AGENDA

TOWN COUNCIL
February 27, 2017

Work Session 6:30 p.m.
Regular Session 7:30 p.m.
Council Chamber
1614 South Bowen Road

COUNCIL MEMBERS:
Fred Adair
Don Funderlic
Jane Barrett
Russell Brewster
Matthew Fielder, City Manager

WORK SESSION 6:30 P.M.
REVIEW AND DISCUSS ITEMS ON THE REGULAR AGENDA, AND CONSIDER PLACING APPROVED ITEMS ON CONSENT AGENDA.
All consent agenda items are considered to be routine by the Council and will be enacted with one motion. There will be no separate discussion of items unless a Council Member so requests, in which event, the item will be removed from the general order of business and considered in its normal sequence.

1. City Manager Report
   - Personnel Vacancies
   - Capital Projects
   - EnerVest
   - March Council Meeting

2. Approval of Purchase Order Requests and Accounts Payable over $5,000 and Review of Purchase Order Requests and Accounts Payable $1,000 to $5,000 previously approved by the City Manager.

3. Approval and Acceptance of Minutes
   - Approval of Town Council Minutes:
     - Town Council minutes from February 13, 2017
   - Acceptance of Minutes of Boards and Commissions:
     - PEDC minutes from February 8, 2017

REGULAR SESSION 7:30 P.M.
CALL TO ORDER/WELCOME
INVOCATION BY: Mayor Pro-Tem Don Surratt
PLEDGE OF ALLEGIANCE
MAYOR/COUNCIL/STAFF COMMENTS OF COMMUNITY INTERESTS

COUNCIL LIAISON TO BOARD REPORT
- Community Relations Board
- Pantego Youth Leadership Council

PEDC REPORT

CITIZENS OPEN FORUM
This is a time for the public to address the Town Council on any subject not on this agenda. However, in accordance with the Open Meetings Act Section 551.042, the Town Council cannot discuss issues raised or make any decisions on that subject at this time. The Town Council or an appropriate Town official may make a statement of factual information or policy on the subject in response to an inquiry by a member of the public. Issues raised may be referred to Town Staff for research and possible future action.

APPROVAL OF CONSENT AGENDA ITEMS
Approval of the Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations and all votes on final reading will be recorded as reflected on first reading unless otherwise indicated. Public comment will be accepted on items, with the exception of those items on which a public hearing has been held and closed by Council.

RESOLUTIONS

4. Discuss, direct, and consider action on Resolution 17-03, a resolution of the Town of Pantego, Texas, authorizing the Town's participation in Texas CLASS Texas Local Government Investment Pool with authorized list of representatives.

5. Discuss, direct, and consider action on Resolution 17-04, a resolution of the Town of Pantego, Texas, authorizing the City Manager to enter into a contract with Adventure Playground Systems for the splash pad.
NEW BUSINESS FOR DISCUSSION, REVIEW, APPROVAL, AND/OR DIRECT STAFF.


OLD BUSINESS FOR DISCUSSION, REVIEW, APPROVAL, AND/OR DIRECT STAFF.

8. Discuss, direct, and consider action on the Park Row Streetscape Project.


Following the scheduled Executive Session, the Council will reconvene into public session and may take any and all action necessary concerning the Executive Session.

SCHEDULED EXECUTIVE SESSION ITEMS

- The Council will convene in the City Manager’s Office pursuant to the Texas Government Code for an executive session on the following items:

  1. Pursuant to Government Code Section 551.087 to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations. — Jambo’s BBQ

COUNCIL INQUIRY

If a member of the Council makes a spontaneous inquiry about a subject not on this agenda, then the Town Council or an appropriate Town official may make a statement of factual information or policy in response to such an inquiry. However, in accordance with Open Meetings Act Section 551.042, the Town Council cannot discuss issues raised or make any decisions on that subject at this time. Issues raised may be referred to Town Staff for research and possible future action.

ADJOURNMENT

CERTIFICATION

Prepared and posted in accordance with Chapter 551 of the Texas Government Code, I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the outside window of a display cabinet at the Town Hall of the Town of Pantego, Texas, a place of convenience and readily accessible to the general public at all times, and said Notice was posted by the following date and time: February 24, 2017 at 5:00 p.m., and remained so posted at least 72 hours before said meeting convened.

Jessie Hanks, City Secretary

Auxiliary aids and services are available to a person when necessary to afford an equal opportunity to participate in Town functions and activities. Auxiliary aids and services or accommodations should be requested forty-eight (48) hours prior to the scheduled starting time by calling the City Secretary's Office at (817) 617-3700.

Complete Council Agenda and background information are available for review at the City Secretary’s Office and on the Town’s website: www.townofpantego.com.
To: Mayor Paradise and Members of the Town Council

From: Matt Fielder, City Manager

Date: February 27, 2017

Personnel Vacancies
Four Police Officer and a Support Services Specialist position are open.

Capital Projects
Work continues on the Smith Barry Project. The contractor anticipates completion no later than March 14th.

EnerVest
I communicated with Michael Weaver with EnerVest, and let him know that Council had questions and concerns regarding the adjustment to royalties, and that it would be helpful to have him at a meeting to provide an explanation in person. He agreed to attend a meeting, but as of the publication of this agenda, has not confirmed when he will be available to do so.

March Council Meeting
The next Council meeting is March 13th. This falls during the AISD spring break. Please notify staff if you will not be able attend so that we can determine if we will be unable to have a quorum.
AGENDA BACKGROUND

AGENDA ITEM: Approval of Bills Payable and Purchase Orders over $5,000.

DATE: February 27, 2017

PRESENTER: Matthew Fielder, City Manager

BACKGROUND:

This agenda item includes a listing of bills payable over $5,000. Included are copies of invoices for professional services and purchase orders over $5,000, attached memo and invoice copies, if available.

FISCAL IMPACT:

Please review report for individual account number.

RECOMMENDATION:

Staff recommends the following motion:

Approval of the listing of bills payable and purchase orders over $5,000 as submitted.

ATTACHMENTS:

Expenditure Summary and List of Purchase Orders over $5,000 for February 27, 2017.
### Purchase Orders and Bills Payable for 2/27/17

<table>
<thead>
<tr>
<th><strong>Bills Payable over $5,000</strong></th>
<th><strong>AMOUNT</strong></th>
<th><strong>DESCRIPTION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Purchase Orders over $5,000</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>George Morgan &amp; Sneed (Budgeted)</td>
<td>$7,500.00</td>
<td>FY15-16 Auditing Service</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Bills Payable Under $5,000</strong></th>
<th><strong>AMOUNT</strong></th>
<th><strong>DESCRIPTION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>OpenDNS (Budgeted)</td>
<td>$1,900.00</td>
<td>WebFilter Software Annual</td>
</tr>
<tr>
<td>TCC Northwest Campus (Budgeted)</td>
<td>$1,000.00</td>
<td>Fire Training Contract FY16-17</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Professional Services</strong></th>
<th><strong>AMOUNT</strong></th>
<th><strong>DESCRIPTION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Perdue, Brandon, Fielder, Collins &amp; Mott LLP</td>
<td>$1,914.53</td>
<td>October Attorney Fees</td>
</tr>
<tr>
<td>Iwerk</td>
<td>$4,249.99</td>
<td>January Services</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>GENERAL BILLS</strong></th>
<th><strong>AMOUNT</strong></th>
<th><strong>DESCRIPTION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gexa Energy</td>
<td>$17,733.18</td>
<td>Electricity Billing Through 1/11/17</td>
</tr>
<tr>
<td>Neofunds</td>
<td>$1,000.00</td>
<td>February Postage</td>
</tr>
<tr>
<td>Time Warner Cable</td>
<td>$3,679.73</td>
<td>January Service</td>
</tr>
</tbody>
</table>
TO  George Morgan & Sneed  
1849 Wall St  
Weatherford  TX  76086

<table>
<thead>
<tr>
<th>DATE</th>
<th>ACCT #</th>
<th>DEPT</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-14-17</td>
<td>100-5-101-201-00</td>
<td>Finance</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>QUANTITY</th>
<th>STOCK NUMBER / DESCRIPTION</th>
<th>PRICE</th>
<th>PER</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>ORDERED</td>
<td>15-110 Audit Service</td>
<td>7500</td>
<td></td>
<td>7500</td>
</tr>
</tbody>
</table>

TOTAL 7500
George, Morgan & Sneed, P.C.

1849 Wall Street
Phone: (817) 594-2704

Weatherford, TX 76086
Web: www.grms-cpa.com

ID: 76037
Invoice: 45092
Date: 01/20/2017

For professional service rendered as follows:

Audit services rendered for the year ended September 30, 2016 7,500.00

Work in Progress - Field work complete

<table>
<thead>
<tr>
<th>Billed Time &amp; Expenses</th>
<th>$7,500.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invoice Total</td>
<td>$7,500.00</td>
</tr>
</tbody>
</table>

Please return this portion with payment.

Town Of Pantego
(817) 548-5853

ID: 76037
Invoice: 45092
Date: 01/20/2017

Amount Enclosed: $

Account Balance: $7,500.00

Balance is due and payable upon receipt.
All invoices more than 30 days old will be assessed a service charge.
There will be a $25.00 fee for all returned checks.
Thank you for your continued patronage.
TO Open DNS
135 Buxome St
San Francisco CA 94107

DATE: 2.14.17
ACCT #: 100-5-104-365-00
DEPT.: G & A

<table>
<thead>
<tr>
<th>QUANTITY</th>
<th>ORDERED</th>
<th>RECEIVED</th>
<th>STOCK NUMBER / DESCRIPTION</th>
<th>PRICE</th>
<th>PER</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td>Umbrella Professional 2/13/17 - 2/12/18</td>
<td>1900</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TOTAL 1900 -

APPROVED BY
# Bill to
Town of Pantego  
1614 S Bowen Rd  
Pantego, Texas  
76013-3336  
United States

Phone: (214) 471-5824

<table>
<thead>
<tr>
<th>Customer POC#</th>
<th>Customer Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Matt Fielder</td>
</tr>
<tr>
<td>Email: <a href="mailto:mfielder@townofpantego.com">mfielder@townofpantego.com</a></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Activity</th>
<th>Service Period</th>
<th>Quantity</th>
<th>Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Umbrella Professional</td>
<td>02/13/2017-02/12/2018</td>
<td>50</td>
<td>$38.00</td>
<td>$1,900.00</td>
</tr>
</tbody>
</table>

Sub-Total: $1,900.00 USD  
Tax: $0.00 USD  
Total: $1,900.00 USD  
Payments: $0.00 USD  
Balance Due: $1,900.00 USD

Send Wire/ACH Transfers to:  
Domestic ABA/Routing: 121140399  
Account: 3300913500  
Silicon Valley Bank  
3003 Tasman Drive  
Santa Clara, CA 95054  
(USA) Beneficiary: OPENDNS INC.  
SWIFT: SVBKUS6S

Remit checks to:  
OpenDNS Inc.  
135 Bluxome Street  
San Francisco, CA 94107

If you have questions about this invoice, please email accounting@opendns.com or call 415-344-3138
TOWN OF PANTEGO
1614 S. BOWEN
PANTEGO, TEXAS 76013

TO TCF Northwest Campus
Business Services
4801 Marine Creek Parkway
Ft. Worth, TX 76179

SHIP TO Pantego Fire

<table>
<thead>
<tr>
<th>DATE</th>
<th>ACCT #</th>
<th>DEPT.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-13-17</td>
<td></td>
<td>Fire</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>QUANTITY</th>
<th>STOCK NUMBER / DESCRIPTION</th>
<th>PRICE</th>
<th>PER</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract For Fire Training For 2016 - 2017 year</td>
<td>1000.00</td>
<td></td>
<td>1000.00</td>
</tr>
</tbody>
</table>

This Cost is half of the total Cost, the other half paid by the Dalworthington Gardens Fire Department.

TOTAL 1000.00

Robert Allen
The attached P.O. is for approval to expend budget funds in the amount of $1,000.00. The requested funds are to purchase the annual contract with Tarrant County College Fire Service Training Center. Under this agreement The City of Dalworthington Gardens splits the original $2,000.00 cost with the Town.

This is a budgeted request for the 2016, 2017 budget.

Cc: E. Williams
INVOICE

Date: 2/8/2017  Invoice #: 103122  Sponsor ID#: 746241  Term: 2016Q2

PLEASE REFERENCE THIS INVOICE NUMBER WHEN REMITTING PAYMENT

Remit To:
TCC Northwest Campus
Business Services
4801 Marine Creek Parkway
Fort Worth, TX 76179
817-515-7700
shireen.daniels@tccd.edu

Sponsor:
Attention: PANTEGO FIRE AND RESCUE
Company Name: PANTEGO FIRE AND RESCUE
Street Address: 1614 S Bowen Rd
City, State, Zip Code: Arlington TX 76013
Telephone #: Shireen Daniels directly at 817-515-7001.
E-mail:

If you need assistance, please contact your Sponsor Billing Associate Shireen Daniels directly at 817-515-7001.

<table>
<thead>
<tr>
<th>Initial Invoice Date</th>
<th>1-45 Days Past</th>
<th>46-90 Days Past</th>
<th>Final Notice</th>
<th>Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,000.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract for Fire Training for 2016-2017 year.</td>
<td>1,000.00</td>
</tr>
</tbody>
</table>

Total Due: $1,000.00

IMPORTANT

If a third-party sponsor has not paid the student’s sponsored tuition invoice by the end of the next term, the unpaid tuition invoice will be moved to the student’s account. The student will be responsible for the unpaid balance, which may be sent to a

Thank you for your attention to this matter. TCC Business Services
TARRANT COUNTY COLLEGE DISTRICT
FIRE SERVICE TRAINING CENTER
TRAINING AGREEMENT

The following is a TRAINING AGREEMENT between Tarrant County College District (TCCD) Fire Service Training Center (FSTC) and PANTEGO FIRE DEPARTMENT.

Course Titles: Continuing Education Training and Live Fire Training
Effective Dates: October 1, 2015 – September 30, 2016

TARRANT COUNTY COLLEGE DISTRICT (TCCD) WILL:
1. Provide eighteen (18) 4-hour Continuing Education sections to be delivered at their stations on all three shifts and three (3) 4-hour Live Fire Trainings on the drill field at TCC from the following:
   - Flowpath
   - NFPA 1851
   - Incident Safety Officer
   - Cultural Diversity
   - "Blue Card" Bridge Course
   - Elevators
   - Live Fire Training
   
   - FIRS 2025 (4hrs)
   - FIRS 2025 (4hrs)
   - FIRS 2025 (4hrs)
   - FIRS 2025 (4hrs)
   - FIRS 2025 (4hrs)
   - FIRS 2025 (4hrs)
   - FIRS 2025 (4hrs)
   - FIRS 2025 (4hrs)
   - FIRS 2025 (4hrs)
   
   3 Sections
   3 Sections
   3 Sections
   3 Sections
   3 Sections
   3 Sections
   3 Sections

2. Ensure that the maximum number of students registered for each section does not exceed thirty (30) students per session.

3. Provide a TCFP licensed coordinator of record for this course and ensure instructional quality control, i.e. The College reserves the right to approve/disapprove remove instructor.

4. Provide all utilities necessary to complete scenarios.

5. Maintain permanent records of student's participation via a transcript made available to students upon request to the Registrar's Office.

6. Maintain authority of class instruction at the site.

7. Provide certificates of completion and or certificates of participation upon successful completion of the course to the Training Officer.

8. Provide proper college orientation to instructors and students prior to the beginning of the program.

9. Provide access to TCCD facilities necessary for completion of the course.

10. Provide and invoice for $1,000.00 upon commencement of training.

PANTEGO FIRE DEPARTMENT WILL:

1. Assure a maximum of thirty (30) students per session is not exceeded.

2. Provide oversight of student scheduling and attendance.

3. Assure payment in the amount of $1,000.00 due upon receipt of billing invoice.
GENERAL GUIDELINES:

1. In order for TCCD to offer Continuing Education Units (CEU’s) to the employees of PANTEGO FIRE DEPARTMENT the College must comply with its internal policies and regulations, the rules and guidelines of the Southern Association of Colleges and Schools Commission on Colleges, the Texas Higher Education Coordinating Board, and the State of Texas. In the matters of curriculum and instruction, the College must be able to demonstrate it is in sole and complete control of the curriculum and the instructor with "sole and complete control" defined to mean the College has the authority and right to establish, review, and modify, if appropriate, the curriculum, to approve or disapprove any instructor(s) and to cause an instructor to be removed from the teaching and learning environment, if appropriate. The signature of the undersigned indicates agreement with, and acceptance of, these requirements.

2. If classes must be canceled because of severe weather or other unforeseen circumstances, rescheduling will be made as soon as possible at a time mutually agreeable to both parties.

3. Modifications or termination of the above agreement will be made only upon agreement between Tarrant County College District and PANTEGO FIRE DEPARTMENT.

4. PANTEGO FIRE DEPARTMENT and TCCD agree that neither is the agent, servant, officer and/or employee of the other and, that nothing in this agreement creates, grants, or assigns rights or responsibilities to act as a joint venture, partnership or agent one to the other. In addition:

PANTEGO FIRE DEPARTMENT shall hold harmless, defend, and indemnify TCCD against any suits, liabilities, claims, demands, or damages, including but not limited to property damage, personal injuries and attorneys' fees, arising from PANTEGO FIRE DEPARTMENT’s acts or omissions. TCCD shall hold harmless, defend and indemnify, to the extent permitted by law, PANTEGO FIRE DEPARTMENT against any suits, liabilities, claims, demands, or damages, including but not limited to property damage, personal injuries and attorneys' fees, arising from TCCD’s acts or omissions. Nothing herein shall constitute a waiver of the immunities applicable to TCCD.

PANTEGO FIRE DEPARTMENT and TCCD agree that any liability or damages as stated above occurring during the performance of this agreement and caused by the joint or comparative negligence of PANTEGO FIRE DEPARTMENT, TCCD, their agents, servants, officers and/or employees shall be determined in accordance with the Comparative Responsibility Laws of The State of Texas. Further, nothing in this agreement waives any immunity, protection, right, limitation or cap on damages, as recognized in the Texas Tort Claims Act as to either of the parties, or as to any third party.

FOR PANTEGO FIRE DEPARTMENT:

[Signature]

Authorized Signatory

Date

FOR TARRANT COUNTY COLLEGE DISTRICT:

[Signature]

Coordinator, Fire Service Training Center

Date

Vice President of Community and Industry Education

Date
PERDUE, BRANDON, FIELDER, COLLINS & MOTT LLP
Attorneys at Law
500 E. Border, Suite 640
Arlington, Texas 76010

Bill to:
City of Pantego
2600 Miller Lane
Pantego TX 76013

<table>
<thead>
<tr>
<th>Description</th>
<th>Ext. Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorneys Fees for professional services provided in collecting Fines and Fees</td>
<td>$1,914.53</td>
</tr>
</tbody>
</table>


Total $1,914.53
INVOICE

Friday, February 17, 2017

Invoice Number: 5431

BILL TO:
Town of Pantego
Accounts Payable
1614 South Bowen Road
Pantego, TX 76013

SHIP TO:
Town of Pantego
Accounts Payable
1614 South Bowen Road
Pantego, TX 76013

January 1, 2017-January 31, 2017 services and expenses associated with Town of Pantego.

Fiat Rate Monthly (20.00 hours) January 2017

$1,820.00

Non-Contractual Hours (Above 20.00hrs/mo) - Services:
01/24/17 CMR 8.00 Hours @ $85.00 = 680.00
01/24/17 DLB 3.50 Hours @ $85.00 = 297.50
01/27/17 BJL 1.50 Hours @ $85.00 = 127.50
01/27/17 DLI 5.00 Hours @ $85.00 = 425.00
01/27/17 JAR 1.00 Hours @ $85.00 = 85.00
01/30/17 BJL 1.00 Hours @ $85.00 = 85.00
01/30/17 DLB 5.00 Hours @ $85.00 = 425.00
01/31/17 DLI 3.00 Hours @ $85.00 = 255.00

Non-Contractual Hours (Above 20.00hrs/mo) - Total Services: $2,380.00

Non-Contractual Hours (Above 20.00hrs/mo) - Expenses:
SSL Certificate Renewal for 4.99

Non-Contractual Hours (Above 20.00hrs/mo) - Total Expenses: $49.99

Please pay by Monday, March 6, 2017: $4,249.99

Thank you for your business.
<table>
<thead>
<tr>
<th>Date</th>
<th>Hours</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Flat Rate Monthly (20.00 hours)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, January 4, 2017</td>
<td>0.50</td>
<td>BJL  Working with court house staff to clear off space on the FileServer</td>
</tr>
<tr>
<td>Wednesday, January 11, 2017</td>
<td>6.50</td>
<td>DLB  Help Nicole and Sheli setup access to email in Outlook. Turn on TPM security on Host 1. Troubleshoot PD-CAM01 services stopping preventing Dashcam uploads. Reconfigure permissions for the services to ensure they start and restart properly. Create new Cluster Shared Volume to increase storage to store VMs.</td>
</tr>
<tr>
<td>Thursday, January 12, 2017</td>
<td>2.00</td>
<td>DLB  Help Tyler Tech get admin rights to PCs to perform update for PD. Install updates on Host Servers and restart. Reschedule backups to ensure successful backups.</td>
</tr>
<tr>
<td>Saturday, January 14, 2017</td>
<td>2.00</td>
<td>DLB  Turn on the TPM security device on Host 2. Install Bit Locker on both Hosts. Encrypt the newly create Cluster Shared Volume (CSV). Move PD-FS01 to the new CSV to ensure backups complete successfully and to store the data on an encrypted drive. Adjust Backup schedule to insure successful backups.</td>
</tr>
<tr>
<td>Monday, January 16, 2017</td>
<td>0.50</td>
<td>DLB  Check backups and reset VM Manager to reset access to shadow copies for backups.</td>
</tr>
<tr>
<td>Tuesday, January 17, 2017</td>
<td>6.00</td>
<td>DLB  Run initial setup on new PCs for PD and Fire. Work with Tyler Tech to fix access to Mobile CAD after the upgrade last week.</td>
</tr>
<tr>
<td>Friday, January 20, 2017</td>
<td>1.50</td>
<td>DLB  Meeting with Matt Fielder to discuss IT projects, tasks and concerns. Troubleshoot PD’s Unit 45’s MDC not allowing Mobile CAD to open.</td>
</tr>
<tr>
<td>Thursday, January 26, 2017</td>
<td>1.00</td>
<td>BJL  Working with Scott to try to resolve disk space issues remotely. Getting new SSL certificate for the exchange server setup</td>
</tr>
<tr>
<td><strong>Flat Rate Monthly (20.00 hours):</strong></td>
<td><strong>20.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Non-Contractual Hours (Above)**

<table>
<thead>
<tr>
<th>Date</th>
<th>Hours</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuesday, January 24, 2017</td>
<td>8.00</td>
<td>CMR  Server Maintenance</td>
</tr>
<tr>
<td>Tuesday, January 24, 2017</td>
<td>3.50</td>
<td>DLB  Work with Tyler Tech to troubleshoot Warrants not updating from Court. Troubleshoot backups failing for PD-FS01. Restart Host1 and adjust VM settings and restart the backup. Uninstall un-</td>
</tr>
</tbody>
</table>
needed programs on new PCs for Fire and PD. Install common programs for both PD and Fire. Install VieVu and Digital Ally on two of the PD new PCs. Install Firehouse on all three PCs for fire.

Friday, January 27, 2017 1.50 BJL Moving user folders from old Fire LT PC to file server; resolving errors found during server maintenance on PD-FS01; rebooting servers for updates

Friday, January 27, 2017 5.00 DLB Work with Tyler Tech to install RMS on the new PCs. Swap PC for Robert and Lieutenants in fire. Discuss upgrade and Incode issues with Thressa.

Friday, January 27, 2017 1.00 JAR Cleaning Temp Folder of files to resolve space; Scanning with ADWCleaner and Malwarebytes to remove several infections; Uninstallation of second AV; Confirming with User issue resolved;

Monday, January 30, 2017 1.00 BJL Resolving errors found during server maintenance on PBACKUP regarding VSS credentials and CHDC02 regarding AD database corruption

Monday, January 30, 2017 5.00 DLB Troubleshoot Firehouse slowness. Run Firehouse built in Database utility to repair/compact. Finish copying files from LT PC to server. Setup permissions on server to allow users exclusive access to their own folder. Setup new PC in Firefighter's office.

Tuesday, January 31, 2017 3.00 DLB Swap Tom's old PC for the new. Install printer drivers. Work with Coker to secure files on the Public share. Restore Firehouse DB after missing data found from Compact/Repair.

**Non-Contractual Hours (Above)** 28.00

48.00
AGENDA BACKGROUND

AGENDA ITEM: Approval of the Town Council minutes and acceptance of minutes of the various Boards and Commissions.

Date: February 27, 2017

PRESENTER:
Jessie Hanks, City Secretary

BACKGROUND:
Minutes from Town Council and Pantego's various Boards and Commissions

FISCAL IMPACT:
None.

RECOMMENDATION:
N/A

ATTACHMENTS:
021317 TC Minutes
020817 PEDC Minutes
WORK SESSION 6:30 P.M.

Mayor Paradise called the Work Session to order at 6:33 p.m.

Mayor, Council, and staff discussed the following Regular Agenda Items:

7. Discuss, direct, and consider action on a presentation by Collier Consulting, Inc. regarding the Town’s water wells and the activities of the Northern Trinity Groundwater Conservation District.

Hughbert Collier, Senior Vice President of Collier Consulting, gave a presentation over the activities of the Northern Trinity Groundwater Conservation District and the evaluation and inspection of the Town’s wells.

CONSENT AGENDA ITEMS

Mayor, Council, and staff discussed the following Consent Agenda Items:

1. City Manager Report.
   
   Mr. Fielder informed Council of the following updates:

   There are 4 Police Officer positions open, as well as the City Secretary position and a part-time Court Clerk. Firefighter Shannon McGill has been hired to fill the vacancy in the Fire Department.

   The street repair on Park Row has been completed as part of the warranty of the pavement that was done for the water line project. Due to unforeseen circumstances and delays, the Smith Barry Pipe Bursting project completion has been extended until mid-March. Council inquired about whether work
town Council Minutes
February 13, 2017

was being done at night. Mr. Williams stated most of the work is being done during the day, the only
night activity is cleaning up.

Mr. Fielder communicated with one property owner, and three property managers, for the largest
properties on Park Row. None of them expressed any interest in an assessment to pay for the
streetcape project.

2. Monthly Staff Reports.

Council inquired about the increase in the General and Administrative expenditures. Ms.
Hollingsworth explained the reason it is up for the year is the roof repair. There was discussion about
the sales tax numbers. Mr. Fielder explained the estimated budget number is found by taking the
projected budget and dividing it by 12; therefore, some months will be higher while others are lower
but overall the Town is above the budgeted amount for the year.

There were questions about Police and Fire being over budget. Ms. Hollingsworth explained the last
pay day was February 1 but payroll was processed and posted on January 30; therefore; 3 pay
periods were posted in January instead of 2. This would also explain the overage in the General and
Administration.

There was discussion about the possible investment options for the expiring Certificates of Deposit.
Staff recommended putting the money in an Investment Pool instead of a Certificate of Deposit due to
the ability to pull the money out if needed. Council directed staff to bring this item back on the next
agenda.

Council had no questions about the Public Safety monthly staff report.

Council inquired if the water line break on Pioneer was on the same line that needs to be replaced
and the logistics of the Smith Barry project. Mr. Williams stated the break on Pioneer was on the
same line that will need to be replaced and plans on getting that replaced next year unless a situation
arises that requires that timeline to be moved up. He explained the existing sewer pipe on Smith
Barry is being broken and expanded while the new line is being thread through at the same time.

Council had no questions about the Community Development or Court monthly staff reports.

Mayor Paradise adjourned the Work Session at 7:30 p.m.

REGULAR SESSION 7:30 P. M.
CALL TO ORDER/WELCOME
Mayor Paradise called the Regular Session to order at 7:30 p.m. and welcomed the audience.

Council member Brewster gave the invocation, which was immediately followed by the Pledge of
Allegiance.

MAYOR/COUNCIL/STAFF COMMENTS OF COMMUNITY INTERESTS

Council members each welcomed Ann Farrell and thanked her for coming, and thanked staff for doing a
great job. Council gave a special thank you to the Police Department for all the hard work and overtime
they have been putting in while shorthanded.

COUNCIL LIAISON TO BOARD REPORT

Community Relations Board
Council member Barrett stated the Community Relations Board had their last meeting on February 7th.
The Easter event will be April 15th at Bicentennial Park from 2:00 p.m. to 4:00 p.m. The Memorial Day
activity will be on Memorial Day, May 29th, in the Park. There will be an essay contest for the Bailey Junior
High Students. The prizes are still being discussed. The Movies in the Park will begin the second Saturday of May and last through August. This year’s movies will be the Moana, Hook, Finding Nemo, and Finding Dory. The next meeting will be March 7th.

Pantego Youth Leadership Council
Mayor Paradise stated the next meeting would be Tuesday, February 21st, and reported the topic would be over engaging the media as a municipality. They will discuss how the media plays a role in government; for example, the article that was just published about Jambo’s moving from Arlington to Pantego.

PEDC REPORT
Councilmember Adair informed Council that PEDC has had 2 meetings since the last Council meeting. Adventure Playground Systems was selected as the company to do the splash pad with an expense not to exceed $131,010. There is still work to be done regarding the details of the splash pad. There has been discussion about some loans and a grant for Jambo’s BBQ Shack. PEDC entered into an agreement with Metal Monkey for the welcome bags for new homeowners in the area. There was also discussion about another small event(s) to replaced PantegoFest and the participation in the 4th of July Parade.

CITIZENS OPEN FORUM
None.

PUBLIC HEARING

6. Public Hearing, review, and consider action on Ordinance 17-800, an ordinance of the Town of Pantego, Texas for Zoning Case Z-230, a proposed special use permit as requested by Ann Farrell (Annies Freeze) to continue the use of a sno cone stand business with pergola located at 2304 W. Park Row Drive, Tracts 1A3, 1A3A, 1A3B, 1A5, 1A5B and 1A5C of the William J Barry Survey, Pantego, Tarrant County, Texas. The property is generally located in the Lakewood Shopping Center on the south side of W. Park Row Drive between S. Bowen Road and Milby Road.

Mayor Paradise read the agenda item and Ms. Hanks read the ordinance caption.

Mr. Fielder explained this Special Use Permit is for the addition of a pergola to the snow cone stand and the extension of the existing permit that will expire in August 2017. The Planning and Zoning Commission reviewed this SUP at their last meeting and unanimously recommended approval until change of ownership. Staff has recommended the term be until 2020 or 3 years.

Mayor Paradise opened the public hearing at 7:46 p.m.

The following speakers spoke in support of zoning case Z-230:

Ann Farrell, 1706 Nora Dr. Pantego, Texas 76013, stated she is for the special use permit. She stated her primary goal is the clean up the look of the stand up. She explained she has purchased new concrete tables to replace the spools. The umbrellas by the stand have become a safety hazard due to people running into them.

There were no speakers present to speak in opposition on zoning case Z-230.

Mayor Paradise closed the public hearing at 7:47 p.m.

There was discussion about the location of the pergola and if there will still be umbrellas on the tables. The pergola will go directly in front of the stand where the bay windows come up. Ms. Farrell stated there will still be umbrellas on the tables but would like to replace the ones by the stand with the pergola.
Council inquired about whether the stand has an address and if it is considered an improvement to the property. Mr. Jobe explained it is an un-platted piece of property was he was not sure if it had an address. Mr. Fielder stated it would not be considered an improvement because it is all temporary and can be removed. Mr. Jeffery advised he would have a hard time saying what Tarrant County Appraisal District would count as a structure or improvement.

Council expressed concerns about the pergola being a permanent structure, the original SUP being issued for only a temporary structure and the length of the recommend term for the new SUP. Mr. Fielder explained the pergola will be bolted to the ground with a bracket but could still be removed at any time. Based on codes and ordinance, the pergola has to be considered temporary. Council inquired if the new SUP would be effective immediately or take effect in August when the old SUP expires. Mr. Jeffery explained that typically the ordinance for the SUP is written as effective immediately so that the pergola could already be put up.

Mayor Pro-Tem Surratt made a motion to approve Ordinance 17-800 with an expiration of 5 years. Councilmember Brewster seconded the motion.

Ayes: Surratt, Barrett, Adair, and Brewster.
Nayes: Funderlic.
Abstentions: None.

Mayor Paradise declared the motion passed with Council members Brewster, Adair, Barrett, and Surratt in favor and Councilmember Funderlic against.

Councilmember Funderlic explained he voted against due to not agreeing with the term length. He would have liked to keep it at 3 years to keep consistent with normal practice.

3. Approval of Purchase Order Requests and Accounts Payable over $5,000 and Review of Purchase Order Requests and Accounts Payable $1,000 to $5,000 previously approved by the City Manager.

There were questions about the shipping method and cost for the Solar Radar Speed signs. Assistant Chief Reeves stated he had not questioned the cost for shipping but would be happy to do so. Council would like the shipping cost to be looked into but did not want to remove the purchase from the agenda item.

Council inquired about the City of Arlington invoice in regard to the adjustment on the audible cross walk function. Mr. Williams explained it is his understanding that the audible function was turned down to help with the sound travel. Council expressed concerns about citizens being able to call Arlington to complain and having to foot the bill. Mr. Williams stated he had already talked to Arlington about that and they agreed to let the Town field the calls before repairs are made. Council inquired about the back charge to insurance for the damage done to the traffic light by an 18 wheeler. Mr. Williams stated the 18 wheeler’s insurance company had already reimbursed the Town for the damage.

There was discussion about if the company doing vehicle oil changes was checking the vehicle for routine maintenance issues. Assistant Chief Reeves explained the company is pretty good about giving him that information. He stated the brakes on the vehicle in question had been driven about 20,000 miles since the last time they were replaced.

4. Approval and Acceptance of Minutes

Approval of Town Council Minutes:
- Town Council minutes from January 9, 2017
Mayor Paradise stated she would work with staff on some changes that need to be made regarding the Executive Session Items.

Acceptance of Minutes of Boards and Commission:
- CRB minutes from January 3, 2017
- PEDC minutes from January 11, 2017
- PEDC minutes from January 25, 2017

No comments were given.

**APPROVAL OF CONSENT AGENDA ITEMS**
Councilmember Brewster made a motion to approve the Consent Agenda Items 1, 2, 3, and 4. Councilmember Adair seconded the motion.

The vote was as follows:
Ayes: Surratt, Funderlic, Barrett, Adair, and Brewster.
Nayes: None.
Abstentions: None.

Mayor Paradise declared the motion passed unanimously.

**ORDINANCES**

5. Discuss, direct, and consider action on Ordinance 17-799 an ordinance of the Town of Pantego, Texas, amending the Code of Ordinances Chapter 5 Fire Prevention and Protection.

Mayor Paradise read the agenda item and Ms. Hanks read the ordinance caption.

Mayor Paradise requested a revision be made to the first reading approval caption.

Councilmember Funderlic made a motion to approve the second and final reading of Ordinance 17-799 with the change as requested. Mayor Pro-Tem Surratt seconded the motion.

The vote was as follows:
Ayes: Surratt, Funderlic, Barrett, Adair, and Brewster.
Nayes: None.
Abstentions: None.

Mayor Paradise declared the motion passed unanimously.

There was discussion about when the other codes and amendments where going to come to council and if they would be done in separate ordinances. Mr. Jobe explained there are still 9 code books and amendments to go through and they would be brought back in sections for Council review. Mr. Fielder added the ordinance for all the codes would be done all at one time instead of broken into sections to limit the confusion when receiving permits.

**NEW BUSINESS FOR DISCUSSION, REVIEW, APPROVAL, AND/OR DIRECT STAFF.**

7. Discuss, direct, and consider action on a presentation by Collier Consulting, Inc. regarding the Town’s water wells and the activities of the Northern Trinity Groundwater Conservation District.

Mayor Paradise stated that this item was discussed in detail during Work Session with a presentation by Hughbert Collier from Collier Consulting.
Council inquired about staff’s plan to remediate the recommended improvements that Collier Consulting addressed. Mr. Williams stated he would review the report, compose a plan of action, and bring that plan back to Council for discussion and review.

Council expressed concerns about not getting the phase imbalance at the Lane Trinity Well addressed in a timely manner. Mr. Williams explained this issue has been looked at several times and there are many factors that affect this reading.

8. Discuss, direct and consider action on royalty payments by EnerVest.

Mr. Fielder stated the Town’s Oil and Gas attorney, Bryn Meredith, sent a letter to EnerVest inquiring as to the adjustments made in the Town’s gas royalties from April 2014 to September 2016. EnerVest has responded with the attached letter. They have provided the financial summary of the overpayments and reductions. When discussing the issue with Michael Weaver, he explained their gas marketer was overpaid and in turn the royalty holders were too; therefore, there were adjustments made to remedy the overpayments. Mr. Weaver was unable to attend this meeting, but has committed to attending a future meeting to explain the situation in person.

Council requested Michael Weaver be invited to a future meeting to address Council’s questions and concerns. Mr. Jeffery recommended discussing this item in Executive Session.

9. Discuss, direct and consider action on the implementation of the Boat and RV Ordinance.

Council requested the letter and exclusion form be sent to all residents, not just the residents who the Town is aware have a boat, trailer or RV, and put notice in the newsletter until the 180 days is up.

There was a discussion regarding Council reviewing and approving the exclusion forms after submittal. Mr. Fielder explained he put that on the form for instances in which the exclusion is rejected or denied by staff in order for Council to review and make the final decision. Council requested the review and approval by Council be removed from the form.

There was a discussion about if the ordinance pertains to people who currently own a boat, trailer, or RV or if it includes residents who buy one before the exclusion period. Mr. Jeffery confirmed the boat, trailer, or RV needs to be owned by the resident from the effective date of the ordinance.

Mayor Paradise read the caption for Executive Session Items 1, 2, 3, 4, and 5, and recessed the Regular Session at 9:07 p.m.

SCHEDULED EXECUTIVE SESSION ITEMS

The Council convened in the City Manager’s Office pursuant to the Texas Government Code for an executive session on the following items:

1. Pursuant to Government Code Section 551.074 Personnel Matters to deliberate the appointment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee – City Manager.

2. Pursuant to Government Code Section 551.074 Personnel Matters to deliberate the appointment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee – City Secretary.

3. Pursuant to Government Code Section 551.071 Litigation Matters, to discuss pending or contemplating litigation, settlement offers, and other legal matters that implicates the attorney-client privilege – Jerald Dwayne Prelow v. Town of Pantego and Sergeant Benjamin Moore.

4. Pursuant to Government Code Section 551.087 to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the
governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations. – Jambo’s BBQ

5. Pursuant to Government Code Section 551.071 Litigation Matters, to discuss pending or contemplating litigation, settlement offers, and other legal matters that implicates the attorney-client privilege – EnerVest

Mayor Paradise reconvened the Regular Session at 11:52 p.m.

Mayor Paradise read the caption for Executive Session Item 1, and asked Council for a motion to take action.

Councilmember Adair made a motion to extend the City Managers contract for an additional 2 years under the same terms effective immediately with the increase in salary as discussed in Executive Session. Councilmember Brewster seconded the motion.

The vote was as follows:
Ayes: Surratt, Funderlic, Barrett, Adair, and Brewster.
Nayes: None.
Abstentions: None.

Mayor Paradise declared the motion passed unanimously.

Mayor Paradise read the caption for Executive Session Item 2, and asked Council for a motion to take action.

Councilmember Adair made a motion to appoint Jessie Hanks as City Secretary effective immediately with salary as discussed in Executive Session. Councilmember Barrett seconded the motion.

The vote was as follows:
Ayes: Surratt, Funderlic, Barrett, Adair, and Brewster.
Nayes: None.
Abstentions: None.

Mayor Paradise declared the motion passed unanimously.

Mayor Paradise declared there was no action to take on Executive Session Items 3, 4, and 5.

COUNCIL INQUIRY
None.

ADJOURNMENT
Mayor Paradise adjourned the Regular Session at 11:55 p.m.

APPROVED:

Melody Paradise, Mayor

ATTEST:

Jessie Hanks, City Secretary
STATE OF TEXAS

COUNTY OF TARRANT

TOWN OF PANTEGO

The Pantego Economic Development Corporation of the Town of Pantego, Texas, met in regular session at 7:00 p.m. in the Council Chamber, 1614 South Bowen Road, Pantego, on the 8th day of February 2017 with the following members present:

Danny Lakey President
Don Surratt Vice President
Fred Adair Secretary
Mickey Scott Director
Stephanie Springer Director
Steve Kunkel Director
Michelle Wadley Director

Constituting a quorum. Staff present was:

Matt Fielder Executive Director
Jessie Hanks Support Specialist
Dennis Jobe Community Development Director
Scott Williams Public Works Director

Also in attendance:
Pam Mundo Mundo and Associates

REGULAR SESSION 7:00 P.M.

CALL TO ORDER AND GENERAL COMMENTS
President Lakey called the Regular Session to order at 7:01 p.m. and welcomed the audience.

INVOCATION
President Lakey gave the invocation which was followed by the Pledge of Allegiance.

PRESIDENT’S COMMENTS
None.

PEDC MEMBER REPORTS/COMMENTS OF COMMUNITY INTEREST
None.

REGULAR BUSINESS

1. Executive Director Report

Mr. Fielder informed the Board of the following items:

Cajun Corner, who bought Mijo’s, had opened for business last week. Kenny Mills has sold Chop House Burgers and it will become Chop House Burgers and Wings. Director Kunke inquired about the reason Mijo’s closed. Staff explained there were issues between the Landlord and Tenant which lead to Mijo’s leaving.

2. Approval of PEDC Minutes
   • January 11, 2017
   • January 25, 2017
Vice President Surratt made a motion to approve the January 11, 2017, and January 25, 2017, PEDC minutes as written. Director Wadley seconded the motion.

Nayes: None.
Abstentions: None.

President Lakey declared the motion passed unanimously.

3. **Summary of Revenues and Expenditures**
   - February 8, 2017

No comments were given.

Secretary Adair made a motion to approve the accounts payables for this month as presented. Director Springer seconded the motion.

The vote was as follows:
Nayes: None.
Abstentions: None.

President Lakey declared the motion passed unanimously.

**CITIZENS OPEN FORUM**
None.

**DISCUSSION, REVIEW, AND CONSIDER ACTION AND/OR DIRECT STAFF ON THE FOLLOWING ITEMS OF BUSINESS:**

5. **Discuss, direct, and consider action on the relocation of Jambo’s BBQ to Pantego.**

   Paul Lovato, Co-Owner of Jambo’s BBQ, explained the issue he was having getting the shared access easement with the neighboring property. He stated he is still trying to work with the owners of the neighboring property to obtain the shared access easement in order to put in the lane to get to the back of the property. The Board confirmed Mr. Lovato would not have an issue with a personal guarantee for the loans.

   The Board inquired about the number of parking spaces the code requires for this property, Mr. Jobe stated it would be about 17 spaces. Mr. Fielder explained this property is considered a legal non-conforming property; therefore he would be grandfathered into the old requirements. There would be challenges to not having the ability to access the back of the property such as deliveries.

   There was a discussion about landscaping the front of the property, the Certificate of Occupancy requirements, and the building code requirements. Staff informed the Board they have been working with Mr. Lovato to help assist in a smooth process in order to get the restaurant open in a timely manner. The allocation of the funds was discussed. To complete the project, it will cost about $89,000.

President Lakey read the caption for Executive Session Item 1 and recessed the Regular Session at 7:27 p.m.
SCHEDULED EXECUTIVE SESSION
The PEDC convened in the City Manager's Office pursuant to the Texas Government Code for an executive session as follows:

1. Pursuant to Government Code Section 551.087 to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations. – Jambo’s BBQ

President Lakey reconvened the Regular Session at 8:45 p.m.

President Lakey declared there was no action taken on Executive Session Item 1. President Lakey directed staff to draw up paperwork for a $20,000 loan at 3% to be paid back in 4 years, a $20,500 loan to be paid back through PEDC sales tax within 6 years, and a grant for 50% of the cost of a sign not to exceed $9,500. President Lakey requested a copy of sales tax showing it is current and a copy of the incorporation documents.

6. Discuss, direct, and consider action on participation in the City of Arlington’s 4th of July Parade.

President Lakey explained the President of the City of Arlington’s 4th of July Parade would like to see Pantego more involved. There was a discussion about the possibility of building a float, ways to get more involved in the parade, and how to get the businesses involved. Director Wadley stated she would talk to her husband about spearheading the float. The Board discussed getting Pantego Christian Academy and Camp Thurman to help build a float.

7. Discuss, direct, and consider action on special events to replace PantegoFest.

Vice President Surratt informed the Board he discussed with Dr. Jackyll’s about the possibility of doing a small event in front of their business. There was a discussion about putting on several smaller events that rotate through the major shopping centers in Pantego. A Taste of Pantego event was discussed as a way to get restaurants involved and help advertise. Ms. Mundo stated she was concerned about focusing on one or two businesses as opposed to the entire shopping center.

4. Discuss, direct, and consider action on the planning of the splash pad and other park improvements at Bicentennial Park.

Mr. Fielder explained that Adventure had provided a quote with the options and changes as requested at last meeting. The Board inquired why the recirculation system had been changed. There was a discussion about the possible changes of equipment and features, the logistics of the water line for the project, the budget for the project, and the park master plan.

The Board discussed whether to do a poly soft or concrete surfacing. There were concerns about the safety of the brushed concrete versus poly soft material. The Board expressed concerns about the maintenance and possible vandalism of the poly soft surfacing material.

Director Kunkel made a motion to authorize the City Manager to enter into a contract with Adventure Playground Systems for an amount not to exceed $131,010.00. Director Scott seconded the motion.

Ayes: Surratt, Adair, Kunxel, Lakey, Scott, and Wadley
Nayes: None.
Abstentions: None.

President Lakey declared the motion passed unanimously.
PEDC MEMBER INQUIRY
None.

ADJOURNMENT
President Lakey adjourned the Regular Session at 10:02 p.m.

APPROVED:

Danny Lakey, President

ATTEST:

Fred Adair, Secretary
AGENDA BACKGROUND

AGENDA ITEM:  Discuss, direct, and consider action on Resolution 17-03, a resolution of the Town of Pantego, Texas, authorizing the City Manager to participate in Texas CLASS Texas Local Government Investment Pool with authorized list of representatives.

DATE:  February 27, 2017

PRESENTER:  Karen Hollingsworth, Finance Director

BACKGROUND:

The Town’s two-year investment in Certificates of Deposit (CD’s) matured on February 23, 2017. In addition to these CD’s, the Town participates in two Investment Pools, TexPool and TexPool Prime. In order to continue compliance with the six major objectives of the Town’s Investment Policy, (1) Suitability, (2) Safety of Principal, (3) Liquidity, (4) Marketability, (5) Diversification and (6) Yield, while maximizing these same objectives, Staff recommends that we diversify into another Government Investment Pool, Texas CLASS.

Texas CLASS invests solely in securities which are permitted pursuant to the Public Funds Investment Act and the Towns’ Investment Policy. Texas CLASS yield rates are currently the highest of the six government investment pools in Texas.

Like TexPool and TexPool Prime, three of the four major objectives on Texas CLASS are Safety, Liquidity and Yield, but Texas CLASS’ first objective is Legality. There is also no investment minimum.

FISCAL IMPACT:

Diversification of available funds.

RECOMMENDATION:

Staff recommends approval of attached resolution.

ATTACHMENTS:

Resolution 17-03
RESOLUTION NO. 17-03

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PANTEGO, TEXAS, AUTHORIZING THE TOWN’S PARTICIPATION IN TEXAS CLASS TEXAS LOCAL GOVERNMENT INVESTMENT POOLS WITH AN AUTHORIZED LIST OF REPRESENTATIVES.

WHEREAS, the Town of Pantego is a local government or state agency of the State of Texas and is empowered to delegate to the public funds investment pools the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pools (“Texas CLASS”), public funds investment pools, were created on behalf of entities whose investment objectives in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PANTEGO, TEXAS THAT:

Section 1: that Participant shall enter into a Participation Agreement to establish an account in its name in Texas CLASS, for the purpose of transmitting local funds for investment in Texas CLASS.

Section 2: that the individuals, whose signatures appear in this Resolution, are authorized representatives of the Participant and are each hereby authorized to transmit funds for investment in Texas CLASS and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

List the authorized representatives of the Participant. These individuals will be issued Personal Identification Numbers (PIN’s) to transact business via the phone with a Participant Services Representative.

1) Matthew Fielder, City Manager
   (817) 617-3705 Office
   (817) 617-3726 Fax
   mfielder@townofpantego.com Email

2) Karen Hollingsworth, Finance Director
   (817) 617-3707 Office
   (817) 617-3726 Fax
   khollingsworth@townofpantego.com Email

___________________________       _____________________________
Signature          Signature

List the name the Authorized Representative provided above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

Karen Hollingsworth, Finance Director
Section 3: that this resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until Texas CLASS receives a copy of any such amendment or revocation.

PRESENTED AND PASSED this 27th day of February 2017, by a vote of ___ ayes, ___ nays, and ___ abstentions, at a regular meeting of the Town Council of the Town of Pantego, Texas.

Melody Paradise, Mayor

ATTEST:

Jessie Hanks, City Secretary

APPROVED AS TO FORM:

Jim Jeffrey, City Attorney
INVESTMENT POLICY

AND

INVESTMENT STRATEGIES

Revised April 28, 2014

Prepared by the Finance Department
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I. POLICY STATEMENT

It is the Policy of the Town of Pantego (the “Town”) that the administration of its funds and the investment of those funds shall be handled at its highest public trust. Investments shall be made in a manner which will provide the maximum security of the principal through established limitations and diversification while meeting the daily cash flow needs of the Town and conforming to all applicable state statutes governing the investment of public funds.

This Policy serves to satisfy the statutory requirements of defining and adopting a formal investment policy. The Policy and investment strategies shall be reviewed annually by the Town Council who will formally approve any modifications. This Investment Policy, as approved, is in compliance with all state laws and statutes which govern the investments of public funds, including but not by way of limitation, the Public Funds Investment Act (PFIA), Chapter 2256, Government Code.

II. SCOPE

A. This investment policy applies to all the financial assets and funds of the Town of Pantego and the Pantego Economic Development Corporation. The Town co-mingles its funds into one pooled investment portfolio for efficiency and maximum investment opportunity. These funds are defined in the Town’s Annual Financial Report and include any new funds created by the Town unless specifically exempted by the Town Council and this Policy.

In addition to this Policy, the investment of bond proceeds and other bond funds (including debt service and reserve funds) shall be governed by and controlled by their governing ordinance and by the provisions of the Tax Reform Act of 1986, including all regulations and ruling promulgated there under applicable to the issuance of tax-exempt obligations.

B. Funds covered by this Policy and managed as a pooled fund group:
   1. General Fund – used to account for resources traditionally associated with government, which are not required to be accounted for in another fund.
   2. Special Revenue Funds – used to account for the proceeds from specific revenue sources which are restricted to expenditures for specific purposes.
   3. Debt Service Funds – including reserves and sinking funds to the extent not required by law or existing contract to be kept segregated and managed separately - and used to account for resources to be used for the payment of principal, interest and related costs on general obligation debt.
   4. Capital Projects Funds – used to account for resources to enable the acquisition or construction of major capital facilities which are not financed by enterprise funds, internal service funds, or trust funds.
   5. Enterprise Funds – used to account for operations that are financed and operated in a manner similar to private business enterprises.
6. **Trust and Agency Funds** – used to account for assets held by the Town in a trustee capacity or as an agent for individuals, private organizations, other governments, and/or other funds.

7. Any new fund created by the Town unless specifically exempted from this policy by the Town or the law.

C. Funds covered by this Policy and managed as separately invested assets as defined in PFIA 2256.002(9):

1. **Bond Funds** – funds established with the proceeds from specific bond issues when it is determined that segregating these funds from the pooled fund’s portfolio will result in maximum interest earning retention under the provisions of the Tax Reform Act of 1986.

2. **Endowment funds** – funds given to the Town with the instructions that the principal is to remain intact, unless otherwise agreed to, and the income generated by the investments will be used for specific purposes.

3. **Trust of Escrowed Funds** – funds held outside the Town by a trust or escrow agent but belonging to the Town.

This Policy shall not govern funds, which are managed under separate investment programs in accordance with the PFIA 2256.004.

### III. GENERAL OBJECTIVES

It is the policy of the Town that, giving due regard to the safety and risk investments, all available funds shall be invested in conformance with State and Federal Regulations, applicable Bond Ordinance requirements, adopted Investment Policy and adopted Investment Strategies. In accordance with the Public Funds Investment Act Section 2256.005(d), the following prioritized objectives (in order of importance) apply to each of the Town’s investment strategies:

A. **Suitability** – Understanding the suitability of the investment to the financial requirements of the Town is important. Any investment eligible in the Investment Policy is suitable for all Town funds.

B. **Safety of Principal** – Preservation and safety of principal are the foremost objective of the Town. Investments of the Town shall be undertaken in a manner that seeks to insure preservation of capital in the overall portfolio.

C. **Liquidity** – The Town’s investment portfolio will be based on a cash flow analysis of cash needs and will remain sufficiently liquid to enable it to meet all operating requirements which might be reasonably anticipated. Liquidity shall be achieved by matching investment maturities with estimated cash flow requirements and by investing in securities with active secondary markets.

D. **Marketability** – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash requirement. Historical market “spreads” between the bid and offer prices of a particular security type or less than a quarter of a percentage point shall define an efficient secondary market.
Diversification – Diversification of the portfolio will include diversification by maturity and market sector to protect against credit and market risk. The Town will diversify its investments in an effort to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

F. Yield – Attaining a competitive market yield, commensurate with the Town’s investment risk constraints and the cash flow characteristics of the portfolio, is the desired objective. The goal of the Town’s investment portfolio is to regularly meet or exceed the average rate of return on U.S. Treasury Bills at a maturity level comparable to the portfolio’s weighted average in days. The yield of an equally weighted, six month Treasury Bill portfolio shall be the minimum yield objective or “benchmark”. A secondary objective will be to obtain a yield equal to or in excess of a local government investment pool or money market mutual fund.

Applicable tax exempt debt proceeds shall attempt to achieve a return equal to the above unless that return exceeds applicable arbitrage yield limit on the debt. In certain interest rate environments the Town may need to restrict yields in order not to exceed arbitrage limits.

IV. STANDARDS OF CARE

A. Prudent Person Rule. The Town’s staff will follow the “Prudent Person” statement relating to the standard of care that must be exercised when investing public funds as expressed in PFIA Sec. 2256.006(a-b):

“Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person’s own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived”.

Investment of funds shall be governed by the following investment objectives, in order of priority:

1. Preservation and safety of principal;
2. Liquidity; and
3. Yield.

The Investment Officers and those delegated investment authority under this Policy shall seek to act responsibly as custodians of the public trust. Investment participants shall avoid any transactions that might impair public confidence in the Town’s ability to govern effectively. The governing body recognizes that in a diversified portfolio, occasional measured losses due to market volatility are inevitable and must be considered within the context of the overall portfolio’s investment rate of return, provided that adequate diversification has been implemented.
In determining whether an Investment Officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

1. The investment of all funds, or funds under the entity’s control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
2. Whether the investment decision was consistent with the written investment policy of the Town.

The Investment Officers, when acting in accordance with the written procedures and due diligence, shall not be held personally responsible for market price changes, provided that deviations from expectations are reported in a timely manner and that appropriate action is taken to control adverse market effects. The governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity.

B. Delegation of Investment Authority

The Town Manager and Finance Director, acting on behalf of the Town, are designated as the Investment Officers of the Town and are responsible for management decisions and activities. The Investment Officers are also responsible for considering the quality and capability of staff, investment advisors, and consultants involved in investment management and procedures.

The Investment Officers shall develop and maintain written administrative procedures for the operation of the investment program which are consistent with this Investment Policy. The Investment Officers shall also designate a staff person as a liaison/deputy in the event circumstances require timely action and the Investment Officers are not available.

The Investment Officers shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials and staff. No officer or designee, shall engage in an investment transaction except as provided under the terms of this policy, the procedures established by the Finance Director and the explicit authorization by the Town Manager to withdraw, transfer, deposit and invest the Town’s funds.

C. Internal Controls

The Investment Officers shall establish a system of written internal controls which will be reviewed annually with the independent auditors of the Town. The controls shall be designed to prevent loss of public funds due to fraud, employee error, misrepresentation by third parties, unanticipated market changes, or imprudent actions by employees of the Town. Controls deemed most important include: control of collusion, separation of duties, third party custodial safekeeping, avoidance of bearer-form securities, clear delegation of authority, specific limitations regarding securities losses and remedial action, written confirmation of telephone transactions,
minimizing the number of authorized investment officials, and documentation and rationale for investment transactions.

D. Ethics and Conflicts of Interest

Officers and employees involved in the investment process shall refrain from personal business activities that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions. Investment Officers involved shall disclose in writing to the Town Council any financial interest in financial institutions that conduct business with the Town or any personal financial/investment position that could be related to the performance of the Town.

The Investment policy requires the investment officers to file a disclosure statement with the Texas Ethics Commission and the governing body if the investment officer has a personal business relationship or is related within the second degree of affinity or consanguinity to an individual or organization seeking to sell an investment to the Town. For purposes of this section, an investment officer has a personal relationship with a business organization if and as defined in PFIA 2256.005(i)(1-3):

1. The Investment officer owns 10% or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;

2. Funds received by the investment officer from the business organization exceed 10% of the investment officer’s gross income for the previous year; or

3. The Investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

E. Investment Training Requirements

Town of Pantego shall provide periodic training in investments for the investment personnel through courses and seminars offered by professional organizations and associations in order to insure the quality and capability of the Town’s investment personnel making investment decisions in compliance with the PFIA 2256.005(b)(3).

All Investment Officers shall attend ten (10) hours of training within twelve (12) months of taking office or assuming duties and ten (10) hours in each succeeding two year period as defined in PFIA 2256.008. The training provider must be an independent source approved by Town Council or investment committee.

For purposes of this policy, an “independent source” from which investment training shall be obtained shall include a professional organization, an institute or higher learning or any other sponsor other than a business organization with whom the Town of Pantego may engage in an investment transaction. Such training shall include education in investment controls, credit risk, market risk, investment
strategies, and compliance with investment laws, including the Texas State Public Funds Investment Act.

F. **Investment Committee**

The Finance/Audit Committee shall function as the Town’s Investment Committee. This Committee shall recommend strategies and guidelines for the percentage of the total portfolio that may be invested in securities other than U.S. Treasury Bills, U.S. Treasury Notes and Investment Pool(s). The recommendations of the Investment Committee will be presented to the Town Council for final approval.

V. **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS**

All investments made by the Town will be made through either the Town’s banking services or an authorized broker/dealer.

A. **Depository** – The Town Council shall, by ordinance, “select and designate one or more banking institutions as the depository for the monies and funds of the Town” in accordance with PFIA. At least every five years a depository shall be selected through the Town’s banking services procurement process, which shall include a formal request for proposal (RFP). The selection of the depository will be determined by a competitive process and evaluated on the following criteria:

1. Qualified as a depository for public funds in accordance with state and local laws.
2. Provided requested information or financial statements for the periods specified.
3. Complied with all requirements in the banking RFP.
4. Completed responses to all required items on the proposal form.
5. Offered lowest net banking service cost, consistent with the ability to provide an appropriate level of service.
6. Met credit worthiness and financial standards.

B. **Investment Broker/Dealers** – If the Town has not retained an investment advisor, then the Investment Committee shall be responsible for adopting the list of qualified brokers/dealers and financial institutions authorized to engage in investment transactions with the Town. The Town Council will, at least annually, review, revise and approve a list of authorized/qualified broker/dealers along with this investment policy. These firms may include:

1. All primary government securities dealers; and
2. Those regional broker/dealers who qualify under Securities and Exchange Commission rule 15C3 (Uniform Net Capital Rule), and who meet other financial criteria standards in the industry.

A list of no less than three (3) and no more than five (5) authorized brokers/dealers will be established and maintained. These firms will be selected based on their competitiveness, participation in agency selling groups, and experience and background of the salesperson handling the account.
C. **Signed Investment Policy Certification Form.** Investments shall only be made with those business organizations, including money market mutual funds and local government investment pools, that have provided the Town with a written instrument, executed by a qualified representative of the firm, acknowledging that the business organization has:
1. Received and reviewed the Town’s Investment Policy; and
2. Implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Town and the organization that are not authorized by the Town’s Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Town’s entire portfolio or requires an interpretation of subjective investment standards. PFIA 256.005(k-l).

D. All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the investment officers with the following:
1. Audited financial statements;
2. Proof of National Association of Securities Dealers (NASD) certification, unless it is a bank;
3. Resumes of all sales representatives who will represent the financial institution or broker/dealer firm in dealings with the Town, and
4. Any other document that should help evaluate the financial institution’s and broker/dealers’ soundness such as rating agency reports, review of call reports and analysis of management profitability, capitalization and assets quality.

E. **Financial/Investment Advisor** – The Town may retain the services of an investment advisory firm registered under the Investment Advisers Act of 1940 or with the State Securities Board to assist in the review of cash flow requirements, the formulation of investment strategies, and the execution of security purchases, sales and deliveries. The investment advisory contract with the Town may not be for a term longer than two years and its renewal or extension must be approved by the Town Council by ordinance or resolution as required by PFIA 2256.003(b). If the Town has contracted with an investment advisor, the advisor shall be responsible for performing financial due diligence on the Town’s behalf. On an annual basis, the advisor will provide the Town with a list of its authorized broker/dealers as well as the written instrument above.

VI. SAFEKEEPING AND CUSTODY OF INVESTMENT ASSETS

A. As specified in PFIA 2256.005(b)(4)(E), the laws of the State of Texas and prudent treasury management require that all purchased securities be bought on a delivery versus payment (DVP) basis and be held in safekeeping by an independent third party financial institution, or the Town’s designated banking services depository. Funds shall not be wired or paid until verification has been made that the correct security was received by the safekeeping bank. The only exception to DVP settlement shall be wire transactions for money market funds and government
investment pools. The safekeeping or custody bank is responsible for matching up instructions from the Town’s investment officers or an investment settlement with what is wired from the broker/dealer, prior to releasing the Town’s designated fund for a given purchase.

B. All safekeeping arrangements shall be approved by the Investment Officers and an agreement of the terms executed in writing. The third party custodian shall be required to issue safekeeping receipts to the Town or its agent a listing of each specific security, rate, description, maturity, par amount, CUSIP number and other pertinent information. Each safekeeping receipt will be clearly marked that the security is held for the Town or pledge to the Town.

C. All securities pledged to the Town for certificates of deposit or demand deposits shall be held by an independent third party bank doing business in the State of Texas. The safekeeping bank may not be within the same holding company as the bank from whom the securities are pledged.

VII. SUITABLE AND AUTHORIZED INVESTMENTS

A. Acceptable investments under this policy shall be limited to the investments authorized by PFIA listed in Sections 2256.009-2256.016 and 2256.019-2256.0201 and as shown below:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities;
2. Direct obligations of the State of Texas or its agencies and instrumentalities;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States;
4. Obligations fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States;
5. Obligations of states, agencies, counties, cities and other political subdivisions of any state rated not less than A or its equivalent;
6. Bonds issued, assumed, or guaranteed by the State of Israel.

If additional types of securities are approved for investment by public funds by state statute, they will not be eligible for investment by the Town until this policy has been amended and the amended version approved by the Town Council.

B. Investment instruments not authorized for purchase by the Town of Pantego, including those specifically prohibited by PFIA 2256.009(b)(1-4), include:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and bears no interest, such as banker’s acceptances;
2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest, such as mutual funds;

3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in the market index.

C. **Authorized Investments:**

1. **Certificates of Deposit and Share Certificates** – authorized investment if the certificate is issued by a depository institution that has its main office or a branch office in the State of Texas and is (1) guaranteed or insured, (2) collateralized, or (3) secured in any other manner provided by law. (PFIA 2256.010)

2. **Repurchase agreements** – is an authorized investment if (1) has a defined termination date, (2) is secured by obligations in Section 2256.009(a)(1) and (3) requires third-party safekeeping and (4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in the State of Texas.

   - Repurchase agreement means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date.
   - Reverse security repurchase agreement may not exceed 90 days.
   - Investments acquired must mature no later than the expiration in the reverse security repurchase agreement.

3. **Securities Lending Program** – to qualify as an authorized investment under PFIA 2256-0115:
   - The value of the securities loaned under the program must not be less than 100% collateralized, including accrued income;
   - A loan under this program must allow for termination at any time;
   - Must be secured by cash, letters of credit or securities described in PFIA 2256.009;
   - Collateral must be (1) pledge, (2) held in the Town’s name and (3) be deposited with a third party.
   - A loan made under this program must be placed through a primary dealer or a financial institution doing business in the State of Texas.
   - An agreement to lend securities executed under this section must have a term of one (1) year or less.

4. **Bankers’ Acceptances** – authorized investment under PFIA 2256.012 if it has a stated maturity of 270 days or fewer; will be liquidated in full at maturity; is eligible for collateral for borrowing from a Federal Reserve Bank; and is accepted by a U.S. bank rated no less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating.
5. **Commercial Paper** – authorized investment under PFIA 2256.013 if the commercial paper has a stated maturity of 270 days or fewer and is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally recognized credit rating agencies, or one credit rating agency and an irrevocable bank letter of credit.

6. **Mutual Funds**

   a. A **no-load money market mutual fund** is an authorized investment under PFIA 2256.014 if:
      1. Is registered with and regulated by the Securities Exchange Commission (SEC);
      2. Has a dollar-weighted average stated maturity of 90 days or fewer; and
      3. Includes in its investment objectives the maintenance of a stable net asset value of one dollar for each share.

   b. A **no-load mutual fund** is an authorized investment under this section if:
      1. Is registered with the SEC;
      2. Has an average weighted maturity of less than two years;
      3. Is invested exclusively in approved obligations;
      4. Is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
      5. Conforms to the requirement set forth in PFIA 2256.016(b-c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

   c. An entity is **not** authorized by this section to:
      1. Invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described above;
      2. Invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described above; or
      3. Investing entity may not own more than 10 percent of the mutual fund’s total net assets.

7. **Guaranteed Investment Contracts** – authorized investment for bond proceeds under PFIA 2256.015 if the guaranteed investment contract:
   - Has a defined termination date;
   - Is secured by obligations described in PFIA 2256.009(a)(1);
   - Is pledged to the entity and deposited with the entity or with a third-party selected and approved by the entity;
   - Term may not exceed 5 years from date of bond issuance, excluding reserves and debt service funds;
   - To be eligible as an authorized investment: (1) it must be specifically authorized when authorizing bond, (2) requires at least 3 bids from separate providers, (3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received, (4) must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested, and (5) must have reasonable administrative costs expected to be paid to third parties in connection with the guaranteed investment contract.
8. **Investment Pools** – An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in that particular pool. A pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service. A public funds investment pool created to function as a money market mutual fund must mark to market daily and stabilize at a $1 net asset value.

To be eligible to receive fund from an invest funds on behalf of the Town, an investment pool must furnish to the Investment Officer or other authorized representative an offering circular or other similar disclosure instrument that contains information required by PFIA 2256.016. Investments will be made in a local government investment pool only after a thorough investigation of the pool and approval by the Town Council which shall at least annually review, revise and adopt the local government investment pool(s) list.

The Town shall take all prudent measures consistent with this Investment Policy to liquidate an investment that no longer meets the required minimum rating standards, as per PFIA 2256.021. However, if it is determined by the Investment Committee that the Town will benefit from holding the securities to maturity to recapture its initial investment then the Investment Officers may act accordingly. The Town is not required to liquidate investments that were authorized investments at the time of purchase. (PFIA 2256.017)

**VIII. COLLATERALIZATION**

A. **Market Value**

In order to anticipate market changes and provide a level of additional security for all funds, the market value of collateral will be maintained at 102% of total principal and accrued interest for cash balances in excess of the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Share Insurance Fund (NCUSIF) insurance coverage. The Town’s depository will be contractually liable for monitoring and maintaining the collateral and margins at all times. The depository or custodian will also provide monthly reports to the Town detailing the collateral and including current market values. Only an authorized Town representative will approve and release all pledged collateral.

Collateral will be pledged under the terms of a written third-party depository agreement executed under the terms of the Financial Institutions Resource and Recovery Enforcement Act (if the custodian is the Federal Reserve the Town will execute a Circular 7 form). The agreement will be approved by resolution of the bank’s board or loan committee.

B. **Collateral Substitution**

Collateralized investments often require substitution of collateral. The safekeeping bank must contact the City for approval and settlement. The substitution will be approved if its value is equal to or greater than the required collateral value.
C. **Collateral Reduction**

Should the collateral's market value exceed the required amount, the Safekeeping bank may request approval from the Town to reduce collateral. Collateral reductions may be permitted only if the collateral’s market value exceeds the required amount.

D. **Letters of Credit**

Letters of credit are acceptable collateral for Certificates of Deposit. Upon the discretion of the Town, a letter of credit can be acceptable collateral for Town funds held by the Town’s bank depository.

E. **Subject to Audit** – All collateral shall be subject to inspection and audit by the Town Manager, or designee, as well as the Town’s independent auditors.

**IX. INVESTMENT PARAMETERS**

A. **Bidding Process for Investments**

It is the Policy of the Town of Pantego to require at least 3 competitive bids or offers for all investment transactions (securities and CD’s) except for:

1. Transactions with money market mutual funds and local government investment pools (which are deemed to be made at prevailing market rates); and
2. Treasury and agency securities purchased at issue through an approved broker/dealer.

B. **Maximum Maturities**

The maximum maturity for each fund group and instrument is set forth in the investment strategies under the Investment Strategies section of this Policy.

C. **Maximum Dollar-Weighted Average Maturity**

Under most market conditions, the composite portfolio will be managed to achieve a one (1) year or less dollar-weighted average maturity. However, under certain market conditions investment officers may need to shorten or lengthen the average life or duration of the portfolio to protect the Town. The maximum dollar-weighted average maturity based on the stated final maturity, authorized by this investment policy for the composite portfolio of the Town is two (2) years.

D. **Diversification**

It is the policy of the Town to diversify its investment portfolio. Invested funds shall be diversified to minimize risk or loss resulting from over-concentration of assets in a specific maturity, specific issuers, or specific class of securities. Diversification strategies shall be established and periodically reviewed. At a minimum, diversification standards by security type and issuer shall be:
<table>
<thead>
<tr>
<th>Security Type</th>
<th>Max % of Portfolio</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Treasury obligations</td>
<td>100%</td>
</tr>
<tr>
<td>U.S. Government agencies and instrumentalities</td>
<td>not to exceed 75%</td>
</tr>
<tr>
<td>Fully insured or collateralized CDs</td>
<td>not to exceed 30%</td>
</tr>
<tr>
<td>Limitation by individual bank</td>
<td>not to exceed 15%</td>
</tr>
<tr>
<td>Repurchase agreements</td>
<td>100%</td>
</tr>
<tr>
<td>Money market funds</td>
<td>not to exceed 75%</td>
</tr>
<tr>
<td>Local government Investment Pools</td>
<td>100%</td>
</tr>
<tr>
<td>Maximum percent ownership of pool</td>
<td>10%</td>
</tr>
</tbody>
</table>

The Investment Officer shall be required to diversify maturities. The Investment Officer, to the extent possible, will attempt to match investment with anticipated cash flow requirements. Matching maturities with cash flow dates will reduce the need to sell securities prior to maturity, thus reducing market risk.

Investments in eligible investment pools are “diversified” by the very nature of their inclusion in a very large and active pool of investments. Consequently, concentrations of investment pools represent a lower risk than concentrations in such individual instrument as agency discount notes or certificates of deposit.

The Investment officers shall review diversification strategies and establish or confirm guidelines on at least an annual basis regarding the percentages of the total portfolio that may be invested in securities other than U.S. Government obligations.

**X. INVESTMENT STRATEGIES**

A. **General.** The Town will group investment instruments into a number of “pool investment groups”. These groups will reflect characteristics of maturity limits, diversity and liquidity, commensurate with the underlying purpose for which investments are intended to ultimately fund. Under this approach various individual investment instruments will comprise the total pool type. Individual funds will share equity interest in the assets and earnings of each pool (or pools), equal to their proportionate contributions to the pool (or pools). A pooled investment approach should provide several advantages including yield enhancement, improved diversity and improved liquidity, over a system that seeks to procure specific investment instruments for specific fund types and financial resources.

B. **Basic Pool Requirements.** The Town requires the following basic types of pools:
   a. **Short Term/Operating Funds** – Most of the Town’s fund types contain operating capital required to finance the particular activities for which the fund is responsible. Cash flows are reasonably predictable but occasional circumstances may require unforeseen or unpredicted cash requirements. Financial resources for this category should be maintained at relatively short levels. The weighted average maturity of operating funds may not exceed one (1) year.
This pooled investment group includes the total of cash and investment available for current operations plus all required operating reserves of the following fund types:

- General Fund
- Debt Service Funds
- Special Revenue Funds
- Enterprise Funds

A key investment strategy for operating funds is to assure that anticipated cash flows are matched with adequate investment liquidity. Diversification among authorized investment options is not restricted and will be determined and approved by the Investment Committee and Town Council in light of existing market conditions.

b. Long term/Non Operating Funds – Various fund types may contain financial assets in excess of the amounts necessary to fund the sum of operating costs and operating reserves. Other financial assets may be designated for projects schedule to be implemented beyond the current operating period. The pool structured to invest these assets will require longer maximum maturity limit than the operating pool. The size of the pool may vary widely over time. The pool will expand rapidly with the receipt of bond fund proceeds and contract as the capital is used for project construction.

The primary revenue source of this pooled investment group is bond proceeds (which are typically subject to arbitrage yield limitations). This category also includes any amount of cash and investments in excess of the estimated required operating reserves in the general fund, enterprise funds or debt service funds. The maximum weighted average maturity of the portfolio shall not exceed two (2) years. Diversification among authorized investment options is not restricted and will be determined and approved by the Investment Committee and Town Council in light of existing market conditions.

c. Yield/Restricted Funds – Proceeds from bond issuances subject to arbitrage restrictions may necessitate yield restrictions under some market conditions. Length of investment maturity may be dependent on market conditions as well as cash flow needs.

The Investment strategy for these funds is to limit investment yields to arbitrage ceilings. The maximum weighted average maturity of an individual investment shall not exceed two (2) years. Diversification among authorized investment options is not restricted and will be determined and approved by the Investment Committee and Town Council in light of existing market conditions.

d. Debt Service Reserve Funds – These reserves are usually specifically defined in terms of amount and size. Bond covenants typically require that reserve balances be maintained with a third party financial institution or paying agent. These institutions invest deposited reserves on behalf of the Town and indirectly
on the behalf of investors in whose interest the reserves are established. In such instances, the Town may contract with such parties who will operate in the capacity of an investment advisor. These relationships will be approved by the Town Council. The Investment advisors will be confined to the particular instruments and parameters specified as appropriate for this pool of funds.

A primary investment strategy for debt service funds is to provide income to the reserve portions of revenue bonds. Because investments may be subject to arbitrage yield restrictions, the secondary investment strategy is to attempt to invest at a yield equal to the arbitrage limit applicable to the reserves. The maximum maturity of an individual investment may not exceed ten (10) years. Diversification among authorized investment options is not restricted and will be determined and approved by the Investment Committee and Town Council in light of existing market conditions.

e. Interest and Sinking Fund Reserve – These funds are usually specifically defined in terms of amount and size. The primary investment strategy for debt service sinking funds is to match investment maturities with debt service payment requirements. The maximum maturity of an individual investment shall not exceed five (5) years unless a specific longer maturity is legally required. Diversification among authorized investment options is not restricted and will be determined and approved by the Investment Committee and Town Council in light of existing market conditions.

XI. PERFORMANCE EVALUATION AND REPORTING

A. Reporting. The Investment Officers shall submit an investment report at least quarterly to the Town Council (PFIA 2256.023) containing sufficient information to permit and informed outside reader to evaluate the performance of the investment program and consistent with the Act’s statutory requirements. All reports shall be in compliance with the Act. At a minimum the report shall include:

1. Description of each investment and depository position,
2. Book and market values at the end of the reporting period,
3. Be signed by all investment officers of the entity,
4. Changes to the market value and accrued interest during the period,
4. The maturity date of each separately invested asset,
5. The account, fund, or pooled group fund for which investment was acquired,
6. The earnings for the period and
7. The overall yield for the portfolio in comparison to its benchmark yield for the period.

B. Marking to Market. The market value of the portfolio must be determined at least quarterly and included in the quarterly investment reports. Market prices for all public fund investments will be obtained and monitored through the use of a third party independent pricing source or by means of an on-line financial data service.
C. **Annual Compliance Audit.** If the Town invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the Investment Officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

The Town shall, in conjunction with its annual financial audit, perform a compliance audit of management controls on investments and adherence to the Town’s Investment Policy.

D. **Monitoring.** The Investment officer shall monitor, on no less than a weekly basis, the credit rating on all authorized investments in the portfolio based upon independent information from a nationally recognized rating agency and/or approved broker/dealer. If any security falls below the minimum rating required by Policy, the investment officer shall immediately solicit bids for and sell the security, if possible, regardless of a loss of principal.

E. **Policy Considerations.** The Town’s Investment Policy and investment strategies shall be reviewed, revised and adopted annually by the Town Council. A written resolution approving that review will be passed and recorded by the Town Council.
GLOSSARY OF INVESTMENT POLICY TERMS

Accrued Interest – The accumulated interest due on a bond as of the last interest payment made by the issuer.

Agency – A debt security issued by a federal or federally sponsored agency. Federal agencies are backed by the full faith and credit of the U.S. Government.

Arbitrage – The simultaneous purchase and sale of an asset in order to profit from a difference in the price (profiting from the mispricing in the market). Arbitrage exists as a result of market inefficiencies; it provides a mechanism to ensure prices do not deviate substantially from fair value for long periods of time.

Banker’s Acceptance – A short-term debt instrument issued by a firm that is guaranteed by a commercial bank. Banker’s acceptances are issued by firms as part of a commercial transaction. These instruments are similar to T-Bills and are frequently used in money market funds. Banker’s acceptances are traded at a discount from face value on a secondary market, which can be an advantage because the banker’s acceptance does not need to be held until maturity. The date of maturity typically ranges from between 30 and 180 days from the date of issue. Banker’s acceptances are considered to be relatively safe investments, since the bank and the borrower are liable for the amount that is due when the instrument matures.

Bid – The anticipated price at which a buyer is willing to purchase a security or commodity.

Bond covenant – A legally binding term of an agreement between a bond issuer and a bond holder. Bond covenants are designed to protect the interest of both parties. Bond covenants may include restrictions on the issuer’s ability to take on additional debt, requirements that the issuer provide audited financial statement to bond holders and limitations on the issuer’s ability to make new capital investments. A common penalty for violating a bond covenant is the downgrading of a bond’s rating, which could make it less attractive to investors and increase the issuer’s borrowing costs.

Book value – The value at which a security is carried on the inventory lists or other financial records of an investor. The book value may differ significantly from the security’s current value in the market.

Certificate of Deposit (CD) – A savings certificate entitling the bearer to receive interest; a promissory note issued by a bank. It is a time deposit that restricts holders from withdrawing funds on demand. Although it is still possible to withdraw the money, this action will often incur a penalty. A CD bears a maturity date, a specified fixed interest rate and can be issued in any denomination. CDs are generally issued by commercial banks and are insured by the FDIC. The term of a CD generally ranges from one month to five years.

Collateralization – Process by which a borrower pledges securities, property or other deposits for the purpose of securing the repayment of a loan and/or security.

Collateralized Mortgage Obligations (CMO’s) – A type of mortgage backed security in which principal repayments are organized according to their maturities and into different classes based on risk. A collateralized mortgage obligation is a special purpose entity that receives the mortgage repayments and owns the mortgages it receives cash flows from (called a pool). The mortgages serve as collateral, and are organized into classes based on their risk profile. Income
received from the mortgages is passed to investors based on a predetermined set of rules, and investors receive money based on the specified slice of mortgages invested in.

**Commercial paper** – An unsecured short-term promissory note issued by corporations, with maturities ranging from 2 to 270 days.

**Coupon rate** – The annual rate of interest received by an investor from the issuer of certain types of fixed-income securities. Also known as the “interest rate.”

**Delivery Versus Payment (DVP)** – A type of securities transaction in which the purchaser pays for the securities when they delivered either to the purchaser or his/her custodian.

**Discount** – The amount by which the par value of a security exceeds the price paid for the security.

**Diversification** – A process of investing assets among a range of security types by sector, maturity, and quality rating.

**Fair value** – The amount at which an investment could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale.

**Federal Funds (Fed Funds)** – Funds placed in Federal Reserve banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed funds are considered to be immediately available funds.

**Government Securities** – An obligation of the U.S. government backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See “Treasury Bills, Notes and Bonds.”

**Guaranteed Investment Contract** – Insurance contract that guarantees the owner principal repayment and a fixed or floating interest rate for a predetermined period of time. Guaranteed investment contracts are typically issued by insurance companies and marketed to institutions that qualify for favorable tax status under federal laws. These products provide institutions with guaranteed returns.

**Interest rate** – See “Coupon Rate.”

**Internal Controls** – An internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgment by management. Internal controls should address the following points:

1. Control of collusion – Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. Separation of duties – By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
3. Custodial safekeeping – Securities purchased by any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.
4. Avoidance of physical delivery securities – Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.

5. Clear delegation of authority to subordinate staff members – Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.

6. Written confirmation of transactions for investments and wire transfers – Due to the potential for error and improprieties arising from telephone and electronic transactions, all transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and if the safekeeping institution has a list of authorized signatures.

7. Development of a wire transfer agreement with the lead bank and third party custodian – The designated official should ensure that an agreement will be entered into and will address the following points: control, security provisions, and responsibilities of each party making and receiving wire transfers.

**Investment Policy** – A concise and clear statement of the objectives and parameters formulated by an investor or investment manager for a portfolio of investment securities.

**Letter of Credit** – A letter from a bank guaranteeing that a buyer’s payment to a seller will be received on time and for the correct amount. In the event that the buyer is unable to make payment on the purchase, the bank will be required to cover the full or remaining amount of the purchase.

**Liquidity** – An asset that can be converted easily and quickly into cash.

**Local Government Investment Pool (LGIP)** – An investment by local governments in which their money is pooled as a method for managing local funds.

**Mark-to-market** – The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

**Market risk** – The risk that the value of a security will rise or decline as a result of changes in market conditions.

**Market value** – Current market price of a security.

**Maturity** – The date on which payment of a financial obligation is due. The final stated maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder. See “Weighted Average Maturity.”

**Money Market Mutual Fund** – Mutual funds that invest solely in money market instruments (short-term instruments, such as Treasury bills, commercial paper, bankers’ acceptances, repos, and federal funds).

**Mutual Fund** – An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments. Mutual funds are regulated by the Investment Company Act of 1940 and must abide by the following Securities Exchange Commission (SEC) disclosure guidelines:

2. Disseminate timely and accurate information regarding the fund’s holdings, performance, management and general investment policy.

3. Have the fund’s investment policies and activities supervised by a board of trustees, which are independent of the adviser, administrator, or other vendor of the fund.

4. Maintain the daily liquidity of the fund’s shares.

5. Value their portfolios on a daily basis.

6. Have all individuals who sells SEC-registered products licensed with a self-regulating organization (SRO) such as the National Association of Securities Dealers (NASD).

7. Have an investment policy governed by a prospectus which is updated and filed by the SEC annually.

**National Association of Securities Dealers (NASD)** – A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

**Net Asset Value** – The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund’s assets which includes securities, cash, and any accrued interest earnings, subtracting this from the fund’s liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price of each security in the fund’s portfolio. \( \frac{(\text{Total assets} - \text{liabilities})}{\text{Number of shares outstanding}} \)

**No Load Fund** – A mutual fund which does not levy a sales charge on the purchase of its shares.

**Nominal Yield** – The states rate of interest that a bond pays its current owner, based on par value of the security. It is also known as the “coupon,” “coupon rate,” or “interest rate.”

**Offer** – An indicated price at which market participants are willing to sell a security or commodity. Also refer to as the “Ask price.”

**Par** – Face value or principal value of a bond, typically $1,000 per bond.

**Premium** – The amount by which the price paid for a security exceeds the security’s par value.

**Primary Market** – A market that issues new securities on an exchange. Companies, governments and other groups obtain financing through debt or equity based securities. Primary markets are facilitated by underwriting groups, which consists of investment banks that will set a beginning price range for a given security and then oversee its sale directly to investors. Also known as “New Issue Market” (NIM).

**Prime rate** – A preferred interest rate charged by commercial banks to their most creditworthy customers. Many interest rates are keyed to this rate.

**Principal** – The face value or par value of a debt instrument. Also may refer to the amount of capital invested in a given security.

**Prospectus** – A legal document that must be provided to any prospective purchaser of a new securities offering registered with the SEC. This can include information on the issuer, the issuer’s business, the proposed used of proceeds, the experience of the issuer’s management and certain certified financial statements.

**Prudent Person Rule** – An investment standard outlining the fiduciary responsibilities of public funds investors relating to investment practices.
Repurchase Agreement (Repo) – An agreement of one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.

Reverse Repurchase Agreement (Reverse Repo) - An agreement of one party to purchase securities at a specified price from a second party and a simultaneous agreement by the first party to resell the securities at a specified price to the second party on demand or at a specified date.

Safekeeping – Holding of assets, such as securities, by a financial institution.

Secondary Market – A market where investors purchase securities or assets from other investors, rather than from issuing companies themselves. The national exchanges, such as the New York Exchange and the NASDAQ are secondary markets. In any secondary market trade, the cash proceeds go to an investor rather than to the underlying company/entity directly. In the primary market prices are often set beforehand, whereas in the secondary market only basic forces like supply and demand determine the price of the security.

Security – A financial instrument that represents: an ownership position in a publicly traded corporation (stock), a creditor relationship with a governmental body or a corporation (bond), or rights to ownership as represented by an option. A security is a fungible, negotiable instrument that represents some type of financial value.

Securities Lending – The act of loaning a stock, derivative, other security to an investor firm. Securities lending requires the borrower to put up collateral, whether cash, security or a letter of credit. When a security is loaned, the title and the ownership is also transferred to the borrower. The borrower hopes to profit by selling the security and buying it back at a lower price. Since ownership has been transferred temporarily to the borrower, the borrower is liable to pay any dividends out to the lender.

Serial Bond – A bond issue, usually a municipality, with various maturity dates scheduled at regular intervals until the entire issue is retired.

Share Certificates – A share certificate is a written document signed on behalf of a corporation, and serves as a legal proof of ownership of the number of share indicated. Also refer to as “stock certificate.”

Sinking Fund – Money accumulated on a regular basis in a separate custodial account that is used to redeem debt securities or preferred stock issues.

Treasury Bills – Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year and issued in minimum denominations of $10,000. Auctions of three- and six-month bills are weekly, while auctions of one-year bills are monthly. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

Treasury Notes – Intermediate U.S. government debt securities with maturities of one to 10 years and issued in denominations ranging from $1,000 to $1 million or more.

Treasury Bonds (T-bills) – Long-term U.S. government debt securities with maturities of ten years or longer and issued in minimum denominations of $1,000. Currently the longest outstanding maturity for such securities is 30 years.
**Uniform Net Capital Rule** – SEC Rule 15C3-1 outlining capital requirements for broker/dealers.

**Weighted Average Maturity (WAM)** – The average maturity of all the securities that comprise a portfolio. According to the SEC rule 2a-7, the WAM for SEC registered money market mutual funds may not exceed 90 days and no one security may have a maturity that exceeds 397 days.

**Yield** – The current rate of return on an investment security generally expressed as a percentage of the security’s current price.

**Yield-to-call (YTC)** – The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date.

**Yield-to-maturity** – The rate of return yielded by a debt security held to maturity when both interest payments and the investor’s potential capital gain or loss are included in the calculation of return.

**Zero-coupon Securities** – Security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.
FREQUENTLY ASKED QUESTIONS

General Questions (faqs#general)  Managing My Account (faqs#manage)  MYACCESS (faqs#connect)

General Questions

Q: Who Oversees Texas CLASS?
A: The Texas CLASS Board of Trustees, comprising active members of the pool and elected by the Participants, guided by the Advisory Board, oversees the management of Texas CLASS. The Board is responsible for selecting the Administrator and Investment Advisor. The Board retains the services of Public Trust Advisors, LLC (PTA), located in Denver, CO.

Q: What type of securities does Texas CLASS invest in?
A: Texas CLASS invests solely in securities which are permitted pursuant to the Public Funds Investment Act. In addition, such securities must also be permitted by Rule 2a-7, even though Rule 2a-7 is not applicable to Texas CLASS. All investment securities purchased for Texas CLASS, including those with repurchase agreements, are delivered to the Custodian and held for the benefit of Texas CLASS and its Participants. A copy of the current Texas CLASS Investment Policy is available under the Document Center.

Q: Who is eligible to use Texas CLASS?
A: Eligible participants include any municipality, county, school district, or authority created under Section 52(b)(1) or (2), Article III or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, any office, department, commission, board, or other agency that is part of any branch of State government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities that has taken the actions required by Section 2256.016 of the Act and that has executed either the Trust Agreement or a counterpart of the Trust Agreement or a participation certificate.

Q: How can you Participate in Texas CLASS?
A: Enrolling in Texas CLASS is simple. Any of the entity types listed in the answer above may join Texas CLASS as a Participant and take advantage of the investment program. After reading the Trust Agreement and Information Statement, follow these steps: 1) Pass a resolution authorizing participation in Texas CLASS. 2) Adopt the Trust Agreement by signing a Participant Certificate Agreement. 3) Complete the Texas CLASS Registration Packet (the Registration Packet can be located in the Document Center). 4) Please mail all completed forms, along with a copy of the entities investment policy to the following address: Texas CLASS Client Services c/o Public Trust Advisors, LLC 999 18th Street, Suite 1230 Denver, CO 80202

Q: What are the investment objectives for Texas CLASS?
A: There are four objectives for Texas CLASS: 1) Legality: investing only in investments legally permitted under Texas State Law. 2) Safety: Minimizing risk by managing the portfolio in a matter which stresses the preservation of principal while maintaining a stable asset value and holding the highest rating for the pool from a nationally recognized statistical rating organization (Standard & Poor’s ‘AAA’). 3) Liquidity: Making every effort to ensure that all cash will be available as required to finance Participants’ operations. 4) Yield: maximizing current income to the degree consistent with the first three primary objectives of Texas CLASS.

Q: What is the minimum requirement for investing in Texas CLASS?
A: There is no minimum investment amount for Texas CLASS.

Q: What transaction fees does Texas CLASS charge?
A: Texas CLASS does not charge any transaction fees.

Q: What are the limits on the number of transactions?
A: Texas CLASS does not limit the number of transactions.

Q: Does Texas CLASS limit the number of subaccounts?
A: Texas CLASS does not limit the number of subaccounts.

Q: What are the business hours at Texas CLASS?
A: The Texas CLASS Offices are open Monday thru Friday from 8:30 a.m. until 4:30 p.m. CST. Please consult the News and Notices page for Texas CLASS office closures.

Managing My Account

Q: What are the daily cut-off times for transactions?
A: Transactions (Withdrawals, Contributions, Transfers) conducted by MYACCESS, telephone, or fax must be submitted by 4:00 P.M. CST for same-day processing.

Q: What is the difference between a Wire and an ACH?
A: Wires are funds transferred via the Federal Reserve Wire System and can be processed and received by your beneficiary bank on the same day as long as the transaction is requested prior to the 4:00 p.m. CST cut-off. ACHs (Automated Clearing House) are processed overnight and are generally available to the beneficiary bank one business day after the transaction request has been made.
Q: For a next-day ACH, what is the cut-off time?
A: Next day ACH requests must be received by 4:00 p.m. CST (24 hours in advance).

Q: What are the fees associated with Wires and ACHs?
A: Texas CLASS does not charge any banking fees to its Participants. However, your bank may have wiring fees and/or incoming ACH fees, so we always recommend checking with a representative at your bank to discuss the potential costs.

Q: Are the banking instructions different for a Wire or an ACH?
A: Many banking institutions have separate ABA/Routing numbers depending on whether the transactions are being processed via Wire or ACH. Please contact your local banking representative to ensure that you are providing Texas CLASS Client Services with the appropriate account information.

Q: How do I add or remove bank instructions on our Texas CLASS account?
A: Please fill out the Depository Bank Amendment Form which is available in the Document Center as well as in the forms section within MYACCESS.

Q: How do I update those individuals who are authorized on our Texas CLASS account?
A: Please fill out the Authorized Signatory Amendment Form which is available in the Document Center as well as in the forms section within MYACCESS.

Q: How do I amend those individuals who receive account correspondence such as monthly statements or transaction confirmations?
A: These changes can be made by contacting Texas CLASS Client Services at (800) 707-6242 or via email at clientservices@texasclass.com.

Q: When are the Texas CLASS monthly statements delivered?
A: Texas CLASS monthly statements are emailed to Participants on the second business day of the month.

**MYACCESS**

Q: What is Texas CLASS MYACCESS?
A: MYACCESS is a secure, internet based transaction system that allows registered Texas CLASS Participants to self-manage their Texas CLASS investments. MYACCESS is available 24/7, 365 days a year.

Q: How does a Texas CLASS Participant receive a login for MYACCESS?
A: In order to obtain a MYACCESS registration and instructions, Texas CLASS Participants should call Client Services at (800) 707-6242 or email us at clientservices@texasclass.com.

Q: What functions can MYACCESS perform?
A: Texas CLASS MYACCESS allows Participants to make contributions, withdrawals and transfers between subaccounts as well as to other approved Texas CLASS Participants. Users can pre-date important transactions, ensuring that they are handled reliably, and avoiding unfortunate timing issues or cash access emergencies. Reporting features available via MYACCESS include access to monthly statements, transaction confirmations and details highlighting past, present and future dated transactions.

Q: How long does it take to receive a registration for MYACCESS?
A: All new usernames and passwords are system generated and will arrive via email one day after the request is made.
AGENDA BACKGROUND

AGENDA ITEM: Discuss, direct, and consider action on Resolution 17-04, a resolution of the Town of Pantego, Texas, authorizing the City Manager to enter into a contract with Adventure Playground Systems for the splash pad.

Date: February 27, 2017

PRESENTER:
Matt Fielder, City Manager

BACKGROUND:
The Bicentennial Park Master Plan includes a splash pad to replace the fountain that was formerly located at the southeast corner, adjacent to the playgrounds and Camp Thurman. The Town was awarded a grant from the Texas Parks and Wildlife Department to reimburse the Town for fifty (50) percent of cost, up to $75,000. The PEDC budgeted the matching funds, and went through a process of selecting a vendor. They reviewed five different companies that were members of various purchasing cooperatives, and selected Adventure Playground Systems. This company is a Buy Board member, and are a turnkey contractor, conducting both design and construction. The splash pad recommended by PEDC is 1,700 s.f., include thirty (30) in-ground sprayers, above-ground features including three (3) spray loops, a spray mushroom, a dumping bucket, and a mini-mushroom. There are three spray plates, to allow for additional spray features to be added in the future, and it will be constructed of colored concrete. It includes a recirculating system to significantly reduce water usage. The Public Works Department will be responsible for adding a four (4) inch sanitary sewer line to connect to the nearest restroom for overflow, and the removal of spoil during construction.

FISCAL IMPACT:
$129,950 (with 50% reimbursed by the Texas Parks and Wildlife Department)

RECOMMENDATION:
Staff recommends approval of Resolution 17-04

ATTACHMENTS:
Resolution 17-04
General Services Contract Proposal
Certificates of Insurance
RESOLUTION NO. 17-04

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PANTEGO, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ADVENTURE PLAYGROUND SYSTEMS TO INSTALL A SPLASH PAD AT BICENTENNIAL PARK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council sees the need to install a splash pad at Bicentennial Park; and

WHEREAS, the Texas Government Code, Chapter 791, authorizes the formulation of contracts between and among local governments and independent contractors; and

WHEREAS, Adventure Playground Systems is a member of Buy Board; and

WHEREAS, the Town of Pantego and Adventure Playground Systems mutually desire to enter into a contract to install a splash pad at Bicentennial Park.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PANTEGO, TEXAS:

Section 1: the Town Council authorizes the City Manager to enter into a contract with Adventure Playground Systems for the installation of a splash pad at Bicentennial Park.

Section 2: the Town Council agrees and accepts the terms and conditions of the contract as presented by Adventure Playground Systems in “Exhibit A” and not to exceed $131,010 in total for services rendered during this agreement.

Section 3: this resolution is effective immediately upon passage.

PASSED AND APPROVED this the 27th day of February 2017, at a regular meeting of the Town Council of the Town of Pantego, Texas, by a vote of ____ ayes, ____ nays and ____ abstentions.

________________________________________
Melody Paradise, Mayor

ATTEST:

________________________________________
Jessie Hanks, City Secretary

APPROVED AS TO FORM:

________________________________________
James T. Jeffrey, Jr., City Attorney
I. Summary of Contract Terms

Contractor: Adventure Playground Systems
Description of Services: Construction of a splash pad at Bicentennial Park
Maximum Contract Amount: $129,950
Length of Contract: Six Months
Effective Date: February 27, 2017
Expiration Date: August 27, 2017

II. Standard Contractual Provisions

A. Definitions

 Contract means this Standard Services Contract.

 Services means the services for which the Town solicited bids or received proposals as described in this Contract.

B. Services and Payment

Contractor will furnish Services to the Town in accordance with the terms and conditions specified in this Contract. Contractor will bill the Town for the Services provided at intervals of at least 30 days, except for the final billing. The Town shall pay Contractor for the Services in accordance with the terms of this Contract, but all payments of interest on overdue amounts, are subject to the applicable provisions of Chapter 2251 of the Texas Government Code. The Town reserves the right to modify any amount due to the contractor presented by invoice to the Town if necessary to conform the amount to the terms of the Contract and Chapter 2251 of the Texas Government Code.

C. Termination Provisions

(1) Town Termination for Convenience. Under this paragraph, the Town may terminate this Contract during its term at any time for the Town’s own convenience where the Contractor is not in default by giving written notice to
Contractor. If the Town terminates this Contract under this paragraph, the Town will pay the Contractor for all services rendered in accordance with this Contract to the date of termination.

(2) Termination for Default. Either party to this Contract may terminate this Contract as provided in this paragraph if the other party fails to comply with its terms. The party alleging the default shall give the other party written notice of the default citing the terms of the Contract that have been breached and what action the defaulting party must take to cure the default. If the party in default fails to cure the default as specified in the notice, the party giving the notice of default may terminate this Contract by written notice to the other party, specifying the date of termination. Termination of this Contract under this paragraph does not affect the right of either party to seek remedies for breach of the Contract as allowed by law, including any damages or costs suffered by either party. However, this provision is not intended to and does not act as a waiver of the Town’s sovereign immunity.

(3) Multi-Year Contracts and Funding. If this Contract extends beyond the Town’s fiscal year in which it becomes effective or provides for the Town to make any payment during any of the Town’s fiscal years following the Town’s fiscal year in which this Contract becomes effective and the Town fails to appropriate funds to make any required Contract payment for that successive fiscal year, then this Contract automatically terminates at the beginning of the first day of the Town’s successive fiscal year of the Contract for which the Town has not appropriated funds or otherwise provided for funds to make a required payment under the Contract. (Section 5, Article XI, Texas Constitution) It is expressly understood and agreed that the Town shall have the right to terminate the agreement at the end of any Town fiscal year if the governing body of the Town does not appropriate funds sufficient to continue the contract. The Town may execute such termination by giving the Contractor a written notice of termination at the end of the Town’s then-current fiscal year.

D. Liability and Indemnity. Contractor shall indemnify, hold harmless and defend the Town, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorneys’ fees and any and all other costs or fees (whether rounding in constitutional law, tort, contract, or property law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the Contract and/or arising out of a willful or negligent act or omission of the Contractor, its officers, agents, and employees. It is understood and agreed that the Contractor and any employee or subcontractor of the Contractor shall not be considered an employee of the Town. The Contractor shall not be within the protection or coverage of the Town’s workers’ compensation insurance, health insurance, liability insurance or any other insurance that the Town from time to time may have in force and effect. The Town specifically reserves the right to reject any and all of Contractor’s employees, representatives or subcontractors and/or their employees for any cause, should the presence of any such person on Town property or their interaction with Town employees be found not to be in the best interest of the Town, be found to be harassing to any Town employee or third person, or is found to interfere with the effective and efficient operation of the Town or the Town’s workplace.
E. **Liens.** Contractor agrees to and shall indemnify and hold harmless the Town against any and all liens and encumbrances for all labor, goods and services which may be provided under or as a result of this Contract. At the Town’s request, the Contractor and all subcontractors shall provide a proper release of any and all liens, or satisfactory evidence of freedom from all liens shall be delivered to the Town.

F. **Confidentiality.** Any provision of this Contract that attempts to prevent the Town’s disclosure of information that is subject to disclosure under federal of Texas law or regulation, court or administrative decision or ruling, regardless of the source is invalid. (Chapter 552, Texas Government Code).

G. **Tax Exemption.** The Town is not liable to Contractor for any federal, state or local taxes for which the Town is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item purchased for consumption by the Town. Fuel purchased for resale shall include Federal Excise Tax under IRC Section 4081 and Texas Motor Fuel Tax if required under the Texas Tax Code Chapter 162. Texas limited sales tax exemption certificates will be furnished upon request. Contractor shall not charge for said taxes on purchases for consumption by the Town. If billed, the Town will remit payment less sales tax.

H. **Assignment.** The Contractor shall not assign this Contract without the prior written consent of the Town.

I. **Law, Venue and Limitations.** This Contract is governed by the laws of the State of Texas and a lawsuit may only be prosecuted on this Contract in a court of competent jurisdiction located in or having jurisdiction in Tarrant County, Texas. Any provision in this Contract that establishes a limitations period that does not run against the Town by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice & Remedies Code).

J. **Sovereign Immunity.** Any provision of this Contract that seeks to waive the Town’s immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the Contract.

K. **Entire Contract.** This Contract represents the entire Contract between the Town and the Contractor and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may be amended only by written instrument signed by both parties.

L. **Independent Contractor.** Contractor shall perform the work under this Contract as an independent contractor and not as an employee of the Town. The Town has no right to supervise, direct, or control the Contractor or Contractor’s officers or employees in the means, method, or details of the work to be performed by Contractor under this Contract. The Town and Contractor agree that the work performed under this Contract is not inherently dangerous, that Contractor will perform the work in a workmanlike manner, and that Contractor will take proper care and precautions to insure the safety of Contractor’s officers and employees.

M. **Dispute Resolution Procedures.** The Contractor and Town desire an expeditious means to resolve any disputes that may arise between them regarding this Contract. If either party disputes any matter in relation to this Contract, the parties agree to try
in good faith, before bringing any legal action, to settle the dispute by submitting the matter to mediation before a third party who will be selected by agreement of the parties. The parties will each pay one-half of the mediator’s fees.

N. **Severability.** If a court finds or rules that any part of this Contract is invalid or unlawful, the remainder of the Contract continues to be binding on the parties.

### III. Special Terms or Conditions.

A. Per exhibit B

### IV. Additional Contract Documents. The following specified documents attached to this Contract are part of this Contract, except as follows: any provision contained in any of the Contractor’s Additional Contract Documents specified below that conflicts with a Contract provision.

A. Contractor’s Additional Contract Document:
   1. Insurance Certificate

B. Town’s Additional Contract Documents:
   1. Adventure Playground Proposal

### V. Signatures. By signing below, the parties agree to the terms of this Contract:

**TOWN OF PANTEGO:**

________________________

Matthew Fielder
City Manager

Attest: Town Secretary

**CONTRACTOR:**

By: ______________________________

Title: ______________________________

Date: _____________________________
### INVOICE

**Invoice 7452 Town of Pantego -Splashpad**

**Date:** February 16, 2017  
**Customer ID:**  
**Web Address:** www.adventureplaysystems.com

---

**Bill To:**  
Town of Pantego  
1614 South Bowen Rd.  
Pantego, Texas 76013  
Attn: Don Surratt  
Matt Fielder  
C: 214-734-0683 O: 817-274-1381  
Email: Surratt_do@msn.com

---

**Ship To:**  
Same

---

<table>
<thead>
<tr>
<th>Email</th>
<th>Cell #</th>
<th>Sales Rep</th>
<th>FOB</th>
<th>SHIP VIA</th>
<th>Terms</th>
<th>Tax ID</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:Chris@apsplay.com">Chris@apsplay.com</a></td>
<td>832-908-7332</td>
<td>Alex/Chris</td>
<td>Best way</td>
<td>As stated below</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

**Qty** | **Units** | **Description**                                                                 | **Unit Price** | **Total**     |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ea.</td>
<td>1,700 sq./ft. Splash Pad</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Includes: 30 Surface Nozzles</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Plumbing for Nozzles and (6) Above Ground Features</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3) Spray Plates</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 Drains with diverting valves</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SS Post Sensor Commercial Activator</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,700 sq./ft. Concrete Pad</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Labor, materials and equipment to install splash pad, components, with drain through system</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$62,325.00</td>
<td>$62,325.00</td>
</tr>
</tbody>
</table>

**Above Ground Commercial Grade Additional Features:**

<table>
<thead>
<tr>
<th>Qty</th>
<th>Units</th>
<th>Description</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Ea.</td>
<td>SS Water Loop</td>
<td>$3,300.00</td>
<td>$9,900.00</td>
</tr>
<tr>
<td>1</td>
<td>Ea.</td>
<td>Mushroom 60in., SS Post and Fiberglass top</td>
<td>$4,900.00</td>
<td>$4,900.00</td>
</tr>
<tr>
<td>1</td>
<td>Ea.</td>
<td>SS Dumping Bucket 2, SS Post with dual Fiberglass buckets</td>
<td>$5,990.00</td>
<td>$5,990.00</td>
</tr>
<tr>
<td>1</td>
<td>Ea.</td>
<td>Mini Mushroom, SS Post and Fiberglass top</td>
<td>$3,950.00</td>
<td>$3,950.00</td>
</tr>
<tr>
<td>3</td>
<td>Ea.</td>
<td>Stainless Steel Footing Base Spray Plate-Rain Wave/ Sprayer---For Above Ground Feature Capabilities</td>
<td>$850.00</td>
<td>$2,550.00</td>
</tr>
</tbody>
</table>

**Automated Recirculation System**

<table>
<thead>
<tr>
<th>Qty</th>
<th>Units</th>
<th>Description</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ea.</td>
<td>Stainless Steel Vault w/2 Doors</td>
<td>$4,800.00</td>
<td>$4,800.00</td>
</tr>
</tbody>
</table>

**Services:**

<table>
<thead>
<tr>
<th>Qty</th>
<th>Units</th>
<th>Description</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ea.</td>
<td>Engineering</td>
<td>*price subject to change</td>
<td>$3,600.00</td>
</tr>
<tr>
<td>1</td>
<td>Ea.</td>
<td>Permits</td>
<td>*price subject to change</td>
<td>$400.00</td>
</tr>
<tr>
<td>1</td>
<td>Ea.</td>
<td>Removal, haul away and disposal of existing 750sq./ft. concrete sidewalk</td>
<td></td>
<td>$2,800.00</td>
</tr>
<tr>
<td>1</td>
<td>Ea.</td>
<td>Colored concrete additive</td>
<td></td>
<td>$1,800.00</td>
</tr>
</tbody>
</table>

---

**CAUTION:** Never install playground equipment on hard surfaces such as asphalt or concrete. Serious injuries can occur from a fall to a hard surface. Choose a surface which meets the U.S. Consumer Product Safety Commission recommendations for surfacing under playgrounds. Adventure Playground Systems, Inc. is not responsible for underground utilities. Surcharges will occur for abnormal substrates, i.e. concrete, asphalt or landfill. Additional charges for un-level ground.

---

We propose hereby to furnish material and labor complete in accordance with the above specifications for the sum of **$129,950.00**  

---

**Subtotal** $129,950.00  
**Tax** EXEMPT  
**Total** $129,950.00  
**Deposit** $67,575.00  
**Bal Due** $62,375.00

---

**We propose hereby to furnish material and labor complete in accordance with the above specifications for the sum of $129,950.00.**  

---

**Signature**  
**Acceptance of Proposal** - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. I have read, understand, and agree to all the terms and conditions set forth in this proposal.  

---

**Date of Acceptance:**
## Customer Requirements, Conditions and Clarifications:

A. This proposal assumes customer requirements below are complete prior to start of construction. Any delay to construction as a result of customer failure to provide requirements outlined in this proposal may result in additional charges.

B. All changes to scope of work and/or pricing require a fully executed “Change Order” by Customer and Adventure Playground Systems.

C. A “Change Order” will be required where rock or other obstacles are encountered during installation of the tank and/or splash pad. Adventure Playground Systems is not responsible for any delays encountered in getting customer approval for required change order.

D. Engineering and Permitting are required to be completed prior to commencement of construction. Customer should allow sufficient time to enable Adventure Playground Systems to coordinate all aspects of engineering.

E. If permitting authorities require additional standards than what is contained in this proposal, then additional cost will be presented to Customer for approval before proceeding.

F. This proposal does not include removal of spoils from site.

G. Customer is responsible for supplying required electricity to equipment site. A single 110VAC 20 A circuit is required and 220VAC 40A disconnect with neutral and ground is required for “Recirculation Systems”. We have assumed the Electronic Controller is installed within 10’ of splash pad; if location is different we will need to provide price for the specific location.

H. Customer is responsible for supplying access to drain within 10ft. of splash pad unless specified in proposal: 4” connection required.

I. Finalizing location of equipment and or housing may change final pricing.

J. Payment Terms: 52% with authorization to Proceed 48% upon completion.

CAUTION: Never install playground equipment on hard surfaces such as asphalt or concrete. Serious injuries can occur from a fall to a hard surface. Choose a surface which meets the U.S. Consumer Product Safety Commission recommendations for surfacing under playgrounds. Adventure Playground Systems, Inc. is not responsible for underground utilities. Surcharges will occur for abnormal substrates, i.e. concrete, asphalt or landfill. Additional charges for un-level ground.

We propose hereby to furnish material and labor complete in accordance with the above specifications for the sum of $_____________

Payment to be made as follows:
- ${} Prepaid with order
- ${} Due Upon Completion

Authorized Signature

We have assumed the Electronic Controller is installed within 10’ of splash pad; if location is different we will need to provide price for the specific location.

*Additional Permit fees and other associated fees for permitting not included in this quote will be added to the invoice cost

*Lead time is 6-8 weeks from date deposit is received

*Tax Exemption form due at the time deposit is placed

Design is approved by Texas License Aquatic Engineer to Texas Title 25 Governing Public Interactive Water Features

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covered loss on a primary basis and the company will not seek contribution from the certificate holder for such loss until the company’s primary limits of liability have been exhausted.
AGENDA BACKGROUND

AGENDA ITEM: Discuss, direct, and consider action on the 2016 Racial Profiling Report, as required by State of Texas Code of Criminal Procedure Article 2.134.

Date: February 27, 2017

PRESENTER:
Thomas D. Griffith, Chief of Public Safety

BACKGROUND:
Texas law requires that all traffic stops, where a citation is issued, or a search is conducted, are documented and compiled into an annual report. Texas Code of Criminal Procedure, Article 2.134, requires that the report is presented to the elected governing body by March 1. This report is submitted for presentation and review only.

FISCAL IMPACT:
N/A

RECOMMENDATION:
No recommendation is required. This report is for review only.

ATTACHMENTS:
2016 Racial Profiling Report
Annual Contact Report
2016
The Pantego Police Department
(I) Introduction
February 27, 2017

Mayor Melody Paradise and Town Council

Re: 2016 Racial Profiling Report

Mayor Paradise,

I am pleased to present the 2016 Racial Profiling Report for the Pantego Police Department. I am also pleased to report that, as in past reports, the data was successfully analyzed by Dr. Alex del Carmen of Del Carmen Consulting, LLC.

As you are aware, Dr. del Carmen has advised many law enforcement agencies in Texas including Austin and the Texas Department of Public Safety. He is one of the first scholars in the United States that conducted and published studies on racial profiling. He is regarded as an “authority” on this topic and has participated in national, state, and local seminars discussing topics relevant to racial profiling.

I am also reporting that the department did not receive any justifiable complaints based upon racial profiling in 2016. The department will continue to monitor all complaints of any nature that we receive with the intent of improving the public’s trust in our officers. This report will be posted on the Town website beginning on March 1, 2017.

Respectfully,

Thomas D. Griffith, Jr., Chief
February 1, 2017

Pantego Town Council
1614 S. Bowen Road
Pantego, Texas 76013

Dear Distinguished Members of the Town Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted in 2001 the Texas Racial Profiling Law. Since then, the Pantego Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements are now in place. These most recent requirements have been incorporated by the Pantego Police Department and are also being addressed in this report.

This particular report contains three sections with information on traffic and motor vehicle-related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Pantego Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074); which later became the Texas Racial Profiling Law. In addition, you will find the Texas HB 3389, which, in 2009, introduced new requirements relevant to racial profiling. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation which demonstrates compliance by the Pantego Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/16 and 12/31/16. In addition, this section contains the TCOLE Tier 1 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau’s Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Pantego Police Department’s commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC
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d) The Texas Law on Racial Profiling (S.B. 1074)
e) The Most Recent Legal Requirements (H.B. 3389)

(II) Responding to the Texas Racial Profiling Law

a) Institutional Policy on Racial Profiling
b) Educational Campaign Relevant to the Complaint Process—Addressing Allegations of Racial Profiling Practices
c) Racial Profiling Training of Law Enforcement Personnel
d) Report on Complaints Filed Against Officers for Violating the Racial Profiling Law (includes outcome of investigation)
e) Police Contact Information Table (2016)/Known Ethnicity and Race of Detained and TCOLE Tier 1 Form
f) Table Depicting Baseline Comparison (2016)
g) Analysis and Interpretation of Data (2016)

(III) Summary

a) Checklist
b) Contact Information
Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background
Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of what must be accomplished by an agency but allows wide latitude in determining how the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The standard statement is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1
Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency’s written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary
Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an “agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers’ official duties.”

The article further defines race or ethnicity as being of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.” The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.
Standard 2
Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person’s race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer’s best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary
The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, “the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.”

Standard 3
The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary
Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).
The minimum requirements for “tier one” data for traffic stops in which a citation results are:

1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular
descent, including Caucasian, African, Hispanic, Asian, or Native American”);

2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable
cause search; and

3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data
include:

1) the detained person’s gender and race or ethnicity;

2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal
investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into
hazardous or non-hazardous);

3) whether a search was conducted, and if so whether it was based on consent or probable cause;

4) facts supporting probable cause;

5) the type, if any, of contraband that was collected;

6) disposition of the stop, e.g., arrest, ticket, warning, or release;

7) location of stop; and

8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual
report of information if the agency is an agency of a county, municipality, or other political subdivision of the state.
Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar
year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of
persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops
including searches resulting from the stops. The reports also include information relating to each complaint filed
with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency
may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public
Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in
interpreting the data involving percentages because of statistical distortions caused by very small numbers in any
particular category, for example, if only one American Indian is stopped and searched, that stop would not provide
an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate
would be skewed data when compared to a 50% rate for Caucasians.

Standard 4
If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for
traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the
agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a
  complaint on written request by the officer.

Commentary
The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the
peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a
complaint and the officer makes a written request.

Standard 5
Agencies that do not currently have video or audio equipment must examine the feasibility of
installing such equipment.
Standard 6
Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:
  • the equipment was in place and used during the proceeding calendar year; and
  • video and audio documentation is retained for at least 90 days.

Commentary
The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7
Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary
Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:
  • race or ethnicity, and
  • whether a search of the vehicle was conducted and whether consent for the search was obtained.
The Texas Law on Racial Profiling

S.B. No. 1074

AN ACT

relating to the prevention of racial profiling by certain peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF

TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by
adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer
may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL
PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state,
or of a county, municipality, or other political subdivision of the state, that employs peace
officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent,
including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed
written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency
from engaging in racial profiling;

(3) implement a process by which an individual may file a
complaint with the agency if the individual believes that a peace officer employed by the agency
has engaged in racial profiling with respect to the individual:
(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained;

and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual
who is stopped or arrested by a peace officer. This subsection does not affect the collection of
information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement
agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the
occurrence on which the complaint is based was made, the agency shall promptly provide a copy
of the recording to the peace officer who is the subject of the complaint on written request by the
officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND
PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article
2.132(a).

(2) "Pedestrian stop" means an interaction between a peace
officer and an individual who is being detained for the purpose of a criminal investigation in
which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation
of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall
report to the law enforcement agency that employs the officer information relating to the stop,
including:

(1) a physical description of each person detained as a result
of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the
person or, if the person does not state the person's race or ethnicity, as determined by the officer
to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated
or the suspected offense:
whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

whether any contraband was discovered in the course of the search and the type of contraband discovered;

whether probable cause to search existed and the facts supporting the existence of that probable cause;

whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

the street address or approximate location of the stop; and

whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and
(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and
(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax
effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:
Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).
SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

(1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;

(2) the registration number of the vehicle involved;

(3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) the date of conviction; and

(9) the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as
added by this Act, on March 1, 2003. The first submission of information shall consist of
information compiled by the agency during the period beginning January 1, 2002, and ending
December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit
information to the governing body of each county or municipality served by the agency as
required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004.
The first submission of information shall consist of information compiled by the agency during

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards
and Education shall establish an education and training program on racial profiling as required
by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management
Institute of Texas shall establish a program on racial profiling as required by Subsection (j),
Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds
an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer
Standards and Education or has held a peace officer license issued by the Commission on Law
Enforcement Officer Standards and Education for at least two years shall complete an education
and training program on racial profiling established under Subsection (e), Section 1701.253,
Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief
before the effective date of this Act shall complete a program on racial profiling established
under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than
September 1, 2003.

SECTION 12. This Act takes effect September 1, 200
I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Approved:

Date

Governor
Most Recent Legal Requirements  
(H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:
(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);
(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);
(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);
(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:
SECTION ____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:
(a) In this article:
   (1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.
   (2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.
   (3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Middle Eastern descent.
(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:
   (1) clearly define acts constituting racial profiling;
   (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
   (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
   (4) provide public education relating to the agency's complaint process;
   (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
   (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
      (A) the race or ethnicity of the individual detained; and
(B) whether a search was conducted and, if so, whether the individual [person] detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit [to the governing body of each county or municipality served by the agency] an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle [traffic] stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle [traffic] stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle [traffic] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION ____. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [TRAFFIC AND PEDESTRIAN] STOPS. (a) In this article, "race" [41] "Race" or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance [regulating traffic or who stops a pedestrian for any suspected offense] shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [each] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by
the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [traffic law or ordinance alleged to have been violated or the suspected offense];

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description [the type] of the contraband or evidence [discovered];

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [existed and the facts supporting the existence of that probable cause];

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop[including a description of the warning or a statement of the violation charged].

SECTION ____.  Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle["pedestrian] stop" has the meaning assigned by Article 2.132(a) [means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest].

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each [local] law enforcement agency shall submit a report containing the incident-based data [information] compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [in a manner approved by the agency].

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:
(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities [determine the prevalence of racial profiling by peace officers employed by the agency]; and

(B) examine the disposition of motor vehicle [traffic and pedestrian] stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from [the] stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [traffic or pedestrian] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION ____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle [traffic and pedestrian] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [traffic and pedestrian] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [traffic and pedestrian] stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive
from the state funds or video and audio equipment sufficient, as
determined by the department, for the agency to accomplish that
purpose.

(b) Except as otherwise provided by this subsection, a law
enforcement agency that is exempt from the requirements under
Article 2.134 shall retain the video and audio or audio
documentation of each motor vehicle [traffic and pedestrian] stop
for at least 90 days after the date of the stop. If a complaint is
filed with the law enforcement agency alleging that a peace officer
employed by the agency has engaged in racial profiling with respect
to a motor vehicle [traffic or pedestrian] stop, the agency shall
retain the video and audio or audio record of the stop until final
disposition of the complaint.

(c) This article does not affect the collection or reporting
requirements under Article 2.132.

d) In this article, "motor vehicle stop" has the meaning
assigned by Article 2.132(a).

SECTION ____. Chapter 2, Code of Criminal Procedure, is
amended by adding Article 2.1385 to read as follows:
Art. 2.1385. CIVIL PENALTY. (a) If the chief
administrator of a local law enforcement agency intentionally fails
to submit the incident-based data as required by Article 2.134, the
agency is liable to the state for a civil penalty in the amount of
$1,000 for each violation. The attorney general may sue to collect
a civil penalty under this subsection.

(b) From money appropriated to the agency for the
administration of the agency, the executive director of a state law
enforcement agency that intentionally fails to submit the
incident-based data as required by Article 2.134 shall remit to the
comptroller the amount of $1,000 for each violation.

(c) Money collected under this article shall be deposited in
the state treasury to the credit of the general revenue fund.

SECTION ____. Subchapter A, Chapter 102, Code of Criminal
Procedure, is amended by adding Article 102.022 to read as follows:
Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE
REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this
article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and
(2) is classified as a moving violation by the
Department of Public Safety under Section 708.052, Transportation
Code.

(b) A defendant convicted of a moving violation in a justice
court, county court, county court at law, or municipal court shall
pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;
(2) the person receives community supervision,
including deferred adjudication; or
(3) the court defers final disposition of the person's
case.

(d) The clerks of the respective courts shall collect the
costs described by this article. The clerk shall keep separate
records of the funds collected as costs under this article and shall
deposit the funds in the county or municipal treasury, as
appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit
collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).  

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION ____.  (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $50 [or $5];

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . $0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION ____.  (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:
Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

1. a jury fee (Art. 102.004, Code of Criminal Procedure) ... $20;
2. a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) ... $40;
3. a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) ... $25;
4. a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) ... $3;
5. a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) ... $50; [and]
6. a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) ... not to exceed $5; and
7. a civil justice fee (Art. 102.022, Code of Criminal Procedure) ... $0.10.

(b) Section 102.081, Government Code, as amended by Chapter 753 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION ____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

1. a jury fee (Art. 102.004, Code of Criminal Procedure) ... $3;
2. a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) ... $3;
3. a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) ... one jury fee of $3;
4. a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) ... $4;
5. a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) ... $4;
6. a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) ... not to exceed $5;
7. a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) ... not to exceed $30; [and]
8. a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) ... not to exceed $7; and
9. a civil justice fee (Art. 102.022, Code of Criminal Procedure) ... $0.10.

SECTION ____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN
MUNICIPAL COURT:  CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;
(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;
(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;
(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;
(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4; [and]
(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5; and
(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . $0.10.

SECTION ____.  Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:
Sec. 1701.164.  COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION ____.  Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:
(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:
(1) this chapter;
(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
(3) a commission rule.

SECTION ____.  (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.
(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.
(II) Responding to the Law
Institutional Policy on Racial Profiling
I. PURPOSE

The purpose of this order is to reaffirm the Town of Pantego Police Department’s commitment to unbiased policing in all its encounters with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

II. POLICY

We are committed to a respect for constitutional rights in the performance of our duties. Our success is based on the respect we give to our communities, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, national origin, ethnicity, age, religion or any other identifiable group. Respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and by statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions that support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, ethnic background, sex, gender, national origin, ethnicity, age, religion or any other identifiable group.

Nothing in this order limits non-enforcement contacts between officers and the public.

This Policy is adopted in compliance with the requirements of Articles 2.131 through 2.138, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

III. DEFINITIONS
Most of the following terms appear in this policy statement. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders.

A. Bias: Prejudice or partiality based on preconceived ideas, a person's upbringing, culture, experience, or education.

B. Biased policing: Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

C. Ethnicity: A cluster of characteristics that may include race but also cultural characteristics or traits that are shared by a group with a common experience or history.

D. Motor Vehicle Contact – Any contact with an individual who may be subject to arrest or issuance of a citation and who is occupying a motor vehicle or is associated with a motor vehicle that may be subject to search subsequent to the person’s arrest, irrespective of whether or not the vehicle is on a public roadway or on private property.

E. Motor Vehicle Stop - means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance and issues a citation or an arrest is made.

F. Probable cause: Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.

G. Race: A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, Middle Eastern, or Native American descent. As distinct from ethnicity, race refers only to physical characteristics sufficiently distinctive to group people under a classification.

H. Racial profiling: A law-enforcement initiated action based on an individual’s race, ethnicity, or national origin rather than on the individual’s behavior or on information identifying the individual as having engaged in criminal activity.

I. Reasonable suspicion: Articulable, objective facts that lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."

J. Sex: A biological classification, male or female, based on physical and genetic characteristics.

K. Stop: An investigative detention. The detention of a subject for a brief period of time, based on reasonable suspicion.

IV. PROCEDURES
A. General responsibilities

1. Officers are prohibited from engaging in bias-based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person’s race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes. (TBP: 2.01)

2. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probably cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests, nonconsensual searches, and property seizures. Except as provided in number 3 below, officers shall not consider race/ethnicity in establishing either reasonable suspicion or probably cause. Similarly, except as provided below, officers shall not consider race/ethnicity in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.

3. Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion. Except as provided above, race/ethnicity Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall be subjected to stops, seizures, or detentions only upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.

4. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.

   a. As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a person's perception of fairness or discrimination.

   b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.

5. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
6. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on the individual’s well-being unless the explanation would undermine an investigation or jeopardize an officer’s safety.

7. When concluding an encounter, personnel shall thank him or her for cooperating.

8. Upon initial contact, when feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their name, departmental identification number, and name of their immediate supervisor.

9. All personnel are accountable for their actions. Personnel shall justify their actions when required.

B. Supervisory responsibilities

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.

2. Supervisors shall use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.

3. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are the key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community’s trust in law enforcement.

4. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the department to liability consequences.

5. Supervisors shall be held accountable for repeated instances of biased enforcement by their subordinates.

6. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.

7. Supervisors shall facilitate the filing of any complaints about law-enforcement service.

C. Training (TBP: 2.01)

Officers shall complete all training required by state law regarding bias-based profiling.

V. COMPLAINT PROCESS

A. No person shall be discouraged, intimidated or coerced from filing a complaint, or be discriminated against because they have filed a complaint.
B. Any person who believes that a peace officer employed by the Pantego Police Department has engaged in racial profiling or biased policing with respect to that person, may file a complaint in accordance with the provisions of Policy 2.4, Internal Investigation Process.

C. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, “How to File a Complaint.” Brochures are maintained in the Pantego Police Department lobby, and at Pantego Town Hall. Citizens may also be directed to the Town website to file a complaint.

D. Any supervisor who becomes aware of an alleged or suspected violation of this Policy shall report the alleged violation to the Chief.

E. Complaints of racial profiling or biased policing shall be investigated by CID, unless otherwise directed by the Chief. A log of all racial profiling and biased policing complaints will be maintained by the CID.

VI. DISCIPLINARY AND CORRECTIVE ACTIONS

Any department officer who is found, after investigation, to have engaged in racial profiling or biased policing in violation of this Policy may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief.

VII. PUBLIC EDUCATION

The Pantego Police Department shall provide education to the public concerning the racial profiling and biased policing complaint process. The primary method of public education shall be through the brochure, “How to File a Complaint” which is maintained in the lobby of the Pantego Police Department, and at Pantego Town Hall. Other education methods may be utilized to inform the public, including news media, civic presentations, the Internet, and/or public meetings.

VIII. COLLECTION OF INFORMATION AND ANNUAL REPORTING FOR RACIAL PROFILING WHEN CITATION ISSUED OR ARREST MADE (TIER 1 REPORTING REQUIREMENTS)

A. For each motor vehicle contact in which a citation is issued and for each arrest resulting from such motor vehicle contacts, an officer involved in the contact shall collect the following information on the citation:

1. Information identifying the race or ethnicity of the person detained, including a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

   a. the person's gender; and
   b. the person's race or ethnicity, as stated by the person or, if the person does not state their race or ethnicity, the officer shall select “Other” from the below clearance codes:

   B = Black
   A = Asian
   I = Native American / American Indian
2. The initial reason for the contact;

3. Whether the officer conducted a search as a result of the contact and, if so, whether the person detained consented to the search or the search was based on probable cause;

4. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

5. The reason for the search, including whether:
   a. any contraband or other evidence was in plain view;
   b. any probable cause or reasonable suspicion existed to perform the search; or
   c. the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

6. Whether the officer made an arrest as a result of the contact or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

7. The street address or approximate location of the contact;

8. Whether the officer issued a citation as a result of the contact; and

9. Whether or not the individual is a resident of the Town of Pantego, which shall be reflected on the citation.

B. The information collected will then be entered into the department’s Records Management System. All contacts requiring Racial Profiling data collection must be entered.

C. The information collected shall be compiled in an annual report covering the period January 1 through December 31 of each year, and shall be submitted to the Texas Commission on Law Enforcement (TCOLE) and to the governing body of the Town of Pantego no later than March 1 of the following year. The report will include:

1. A breakdown of citations by race or ethnicity;
2. Number of citations that resulted in a search;
3. Number of searches that were consensual;
4. Number of citations that resulted in custodial arrest; and
5. The total number of citations.

D. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

IX. AUDIO AND VIDEO EQUIPMENT
A. Each motor vehicle regularly used by this department to make traffic and pedestrian stops is equipped with a mobile video camera system capable of recording video and audio, and each motorcycle regularly used by this department to make traffic and pedestrian stops is provided with audio recording equipment.

B. Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video and audio, or by audio only for motorcycles, shall be recorded. In units equipped with mobile video camera systems, both video and audio recordings shall be required.

C. Supervisors and Officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty. Police units with malfunctioning or inoperative mobile video camera equipment shall not be utilized under normal circumstances.

XI. REVIEW OF VIDEO AND AUDIO DOCUMENTATION

A. Each audio and video recording shall be retained for a minimum period of ninety (90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a motor vehicle contact in which case the recording shall be maintained until final disposition of the complaint has been concluded. The Assistant Police Chief shall ensure that all audio and recordings are properly stored and retained in accordance with applicable laws and this Policy.

B. If a complaint is received alleging that an officer has engaged in biased policing, the audio / video recording shall be forwarded to CID. CID shall retain the recording until final disposition of the complaint has been made.

C. The Assistant Chief or his designee shall review a random sampling of officer initiated, motor vehicle contact audio / video recordings on a periodic basis. The random sampling shall be taken from the total pool of recordings in a one week period. Recordings shall be reviewed on a weekly basis. A log of all recordings reviewed shall be maintained in the department records. The log shall include the names of the officers whose contacts were reviewed and the date(s) of the recordings reviewed.
Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices

Informing the Public on the Process of Filing a Racial Profiling Complaint with the Pantego Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a racial profiling complaint. In an effort to comply with this particular component, the Pantego Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a complaint on a racial profiling violation by a Pantego Police officer. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.
Racial Profiling Training

Since 2002, all Pantego Police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Pantego Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of Pantego has been included in this report.

It is important to recognize that the Chief of the Pantego Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Pantego Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.
Racial Profiling 3256
Instructor's Note:
You may wish to teach this course in conjunction with
Asset Forfeiture 3255 because of the related subject matter
and applicability of the courses. If this course is taught in
conjunction with Asset Forfeiture, you may report it under
Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract
This instructor guide is designed to meet the educational requirement for racial profiling
established by
legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape
player,
handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop
procedures and law enforcement issues

Evaluation Process and Procedures
An examination should be given. The instructor may decide upon the nature and
content of the
examination. It must, however, sufficiently demonstrate the mastery of the subject
content by the
student.

Reference Materials
Reference materials are located at the end of the course. An electronic copy of this
instructor guide
may be downloaded from our web site at http://www.tcleose.state.tx.us.
Racial Profiling 3256
1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:
Racial profiling CCP 3.05
Racial profiling prohibited CCP 2.131
Law enforcement policy on racial profiling CCP 2.132
Reports required for traffic and pedestrian stops CCP 2.133
Liability CCP 2.136
Racial profiling education for police chiefs Education Code 96.641
Training program Occupations Code 1701.253
Training required for intermediate certificate Occupations Code 1701.402
Definition of “race or ethnicity” for form Transportation Code 543.202
A. Written departmental policies
   1. Definition of what constitutes racial profiling
   2. Prohibition of racial profiling
   3. Complaint process
   4. Public education
   5. Corrective action
   6. Collection of traffic-stop statistics
   7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report
   1. Physical description of detainees: gender, race or ethnicity
   2. Alleged violation
   3. Consent to search
   4. Contraband
   5. Facts supporting probable cause
   6. Arrest
   7. Warning or citation issued

G. Compilation and analysis of data
H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling
1. Police chiefs
2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)
1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

C. Other cases

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.
A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism.
B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole.

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers.

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow’s legitimate stop.

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources.

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements.

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.).

C. A typical traffic stop resulting from racial profiling
   1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
   2. The driver and passengers are questioned about things that do not relate to the traffic violation
   3. The driver and passengers are ordered out of the vehicle
   4. The officers visually check all observable parts of the vehicle
   5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
   6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)
3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.  
A. Drug courier profile (adapted from a profile developed by the DEA)  
1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles  
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)  
3. Vehicle is rented  
4. Driver is a young male, 20-35  
5. No visible luggage, even though driver is traveling  
6. Driver was over-reckless or over-cautious in driving and responding to signals  
7. Use of air fresheners  

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop  

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.  
A. Thinking about the totality of circumstances in a vehicle stop  

B. Vehicle exterior  
1. Non-standard repainting (esp. on a new vehicle)  
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)  
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)  
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)  

C. Pre-stop indicators  
1. Not consistent with traffic flow  
2. Driver is overly cautious, or driver/passengers repeatedly look at police car  
3. Driver begins using a car- or cell-phone when signaled to stop  
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)  

D. Vehicle interior  
1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.  
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)  

Resources  
Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)  
Web address for legislation 77R-SB1074:  
http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm
Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/16---12/31/16, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the Pantego Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/16 ---- 12/31/16.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

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<th>Complaint No.</th>
<th>Alleged Violation</th>
<th>Disposition of the Case</th>
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<td>Alleged Violation of Racial Profiling Policy</td>
<td>Unfounded</td>
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<tr>
<td>16-05</td>
<td>Alleged Violation of Racial Profiling Policy</td>
<td>Unfounded</td>
</tr>
</tbody>
</table>

Additional Comments:
All complaint reports are available for examination through the public records request procedures as established by State law.
Tables Illustrating Traffic and Motor Vehicle-Related Contacts
## Tier 1 Data

### (I) Tier 1 Data

**Motor Vehicle-Related Contact Information (1/1/16—12/31/16)**

<table>
<thead>
<tr>
<th>Race/Ethnicity*</th>
<th>Contacts</th>
<th>Searches</th>
<th>Consensual Searches</th>
<th>PC Searches</th>
<th>Custody Arrests</th>
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<td>%</td>
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<td>178</td>
<td>100</td>
<td>11</td>
</tr>
</tbody>
</table>

*N* represents “number” of traffic-related contacts

* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern”.

**Figure has been rounded**
Tier 1 Data (Motor Vehicle Contacts in Percentages)
Tier 1 Data (Frequency of Searches)

- Searches
- Consent
- PC

Categories:
- Caucasian
- African
- Hispanic
- Asian
- Native American
- Middle Eastern
- Other
Tier 1 Data (Arrests in Percentages)

- Caucasian
- African
- Hispanic
- Asian
- Native American
- Middle Eastern
- Other

Arrests
Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/16--12/31/16)

<table>
<thead>
<tr>
<th>Total Number of Instances where Officers Knew Race and Ethnicity of Individuals Before Being Detained</th>
<th>Total Number of Instances where Officers Did Not Know the Race and Ethnicity of Individuals Before Being Detained</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>2,610</td>
</tr>
</tbody>
</table>

![Known Race/Ethnicity (Frequencies)](image)
Tier 1 (Partial Exemption TCLEOSE Form)

Partial Exemption Racial Profiling Reporting (Tier 1)

Department Name: Pantego Police Department

Agency Number: 439226

Chief Administrator Name: Thomas D. Griffith, Jr.

Reporting Name: Thomas D. Griffith, Jr.

Contact Number: (817) 274-2511

E-mail Address: tgriffith@townofpantego.com

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP): Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in
which a citation is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

These policies are in effect

February 27, 2016

Chief Administrator         Date
Partial Exemption Racial Profiling Reporting  
(Tier 1)

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):

X all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

☐ In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

February 27, 2016

Chief Administrator   Date
Partial Exemption Racial Profiling Reporting (Tier 1)

(This is the TCLEOSE recommended form. The form is not mandatory. The information contained in this form, however, is mandatory. You may use your form, but all information must be provided.)

If you claim a partial exemption you must submit a report that contains the following data or use this format to report the data.

Instructions: Please fill out all boxes. If zero, use 0.

1. Total on lines 4, 11, 14, and 17 Must be equal

2. Total on line 20 Must equal line 15

   **Number of Motor Vehicle Stops:**

   1. 2295 citation only
   2. 85 arrest only
   3. 235 both
   4. 2615 Total

   **Race or Ethnicity:**

   5. 795 African
   6. 73 Asian
   7. 1050 Caucasian
   8. 575 Hispanic
   9. 121 Middle Eastern
   10. 1 Native American
   11. 2615 Total
Race or Ethnicity Known Prior to Stop?
12. 5 Yes
13. 2610 No

14. 2615 Total

Search Conducted:
15. 175 Yes
16. 2440 No

17. 2615 Total

Was Search Consented?
18. 11 Yes
19. 164 No

20. 175 Total Must Equal # 15
Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

This report meets the above requirements

February 27, 2017

Chief Administrator

Date

Send entire documents electronically to this website

www.tcleose.state.tx.us
Tier 1 Baseline Comparison
(Fair Roads Standard)

(II) Motor Vehicle-Contacts and Fair Roads Standard Comparison
Comparison of motor vehicle-related contacts with households in DFW that have vehicle access (in percentages). (1/1/16—12/31/16)

<table>
<thead>
<tr>
<th>Race/Ethnicity*</th>
<th>Contacts (in percentages)</th>
<th>Households with vehicle access (in percentages)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caucasian</td>
<td>40</td>
<td>60</td>
</tr>
<tr>
<td>African</td>
<td>30</td>
<td>14</td>
</tr>
<tr>
<td>Hispanic</td>
<td>22</td>
<td>19</td>
</tr>
<tr>
<td>Asian</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Native American</td>
<td>.04</td>
<td>N/A</td>
</tr>
<tr>
<td>Middle Eastern</td>
<td>5</td>
<td>N/A</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>N/A</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>98**</td>
</tr>
</tbody>
</table>

*Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American and Middle Eastern”.

**Represents rounded figure
Motor Vehicle Contacts and Households (Percentages) 2016

Caucasian
African
Hispanic
Asian
Native American
Middle Eastern
Other

Contacts
Households
Analysis and Interpretation of Data

In 2001, the Texas legislature passed Senate Bill 1074 which became the Texas Racial Profiling Law. That is, the law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it is required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

The Texas Racial Profiling Law also requires police departments to interpret motor vehicle-related data. Even though most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if individual police officers are engaging in racial profiling, from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic or motor vehicle-related contacts.

As stated previously, in 2009, the Texas Legislature passed House Bill 3389, which modified the existing Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These most recent changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it requires police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the more recent law requires adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year. I am pleased to inform you that these additional requirements have been addressed, since 2009, by the Pantego Police Department as it is demonstrated throughout this report.

In an effort to comply with The Texas Racial Profiling Law, the Pantego Police Department commissioned the analysis of its 2016 motor vehicle contact data. Thus, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2016 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the “other” category, that came in contact with the police in the course of a motor vehicle related contact, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or
probable cause). Also, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2016 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Pantego Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Pantego Police Department in 2016 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Pantego Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort-Worth Metroplex (DFW).

Tier 1 (2016) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2016, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by African American and Hispanic drivers. With respect to searches, most of them were performed on African American drivers. This was followed by Caucasians and Hispanics. It is important to note that the arrest data revealed that African American drivers were arrested the most in motor vehicle-related contacts; this was followed by Caucasians and Hispanics.

Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in DFW who indicated, in the 2010 census, that they had access to vehicles,
produced interesting findings. Specifically, the percentage of individuals of African American and Hispanic descent that came in contact with the police was higher than the percentage of African American and Hispanic households in DFW that claimed, in the 2010 census, to have access to vehicles. With respect to Caucasians and Asians, a lower percentage of contacts were detected. That is, the percentage of Caucasian and Asian drivers that came in contact with the police in 2016 was lower than the percentage of Caucasian and Asian households in DFW with access to vehicles.

Summary of Findings

The comparison of motor vehicle contacts showed that the Pantego Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian and Asian drivers than the percentage that resided in DFW and had access to vehicles. Further, the data suggested that the percentage of African American and Hispanic drivers that came in contact with the police in 2016 was higher than the percentage of African American and Hispanic households in DFW with access to vehicles. In addition, the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

While considering the findings made in this analysis, it is recommended that the Pantego Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals; particularly with African Americans and Hispanics. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all motor vehicle contacts made with the public.

As part of this effort, the Pantego Police Department is also encouraged to:

1) Perform an independent search analysis on the search data collected in the first quarter of 2017.

2) Commission data audits in 2017 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The Pantego Police Department has, once again, complied with the Texas Racial Profiling Law.
(III) Summary
Checklist
The following requirements were met by the Pantego Police Department in accordance with The Texas Racial Profiling Law:

☒ Clearly defined act or actions that constitute racial profiling

☒ Statement indicating prohibition of any peace officer employed by the Pantego Police Department from engaging in racial profiling

☒ Implement a process by which an individual may file a complaint regarding racial profiling violations

☒ Provide public education related to the complaint process

☒ Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law

☒ Collect data (Tier 1) that includes information on
  a) Race and ethnicity of individual detained
  b) Whether a search was conducted
  c) If there was a search, whether it was a consent search or a probable cause search
  d) Whether a custody arrest took place

☒ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.

☒ Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2017.

☒ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation
Contact Information

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting, LLC
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting, LLC, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.
AGENDA BACKGROUND


Date: February 27, 2017

PRESENTER:
Dennis Jobe, Community Development Director

BACKGROUND:
The purpose of this item is to review the local amendments recommended by the North Texas Council of Governments in preparation for considering the adoption of the 2015 International Codes and the 2014 National Electrical Code.

FISCAL IMPACT:
N/A

RECOMMENDATION:
Staff is seeking guidance from Council regarding whether to move forward with this issue.

ATTACHMENTS:
2015 International Residential Code COG Amendments
2015 International Energy Code COG Amendments
2014 National Electrical Code COG Amendments
Recommended Amendments to the 2015
International Residential Code
North Central Texas Council of Governments Region

The following sections, paragraphs, and sentences of the 2012 International Residential Code are hereby amended as follows: Standard type is text from the IRC.

In 2009, the State Legislature enacted SB 1410 prohibiting cities from enacting fire sprinkler mandates in residential dwellings. However, jurisdictions with ordinances that required sprinklers for residential dwellings prior to and enforced before January 1, 2009, may remain in place. Reference; Section R313 Automatic Fire Sprinkler Systems.

The energy provisions in Chapter 11 of the International Residential Code (IRC) mirror the requirements of the International Energy Conservation Code (IECC). IRC Chapter 11 is deleted in its entirety. Reference the 2015 IECC for energy code provisions and recommended amendments.

Note: items in red are the COG recommended amendments.
Items in black with yellow highlight are the 2015 as written.

**Section R102.4; change to read as follows:**

R102.4 Referenced codes and standards. The codes, when specifically adopted, and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections R102.4.1 and R102.4.2. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference made to NFPA 70 or the Electrical Code shall mean the Electrical Code as adopted.

**Section R104.10.1 Flood Hazard areas; delete this section.**

R104.10.1 Flood hazard areas. The building official shall not grant modifications to any provisions required in flood hazard areas as established by Table R301.2(1) unless a determination has been made that:
1. There is good and sufficient cause showing that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section R322 inappropriate.
2. Failure to grant the modification would result in exceptional hardship by rendering the lot undevelopable.
3. The granting of modification will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. The modification is the minimum necessary to afford relief, considering the flood hazard.
5. Written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation and stating that construction below the design flood elevation increases risks to life and property, has been submitted to the applicant.

(Reason: Flood hazard ordinances may be administered by other departments within the city.) Staff does not recommend this deletion Community Development will determine Flood Plain Areas.
(Re)R105.3.1.1 Determination of substantially improved or substantially damaged existing buildings in flood hazard areas. For applications for reconstruction, rehabilitation, addition, alteration, repair or other substantial improvement of existing buildings or structures located in a flood hazard area as established by Table R301.2(1), the building official shall examine or cause to be examined the construction documents and shall make a determination with regard to the value of the proposed work. For buildings that have sustained damage of any origin, the value of the proposed work shall include the cost to repair the building or structure to its predamaged condition. If the building official finds that the value of proposed work equals or exceeds 50 percent of the market value of the building or structure before the damage has occurred or the improvement is started, the proposed work is a substantial improvement or restoration of substantial damage and the building official shall require existing portions of the entire building or structure to meet the requirements of Section R322.

For the purpose of this determination, a substantial improvement shall mean any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. Where the building or structure has sustained substantial damage, repairs necessary to restore the building or structure to its predamaged condition shall be considered substantial improvements regardless of the actual repair work performed. The term shall not include either of the following:

1. Improvements to a building or structure that are required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to ensure safe living conditions.

2. Any alteration of a historic building or structure, provided that the alteration will not preclude the continued designation as a historic building or structure. For the purposes of this exclusion, a historic building shall be any of the following:
   2.1. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places.
   2.2. Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district.
   2.3. Designated as historic under a state or local historic preservation program that is approved by the Department of Interior. (Reason: Floodplain provisions are addressed locally.)

R106.1.4 Information for construction in flood hazard areas. For buildings and structures located in whole or in part in flood hazard areas as established by Table R301.2(1), construction documents shall include:

1. Delineation of flood hazard areas, floodway boundaries and flood zones and the design flood elevation, as appropriate.
2. The elevation of the proposed lowest floor, including basement; in areas of shallow flooding (AO Zones), the height of the proposed lowest floor, including basement, above the highest adjacent grade.
3. The elevation of the bottom of the lowest horizontal structural member in coastal high hazard areas (V Zone) and in Coastal A Zones where such zones are delineated on flood hazard maps identified in Table R301.2(1) or otherwise delineated by the jurisdiction.
4. If design flood elevations are not included on the community’s Flood Insurance Rate Map (FIRM), the building official and the applicant shall obtain and reasonably utilize any design flood elevation and floodway data available from other sources. (Reason: Floodplain provisions are addressed locally) Staff does not recommend deleting this section, Floodplain issues will be reviewed by Community Development.

(Reason: Issuing CO’s for residences is not a common practice in the area). Staff recommends this change.

**Section R110 (R110.1 through R110.5); delete the section.

(Sect)R202; change definition of “Townhouse” to read as follows:

TOWNHOUSE. A single-family dwelling unit constructed in a group of three or more attached units separated by property lines in which each unit extends from foundation to roof and with a yard or public way on at least two sides.

[RB] TOWNHOUSE. A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with a yard or public way on not less than two sides. (Reason: To distinguish Townhouses on separate lots) Staff recommends this change.
**Table R301.2 (1); fill in as follows:**

<table>
<thead>
<tr>
<th>GROUND SNOW LOAD</th>
<th>GROUND SNOW LOAD</th>
<th>WIND DESIGN</th>
<th>SEISMIC DESIGN CATEGORY</th>
<th>SUBJECT TO DAMAGE FROM</th>
<th>WINTER DESIGN TEMP</th>
<th>ICE BARRIER UNDERLAYMENT</th>
<th>FLOOD HAZARDS</th>
<th>AIR FREEZING INDEX</th>
<th>MEAN ANNUAL TEMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 lb/ft</td>
<td>115 (3 sec-gust)/76 fastest mile</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Moderate</td>
<td>6°</td>
<td>Very Heavy</td>
<td>22°F</td>
<td>No</td>
</tr>
</tbody>
</table>

(Reason: To promote regional uniformity.)

**Section R302.1; add exception #6 to read as follows:**

Exceptions: [previous exceptions unchanged]

6. Open non-combustible carport structures may be constructed when also approved within adopted ordinances.

**SECTION R302**

**FIRE-RESISTANT CONSTRUCTION**

**R302.1 Exterior walls.** Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1); or dwellings equipped throughout with an automatic sprinkler system installed in accordance with Section P2904 shall comply with Table R302.1(2).

Exceptions:

1. Walls, projections, openings or penetrations in walls perpendicular to the line used to determine the fire separation distance.

2. Walls of dwellings and accessory structures located on the same lot.

3. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide wall protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.

4. Detached garages accessory to a dwelling located within 2 feet (610 mm) of a lot line are permitted to have roof eave projections not exceeding 4 inches (102 mm).

5. Foundation vents installed in compliance with this code are permitted.

(Reason: Refers to other ordinances, such as zoning ordinances.) Staff recommends this change.

**Section R302.3; add Exception #3 to read as follows:**

Exceptions:

1. [existing text unchanged]

2. [existing text unchanged]

3. Two-family dwelling units that are also divided by a property line through the structure shall be separated as required for townhouses.

**R302.3 Two-family dwellings.** Dwelling units in two-family dwellings shall be separated from each other by wall and floor assemblies having not less than a 1-hour fire-resistance rating where tested in accordance with ASTM E 119 or UL 263. Fire-resistance-rated floor/ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend from the foundation to the underside of the roof sheathing.
Exceptions:

1. A fire-resistance rating of 1/2 hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13.

2. Wall assemblies need not extend through attic spaces where the ceiling is protected by not less than 5/8-inch (15.9 mm) Type X gypsum board, an attic draft stop constructed as specified in Section R302.12.1 is provided above and along the wall assembly separating the dwellings and the structural framing supporting the ceiling is protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent.

(Reason: Provide guidance for a common construction method in this area. Correlates with amendment to IRC Section R202 Townhouse definition.) Staff recommends this change.

***Section R302.5.1; change to read as follows:

R302.5.1 Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches (35 mm) in thickness, solid or honeycomb core steel doors not less than 1 3/8 inches (35 mm) thick, or 20-minute fire-rated doors equipped with a self-closing device.

(Reason: Absence of data linking self-closing devices to increased safety. Self-closing devices often fail to close the door entirely.) Staff recommends this change.

**Section R303.3, Exception; amend to read as follows:

Exception: {existing text unchanged} Exhaust air from the space shall be exhausted directly to the outdoors unless the space contains only a water closet, a lavatory, or water closet and a lavatory may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

R303.3 Bathrooms. Bathrooms, water closet compartments and other similar rooms shall be provided with aggregate glazing area in windows of not less than 3 square feet (0.3 m2), one-half of which must be openable.

Exception: The glazed areas shall not be required where artificial light and a local exhaust system are provided. The minimum local exhaust rates shall be determined in accordance with Section M1507. Exhaust air from the space shall be exhausted directly to the outdoors.
(Reason: Consistent with common local practice as recirculating fans are recognized as acceptable air movement.) Staff recommends this change.

Section R313 Automatic Fire Sprinkler Systems. Delete subsections in their entirety.

SECTION R313
AUTOMATIC FIRE SPRINKLER SYSTEMS

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in townhouses. Exception: An automatic residential fire sprinkler system shall not be required where additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

R313.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with Section P2904 or NFPA 13D.

(Reason: In 2009, the State Legislature enacted SB 1410 prohibiting cities from enacting fire sprinkler mandates in residential dwellings. However, jurisdictions with ordinances that required sprinklers for residential dwellings prior to and enforced before January 1, 2009, may remain in place.) Staff recommends this change.

***Section R315.2.2 Alterations, repairs and additions. Amend to read as follows:

Exception:
2. Installation, alteration or repairs of electrical powered (remaining text unchanged)

R315.2.2 Alterations, repairs and additions. Where alterations, repairs or additions requiring a permit occur, or where one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with carbon monoxide alarms located as required for new dwellings.

Exceptions:

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, is exempt from the requirements of this section.
2. Installation, alteration or repairs of plumbing or mechanical systems are exempt from the requirements of this section.

(Reason: Code intent is to protect against the products of combustion.) Staff recommends this change.

**Section R322 Flood Resistant Construction. Deleted Section.

SECTION R322
FLOOD-RESISTANT CONSTRUCTION

R322.1 General. Buildings and structures constructed in whole or in part in flood hazard areas, including A or V Zones and Coastal A Zones, as established in Table R301.2(1), and substantial improvement and restoration of substantial damage of buildings and structures in flood hazard areas, shall be designed and constructed in accordance with the provisions contained in this section. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area. Buildings and structures located in whole or in part in identified floodways shall be designed and constructed in accordance with ASCE 24.
(Reason: Floodplain hazard ordinances may be administered by other departments within the city.) Staff does not recommend this change. Community Development will determine Floodplain areas.

***Section R326 Swimming Pools, Spas and Hot Tubs. Amended to read as follows:

R326.1 General. The design and construction of pools and spas shall comply with the International Swimming Pool and Spa Code 2015 IRC Appendix Q, Swimming Pools, Spas and Hot Tubs.

SECTION R326
SWIMMING POOLS, SPAS AND HOT TUBS

R326.1 General. The design and construction of pools and spas shall comply with the International Swimming Pool and Spa Code.

(Reason: New Pool and Spa code not under review. In lieu of adoption of new pool code, previous edition of 2012 Appendix G is proposed for continued use but renamed 2015 Appendix Q.) Staff recommends this change.

**Section R401.2, amended by adding a new paragraph following the existing paragraph to read as follows.

Section R401.2. Requirements. (existing text unchanged) ...
Every foundation and/or footing, or any size addition to an existing post-tension foundation, regulated by this code shall be designed and sealed by a Texas-registered engineer.

R401.2 Requirements. Foundation construction shall be capable of accommodating all loads in accordance with Section R301 and of transmitting the resulting loads to the supporting soil. Fill soils that support foundations and footings shall be designed, installed and tested in accordance with accepted engineering practice. Gravel fill used as footings for wood and precast concrete foundations shall comply with Section R403.

(Amendment to 2012 IRC carried forward to 2015 IRC.) Staff recommends this change.

**Section R602.6.1; amend the following:

R602.6.1 Drilling and notching of top plate. When piping or ductwork is placed in or partly in an exterior wall or interior load-bearing wall, necessitating cutting, drilling or notching of the top plate by more than 50 percent of its width, a galvanized metal tie not less than 0.054 inch thick (1.37 mm) (16 Ga) and 1 ½ inches (38 mm) wide shall be fastened across and to the plate at each side of the opening with not less than eight 10d (0.148 inch diameter) nails reduced by 60 plf (86 N/mm) for each full having a minimum length of 1 ½ inches (38 mm) at each side or equivalent. Fasteners will be offset to prevent splitting of the top plate material. The metal tie must extend a minimum of 6 inches past the opening. See figure R602.6.1. (remainder unchanged)

R602.6.1 Drilling and notching of top plate. When piping or ductwork is placed in or partly in an exterior wall or interior load-bearing wall, necessitating cutting, drilling or notching of the top plate by more than 50 percent of its width, a galvanized metal tie not less than 0.054 inch thick (1.37 mm) (16 Ga) and 1 ½ inches (38 mm) wide shall be fastened across and to the plate at each side of the opening with not less than eight 10d (0.148 inch diameter) nails reduced by 60 plf (86 N/mm) for each full having a minimum length of 1 ½ inches (38 mm) at each side or equivalent. The metal tie must extend a minimum of 6 inches past the opening. See Figure R602.6.1.

Exception: When the entire side of the wall with the notch or cut is covered by wood structural panel sheathing. (Amendment to 2012 IRC carried forward to 2015 IRC).
**Figure R602.6.1; delete the figure and insert the following figure:**

(Amendment to 2012 IRC carried forward to 2015 IRC also provides additional assurance of maintaining the integrity of the framing by spreading the nailing pattern.) **Staff recommends this change.**

**Section R703.8.4.1; add a second paragraph to read as follows:**

In stud framed exterior walls, all ties shall be anchored to studs as follows:

1. When studs are 16 in (407 mm) o.c., stud ties shall be spaced no further apart than 24 in (737 mm) vertically starting approximately 12 in (381 mm) from the foundation; or

2. When studs are 24 in (610 mm) o.c., stud ties shall be spaced no further apart than 16 in (483 mm) vertically starting approximately 8 in (254 mm) from the foundation.
3. **R703.8.4.1 Size and spacing.** Veneer ties, if strand wire, shall be not less in thickness than No. 9 U.S. gage [(0.148 inch) (4 mm)] wire and shall have a hook embedded in the mortar joint, or if sheet metal, shall be not less than No. 22 U.S. gage by [(0.0299 inch) (0.76 mm)] 7/8 inch (22 mm) corrugated. Each tie shall support not more than 2.67 square feet (0.25 m²) of wall area and shall be spaced not more than 32 inches (813 mm) on center horizontally and 24 inches (635 mm) on center vertically.

**Exception:** In Seismic Design Category D0, D1 or D2 or townhouses in Seismic Design Category C or in wind areas of more than 30 pounds per square foot pressure (1.44 kPa), each tie shall support not more than 2 square feet (0.2 m²) of wall area.

*(Reason: (Amendment to 2012 IRC carried forward to 2015 IRC. Provide easy to install and inspect dimensions to clarify how to anchor and to distinguish “studs” from other types of construction.)* Staff recommends this change.

**Section R902.1; Amend and add exception #3 to read as follows:**

**R902.1 Roofing covering materials.** Roofs shall be covered with materials as set forth in Sections R904 and R905. Class A, B, or C roofing shall be installed in areas designated by law as requiring their use or when the edge of the roof is less than 3 feet from a lot line. *(remainder unchanged)*

**Exceptions:**

1. *(text unchanged)*

2. *(text unchanged)*

3. *(text unchanged)*

4. *(text unchanged)*

5. **Non-classified roof coverings shall be permitted on one-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed (area defined by jurisdiction)*

**R902.1 Roofing covering materials.** Roofs shall be covered with materials as set forth in Sections R904 and R905. Class A, B or C roofing shall be installed in jurisdictions designated by law as requiring their use or where the edge of the roof is less than 3 feet (914 mm) from a lot line. Class A, B and C roofing required by this section to be listed shall be tested in accordance with UL 790 or ASTM E 108.

**Exceptions:**

1. Class A roof assemblies include those with cover- ings of brick, masonry and exposed concrete roof deck.

2. Class A roof assemblies include ferrous or copper shingles or sheets, metal sheets and shingles, clay or concrete roof tile, or slate installed on noncombustible decks.

3. Class A roof assemblies include minimum 16 ounces per square foot copper sheets installed over combustible decks.

4. Class A roof assemblies include slate installed over underlayment over combustible decks.
**Staff recommends this change.**

*** Chapter 11 [RE] – Energy Efficiency is deleted in its entirety and replaced with the following:

**N1101.1 Scope.** This chapter regulates the energy efficiency for the design and construction of buildings regulated by this code.

**N1101.2 Compliance.** Compliance shall be demonstrated by meeting the requirements of the residential provisions of 2015 International Energy Conservation Code.

*(Reason: The text of the residential provisions of the 2015 IRC is extracted from the 2015 edition of the International Energy Conservation Code—Residential Provisions and has been editorially revised to conform to the scope and application of this code. The section numbers appearing in parenthesis after each section number are the section numbers of the corresponding text in the International Energy Conservation Code—Residential Provisions. This approach simply minimizes the number of amendments to the IRC)*

**Staff recommends this change.**

**Section M1305.1.3; change to read as follows:**

**M1305.1.3 Appliances in attics.** Attics containing appliances shall be provided with an opening and a clear and unobstructed passageway large enough to allow removal of the largest appliance, but not less than 30 inches (762 mm) high and 22 inches (559 mm) wide and not more than 20 feet (6096 mm) long measured along the centerline of the passageway from the opening to the appliance. The passageway shall have continuous solid flooring in accordance with Chapter 5 not less than 24 inches (610 mm) wide. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present along all sides of the appliance where access is required. The clear access opening dimensions shall be not less than of 20 inches by 30 inches (508 mm by 762 mm), and large enough to allow removal of the largest appliance.

**Exceptions:**

1. The passageway and level service space are not required where the appliance can be serviced and removed through the required opening.

2. Where the passageway is unobstructed...

*(Reason: To provide a safe means of accessibility to appliances in attics and to allow for different types of construction limitations. Consistent with regional amendment to IFGC and IMC 306.3.)*

**Staff recommends this change.**
**Section M1411.3; change to read as follows:**

M1411.3 Condensate disposal. Condensate from all cooling coils or evaporators shall be conveyed from the drain pan outlet to an approved place of disposal. Such piping shall maintain a minimum horizontal slope in the direction of discharge of not less than 1/8 unit vertical in 12 units horizontal (1-percent slope). Condensate shall not discharge into a street, alley or other areas where it would cause a nuisance.

*(Reason: Reflects regional practice and to reduce excessive runoff into storm drains.) Staff recommends this change.*

**Section M1411.3.1, Items 3 and 4; add text to read as follows:**

M1411.3.1 Auxiliary and secondary drain systems. *(bulk of paragraph unchanged)*

1. *(text unchanged)*

2. *(text unchanged)*
3. An auxiliary drain pan… *(bulk of text unchanged)*… with Item 1 of this section. A water level detection device may be installed only with prior approval of the building official.

4. A water level detection device… *(bulk of text unchanged)*… overflow rim of such pan. A water level detection device may be installed only with prior approval of the building official.

**M1411.3.1 Auxiliary and secondary drain systems.** In addition to the requirements of Section M1411.3, a secondary drain or auxiliary drain pan shall be required for each cooling or evaporator coil where damage to any building components will occur as a result of overflow from the equipment drain pan or stoppage in the condenser drain piping. Such piping shall maintain a minimum horizontal slope in the direction of discharge of not less than 1/unit vertical in 12 units horizontal (1-percent slope). Drain piping shall be not less than 3/-inch (19 mm) nominal pipe size. One of the following methods shall be used:

1. An auxiliary drain pan with a separate drain shall be installed under the coils on which condensation will occur. The auxiliary pan drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The pan shall have a minimum depth of 1.5 inches (38 mm), shall be not less than 3 inches (76 mm) larger than the unit or the coil dimensions in width and length and shall be constructed of corrosion-resistant material. Galvanized sheet steel pans shall have a minimum thickness of not less than 0.0236-inch (0.6010 mm) (No. 24 Gage). Nonmetallic pans shall have a minimum thickness of not less than 0.0625 inch (1.6 mm).

2. A separate overflow drain line shall be connected to the drain pan installed with the equipment. This overflow drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The overflow drain line shall connect to the drain pan at a higher level than the primary drain connection.

3. An auxiliary drain pan without a separate drain line shall be installed under the coils on which condensation will occur. This pan shall be equipped with a water level detection device conforming to UL 508 that will shut off the equipment served prior to overflow of the pan. The pan shall be equipped with a fitting to allow for drainage. The auxiliary drain pan shall be constructed in accordance with Item 1 of this section.

4. A water level detection device conforming to UL 508 shall be installed that will shut off the equipment served in the event that the primary drain is blocked. The device shall be installed in the primary drain line, the overflow drain line or the equipment-supplied drain pan, located at a point higher than the primary drain line connection and below the overflow rim of such pan.

*(Reason: Reflects standard practice in this area)* Staff recommends this change.

**Section M1411.3.1.1; add text to read as follows:**

**M1411.3.1.1 Water-level monitoring devices.** On down-flow units… *(bulk of text unchanged)*… installed in the drain line. A water level detection device may be installed only with prior approval of the building official.

**M1411.3.1.1 Water-level monitoring devices.** On down-flow units and other coils that do not have secondary drain or provisions to install a secondary or auxiliary drain pan, a water-level monitoring device shall be installed inside the primary drain pan. This device shall shut off the equipment served in the event that the primary drain becomes restricted. Devices shall not be installed in the drain line.

*(Reason: Reflects standard practice in this area)* Staff recommends this change.

**M1503.4 Makeup Air Required Amendment and add exception as follows:**

**M1503.4 Makeup air required.** Exhaust hood systems capable of exhausting in excess of 400 cubic feet per minute (0.19 m3/s) shall be provided with makeup air at a rate approximately equal to the difference between the exhaust air rate and 400 cubic feet per minute. Such makeup air systems shall be equipped with a means of closure and shall be automatically controlled to start and operate simultaneously with the exhaust system.

Exception: Where all appliances in the house are of sealed combustion, power-vent, unvented, or electric, the exhaust hood system shall be permitted to exhaust up to 600 cubic feet per minute (0.28 m3/s) without providing makeup air. Exhaust hood systems capable of exhausting in excess...
of 600 cubic feet per minute (0.28 m³/s) shall be provided with a makeup air at a rate approximately equal to the difference between the exhaust air rate and 600 cubic feet per minute.

**M1503.4 Makeup air required.** Exhaust hood systems capable of exhausting in excess of 400 cubic feet per minute (0.19 m³/s) shall be mechanically or naturally provided with makeup air at a rate approximately equal to the exhaust air rate. Such makeup air systems shall be equipped with not less than one damper. Each damper shall be a gravity damper or an electrically operated damper that automatically opens when the exhaust system operates. Dampers shall be accessible for inspection, service, repair and replacement without removing permanent construction or any other ducts not connected to the damper being inspected, serviced, repaired or replaced.

*(Reason: Exception requires makeup air equaling the amount above and beyond 400 cfm for larger fan which will address concerns related to “fresh” air from the outdoors in hot humid climates creating a burden on HVAC equipment and negative efficiency impacts from back-drafting and wasted energy. Staff recommends this change.)*

**Section M2005.2; change to read as follows:**

**M2005.2 Prohibited locations.** Fuel-fired water heaters shall not be installed in a room used as a storage closet. Water heaters located in a bedroom or bathroom shall be installed in a sealed enclosure so that combustion air will not be taken from the living space. Access to such enclosure may be from the bedroom or bathroom when through a solid door, weather-stripped in accordance with the exterior door air leakage requirements of the International Energy Conservation Code and equipped with an approved self-closing device. Installation of direct-vent water heaters within an enclosure is not required.

*(Reason: Corresponds with the provisions of IFGC Section 303, exception #5.) Staff recommends this change.*

**Section G2408.3 (305.5); delete.**

**G2408.3 (305.5) Private garages.** Appliances located in private garages shall be installed with a minimum clearance of 6 feet (1829 mm) above the floor.

Exception: The requirements of this section shall not apply where the appliances are protected from motor vehicle impact and installed in accordance with Section G2408.2.

*(Reason: This provision does not reflect standard practice in this area.) Staff recommends this change.*

**Section G2415.2.1 (404.2.1); add a second paragraph to read as follows:**

Both ends of each section of medium pressure gas piping shall identify its operating gas pressure with an approved tag. The tags are to be composed of aluminum or stainless steel and the following wording shall be stamped into the tag:

"WARNING: 1/2 to 5 psi gas pressure - Do Not Remove"

**SECTION G2415 (404) PIPING SYSTEM INSTALLATION**

**G2415.1 (404.1) Installation of materials.** Materials used shall be installed in strict accordance with the standards under which the materials are accepted and approved. In the absence of such installation procedures, the manufacturer’s instructions shall be followed. Where the
requirements of referenced standards or manufacturer's instructions do not conform to minimum provisions of this code, the provisions of this code shall apply.

**G2415.2 (404.2) CSST.** CSST piping systems shall be installed in accordance with the terms of their approval, the conditions of listing, the manufacturer's instructions and this code.

*(Reason: To protect homeowners and plumbers.)* **Staff recommends this change**
**Section G2415.2.2 (404.2.2); add an exception to read as follows:  

**Exception:** Corrugated stainless steel tubing (CSST) shall be a minimum of 1/2" (18 EDH). 

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**Section G2415.12 (404.12); change to read as follows:  

G2415.12 (404.12) Minimum burial depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade, except as provided for in Section G2415.12.1. 

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**Section G2417.1 (406.1); change to read as follows:  

G2417.1 (406.1) General. Prior to acceptance and initial operation, all piping installations shall be visually inspected and pressure tested to determine that the materials, design, fabrication and installation practices comply with the requirements of this code. The permit holder shall make the applicable tests prescribed in Sections 2417.1.1 through 2417.1.5 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the building official when the piping system is ready for testing. The equipment, material, power and labor necessary for the inspections and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. 

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**Section G2417.4; change to read as follows:  

G2417.4 (406.4) Test pressure measurement. Test pressure shall be measured with a manometer or with a pressure-measuring device designed and calibrated to read, record, or indicate a pressure loss caused by leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made. Mechanical gauges used to measure test pressures shall have a range such that the highest end of the scale is not greater than five times the test pressure. 

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(Reason: To require the use of more accurate diaphragm gauges. Spring gauges do not provide accurate measurement below approximately 17 psig.) Staff recommends this change.
Section G2417.4.1; change to read as follows:

G2417.4.1 (406.4.1) Test pressure. The test pressure to be used shall be no less than 3 psig (20 kPa gauge), or at the discretion of the Code Official, the piping and valves may be tested at a pressure of at least six (6) inches (152 mm) of mercury, measured with a manometer or slope gauge, irrespective of exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe. For tests requiring a pressure of 3 psig, diaphragm gauges shall utilize a dial with a minimum diameter of three and one half inches (3 ½”), a set hand, 1/10 pound incrementation and pressure range not to exceed 6 psi for tests requiring a pressure of 3 psig. For tests requiring a pressure of 10 psig, diaphragm gauges shall utilize a dial with a minimum diameter of three and one-half inches (3 ½”), a set hand, a minimum of 2/10 pound incrementation and a pressure range not to exceed 20 psi. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa) (1/2 psi) and less than 200 inches of water column pressure (52.2 kPa) (7.5 psi), the test pressure shall not be less than ten (10) pounds per square inch (69.6 kPa). For piping carrying gas at a pressure that exceeds 200 inches of water column (52.2 kPa) (7.5 psi), the test pressure shall be not less than one and one-half times the proposed maximum working pressure.

Diaphragm gauges used for testing must display a current calibration and be in good working condition. The appropriate test must be applied to the diaphragm gauge used for testing.

G2417.4.1 (406.4.1) Test pressure. The test pressure to be used shall be not less than 11/2 times the proposed working pressure, but not less than 3 psig (20 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe.

(Reason: To provide for lesser pressures to coordinate with the use of more accurate diaphragm gauges.). Staff recommends this change
**Section G2417.4.2; change to read as follows:**

G2417.4.2 (406.4.2) Test duration. The test duration shall be held for a length of time satisfactory to the Building Official, but in no case for less than fifteen (15) minutes. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa), the test duration shall be held for a length of time satisfactory to the Building Official, but in no case for less than thirty (30) minutes.

**Section G2420.1 (406.1); add Section G2420.1.4 to read as follows:**

G2420.1.4 Valves in CSST installations. Shutoff valves installed with corrugated stainless steel (CSST) piping systems shall be supported with an approved termination fitting, or equivalent support, suitable for the size of the valves, of adequate strength and quality, and located at intervals so as to prevent or damp out excessive vibration but in no case greater than 12-inches from the center of the valve. Supports shall be installed so as not to interfere with the free expansion and contraction of the system’s piping, fittings, and valves between anchors. All valves and supports shall be designed and installed so they will not be disengaged by movement of the supporting piping.

**Section G2420.5.1 (409.5.1); add text to read as follows:**

G2420.5.1 (409.5.1) Located within the same room. The shutoff valve... (bulk of paragraph unchanged)... in accordance with the appliance manufacturer’s instructions. A secondary shutoff valve must be installed within 3 feet (914 mm) of the firebox if appliance shutoff is located in the firebox.

G2420.5.1 (409.5.1) Located within same room. The shutoff valve shall be located in the same room as the appliance. The shutoff valve shall be within 6 feet (1829 mm) of the appliance, and shall be installed upstream of the union, connector or quick disconnect device it serves. Such shutoff valves shall be provided with access. Appliance shutoff valves located in the firebox of a fireplace shall be installed in accordance with the appliance manufacturer’s instructions.

**Section G2421.1 (410.1); add text and Exception to read as follows:**

G2421.1 (410.1) Pressure regulators. A line pressure regulator shall be... (bulk of paragraph unchanged)... approved for outdoor installation. Access to regulators shall comply with the requirements for access to appliances as specified in Section M1305.

G2421.1 (410.1) Pressure regulators. A line pressure regulator shall be installed where the appliance is designed to operate at a lower pressure than the supply pressure. Line gas pressure regulators shall be listed as complying with ANSI Z21.80. Access shall be provided to pressure regulators. Pressure regulators shall be protected from physical damage. Regulators installed on the...
exterior of the building shall be approved for outdoor installation.

**Exception:** A passageway or level service space is not required when the regulator is capable of being serviced and removed through the required attic opening.

*(Reason: To require adequate access to regulators.)* Staff recommends this change.

**Section G2422.1.2.3 (411.1.3.3); delete Exception 1 and Exception 4.**

**G2422.1.2.3 (411.1.3.3) Prohibited locations and penetrations.** Connectors shall not be concealed within, or extended through, walls, floors, partitions, ceilings or appliance housings.

Exceptions:
1. Connectors constructed of materials allowed for piping systems in accordance with Section G2414 shall be permitted to pass through walls, floors, partitions and ceilings where installed in accordance with Section G2420.5.2 or G2420.5.3.
2. Rigid steel pipe connectors shall be permitted to extend through openings in appliance housings.
3. Fireplace inserts that are factory equipped with grommets, sleeves or other means of protection in accordance with the listing of the appliance.
4. Semirigid tubing and listed connectors shall be permitted to extend through an opening in an appliance housing, cabinet or casing where the tubing or connector is protected against damage.

*(Reason: To require adequate access to regulators.)* Staff recommends this change.

**Section G2445.2 (621.2); add Exception to read as follows:**

**G2445.2 (621.2) Prohibited use.** One or more unvented room heaters shall not be used as the sole source of comfort heating in a dwelling unit.

**Exception:** Existing approved unvented room heaters may continue to be used in dwelling units, in accordance with the code provisions in effect when installed, when approved by the Building Official unless an unsafe condition is determined to exist as described in International Fuel Gas Code Section 108.7 of the Fuel Gas Code.

**G2445.2 (621.2) Prohibited use.** One or more unvented room heaters shall not be used as the sole source of comfort heating in a dwelling unit.

*(Reason: Gives code official discretion.)* Staff does not recommend this change.
**Section G2448.1.1 (624.1.1); change to read as follows:**

G2448.1.1 (624.1.1) Installation requirements. The requirements for water heaters relative to access, sizing, relief valves, drain pans and scald protection shall be in accordance with this code.

**Section P2801.6.1; change to read as follows:**

Section P2801.6.1 Pan size and drain. The pan shall be not less than 11/2 inches (38 mm) in depth and shall be of sufficient size and shape to receive all dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe having a diameter of not less than 3/4 inch (19 mm). Piping for safety pan drains shall be of those materials listed in Table 605.4. Multiple pan drains may terminate to a single discharge piping system when approved by the administrative authority and permitted by the manufactures installation instructions and installed with those instructions.

**Section P2804.6.1; change to read as follows:**

Section P2804.6.1 Requirements for discharge piping. The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

1. Not be directly connected to the drainage system.
2. Discharge through an air gap located in the same room as the water heater.
3. Not be smaller than the diameter of the outlet of the valve served and shall discharge full size to the air gap.
4. Serve a single relief device and shall not connect to piping serving any other relief device or equipment.

**Exception:** Multiple relief devices may be installed to a single T & P discharge piping system when approved by the administrative authority and permitted by the manufactures installation instructions and installed with those instructions.

5. Discharge to the floor, to an indirect waste receptor or to the outdoors.

[remainder unchanged]
receptor or to the outdoors.

6. Discharge in a manner that does not cause personal injury or structural damage.

7. Discharge to a termination point that is readily observable by the building occupants.

8. Not be trapped.

9. Be installed to flow by gravity.

10. Terminate not more than 6 inches (152 mm) and not less than two times the discharge pipe diameter above the floor or waste receptor flood level rim.

11. Not have a threaded connection at the end of the piping.

12. Not have valves or tee fittings.

13. Be constructed of those materials indicated in Section P2906.5 or materials tested, rated and approved for such use in accordance with ASME A112.4.1.

14. Be one nominal size larger than the size of the relief-valve outlet, where the relief-valve discharge piping is constructed of PEX or PE-RT tubing. The outlet end of such tubing shall be fastened in place.

(Reason: To ensure the T&P is ran to the exterior.) Staff recommends this change.

**Section P2801.7; add Exception to read as follows:

Exceptions:

1. Electric Water Heater.

P2801.7 Water heaters installed in garages. Water heaters having an ignition source shall be elevated such that the source of ignition is not less than 18 inches (457 mm) above the garage floor.

(Reason: To coordinate with Section 2408.2 of the IRC, which recognizes this exception.) Staff recommends this change.

**Section P2902.5.3; change to read as follows:

P2902.5.3 Lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric-type vacuum breaker, a pressure-type vacuum breaker, a double-check assembly or a reduced pressure principle backflow preventer. A valve shall not be installed downstream from an atmospheric vacuum breaker. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventer.

P2902.5.3 Lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Valves shall not be installed downstream from an atmospheric vacuum breaker. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

(Reason: To provide clarity.) Staff recommends this change.
**Section P3009.9; change to read as follows:**

P3003.9. Solvent cementing. Joint surfaces shall be clean and free from moisture. A purple primer that conforms to ASTM F 656 shall be applied. Solvent cement not purple in color and conforming to ASTM D 2564, CSA B137.3, CSA B181.2 or CSA B182.1 shall be applied to all joint surfaces. The joint shall be made while the cement is wet and shall be in accordance with ASTM D 2855. Solvent cement joints shall be installed in accordance with the manufacturer's instructions.

Exception: A primer is not required where both of the following conditions apply:

1. The solvent cement used is third-party certified as conforming to ASTM D 2564.
2. The solvent cement used is only used for joining PVC drain, waste and vent pipe and fittings in non-pressure applications in sizes up to and including 4 inches (102 mm) in diameter.

3. P3003.9 PVC plastic. Joints between PVC plastic pipe or fittings shall comply with Sections P3003.9.1 through P3003.9.3.
4. P3003.9.1 Mechanical joints. Mechanical joints on drainage pipe shall be made with an elastomeric seal conforming to ASTM C 1173, ASTM D 3212 or CSA B602. Mechanical joints shall not be installed in above-ground systems, unless otherwise approved. Joints shall be installed in accordance with the manufacturer's instructions.
5. P3003.9.2 Solvent cementing. Joint surfaces shall be clean and free from moisture. A purple primer that conforms to ASTM F 656 shall be applied. Solvent cement not purple in color and conforming to ASTM D 2564, CSA B137.3, CSA B181.2 or CSA B182.1 shall be applied to all joint surfaces. The joint shall be made while the cement is wet and shall be in accordance with ASTM D 2855. Solvent-cement joints shall be installed above or below ground.

8. Exception: A primer shall not be required where all of the following conditions apply:
9. The solvent cement used is third-party certified as conforming to ASTM D 2564.
10. The solvent cement is used only for joining PVC drain, waste and vent pipe and fittings in non-pressure applications in sizes up to and including 4 inches (102 mm) in diameter.

(Reasoning: to keep the “process of joining PVC pipe)Staff recommends this change.

**Section P3111; delete.**

(Reason: A combination waste and vent system is not approved for use in residential construction.)Staff recommends this change.

**Section P3112.2; delete and replace with the following:**

P3112.2 Installation. Traps for island sinks and similar equipment shall be roughed in above the floor and may be vented by extending the vent as high as possible, but not less than the drainboard height and then returning it downward and connecting it to the horizontal sink drain immediately downstream from the vertical fixture drain. The return vent shall be connected to the horizontal drain through a wye-branch fitting and shall, in addition, be provided with a foot vent taken off the vertical fixture vent by means of a wye-branch immediately below the floor and extending to the nearest partition and then through the roof to the open air or may be connected to other vents at a point not less than six (6) inches (152 mm) above the floor level rim of the fixtures served. Drainage fittings shall be used on all parts of the vent below the floor level and a minimum slope of one-quarter (1/4) inch per foot (20.9 mm/m) back to the drain shall be maintained. The return bend used under the drain-board shall be a one (1) piece fitting or an assembly of a forty-five (45) degree (0.79 radius), a ninety (90) degree (1.6 radius) and a forty-five (45) degree (0.79 radius) elbow in the order named. Pipe sizing shall be as elsewhere required in this Code. The island sink drain, upstream of the return vent, shall serve no other fixtures. An accessible cleanout shall be installed in the vertical portion of the foot vent.

P3112.2 Vent connection. The island fixture vent shall connect to the fixture drain as required for an individual or common vent. The vent shall rise vertically to above the drainage outlet of the fixture being vented before offsetting horizontally or vertically downward. The vent or branch vent for multiple island fixture vents shall extend not less than 6 inches (152 mm) above the highest island fixture being
vented before connecting to the outside vent terminal.

(Reason: To clarify the installation of island venting and to provide a regional
guideline on a standard installation method for this region.) Staff recommends
this change.

***Appendix Q Reserved. Amended to read as follows:

Appendix Q. Swimming Pools, Spas and Hot Tubs.

SECTION AQ101 GENERAL

AQ101.1 General.
The provisions of this appendix shall control the design and construction of swimming pools, spas and hot tubs
installed in or on the lot of a one- or two-family dwelling.

AQ101.2 Pools in flood hazard areas.
Pools that are located in flood hazard areas established by Table R301.2(1), including above-ground pools, on-
ground pools and in-ground pools that involve placement of fill, shall comply with Section
AQ101.2.1 or AQ101.2.2.

Exception: Pools located in riverine flood hazard areas which are outside of designated floodways.
AQ101.2.1 Pools located in designated floodways.
Where pools are located in designated floodways, documentation shall be submitted to the building official which demonstrates that the construction of the pool will not increase the design flood elevation at any point within the jurisdiction.

AQ101.2.2 Pools located where floodways have not been designated.
Where pools are located where design flood elevations are specified but floodways have not been designated, the applicant shall provide a floodway analysis that demonstrates that the proposed pool will not increase the design flood elevation more than 1 foot (305 mm) at any point within the jurisdiction.

SECTION AQ102 DEFINITIONS

AQ102.1 General.
For the purposes of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.

ABOVE-GROUND/ON-GROUND POOL. See "Swimming pool."

BARRIER. A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

HOT TUB. See "Swimming pool."

IN-GROUND POOL. See "Swimming pool."

RESIDENTIAL. That which is situated on the premises of a detached one- or two-family dwelling, or a one-family townhouse not more than three stories in height.

SPA, NONPORTABLE. See "Swimming pool."

SPA, PORTABLE. A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water more than 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

SWIMMING POOL, INDOOR. A swimming pool which is totally contained within a structure and surrounded on all four sides by the walls of the enclosing structure.

SWIMMING POOL, OUTDOOR. Any swimming pool which is not an indoor pool.

SECTION AQ103 SWIMMING POOLS

AQ103.1 In-ground pools.
In-ground pools shall be designed and constructed in compliance with ANSI/NSPI-5.

AQ103.2 Above-ground and on-ground pools.
Above-ground and on-ground pools shall be designed and constructed in compliance with ANSI/NSPI-4.

AQ103.3 Pools in flood hazard areas.
In flood hazard areas established by Table R301.2(1), pools in coastal high-hazard areas shall be designed and constructed in compliance with ASCE 24.

SECTION AQ104 SPAS AND HOT TUBS

AQ104.1 Permanently installed spas and hot tubs.
Permanently installed spas and hot tubs shall be designed and constructed in compliance with ANSI/NSPI-3.

AQ104.2 Portable spas and hot tubs.
Portable spas and hot tubs shall be designed and constructed in compliance with ANSI/NSPI-6.
SECTION AQ105 BARRIER REQUIREMENTS

AQ105.1 Application.
The provisions of this appendix shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs.

AQ105.2 Outdoor swimming pool. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be surrounded by a barrier which shall comply with the following:

1. The top of the barrier shall be at least 48 inches (1219mm) above grade measured on the side of the barrier, which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51mm) measured on the side of the barrier, which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102mm).

2. Openings in the barrier shall not allow passage of a 4-inch-diameter (102mm) sphere.

3. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches (44mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

6. Maximum mesh size for chain link fences shall be a 2.25-inch (57 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1.75 inches (44 mm).

7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches (44 mm).

8. Access gates shall comply with the requirements of Section AQ105.2, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:

8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate, and
8.2. The gate and barrier shall have not opening greater than 0.5 inch (13 mm) within 18 inches (457 mm) of the release mechanism.

9. Where a wall of a dwelling serves a part of the barrier one of the following conditions shall be met:

9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F1346; or
9.2. Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or
9.3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.

10. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:
   10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access, or
   10.2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Section AQ105.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch diameter (102 mm) sphere.

AQ105.3 Indoor swimming pool. Walls surrounding an indoor swimming pool shall comply with Section AQ105.2, Item 9.

AQ105.4 Prohibited locations. Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb them.

AQ105.5 Barrier exceptions. Spas or hot tubs with a safety cover which complies with ASTM F 1346, as listed in Section AQ107, shall be exempt from the provisions of this appendix.

SECTION AQ106 ENTRAPMENT PROTECTION FOR SWIMMING POOL AND SPA SUCTION OUTLETS

AQ106.1 General. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7.

SECTION AQ107 ABBREVIATIONS

AQ107.1 General.

ANSI—American National Standards Institute
11 West 42nd Street
New York, NY 10036

APSP—Association of Pool and Spa Professionals NSPI—National Spa and Pool Institute
2111 Eisenhower Avenue
Alexandria, VA 22314

ASCE—American Society of Civil Engineers
1801 Alexander Bell Drive
Reston, VA 98411-0700

ASTM—ASTM International
100 Barr Harbor Drive
West Conshohocken, PA 19428

UL—Underwriters Laboratories, Inc.
333 Pfingsten Road
Northbrook, IL 60062-2096

SECTION AQ108 REFERENCED STANDARDS

AQ108.1 General.

ANSI/NSP

ANSI/NSPI-3—99 Standard for Permanently Installed Residential Spas AQ104.1
ANSI/NSPI-4—99 Standard for Above-ground/On-ground Residential Swimming Pools AQ103.2
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*(Reason: New Pool and Spa code not under review. In lieu of adoption of new pool code, previous edition of 2012 Appendix G is proposed for continued use but renamed 2015 Appendix Q.)*

*END*
Recommended Amendments to the 2015 International Energy Conservation Code
North Central Texas Council of Governments Region
(Climate Zone 3 of the IECC)

The following sections, paragraphs, and sentences of the 2015 International Energy Conservation Code (IECC) are hereby amended as follows: Standard type is text from the IECC. Underlined type is text inserted. Lined through type is deleted text from IECC.

Note: Historically NCTCOG has limited Chapter 1 amendments in order to allow each city to insert their local policies and procedures. We now have suggested certain items to be brought to the attention of cities considering adoption of the code that may be of concern to several jurisdictions. It is still intended to be discretionary to each city to determine which Chapter 1 amendments to include.

The 2015 IECC contains separate provisions for commercial buildings and for residential buildings 3 stories or less. The provisions of the commercial buildings are preceded by “C” for Commercial. The provisions for residential buildings 3 stories or less are preceded by “R” for residential buildings. Each set of provisions are separately applied to buildings within their respective scope. Each set of provisions also contains a Scope and Administration chapter, a Definitions chapter, a General Requirements chapter and a chapter containing energy efficiency requirements applicable to building within their respective scope.

Recommended amendments that match sections in each of the respective provisions (“C” and “R”) are written to represent both sections rather than duplicating the recommended amendment in this document.

Sections N1101.2 through N1105 of the 2015 International Residential Code (IRC) are noted to be extracted from the 2015 IECC. The Building and Residential Advisory Board (BRAB) recommends amending Chapter 11 [RE] ENERGY EFFICIENCY of the 2015 IRC to refer to the residential provisions of the 2015 IECC.

The Governor signed HB1736 into law on June 16, 2015. HB1736 adopts energy efficiency chapter of the International Residential Code as it existing on May 1, 2015, as the energy code for single-family construction (as defined in Section 388.002 of the Health and Safety Code) effective September 1, 2016.

The recommended amendments to the 2015 IECC have been analyzed by the Energy Systems Laboratory of the Texas A&M University for stringency with the current Texas Building Energy Performance Standards (TBEPS) which is the 2009 Edition of the IECC and the energy provisions of the 2009 IRC. Some amendments below are noted that effective September 1, 2016, the proposed amendment would be deemed less stringent than the provisions of the 2015 IECC and therefore would no longer be considered a recommended amendment.

Note: Items in red are the Cog recommended amendments.
Items in black with yellow highlight are the 2015 Code as written.

**Section C102/R102; add Section C102.1.2 and R102.1.2 to read as follows:**

C102.1.2 Alternative compliance. A building certified by a national, state, or local accredited energy efficiency program and determined by the Energy Systems Laboratory to be in compliance with the energy efficiency requirements of this section may, at the option of the Code Official, be considered in compliance. The United States Environmental Protection Agency’s Energy Star Program certification of energy code equivalency shall be considered in compliance.
SECTION C102 ALTERNATE MATERIALS—METHOD OF CONSTRUCTION, DESIGN OR INSULATING SYSTEMS

C102.1 General. This code is not intended to prevent the use of any material, method of construction, design or insulating system not specifically prescribed herein, provided that such construction, design or insulating system has been approved by the code official as meeting the intent of this code.

C102.1.1 Above code programs. The code official or other authority having jurisdiction shall be permitted to deem a national, state or local energy efficiency program to exceed the energy efficiency required by this code. Buildings approved in writing by such an energy efficiency program shall be considered in compliance with this code. The requirements identified as “mandatory” in Chapter 4 shall be met.

R102.1.2 Alternative compliance. A building certified by a national, state, or local accredited energy efficiency program and determined by the Energy Systems Laboratory to be in compliance with the energy efficiency requirements of this section may, at the option of the Code Official, be considered in compliance. The United States Environmental Protection Agency’s Energy Star Program certification of energy code equivalency shall be considered in compliance. Regardless of the program or the path to compliance, each 1- and 2-family dwelling shall be tested for air and duct leakage as prescribed in Section R402.4 and R403.3.3 respectively.

SECTION R102 ALTERNATIVE MATERIALS, DESIGN AND METHODS OF CONSTRUCTION AND EQUIPMENT

R102.1 General. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. The code official shall be permitted to approve an alternative material, design or method of construction where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the pose intended, at least the equivalent of that prescribed in this code.

R102.1.1 Above code programs. The code official or other authority having jurisdiction shall be permitted to deem a national, state or local energy-efficiency program to exceed the energy efficiency required by this code. Buildings approved in writing by such an energy-efficiency program shall be considered in compliance with this code. The requirements identified as “mandatory” in Chapter 4 shall be met.

(Reason: This amendment is added to allow alternative compliance in accordance with Texas HB 1365, 78th Legislature. Codified in Chapter 388 Texas Building Energy Performance Standards: §388.003(i). The last sentence to Section R102.1.2 was added to insure that every house is tested in accordance with the mandatory provisions of the code.) Staff recommends this change.
**Section C202 and R202; add the following definition:**

***PROJECTION FACTOR.*** The ratio of the horizontal depth of the overhang, eave or permanently attached shading device, divided by the distance measured vertically from the bottom of the fenestration glazing to the underside of the overhang, eave or permanently attached shading device.

**SECTION C202 GENERAL DEFINITIONS**

**ABOVE-GRADE WALL.** See “Wall, above-grade.”

**ACCESSIBLE.** Admitting close approach as a result of not being guarded by locked doors, elevation or other effective means (see “Readily accessible”).

**ADDITION.** An extension or increase in the conditioned space floor area or height of a building or structure.

**AIR BARRIER.** Materials assembled and joined together to provide a barrier to air leakage through the building envelope. An air barrier may be a single material or a combination of materials.

**AIR CURTAIN.** A device, installed at the building entrance, that generates and discharges a laminar airstream intended to prevent the infiltration of external, unconditioned air into the conditioned spaces, or the loss of interior, conditioned air to the outside.

**ALTERATION.** Any construction, retrofit or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a building, electrical, gas, mechanical or plumbing system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit.

**APPROVED.** Approval by the code official as a result of investigation and tests conducted by him or her, or by reason of accepted principles or tests by nationally recognized organizations.

**APPROVED AGENCY.** An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the code official.

**AUTOMATIC.** Self-acting, operating by its own mechanism when actuated by some impersonal influence, as, for example, a change in current strength, pressure, temperature or mechanical configuration (see “Manual”).

**BELOW-GRADE WALL.** See “Wall, below-grade.”

**BOILER, MODULATING.** A boiler that is capable of more than a single firing rate in response to a varying temperature or heating load.

**BOILER SYSTEM.** One or more boilers, their piping and controls that work together to supply steam or hot water to heat output devices remote from the boiler.

**BUBBLE POINT.** The refrigerant liquid saturation temperature at a specified pressure.

**BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy, including any mechanical systems, service water heating systems and electric power and lighting systems located on the building site and supporting the building.

**BUILDING COMMISSIONING.** A process that verifies and documents that the selected building systems have been designed, installed, and function according to the owner’s project requirements and construction documents, and to minimum code requirements.

**BUILDING ENTRANCE.** Any door, set of doors, doorway, or other form of portal that is used to gain access to the building from the outside by the public.

**BUILDING SITE.** A contiguous area of land that is under the ownership or control of one entity.

**BUILDING THERMAL ENVELOPE.** The basement walls, exterior walls, floor, roof and any other building elements that enclose conditioned space or provide a boundary between conditioned space and exempt or unconditioned space.

**C-FACTOR (THERMAL CONDUCTANCE).** The coefficient of heat transmission (surface to surface) through a building component or assembly, equal to the time rate of heat flow per unit area and the unit temperature difference between the warm side and cold side surfaces (Btu/h · ft² · °F) [W/(m² · K)].

**CIRCULATING HOT WATER SYSTEM.** A specifically designed water distribution system where one or more pumps are operated in the service hot water piping to circulate heated water from the water-heating equipment to the fixture supply and back to the water-heating equipment.

**CLIMATE ZONE.** A geographical region based on climatic criteria as specified in this code.
CODE OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

COEFFICIENT OF PERFORMANCE (COP) – COOLING. The ratio of the rate of heat input, in consistent units, for a complete refrigerating system or some specific portion of that system under designated operating conditions.

COEFFICIENT OF PERFORMANCE (COP) – HEATING. The ratio of the rate of heat delivered to the rate of energy input, in consistent units, for a complete heat pump system, including the compressor and, if applicable, auxiliary heat, under designated operating conditions.

COMMERCIAL BUILDING. For this code, all buildings that are not included in the definition of “Residential building.”

COMPUTER ROOM. A room whose primary function is to house equipment for the processing and storage of electronic data and that has a design electronic data equipment power density exceeding 20 watts per square foot of conditioned floor area.

CONDENSING UNIT. A factory-made assembly of refrigeration components designed to compress and liquify a specified refrigerant. The unit consists of one or more refrigerant compressors, refrigerant condensers (air-cooled, evaporatively cooled, or water-cooled), condenser fans and motors (where used) and factory-supplied accessories.

CONDITIONED FLOOR AREA. The horizontal projection of the floors associated with the conditioned space.

CONDITIONED SPACE. An area, room or space that is enclosed within the building thermal envelope and is directly or indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with conditioned spaces, where they are separated from conditioned spaces by uninsulated walls, floors or ceilings, or where they contain uninsulated ducts, piping or other sources of heating or cooling.

CONTINUOUS AIR BARRIER. A combination of materials and assemblies that restrict or prevent the passage of air through the building thermal envelope.

CONTINUOUS INSULATION (ci). Insulating material that is continuous across all structural members without thermal bridges other than fasteners and service openings. It is installed on the interior or exterior or is integral to any opaque surface of the building envelope.

CRAWL SPACE WALL. The opaque portion of a wall that encloses a crawl space and is partially or totally below grade.

CURTAIN WALL. Fenestration products used to create an external nonload-bearing wall that is designed to separate the exterior and interior environments.

DAYLIGHT RESPONSIVE CONTROL. A device or system that provides automatic control of electric light levels based on the amount of daylight in a space.

DAYLIGHT ZONE. That portion of a building’s interior floor area that is illuminated by natural light.

DEMAND CONTROL VENTILATION (DCV). A ventilation system capability that provides for the automatic reduction of outdoor air intake below design rates when the actual occupancy of spaces served by the system is less than design occupancy.

DEMAND RECIRCULATION WATER SYSTEM. A water distribution system where pumps prime the service hot water piping with heated water upon demand for hot water.

DUCT. A tube or conduit utilized for conveying air. The air passages of self-contained systems are not to be construed as air ducts.

DUCT SYSTEM. A continuous passageway for the transmission of air that, in addition to ducts, includes duct fittings, dampers, plenums, fans and accessory air-handling equipment and appliances.

[B] DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

DYNAMIC GLAZING. Any fenestration product that has the fully reversible ability to change its performance properties, including U-factor, solar heat gain coefficient (SHGC), or visible transmittance (VT).

ECONOMIZER, AIR. A duct and damper arrangement and automatic control system that allows a cooling system to supply outside air to reduce or eliminate the need for mechanical cooling during mild or cold weather.

ECONOMIZER, WATER. A system where the supply air of a cooling system is cooled indirectly with water that is itself cooled by heat or mass transfer to the environment without the use of mechanical cooling.
ENCLOSED SPACE. A volume surrounded by solid surfaces such as walls, floors, roofs, and operable devices such as doors and operable windows.

ENERGY ANALYSIS. A method for estimating the annual energy use of the proposed design and standard reference design based on estimates of energy use.

ENERGY COST. The total estimated annual cost for purchased energy for the building functions regulated by this code, including applicable demand charges.

[M] ENERGY RECOVERY VENTILATION SYSTEM. Systems that employ air-to-air heat exchangers to recover energy from exhaust air for the purpose of preheating, pre-cooling, humidifying or dehumidifying outdoor ventilation air prior to supplying the air to a space, either directly or as part of an HVAC system.

ENERGY SIMULATION TOOL. An approved software program or calculation-based methodology that projects the annual energy use of a building.

ENTRANCE DOOR. Fenestration products used for ingress, egress and access in nonresidential buildings, including, but not limited to, exterior entrances that utilize latching hardware and automatic closers and contain over 50-percent glass specifically designed to withstand heavy use and possibly abuse.

EQUIPMENT ROOM. A space that contains either electrical equipment, mechanical equipment, machinery, water pumps or hydraulic pumps that are a function of the building’s services.

EXTERIOR WALL. Walls including both above-grade walls and basement walls.

FAN BRAKE HORSEPOWER (BHP). The horsepower delivered to the fan’s shaft. Brake horsepower does not include the mechanical drive losses (belts, gears, etc.).

FAN EFFICIENCY GRADE (FEG). A numerical rating identifying the fan’s aerodynamic ability to convert shaft power, or impeller power in the case of a direct-driven fan, to air power.

FAN SYSTEM BHP. The sum of the fan brake horsepower of all fans that are required to operate at fan system design conditions to supply air from the heating or cooling source to the conditioned spaces and return it to the source or exhaust it to the outdoors.

FAN SYSTEM DESIGN CONDITIONS. Operating conditions that can be expected to occur during normal system operation that result in the highest supply fan airflow rate to conditioned spaces served by the system.

FAN SYSTEM MOTOR NAMEPLATE HP. The sum of the motor nameplate horsepower of all fans that are required to operate at design conditions to supply air from the heating or cooling source to the conditioned spaces and return it to the source or exhaust it to the outdoors.

FENESTRATION. Products classified as either vertical fenestration or skylights. Skylight. Glass or other transparent or translucent glazing material installed at a slope of less than 60 degrees (1.05 rad) from horizontal. Vertical fenestration. Windows (fixed or moveable), opaque doors, glazed doors, glazed block and combination opaque/glazed doors composed of glass or other transparent or translucent glazing materials and installed at a slope of at least 60 degrees (1.05 rad) from horizontal.

FENESTRATION PRODUCT, FIELD-FABRICATED. A fenestration product whose frame is made at the construction site of standard dimensional lumber or other materials that were not previously cut, or otherwise formed with the specific intention of being used to fabricate a fenestration product or exterior door. Field fabricated does not include site-built fenestration.

FENESTRATION PRODUCT, SITE-BUILT. A fenestration designed to be made up of field-glazed or field-assembled units using specific factory cut or otherwise factory-formed framing and glazing units. Examples of site-built fenestration include storefront systems, curtain walls, and atrium roof systems.

F-FACTOR. The perimeter heat loss factor for slab-on-grade floors (Btu/h · ft · °F) [W/(m · K)].

FLOOR AREA, NET. The actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

GENERAL LIGHTING. Lighting that provides a substantially uniform level of illumination throughout an area. General lighting shall not include decorative lighting or lighting that provides a dissimilar level of illumination to serve a specialized application or feature within such area.

GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE I). A motor that is designed in standard ratings with either of the following:

1. Standard operating characteristics and standard mechanical construction for use under usual service conditions, such as those specified in NEMA MG1, paragraph 14.02, “Usual Service Conditions,” and without restriction to a particular application or type of application.

2. Standard operating characteristics or standard mechanical construction for use under unusual service conditions, such as those specified in NEMA MG1, paragraph 14.03, “Unusual
Service Conditions," or for a particular type of application, and that can be used in most general purpose applications.

General purpose electric motors (Subtype I) are constructed in NEMA T-frame sizes or IEC metric equivalent, starting at 143T.

**GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE II).** A motor incorporating the design elements of a general purpose electric motor (Subtype I) that is configured as one of the following:

1. A U-frame motor
2. A Design C motor
3. A close-coupled pump motor
4. A footless motor
5. A vertical, solid-shaft, normal-thrust motor (as tested in a horizontal configuration).
6. An 8-pole motor (900 rpm).
7. A polyphase motor with voltage of not more than 600 volts (other than 230 or 460 volts).

GREENHOUSE. A structure or a thermally isolated area of a building that maintains a specialized sunlit environment exclusively used for, and essential to, the cultivation, protection or maintenance of plants.

HEAT TRAP. An arrangement of piping and fittings, such as elbows, or a commercially available heat trap that prevents thermosyphoning of hot water during standby periods.

HEATED SLAB. Slab-on-grade construction in which the heating elements, hydronic tubing, or hot air distribution system is in contact with, or placed within or under, the slab.

HIGH SPEED DOOR. A nonswinging door used primarily to facilitate vehicular access or material transportation, with a minimum opening rate of 32 inches (813 mm) per second, a minimum closing rate of 24 inches (610 mm) per second and that includes an automatic-closing device.

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. Listed, or certified as eligible for listing by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register-listed, state-designated or locally designated historic district.

HUMIDISTAT. A regulatory device, actuated by changes in humidity, used for automatic control of relative humidity.

INfiltration. The uncontrolled inward air leakage into a building caused by the pressure effects of wind or the effect of differences in the indoor and outdoor air density or both.

INTEGRATED PART LOAD VALUE (IPLV). A single-number figure of merit based on part-load EER, COP or kW/ton expressing part-load efficiency for air-conditioning and heat pump equipment on the basis of weighted operation at various load capacities for equipment.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LINER SYSTEM (Ls). A system that includes the following:

1. A continuous vapor barrier liner membrane that is installed below the purlins and that is uninterrupted by framing members.
2. An uncompressed, unfaced insulation resting on top of the liner membrane and located between the purlins.

For multilayer installations, the last rated R-value of insulation is for unfaced insulation draped over purlins and then compressed when the metal roof panels are attached.

LISTED. Equipment, materials, products or services included in a list published by an organization acceptable to the code official and concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and whose listing states either that the equipment, material, product or service meets identified standards or has been tested and found suitable for a specified purpose.

LOW-SLOPED ROOF. A roof having a slope less than 2 units vertical in 12 units horizontal.

LOW-VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMER. A transformer that is air-cooled, does not use oil as a coolant, has an input voltage less than or equal to 600 volts and is rated for operation at a
frequency of 60 hertz.

LOW-VOLTAGE LIGHTING. Lighting equipment powered through a transformer such as a cable conductor, a rail conductor and track lighting.

MANUAL. Capable of being operated by personal interven- tion (see “Automatic”).

NAMEPLATE HORSEPOWER. The nominal motor horse-power rating stamped on the motor nameplate.

NONSTANDARD PART LOAD VALUE (NPLV). A single-number part-load efficiency figure of merit calculated and referenced to conditions other than IPLV conditions, for units that are not designed to operate at ARI standard rating conditions.

OCCUPANT SENSOR CONTROL. An automatic control device or system that detects the presence or absence of people within an area and causes lighting, equipment or appliances to be regulated accordingly.

ON-SITE RENEWABLE ENERGY. Energy derived from solar radiation, wind, waves, tides, landfill gas, biomass or the internal heat of the earth. The energy system providing on-site renewable energy shall be located on the project site.

OPAQUE DOOR. A door that is not less than 50-percent opaque in surface area.

POWERED ROOF/WALL VENTILATORS. A fan consisting of a centrifugal or axial impeller with an integral driver in a weather-resistant housing and with a base designed to fit, usually by means of a curb, over a wall or roof opening.

PROPOSED DESIGN. A description of the proposed building used to estimate annual energy use for determining compli- ance based on total building performance.

RADIANT HEATING SYSTEM. A heating system that transfers heat to objects and surfaces within a conditioned space, primarily by infrared radiation.

READILY ACCESSIBLE. Capable of being reached quickly for operation, renewal or inspection without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders or access equipment (see “Accessible”).

REFRIGERANT DEW POINT. The refrigerant vapor saturation temperature at a specified pressure.

REFRIGERATED WAREHOUSE COOLER. An enclosed storage space capable of being refrigerated to temperatures above 32°F (0°C), that can be walked into and has a total chilled storage area of not less than 3,000 square feet (279 m2).

REFRIGERATED WAREHOUSE FREEZER. An enclosed storage space capable of being refrigerated to tem- peratures at or below 32°F (0°C), that can be walked into and has a total chilled storage area of not less than 3,000 square feet (279 m2).

REFRIGERATION SYSTEM, LOW TEMPERATURE. Systems for maintaining food product in a frozen state in refrigeration applications.

REFRIGERATION SYSTEM, MEDIUM TEMPERATURE. Systems for maintaining food product above freezing in refrigeration applications.

REGISTERED DESIGN PROFESSIONAL. An individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

REROOFING. The process of recovering or replacing an existing roof covering. See “Roof recover” and “Roof replacement.”

RESIDENTIAL BUILDING. For this code, includes detached one- and two-family dwellings and multiple single- family dwellings (townhouses) as well as Group R-2, R-3 and R-4 buildings three stories or less in height above grade plane.

ROOF ASSEMBLY. A system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly includes the roof covering, underlayment, roof deck, insulation, vapor retarder and interior finish.

ROOF RECOVER. The process of installing an additional roof covering over an existing roof covering without remov- ing the existing roof covering.

ROOF REPAIR. Reconstruction or renewal of any part of an existing roof for the purpose of its maintenance.

ROOF REPLACEMENT. The process of removing the exist- ing roof covering, repairing any damaged substrate and installing a new roof covering.
ROOFTOP MONITOR. A raised section of a roof containing vertical fenestration along one or more sides.

R-VALUE (THERMAL RESISTANCE). The inverse of the time rate of heat flow through a body from one of its bounding surfaces to the other surface for a unit temperature difference between the two surfaces, under steady state conditions, per unit area (h · ft² · °F/Btu) [(m² · K)/W].

SATURATED CONDENSING TEMPERATURE. The saturation temperature corresponding to the measured refrigerant pressure at the condenser inlet for single component and azeotropic refrigerants, and the arithmetic average of the dew point and bubble point temperatures corresponding to the refrigerant pressure at the condenser entrance for zeotropic refrigerants.

SCREW LAMP HOLDERS. A lamp base that requires a screw-in-type lamp, such as a compact-fluorescent, incandescent or tungsten-halogen bulb.

SERVICE WATER HEATING. Supply of hot water for purposes other than comfort heating.

[B] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

SMALL ELECTRIC MOTOR. A general purpose, alternating current, single speed induction motor.

SOLAR HEAT GAIN COEFFICIENT (SHGC). The ratio of the solar heat gain entering the space through the fenestration assembly to the incident solar radiation. Solar heat gain includes directly transmitted solar heat and absorbed solar radiation which is then reradiated, conducted or convected into the space.

STANDARD REFERENCE DESIGN. A version of the proposed design that meets the minimum requirements of this code and is used to determine the maximum annual energy use requirement for compliance based on total building performance.

STOREFRONT. A nonresidential system of doors and windows mullered as a composite fenestration structure that has been designed to resist heavy use. Storefront systems include, but are not limited to, exterior fenestration systems that span from the floor level or above to the ceiling of the same story on commercial buildings, with or without mullered windows and doors.

THERMOSTAT. An automatic control device used to maintain temperature at a fixed or adjustable set point.

TIME SWITCH CONTROL. An automatic control device or system that controls lighting or other loads, including switching off, based on time schedules.

U-FACTOR (THERMAL TRANSMITTANCE). The coefficient of heat transmission (air to air) through a building component or assembly, equal to the time rate of heat flow per unit area and unit temperature difference between the warm side and cold side air films (Btu/h · ft² · °F) [W/(m² · K)].

VARIABLE REFRIGERANT FLOW SYSTEM. An engineered direct-expansion (DX) refrigerant system that incorporates a common condensing unit, at least one variable-capacity compressor, a distributed refrigerant piping network to multiple indoor fan heating and cooling units each capable of individual zone temperature control, through integral zone temperature control devices and a common communications network. Variable refrigerant flow utilizes three or more steps of control on common interconnecting piping.

[V] VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

[V] VENTILATION AIR. That portion of supply air that comes from outside (outdoors) plus any recirculated air that has been treated to maintain the desired quality of air within a designated space.

VISIBLE TRANSMITTANCE [VT]. The ratio of visible light entering the space through the fenestration product assembly to the incident visible light. Visible transmittance includes the effects of glazing material and frame and is expressed as a number between 0 and 1.

WALK-IN COOLER. An enclosed storage space capable of being refrigerated to temperatures above 32°F (0°C) and less than 55°F (12.8°C) that can be walked into, has a ceiling height of not less than 7 feet (2134 mm) and has a total chilled storage area of less than 3,000 square feet (279 m²).

WALK-IN FREEZER. An enclosed storage space capable of being refrigerated to temperatures at or below 32°F (0°C) that can be walked into, has a ceiling height of not less than 7 feet (2134 mm) and has a total chilled storage area of less than 3,000 square feet (279 m²).

WALL, ABOVE-GRADE. A wall associated with the building thermal envelope that is more than 15 percent above grade and is on the exterior of the building or any wall that is associated with the building thermal envelope that is not on the exterior of the building.

WALL, BELOW-GRADE. A wall associated with the base ment or first story of the building that is part of the building thermal envelope, is not less than 85 percent below grade and is on the exterior of the building.
WATER HEATER. Any heating appliance or equipment that heats potable water and supplies such water to the potable hot water distribution system.

ZONE. A space or group of spaces within a building with heat- ing or cooling requirements that are sufficiently similar so that desired conditions can be maintained throughout using a single controlling device.

SECTION R202 GENERAL DEFINITIONS

ABOVE-GRADE WALL. A wall more than 50 percent above grade and enclosing conditioned space. This includes between-floor spandrels, peripheral edges of floors, roof and basement knee walls, dormer walls, gable end walls, walls enclosing a mansard roof and skylight shafts.

ACCESSIBLE. Admitting close approach as a result of not being guarded by locked doors, elevation or other effective means (see "Readily accessible").

ADDITION. An extension or increase in the conditioned space floor area or height of a building or structure.

AIR BARRIER. Material(s) assembled and joined together to provide a barrier to air leakage through the building envelope. An air barrier may be a single material or a combination of materials.

ALTERATION. Any construction, retrofit or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a building, electrical, gas, mechanical or plumbing system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit.

APPROVED. Approval by the code official as a result of investigation and tests conducted by him or her, or by reason of accepted principles or tests by nationally recognized organiza- tions.

APPROVED AGENCY. An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the code official.

AUTOMATIC. Self-acting, operating by its own mechanism when actuated by some impersonal influence, as, for example, a change in current strength, pressure, temperature or mechanical configuration (see "Manual").

BASEMENT WALL. A wall 50 percent or more below grade and enclosing conditioned space.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy, including any mechanical systems, service water heating systems and electric power and lighting systems located on the building site and support- ing the building.

BUILDING SITE. A contiguous area of land that is under the ownership or control of one entity.

BUILDING THERMAL ENVELOPE. The basement walls, exterior walls, floor, roof and any other building elements that enclose conditioned space or provide a boundary between conditioned space and exempt or unconditioned space.

C-FACTOR (THERMAL CONDUCTANCE). The coefficient of heat transmission (surface to surface) through a building component or assembly, equal to the time rate of heat flow per unit area and the unit temperature difference between the warm side and cold side surfaces (Btu/h · ft2 · °F) [W/(m2 · K)].

CIRCULATING HOT WATER SYSTEM. A specifically designed water distribution system where one or more pumps are operated in the service hot water piping to circulate heated water from the water-heating equipment to fixtures and back to the water-heating equipment.

CLIMATE ZONE. A geographical region based on climatic criteria as specified in this code.

CODE OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

COMMERCIAL BUILDING. For this code, all buildings that are not included in the definition of “Residential building.”

CONDITIONED FLOOR AREA. The horizontal projection of the floors associated with the conditioned space.

CONDITIONED SPACE. An area, room or space that is enclosed within the building thermal envelope and that is directly or indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with conditioned spaces, where they are separated from conditioned spaces by uninsulated walls, floors or ceilings, or where they contain uninsulated ducts, piping or other sources of heating or cooling.

CONTINUOUS AIR BARRIER. A combination of materials and assemblies that restrict or prevent the passage of air through the building thermal envelope.
CONTINUOUS INSULATION (ci). Insulating material that is continuous across all structural members without thermal bridges other than fasteners and service openings. It is installed on the interior or exterior, or is integral to any opaque surface, of the building envelope.

CRAWL SPACE WALL. The opaque portion of a wall that encloses a crawl space and is partially or totally below grade.

CURTAIN WALL. Fenestration products used to create an external nonload-bearing wall that is designed to separate the exterior and interior environments.

DEMAND RECIRCULATION WATER SYSTEM. A water distribution system where pump(s) prime the service hot water piping with heated water upon demand for hot water.

DUCT. A tube or conduit utilized for conveying air. The air passages of self-contained systems are not to be construed as air ducts.

DUCT SYSTEM. A continuous passageway for the transmission of air that, in addition to ducts, includes duct fittings, dampers, plenums, fans and accessory air-handling equipment and appliances.

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

ENERGY ANALYSIS. A method for estimating the annual energy use of the proposed design and standard reference design based on estimates of energy use.

ENERGY COST. The total estimated annual cost for purchased energy for the building functions regulated by this code, including applicable demand charges.

ENERGY SIMULATION TOOL. An approved software program or calculation-based methodology that projects the annual energy use of a building.

ERI REFERENCE DESIGN. A version of the rated design that meets the minimum requirements of the 2006 International Energy Conservation Code.

EXTERIOR WALL. Walls including both above-grade walls and basement walls.

FENESTRATION. Products classified as either vertical fenestration or skylights.

FENESTRATION PRODUCT, SITE-BUILT. A fenestration designed to be made up of field-glazed or field-assembled units using specific factory cut or otherwise factory-formed framing and glazing units. Examples of site-built fenestration include storefront systems, curtain walls and atrium roof systems.

F-FACTOR. The perimeter heat loss factor for slab-on-grade floors (Btu/h · ft · °F) [W/(m · K)].

HEATED SLAB. Slab-on-grade construction in which the heating elements, hydronic tubing, or hot air distribution system is in contact with, or placed within or under, the slab.

HIGH-EFFICACY LAMPS. Compact fluorescent lamps, T-8 or smaller diameter linear fluorescent lamps, or lamps with a minimum efficacy of:

1. 60 lumens per watt for lamps over 40 watts;
2. 50 lumens per watt for lamps over 15 watts to 40 watts; and
3. 40 lumens per watt for lamps 15 watts or less.

HISTORIC BUILDING. Buildings that are listed in or eligible for listing in the National Register of Historic Places, or designated as historic under an appropriate state or local law.

INfiltration. The uncontrolled inward air leakage into a building caused by the pressure effects of wind or the effect of differences in the indoor and outdoor air density or both.

INSULATED SIDING. A type of continuous insulation with manufacturer-installed insulating material as an integral part of the cladding product having a minimum R-value of R-2.

INSULATING SHEATHING. An insulating board with a core material having a minimum R-value of R-2.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and where labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LISTED. Equipment, materials, products or services included in a list published by an organization acceptable to the code official and concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and where the listing states either that the equipment, material, product or service meets identified standards or has been tested and found suitable for a specified purpose.

LOW-VOLTAGE LIGHTING. Lighting equipment powered through a transformer such as a cable conductor, a rail conductor and track lighting.

MANUAL. Capable of being operated by personal intervention (see “Automatic”).
PROPOSED DESIGN. A description of the proposed building used to estimate annual energy use for determining compliance based on total building performance.

RATED DESIGN. A description of the proposed building used to determine the energy rating index.

READILY ACCESSIBLE. Capable of being reached quickly for operation, renewal or inspection without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders or access equipment (see “Accessible”).

REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

REROOFING. The process of recovering or replacing an existing roof covering. See “Roof recover” and “Roof replacement.”

RESIDENTIAL BUILDING. For this code, includes detached one- and two-family dwellings and multiple single-family dwellings (townhouses) as well as Group R-2, R-3 and R-4 buildings three stories or less in height above grade plane.

ROOF ASSEMBLY. A system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly includes the roof covering, underlayment, roof deck, insulation, vapor retarder and interior finish.

ROOF RECOVER. The process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.

ROOF REPAIR. Reconstruction or renewal of any part of an existing roof for the purposes of its maintenance.

ROOF REPLACEMENT. The process of removing the existing roof covering, repairing any damaged substrate and installing a new roof covering.

R-VALUE (THERMAL RESISTANCE). The inverse of the time rate of heat flow through a body from one of its bounding surfaces to the other surface for a unit temperature difference between the two surfaces, under steady state conditions, per unit area (h · ft² · °F/Btu) [(m²·K)/W].

SERVICE WATER HEATING. Supply of hot water for purposes other than comfort heating.

SKYLIGHT. Glass or other transparent or translucent glazing material installed at a slope of less than 60 degrees (1.05 rad) from horizontal.

SOLAR HEAT GAIN COEFFICIENT (SHGC). The ratio of the solar heat gain entering the space through the fenestration assembly to the incident solar radiation. Solar heat gain includes directly transmitted solar heat and absorbed solar radiation that is then reradiated, conducted or convected into the space.

STANDARD REFERENCE DESIGN. A version of the proposed design that meets the minimum requirements of this code and is used to determine the maximum annual energy use requirement for compliance based on total building performance.

SUNROOM. A one-story structure attached to a dwelling with a glazing area in excess of 40 percent of the gross area of the structure’s exterior walls and roof.

THERMAL ISOLATION. Physical and space conditioning separation from conditioned space(s). The conditioned space(s) shall be controlled as separate zones for heating and cooling or conditioned by separate equipment.

THERMOSTAT. An automatic control device used to maintain temperature at a fixed or adjustable set point.

U-FACTOR (THERMAL TRANSMITTANCE). The coefficient of heat transmission (air to air) through a building component or assembly, equal to the time rate of heat flow per unit area and unit temperature difference between the warm side and cold side air films (Btu/h · ft² · °F) [W/(m²·K)].

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

VENTILATION AIR. That portion of supply air that comes from outside (outdoors) plus any recirculated air that has been treated to maintain the desired quality of air within a designated space.

VERTICAL FENESTRATION. Windows (fixed or moveable), opaque doors, glazed doors, glazed block and combination opaque/glazed doors composed of glass or other transparent or translucent glazing materials and installed at a slope of at least 60 degrees (1.05 rad) from horizontal.

VISIBLE TRANSMITTANCE [VT]. The ratio of visible light entering the space through the fenestration product assembly to the incident visible light. Visible Transmittance, includes the effects of glazing material...
and frame and is expressed as a number between 0 and 1.

**WHOLE HOUSE MECHANICAL VENTILATION SYSTEM.** An exhaust system, supply system, or combination thereof that is designed to mechanically exchange indoor air with outdoor air when operating continuously or through a programmed intermittent schedule to satisfy the whole house ventilation rates.

**ZONE.** A space or group of spaces within a building with heat- ing or cooling requirements that are sufficiently similar so that desired conditions can be maintained throughout using a single controlling device.

_(Reason: The amendment to Section 402.3.2 Glazed fenestration SHGC was proposed by the TAB and ESL determined the proposal to be not less restrictive than the 2009, 2012 and 2015 IECC. This added definition is necessary as part of that amendment. The amendment will provide additional options for SHGC selection.)_Staff recommends this change.

Section R202; add the following definition:

**DYNAMIC GLAZING.** Any fenestration product that has the fully reversible ability to change it performance properties, including *U*-factor, solar heat gain coefficient (SHGC), or visible transmittance (VT).

_(Reason: This term is referenced in Section R402.3.2. This definition of DYNAMIC GLAZING is also found in the Commercial provisions of the code.)_Staff recommends this change.

__(Reason: Retain the values in the 2009 code.)_Staff recommend this change.

**Table R402.1.2 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT; Amend by changing the WOOD FRAME WALL R-VALUE for CLIMATE ZONE 3 to read as follows:**

<table>
<thead>
<tr>
<th>CLIMATE ZONE</th>
<th>FENESTRATION U-FACTOR</th>
<th>SKYLIGHT U-FACTOR</th>
<th>GLAZED FENESTRATION SHGC</th>
<th>CEILING R-VALUE</th>
<th>WOOD FRAME WALL R-VALUE</th>
<th>MASS WALL R-VALUE</th>
<th>FLOOR R-VALUE</th>
<th>WALL R-VALUE</th>
<th>WALL R-VALUE &amp; DEPTH</th>
<th>CRAWL SPACE WALL R-VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>NR</td>
<td>0.75</td>
<td>0.25</td>
<td>30</td>
<td>13</td>
<td>3/4</td>
<td>13</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>0.40</td>
<td>0.65</td>
<td>0.25</td>
<td>38</td>
<td>13</td>
<td>4/6</td>
<td>13</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>0.35</td>
<td>0.55</td>
<td>0.25</td>
<td>38</td>
<td>20 or 13+5*</td>
<td>8/13</td>
<td>13</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>4 except Marine</td>
<td>0.35</td>
<td>0.55</td>
<td>0.40</td>
<td>49</td>
<td>b</td>
<td>8/13</td>
<td>19</td>
<td>10.13</td>
<td>10, 2 ft</td>
<td>10/13</td>
</tr>
<tr>
<td>5 and Marine 4</td>
<td>0.32</td>
<td>0.55</td>
<td>NR</td>
<td>49</td>
<td>b</td>
<td>13/17</td>
<td>15/19</td>
<td>10, 2 ft</td>
<td>15/19</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>0.32</td>
<td>0.55</td>
<td>NR</td>
<td>49</td>
<td>20+5 or 13+10</td>
<td>15/20</td>
<td>15/19</td>
<td>10, 4 ft</td>
<td>15/19</td>
<td></td>
</tr>
<tr>
<td>7 and 8</td>
<td>0.32</td>
<td>0.55</td>
<td>NR</td>
<td>49</td>
<td>20+5 or 13+10</td>
<td>19/21</td>
<td>15/19</td>
<td>10, 4 ft</td>
<td>15/19</td>
<td></td>
</tr>
</tbody>
</table>

_(Reason: Retain the values in the 2009 code.)_Staff recommend this change.

**NOTE:** Effective September 1, 2016 this proposed amendment is deemed less stringent than the residential provisions of the 2015 IECC and therefore would not be considered a recommended amendment.
**Table R402.1.4 EQUIVALENT U-FACTORS; Amend by changing the WOOD FRAME WALL U-FACTOR for CLIMATE ZONE 3 to read as follows:

0.060.0.082

**NOTE:** Effective September 1, 2016 this proposed amendment is deemed less stringent than the residential provisions of the 2015 IECC and therefore would not be considered a recommended amendment.

<table>
<thead>
<tr>
<th>CLIMATE ZONE</th>
<th>FENESTRATION U-FACTOR</th>
<th>SKYLIGHT U-FACTOR</th>
<th>CEILING U-FACTOR</th>
<th>FRAME WALL U-FACTOR</th>
<th>MASS WALL U-FACTOR</th>
<th>FLOOR U-FACTOR</th>
<th>BASEMENT WALL U-FACTOR</th>
<th>CRAWL SPACE WALL U-FACTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0.50</td>
<td>0.75</td>
<td>0.035</td>
<td>0.084</td>
<td>0.197</td>
<td>0.064</td>
<td>0.360</td>
<td>0.477</td>
</tr>
<tr>
<td>2</td>
<td>0.40</td>
<td>0.65</td>
<td>0.030</td>
<td>0.084</td>
<td>0.165</td>
<td>0.064</td>
<td>0.360</td>
<td>0.477</td>
</tr>
<tr>
<td>3</td>
<td>0.35</td>
<td>0.55</td>
<td>0.030</td>
<td>0.060</td>
<td>0.084</td>
<td>0.047</td>
<td>0.091</td>
<td>0.136</td>
</tr>
<tr>
<td>4 except Marine</td>
<td>0.35</td>
<td>0.55</td>
<td>0.026</td>
<td>0.060</td>
<td>0.098</td>
<td>0.047</td>
<td>0.059</td>
<td>0.065</td>
</tr>
<tr>
<td>5 and Marine 4</td>
<td>0.32</td>
<td>0.55</td>
<td>0.026</td>
<td>0.060</td>
<td>0.082</td>
<td>0.033</td>
<td>0.050</td>
<td>0.055</td>
</tr>
<tr>
<td>6</td>
<td>0.32</td>
<td>0.55</td>
<td>0.026</td>
<td>0.045</td>
<td>0.060</td>
<td>0.033</td>
<td>0.050</td>
<td>0.055</td>
</tr>
<tr>
<td>7 and 8</td>
<td>0.32</td>
<td>0.55</td>
<td>0.026</td>
<td>0.045</td>
<td>0.057</td>
<td>0.028</td>
<td>0.050</td>
<td>0.055</td>
</tr>
</tbody>
</table>
Staff recommends this change.

***Section R402.3.2 Glazed fenestration SHGC; amend by adding a paragraph and table following the exception to read as follows:

Where vertical fenestration is shaded by an overhang, eave, or permanently attached shading device, the SHGC required in Table R402.1.2 shall be reduced by using the multipliers in Table R402.3.2 SHGC Multipliers for Permanent Projections.

Table R402.3.2 SHGC Multipliers for Permanent Projections

<table>
<thead>
<tr>
<th>Projection Factor</th>
<th>SHGC Multiplier (all Other Orientation)</th>
<th>SHGC Multiplier (North Oriented)</th>
</tr>
</thead>
<tbody>
<tr>
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<td>&gt;0.10 – 0.20</td>
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a North oriented means within 45 degrees of true north.

R402.3.2 Glazed fenestration SHGC. An area-weighted average of fenestration products more than 50-percent glazed shall be permitted to satisfy the SHGC requirements. Dynamic glazing shall be permitted to satisfy the SHGC requirements of Table R402.1.2 provided the ratio of the higher to lower labeled SHGC is greater than or equal to 2.4, and the dynamic glazing is automatically controlled to modulate the amount of solar gain into the space in multiple steps. Dynamic glazing shall be considered separately from other fenestration, and area-weighted averaging with other fenestration that is not dynamic glazing shall not be permitted.

Exception: Dynamic glazing is not required to comply with this section when both the lower and higher labeled SHGC already comply with the requirements of Table R402.1.1.

(Reason: The amendment to Section 402.3.2 Glazed fenestration SHGC was proposed by the TAB and ESL determined the proposal to be not less restrictive than the 2009 and 2015 IECC. This added definition is necessary as part of that amendment. The amendment will provide additional options for SHGC selection.) Staff recommends this change.

**Section R402.4.1.2 Testing; modify the first paragraph to read as follows:

R402.4.1.2 Testing. The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour in Climate Zones 1 and 2, and 3 air changes per hour in Climate Zones 3 through 8. (**Remainder of text unchanged**)

R402.4.1.2 Testing. The building or dwelling unit shall be tested and verified as having an air leakage rate not exceeding five air changes per hour in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8. Testing shall
be conducted in accordance with ASTM E 779 or ASTM E 1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed, beyond the intended weatherstripping or other infiltration control measures.
2. Dampers including exhaust, intake, makeup air, backdraft and flue dampers shall be closed, but not sealed beyond intended infiltration control measures.
3. Interior doors, if installed at the time of the test, shall be open.
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed.
5. Heating and cooling systems, if installed at the time of the test, shall be turned off.
6. Supply and return registers, if installed at the time of the test, shall be fully open.

(Reason: The 2015 IECC requires mandatory door blower testing on each dwelling unit. The visual inspection is no longer an option to performance testing. This change will give some additional time for those builders not currently using a performance approach to adapt construction practices.) Staff recommend this change.

NOTE: Effective September 1, 2016 this proposed amendment is deemed less stringent than the residential provisions of the 2015 IECC and therefore would not be considered a recommended amendment.

***R402.4.1.2 Testing; Add a last paragraph to read as follows:

Mandatory testing shall only be performed by individuals that are certified to perform air infiltration testing certified by national or state organizations as approved by the building official. The certified individuals must be an independent third-party entity, and may not be employed; or have any financial interest in the company that constructs the structure.

R402.4.1.2 Testing. The building or dwelling unit shall be tested and verified as having an air leakage rate not exceeding five air changes per hour in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8. Testing shall be conducted in accordance with ASTM E 779 or ASTM E 1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

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3. Interior doors, if installed at the time of the test, shall be open.
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed.
5. Heating and cooling systems, if installed at the time of the test, shall be turned off.
6. Supply and return registers, if installed at the time of the test, shall be fully open.

(Reason: The 2012/2015 International Residential Code (IRC) and the International Energy Conservation Code (IECC) includes enhanced emphasis on envelope infiltration and duct leakage. Significant changes in the residential energy requirements include more frequent requirement of performance testing for leakage. Residential Duct system must be tested unless all ducts and equipment are located within the conditioned space. Envelope testing is required to demonstrate compliance with maximum allowable leakage rate. This language puts the regulatory authority on notice that the testing requires specialized credentials and establishes a conflict of interest baseline). Staff recommends this change.

*** R403.3.3 Duct Testing (Mandatory)
Add a last paragraph to read as follows:

Mandatory testing shall only be performed by individuals that are certified to perform duct testing leakage testing certified by national or state organizations as approved by the building official. The certified individuals must be an independent third-party entity, and may not be employed; or have any financial interest in the company that constructs the structure.

R403.3.3 Duct testing (Mandatory). Ducts shall be pressure tested to determine air leakage by one of the follow-ing methods:
1. Rough-in test: Total leakage shall be measured with a pressure differential of 0.1 inch w.g. (25 Pa) across the system, including the manufacturer’s air handler enclosure if installed at the time of the test. All registers shall be taped or otherwise sealed during the test.
2. Postconstruction test: Total leakage shall be measured with a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer’s air handler enclosure. Registers shall be taped or otherwise sealed during the test.

Exception: A duct air leakage test shall not be required where the ducts and air handlers are located entirely within the building thermal envelope.

A written report of the results of the test shall be signed by the party conducting the test and provided to the code official.

(Reason: The 2015 International Residential Code (IRC) and International Energy Conservation Code (IECC) includes enhanced emphasis on envelope infiltration and duct leakage. Significant changes in the residential energy requirements include more frequent requirement of performance testing for leakage. Residential Duct systems must be tested unless all ducts and equipment are located within the conditioned space. Envelope testing is required to demonstrate compliance with maximum allowable leakage rate. This language puts the regulatory authority on notice that the testing requires specialized credentials and establishes a conflict of
interest baseline). Staff recommends this change.

**Section C402.2.7/R402.2; Add Section C402.2.9 and R402.2.14 to read as follows:**

Section C402.2.7/R402.2.14 Insulation installed in walls. To ensure that insulation remains in place, insulation installed in walls shall be totally enclosed on all sides consisting of framing lumber, gypsum, sheathing, wood structural panel sheathing, netting or other equivalent material approved by the building official.

C402.2.6 Insulation of radiant heating systems. Radiant heating system panels, and their associated components that are installed in interior or exterior assemblies shall be insulated with a minimum of R-3.5 (0.62 m^2/K · W) on all surfaces not facing the space being heated. Radiant heating system panels that are installed in the building thermal envelope shall be separated from the exterior of the building or unconditioned or exempt spaces by not less than the R-value of insulation installed in the opaque assembly in which they are installed or the assembly shall comply with Section C402.1.4.

Exception: Heated slabs on grade insulated in accordance with Section C402.2.5.

R402.2.1 Ceilings with attic spaces. Where Section R402.1.2 would require R-38 insulation in the ceiling, (Reason: This will increase the performance of the insulation by ensuring that the insulation stays in place.) Staff recommends this change.

***Section R405.6.2; add the following sentence to the end of paragraph:**

Acceptable performance software simulation tools may include, but are not limited to, REM Rate™, Energy Gauge and IC3. Other performance software programs accredited by RESNET BESTEST and having the ability to provide a report as outlined in R405.4.2 may also be deemed acceptable performance simulation programs and may be considered by the building official.

R405.6.2 Specific approval. Performance analysis tools meeting the applicable provisions of Section R405 shall be permitted to be approved. Tools are permitted to be approved based on meeting a specified threshold for a jurisdiction. The code official shall be permitted to approve tools for a specified application or limited scope.

(Reason: These performance software tools are accredited by RESNET at the time of recommendation.) Staff recommends this change.
***TABLE R406.4 MAXIMUM ENERGY RATING INDEX; amend to read as follows:

**TABLE R406.4**
MAXIMUM ENERGY RATING INDEX

<table>
<thead>
<tr>
<th>CLIMATE ZONE</th>
<th>ENERGY RATING INDEX</th>
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<tbody>
<tr>
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1 This table is effective until August 31, 2019.

**TABLE R406.4**
MAXIMUM ENERGY RATING INDEX

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<td>3</td>
<td>63</td>
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2 The table is effective from September 1, 2019 to August 31, 2022.

**TABLE R406.4**
MAXIMUM ENERGY RATING INDEX

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3 This table is effective on or after September 1, 2022.

Rating Table R406.4 Maximum Energy Index

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<td>7</td>
<td>53</td>
</tr>
<tr>
<td>8</td>
<td>53</td>
</tr>
</tbody>
</table>

*(Reason: The tables reflect the values and timetable set forth in HB1736.)*

**APPENDIX**

In addition to the recommended amendments, the EAGB endorses the attached universal testing form and encourages municipalities to consider incorporating the use of the form locally to minimize the number of forms that the third party testers and energy providers are required to maintain.
Recommended Amendments to the
2014 National Electrical Code
North Central Texas Council of Governments

The following articles, paragraphs, and sentences of the 2014 National Electrical Code (NEC) are hereby amended as follows: Standard type is text from the NEC. Highlighted with gray shading is text inserted. Lined through type is deleted text from NEC. A double asterisk (**) at the beginning of an article identifies an amendment carried over from the 2011 edition of the code and a triple asterisk (*** ) identifies a new or revised amendment with the 2014 code.

Note: Staff recommends all of the following changes. There is no pdf file for the 2014 National Electric Code.

***Article 100; add the following to definitions:

Engineering Supervision. Supervision by a Qualified State of Texas Licensed Professional Engineer engaged primarily in the design or maintenance of electrical installations.

(REASON FOR CHANGE: To better define the qualifications for engineering supervision. This term is used twenty four times in the National Electrical Code.)

***Article 100; amend the following definition:

Intersystem Bonding Termination. A device that provides a means for connecting intersystem bonding conductors for communication systems and other systems such as metallic gas piping systems to the grounding electrode system. Bonding conductors for other systems shall not be larger than 6 AWG.

(REASON FOR CHANGE: To allow for a termination point for other bonding conductors in addition to communication systems that are required by the various model codes. 6 AWG was chosen to coincide with the minimum size of bonding conductor required to the intersystem bonding jumper.)

***Article 110.2; change the following to read as follows:

110.2 Approval. The conductors and equipment required or permitted by this Code shall be acceptable only if approved. Approval of equipment may be evident by listing and labeling of equipment by a Nationally Recognized Testing Lab (NRTL) with a certification mark of that laboratory or a qualified third party inspection agency approved by the AHJ.

Exception: Unlisted equipment that is relocated to another location within a jurisdiction or is field modified is subject to the approval by the AHJ. This approval may be by a field evaluation by a NRTL or qualified third party inspection agency approved by the AHJ.
Manufacturer’s self-certification of any equipment shall not be used as a basis for approval by
the AHJ.

Informational Note No. 1: See 90.7, Examination of Equipment for Safety, and 110.3,
Examination, Identification, Installation, and Use of Equipment. See definitions of Approved,
Identified, Labeled, and Listed.

Informational Note No. 2: Manufacturer’s self-certification of equipment may not necessarily
comply with US product safety standards as certified by a Nationally Recognized Testing Lab.

Informational Note No. 3: NFPA 790 and 791 provide an example of an approved method for
qualifying a third party inspection agency.

(REASON FOR CHANGE: To add clarity and provide more positive options for enforcement and
approval of unlisted equipment.)

***Article 210.52(G) (1) Garages: delete the following

(1) Garages. In each attached garage and in each detached garage with electric power. The
branch circuit supplying this receptacle(s) shall not supply outlets outside of the garage. At least
one receptacle outlet shall be installed for each car space.

(REASON FOR CHANGE: Installations in compliance with this Code are not necessarily
efficient, convenient, or adequate for good service or future expansion of electrical use.)

**Article 230.71(A); add the following exception:

Exception: Multi-occupant buildings. Individual service disconnecting means is limited to six for
each occupant. The number of individual disconnects at one location may exceed six.

(REASON FOR CHANGE: This is currently the accepted installation practice of the region. No
noteworthy complaints have surfaced. It is more reasonable than the current NEC requirements.
It allows more than six disconnects grouped at one location. This also allows designers more
flexibility in the placement of electrical meters and main service disconnects.)

***Article 240.91; delete the Article.

(REASON FOR CHANGE: Present day equipment is not listed and has not been evaluated for
the use. Removing this article may prevent both installers and AHJ’s from misapplying the
Code.)

**Article 300.11; add the following exception:

Exception: Ceiling grid support wires may be used for structural supports when the associated
wiring is located in that area, not more than two raceways or cables supported per wire, with a maximum nominal metric designation 16 (trade size 1/2”).

(REASON FOR CHANGE: To provide limited support of raceways and cables by ceiling grid support wire.)

**Article 310.15(B) (7); change to read as follows:**

(7) This Article shall not be used in conjunction with 220.82.

(REASON FOR CHANGE: 310.15(B) (7) has been revised and the table has been deleted.)

***Article 500.8 (A) (3) changed to read as follows:**

500.8 Equipment.
Articles 500 through 504 require equipment construction and installation that ensure safe performance under conditions of proper use and maintenance.

Informational Note No. 1: It is important that inspection authorities and users exercise more than ordinary care with regard to installation and maintenance.

Informational Note No. 2: Since there is no consistent relationship between explosion properties and ignition temperature, the two are independent requirements.

Informational Note No. 3: Low ambient conditions require special consideration. Explosionproof or dust-ignitionproof equipment may not be suitable for use at temperatures lower than -25°C (-13°F) unless they are identified for low-temperature service. However, at low ambient temperatures, flammable concentrations of vapors may not exist in a location classified as Class I, Division 1 at normal ambient temperature.

(A) Suitability. Suitability of identified equipment shall be determined by one of the following:

(1) Equipment listing or labeling
(2) Evidence of equipment evaluation from a qualified testing laboratory or inspection agency concerned with product evaluation
(3) Evidence acceptable to the authority having jurisdiction such as a manufacturer’s self-evaluation or an owner’s engineering judgment, an engineering judgment signed and sealed by a qualified Registered licensed Professional Engineer in the State of Texas.

Informational Note: Additional documentation for equipment may include certificates demonstrating compliance with applicable equipment standards, indicating special conditions of use, and other pertinent information.

(REASON FOR CHANGE: Carry over from previous amendment with change to better define the qualifications for an engineering judgment.)

***Article 505.7 (A) changed to read as follows:**

505.7 Special Precaution.
Article 505 requires equipment construction and installation that ensures safe performance under conditions of proper use and maintenance.

Informational Note No. 1: It is important that inspection authorities and users exercise more than ordinary care with regard to the installation and maintenance of electrical equipment in hazardous (classified) locations.

Informational Note No. 2: Low ambient conditions require special consideration. Electrical equipment depending on the protection techniques described by 505.8(A) may not be suitable for use at temperatures lower than -20°C (-4°F) unless they are identified for use at lower temperatures. However, at low ambient temperatures, flammable concentrations of vapors may not exist in a location classified Class I, Zones 0, 1, or 2 at normal ambient temperature.

(A) Implementation of Zone Classification System. Classification of areas, engineering and design, selection of equipment and wiring methods, installation, and inspection shall be performed by a qualified person. Registered licensed Professional Engineer in the State of Texas.

(REASON FOR CHANGE: Carry over from previous amendment with change to better define the qualifications for an engineering judgment.)

***Article 517.30 Essential Electrical Systems for Hospitals; create a new (H) and add the following language:

(G) Coordination. Overcurrent protective devices serving the equipment branch of the essential electrical system shall be coordinated for the period of time that a fault’s duration extends beyond 0.1 second.

Exception No. 1: Between transformer primary and secondary overcurrent protective devices, where only one overcurrent protective device or set of overcurrent protective devices exists on the transformer secondary.

Exception No. 2: Between overcurrent protective devices of the same size (ampere rating) in series.

Informational Note: The terms coordination and coordinated as used in this section do not cover the full range of overcurrent conditions.

(H) Selective Coordination. Overcurrent protective devices serving the life safety, and critical branches of the essential electrical system shall be selectively coordinated with all supply-side overcurrent protective devices.

Exception No. 1: Between transformer primary and secondary overcurrent protective devices, where only one overcurrent protective device or set of overcurrent protective device exists on the transformer secondary.

Exception No. 2: Between overcurrent protective devices of the same size (ampere rating) in series.
Informational Note: The terms coordination and coordinated as used in this section do not cover the full range of overcurrent conditions.

(REASON FOR CHANGE: Changes made by deleting the definition of emergency systems in Article 517 Health Care Facilities and removing emergency systems as “Essential Electrical Systems for Hospitals in 517.30(B) (2), plus the new addition of section 517.30(G) for “Coordination” instead of using selective coordination, has diminished the reliability of the “Life Safety and Critical Branches of the Essential Electrical System” to deliver power to vital loads. By providing only “coordination,” the instantaneous portion of the time-current curve has been eliminated from the overcurrent device settings.)

***Article 680.25(A) changed to read as follows:

680.25 Feeders.
These provisions shall apply to any feeder on the supply side of panelboards supplying branch circuits for pool equipment covered in Part II of this article and on the load side of the service equipment or the source of a separately derived system.

(A) Wiring Methods.
(1) Feeders. Feeders shall be installed in rigid metal conduit, intermediate metal conduit. The following wiring methods shall be permitted if not subject to physical damage:
(1) Liquidtight flexible nonmetallic conduit
(2) Rigid polyvinyl chloride conduit
(3) Reinforced thermosetting resin conduit
(4) Electrical metallic tubing where installed on or in a building
(5) Electrical nonmetallic tubing where installed within a building
(6) Type MC Cable where installed within a building and if not subject to corrosive environment
(7) Nonmetallic-sheathed cable
(8) Type SE cable

Exception: A feeder within a one-family dwelling or two-family dwelling unit between remote panelboard and service equipment shall be permitted to run in flexible metal conduit or an approved cable assembly that includes an insulated equipment grounding conductor within its outer sheath. The equipment grounding conductor shall comply with 250.24(A) (5).

(REASON FOR CHANGE: Carry over from previous amendments. Text changed to reflect 2014 National Electrical Code. Exception deleted per Errata No.70-14-2)
AGENDA BACKGROUND

AGENDA ITEM: Discuss, direct, and consider action on the Park Row Streetscape Project.

Date: February 27, 2017

PRESENTER:
Matt Fielder, City Manager

BACKGROUND:
Council requested an updated cost projection on the Park Row Streetscape Project. In August, 2013, CMA Architects projected the cost to be $1,035,000. The Engineering News-Record historical indices for construction costs in the Dallas regions since that time reflect a 4.8% increase in construction costs. Therefore, the projected construction cost would be $1,084,680.

FISCAL IMPACT:
$1,084,680

RECOMMENDATION:
Staff is seeking Council’s direction on how to proceed with the Park Row Streetscape Project.

ATTACHMENTS:
CMA Architects Construction Cost estimate
<table>
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<th>Park Row Project Improvements</th>
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<td><strong>Streetscape Improvement</strong></td>
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<td>General Conditions</td>
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<td>Planting (Landscape)</td>
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<td>Electrical (Base Bid)</td>
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**Project Budget : $1,620,000**

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Taken from August 2013 CMA/Dunaway presentation to Pantego Town Council
AGENDA BACKGROUND

AGENDA ITEM: Discuss, direct, and consider action on a review of the major revisions to the Town of Pantego Municipal Code of Ordinances Chapter 14 Zoning.

Date: February 27, 2017

PRESENTER:
Matt Fielder, City Manager

BACKGROUND:
The updated draft zoning agenda is in Dropbox for Council’s review. A summary of the changes is also included, which address some remaining outstanding changes. Four items remain outstanding. They are:

1. Council requested the addition of statutory language regarding variances and special exceptions. The language currently in the ordinance contains the statutory requirement, but expands upon it to provide additional clarity.
2. The Council requested additional detail in the lighting ordinance. A survey of neighboring cities shows they do not have commercial lighting ordinances. A sample of an ordinance from the Austin area is included in Dropbox.
3. An updated Zoning Map, showing the Park Row Corridor needs to be created once all changes are finalized. A mock-up will be at the meeting.
4. The Town Attorney is finalizing his review, which will be placed in Dropbox.

Staff recommends scheduling a workshop and public hearing, at which the community can attend to review and comment upon the draft ordinance.

FISCAL IMPACT:
N/A

RECOMMENDATION:
Staff recommends moving forward with public comment on the draft ordinance.

ATTACHMENTS:
The latest draft Zoning Ordinance can be found in the Council Drop Box folder.