

NOTICE OF CITY COUNCIL WORKSHOP MEETING

NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS, WILL MEET IN A WORKSHOP SESSION OPEN TO THE PUBLIC AS FOLLOWS:

DATE: Tuesday, February 24, 2015

TIME: 6:00 p.m.

PLACE: Rosenberg City Hall
City Hall Council Chamber
2110 4th Street
Rosenberg, Texas 77471

PURPOSE: City Council Workshop Meeting, agenda as follows:

During a City Council Workshop, the City Council does not take final action on the agenda items and any consideration of final action will be scheduled at a Regular or Special City Council Meeting. Public comments are welcomed at Regular or Special City Council Meetings. No public comments will be received at a Workshop Meeting.

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

Call to order: City Hall Council Chamber

AGENDA

1. Review and discuss a presentation by Kendig Keast Collaborative regarding an interim briefing on the Comprehensive Plan Update Project, and take action as necessary to direct staff. (Travis Tanner, Executive Director of Community Development)
2. Review and discuss a presentation by Kilday Operating, LLC, regarding Campanile at Seabourne Creek, and take action as necessary to direct staff. (Travis Tanner, Executive Director of Community Development)
3. Review and discuss City newsletter, and take action as necessary to direct staff. (Angela Fritz, Executive Director Information Services)
4. Review and discuss proposed Ordinance Amendment regarding fencing, and take action as necessary to direct staff. (William Benton, Councilor/Scott Tschirhart, City Attorney)
5. Review and discuss proposed Ordinance Amendment regarding junked vehicles, and take action as necessary to direct staff. (Scott Tschirhart, City Attorney)
6. Adjournment.

[EXECUTION PAGE TO FOLLOW]



CITY COUNCIL COMMUNICATION

February 24, 2015

ITEM #	ITEM TITLE
1	Comprehensive Plan Interim Briefing

ITEM/MOTION

Review and discuss a presentation by Kendig Keast Collaborative regarding an interim briefing on the Comprehensive Plan Update Project, and take action as necessary to direct staff.

FINANCIAL SUMMARY	ELECTION DISTRICT
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Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds: N/A

- District 1
- District 2
- District 3
- District 4
- City-wide
- N/A

SUPPORTING DOCUMENTS:**MUD #:** N/A

1. Resolution No. R-1787 – 08-05-14
2. City Council Meeting Minute Excerpt – 08-05-14

APPROVALS

Submitted by:

Travis Tanner
 Travis Tanner, AICP
 Executive Director of
 Community Development

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager for Public Services
- City Attorney
- City Engineer
- (Other)

Approved for Submittal to City Council:

Robert Gracia
 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

The Professional Services Agreement for the Comprehensive Plan (Project), approved under Resolution No. R-1787 on August 05, 2014, provides for an interim briefing to update City Council on the status of the Project. At this time, the Project is approximately at the midpoint of its overall completion, with drafts of Chapter 1, *Planning Context*, and Chapter 2, *Transportation*, having been completed. The Comprehensive Plan Advisory Committee (CPAC), consisting largely of Planning Commission members, was recently updated on the Project and provided their feedback to the consultant, Kendig Keast Collaborative (KKC), on February 18, 2015. Christian Lentz of KKC will be providing the interim briefing to City Council.

RESOLUTION NO. R-1787

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, TEXAS, A PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND KENDIG KEAST COLLABORATIVE FOR PROFESSIONAL PLANNING SERVICES RELATED TO THE COMPREHENSIVE PLAN IN AN AMOUNT NOT TO EXCEED \$91,860.

* * * * *

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROSENBERG:

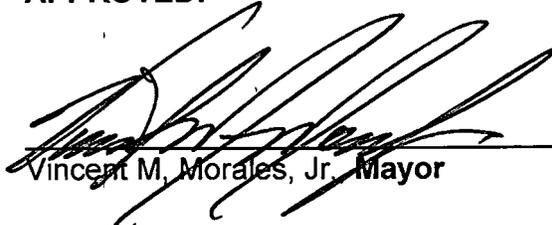
Section 1. The City Manager is hereby authorized to execute a Professional Services Agreement (Agreement), by and between the City of Rosenberg, Texas, and Kendig Keast Collaborative for professional planning services related to the Comprehensive Plan. A copy of such Agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

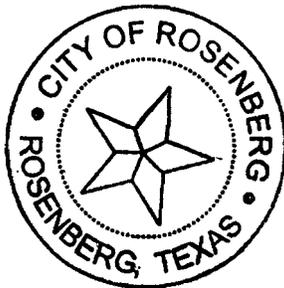
PASSED, APPROVED, AND RESOLVED this 5th day of August 2014.

ATTEST:


Linda Cernosek, City Secretary

APPROVED:


Vincent M. Morales, Jr., Mayor



PROFESSIONAL SERVICES AGREEMENT

**COMPREHENSIVE PLAN
for
ROSENBERG, TEXAS**

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

KNOW BY THESE PRESENTS:

This Agreement made this ____ day of July, 2014, by and between the City of Rosenberg, Texas, acting by and through Robert Gracia, City Manager, hereinafter referred to as the "CLIENT," and Kendig Keast Collaborative, an Illinois Corporation, acting by and through its President, Mr. Bret C. Keast, with an office located at 1415 Highway 6 South, Suite A-300, Sugar Land, Texas, 77478, hereinafter referred to as the "CONSULTANT," do hereby make and enter into the following Agreement.

**ARTICLE I
CONSULTANT**

- 1.1 The CONSULTANT, as an independent contractor, covenants and agrees to perform the professional planning services related to the Comprehensive Plan as described in Article II, Scope of Services. Such services shall be performed by the CONSULTANT in strict accordance with the terms of this Agreement and for the consideration stated. Subject to the provisions of Article VI below, CONSULTANT covenants and agrees to perform the specific services identified in Exhibit "A" – Scope of Services. The CONSULTANT shall complete the Scope of Services and shall submit reports to the CLIENT as deemed appropriate by CONSULTANT or agreed by and between CONSULTANT and CLIENT.
- 1.2 The CONSULTANT shall provide its services under this Agreement with the same degree of care, skill, and diligence as is ordinarily provided by a professional planner under similar circumstances for the preparation of a Comprehensive Plan and to which the Agreement applies.

**ARTICLE II
SCOPE OF SERVICES**

- 2.1 The CONSULTANT will perform the professional planning services related to the development of the Comprehensive Plan as set forth in Exhibit "A" – Scope of Services, which is attached and made a part of this Agreement.
- 2.2 Pursuant to this Agreement, the CLIENT shall have the option to obtain the services of the CONSULTANT to perform Additional Services. Such Additional Services needs will be documented in a progress report, and then authorized through a written Amendment to this Agreement. As agreed mutually by the CLIENT and the CONSULTANT, Additional Services that are described in a written Amendment to this Agreement shall include a description of the additional work, associated compensation, and time schedule, as applicable. By way of

illustration, matters which may constitute Additional Services shall include, but are not limited to, the following:

- (a) Requested additional workshops or meetings other than the number identified in the Scope of Services and project schedule that require added preparation or follow-up or displace other planned trip activities;
- (b) Requested additional trips other than the number identified in the Scope of Services and project schedule;
- (c) Requested additional days or nights added to a scheduled trip that require additional time and direct expenses (e.g., meals, hotel nights, extended car rental and gasoline use, airline change fees, extended airport parking, etc.);
- (d) Other requested work tasks, study activities, or documentation not foreseen or specifically identified in the Scope of Services;
- (e) Requested additional deliverables (e.g., executive summary) or additional physical copies of deliverables, including the submission at key milestones of draft and final written reports and maps other than those specified, or in a quantity greater than the number identified, in the Scope of Services;
- (f) Requested additional revisions (individual or cumulative) to draft and final deliverables that are beyond the single comprehensive round of revisions that are to be collected, consolidated, and annotated by the CLIENT as outlined in the Scope of Services;
- (g) Requested review and provision of recommendations relating to other planning or development related issues and matters other than those for which such findings and recommendations are specified in the Scope of Services;
- (h) Further requested changes to a deliverable which the CONSULTANT has already revised based on review comments and which the CLIENT has already accepted as revised, and which the CONSULTANT determines to be significant and substantive changes to a deliverable already at a point of substantial completion in accordance with the Scope of Services and available budget;
- (i) Requested incorporation of substantive revisions into the draft or final plan document which have arisen since the plan, ordinance, document, maps or other materials delivered to the CLIENT were originally prepared; and
- (j) Other related or unrelated professional planning services that may be requested by the CLIENT.

Any services requested or made necessary by CLIENT and provided by CONSULTANT that are not in the CONSULTANT's determination within the Scope of Services are considered Additional Services. Any time Additional Services needs are identified in a progress report, an effort will be made to determine if it is possible to amend the Scope of Services in a manner that eliminates or minimizes any increase in the total cost of the project, subject to written consent of CLIENT. Otherwise a written amendment to this Agreement will be prepared for CLIENT authorization of Additional Services that will increase the total cost of the project.

ARTICLE III **CONSULTANT PERSONNEL**

- 3.1 The CONSULTANT represents that it has or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be

employees of or have any contractual relationship with the CLIENT.

- 3.2 The CONSULTANT may contract with Subconsultants for portions of the work or services under this Agreement with the prior written approval of the CLIENT. Any work or services subcontracted hereunder shall be specified by a written Agreement and shall be subject to the provisions of this Agreement.

ARTICLE IV **SUPPORT SERVICES**

- 4.1 The CLIENT agrees to provide the CONSULTANT with support services, that are readily available, during conduct of the services listed in Article II, Scope of Services. Support services will include the services described in Exhibit "B" – Support Services, which is attached and made a part of this Agreement. Support services that are not provided by the CLIENT may warrant a contract amendment and be subject to additional compensations as set out in Article VI, Compensation to Consultant.
- 4.2 To the extent authorized by law, the readily available existing data and documentation obtained by the CLIENT that are relevant to the accomplishment of the Scope of Services specified in Article II shall be made available by the CLIENT for use by the CONSULTANT.
- 4.3 The CLIENT shall consider and act on all documents and project work items submitted by the CONSULTANT that require review, comments or approval by the CLIENT within a timeframe specified in Exhibit "A" Scope of Services and/or in the project schedule so as to enable the CONSULTANT to complete the work on schedule as provided in Article V of this Agreement.
- 4.4 The CLIENT agrees to provide the CONSULTANT with support services, that are readily available, needed to organize, schedule, notify, provide meeting locations, conduct meetings, and prepare minutes of meetings including committees, workshops, public meetings, and public hearings as described in Article II, Scope of Services. The CONSULTANT will advise and coordinate with the CLIENT to accomplish these support services.
- 4.5 In the event CLIENT fails to provide any of the needed Support Services in a timely or adequate manner, as documented in a progress report, any additional time or expenses incurred or required by CONSULTANT as a result of such failure shall be compensated by CLIENT in the same manner as, and shall be considered to be, Additional Services.

ARTICLE V **TIME OF PERFORMANCE**

- 5.1 The CONSULTANT shall commence services upon execution of this Agreement and receipt of written Notice-to-Proceed from the CLIENT.
- 5.2 The CONSULTANT shall make a good faith effort to complete the services described in Article II, Scope of Services within twelve (12) months from receipt of written Authorization to Proceed by the CLIENT, unless one or more of the following occur:
- (a) This Agreement is terminated in accordance with Article X, Changes or Termination;

- (b) The Scope of Services and/or Time of Performance are changed in accordance with Article II, Scope of Services or Article X, Changes or Termination; or
- (c) Matters documented by CONSULTANT in progress reports render such completion schedule impossible or impracticable.

- 5.3 The completion schedule set forth in Paragraph 5.2 may be subject to causes that result in delay over which neither the CONSULTANT nor the CLIENT has any control. Notification and justification for any such delays identified by the CONSULTANT must be included in progress reports. The schedule of work will be extended to include any such delays pursuant to Article X, Changes or Termination.
- 5.4 This Agreement shall terminate upon the CLIENT's final acceptance of work completed by the CONSULTANT, unless otherwise terminated or modified as hereinafter provided.

ARTICLE VI
COMPENSATION TO CONSULTANT

- 6.1 The CLIENT shall compensate the CONSULTANT for the professional services performed under this Agreement. For the Basic Services described in Exhibit "A" Scope of Services under Article II, Scope of Services, the CLIENT shall pay to the CONSULTANT on a basis of reimbursement of Actual Costs Incurred ("ACI") in an amount not-to-exceed **ninety-one thousand eight hundred and sixty dollars (\$91,860.00)**. ACI includes salary costs, overhead, direct expenses, and profit. The maximum ACI amount may be modified pursuant to Article X, Changes or Termination, in the event of increased cost, change in the Scope of Services, an extension of time beyond that specified in paragraph 5.2, or an increase or decrease in the complexity or character of the work. In addition to ACI, CLIENT agrees to compensate CONSULTANT for any Additional Services, as authorized in writing in accordance with paragraph 2.2. Such Additional Services or expenses shall be invoiced separately by CONSULTANT and paid by CLIENT upon receipt of billing for such services. Such payments shall be in addition to and have no bearing on the above ACI not-to-exceed amount. Payment later than 30 days shall include interest at 1-1/2 percent per month from the date the CONSULTANT receives confirmation of CLIENT receipt of the invoice until the date CONSULTANT receives payment. Such interest is due and payable when the overdue payment is made and is in addition to the above stated total contract amount.
- 6.2 Payment shall be made by the CLIENT upon receipt of a statement from CONSULTANT. The billing statement, certified true and correct by CONSULTANT, shall show the total amount paid and the amount due and payable as of the date of the current statement. Amounts paid and due for Additional Services shall be identified on a separate invoice. Each invoice is due and payable by the CLIENT upon receipt by the CLIENT, subject to the terms of paragraph 6.1.
- 6.3 The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the CLIENT for the performance of this Agreement. If at any time during the period of performance under this Agreement, sufficient appropriations and authorization are not made by the CLIENT, this Agreement shall terminate upon written notice being given by the CLIENT to the CONSULTANT. In such event, CLIENT shall comply with the provisions of Paragraph 10.4 below. The CLIENT's decision as to whether sufficient appropriations are available shall be accepted by the CONSULTANT and shall be final.

ARTICLE VII
PRODUCT OF SERVICES, COPYRIGHT

- 7.1 The CONSULTANT and the CLIENT mutually agree that reports, maps and materials prepared or developed under the terms of this Agreement shall be delivered to and become the property of the CLIENT. The CONSULTANT shall have the right to retain copies and to utilize the product of services for marketing purposes, except for any confidential information, as defined in Article XI, hereof.
- 7.2 The CONSULTANT shall furnish the CLIENT with the number of copies of reports as shown in Article II, Scope of Services.
- 7.3 Nothing produced in whole or in part by the CONSULTANT under this Agreement shall be the subject of an application for copyright by or for the CONSULTANT. The CONSULTANT will use existing proprietary software as required.

ARTICLE VIII
PRIVATE INTERESTS OF PUBLIC OFFICIALS AND CONSULTANT

- 8.1 No employee, agent, or member of the local public body of the CLIENT shall have any financial interest, direct or indirect in this Agreement or the proceeds thereof, except as allowed in Section 3.1 of this Agreement.

ARTICLE IX
CERTIFICATIONS OF CONSULTANT

- 9.1 The CONSULTANT has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, any commission, percentage, brokerage fee, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 9.2 The CONSULTANT presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services under this Agreement.

ARTICLE X
CHANGES OR TERMINATION

- 10.1 Except as expressly described above regarding Additional Services, this Agreement may not be altered, changed or amended except by instrument in writing executed by the parties hereto.
- 10.2 The CLIENT may, from time to time, request changes in the Scope of Services and/or time of performance for the services of the CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONSULTANT'S compensation, which are mutually agreed upon by and between the CLIENT and the CONSULTANT, shall be incorporated in written amendments to this Agreement.

10.3 This Agreement may be terminated before the termination date stated in Article V, Time of Performance, by any of the following conditions:

- (a) Right of Either Party to Terminate for Cause - This Agreement may be terminated by either of the parties hereto for failure by the other party to perform in a timely manner and proper manner its obligations under this Agreement. A signed, written notice of such termination shall be delivered to the other party by express mail with point-by-point tracking and such termination shall take effect twenty (20) days after the notice is deposited in the express mail, provided that the failure to perform has not been remedied by that time. By such termination, neither party may nullify obligations already incurred for performance or failure to perform before the date of termination.
- (b) Right of the CLIENT to Terminate for Convenience - This Agreement may also be terminated by the CLIENT for reasons other than failure by the CONSULTANT to perform in a timely manner and proper manner its obligations under this Agreement. A signed, written notice of such termination shall be delivered to CONSULTANT by fax or registered or certified mail and such termination shall take effect not less than seven (7) days following the date the notice is received by the CONSULTANT.

10.4 Upon receipt of a notice of termination under any of the conditions under Paragraphs 6.3 or 10.3 above, the CONSULTANT shall, unless the notice otherwise directs, immediately discontinue all services in connection with the performance of this Agreement. Within thirty (30) days after receipt of the notice of termination, the CONSULTANT shall submit a Final Statement, showing the services performed under this Agreement prior to the effective date of termination. Such Final Statement shall also include any unpaid amounts or unreimbursed expenses, as well as any financial obligations incurred by CONSULTANT on behalf of CLIENT and which cannot reasonably be refunded to CONSULTANT, all of which CLIENT agrees to pay upon receipt of said Final Statement. Data and study products prepared by the CONSULTANT and paid for by CLIENT under this Agreement shall be delivered to the CLIENT if requested.

10.5 Notwithstanding the provisions of this Article X, the CONSULTANT shall not be relieved of liability to the CLIENT for damages sustained by the CLIENT by virtue of any negligent act or omission or any breach of the Agreement by the CONSULTANT.

ARTICLE XI CONFIDENTIALITY

11.1 Any information determined to be confidential that is provided to or developed by the CONSULTANT in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the CONSULTANT without prior written approval of the CLIENT.

ARTICLE XII INSPECTION OF RECORDS

12.1 The CONSULTANT shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Agreement and

such other records as may be deemed necessary by the CLIENT to assure proper accounting for all project funds. These records will be retained for three years after the expiration of this Agreement.

- 12.2 Any time during normal business hours and as requested by the CLIENT, the CONSULTANT shall make available to the CLIENT for examination all of its project records with respect to all matters covered by this Agreement and will allow the CLIENT to review, examine, and make excerpts from such records, and to make copies of all contracts, invoices, materials, payrolls, records of personnel conditions of employment, and other data relating to all matters covered by this Agreement. The financial records of the CONSULTANT are maintained in its corporate office located in Sugar Land, Texas, and copies will be available upon request in a timely manner in this office for audit purposes to the CLIENT or its authorized representative.

ARTICLE XIII INSURANCE

13.1 Insurance

- A. The CONSULTANT agrees to maintain Worker's Compensation Insurance to cover all of its own personnel engaged in performing services for the CLIENT under this contract in the following amounts:

Workmen's Compensation: Statutory

- B. The CONSULTANT also agrees to maintain Commercial General Liability, Business Automobile Liability, and Umbrella Liability Insurance, covering claims against the CONSULTANT for damages resulting from bodily injury, death, or property damage from accidents arising in the course of work performed under this Agreement, in the following amounts:

Commercial General Liability Insurance: Personal injury and property damage -- \$500,000.00 combined single each occurrence and \$500,000.00 aggregate;

Business Automobile Liability for all vehicles: Bodily injury and property damage -- \$500,000.00 combined single limit each occurrence;

Umbrella Liability: \$1,000,000.00

ARTICLE XIV MISCELLANEOUS PROVISIONS

- 14.1 Neither the CLIENT nor the CONSULTANT shall be required to perform any term, condition, or covenant of this AGREEMENT while such performance is delayed or prevented by acts of God, material or labor restriction by any governmental authority, terrorism, civil riot, floods, hurricanes, or other natural disasters, any other cause not within the control of the CLIENT or the CONSULTANT that by the exercise of due diligence the CLIENT or the CONSULTANT is unable, wholly or in part, to prevent or overcome and supersedes all prior agreements and

understanding between CLIENT and CONSULTANT concerning the subject matter of this Agreement.

14.2 This Agreement constitutes the entire agreement between the CLIENT and the CONSULTANT. No other agreements, amendments, modifications, implied or otherwise, shall be binding on any of the parties unless set forth in writing and signed by both parties.

14.3 The CLIENT and the CONSULTANT agree that this Agreement shall be construed in accordance with the laws of the State of Texas. Any legal dispute between the parties shall be resolved in the following manner:

The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly by negotiation between senior executives of the parties who have the authority to settle the controversy.

The disputing party shall give the other party written notice of the dispute. Within ten days after receipt of said notice, the receiving party shall submit to the other a written response. The notice and response shall include: (a) a statement of each party's position and a summary of the evidence and arguments supporting its position; and (b) the name and title of the executive who will represent the party. The executives shall meet at a mutually acceptable time and place within twenty days of the date of the disputing party's notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.

If the controversy or claim has not been resolved within thirty days of the meeting of the senior executives, the parties shall endeavor to settle the dispute by non-binding mediation.

If the matter has not been resolved pursuant to the aforesaid non-binding mediation procedures, parties are free to bring their claim in a court of law. Venue for all actions brought pursuant to this agreement is in Fort Bend County, Texas; and all parties consent to Fort Bend County, Texas, being the exclusive jurisdiction to resolved said claims or controversies arising pursuant to this agreement.

14.4 If one or more of the provisions of this Agreement, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of this Agreement and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

14.5 Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be mailed by certified or registered mail addressed as set forth below or at such other address as may be specified by written notice:

CLIENT: Robert Gracia, City Manager
City of Rosenberg
2110 4th Street
Rosenberg, Texas 77471

CONSULTANT: Bret C. Keast, President
Kendig Keast Collaborative
1415 Highway 6 South, Suite A-300
Sugar Land, Texas 77478

- 14.6 The waiver by either party of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of this Agreement.
- 14.7 The CONSULTANT shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the CLIENT thereto. Provided however, that claims for money by the CONSULTANT from the CLIENT under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the CLIENT.
- 14.8 Successors and Assigns: The CLIENT and the CONSULTANT each binds itself and its successors, executors, administrators and assigns to the other parties of the Contract and to the successors, executors, administrators and assigns of such other parties, in respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer, board member, commissioner, employee or agent of any public body, which is a party hereto.
- 14.9 Reports and Information: The CONSULTANT, at such times and in such forms as the CLIENT may require, shall furnish the CLIENT such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the cost and obligations incurred or to be in connection therewith, and any other matter covered by this Agreement.
- 14.10 Incorporation of Provisions Required by Law. Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein and this Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.
- 14.11 Waiver. The failure on the part of any party herein at any time to require the performance by any other party of any portion of this Agreement shall not be deemed a waiver of, or in any way affect that party's rights to enforce such provision or any other provision. Any waiver by any party herein of any provision hereof shall not be taken or held to be a waiver of any other provision hereof or any other breach hereof.
- 14.12 Survival. Any and all representations and conditions made by the CONSULTANT under this Agreement are of the essence of this Agreement and shall survive the execution, delivery and termination of it, and all statements contained in any documents required by the CLIENT, whether delivered at the time of the execution or at a later date, shall constitute representations hereunder.
- 14.13 Cumulative Remedies. In the event of default by any party herein, all other parties shall have all rights and remedies afforded to it at law or in equity to recover damages and to interpret or

enforce the terms of this Agreement. The exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity.

14.14 State or Federal Laws. This Agreement is performed in Rosenberg, Texas, and is subject to all applicable Federal and State laws, statutes, codes, any and applicable permits, ordinances, rules, orders, and regulations of any local, state, or federal government authority having or asserting jurisdiction.

14.15 Equal Employment Opportunity. In the performance of this Agreement, the CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, or national origin. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of it, state that it is an Equal Opportunity Employer.

14.16 Multiple Originals. Two (2) copies of this Agreement are executed; each shall be deemed an original.

* * * * *

IN WITNESS HEREOF, the parties have executed this Agreement in duplicate originals in Rosenberg, Texas.

This _____ day of _____, 2014.

FOR ROSENBERG:

FOR KENDIG KEAST COLLABORATIVE:

By: _____
Robert Gracia
City Manager

By: _____
Bret C. Keast, AICP
President

ATTEST:

Exhibit "A"

Scope of Services

Under contract to the **City of Rosenberg**, Kendig Keast Collaborative (KKC) will provide professional community planning services to assist the City in updating its Comprehensive Plan for guiding the long-range development and enhancement of the community. KKC will build upon and coordinate with other recent and concurrent planning efforts and studies to complete these tasks.

KKC's project involvement and facilitation will be carried out according to this Scope of Services and contingent upon the Support Services of the City outlined in Exhibit "B" to the Professional Services Agreement to make the best use of the available consultant budget. The City's Project Director will manage the overall process and direct the consultant team in performing the project services. The consultant team will coordinate with other agencies and entities, as needed, in conjunction with the City.

PROJECT ADMINISTRATION AND MANAGEMENT

KKC will complete project management activities in coordination with the City's Project Director to ensure schedule adherence, cost control and quality assurance. These activities will include:

- A **project kick-off meeting** with key City staff, via an online WebEx video or teleconference (following receipt of written Notice to Proceed from the City), to recap the scope of services and discuss detailed schedule, data/information needs and other project logistics. KKC will then **meet with City staff for project planning and coordination discussions on each scheduled visit** to the City. Discussions on the emerging plan content and overall direction will also occur during visits, as time permits, and will be supplemented by scheduled teleconferences and WebEx video or teleconferences to allow for more in-depth staff-consultant interaction.
- Monthly submittal of written **progress reports** in conjunction with each monthly invoice. These reports will describe the project status and document significant work accomplished and activities scheduled for the next progress report period, as well as note any difficulties encountered and steps taken to address them.
- Preparation and maintenance throughout the project of a **detailed project schedule**, including due dates for all deliverables, anticipated meeting dates, plus adequate time for City review/approval of deliverables.
- Frequent **communication and coordination with the City's Project Director** by email, WebEx video or teleconferences, and written correspondence, as appropriate.

PHASE 1 – INITIATION, BACKGROUND AND COMMUNITY OUTREACH

TASK 1 – Existing Information Assessment

KKC will coordinate with City staff to identify and acquire available data, mapping and other information resources for the planning effort, both from the City and other sources.

Task Activities

1. Provide City staff a checklist of typical resource items for a comprehensive planning effort, including other recent and/or concurrent plans and studies, and any other policy processes or documents that aid City decision-making. Then coordinate with staff to determine which items will be available for the project.
2. Coordinate with City staff to identify key project contacts and relevant agencies and entities (e.g., Central Fort Bend Chamber Alliance, West Fort Bend Management District, Rosenberg Development Corporation, and Texas Department of Transportation).

TASK 2 – Community Background

KKC will compile and assess a base of information on Rosenberg’s history and setting, and existing conditions and outlook, focusing especially on key influences that will shape the community’s future. This will provide background and assumptions to support needs assessment and long-range planning decisions throughout the comprehensive planning process.

Task Activities

1. Conduct a review and evaluation of the City’s current planning documents and other relevant materials to understand the past and recent history of community planning efforts in Rosenberg and West Fort Bend County, and the key opportunities and challenges facing the community.
2. Identify action items in previous plans that were successfully accomplished, remain to be completed, or are not likely to be pursued due to changed priorities, resource limitations, or other factors.
3. Document and consider relevant regional factors, plans and projects that will influence the community over the 20-year planning horizon.
4. Complete an initial review of the City’s existing development policies, regulations, incentives, and other factors influencing the area’s development and redevelopment potential and practices.
5. Compile a summary of key indicators, from the latest available Census data and other sources, to illustrate historical, current and projected conditions, trends and context relevant to elements of the Comprehensive Plan (e.g., demographics, economy and labor force, land use and development, transportation and commuting, infrastructure, public services and facilities, housing, etc.).
6. Prepare a set of population projections, in five-year increments through the plan horizon year (2035), and work toward consensus on the most likely future population range that should be assumed for the new Comprehensive Plan (recognizing that such projections must be monitored and revisited year by year as actual trends unfold). Also take into account projections included in other City plans and studies and forecasts produced by regional, state, and national entities, including the Houston-Galveston Area Council and U.S. Census Bureau.

Deliverables

- **Community Overview component** to be incorporated into Chapter 1, *Introduction*, of the Comprehensive Plan and will summarize the previously mentioned task activities. Through narrative discussion and associated charts and graphics, this overview will summarize indicators, capture population projections, and highlight key planning considerations emerging from KKC's initial background studies and leadership and community involvement activities, which will also help to focus later task work. The overview is also intended to avoid duplication of existing "community profile" reports and similar data compilations already available through local sources and/or websites (which will be cited as resources for obtaining more detailed community data).

TASK 3 – Community Engagement

KKC will coordinate with City staff to plan and facilitate a series of outreach activities intended to engage the community's public and private leadership, as well as residents, business owners, property owners, local organizations and others interested in setting strategic priorities for the city's future. Necessary coordination with other external agencies and organizations will also be initiated early on and throughout the process as needed for individual plan elements. The overall program will be designed to make the community aware of the comprehensive planning process and provide opportunities throughout to offer input and ideas and react to draft plan content and proposals. This approach will also ensure that the resulting plan reflects community values and priorities, and is in line with goals and expectations of the City Council and Planning Commission.

Task Activities

1. Facilitate an initial, informal **Issues and Needs Workshop** involving members of City Council, Planning Commission, and other City boards/commissions, as appropriate. The workshop purpose is partly orientation to the comprehensive planning process, but especially to obtain early input and set direction and priorities for the planning effort. (This workshop will be scheduled in conjunction with the same project visit as the "listening sessions" in the next item.)
2. Coordinate with City staff to arrange and conduct a series of up to four (4) informal, one-hour "**Listening Sessions.**" The sessions should involve a mix of residents, business and property owners, public officials, developers/builders/realtors, representatives of community organizations, and others as appropriate (e.g., high school age youth) to discuss their hopes, concerns and priorities for the city's future. Each session should involve no more than 15-18 persons to ensure effective dialogue, meaning that approximately 60-72 persons could potentially be engaged through this activity.
3. Coordinate with City staff to arrange and facilitate a "**big picture**" outreach **Community Workshop** intended for broad public participation. The workshop will be scheduled to occur during the initial community engagement phase, on the same day as the small group Listening Sessions and the first Advisory Committee meeting.

The workshop will be a two-hour event held in the evening. The workshop will begin with a common presentation for all attendees, followed by break-out sessions for more area-specific discussions and engagement activities. The focus for the workshop will be:

- Community Workshop - Vision and Principles: Participants will contribute to the crafting of a new vision and the underlying principles for key elements of the Comprehensive Plan update, including land use and character, transportation, and implementation. The workshops will include visioning and other exercises to build consensus around clarification of issues, resolution of conflicts, and orientation to and guidance for subsequent chapters.
4. **Conduct four (4) meetings with a broadly representative Comprehensive Plan Advisory Committee.** These meetings will be used in part to present individual plan elements and seek comments and direction from the committee. The draft plan elements will be sent to the committee members in advance of each meeting to give them ample time for review and preparation for the meetings.

The Advisory Committee should be comprised of approximately 15-20 individuals (with representatives of various other agencies and organizations invited to attend as relevant topics are considered). The Advisory Committee will be charged with reviewing individual plan elements and entering into discussion and debate on all plan assumptions, themes and concepts and an eventual action agenda. The Advisory Committee should include several members of the Planning Commission, and at least one member of City Council to serve as a liaison on the committee throughout the process.

KKC will conduct the first meeting with the Advisory Committee on the same day as the small group Listening Sessions, and the Community Workshop. The second Advisory Committee meeting will be scheduled to present Comprehensive Plan Chapters 1, *Introduction*, and 2, *Land Use and Character*. The third Advisory Committee meeting will be focused on Chapter 3, *Transportation* and the development of the Thoroughfare Plan. The fourth and final Advisory Committee will be scheduled in conjunction with Comprehensive Plan Chapter 4, *Implementation*.

5. In conjunction with the second meeting of the Advisory Committee, KKC will provide an **interim briefing to the City Council**, to inform Council members of the project status and to ensure the plan is consistent with their expectations and policy direction.
6. KKC will attend **one (1) Planning Commission public hearing** as outlined under Phase 3, *Plan Finalization and Adoption*.

Deliverables

- Suggested agenda items along with handouts and/or presentation materials, as appropriate, for each scheduled meeting and outreach activity.

TASK 4 - MindMixer

A Virtual Town Hall site would be established to solicit on-line and mobile community engagement. Using inputs from the stakeholder listening sessions, technical interviews, and guidance from staff, the virtual town hall would be organized to respond to the unique planning considerations of Rosenberg. These topic areas would create a safe, easy-to-use environment for people to participate, at their convenience, from their computer or mobile phone. Online controls and screening processes are built into the site to ensure a safe user experience, and to filter inappropriate content so it is not on display to the public. Unlike a traditional "survey," the virtual town hall allows for continuous participation and interaction throughout the entirety of the plan development process.

The site would also be used as an avenue to solicit general comments, ideas, and suggestions, which would supplement that gained through small group and face-to-face interviews that are conducted by the consultant team. MindMixer would be also be used to test ideas as to the City's policies and the support for different implementation approaches. For instance, this could extract insight as to the community's attitudes about quality development, growth management, regulatory controls, etc.

This feedback will influence the overall direction of the draft Comprehensive Plan and, in particular, its recommended programs and initiatives, as well as implementation priorities to be highlighted in the plan through final review and deliberation by City Council.

PHASE 2 – PLAN DEVELOPMENT

TASK 5 – Vision, Principles and Preferences

Upon transitioning from the initial community engagement activities into the plan development phase, KKC will prepare a list of draft Guiding Principles for consideration by the Comprehensive Plan Advisory Committee (CPAC) during its first meeting. These principles will set the stage for more detailed analyses when drafting each plan element. Each element will include a set of goals and strategies followed by detailed action recommendations. The action items are designed to help the community achieve its expressed goals in accordance with the broader guiding principles.

Deliverables

- CPAC Meeting 1 Guiding Principles.
- Chapter 1, *Introduction*, with pertinent introductory and background information about the planning process and resulting new document, and incorporating the Community Overview component and demographic projections drafted through Task 2, *Community Background*, the results of the Task 3, *Issues and Needs Workshop* and small-group Listening Sessions.

TASK 6 – Land Use and Character

Through this plan element, KKC will document the City's intent and policy regarding how growth and new development will be accommodated, consistent with other fiscal and community considerations – including efficient utilization of land, utility infrastructure, and roadway networks – to achieve and maintain a desired community form and character. This will include review and analysis of existing plans and studies regarding utilities infrastructure, including capacities and planning-level improvement needs to support and sustain desired growth and redevelopment. The consultant team will also assess the capacity of the City's public safety services to accommodate ongoing growth and enlarged service areas.

Task Activities

1. Prepare a summary narrative describing existing utility infrastructure (water, wastewater, storm drainage), any facility or service issues or deficiencies, and the future outlook, anticipated needs, and programmed improvements. This will be drawn from recent/ongoing plans and studies and discussions with City staff and any other service providers in the area.

Also highlight implications for the city's growth and development patterns, and likely demand for utility extension into areas not currently served.

2. Review demographic and socioeconomic data to project land use demands and implications for public facilities and infrastructure services.
3. Assess opportunities for and constraints to future development, infill development and redevelopment based upon significant land uses, use and property ownership patterns, the transportation network, infrastructure and public service capacity and availability, and environmental factors. Identify and quantify the areas available, most suitable, and preferred for new growth and targeted reinvestment, taking into account the general fiscal implications of alternative growth patterns.
4. Provide an overview of the quality, character and condition of Rosenberg's housing stock and neighborhoods.
5. Assess the City's public safety services; review current/planned service provision and anticipated staffing and facility needs to accommodate future growth.
6. Draft policies regarding the appropriate siting, design and functionality of future community facilities. Also highlight opportunities to locate and integrate such facilities in strategic investment areas (e.g., downtown, key corridors) or other prime locations that would complement economic development and/or other community objectives.
7. Document existing and emerging land use conflicts, compatibility and transition needs, and issues of community design. Prepare recommendations to protect and preserve valued natural, historic and scenic resources; the desired character of vacant tracts, infill sites, and properties warranting redevelopment; development compatibility; and other applicable development objectives.
8. Draft general aesthetic improvement / enhancement guidelines, and policies for implementation, particularly as it relates to community identity and a sense of place (e.g., enhanced signage and wayfinding, urban design standards, etc.) and how it would apply to special districts within the City, and corridors, such as the management, redevelopment and enhancement of Avenues H & I and State Highway 36.

Deliverables

- **Chapter 2, *Land Use and Character***, will establish the necessary policy guidance for making decisions about the compatibility of individual developments within the context of the larger community. This chapter will summarize the previously mentioned task activities, including but not limited to, the condition of the City's utilities infrastructure, the City's public safety services quality, and the general character and condition of Rosenberg's housing stock and neighborhoods. This chapter will also provide a set of strategies to ensure the City's overall design and image distinguishes Rosenberg from nearby communities which may be competing for residents and businesses. General guidelines and implementation policies for enhanced signage, wayfinding, and urban design standards for the management, redevelopment and enhancement of Avenues H & I and State Highway 36 will be included within this chapter.
- **Growth and Development Plan**, will serve as the City's "growth map" for directing development, preserving valued areas and lands, and protecting the integrity of

neighborhoods, while also safeguarding and enhancing community character and aesthetics. The development of the Growth and Development Plan will be coordinated with the updating of the Thoroughfare Plan, developed in conjunction with Chapter 3, *Transportation*, as well as the City's policies and plans for new development and infill, annexation, and infrastructure investments and upgrades.

TASK 7 – Transportation

The consultant team will focus on policies and strategies designed to ensure orderly development and improvement of the area transportation system, considering not only facilities for automobiles but other modes of transportation as well. This includes “complete streets” considerations for pedestrian and bicycle circulation and safety, existing and future public transportation needs, and freight movement in and through the community (including truck traffic and railroad corridors). This task will be closely coordinated with planning associated with Chapter 2, *Land Use and Character* and preparation of the Growth and Development Plan to evaluate the impacts of different transportation investment decisions on future development and community character. The City's current Thoroughfare Plan will also be reviewed to ensure adequate preservation of rights-of-way concurrent with new development.

Task Activities

1. Review available data, studies and plans regarding the existing transportation system and specific facilities/services (including freight movement and public transit), and current and projected roadway and traffic conditions and improvement needs.
2. Perform existing conditions analyses of the major street system to evaluate traffic safety, as well as the capacity, level of service (LOS), necessary rights-of-way and facility cross sections, continuity, and connectivity of the existing and planned thoroughfare system. Also evaluate planned transportation improvements for their potential impacts on the city's growth and land use patterns.
3. Evaluate the City's current Thoroughfare Plan to identify any warranted adjustments or additions necessary to implement and ensure consistency with the Growth and Development Plan and other City growth policies. Update the Thoroughfare Plan map to identify the general alignments of rights-of-way for future thoroughfares throughout the City limits and planning area, planned locations of interchanges and major intersections, and cross sections for varying roadway classifications. This will include consideration of how multi-modal improvements are accommodated within rights-of-way, especially to support pedestrian and bicycle circulation and future transit services and utilization through a “complete streets” approach.
4. Draft policies to ensure consideration of vehicular and bicycle/pedestrian circulation needs in conjunction with future growth and land use planning, especially where major trip generators are involved. This will include review of the existing Parks Master Plan and other relevant plans, and evaluation of existing bicycle/pedestrian networks and facilities to identify gaps and improvement needs.
5. Determine the need for better management of property access along major roadways to protect traffic-carrying capacity and improve safety, as well as the need to “calm” traffic within neighborhoods and other pedestrian-oriented areas.

6. Assess the outlook for public transit services in the area.

Deliverables

- **Chapter 3, *Transportation***, will summarize the previously mentioned task activities, including the evaluation of traffic safety, capacity, and level of service (LOS), continuity, and connectivity of the existing and planned thoroughfare system. Vehicular and bicycle/pedestrian circulation policies related to future growth and land use planning, access management and traffic calming, will accompany the narrative.
- Updated **Thoroughfare Plan map**.

TASK 8 – Implementation

KKC will utilize the recommendations of the individual plan elements to consolidate an overall strategy for executing the updated Comprehensive Plan, particularly for the highest-priority initiatives that will be first on the community's action agenda. This plan element will also outline crucial procedures for monitoring and revisiting the plan policies and action priorities every year, and for completing future plan updates at appropriate milestones. These processes provide an essential "feedback loop" into the City's long-range planning and strategic decision-making, leading to necessary plan adjustments based on implementation successes and challenges and ongoing changes in physical, economic and social conditions in the community and region.

Task Activities

1. Coordinate with City staff to compile from the various plan elements those action statements that are considered "strategic" in nature so they may be linked to specific implementation tools, strategies and potential funding mechanisms and thereby ensure that the new Comprehensive Plan is a "plan of action."
2. Assess the City's "implementation readiness" and outline a recommended organizational framework to ensure successful implementation of the plan. This will include strategies for staffing, roles of boards and commissions, and linkages between the plan and the City's annual budgeting and capital improvements programming.
3. Embed an annual review and reporting function into the implementation program to provide a means of gauging progress and ensuring accountability.
4. Highlight opportunities for the City to coordinate planning and implementation efforts with other key agencies and entities, with other jurisdictions, where appropriate, and with other private and non-profit partners.
5. Facilitate a joint workshop of the City Council, Planning Commission, and Advisory Committee to provide an overview of the overall draft plan and identify near-term action priorities. Also lead discussion on available, feasible tools for accomplishing priority actions, particularly for steps to be taken immediately within the first six months following plan adoption; anticipated timeframes and assigned responsibility for each priority action item; and, strategies for maintaining community support and awareness – and momentum and energy for plan implementation – beyond plan adoption.

Deliverables

- **Chapter 4, *Implementation***, will summarize previously mentioned task activities with appropriate tables and illustrations to accompany the narrative. This element will include an action agenda of near-term and longer-range implementation steps; an associated organization and management plan; and, a strategy and schedule for regular plan reviews, amendments, and periodic updates.
- **Revised draft versions of all other plan elements and maps**, in PDF format, for printing and advance distribution by City staff to the joint workshop participants.

PHASE 3 – PLAN FINALIZATION AND ADOPTION

TASK 9 – Public and Official Consideration

Following the joint workshop under Task 8, KKC will coordinate with City staff to compile a final proposed Comprehensive Plan for public hearing and official consideration.

Task Activities

1. In coordination with City staff, present highlights of the final proposed plan at a public hearing before the Planning Commission, and assist in responding to public comments and questions, as appropriate. Then proceed into a Commission workshop, immediately after the hearing, to work through revisions the Commission deems necessary before making a recommendation of plan adoption to City Council.

Deliverables

- **All elements and maps for the final proposed Comprehensive Plan document (Chapters 1-4)**, in PDF format, for printing, distribution and website posting by City staff prior to the public hearing phase.
- **Itemization of all major revisions** within the final proposed Comprehensive Plan document agreed upon by the Planning Commission before recommending plan adoption to City Council.

TASK 10 – Plan Finalization and Summary

Following plan adoption by City Council, KKC will finalize the Comprehensive Plan document to reflect all further adjustments made through final City Council review and deliberation.

Deliverables

- **Three hard copies, full-color original of the final adopted Comprehensive Plan document**, including all maps, illustrations and related attachments (provided in a binder for ease of reference and updating by the City).
- **Electronic files on compact disc** for all elements of the final plan document (in their native format in Microsoft Office Suite or Adobe InDesign, Adobe PDFs, and all map-related files in ESRI-compatible formats).

APPROACH TO DELIVERABLES

KKC will provide draft deliverables through each task of the project. These deliverables will facilitate workshop meetings, periodic releases of information to the media and public, and the orderly completion of the project. All such interim deliverables will be provided to the City in Adobe PDF format for ease of file transfer and reproduction and distribution. The PDF versions are also suitable for posting on the City's website. Maps, illustrations and other graphics will be produced in color (unless they are black-and-white line sketches) in a format suitable for display during meetings and at public events/hearings.

Whenever the consultant team submits draft deliverables, it will be the responsibility of the City's Project Director to coordinate, compile and forward in a consolidated manner all review comments on and requested/suggested revisions to such deliverables. As part of each review phase, guidance from the Project Director should be included, as needed, on whether and how the consultant team should address certain comments which may be for information only (e.g., comments from outside reviewers) versus those involving specific, staff-recommended revisions.

The project budget assumes original drafting of each deliverable and one consolidated revision upon receipt of compiled comments from the City's Project Director. Only minor revisions will be made following adoption of the plan to produce a final plan document. Substantive revisions may require additional services depending on their nature and the current budget status.

OPTIONAL TASKS

The following tasks were identified within KKC's response to RFQ No. 2014-24:

Optional Task No. 1: Community Workshop No. 2

A second community workshop would be convened during the draft plan phase to obtain feedback on the plan's overall direction and potential implementation priorities. Participants would see how their input and interaction since the early stages of the process has come together in an overall draft Comprehensive Plan document. Highlights would be presented, and then attendees would have an opportunity to suggest where implementation efforts and resources should be focused, plus ways to move forward toward achieving near-term priorities that should be reflected in the plan.

ADDITIONAL OR CONTINUING SERVICES

During or at the conclusion of the project, the City may deem it necessary to schedule more meetings, request further issues research, or otherwise engage consultant team personnel in additional work efforts not anticipated at project initiation and through the Scope of Services currently outlined. Any such additional services shall be specifically authorized by the City Council or City Manager, as appropriate, and documented through a written amendment to the Scope of Services and approval of a corresponding increase in the maximum not-to-exceed amount (and, if necessary, the time of performance) of the original professional services agreement.

PROJECT COST

Below are the costs for each task outlined in the above Scope of Services, inclusive of all associated labor and expense costs plus professional fee.

Phase 1: Project Startup and Reconnaissance

Project Administration and Management Activities	\$ 3,450
TASK 1 – Existing Information Assessment	\$ 2,090
TASK 2 – Community Background	\$ 5,690
TASK 3 – Community Engagement	\$ 9,185
TASK 4 - MindMixer (site live for three months during early outreach phase)	\$ 6,860

Phase 2: Plan Development

TASK 5 – Vision, Principles and Preferences	\$ 4,400
TASK 6 – Land Use and Character	\$24,462
TASK 7 – Transportation	\$21,668
TASK 8 – Implementation	\$ 9,870

Phase 3: Plan Finalization and Adoption

TASK 9 – Public and Official Consideration	\$ 1,405
TASK 10 – Plan Finalization and Summary	\$ 2,780

TOTAL **\$91,860**

Optional Tasks:

1. Community Workshop No. 2	\$ 3,820
Subtotal	\$ 3,820

Exhibit "B"

Support Services of City

The City will provide administrative and technical support services to assist the Consultant in performing the Scope of Services described in Exhibit "A." The support services to be provided by the City will include the following types of general services and specific tasks for the work program:

- Identify a single individual as the City's Project Director, who will serve as a primary point of contact and source of day-to-day work program direction for this collaborative planning effort involving both City and Consultant personnel, resources and capabilities.
- Provide all available data, maps, aerial imagery, previous reports/plans/studies, and other information that is available to the City in digital or printed format and is pertinent and necessary for development of each deliverable. *Prompt compilation and delivery of such resource materials to the Consultant is an essential prerequisite for initiation of work and timely progress on various initial study tasks.* The City will reproduce all materials, to the extent feasible, such that they will not require return upon project completion.
- Assist the Consultant in establishing contacts with agencies and organizations for data collection and coordination purposes, except where the Consultant is already known to and has communicated with an agency or organization through previous projects. Based on our experience, it is helpful for City staff to make such entities aware of the project and provide a "heads up" in advance of potential Consultant contacts so the agency or organization recognizes that the Consultant is engaged in a City-sponsored project that will benefit from their input and support.
- Ensure that key City personnel, board/commission members, and elected officials will participate as needed in the planning process and be available upon request, through arrangements made by the City's Project Director, to provide information and referrals and offer opinions, insights, and suggestions that are necessary for the project. This will include potential formal or informal meetings and briefings with the City Council and other City officials as specified in Exhibit "A," Scope of Services.
- Immediately upon project initiation the City's Project Director will coordinate with the Consultant to transfer spatial data and mapping that the City can make available for the project, including data sets and GIS coverages (and AutoCAD layers, as useful and appropriate) already developed/maintained by the City for its entire planning area or readily available to the City from other sources. *Delay in transferring this data to the Consultant may compromise the overall work program and the schedule of deliverables. Availability of a workable base map and dataset is an essential prerequisite for initiation of work and timely progress on various initial tasks.*
- Reproduce and forward each draft project deliverable submitted by the Consultant (via email) to advisory committee members, key City staff members, and other project participants as appropriate. In addition, each draft deliverable should also be provided to the Planning Commission (if an advisory committee is established) and City Council for courtesy review and discussion as the planning process proceeds. An item should be added to the

Planning Commission and City Council agendas throughout the duration of the project to provide ongoing discussion opportunities for these bodies and to allow for overall direction of the process. City staff will be responsible for providing briefings to the City Council at regular intervals throughout the process, in addition to any Consultant briefings specified in Exhibit "A," Scope of Services.

- Conduct public information activities in conjunction with major public meetings/events and other fitting project milestones. The City will be responsible for news media contacts, preparation and distribution of news releases and any other public information materials, and posting of meeting notices and project information and updates on the City's website.
- Use the City's website to disseminate information and inform, update, and educate the public about the project, including opportunities for ongoing input and interaction through the MindMixer Online Discussion Forum. The Consultant will provide already-completed documents or GIS maps in an Adobe PDF format, which can be easily posted by City staff on the City's website.
- Provide three-ring binders (2-inch size) with section dividers (based on the number of project elements plus some extra tabs for other project materials) for all advisory committee members, involved City officials and staff, and others as needed for purposes of organizing and maintaining project materials throughout the process. The Consultant will be responsible for presentations and preparation of necessary graphic aids for all meetings. The Consultant will provide electronic files of notebook materials for reproduction and distribution by the City.
- Arrange and provide use of public meeting facilities for each scheduled public involvement event and meeting identified in Exhibit "A," Scope of Services, including adequate setup for presentations (PowerPoint projector, sound system, screen or white wall, reduced lighting, extension cords and multi-plug power strips, etc.). The City's support services will include providing public and news media notification of public meetings, preparing sign-in sheets, producing/ mailing/ distributing notices, reproducing agendas and other handout materials, and providing refreshments. The Consultant will be responsible for presentations and preparation of necessary graphic aids for all meetings, including easels, flip pads and markers. The City will also be responsible for inviting members of City boards and commissions and representatives of other key agencies and community organizations to attend public meetings related to the planning process.
- Commit the necessary resources to prepare adequately for, promote citizen participation in, and ensure media coverage of key community involvement events. The City might consider inviting other community organizations to co-sponsor or "co-host" such key events and provide further logistical support. The City's responsibilities will include securing a meeting location with adequate setup and seating for large gatherings and presentations (PowerPoint projector, sound system, screen or white wall, reduced lighting, extension cords and multi-plug power strips, etc.), distributing promotional posters and/or flyers, distributing any other public information materials, publicizing the event through informal networks and "word of mouth" means, encouraging major businesses and institutions to highlight the event on high-profile marquee signs and message boards (as appropriate), making arrangements for snacks/beverages and "warm-up" entertainment (as appropriate, such as a local school choir or string quartet), providing greeters and City staff or volunteers to staff a sign-in table,

assigning City staff to assist Consultant personnel during any planned small-group break-out sessions, arranging for City officials to welcome attendees and provide brief opening remarks, inviting any guest speakers as needed, arranging one or more door prizes to encourage attendees to stay for the entire event (as appropriate), and reproducing a program/agenda for the event. The Consultant will provide a checklist and other guidance and sample materials based on its experience in conducting and facilitating many similar events in other communities.

- Commit the necessary staff and financial resources to prepare adequately for, promote citizen and leadership participation in, and ensure media coverage of the MindMixer Virtual Town Hall site. The City's responsibilities will include reviewing and approving website content prior to publication at consistent intervals throughout the planning process (as outlined in Exhibit "A," Scope of Services, Task 4); compiling and providing digital photos of key elected/appointed officials and City staff; monitoring website comments regularly in partnership with Consultant staff; distributing promotional posters and/or business cards; publicizing the website through both formal and informal networks as well as "word of mouth" means; encouraging civic organizations and major businesses and institutions to highlight the site through their marketing channels; and arranging for one or more prizes to encourage optimal participation from users. The Consultant will provide a checklist and other guidance and sample materials based on its experience in overseeing similar interactive websites for other communities.
- Consider and act on all deliverables and other interim work items submitted by the Consultant that require City review, comments, or approval within the scheduled timeframes to enable the Consultant to complete the work on schedule. Specific timeframes for such City response will be incorporated into the detailed project schedule cited in Exhibit "A," Scope of Services. Upon receipt of a consolidated list of written comments, the Consultant will provide one round of edits. Any additional edits will be on an Additional Services basis. *Any delays encountered by the Consultant during the project, which are beyond the Consultant's control, will be documented in the monthly progress reports and may delay the delivery of work products and/or the original anticipated completion date of the project.*
- Provide the Consultant written summaries, and copies of any handouts/materials, from all project-related meetings not attended by the Consultant.
- Provide such public notice of meetings and hearings as is required by law or deemed desirable by the City.

CITY, A DRAINAGE EASEMENT BETWEEN THE CITY OF ROSENBERG AND TESSA HOLDINGS, L.L.C., FOR DRAINAGE FACILITIES TO BE CONSTRUCTED BY THE CITY, GENERALLY LOCATED WEST OF BAMORE ROAD AND ASSOCIATED WITH THE CENTERPOINT LATERAL IMPROVEMENTS PROJECT.

Executive Summary: In order to complete the final phase of the Bamore Road Improvement Project, easements are required to accommodate the construction of an extension of the existing CenterPoint Lateral Drainage Channel. This channel provides the drainage outfall for the improvements to Bamore Road, and drains to Seabourne Creek. A drainage easement has been negotiated with the property owners Tessa Holdings, L.L.C., for this final phase of Bamore Road Improvements.

Staff recommends approval of Resolution No. R-1823, authorizing the Mayor to execute and accept the drainage easement. If approved, the fully executed easement will be attached to the Resolution as Exhibit "A".

- E. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1824, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AND ACCEPT, FOR AND ON BEHALF OF THE CITY, A DRAINAGE EASEMENT BETWEEN THE CITY OF ROSENBERG AND TESSA HOLDINGS, L.L.C., FOR DRAINAGE FACILITIES TO BE CONSTRUCTED BY THE CITY, GENERALLY LOCATED WEST OF BAMORE ROAD AND ASSOCIATED WITH THE CENTERPOINT LATERAL IMPROVEMENTS PROJECT.**

Executive Summary: In order to complete the final phase of the Bamore Road Improvement Project, easements are required to accommodate the construction of an extension of the existing CenterPoint Lateral Drainage Channel and the storm sewer outfall that will connect from Bamore Road, Phase IV. This particular drainage easement has been negotiated with the property owners, Tessa Holdings, L.L.C., for the storm sewer outfall that will run along the North side of the Encapsulite tract from Bamore Road to the CenterPoint Lateral Drainage Channel.

Staff recommends approval of Resolution No. R-1824, authorizing the Mayor to execute and accept the drainage easement. If approved, the fully executed easement will be attached to the Resolution as Exhibit "A".

- F. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1830, A RESOLUTION ACKNOWLEDGING THE ACQUISITION OF A DRAINAGE EASEMENT MORE PARTICULARLY DESCRIBED AS A 0.30 ACRES TRACT OF LAND IN THE JAMES LOWERY 1/3 LEAGUE, ABSTRACT 275, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS, AND ASSOCIATED WITH THE DRY CREEK DRAINAGE IMPROVEMENTS PROJECT.**

Executive Summary: Construction plans and bid documents for the regional detention basin control structure near Ricefield Road and the Louise Street box culvert crossing improvements have been completed. The construction bid is scheduled for award by City Council on Tuesday, August 05, 2014. In order to accommodate the proposed drainage improvement project, staff was directed to secure additional drainage easement necessary for the Louise Street crossing.

Resolution No. R-1830 provides for the acknowledgment of the acquisition of a said drainage easement for the Louise Street crossing.

- G. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1787, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE CITY AND KENDIG KEAST COLLABORATIVE FOR PROFESSIONAL PLANNING SERVICES RELATED TO THE COMPREHENSIVE PLAN IN AN AMOUNT NOT TO EXCEED \$91,860.**

Executive Summary: As discussed at the May 6 and June 24, 2014 City Council meetings, on February 11, 2014, the Professional Services/Engineering Project Review Committee recommended that Kendig Keast Collaborative be selected to update the City's Comprehensive Plan (Plan). The Plan update is a budgeted project. The Plan was last updated in 1995. Since that time, the City's population has grown by over 50 percent (50%) from 23,000 to approximately 35,000. The rate of growth has increased recently and is expected to continue given the widening of U.S. 59/I-69 and build-out of neighboring communities immediately north of Rosenberg. Therefore, it is critical for the City to plan and determine what infrastructure improvements and development standards are needed to accommodate future growth and development.

The scope of the Plan update will generally include the following per Exhibit "A", Scope of Services:

- Community Overview (e.g., data collection, analysis of existing ordinances and planning documents, demographic analysis, population projections)
- Community engagement (community workshop, facilitation of Advisory Committee meetings, use of MindMixer virtual town hall website, public hearings, engagement of Planning Commission and City Council, establishment of "guiding principles," etc.)
- Land Use and Character (infrastructure analysis, land use projections, growth and development plan/map)
- Transportation (existing thoroughfare plan analysis, consideration for bicycle and pedestrian mobility, access management analysis, updated Master Thoroughfare Plan map)
- Plan Implementation (action plan to implement the above comprehensive plan elements)

The consultant, Kendig Keast Collaborative, has extensive experience working with communities without zoning, similar to Rosenberg, to implement their plans. The above scope of work will be completed for an amount not to exceed \$91,860, which is well within the budgeted amount of \$100,000. The Professional Services Agreement with Kendig Keast Collaborative is attached to Resolution No. R-1787 as Exhibit "A". At the May 6 meeting, this item was tabled for further discussion at a Workshop. The item was subsequently placed on the June 24 Workshop Agenda for City Council to discuss the scope of the Project going forward. Staff presented additional information and the consultant answered questions posed by City Council. The general consensus of City Council at the time was to move forward with the Project. However, this item was tabled at the July 15, 2014 City Council Meeting. Staff recommends approval of Resolution No. R-1787.

H. **CONSIDERATION OF AND ACTION ON THE 10/20 YEAR WRITE OFF PER TEXAS PROPERTY TAX CODE SECTION 33.05 "LIMITATION ON COLLECTION OF TAXES".**

Executive Summary: The Finance staff received correspondence from County Tax Assessor/Collector, Patsy Schultz, requesting acknowledgement of the 10/20 Year Write Off of Property Taxes by the City Council. The total amount that is being written off per the summary is \$3,282.90, and is in accordance with the guidelines set out in the Texas Property Tax Code.

Due to the small amounts involved on these particular properties, they do not receive any attention from the delinquent tax attorneys and sit on the rolls as delinquent until they reach the statutorily determined limitation points. These amounts are taken into account each year since 97% of the total certified valuation is considered collectible and included as projected revenue.

Staff recommends that the City Council acknowledge receipt of the enclosed 10/20 Year Write Off of Property Taxes as presented in the Schultz correspondence dated July 09, 2014.

Mayor Morales stated on Item C the address included in the Agenda Packet was a physical address that is the wrong address. It is a P.O. Box but the rest of the document information is correct. The change in address will be noted in the drainage easement document.

Item G will be moved to the Regular Agenda as Item 2A.

Action: Councilor Bolf made a motion, seconded by Councilor Benton to approve Consent Agenda Items A, B, C, D, E, F, H and the changes to Item C as noted. The motion carried by a unanimous vote of those present.

REGULAR AGENDA

2A. *This item was previously Item G on the Consent Agenda.*

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1787, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE CITY AND KENDIG KEAST COLLABORATIVE FOR PROFESSIONAL PLANNING SERVICES RELATED TO THE COMPREHENSIVE PLAN IN AN AMOUNT NOT TO EXCEED \$91,860.

Executive Summary: As discussed at the May 6 and June 24, 2014 City Council meetings, on



CITY COUNCIL COMMUNICATION

February 24, 2015

ITEM #	ITEM TITLE
2	Kilday Development – Campanile at Seabourne Creek Discussion
ITEM/MOTION	
Review and discuss a presentation by Kilday Operating, LLC, regarding Campanile at Seabourne Creek, and take action as necessary to direct staff.	
FINANCIAL SUMMARY	ELECTION DISTRICT

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A
- Source of Funds:** N/A

- District 1
- District 2
- District 3
- District 4
- City-wide
- N/A

SUPPORTING DOCUMENTS:

1. Kilday Correspondence – 01-23-15
2. Vicinity Map
3. Preliminary Site Plan

MUD #: N/A

APPROVALS

Submitted by:

Travis Tanner
 Travis Tanner, AICP
 Executive Director of
 Community Development

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney
- City Engineer
- (Other)

g.m.

Approved for Submittal to City Council:

Robert Gracia
 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

Les Kilday of Kilday Operating LLC has requested the opportunity to have a discussion with City Council regarding a proposed senior, multi-family development to be located off of Reese Road between I-69 and FM 2218. A vicinity map is attached for reference. The property consists of approximately 9.8 acres for which 132 units are proposed.

As of the time of this report, only the attached preliminary site plan has been provided; a more detailed site plan would be required at a later time for staff to review. The proposal would meet the City requirement of having no more than fourteen (14) units per acre. However, it would not meet the multi-family parking requirement beginning at four (4) spaces per unit. The "Multi-Family" Ordinance does not distinguish between parking for standard and senior multi-family developments likely because, absent a development agreement, the City cannot restrict the age of residents within a development; therefore there would likely have to be a Planned Unit Development (PUD) agreement in place for the development to go forward. Such an agreement would require a recommendation by the Planning Commission and approval by City Council. It should also be noted that the property falls within the boundaries of the West Fort Bend Management District (District) and therefore would be subject to the District's standards.

For projects of this nature, it is generally the practice of City staff to review preliminary plans and determine in the early stages if there are any potentially major obstacles to development. For this particular project, the developer has been notified in particular that they will be responsible for meeting drainage requirements, extending utilities to the site, and for providing a traffic impact analysis (TIA) to determine if the development warrants any off-site improvements.

In the future, the developer will be requesting a resolution of support for the project from City Council and requests feedback from Council at this time. The project was discussed with the Planning Commission on February 18, 2015. The Commission generally had no objections to the project under the conditions outlined by the developer. Commissioners directed City staff to bring the Development Agreement before the Commission when appropriate and to incorporate in the Agreement the specifications discussed by the developer. This would be a "tax credit" project through the Texas Department of Housing and Community Affairs, similar to Brazos Senior Villas located at 5801 Reading Road.



January 23, 2015

Travis Tanner
Executive Director, Community Development
City of Rosenberg
2110 Fourth Street
Rosenberg, TX 77471

Re: Campanile at Seabourne Creek
Rosenberg, Texas

Dear Mr. Tanner:

Kilday Operating LLC is making an application for Housing Tax Credits with the Texas Department of Housing and Community Affairs for Campanile at Seabourne Creek located in the 3900 block of Reese Rd. in Rosenberg, Texas. This new construction development is an apartment community for the elderly (age 55+), and comprised of approximately 132 units of which 120 will be for low-income elderly tenants. This development will be very similar to Brazos Senior Villas located at 5801 Reading Rd. which has been full for over 2 years and has an extensive waiting list.

We request an opportunity to discuss this development with The Planning Commission at their Wednesday, February 18 meeting.

We are very excited about the opportunity to provide this quality affordable housing community for the elderly and the opportunity to serve the greater community in this part of Fort Bend County. Should you have any questions about this development or application submission, please feel free to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Les Kilday", is written over a light blue circular stamp.

Les Kilday
Kilday Operating LLC.
713-914-9400
les@kildayco.net



**Lot 17 of the Danziger-Reese Subdivision
City of Rosenberg, Texas**

The 2014 Aerial Imagery Data is the sole property of Houston-Galveston Area Council, which reserves all rights thereto. Use or reproduction of this data is strictly prohibited absent written consent from the Houston-Galveston Area Council, which may be contacted at www.h-gac.com.

-  Interstate
-  US Highway
-  State Highway
-  Farm-to-Market
-  Public Road
-  R62421



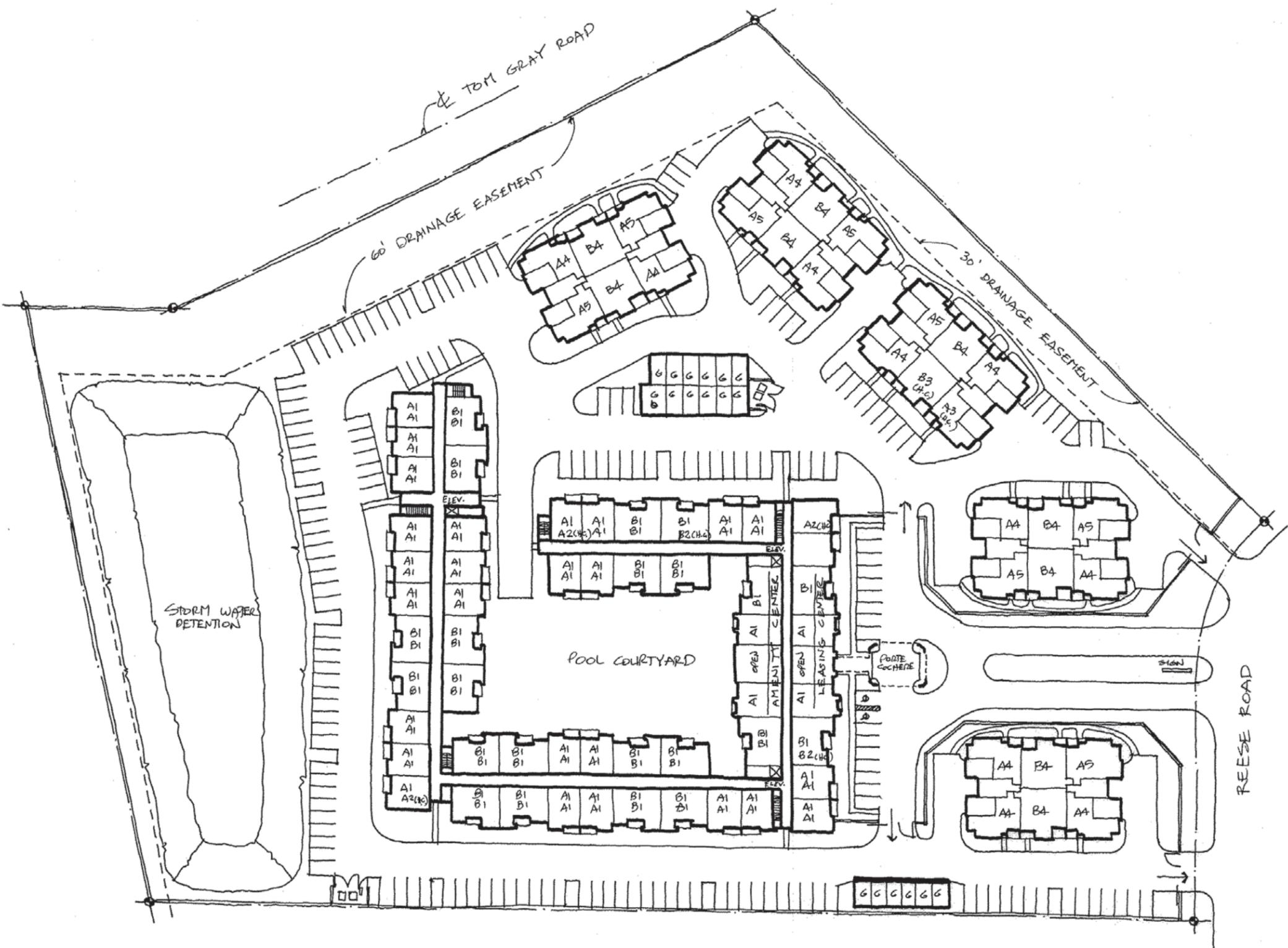
Scale:
1:9,000
or
1 inch = 750 feet



Created by: City of Rosenberg GIS - Paul M. Jones
Date Created: February 05, 2015
Original Size: 8.5" x 11"
K:\GIS\MAPS\Planning\2015\Danziger_Reese_Subd_Lot_17.mxd

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of geographic features.





CAMPANILE AT SEABORNE CREEK

MURPHY & ASSOCIATES, ARCHITECTS

80 'A' ONE BEDROOM, 1 BATH
 52 'B' TWO BEDROOM, 2 BATH

132 UNITS TOTAL

30 ATTACHED GARAGES
 18 DETACHED GARAGES



CITY COUNCIL COMMUNICATION

February 24, 2015

ITEM #	ITEM TITLE
3	Newsletter Discussion
ITEM/MOTION	
Review and discuss City newsletter, and take action as necessary to direct staff.	
FINANCIAL SUMMARY	ELECTION DISTRICT

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

Yes No N/A

Source of Funds:

101-1950-540-5410
219-2000-540-5410

- District 1
- District 2
- District 3
- District 4
- City-wide
- N/A

SUPPORTING DOCUMENTS:

MUD #: N/A

1. Presentation – Print Publications
2. City Council Meeting Minute Excerpt – 09-30-14

APPROVALS

Submitted by:


Angela Fritz
Executive Director
Information Services

Reviewed by:

Exec. Dir. of Administrative Services 
 Asst. City Manager of Public Services
 Economic Development Director 
 City Engineer
 Project Director

Approved for Submittal to City Council:


Robert Gracia
City Manager

EXECUTIVE SUMMARY

Staff will present information for City Council consideration regarding printing/publication options and ballpark cost estimates as they relate to the reconfiguration of the City's printed newsletter.

PRINT PUBLICATIONS

Newsletter Discussion

February 24, 2015 City Council Workshop

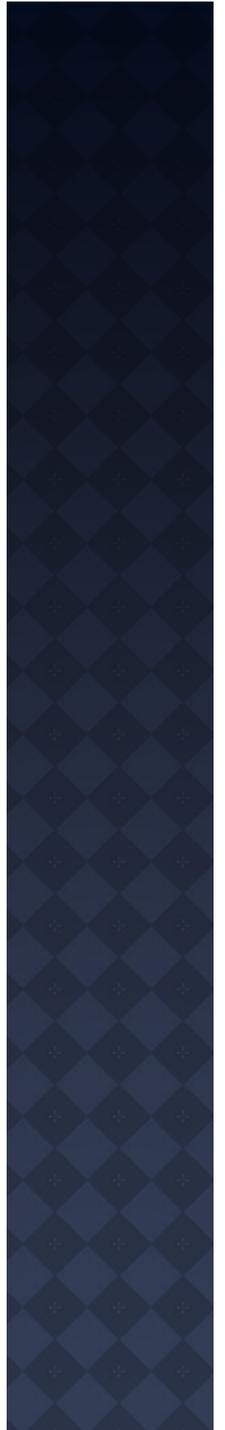
Rosenberg
texas

PURPOSE OF RECONFIGURATION

- ◉ Expand distribution beyond just utility bill recipients, to reach as many physical addresses in City as possible
 - Based on initial estimate, roughly double distribution from 23% population, to 46% population
- ◉ Report on key strategic projects/goals to taxpayers at large
- ◉ Allow staff resources to be directed toward other community engagement initiatives and campaigns

PURPOSE OF TODAY'S ITEM

- ◉ Review proposed distribution and associated estimated costs, and direct staff accordingly



PROPOSED PUBLICATION TYPE & FREQUENCY

- Quarterly distribution of an 8 pg. piece reporting on key strategic initiative, projects, and other pertinent information
 - Frequency = X3
 - March/April
 - June/July
 - September/October
- Annual distribution of a combined wall calendar/annual report piece
 - Frequency = X1
 - December/January

OUTCOMES

- ◉ Free up space in utility bills to insert topic-specific content, directly related to services being billed (water, wastewater, garbage)
- ◉ Separate piece direct-mailed will help increase awareness/sense of community across City
- ◉ Allows staff resources to be focused on providing quality, timely information in real time via most appropriate medium/s (utility bill, newsletter, website, press releases, social media, munichannel, etc.), while providing a quarterly “report card” of sorts on strategic goals, initiatives, and indicators

OPTIONS & ASSOCIATED BALLPARK ESTIMATES OF TOTAL COSTS PER ANNUM

Tabloid Newsprint with Glossy Calendar

- ◉ Quarterly Publication - similar paper type to LCISD newsletter x3
- ◉ Annual Report/Calendar - similar paper/size to Sugar Land newsletter x1

Total Ballpark Cost (per year):
\$54,000

Total Ballpark Cost (per recipient):
\$3.26

Total Ballpark Cost (per resident):
\$1.50

Letter Glossy (All)

- ◉ Quarterly Publication - similar paper type to Sugar Land newsletter x3
- ◉ Annual Report/Calendar - similar paper/size to Sugar Land newsletter x1

Total Ballpark Cost (per year):
\$62,500

Total Ballpark Cost (per recipient):
\$3.79

Total Ballpark Cost (per resident):
\$1.74

NEXT STEPS

- ⦿ Review proposal/recommendation with RDC (historically, have provided 25% of NL funding)
- ⦿ Finalize bid specifications, and go out for competitive bid on necessary services
- ⦿ Finalize design/layout and begin formulation of first quarterly piece with goal of distributing no later than mid-April.
- ⦿ Finalize distribution/editorial calendar for planning purposes, and begin design/layout of annual calendar/report for Dec. 2015 distribution.

RECESS SESSION, RECONVENE SESSION.

Mayor Morales recessed the session at 8:00 p.m. and reconvened the Session at 8:10 p.m.

2. REVIEW AND DISCUSS CITY'S *INSIDER* NEWSLETTER, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.

Executive Summary: This item has been included to allow for City Council discussion regarding the future publication and content of the Rosenberg *Insider* newsletter.

Key discussion points:

- Councilor Benton stated he has had people ask about the Newsletter. He asked staff to consider reinstating the Newsletter.
- Robert Gracia, City Manager asked Angela Fritz, Executive Director of Information Services to provide Council with an overview of what and why we are doing regarding the Newsletter.
- Angela Fritz stated some general information was shared with Council why we had gone away from the monthly newsletter. We are not proposing doing away with the newsletter. We are proposing to change the way in which we distribute it and the ways we communicate overall. Shifting the newsletter from a monthly to a quarterly distribution is what we are investigating now. That would let us focus some of our resources and time on other communications in other processes to try to reach a more diverse populous in the City.
- The main portion we are looking at is a plan for reinstating it on a quarterly basis to get it physically in the hands of more people in the City. It is in the City's utility bill now which only goes to about 8,200 people. We worked with Customer Service almost a year ago to add different communications medians and engage more of our community. Even within those we serve utilities to there is at least 4,000 people that are in apartments, mobile homes, or somewhere they have a master meter and are not receiving a utility bill. We are looking at a way similar to what LCISD does with their quarterly report that goes out and it would be a separate mailer. That has a better read rate. It would be going to the entire geographic area not just our utility customers.
- Our audiences are diversifying, growing and changing, and our utility audience and water customers do not necessarily equal our audience overall as a community anymore. It lets us diversify our offerings and utilize that space in the monthly newsletter to do targeted pieces toward those services, such as, water conservation, solid waste, street sweeping, leaves, and storm water pollution prevention. That is the broad context behind what we are trying to do. To do that we need some space to do that research to plan and come back with the quarterly numbers. That is what we are working on.
- Councilor Benton stated he appreciates wanting to reach more people. He liked the aspect of the monthly newsletter. How many water bill customers do we have?
- Angela Fritz stated approximately 8,200 water bills are sent out each month.
- Councilor McConathy stated it is still in the research stage about the content of that quarterly newsletter, is that correct?
- Angela Fritz stated yes. The basic idea is that we deal with the day to day issues in a timelier manner. Unfortunately, the monthly newsletter although it went out monthly it is impossible for it to be timely due to the production, printing and insertion in the utility bills. The general idea is to shift the content to some of our broader strategic goals to be able to talk about things in more depth like comprehensive planning and economic development. To deal with the day to day project updates, such as, town hall notifications, Eagle Scout projects at the parks as they happen through our press releases, the website and other tools we will be implementing in the coming year will be used.
- Councilor McConathy suggested since the newsletter will be a tangible document one of the things to include would be common numbers that our citizens and business owners would need, such as, the Community Coordinator which is the central point of collecting a lot of inquiries, questions, complaints, compliments and the like. Not everybody has access to the Internet and if they did it is very cumbersome to find the information you need quickly.
- Councilor Barta stated she has had some inquiries about it. Some citizens like it monthly and others don't mind receiving the newsletter quarterly. Are you looking at sending out 30,000 newsletters? Is it not feasible to continue the monthly until that is figured out?
- Angela Fritz stated we see it as a quarterly update. Those are the measurable strategic goals and things we set out as an organization, departments and things like that. It would be sent to Rosenberg properties. The goal is to blanket the geographic area that is covered by the City if we can financially. It is not feasible to continue the monthly newsletter.
- Councilor Grigar stated after hearing the plan he thinks quarterly distribution is fine. He likes the idea it will go out to all properties and not just utility customers. There are people in our newly annexed areas that do not get a water bill. Reaching out to those people is very beneficial in keeping them in the loop of what is happening in Rosenberg.

- Angela Fritz stated the other issue is that a lot of our residents have Richmond addresses. From a mailing standpoint you can't just select a zip code. She has been meeting with companies to get a strategy. The big question now is the dollar amount. That is why we are being conservative to find out what works. We would like to be able to do it with what we were doing before but there are a lot of variables.
- Councilor Pena stated Angela Fritz does a good job and he knows whatever decision she comes up with will be something that has been studied. He talked to a lot of people that trash the newsletter. The majority do not read it. The cost for a quarterly newsletter makes more sense and it is going to the property owner.
- Councilor Euton stated all her questions have been covered.
- Councilor Benton asked what the cost is of the current water bill newsletter.
- Angela Fritz stated currently it costs approximately \$1,100 to print and the insertion fee is about one cent per insertion. That is approximately \$1,200 per month and \$14,000 to \$15,000 per year.
- Mayor Morales stated the general consensus of Council is for staff to bring the plan back.
- No action was taken on the item.

3. **REVIEW AND DISCUSS A PROPOSAL TO ADD 1.5 ACRES OF CITY-OWNED PROPERTY TO COMMUNITY PARK, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: At the May 22, 2014 Parks and Recreation Board (Board) Meeting, staff reviewed and discussed a proposal to add 1.5 acres of adjacent City-owned property to Community Park. After a brief discussion, the Board unanimously recommended the addition of 1.5 acres of adjacent City-owned property to Community Park.

Staff has placed this item on the Agenda to receive City Council's input on proceeding with the process of adding 1.5 acres of City-owned property to Community Park.

Key discussion points:

- Darren McCarthy, Parks and Recreation Director read the Executive Summary regarding the item.
- A map was provided showing the 1.5 acres. The lot used for storage west of the park and the lot between 5th and 4th Streets addition would make Community Park a full six acres. The lot to the left of the park was used for material storage at one time. The other area has been open land. By adding the acreage it would be nice to put some trails into this park that would wind around those six acres. More trees would be planted to beautify the park. Staff is asking for permission to proceed with a title search to make 100% certain that the City does own those two pieces of property before we try to adopt them into the park.

Questions/Comments:

- Councilor Euton stated this would be a great addition to our park system and she gives her full cooperation to do the title search.
- Councilor Pena asked if this is the low side of that area. He thinks it is a good idea.
- Darren McCarthy stated the part to the left to the west is the low side. The part that is between 5th and 4th Streets is on the higher side across from Jackson Elementary.
- Councilor Grigar stated it is an excellent idea. On the extension of 3rd Street north of Avenue A and 4th Street and 5th Street south of Avenue A, are those designated as streets the City owns or could that be put in parcels instead of right of ways? Would we be obligated to extend those streets one day?
- Travis Tanner stated staff would have to investigate it to see if there are any issues with abandoning the right of way. We need to make sure there are no utilities in there. Often allies will have utilities but it doesn't mean that can't be overcome. We will have to look at it on a case by case basis.
- Councilor Grigar stated it would make it cleaner as a contiguous piece of property.
- Darren McCarthy stated as part of the title search we could call 811 to locate the utilities to make sure there is nothing in the way before it comes back to Council for adoption.
- Councilor Barta stated the area is used a lot and whatever we can do to enhance it would be great.
- Councilor Benton stated you are not suggesting purchasing anymore property, right? We assume this is all City property and maintained. He was looking at the potential marketability of the 5th Street lot. If there was interest somebody would have made the City an offer.
- Darren McCarthy stated no. We are not 100% certain and that is why staff is recommending the title search. It has been maintained as City owned property.
- Councilor McConathy asked if the parcel on the west side of the park is being considered for public access to the river as part of the Brazos River Plan.
- Darren McCarthy stated not necessarily. That would be a good parking spot to load and unload kayaks and canoes. The river access runs the road. The road curves around the playground and goes toward the river and the launch site. This parcel would not be access to that. It is accessed through



CITY COUNCIL COMMUNICATION

February 24, 2015

ITEM #	ITEM TITLE
4	"Fence" Ordinance Amendment Discussion
ITEM/MOTION	
Review and discuss proposed Ordinance Amendment regarding fencing, and take action as necessary to direct staff.	
FINANCIAL SUMMARY	ELECTION DISTRICT

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds: N/A

- District 1
- District 2
- District 3
- District 4
- City-wide
- N/A

SUPPORTING DOCUMENTS:

MUD #: N/A

1. Proposed Amendment to "Fence" Ordinance

APPROVALS

Submitted by:

William Benton/rl

William Benton
Councilor, At Large Position
One

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney
- City Engineer
- (Other)

Approved for Submittal to City Council:

Robert Gracia
City Manager

Scott Tschirhart/rl

Scott Tschirhart
City Attorney

EXECUTIVE SUMMARY

This Agenda item has been included to allow for City Council discussion regarding fencing regulations and requirements. A draft Ordinance Amendment has been prepared for review and discussion.

Staff is seeking direction from City Council regarding the proposed Amendment.

ORDINANCE NO. 2015-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 6 BUILDINGS AND BUILDING REGULATIONS, ARTICLE XIV. RESERVED, ESTABLISHING PERMIT REQUIREMENTS; ESTABLISHING RESTRICTIONS ON FENCES ON PUBLIC PROPERTY; ESTABLISHING LOCATION AND HEIGHT RESTRICTIONS; ESTABLISHING APPROVED FENCING MATERIALS; ESTABLISHING REQUIREMENTS FOR FENCE MAINTENANCE; ESTABLISHING FENCE RESTRICTIONS; ESTABLISHING REQUIREMENTS FOR DILAPIDATED FENCE REMEDIATION; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Rosenberg is a home rule City acting under its home rule Charter and the law of the State of Texas; and,

WHEREAS, Tex. Loc. Gov't Code Chapter 211 authorizes the City of Rosenberg to adopt rules and regulations regarding land use within the City limits of the City of Rosenberg for the purpose of promoting the safe, orderly, and healthful development of the City; and,

WHEREAS, the City Council finds it necessary to establish the provisions of this ordinance regarding the regulation of fences; and,

WHEREAS, the City Council finds that it would be advantageous and beneficial to the citizens of the City of Rosenberg, Texas, to adopt this ordinance regulating the requirements for fences within the City of Rosenberg; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens of the City that the Building Code regulations relative to fencing requirements be established as hereinafter stated;

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

Section 1. Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of the Building Code as if copied in their entirety.

Section 2. Amending Building Code. That Code of Ordinances, Chapter 6 Building and Building Regulations is hereby amended by creating Article XIV. Fences to hereinafter read as follows:

“Sec. 6-390. - Fence Requirements and Prohibitions.

- a. Permit: A fence permit shall be required to erect or replace a fence, but not to repair an existing one. The following shall be submitted for a fence permit to be issued:
1. Building Permit Application
 2. One (1) site plans showing the location of the fence and any and all easements on the property
 3. Description of materials to be used
- b. Public Property: A fence or any part of a fence shall not be constructed upon or allowed to protrude over a property line or lot line. All fences must be maintained so as not to overhang or interfere with public property.
- c. Location and Height Restrictions: No fence shall be constructed at a height exceeding the following:
1. Rear Yard: No fence shall be constructed at a height exceeding eight (8) feet along the rear yard or alley line.
 2. Front Yard: No fence shall be constructed at a height exceeding four (4) feet along the front building line to the parkway or parallel with the street line.
 - a) All stockade or picket fences which do not maintain fifty (50%) percent visibility are prohibited in the front yard.
 - b) No fence shall be permitted to be closer than ten (10) feet from the curb or the front property line, whichever is more restrictive.
 3. No fence shall be located within any easement except by prior written approval of those agencies having interest in such easement
 4. Side Yard: No fence shall be constructed at a height exceeding eight (8) feet on any side yard line up to the building line of the property.
 5. Decorative Ornamental Iron Fencing may be constructed up to six (6) feet in height only on lots exceeding one acre in area between the front building line and the front property line. No fence shall be constructed which does not have at least seventy-five (75%) percent visibility or which interferes with traffic line of sight.
- d. Approved Fencing Materials: Fences shall be constructed of wooden

fence panels, vinyl, masonry, wrought iron, decorative metal, and chain link. Any other type of material will require approval from the Building Official when submitting the permit application.

- e. Security Fences: For all properties that are for commercial use or on public property which requires protection from vandalism may construct a fence with barbed wire arms extending outward. No such barbed wire arm shall extend outward over the property line. Fence arms with barbed wire shall not be allowed on fences that are less than six (6) feet in height.
- f. Fence Maintenance: All fences shall comply and be maintained in accordance with all the requirements of this ordinance at all times.
 - 1. Fences shall not be more than **twenty (20%) percent** out of vertical alignment.
 - 2. Damaged, removed, or missing portions of a fence shall be replaced or repaired with comparable materials to the remaining portion.
 - 3. The owner of any fence, existing or new, shall be responsible for the removal of any and all graffiti.
 - 4. Any and all vegetation shall be kept clear of fences and shall not be allowed to grow into a fence.
- g. Fence Restrictions:
 - 1. Obstructions prohibited. No fence, screen, free standing wall or other visual barrier shall be so located or placed that it obstructs the vision of a motor vehicle driver approaching any street, alley, or drive intersection. All fences constructed at street intersections shall maintain a twenty-five (25) feet visual barrier from the property corner along the street line.
 - 2. **Barbed Wire Fences prohibited.** Fences shall not be constructed of barbed wire and walls shall not be topped with broken glass or surfaced with any like material.
 - 3. Electrical Fences prohibited. No fence shall be electronically charged in any form or fashion, except single-strand wires designed to conduct electricity through an approved low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.

- j. Dilapidated Fences: Should a fence be deemed dilapidated or substandard by the Code Enforcement Officer, then the following shall occur:
1. A notice shall be served to the property owner informing of the fence violation.
 2. Should the violations not be corrected by the owner within a ten (10) day time period, the City may remove the fence at its own expense and the cost shall be charged against the land and become a personal obligation of the owner. The provisions for notice, hearing and appeal shall be conducted in compliance with provisions of Chapter 6 of the Code of Ordinances.”

Section 3. Penalty. Any person, firm or corporation violating any of the provisions of this Ordinance, as amended, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed five hundred dollars (\$500.00). Each and every day such violation continues shall constitute a separate offense and shall be punishable as such.

Section 4. Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Rosenberg, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

Section 5. Severability. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Rosenberg, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional,

whether there be one or more parts.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED by a vote of _____ “ayes” in favor and _____ “nays” against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on the _____ day of _____ 2015.

ATTEST:

CITY OF ROSENBERG, TEXAS

Linda Cernosek, **City Secretary**

Vincent M. Morales, Jr., **Mayor**

APPROVED AS TO FORM:

Scott Tschirhart, **City Attorney**
Denton Navarro Rocha Bernal Hyde & Zech, P.C.



CITY COUNCIL COMMUNICATION

February 24, 2015

ITEM #	ITEM TITLE
5	"Junked Vehicle" Ordinance Amendment Discussion

ITEM/MOTION

Review and discuss proposed Ordinance Amendment regarding junked vehicles, and take action as necessary to direct staff.

FINANCIAL SUMMARY	ELECTION DISTRICT
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Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds: N/A

- District 1
- District 2
- District 3
- District 4
- City-wide
- N/A

SUPPORTING DOCUMENTS:**MUD #:** N/A

1. Exhibit "A" of Proposed Ordinance Amendment - Redlined
2. Proposed Ordinance Amendment
3. City Council Meeting Minute Excerpt – 01-27-15

APPROVALS

Submitted by:**Scott Tschirhart/rl**Scott Tschirhart
City Attorney**Reviewed by:**

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney
- City Engineer
- (Other)

Approved for Submittal to City Council:Robert Gracia
City Manager

EXECUTIVE SUMMARY

The attached draft "Junked Vehicles" Ordinance has been prepared as requested by City Council at the January 27, 2015 Workshop Meeting.

Should City Council approve the Amendment, an Ordinance adopting revised regulations for junked vehicles will be presented for consideration on a future Agenda.

ROSENBERG CODE OF ORDINANCES EXCERPT
CHAPTER 14 – HEALTH, SANITATION AND NUISANCES
ARTICLE VI. - JUNKED VEHICLES

Sec. 14-111. - Definitions.

For the purpose of this article, the following words shall have the meanings ascribed to them by this section:

Antique motor vehicle shall mean a passenger car or truck that is at least thirty-five (35) years old.

Code Officer means the Code Enforcement Officer of the City or other regularly salaried, full-time employee of the City working under the supervision of the Chief of Police to enforce this article.

Inoperable means a vehicle that is in such condition at the time of inspection, that it is no longer usable for the purpose for which it was manufactured, regardless of the potential for repair or restoration. If the vehicle is wrecked, dismantled or partially dismantled it is presumed to be inoperable.

Junked vehicle shall mean a vehicle that is self-propelled as defined in Section 683.071, Transportation Code, Vernon's Texas Civil Statutes, as amended, and:

- (1) Does not have lawfully attached to it:
 - a. An unexpired license plate; or
 - b. A valid motor vehicle inspection certificate; or
- (2) Is wrecked, dismantled or partially dismantled, or discarded; or
- (3) Is inoperable and has remained inoperable for more than:
 - a. ~~Seventy-two (72)~~ Twenty-four (24) consecutive hours, if the vehicle is on public property; or
 - b. ~~Thirty (30)~~ Fifteen (15) consecutive days, if the vehicle is on private property.

Motor vehicle collector shall mean a person who:

- (1) Owns one (1) or more antique or special interest vehicles; and
- (2) Acquires, collects, or disposes of antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle shall mean a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Sec. 14-112. - ~~Exceptions.~~ Deemed public nuisance; declared unlawful.

A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the city by producing urban blight which is adverse to the maintenance and continuing development of the city, and is declared a public nuisance.

~~The provisions of this article applicable to junked motor vehicles shall not apply to:~~

- ~~(1) Any motor vehicle in operable condition specifically adapted or constructed for racing or operation on privately owned drag strips or raceways;~~
- ~~(2) Any motor vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.~~

Sec. 14-113. ~~Deemed public nuisance; declared unlawful.~~ Exceptions.

~~A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the city by producing urban blight adverse to the maintenance and continuing development of the city, and is a public nuisance. This section shall not apply with regard to~~The following vehicles or parts thereof are excepted from the provisions of this ordinance:

- (1) A vehicle or vehicle part ~~thereof~~ which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
- ~~(2)~~ A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with a business of a licensed vehicle dealer or licensed junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - (2)
 - a. Maintained in an orderly manner;
 - b. Not a health hazard; and

- c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(3) Any motor vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

**Sec. 14-114. -~~Notice to owner to abate nuisance—When on occupied premises~~
Offense.**

~~(a) Whenever a public nuisance exists on public property, on occupied premises, or on the public right-of-way adjacent to occupied premises within the city in violation of section 14-113, the city manager or his designee shall send notice to the owner of the junked vehicle and the owner or occupant of the premises where the nuisance exists if on private property, or the owner or occupant of the premises adjacent to the public right-of-way on which the nuisance exists. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered. The notice shall state the following:~~

- ~~(1) The nature of the public nuisance and location;~~
- ~~(2) That it must be abated and removed within ten (10) days;~~
- ~~(3) That if a hearing is desired before the removal of that vehicle or vehicle part, a request for such hearing shall be made before the expiration of the ten-day period; and~~
- ~~(4) That the owner shall request, either in person or in writing, the clerk of the municipal court to set a date and time of hearing.~~

(1) (b) The notice must be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lienholder of record, and the owner or occupant of the private property, public property, or public right-of-way on which the public nuisance exists. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of return. A person commits an offense if the person maintains a public nuisance as described by this Article.

(2) An offense under this article is a misdemeanor punishable by a fine not to exceed two hundred dollars (\$200.00). Each day a violation is permitted to exist shall constitute a separate offense.

(3) The municipal court shall order abatement and removal of the nuisance on conviction.

Sec. 14-115. - Procedures for abating nuisance~~Same—When on unoccupied premises.~~

The city's procedures for the abatement and removal of a junked vehicle or a part of a junked vehicle as a public nuisance from private property, public property or public rights-of-way are set out in this section.

- (1) Procedures for abatement and removal of a public nuisance may be administered by the Code Enforcement Officer, or another regularly salaried, full-time employee of the City of Rosenberg designated by the City Manager to enforce this Article, except that any authorized person may remove the nuisance.
- (2) Pursuant to the procedures established by this section, the person authorized to administer these procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.
- (3) The municipal court may issue necessary orders to enforce an action taken by the Code Officer, under this section, pursuant to Tex. Transp. Code Ann. § 683.074.
- (4) Once a proceeding for the abatement and removal of the public nuisance has commenced under this section, the relocation of a junked vehicle that is a public nuisance to another location within the City has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
- (5) In the event that the City removes a junked vehicle from private or public property pursuant to this section, the Code Officer shall provide notice to the Texas Department of Transportation, identifying the vehicle or part of the vehicle being removed, not later than the fifth day after the date of removal.
- (6) A junked vehicle removed pursuant to the provisions of this section may not be reconstructed or made operable after removal.
 - ~~(a) Whenever a public nuisance exists on unoccupied premises or on the public right-of-way adjacent to the unoccupied premises within the city in violation of section 14-113, and the owner can be found, the city manager or his designee shall send notice to the owner of the junked vehicle and the owner of the unoccupied premises where the nuisance exists if on private property, or the owner of the unoccupied premises adjacent to the public right-of-way on which the nuisance exists. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered. The notice shall state the following:~~

- ~~(1) The nature of the public nuisance and location;~~
- ~~(2) That it must be abated and removed within ten (10) days;~~
- ~~(3) That if a hearing is desired before the removal of that vehicle or vehicle part, a request for such hearing shall be made before expiration of the ten-day period; and~~
- ~~(4) That the owner shall request, either in person or writing, the clerk of the municipal court to set a date and time of hearing.~~

~~(b) The notice must be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lienholder of record, and the owner of the unoccupied private property, or public property, or public right-of-way on which the public nuisance exists. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of return.~~

Sec. 14-116. ~~Motor vehicle description~~ Notice of nuisance.

The Code Officer shall give not less than 10 days, before an abatement action, written notice stating the nature of the public nuisance. The notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:

- (1) the last known registered owner of the nuisance;
- (2) each lienholder of record of the nuisance; and
- (3) the owner or occupant of:
 - a. the property on which the nuisance is located; or
 - b. if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- (4) Any notice requiring the removal of a vehicle or part thereof shall include a description of the vehicle and the correct identification number of the vehicle, if available at the site.
 - a. The notice must state:
 - i. that the nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed; and

- ii. any request for a hearing before the Municipal Court must be made before the 10th day after the date on which the notice was personally delivered, or mailed.
- iii. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
- iv. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

~~Any notice requiring the removal of a vehicle or part thereof shall include a description of the vehicle and the correct identification number of the vehicle, if available at the site.~~

Sec. 14-117. - Hearing in municipal court—~~Preliminaries.~~

- (1) A citation may be issued and a complaint may be filed in the Municipal Court of the City of Rosenberg for the violation of maintaining a public nuisance, if the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided in Subsection 14-116.
- (2) The Municipal Court Judge shall conduct a hearing pursuant to Texas Transportation Code Section 683.075(a)(3), not earlier than the 11th day after the date of the service of notice.
- (3) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (4) If the information is available at the location of the nuisance, an order requiring removal of the nuisance must include the vehicle's:
 - a. description;
 - b. vehicle identification number; and
 - c. license plate number.

~~If a hearing is requested within ten (10) days after service of the notice, a public hearing shall be held not earlier than the 11th day after the date of the service of notice before the vehicle or vehicle part is removed. The hearing shall be held before the municipal judge.~~

Sec. 14-118. — ~~Same—Findings of judge; penalty~~Disposal of junked vehicles.

- (1) A junked vehicle or part thereof may be disposed of by removal to a scrapyards, a motor vehicle demolisher, or any suitable site operated by the City, for processing as scrap or salvage pursuant to authority provided in

the Texas Transportation Code, § 683.078 or any successor statute for junked vehicle disposal.

(2) Any proceeds from the transfer of the junked vehicle or part thereof to the site authorized by this section shall be used to reimburse the city for all costs incurred in the notification, investigation, hearing, and disposal procedures (including any and all variable towing and disposal fees from contracted sources) within this article. Any remaining proceeds shall be transferred to the lienholder of record or, if none, the owner of record.

~~(a) The municipal judge shall conduct the trial brought before the municipal court and shall determine whether the defendant is in violation of section 14-113. Upon finding that the defendant is in violation of such section, the defendant shall be deemed guilty of a misdemeanor and subject to a fine in accordance with section 683.073 of the Texas Transportation Code. The municipal judge shall further order such defendant to remove and abate such nuisance within ten (10) days. If the defendant shall fail and refuse to abate or remove the nuisance, the municipal judge may issue an order directing the city manager or his designee to have the same removed, and the city manager or his designee shall take possession of the junked vehicle and remove it from the premises. The city manager or his designee shall thereafter dispose of the junked vehicle in such manner as the city council may provide.~~

~~(b) If a trial is not requested within the ten-day period and the nuisance is not removed and abated by the persons notified, the municipal judge shall issue an order directing the city manager or his designee to have the same removed, and the city manager or his designee shall take possession of the junked motor vehicle and remove it from the premises. The city manager or his designee shall, thereafter, dispose of the junked motor vehicle in such manner as the city council may provide.~~

Sec. 14-119. ~~-- Removal—With the permission of the owner~~Effect of act on other laws.

Nothing in this Article shall affect laws that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic, or laws that establish procedures for taking possession of abandoned motor vehicles.~~If, within ten (10) days after receipt of notice from the city manager or his designee to abate the nuisance as herein provided, the owner of the junked motor vehicle or owner or occupant of the premises shall give his written permission to the city manager or his designee for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.~~

Sec. 14-120. ~~-- Same—From public property, occupied or unoccupied premises by court order~~Removal – With the permission of the owner.

If, within ten (10) days after receipt of notice from the Code Enforcement Officer to abate the nuisance as herein provided, the owner of the junked motor vehicle or owner or occupant of the premises shall give his written permission to the City for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.

~~If there is a junked motor vehicle on public property, or private premises that are occupied or unoccupied, or on the public right-of-way adjacent to the occupied or unoccupied premises, and the owner or occupant of the premises cannot be found and notified to remove the vehicle, then, upon a showing of facts to the municipal judge, the court may issue an order to the city manager or his designee to take possession of the junked motor vehicle and remove it. If the notice required in sections 14-114 and 14-115 is returned undelivered by the United States Post Office, then after ten (10) days from the date of return, the court may issue an order to the city manager or his designee to have the junked motor vehicle removed, and the city manager or his designee shall take possession of the vehicle and remove it. The city manager or his designee shall thereafter dispose of the junked motor vehicle in the manner provided by the city council, consistent with state law, and the vehicle shall not be reconstructed or made operable.~~

Sec. 14-121. - Disposal of junked vehicle.

- ~~(a) If a public nuisance is not abated by the owner or occupant after notice is given in accordance with this article, official action shall be taken by the city to abate such nuisance. Junked vehicles or parts thereof may be disposed of by removal to a scrapyard, demolishers, or any suitable site operated by the city, which removal process shall be consistent with this article. A junked vehicle disposed of to a demolisher in accordance with this article must be transferred to such demolisher by a form acceptable to the state highway department. The transfer receipt must be listed on the demolisher's inventory list and surrendered to the state highway department in lieu of the certificate of title under the provision of the Texas Transportation Code, chapter 501.~~
- ~~(b) After a vehicle has been removed pursuant to this article, it shall not be reconstructed or made operable by any person.~~
- ~~(c) Notice shall be given to the state highway department within five (5) days after the date of removal identifying the vehicle or part thereof.~~

Sec. 14-122. - Authority to enforce.

~~The chief of police or his designee may enter upon private property for the purposes specified in this article to examine vehicles or parts thereof and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article. The municipal court shall have authority to issue all orders necessary to enforce such article.~~

Secs. 14-123—14-135. - Reserved.

ORDINANCE NO. 2015-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AMENDING CHAPTER 14 – HEALTH, SANITATION AND NUISANCES, ARTICLE VI – JUNKED VEHICLES OF THE CITY’S CODE OF ORDINANCES; PROVIDING FOR PENALTIES; PROVIDING FOR A CUMULATIVE AND CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Rosenberg in accordance with its inherent authority as a home rule city, and the authorization of Texas statutes, including but not limited to Texas Transportation Code Chapter 683, Subchapter E, is authorized to regulate junked vehicles; and,

WHEREAS, City Council finds that the presence of junked vehicles in the City of Rosenberg is detrimental to the health, safety and welfare and reasonable comfort of its citizens; and,

WHEREAS, City Council finds that in the absence of corrective measures, junked vehicles may a cause a deterioration of property values; a curtailment in investment and tax revenue; and an impairment of economic values in the City; and,

WHEREAS, City Council finds that it is necessary to amend the City’s regulations relating to the storing of junked vehicles within the City’s corporate limits to better protect the health, safety, and general welfare of the residents of the City;

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Code Amended. Chapter 14, Article VI of the City of Rosenberg Code of Ordinances is hereby amended by replacing the existing language in Sections 14-111 to 14-122 in its entirety with the language set out in Exhibit “A” attached hereto and incorporated for all purposes herein.

Section 3. Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Rosenberg, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

Section 4. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED by a vote of _____ “ayes” in favor and _____ “noes” against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on the _____ day of _____ 2015.

ATTEST:

CITY OF ROSENBERG, TEXAS

Linda Cernosek, **City Secretary**

Vincent M. Morales, Jr., **Mayor**

APPROVED AS TO FORM:

Scott Tschirhart, **City Attorney**
Denton Navarro Rocha Bernal Hyde & Zech, P.C.

DRAFT

ROSENBERG CODE OF ORDINANCES EXCERPT
CHAPTER 14 – HEALTH, SANITATION AND NUISANCES
ARTICLE VI. - JUNKED VEHICLES

Sec. 14-111. - Definitions.

For the purpose of this article, the following words shall have the meanings ascribed to them by this section:

Antique motor vehicle shall mean a passenger car or truck that is at least thirty-five (35) years old.

Code Officer means the Code Enforcement Officer of the City or other regularly salaried, full-time employee of the City working under the supervision of the Chief of Police to enforce this article.

Inoperable means a vehicle that is in such condition at the time of inspection, that it is no longer usable for the purpose for which it was manufactured, regardless of the potential for repair or restoration. If the vehicle is wrecked, dismantled or partially dismantled it is presumed to be inoperable.

Junked vehicle shall mean a vehicle that is self-propelled as defined in Section 683.071, Transportation Code, Vernon's Texas Civil Statutes, as amended, and:

- (1) Does not have lawfully attached to it:
 - a. An unexpired license plate; or
 - b. A valid motor vehicle inspection certificate; or
- (2) Is wrecked, dismantled or partially dismantled, or discarded; or
- (3) Is inoperable and has remained inoperable for more than:
 - a. Twenty-four (24) consecutive hours, if the vehicle is on public property; or
 - b. Fifteen (15) consecutive days, if the vehicle is on private property.

Motor vehicle collector shall mean a person who:

- (1) Owns one (1) or more antique or special interest vehicles; and
- (2) Acquires, collects, or disposes of antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle shall mean a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Sec. 14-112. - Deemed public nuisance; declared unlawful.

A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the city by producing urban blight which is adverse to the maintenance and continuing development of the city, and is declared a public nuisance.

Sec. 14-113. – Exceptions.

The following vehicles or parts thereof are excepted from the provisions of this ordinance:

- (1) A vehicle or vehicle part which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
- (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with a business of a licensed vehicle dealer or licensed junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - a. Maintained in an orderly manner;
 - b. Not a health hazard; and
 - c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.
- (3) Any motor vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

Sec. 14-114. - Offense.

- (1) A person commits an offense if the person maintains a public nuisance as described by this Article.
- (2) An offense under this article is a misdemeanor punishable by a fine not to exceed two hundred dollars (\$200.00). Each day a violation is permitted to exist shall constitute a separate offense.

- (3) The municipal court shall order abatement and removal of the nuisance on conviction.

Sec. 14-115. - Procedures for abating nuisance.

The city's procedures for the abatement and removal of a junked vehicle or a part of a junked vehicle as a public nuisance from private property, public property or public rights-of-way are set out in this section.

- (1) Procedures for abatement and removal of a public nuisance may be administered by the Code Enforcement Officer, or another regularly salaried, full-time employee of the City of Rosenberg designated by the City Manager to enforce this Article, except that any authorized person may remove the nuisance.
- (2) Pursuant to the procedures established by this section, the person authorized to administer these procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.
- (3) The municipal court may issue necessary orders to enforce an action taken by the Code Officer, under this section, pursuant to Tex. Transp. Code Ann. § 683.074.
- (4) Once a proceeding for the abatement and removal of the public nuisance has commenced under this section, the relocation of a junked vehicle that is a public nuisance to another location within the City has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
- (5) In the event that the City removes a junked vehicle from private or public property pursuant to this section, the Code Officer shall provide notice to the Texas Department of Transportation, identifying the vehicle or part of the vehicle being removed, not later than the fifth day after the date of removal.
- (6) A junked vehicle removed pursuant to the provisions of this section may not be reconstructed or made operable after removal.

Sec. 14-116. – Notice of nuisance.

The Code Officer shall give not less than 10 days, before an abatement action, written notice stating the nature of the public nuisance. The notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:

- (1) the last known registered owner of the nuisance;
- (2) each lienholder of record of the nuisance; and
- (3) the owner or occupant of:
 - a. the property on which the nuisance is located; or
 - b. if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- (4) Any notice requiring the removal of a vehicle or part thereof shall include a description of the vehicle and the correct identification number of the vehicle, if available at the site.
 - a. The notice must state:
 - i. that the nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed; and
 - ii. any request for a hearing before the Municipal Court must be made before the 10th day after the date on which the notice was personally delivered, or mailed.
 - iii. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
 - iv. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

Sec. 14-117. - Hearing in municipal court.

- (1) A citation may be issued and a complaint may be filed in the Municipal Court of the City of Rosenberg for the violation of maintaining a public nuisance, if the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided in Subsection 14-116.
- (2) The Municipal Court Judge shall conduct a hearing pursuant to Texas Transportation Code Section 683.075(a)(3), not earlier than the 11th day after the date of the service of notice.
- (3) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

- (4) If the information is available at the location of the nuisance, an order requiring removal of the nuisance must include the vehicle's:
 - a. description;
 - b. vehicle identification number; and
 - c. license plate number.

Sec. 14-118. – Disposal of junked vehicles.

- (1) A junked vehicle or part thereof may be disposed of by removal to a scrapyard, a motor vehicle demolisher, or any suitable site operated by the City, for processing as scrap or salvage pursuant to authority provided in the Texas Transportation Code, § 683.078 or any successor statute for junked vehicle disposal.
- (2) Any proceeds from the transfer of the junked vehicle or part thereof to the site authorized by this section shall be used to reimburse the city for all costs incurred in the notification, investigation, hearing, and disposal procedures (including any and all variable towing and disposal fees from contracted sources) within this article. Any remaining proceeds shall be transferred to the lienholder of record or, if none, the owner of record.

Sec. 14-119. – Effect of act on other laws.

Nothing in this Article shall affect laws that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic, or laws that establish procedures for taking possession of abandoned motor vehicles.

Sec. 14-120. – Removal – With the permission of the owner.

If, within ten (10) days after receipt of notice from the Code Enforcement Officer to abate the nuisance as herein provided, the owner of the junked motor vehicle or owner or occupant of the premises shall give his written permission to the City for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.

CITY OF ROSENBERG

CITY COUNCIL WORKSHOP MEETING MINUTES

On this the 27th day of January, 2015, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Special Workshop Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Vincent M. Morales, Jr.	Mayor
William Benton	Councilor at Large, Position 1
Cynthia McConathy	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Dwayne Grigar	Councilor, District 3
Amanda Barta	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Scott M. Tschirhart	City Attorney
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager of Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Travis Tanner	Executive Director of Community Development
Charles Kalkomey	City Engineer
Tonya Palmer	Building Official
Rose Pickens	Inspector
Dallis Warren	Police Chief
Wade Goates	Fire Chief
Angela Fritz	Executive Director of Information Services
Darren McCarthy	Parks and Recreation Director
Randall Malik	Economic Development Director
Kaye Supak	Executive Assistant

During a City Council Workshop, the City Council does not take final action on the agenda items and any consideration of final action will be scheduled at a Regular or Special City Council Meeting. Public comments are welcomed at Regular or Special City Council Meetings. No public comments will be received at a Workshop Meeting.

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor Morales called the meeting to order at 6:00 p.m.

AGENDA

- REVIEW AND DISCUSS THE CITY'S JUNKED VEHICLE REGULATIONS, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This item has been included to allow for discussion regarding the City's junked vehicle regulations. An excerpt from the City's Code, Chapter 14, Article VI – Junked Vehicles, has been included for your reference.

Key discussion points:

- Councilor Benton gave a brief overview of the item.
- Scott Tschirhart, City Attorney, advised of several options to consider in order to make non-compliance more enforceable.
- After discussion by Council, the following recommendations were made:
 - Modify definition of junk vehicle to make it more strict and consistent with State Transportation Code.
 - Reduce 30 days inoperable requirement (on private property) to 15 days.
 - Declare a violation of the ordinance as a Class C Misdemeanor.
 - Clean up “public view” in Section 14-113 to “visible from a public street” or the like.
 - Remove Occupied Premise vs. Unoccupied Premise language.
 - Include a provision regarding appellate process in Section 14-117 to offset finality of disposal of junk vehicle.
 - Modify language in Section 14-118 to define that disposal of junk vehicle would occur at owner’s expense.

Questions/Comments:

Tonya Palmer, Building Official, addressed the following questions:

Q: What issues are you having to enforce this?

A: There are two components required for definition of junk vehicle: (1) expired inspection sticker or registration, and (2) it must be wrecked, dismantled, or inoperable. In many cases, someone complains, but upon contact with the property owner, it is proven to be operable and so the case is then closed.

Q: Who is the burden of proof on to determine if the vehicle has remained inoperable for more than 72 hours?

A: Burden of proof would fall on Code Enforcement, starting with the date of the first contact as a result of a complaint being filed.

Q: When the state changes the registration and inspection to one tag, how will this ordinance be affected?

A: That is why we need to make it comply with the current Texas Transportation Code and/or change the restrictions on the definition of a junk vehicle to make it more enforceable.

Q: Would reducing 30 days inoperable to 15 days make a difference as well?

A: It would help as far as the time period to enforce it, and get a faster resolution.

- The general consensus of Council was for the City Attorney to a draft ordinance in redline fashion, including the suggestions for Council to review at the Regular Council Meeting on February 17, 2015.
- No action was taken on the item.

2. **REVIEW AND DISCUSS THE FY2015 STREET RIGHT-OF-WAY TREE TRIMMING CONTRACT, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This item has been included on the Workshop Agenda to offer City Council the opportunity to discuss the FY2015 Street Right-of-Way Tree Trimming Contract. Prior to FY2010, the Public Works Department budget included sufficient funding to enter into an annual tree trimming contract that would generally cover a complete Council District. This allowed the City to trim trees throughout the entire City over a four year period. Prior to the FY2010 budget reductions, Council District 4 was the next in line for tree trimming.

Staff anticipates relatively few changes to the program that was provided until FY2010. The street and tree list will be updated to reflect the current City Council District boundaries, which have changed since 2010.

Staff recommends obtaining bids for the FY2015 Street Right-of-Way Tree Trimming Contract as described above. The bid proposal would be placed on a future City Council meeting Agenda for consideration and award.

ITEM 6

Adjournment.