and the plan is found to be approvable pending adoption. In order for this plan to receive final FEMA approval, the jurisdiction(s) must adopt this plan and submit the complete adoption package to the state within 90 days. The plan update timeline will begin on the date of the FEMA approval letter. Please mail us the complete adoption package in the form of a CD containing the following:

- The final plan formatted as a single document
 - Plan must be dated to match the date of the first adoption
 - Remove track changes, strikethroughs and highlights
- All signed resolutions as a separate single document

The previous review tool may contain recommendations to be applied to your next update. DO NOT make any further changes to your plan until it has been approved.

The following participating governments are included in this plan (see Attachment A).

If you have any questions concerning this procedure, please do not hesitate to contact me at Mitchell.Osburn@dps.texas.gov or 512-337-0043. We commend you for your commitment to mitigation.

Respectfully,

Mitchell A. Osburn
Mitigation Plans Administrator
Texas Division of Emergency Management

Enclosures: Attachment A

cc: Marisa Quintanilla, Carlos Carmona

Attachment A

El Paso County, Texas
Multi-Jurisdictional
Hazard Mitigation Plan Participants

Below is the list of participating governments included in the September 9, 2015 review of the referenced Hazard Mitigation plan:

1. El Paso County
2. Town of Anthony
3. Town of Clint
4. City of El Paso
5. City of Horizon City
6. City of Socorro
7. Village of Vinton

MO/rm



#22

DATE: October 7, 2015

TO: Mayor and City Council

FROM: Anibal Olague, Special Projects

SUBJECT:

Resolution approving agreement with the Texas Department of Transportation to implement the City of Socorro's Safe Routes to Schools Program (Phase II).

SUMMARY

The City of Socorro received a grant from the Metropolitan Planning Organization to implement the second phase of its SRTS project. (streets to be assisted are outlined in agreement)

BACKGROUND

STATEMENT OF THE ISSUE

FINANCIAL IMPACT

Estimated \$151,299 city contribution

ALTERNATIVE

STAFF RECOMMENDATION

APPROVAL

REQUIRED AUTHORIZATION

1. City Manager _____ Date _____

2. CFO _____ Date _____

3. Attorney _____ Date _____

Jesus Ruiz
Mayor

Rene Rodríguez
Representative At-Large

Sergio Cox
Representative District



Gloria M. Rodríguez
Representative District 2/Mayor
ProTem

Victor Perez
Representative District 3

Anthony Gandara
Representative District 4

Adriana Rodarte
Interim City Manager

RESOLUTION 490
CITY OF SOCORRO SAFE ROUTES TO SCHOOLS (PHASE II)
TRANSPORTATION ALTERNATIVE PROGRAM PROJECT

WHEREAS, the Transportation Policy Board, comprised primarily of local elected officials, is the regional transportation policy board associated with El Paso Metropolitan Planning Organization (EPMPO) and the regional forum for cooperative decisions on transportation: and,

WHEREAS, the Transportation Policy Board approved approximately \$3.9 million for the current Transportation Alternatives Program call for projects for Fiscal Year (FY) 2014 and (FY) 2015 on May 2, 2014; and,

WHEREAS, the City of Socorro (the "City") submitted a transportation alternative Project application for the implementation of Phase II of its Safe Routes to Schools project to the El Paso Metropolitan Planning Organization (EPMPO) for 2016 TAP funding.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOCORRO, TEXAS THAT:

Section 1. The City of Socorro supports the implementation of its Safe Routes to Schools (Phase II) as awarded in the 2014/2015 Transportation Alternative Program Call for Projects application.

Section 2. The City of Socorro will serve as the public sponsor and lead project contact on this project. The City of El Paso agrees to designate a single point of contact for the project.

Section 3. The City of Socorro commits to fund or pass through funds from other sources for a minimum local cash or in-kind match of 20% of project costs.

Section 4. The City of Socorro confirms that the City of Socorro, not the Transportation Policy Board, will be responsible for any cost overruns.

Section 5. The City of Socorro understands and acknowledges that all awarded funding is provided on a reimbursement basis.

APPROVED AND ADOPTED ON this 15th day of October, 2015.

ATTEST:

Jesus Ruiz, Mayor

Olivia Navarro, City Clerk

STATE OF TEXAS §
COUNTY OF TRAVIS §

**LOCAL TRANSPORTATION PROJECT
ADVANCE FUNDING AGREEMENT
FOR A TRANSPORTATION ALTERNATIVES PROGRAM PROJECT
MPO SELECTED – OFF-SYSTEM PROJECT**

This Local Project Advance Funding Agreement (“LPAFA”) is made between the State of Texas (“State”), acting through the Texas Department of Transportation, and City of Socorro (“Local Government”), acting through its duly authorized officials.

BACKGROUND

Local Government and State have adopted a Master Agreement that states the general terms and conditions for transportation projects developed through this LPAFA.

Local Government prepared and submitted to State a nomination form for consideration under the Transportation Alternatives Program (“TAP”) for the project, which is briefly described as City of Socorro Safe Routes To School Phase II (“Project”).

Federal law establishes federally funded programs for transportation improvements to implement its public purposes.

Federal law, 23 USC § 134 and 49 USC § 5303, requires that State and metropolitan planning organizations develop transportation plans and programs for urbanized areas of Texas.

Tex. Transp. Code §§ 201.103 and 222.052 establish that State shall design, construct, and operate a system of highways in cooperation with local governments.

Federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds.

The Texas Transportation Commission (“Commission”) passed Minute Order Number 114335 (“MO”) dated August 27, 2015 awarding funding for projects in the 2016 TAP Program Call.

The rules and procedures for TAP are established in 23 USC § 213, and 43 Tex. Admin. Code Subchapter 11.F.

The governing body of Local Government has approved entering into this LPAFA by resolution or ordinance dated October 15, 2015, which is attached to and made a part of this LPAFA as Attachment A.

Therefore, State and Local Government agree as follows:

AGREEMENT

1. Period of Agreement and Performance

- 1.1. Period of Agreement. The period of this LPAFA is as stated in the Master Agreement, without exception.
- 1.2. Period of Performance.
 - a. Non-Construction Projects.
 1. Performance Period begins with the issuance of Federal Project Authorization Agreement ("FPAA") (i.e., the obligation of federal funds) by the Federal Highway Administration ("FHWA").
 2. Performance Period ends on {select date}.
 - b. Construction-Related Projects.
 1. Performance Period begins with the issuance of Construction FPAA by the FHWA.
 2. Performance Period ends three years following issuance of Construction FPAA.

2. Termination of the LPAFA

- 2.1. The termination of this LPAFA shall extinguish all rights, duties, obligations and liabilities of State under this LPAFA and may be terminated by any of the following conditions:
 - a. By mutual written consent and agreement of all parties;
 - b. By any party with 90 days written notice; or
 - c. By either party, upon the failure of the other party to fulfill the obligations as set forth in this LPAFA. Any cost incurred due to such breach of contract shall be paid by the breaching party.
- 2.2. If the potential termination of this LPAFA is due to the failure of Local Government to fulfill its contractual obligations, State will notify Local Government that possible breach of contract has occurred. Local Government should make every effort to remedy the breach within a period mutually agreed upon by both parties.
- 2.3. If Local Government withdraws from Project after this LPAFA is executed, Local Government shall be responsible for all direct and indirect Project costs as identified by the State's cost accounting system and with 2 CFR Part 200 recapture requirements.
- 2.4. A project may be eliminated from the program as outlined below. If Project is eliminated for any of these reasons, this LPAFA will be appropriately terminated. A project may be eliminated from the program, and this LPAFA terminated, if:
 - a. Local Government fails to satisfy any requirements of the program rules cited as 43 Tex. Admin. Code Subchapter 11.F.
 - b. The implementation of Project would involve significant deviation from the activities as proposed in the nomination form and approved by the Texas Transportation Commission.
 - c. Local Government withdraws from participation in Project.
 - d. A construction contract has not been awarded or construction has not been initiated within three years after the date Commission selected Project.

- e. State determines that federal funding may be lost due to Project not being implemented and completed.
 - f. Funds are not appropriated, in which case this LPAFA shall be terminated immediately with no liability to either party. Payment under this LPAFA beyond the current fiscal biennium is subject to availability of appropriated funds.
 - g. The associated FPAA is not issued by the end of the third federal fiscal year following the federal fiscal year for which the funds are authorized. Federal fiscal years run October 1 through September 30.
 - h. Local Government fails to attend progress meetings at least twice yearly, as scheduled by State.
- 2.5. State, at its sole discretion, may terminate this LPAFA if not State does not receive project invoice within 120 days of Construction FPAA.

3. Amendments

Amendments to this LPAFA shall be made as described in the Master Agreement, without exception.

4. Scope of Work, Use of Project, and Project Location

- 4.1. The scope of work for Project (located as shown in Attachment B, Project Location Map) consists of: The construction of sidewalks and ADA compliant curb ramps for the City of Socorro's Safe Routes To School Program Phase II in the vicinity of the following schools; Salvador H. Sanchez Middle, Escontrias Elementary, Robert R. Rojas Elementary, Ernesto Serna Elementary, and Campestre Elementary .
- 4.2. Any project changes proposed must be submitted in writing by Local Government to State. Changes may also require an amendment to this LPAFA and the approval of the FHWA, State, or the Commission. Any changes undertaken without written approval and amendment of this LPAFA may jeopardize not only the federal funding for the changes, but the federal funding of the entire Project.

5. Right of Way and Real Property Acquisition

- 5.1. Right of way and real property acquisition shall be the responsibility of Local Government. Title to right of way and other related real property must be acceptable to State before funds may be expended for the improvement of the right of way or real property. If Local Government is the owner of any part of Project site under this LPAFA, Local Government shall permit State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- 5.2. Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC § 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR § 24.2(g). Documentation to support such compliance must be maintained and made available to State and its representatives for review and inspection.
- 5.3. Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use in the name of Local Government to the real property required for development of Project. The evidence of title or rights shall be acceptable to State, and be free and clear of all encroachments. Local Government shall secure and provide easements and any needed rights of entry

over any other land needed to develop Project according to the approved Project plans. Local Government shall be responsible for securing any additional real property required for completion of Project.

- 5.4. Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to State for approval prior to Local Government acquiring the real property. Tracings of the maps shall be retained by Local Government for a permanent record.
- 5.5. Local Government shall determine of property values for each real property parcel to be purchased with federal funds using methods acceptable to State and shall submit to State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations must list the parcel numbers, ownership, acreage, and recommended compensation. The tabulation must be accompanied by an explanation to support the estimated values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by Local Government in performing this work may be eligible for reimbursement after Local Government has received written authorization by State to proceed with determination of real property values. State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market values.
- 5.6. Local Government shall not use eminent domain or condemnation to acquire real property for this TAP Project.
- 5.7. Reimbursement for real property costs will be made to Local Government for real property purchased in an amount not to exceed 80 percent of the cost of the real property purchased in accordance with the terms and provisions of this LPAFA. Reimbursement will be in an amount not to exceed 80 percent of State's predetermined fair market value of each parcel, or the net cost thereof, whichever is less. In addition, reimbursement will be made to Local Government for necessary payments to appraisers for expenses incurred in order to assure good title.
- 5.8. Local Government and current property owner are responsible for any costs associated with the relocation of displaced persons and personal property as well as incidental expenses incurred in acquiring property to implement Project. State will not pay any of these costs.
- 5.9. If Project requires the use of real property to which Local Government will not hold title, a separate agreement between the owners of the real property and Local Government must be executed prior to execution of this LPAFA. The separate agreement between Local Government and the current property owner must establish that Project will be dedicated for public use for a period of time not less than ten years after project completion and commensurate with the federal investment as outlined in 43 Tex. Admin. Code § 11.317. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of Project after completion. The separate agreement must be approved by State prior to its execution and a copy of the executed separate agreement shall be provided to State.
- 5.10. Local Government shall execute individually or produce a legal document as necessary to provide for Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- 5.11. Local governments receiving federal funds must retain an inventory of funded items and monitor projects in accordance with 23 CFR Part 710 and 49 CFR § 18.82, and with the procedures provided in State's Local Government Project Procedures manual. Local Government agrees to monitor Project to

ensure: (1) continued use of the property for approved activities, and (2) the repayment of the Federal funds, as appropriate.

- a. Local Government agrees to the review of their Project accounts and site visits by State during the development of Project at any time.
- b. Upon Project completion, State will continue to perform periodic visits to confirm Project's continued use and upkeep.

5.12. 45 days prior to any construction contract let date, Local Government shall provide a certification to State that all real property has been acquired.

6. Utilities

Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to State of a delay resulting from Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. Local Government will not be reimbursed with federal or state funds for the cost of required utility work, unless specified in the Transportation Alternatives Program Nomination Form ("TAP Form") and approved by State. Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, Local Government shall provide, at State's request, a certification stating that Local Government has completed the adjustment of all utilities that must be adjusted before construction begins. Additional utility work may be required due to unknown conditions discovered during construction. These costs may be eligible for TAP participation if: the activity is required to complete Project; the cost is incidental to Project, and TAP funding is available. Any change orders must be approved by State prior to incurring any cost for which reimbursement is sought.

7. Environmental Assessment and Mitigation

Development of Project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- 7.1.** Local Government is responsible for the identification and assessment of any environmental problems associated with the development of Project.
- 7.2.** Local Government is responsible for the cost of any environmental problem's mitigation and remediation. These costs will not be reimbursed or credited towards Local Government's financial share of Project unless specified in the nomination form and approved by State.
- 7.3.** Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment.
- 7.4.** 45 days prior to any construction contract let date, Local Government shall provide a certification to State that all environmental problems have been remediated. Additionally, before the advertisement for bids, Local Government shall provide to State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

8. Architectural and Engineering Services

Architectural and engineering services for preliminary engineering will be provided by Local Government. In procuring professional services, the parties to this LPAFA must comply with federal requirements cited in 23 CFR Part 172 if Project is federally funded and Local Government will be seeking reimbursement for these

services; and with Tex. Gov't Code Subchapter 2254.A., in all cases. Professional services contracts for federally funded projects must conform to federal requirements. Architectural and Engineering Services are not eligible for TAP reimbursement in the Statewide TAP Program.

- 8.1.** The architectural contract documents shall be developed in accordance with the standards of the American Institute of Architects, the U.S. Secretary of the Interior's Standards for Historic Preservation Projects, Standards and Guidelines for Archeology and Historic Preservation, the National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites and in consultation with the State Historic Preservation Officer, as applicable. The engineering plans shall be developed in accordance with State's applicable Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges and the two American Association of State Highway and Transportation Officials' ("AASHTO") publications, "A Policy on Geometric Design of Highways and Streets" and "Guide for the Development of Bicycle Facilities," as applicable. All contract procurement procedures and documents must adhere to the applicable requirements established in the Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges. The use of other systems of specifications shall be approved by State in writing in advance.
- 8.2.** When architectural and engineering services are provided by or through Local Government, Local Government shall submit any plans it has completed to State for review and approval. Local Government may also submit the plans to State for review anytime prior to completion. Local Government shall make the necessary revisions determined by State. Local Government will not let the construction contract until all required plans have received State approval.
- 8.3.** When architectural and engineering services are provided by or through State, then the following applies:

State is responsible for the delivery and performance of any required architectural or preliminary engineering work. Local Government may review and comment on the work as required to accomplish Project purposes. State will cooperate fully with Local Government in accomplishing these Project purposes to the degree permitted by state and federal law.

9. Construction Responsibilities

- 9.1.** State shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by State prior to advertising for construction.
- 9.2.** All contract letting and award procedures must be approved by State prior to letting and award of the construction contract, whether the construction contract is awarded by State or by Local Government.
- 9.3.** All contract change order review and approval procedures must be approved by State prior to start of construction.
- 9.4.** Upon completion of Project, the party constructing Project will issue and sign a "Notification of Completion" acknowledging Project's construction completion.
- 9.5.** For federally funded contracts, the parties to this LPAFA will comply with federal construction requirements provided in 23 CFR Parts 633 and 635, and shall include the latest version of Form "FHWA-

1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR Subpart 635.B.

- 9.6.** Any field changes, supplemental agreements, or revisions to the design plans that may occur after the construction contract is awarded will be mutually agreed to by State and Local Government prior to authorizing the contractor to perform the work. Prior to completion of Project, the party responsible for construction will notify the other party to this LPAFA of the anticipated completion date. All parties will be afforded the opportunity to assist in the final review of the construction services performed by the contractor.

10. Project Maintenance

- 10.1.** Upon completion of Project, Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period of time commensurate with the federal investment or State rules, whichever is greater. Should Local Government at any time after Project completion decide it can no longer maintain and operate Project for its intended purpose, Local Government shall consult with State and the FHWA as to the disposal or alternate uses, consistent with Project's original intent. State may require Local Government to return the federal funds in accordance with 2 CFR Part 200 federal recapture requirements. Should Local Government consider conveying the property, State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction, detailing any required recapture, must be obtained from FHWA prior to the transaction. Advance notice from Local Government of their intended action must be submitted to State for an FHWA review a minimum of 90 days prior to any action being taken by Local Government. Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- 10.2.** Any manufacturer warranties extended to Local Government as a result of Project shall remain in the name of Local Government. State shall not be responsible for honoring any warranties under this LPAFA.
- 10.3.** Should Local Government derive any income from the development and operation of Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property shall be set aside for future maintenance. A project income report shall be submitted to State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures and with the property management standards established in 2 CFR Part 200.
- 10.4.** Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of Project.

11. Local Project Sources and Uses of Funds

- 11.1.** A Project Budget Estimate and Source of Funds is provided as Attachment C, showing the total estimated development cost of Project. This estimate shows the itemized cost of real property, utilities, environmental assessments, construction, and other construction related costs. To be eligible for reimbursement or as in-kind contribution, costs must have been included in the nomination form approved by the Texas Transportation Commission. State and the Federal Government will not

reimburse Local Government for any work performed outside the Performance Period. After federal funds have been obligated, State will send to Local Government a copy of the formal documentation showing the obligation of funds including federal award information. Local Government is responsible for 100 percent of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.

- 11.2.** If Local Government will perform any work under this LPAFA for which reimbursement will be provided by or through State, Local Government must complete training in Local Government Procedures Qualification for the Texas Department of Transportation before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on Project successfully completes and receives a certificate for the course. Local Government shall provide the certificate of qualification to State. The individual who receives the training certificate may be an employee of Local Government or an employee of a firm that has been contracted by Local Government to perform oversight of Project. State in its discretion may deny reimbursement if Local Government has not designated a qualified individual to oversee Project.
- 11.3.** The Project budget and source of funds estimate based on the budget provided in the TAP Form is included as Attachment C. Attachment C shows the percentage and estimated dollar amounts to be contributed to Project by state and local sources, as well as the maximum amount in federal Transportation Alternative Program funds assigned by the Commission to Project. This LPAFA may be amended from time to time as required to meet the funding commitments based on revisions to the Transportation Improvement Program, Federal Project Authorization and Agreement ("FPAA"), or other federal documents.
- 11.4.** Local Government will be responsible for all non-federal participation costs associated with Project, including any overruns in excess of Project's estimated budget and any operating or maintenance expenses.
- 11.5.** State will be responsible for securing the federal share of funding required for the development and construction of Project, in an amount not to exceed 80 percent of the actual cost of the work up to the amount of funds approved for Project by the Texas Transportation Commission. Federal funds will be reimbursed on a cost basis. Project costs incurred prior to project selection by the Texas Transportation Commission and approval by State to proceed are not eligible for reimbursement.
- 11.6.** Following execution of this LPAFA, but prior to the performance of any plan review work by State, Local Government will pay to State the amount specified in Attachment C for plan review. At least 60 days prior to the date set for receipt of the construction bids, Local Government shall remit its remaining local match as specified in Attachment C for State's estimated construction oversight and construction cost.
- 11.7.** In the event State determines that additional funding is required by Local Government at any time during Project, State will notify Local Government in writing. Local Government is responsible for the percentage of the authorized Project cost shown in Attachment C and 100 percent of any overruns above the federally authorized amount. Local Government will make payment to State within 30 days from receipt of State's written notification.
- 11.8.** Whenever funds are paid by Local Government to State under this LPAFA, Local Government will remit a warrant made payable to the "Texas Department of Transportation." The warrant shall be deposited by State and managed by State. Funds may only be applied by State to Project.

- 11.9.** Upon completion of Project, State will perform an audit of Project costs. Any funds due to Local Government, State, or the Federal Government will be promptly paid by the owing party. If after final Project accounting excess funds remain, those funds may be applied by State to Local Government's contractual obligations to State under another advance funding agreement with approval by appropriate personnel of Local Government.
- 11.10.** In the event Project is not completed, State may seek reimbursement from Local Government of the expended federal funds. Local Government will remit the required funds to State within 60 days from receipt of State's notification.
- 11.11.** If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than state or federal regulations, or if any other locally proposed changes, including but not limited to plats or re-plats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by Local Government. The cost of providing right of way acquired by State shall mean the total expenses in acquiring the property interests through negotiations, including, but not limited to, expenses related to relocation, removal, and adjustment of eligible utilities.
- 11.12.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this LPAFA or indirectly through a contract or subcontract under the LPAFA. Acceptance of funds directly under this LPAFA or indirectly through a contract or subcontract under this LPAFA acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- 11.13.** State will not pay interest on any funds provided by Local Government.
- 11.14.** State will not execute the contract for the construction of Project until the required funding has been made available by Local Government in accordance with this LPAFA.
- 11.15.** Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by State no more frequently than monthly, and no later than 90 days after costs are incurred. If Local Government submits invoices more than 90 days after the costs are incurred, and if federal funding is reduced as a result, State shall have no responsibility to reimburse Local Government for those costs.
- 11.16.** If Local government is an Economically Disadvantaged County ("EDC") and if State has approved adjustments to the standard financing arrangement, this LPAFA reflects those adjustments.

12. Document and Information Exchange

Local Government agrees to electronically deliver to State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft Word or similar format. If requested by State, Local Government will use State's document template. Local Government shall also provide a detailed construction time estimate, including types of activities and month in which the activity will be completed, in the format required by State. This requirement applies whether Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of State, Local Government shall submit any information required by State in the format directed by State.

13. Incorporation of Master Agreement Provisions

This LPAFA incorporates all of the governing provisions of the Master Agreement in effect on the date of final execution of this LPAFA, unless an exception has been made in this agreement.

14. Compliance with Laws

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this LPAFA. When required, Local Government shall furnish State with satisfactory proof of this compliance.

15. Disadvantaged Business Enterprise Program Requirements

- 15.1. The parties shall comply with the Disadvantaged Business Enterprise (“DBE”) Program requirements established in 49 CFR Part 26.
- 15.2. Local Government shall adopt, in its totality, State’s federally approved DBE program.
- 15.3. Local Government shall set an appropriate DBE goal consistent with State’s DBE guidelines and in consideration of Local market, project size, and nature of the goods or services to be acquired. Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- 15.4. Local Government shall follow all other parts of State’s DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation’s Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address: http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- 15.5. Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. State’s DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this LPAFA. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this LPAFA. Upon notification to Local Government of its failure to carry out its approved program, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC § 3801 et seq.).
- 15.6. Each contract Local Government signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:
The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

16. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this LPAFA, Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this LPAFA shall require any party to a contract, subcontract, or purchase order awarded under this LPAFA to certify its eligibility to receive federal funds and, when requested by State, to furnish a copy of the certification.

17. Lobbying Certification

In executing this LPAFA, each signatory certifies to the best of that signatory's knowledge and belief, that:

- 17.1.** No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 17.2.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for Local Government shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 17.3.** The parties shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite imposed by 31 USC § 1352 for making or entering into this transaction. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

18. Insurance

- 18.1.** Should this Agreement authorize Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide State with a fully executed copy of State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and State may recover damages and all costs of completing the work.
- 18.2.** For projects including buildings, Local Government agrees to insure the building according to Department specifications and further agrees to name the Federal Government as a "Loss Payee" should the building be destroyed.

19. Federal Funding Accountability and Transparency Act Requirements

19.1. Any recipient of funds under this LPAFA agrees to comply with the Federal Funding Accountability and Transparency Act ("FFATA") and implementing regulations at 2 CFR Part 170, including Appendix A. This LPAFA is subject to the following award terms:

<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and

<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.

19.2. Local Government agrees that it shall:

- a. Obtain and provide to State a System for Award Management ("SAM") number (Federal Acquisition Regulation ("FAR") Subpart 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is <https://www.sam.gov/portal/public/SAM/>
- b. Obtain and provide to State a Data Universal Numbering System ("DUNS") number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
- c. Report the total compensation and names of its top five executives to State if:
 1. More than 80 percent of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 2. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

20. Single Audit Report

20.1. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR Part 200.

20.2. If threshold expenditures are met during Local Government's fiscal year, Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>. The expenditure threshold for fiscal years beginning prior to December 31, 2014 is \$500,000; the expenditure threshold for fiscal years beginning on or after December 31, 2014 is \$750,000.

20.3. If expenditures are less than the threshold during Local Government's fiscal year, Local Government must submit a statement to TxDOT's Audit Office as follows:

We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____.

20.4. For each year Project remains open for federal funding expenditures, Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the LPAFA, unless otherwise amended or Project has been formally closed out and no charges have been incurred within the current fiscal year.

CSJ: 0924-06-520 Fed. # STP: 1602 (XXX) TP
District #: 24 El Paso
Code Chart 64#: 39725
Project: City of Socorro Safe Routes To
School Phase II
FHWA CFDA #: 20.205
Not Research and Development

21. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this LPAFA on behalf of the entity represented.

Each party is signing this LPAFA on the date stated opposite that party's signature.

THE CITY OF SOCORRO

Date: _____ By: _____
Jesus Ruiz
Mayor

THE STATE OF TEXAS

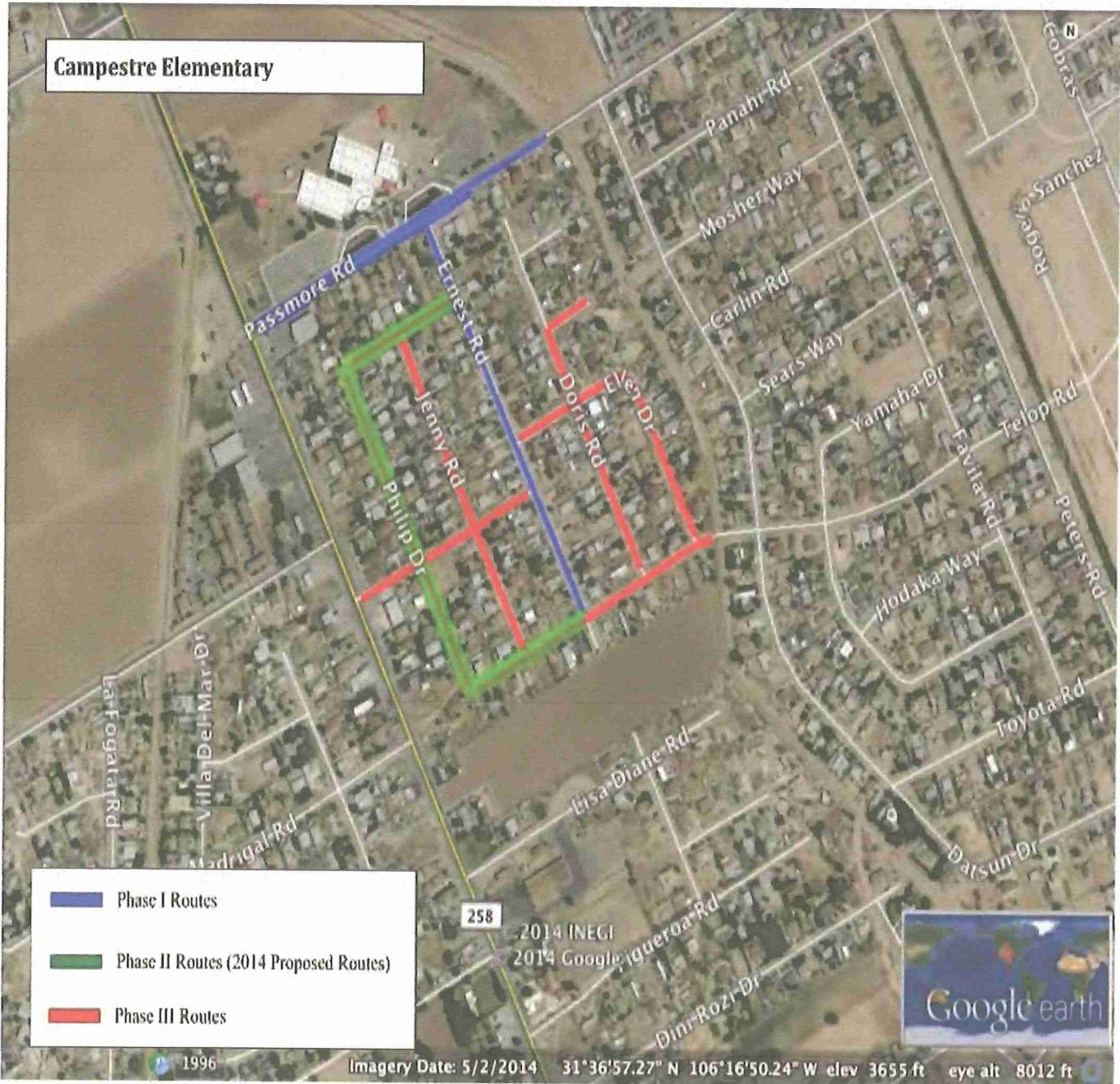
Date: _____ By: _____
Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

CSJ: 0924-06-520 Fed. # STP: 1602 (XXX) TP
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ATTACHMENT A
RESOLUTION OF LOCAL GOVERNMENT

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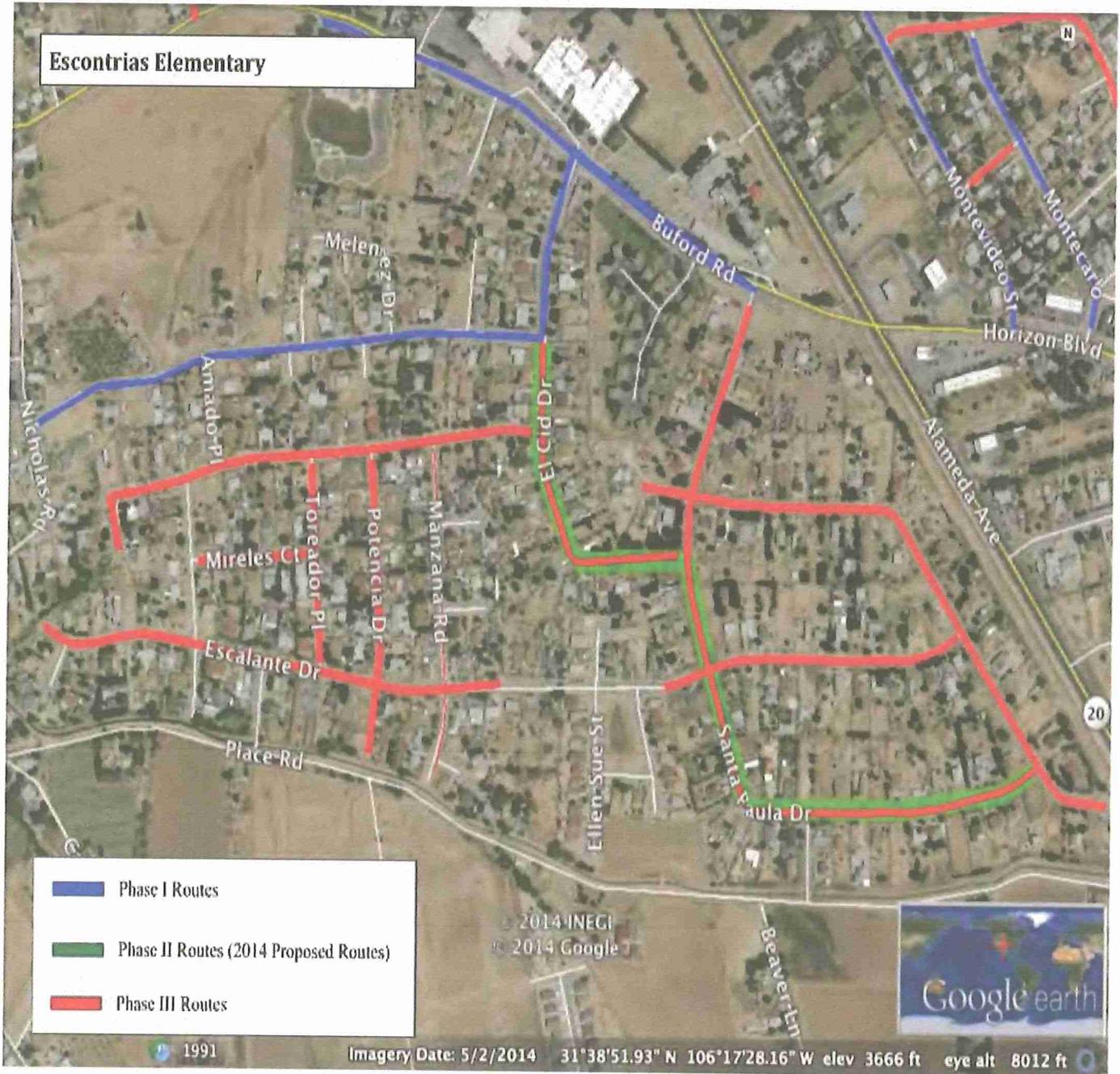
**ATTACHMENT B
PROJECT LOCATION MAP**



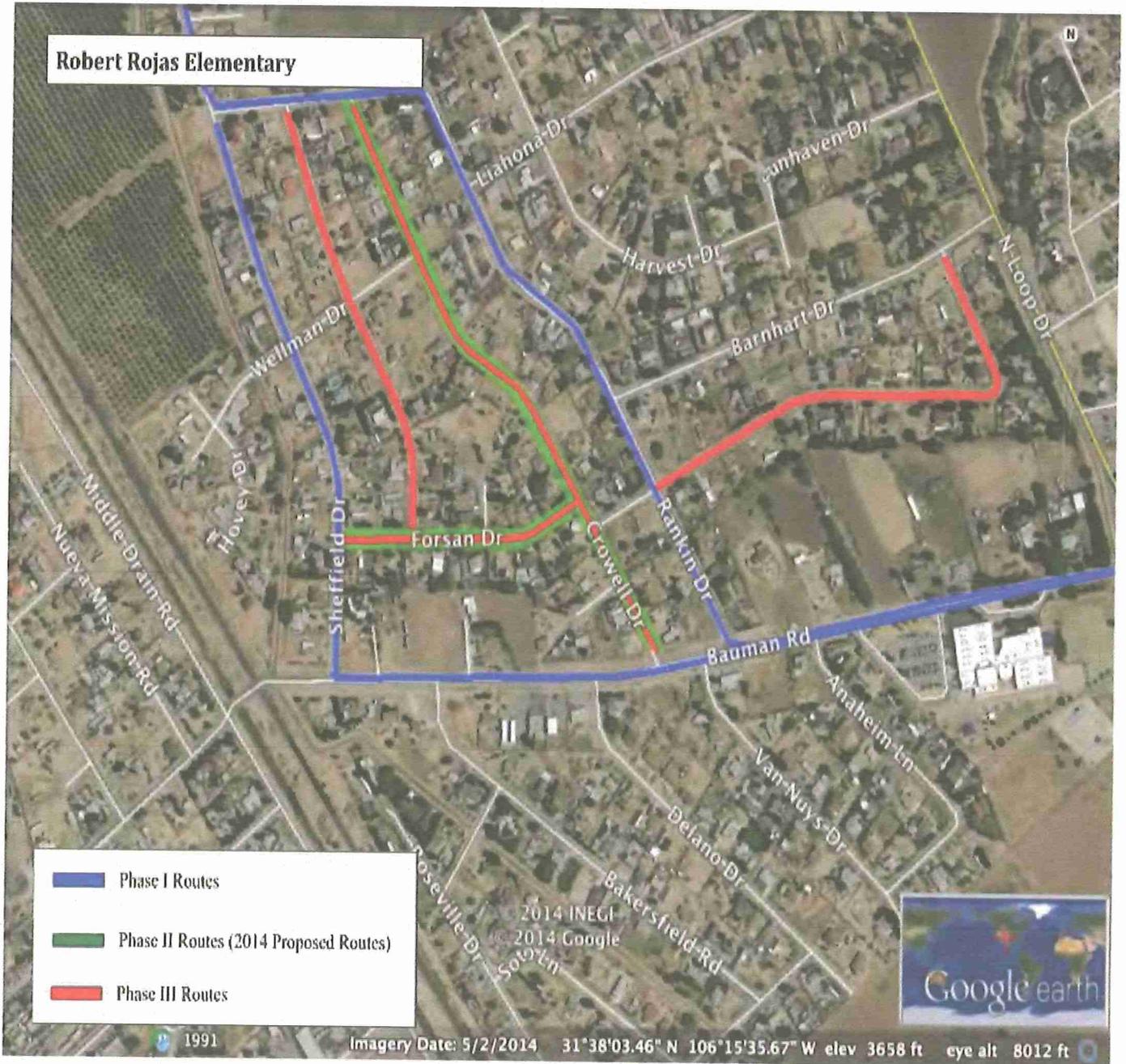
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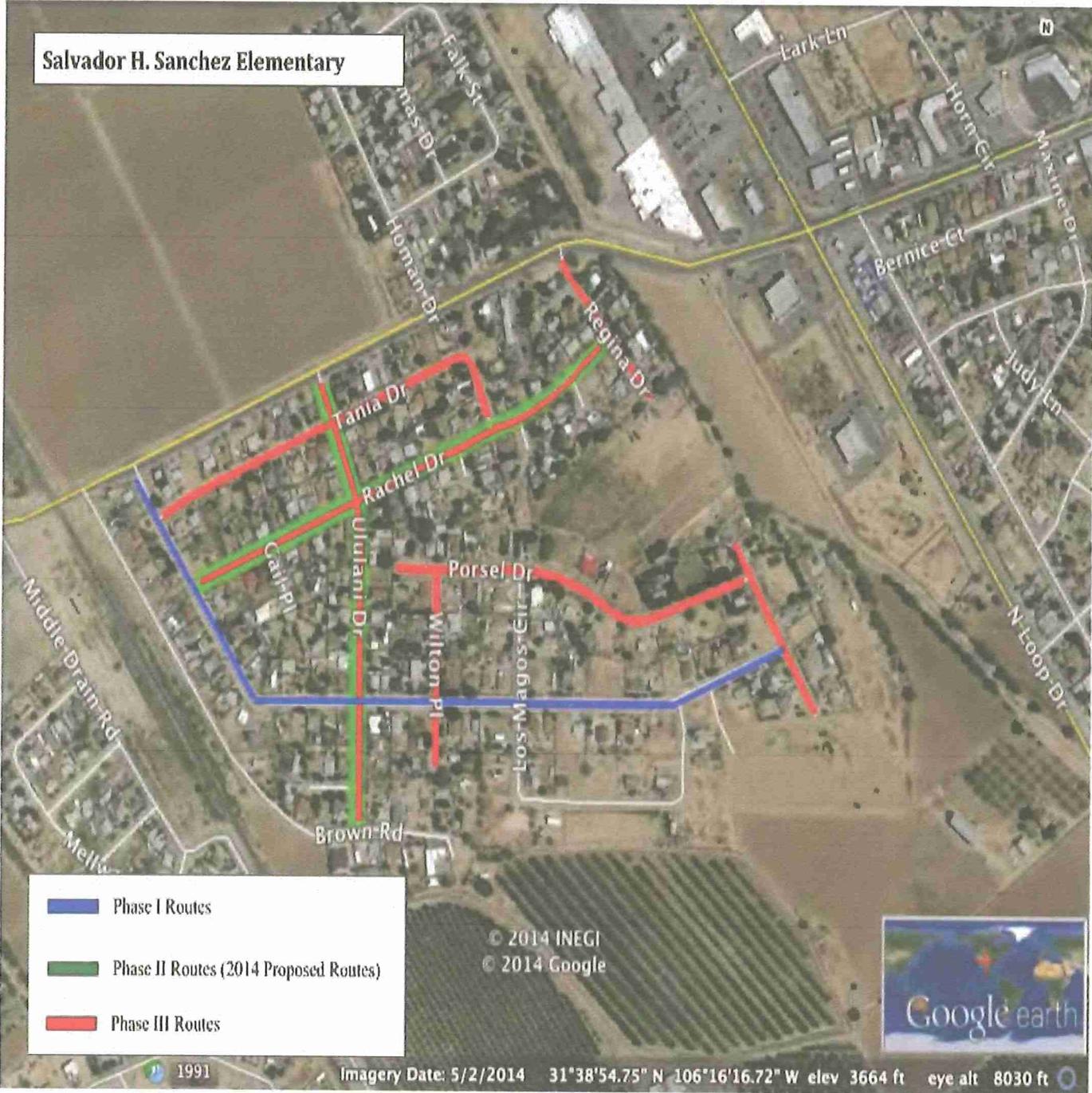
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ATTACHMENT C
PROJECT ESTIMATE AND SOURCE OF FUNDS
LG Performs PE Work or Hires Consultant / State Lets Project to Construction

Work Performed by Local Government ("LG")							
Description of Project Costs to be Incurred	Total Project Cost Estimate	Federal Participation <small>Includes additional percentage for TDC apportionment where applicable</small>		State Participation		Local Government (LG) Participation <small>Includes any EDC reduction where applicable</small>	
		%	Cost	%	Cost	%	Cost
Planning/Maps/Education/Non-CST	\$0	0%	\$0	0%	\$0	0%	\$0
Preliminary Engineering	\$49,592.00	0%	\$0	0%	\$0	100%	\$49,592.00
Environmental Cost	\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way	\$0	0%	\$0	0%	\$0	0%	\$0
Utilities	\$0	0%	\$0	0%	\$0	0%	\$0
Construction	\$0	0%	\$0	0%	\$0	0%	\$0
In-kind donation Value <small>(Add to Total Project Cost - 20% Maximum value)</small>	\$0	0%	\$0	0%	\$0	0%	\$0
Work by LG Subtotal	\$49,592.00		\$0		\$0		\$49,592.00
Work Performed by the State (Local Participation paid up front by LG to TxDOT)							
Preliminary Engineering ¹	\$0	0%	\$0	0%	\$0	0%	\$0
Environmental Cost ¹	\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way ³	\$0	0%	\$0	0%	\$0	0%	\$0
Utilities ²	\$0	0%	\$0	0%	\$0	0%	\$0
Construction ²	\$442,204.00	80%	\$353,763.00	0%	\$0	20%	\$88,441.00
Work by State Subtotal	\$442,204.00		\$353,763.00		\$0		\$88,441.00

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Direct and Indirect State Costs Incurred for Review, Inspection, Administration & Oversight							
Description of Project Costs to be Incurred	Total Project Cost Estimate	Federal Participation <small>Includes additional percentage for TDC apportionment where applicable</small>		State Participation		Local Government (LG) Participation <small>Includes any EDC reduction where applicable</small>	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering ¹	\$3,317.00	80%	\$2,654.00	0%	\$0	20%	\$663.00
Environmental Cost ¹	\$3,317.00	80%	\$2,654.00	0%	\$0	20%	\$663.00
Right of Way ¹	\$663.00	80%	\$530.00	0%	\$0	20%	\$133.00
Utilities ¹	\$663.00	80%	\$530.00	0%	\$0	20%	\$133.00
Construction ²	\$58,371.00	80%	\$46,697.00	0%	\$0	20%	\$11,674.00
Indirect State Costs ²	\$25,577.00	0%	\$0	100%	\$25,577.00	0%	\$0
Direct & Indirect State Cost Subtotal	\$91,908.00		\$53,065.00		\$25,577.00		\$13,266.00
TOTAL PARTICIPATION	\$583,704.00		\$406,828.00		\$25,577.00		\$151,299.00
In-kind Contribution Credit Applied						0%	\$0
TOTAL REMAINING PARTICIPATION AFTER IN-KIND CONTRIBUTION							\$151,299.00

The estimated total participation by Local Government is \$ 151,299.00 , plus 100% of overruns.

Total estimated payment by Local Government to State is \$ 101,707.00.

¹Local Government's first payment of \$ 1,592.00 is due to State within 30 days from execution of this LPAFA.

²Local Government's second payment of \$100,115.00 is due to State within 60 days prior to the Construction contract being advertised for bids.

³If ROW is to be acquired by State, Local Government's share of property cost will be due prior to acquisition.

The eligible percent of required local match is stated in the nomination and must be 20 percent or greater, unless In-Kind, EDC adjustments or TDCs are applied.

This is an estimate, the final amount of Local Government participation will be based on actual costs.

Maximum federal TAP funds available for Project are \$ 406,828.00 .