

NOTICE OF REGULAR COUNCIL MEETING

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

DATE: Tuesday, July 21, 2015

TIME: 7:00 p.m.

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

PURPOSE: Regular City Council Meeting, agenda as follows:

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

Invocation and Pledge of Allegiance. (Reverend Jose Linares, Lion of Judah, Rosenberg)

Presentation of Award to the City of Rosenberg by the Texas Department of Insurance and the Texas State Fire Marshal's Office for Achieving a Public Protection Classification Rating of ISO Class 2. (Wade Goates, Fire Chief)

Presentation of Willie D. McQueen, Jr., Employee of the Quarter Award. (Cynthia A. McConathy, Mayor)

Presentation of Certificates of Achievement to 2015 Pitch, Hit and Run Skills Competition Winners. (Lydia Acosta, Recreation Programs Coordinator)

Presentation of Certificates of Appreciation to 2015 Pitch, Hit and Run Skills Competition Volunteers. (Lydia Acosta, Recreation Programs Coordinator)

Presentation of Certificate of Recognition to Rosenberg Xtreme Girls Softball Team for Finishing 2nd Place in the Texas State Championship (Girls 14U Division). (Lydia Acosta, Recreation Programs Coordinator)

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. Review of Consent Agenda.
All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.
 - A. Consideration of and action on Special Meeting Minutes for June 30, 2015, and Regular Meeting Minutes for July 07, 2015. (Linda Cernosek, City Secretary)

- B. Consideration of and action on Ordinance No. 2015-21, an Ordinance amending the Code of Ordinances by adding a portion of Ward Street to Section 28-116 of Article III of Division 2 of Chapter 28 thereof, as a portion of a street within the City upon which it is unlawful to park a vehicle; and repealing Ordinance No. 2013-11 in its entirety; providing for the installation of "No Parking" signs indicating the boundaries of the no parking zone along Ward Street; providing a penalty in an amount of not less than \$1.00 nor more than \$200.00 for each violation of any provision hereof; providing for a cumulative and conflicts clause; providing for severability; and providing for an effective date. (John Maresh, Assistant City Manager of Public Services)
- C. Consideration of and action on Ordinance No. 2015-22, an Ordinance providing for the extension of the City Limits of the City of Rosenberg, Texas, by voluntary annexation of 3.483 acres of land in the Eugene Wheat Survey, A-396, Fort Bend County, Texas; granting to said tract of land and to all current and future inhabitants of said tract of land the rights and privileges of other citizens and binding said current and future inhabitants by all of the acts, ordinances, regulations and resolutions of said city, now in effect and to be hereafter adopted; adjusting the boundaries of Council District No. 4 to include the tract annexed hereby; providing a severability clause; providing for an effective date; providing for a savings clause and repealing conflicting ordinances or resolutions. (Travis Tanner, Executive Director of Community Development)
- D. Consideration of and action on Ordinance No. 2015-23, an Ordinance providing for the disannexation from the corporate boundaries of the City of Rosenberg, Texas, of 8.709 acres of land in the Wiley Martin League, A-56, Fort Bend County, Texas, pursuant to the petition for disannexation; adjusting the boundaries of Council District No. 4 to exclude the tract disannexed hereby; containing certain findings; providing for non-severability; and establishing an effective date. (Travis Tanner, Executive Director of Community Development)

REGULAR AGENDA

- 2. Review and discuss a presentation regarding a proposed Eagle Scout Project by Matthew Banse of Troop 1656 to build an Edible Arbor Trail in Brazos Park, and take action as necessary. (Darren McCarthy, Parks and Recreation Director)
- 3. Consideration of and action on appointments to the following Boards, Committees, and Commissions (Linda Cernosek, City Secretary):
 - a) Planning Commission;
 - b) Animal Control Shelter Advisory Board;
 - c) Building and Standards Board;
 - d) Image Committee; and,
 - e) Parks and Recreation Board.
- 4. Consideration of and action on Resolution No. R-2003, a Resolution designating a Director to the West Fort Bend Management District Board of Directors for a four-year term beginning June 01, 2015, and ending June 01, 2019. (Cynthia A. McConathy, Mayor)
- 5. Review and discuss presentation regarding the City's FY2016 Budget/Rosenberg Development Corporation's FY2016 Budget, and take action as necessary. (Joyce Vasut, Executive Director of Administrative Services)
- 6. Consideration of and action on Resolution No. R-2005, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Contract for Engineering Services for Phase II - Sanitary Sewer Pipebursting Project, for engineering and surveying services for the Sanitary Sewer Pipebursting Project, by and between the City and Kelly R. Kaluza and Associates, Inc., in the amount of \$446,500.00. (John Maresh, Assistant City Manager of Public Services)
- 7. Consideration of and action on Resolution No. R-2006, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Proposal for Engineering and Surveying Services for Lift Station No. 2 Replacement, by and between the City and Jones and Carter, Inc., in the amount of \$290,000.00. (John Maresh, Assistant City Manager of Public Services)
- 8. Consideration of and action on Resolution No. R-2007, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Cooperation Agreement, by and between the City and Fort Bend County regarding Urban County Qualification for cooperative participation in the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG), HOME Investment Partnership, and/or Emergency Solutions Grant (ESG) programs. (John Maresh, Assistant City Manager of Public Services)

9. Consideration of and action on Resolution No. R-2008, a Resolution determining a public purpose and authorizing funding in an amount not to exceed \$3,500 for survey costs related to a proposed disannexation petition by the residents of the Spacek Tracts; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, necessary documents and/or agreements to facilitate same. (Scott Tschirhart, City Attorney)
10. Consideration of and action on Resolution No. R-2004, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Interlocal Agreement for Fire Code and Investigations by and between the City and Fort Bend County, for Fire Code and investigations for Fort Bend County owned or leased buildings located within the City Limits of Rosenberg. (Wade Goates, Fire Chief)
11. Consideration of and action on Resolution No. R-2009, a Resolution authorizing the Assignment of the Development Agreement by and between the City and 16 Rose, Ltd., regarding the Reading Road Office Park, a subdivision of 8.928 acres, to Richwest Investors, LLC; and authorizing the City Manager to execute, for and on behalf of the City, First Amendment to said Agreement. (Travis Tanner, Executive Director of Community Development)
12. Consideration of and action on Resolution No. R-2010, a Resolution authorizing amendments to the Employee Benefits Trust Declaration of Trust, a Trust created for the purpose of providing City officers, employees, and qualified retirees and their dependents, with life, dental, disability, sickness, accident, and other health benefits, either directly or through the purchase of insurance, and to perform operations in furtherance thereof. (Lisa Olmeda, Human Resources Director/Burke Sunday, Gallagher Benefits Services, Inc.)
13. Consideration of and action on Resolution No. R-2011, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Administrative Services Agreement, by and between the City and the Rosenberg Employee Benefits Trust, for the provision of certain administrative services for a term of one (1) year. (Lisa Olmeda, Human Resources Director/Burke Sunday, Gallagher Benefits Services, Inc.)
14. Consideration of and action on Resolution No. R-2012, a Resolution authorizing funding for a Contract with BlueCross BlueShield of Texas, for healthcare benefits for City employees, qualified retirees, and their dependents; and, for life insurance for City employees for one (1) year; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a Contract for same. (Lisa Olmeda, Human Resources Director/Burke Sunday, Gallagher Benefits Services, Inc.)
15. Consideration of and action on Resolution No. R-2013, a Resolution authorizing funding for a Contract with Assurant Employee Benefits for dental care benefits for City employees, qualified retirees, and their dependents; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a Contract for same. (Lisa Olmeda, Human Resources Director/Burke Sunday, Gallagher Benefits Services, Inc.)
16. Consideration of and action on Resolution No. R-2014, a Resolution approving employee and retiree premium contribution rates to the City's health insurance plan. (Joyce Vasut, Executive Director of Administrative Services)
17. Hold Executive Session to deliberate the potential purchase, exchange, lease, or value of real property pursuant to Section 551.072 of the Texas Government Code.
18. Adjourn Executive Session, reconvene into Regular Session, and take action as necessary as a result of Executive Session.
19. Announcements.
20. Adjournment.

[EXECUTION PAGE TO FOLLOW]

DATED AND POSTED this the _____ day of _____ 2015, at _____ m.,

by _____.

Attest:
Linda Cernosek, TRMC, City Secretary

Approved for Posting:
Robert Gracia, City Manager

Approved:
Cynthia A. McConathy, Mayor

Reasonable accommodation for the disabled attending this meeting will be available; persons with disabilities in need of special assistance at the meeting should contact the City Secretary at (832) 595-3340.

Executive Sessions: The City Council may retire to executive session in accordance with the Texas Government Code, any time between the meeting's opening and adjournment for the purposes of:

- consultation with legal counsel (Section 551.071);
- deliberation regarding real property (Section 551.072);
- deliberation regarding economic development negotiations (Section 551.087)
- deliberation regarding the deployment or specific occasions for implementation of security personnel or devices (Section 551.076)

Attendance by other elected or appointed officials: It is anticipated that members of other city boards, commissions or committees whose meetings may be governed by the Texas Open Meetings Act may attend this meeting in numbers that may constitute a quorum of the other city boards, commissions or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a possible quorum/meeting of the other boards, commissions or committees of the City, whose members may be in attendance. The members may speak as recognized by the presiding officer, but no action may be taken by any board, commission or committee unless such item is specifically provided for on an agenda designated for that board, commission or committee and posted in compliance with the Texas Open Meetings Act.

This Agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering the available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

**Presentation of Award to the City of
Rosenberg by the Texas Department of
Insurance and the Texas State Fire Marshal's
Office for Achieving a Public Protection
Classification Rating of ISO Class 2.**

**Presentation of the Willie D. McQueen, Jr.,
Employee of the Quarter Award**

**Presentation of Certificates of Achievement
to 2015 Pitch, Hit & Run Skills Competition
Winners.**

2015 Pitch, Hit & Run Awards:

Boys 7-8 Year-Olds:

All-Around Champion	Tate Cloud
Pitching Champion	Tate Cloud
Hitting Champion	Tate Cloud
Running Champion	Tate Cloud

Boys 9-10 Year-Olds:

All-Around Champion	Carson Mixon
Pitching Champion	Carson Mixon
Hitting Champion	Brian Luna
Running Champion	Bradley Wright

Boys 11-12 Year-Olds:

All-Around Champion	Felix Medina
Pitching Champion	Felix Medina
Hitting Champion	Chase Cloud
Running Champion	Judson Mixon



Presented by



Tate Cloud
7-8 Year-Old Boys

2015

ALL-AROUND CHAMPION



Presented by



Tate Cloud
7-8 Year-Old Boys

2015
PITCHING CHAMPION



Presented by



Tate Cloud

7-8 Year-Old Boys

2015

HITTING CHAMPION



Presented by



Tate Cloud
7-8 Year-Old Boys

2015
RUNNING CHAMPION



Presented by



Carson Mixon
9-10 Year-Old Boys

2015

ALL-AROUND CHAMPION



Presented by



Carson Mixon
9-10 Year-Old Boys

2015

PITCHING CHAMPION



Presented by



Brian Luna
9-10 Year-Old Boys

2015

HITTING CHAMPION



Presented by



Bradley Wright

9-10 Year-Old Boys

2015

RUNNING CHAMPION



Presented by



Felix Medina
11-12 Year-Old Boys

2015
ALL-AROUND CHAMPION



Presented by



Felix Medina
11-12 Year-Old Boys

2015
PITCHING CHAMPION



Presented by



Chase Cloud
11-12 Year-Old Boys

2015

HITTING CHAMPION



Presented by



Judson Mixon
11-12 Year-Old Boys

2015

RUNNING CHAMPION

**Presentation of Certificates of Appreciation
to 2015 Pitch, Hit & Run Skills Competition
Volunteers.**

City of Rosenberg

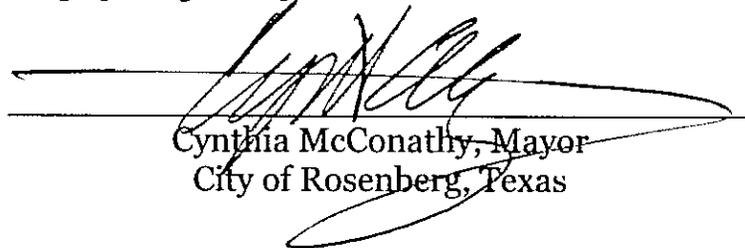
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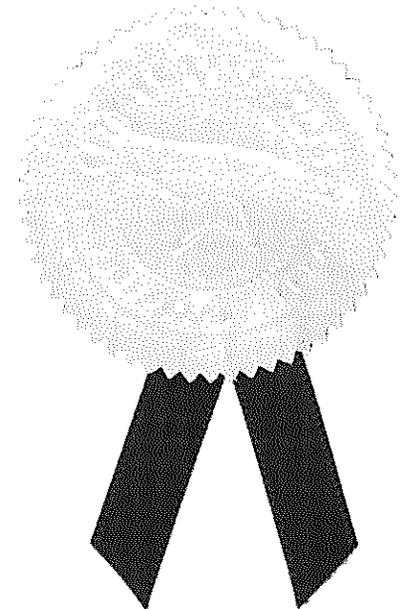
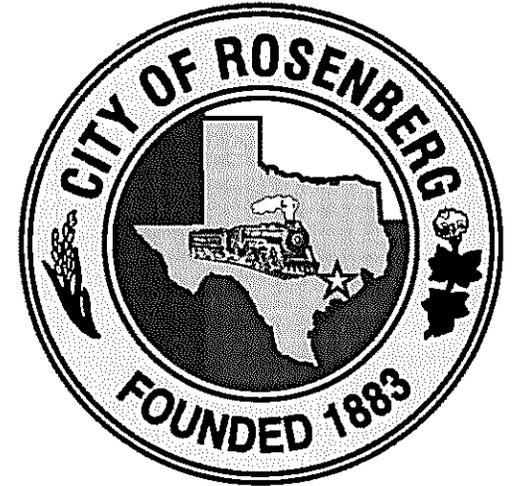
Presented to

***B. F. Terry High School
National Honor Society***

In recognition of the outstanding performance in assisting the City of Rosenberg by volunteering your time and resources during the Pitch, Hit & Run Skills Challenge held in Seabourne Creek Regional Sports Complex. Your dedication and selfless work for the good of others has earned you a place of high esteem in the hearts and minds of the people of this City.

In testimony whereof, witness my hand and Seal of the City of Rosenberg, on this the 21st day of July, 2015.


Cynthia McConathy, Mayor
City of Rosenberg, Texas



City of Rosenberg

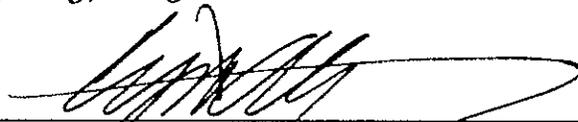
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Presented to

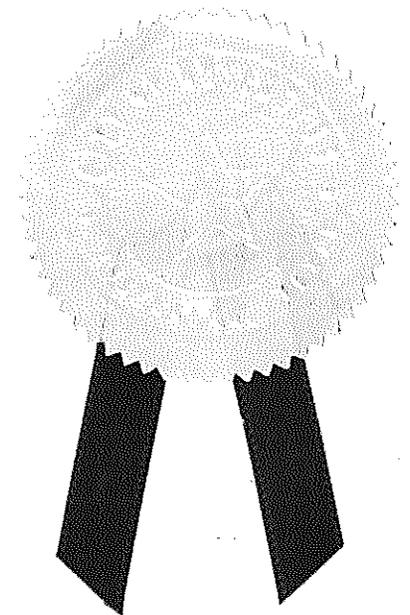
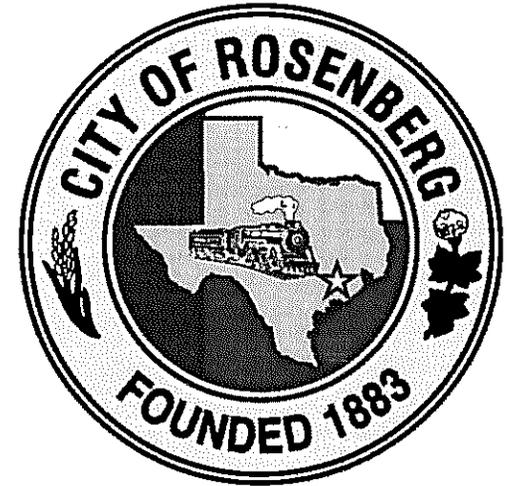
Rosenberg Lion's Club

In recognition of the outstanding performance in assisting the City of Rosenberg by volunteering your time and resources during the Pitch, Hit & Run Skills Challenge held in Seabourne Creek Regional Sports Complex. Your dedication and selfless work for the good of others has earned you a place of high esteem in the hearts and minds of the people of this City.

In testimony whereof, witness my hand and Seal of the City of Rosenberg, on this the 21st day of July, 2015.



Cynthia McConathy, Mayor
City of Rosenberg, Texas



**Presentation of Certificate of Recognition to
Rosenberg “Xtreme” Girls Softball Team for
Finishing 2nd Place in the Texas State
Championship (Girls 14U Division).**

City of Rosenberg

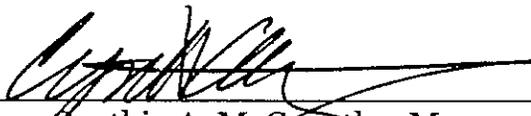
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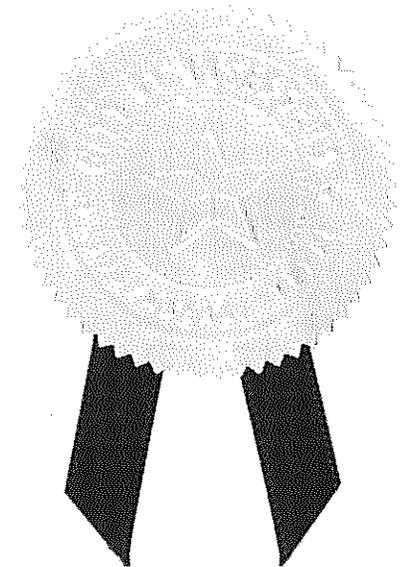
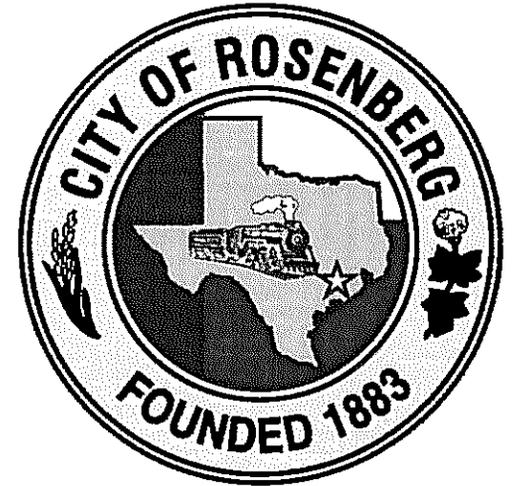
Presented to

“Xtreme” Girls Softball Team

In recognition of the outstanding 2nd Place finish in the Texas State Championship in the Girls 14U Division. Your dedication and selfless work to bring this recognition back to the City of Rosenberg has earned you a place of high esteem in the hearts and minds of the people of this City.

In testimony whereof, witness my hand and Seal of the City of Rosenberg, on this the 21st day of July, 2015.


Cynthia A. McConathy, Mayor
City of Rosenberg, Texas



General Comments from the Audience:

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

Comments from the Audience for Consent and Regular Agenda Items:

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

ITEM 1

Review of Consent Agenda.

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

ITEM A

Minutes:

- 1. Special City Council Meeting Minutes – June 30, 2015**
- 2. Regular City Council Meeting Minutes – July 07, 2015**

CITY OF ROSEBERG
SPECIAL WORKSHOP COUNCIL MEETING MINUTES
*****DRAFT*****

On this the 30th day of June, 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

Cynthia McConathy	Mayor
William Benton	Councilor at Large, Position 1
Amanda Barta	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Lisa Wallingford	Councilor, District 3
Lynn Moses	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
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
Tonya Palmer	Building Official
Lisa Olmeda	Human Resources Director
Ashley Scaggs	Administrative Assistant
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
James Lewis	Information Services Manager
Luis Garza	Accounting Supervisor
Daniel Kelleher	Main Street Manager
Kaye Supak	Executive Assistant
Paul Jones	GIS System Administrator
Angelia Hayes	Court Administrator

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 McConathy called the meeting to order at 6:30 p.m.

AGENDA

- 1. REVIEW AND DISCUSS THE CLASSIFICATION AND TOTAL COMPENSATION STUDY AND ANALYSIS AS PRESENTED BY GALLAGHER BENEFITS SERVICES, INC., AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: On November 25, 2014, the City Council approved the Classification and Total Compensation Study and Analysis (Project) with Gallagher Benefits Services, Inc. The Project consisted of: Study Initiation and Compensation Philosophy, Classification Study, Job Evaluation, Compensation Study, and Final Report.

On January 22, 2015, a strategy meeting with the department heads and management staff was conducted and Project orientation meetings were held with City employees. Occupational Panel Meetings were held in March 2015 with department employees to provide details relating to duties, responsibilities and career development.

All employees completed a Position Description Questionnaire (PDQ) that detailed their specific position, any related supervisory responsibilities, essential duties, knowledge/skills, education, experience, special requirements, machines, tools, and equipment, decision-making and judgments, physical factors, and working conditions.

From the PDQs, Gallagher Benefits Services, Inc., created Classification Structures, Class Specifications, Class Allocation, Decision Band Method (DBM) Ratings, Pay Structures, and Implementation Options.

Lori Messer with Gallagher Benefits Services, Inc., will present the draft of Final Report at the Workshop Meeting and will be available to answer any questions that City Council may have.

Key Discussion Points: Joyce Vasut, Executive Director of Administrative Services, read the Executive Summary. Lori Messer, Senior Consultant for Gallagher Benefit Services, Inc., gave a presentation regarding the Classification and Total Compensation Study and Analysis, and presented a draft of the final report.

- Benefits were not included in the scope of the study; however, the City of Rosenberg's benefits are in line with other Houston-area cities.
- From an aggregate perspective, current range midpoints of all non-sworn jobs combined are slightly misaligned compared to the 50th percentile of actual salaries in the market, lagging the market by 12.4%.
- From an aggregate perspective, current range midpoints of all sworn jobs combined are competitive compared to the 50th percentile of range maximums in the market, lagging the market by 7.3%.
- Three implementation options were presented, although the plan could be implemented in any number of ways.
- The general consensus was to have the Finance Committee discuss the report before further presenting any recommendations for action to City Council.
- When the compensation study was requested, there was capacity held for it in the budget in anticipation of its outcome, therefore, Finance will be including many of the recommendations of the study when preparing the final budget.

2. **REVIEW AND DISCUSS A PRESENTATION REGARDING THE ACCOUNTING AND BUDGETING CHANGES FOR THE TECHNOLOGY FUND AND TECHNOLOGY OPERATIONS, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: In order to improve the presentation and understanding of the budgeting and accounting for technology operations, maintenance and replacement, City staff is proposing to change the fund and account structure regarding technology. Currently, the majority of technology related expenses are budgeted and recorded in the Technology Fund (Fund No. 603) with a few miscellaneous items funded throughout the other departments.

The preliminary FY2016 Budget for technology, based on the current fund and account structure, is included in the agenda packet. The highlighted operational costs are proposed to be moved to the General Fund, as the Technology Department. Those line items not highlighted will remain in the Technology Fund for tracking of the maintenance and replacement of computer software, hardware and other technology related equipment.

Currently there are transfers from the General Fund, Water/Wastewater Fund and Civic Center Fund, which provide all the funding/revenues for the Technology Fund. The large transfer from the General Fund will no longer be necessary since the technology operational costs will be moved to the General Fund and the Water/Wastewater Fund will contribute its portion through

the administrative transfer to the General Fund which already exists. Additionally, the maintenance and replacement costs which will remain in the Technology Fund will be budgeted in each individual department based on their individual calculated proration of the Technology Fund expense. Therefore, each department will have an Information Services Fees line item, similar to the Fleet Replacement line item, and there will no longer be a large lump sum transfer from the General Fund to the Technology Fund. The schedules capturing the proration allocation are also included as supporting documentation for your review.

These changes will better reflect the actual expenses of each department and remove a large lump sum transfer that did not include the proper detailed accounting for technology services. Additionally, the line item account names and numbers in the Technology Fund will change to more accurately describe the related expenses. The dollar amounts presented are preliminary and are being used for presentation purposes only and will change prior to the release of the Proposed FY2016 Budget document.

Key Discussion Points: Joyce Vasut read the Executive Summary and clarified that we are not increasing the technology budget, only reclassifying accounts with the goal of having the technology fund look more like a technology report. James Lewis, Information Services Manager, presented the proposed changes to the accounting structure in order to more accurately reflect the breakdown by department. Joyce explained that the desired outcomes are to create a technology department within the general fund, with greater transparency in contributions by department, and better allocation of costs to the respective departments which should be incurring the costs.

3. **REVIEW AND DISCUSS FY2016 BUDGET PRIORITIES, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: On June 23, 2015, City Council discussed the listing of fifty-three (53) budget requests as prioritized by staff. A draft minute excerpt from this meeting was not yet available to include with this item. City Council requested more time to review the items and submit their prioritized rankings of the twenty-five (25) items from the list that they felt were the highest priority. City Council will submit their list to City staff prior to the meeting.

A list of the twenty-five highest ranked items as prioritized by City Council will be presented at the meeting for consideration by City Council. On July 07, 2015, the list will be presented as a Resolution for City Council consideration and if approved, City staff will incorporate the highest ranked items in the FY2016 Proposed Budget.

Key Discussion Points: Joyce Vasut read the Executive Summary and presented the updated priority list for FY2016 budget requests. She explained that it makes things easier when the proposed budget is more closely aligned to the adopted budget, so we would like to reflect what Council prefers to begin with. Some Council Members expressed their desire to ensure that technology investments will be utilized for many years to come. Councilor Benton requested to see the formula that the finance department used in re-ordering Council's priorities of the budget requests, which Ms. Vasut agreed to accommodate at a later date of his convenience.

4. **REVIEW AND DISCUSS REPUBLIC SERVICES PROPOSED SOLID WASTE AND CURBSIDE RECYCLING RATES FOR FY2016, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: Beginning in the third year of the Contract with Republic Services, and each subsequent year thereafter, the Contract states that the rates for solid waste/recycling services "shall be adjusted upward or downward to reflect changes in the cost of operations" per Section 10.02: Modification to Rates. This rate change calculation is based on the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers as well as changes in fuel costs. Republic Services initially submitted a service rate increase of 1.8%. However, staff review of the CPI calculations confirmed an error in Republic's calculations.

Due to the large percent change in the price of fuel from April of 2012 and April of 2015, the rate for FY2016 will decrease by 1.9%. This rate decrease only pertains to the rates charged to

the City by Republic; it does not reflect the fees charged to residents by the City for garbage/recycling service. Staff has verified the calculations and determined that the rate charged to the City should decrease 1.9% per the terms of the Contract.

A representative from Republic will be present to answer questions. Staff will return at a later date to discuss this rate decrease's impact on the fees charged to Rosenberg residents.

Key Discussion Points: Jeff Trinker, Executive Director of Support Services, read the Executive Summary and introduced Frank Gracely, Municipal Manager of Republic Services. Mr. Gracely petitioned Council to forego the rate decrease and keep the current rates in effect, since the contracted CPI rate modification formula is not representative of actual annual operational costs. The variance is specifically due to the formula's use of gasoline prices, as opposed to the compressed natural gas and diesel fuel that is actually used by the fleet. The general consensus of Council was in agreement with Mr. Gracely's proposal. No further action will be required as a result of not changing the rate.

5. **ADJOURNMENT.**

There being no further business, Mayor McConathy adjourned the meeting at 8:25 p.m.

Linda Cernosek, TRMC, City Secretary

CITY OF ROSEBERG
REGULAR COUNCIL MEETING MINUTES

*****DRAFT*****

On this the 7th day of July, 2015, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Cynthia McConathy	Mayor
William Benton	Councilor at Large, Position 1
Amanda Barta	Councilor at Large, Position 2
Jimmie Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Lisa Wallingford	Councilor, District 3
Lynn Moses	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
Valente Martinez	Fleet Manager
Lisa Olmeda	Human Resources Director
Dallis Warren	Police Chief
Wade Goates	Fire Chief
Angela Fritz	Executive Director of Information Services
Darren McCarthy	Parks and Recreation Director
Lydia Acosta	Recreation Program Coordinator
Randall Malik	Economic Development Director
James Lewis	Information Services Manager
Fernando DeLeGarza	Information Technology Specialist
Steven Trevino	Information Technology Specialist
Cynthia Sullivan	Information Services – Sec II
Luis Garza	Accounting Supervisor
Kaye Supak	Executive Assistant

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 McConathy called the meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE.

Reverend Daniel Haas, St. John's United Church of Christ, Rosenberg, gave the invocation and led the pledge of allegiance to the flag.

PRESENTATION OF THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL FUND OFFICER OF THE MONTH AWARD.

Dallis Warren, Police Chief, and DPS Sergeant Eric Gray, representative from National Law Enforcement Officers Memorial Fund (NLEOMF), presented the NLEOMF Officer of the Month Award to Sergeant Anthony Schnacky and Officer Matthew Curry for their quick thinking and heroic action in extracting a

citizen from a burning vehicle.

PRESENTATION OF TEXAS ASSOCIATION OF GOVERNMENT INFORMATION TECHNOLOGY MANAGERS RISING STAR AWARD.

Angela Fritz, Executive Director Information Services, and Chris Piker, representative from the Texas Association of Government Information Technology Managers (TAGITM), presented the TAGITM Rising Star Award to James Lewis, Information Services Manager.

PRESENTATION OF ROSENBERG IMAGE COMMITTEE BEAUTIFICATION AND RENOVATION AWARDS.

William Benton, Councilor, presented Rosenberg Image Committee Beautification and Renovation Awards to:

- Wayne and Kay Pomikal 3602 Avenue R
- Monte and Josefina Silhavy 4308 Juan Carlos Court
- Our Lady of Guadalupe Catholic Church 1600 Avenue D

PRESENTATION OF PROCLAMATION RECOGNIZING THE MONTH OF JULY 2015 AS PARKS AND RECREATION MONTH IN THE CITY OF ROSENBERG.

Cynthia McConathy, Mayor, presented a Proclamation Recognizing the Month of July 2015 as Parks and Recreation Month in the City of Rosenberg.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. REVIEW OF CONSENT AGENDA.

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

A. CONSIDERATION OF AND ACTION ON SPECIAL MEETING MINUTES FOR JUNE 22, 2015, SPECIAL MEETING MINUTES FOR JUNE 23, 2015, AND WORKSHOP MEETING MINUTES FOR JUNE 23, 2015.

B. CONSIDERATION OF AND ACTION ON A FINAL PLAT OF STONECREEK ESTATES SECTION ONE, A SUBDIVISION OF 76.47 ACRES OF LAND OUT OF THE WILEY MARTIN SURVEY, A-56 FORT BEND COUNTY, TEXAS; 185 LOTS, 8 RESERVES, 9 BLOCKS.

Executive Summary: The Final Plat of Stonecreek Estates Section One adjoins the Berdett Road right-of-way immediately south of Dry Creek. The subdivision is located in Fort Bend County Municipal Utility District No. 184, for which the Development and Utility Agreements were approved by City Council on August 26, 2014. The Planning Commission recommended approval of the Development Agreement and Land Plan on August 20. The Plat is located in the Extraterritorial Jurisdiction (ETJ) with the exception of a portion of the City Limits abutting Dry Creek.

The Plat consists of 76.47 acres and 185 single-family residential lots. Additionally, the Plat contains several acres in landscape reserves and an approximately 5.18-acre recreation center site that will receive credit toward meeting parkland dedication requirements. All proposed lots are a minimum of sixty feet (60') in width with some lots being substantially larger. The Plat complies with current City ordinances related to lot size and parkland dedication.

The Preliminary Plat of this subdivision was approved by the Planning Commission on September 17, 2014. Due to the expiration provisions in the ordinance, the Preliminary Plat approval was extended by the Planning Commission on April 15, 2015. The Commission approved the Final Plat on May 20, 2015. The proposed Final Plat is in conformance with the approved Land Plan, Preliminary Plat, and with applicable City ordinances. Staff recommends approval of the Final Plat of Stonecreek Estates Section One.

C. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1989, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN INTERLOCAL AGREEMENT BETWEEN FORT BEND COUNTY AND THE CITY OF ROSENBERG, TEXAS, FOR RADIO SYSTEM USE WITHIN FORT BEND COUNTY'S 800 MEGAHERTZ PUBLIC SAFETY RADIO SYSTEM FOR THE TERM ENDING SEPTEMBER 30, 2015.**

Executive Summary: City Council approval is requested for Resolution No. R-1989 which authorizes the approval of a new Interlocal Agreement with Fort Bend County for the operation of an 800 megahertz public safety radio system. The Agreement remains consistent with past years' Agreements and includes an increase of the monthly fees. This new Agreement, if approved, will take effect immediately and expire on September 30, 2015. The Agreement will automatically renew thereafter with said fee increase effective October 01, 2015.

The Interlocal Agreement has been included as Exhibit "A" to Resolution No. R-1989. Staff recommends approval of Resolution No. R-1989 as presented.

D. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1990, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN INTERLOCAL AGREEMENT FOR HELICOPTER USE BY AND BETWEEN FORT BEND COUNTY AND THE CITY OF ROSENBERG, TEXAS.**

Executive Summary: The Fort Bend County Sheriff's office recently accepted the donation of two (2) OH58A Helicopters and have assigned them to the Patrol Division to implement a flight operations unit. Spotters/Observers have been selected from Fort Bend County Sheriff's Office and from the Police Departments of Missouri City, Rosenberg and Sugar Land. These Departments have agreed to a commitment of resources and agreed to train personnel as Tactical Flight Officers in support of this program.

Resolution No. R-1990 formalizes this Interlocal Agreement (Agreement) and outlines the responsibilities of each entity. The helicopters will be used to combat criminal activity and increase officer safety during patrol, tactical, investigative operations, and incident command operations. As part of this Agreement, the City will reimburse Fort Bend County \$7,500 per year for the fuel and operations cost of the helicopters. The Agreement will be implemented upon approval and expires on September 30, 2016, and will then automatically renew for one-year terms each October 1. Funds are currently allocated to cover the cost of this Agreement from seized assets and in future years will be included in the regular Budget.

Staff recommends approval of Resolution No. R-1990 as presented.

Action: Councilor Euton made a motion, seconded by Councilor Moses, to approve Consent Agenda Items A, B, C, and D. The motion carried by a unanimous vote.

REGULAR AGENDA

2a. *This item was formerly item 14 on the Agenda.*

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1994, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A CONTRACT EXTENSION, BY AND BETWEEN THE CITY AND PATTILLO, BROWN AND HILL, LLP, FOR THE PROVISION OF PROFESSIONAL AUDIT SERVICES FOR FISCAL YEARS ENDING SEPTEMBER 30, 2015, AND SEPTEMBER 30, 2016.

Executive Summary: On July 03, 2012, City Council awarded the Professional Audit Services Contract (Contract) to Pattillo, Brown and Hill, L.L.P., under Resolution No. R-1518, for a three (3) year term, for the fiscal year ending September 30, 2012, and the following two (2) subsequent fiscal years ending September 30, 2013, and September 30, 2014, with a possible two-year extension not to exceed a total of five (5) years.

The City and Pattillo, Brown and Hill, L.L.P., have had a good working relationship for the past three (3) years and staff recommends extending the Contract for two (2) additional years to include fiscal years ending September 30, 2015, and September 30, 2016.

The Contract Extension is attached as Exhibit "A" to Resolution No. R-1994. Staff recommends approval of Resolution No. R-1994 as presented.

Key Discussion Points: Joyce Vasut read the Executive Summary and introduced Nicole Brown from Pattillo, Brown and Hill, L.L.P.

Action: Councilor Benton made a motion, seconded by Councilor Euton, to approve Resolution No. R-1994, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Contract Extension, by and between the City and Pattillo, Brown and Hill, LLP, for the provision of professional audit services for fiscal years ending September 30, 2015, and September 30, 2016. The motion carried by a unanimous vote.

2. **CONSIDERATION OF AND ACTION ON APPOINTMENT OF MAYOR PRO TEM FOR A ONE-YEAR TERM.**

Executive Summary: Historically, the Mayor and City Council have appointed a Mayor Pro Tem to serve a one-year term. Included in the agenda packet is a history list of those who have served as the Mayor Pro Tem in the past. This item is being presented by the City Secretary for City Council consideration for appointment of a Mayor Pro Tem for a one-year term.

Key Discussion Points: Linda Cernosek, City Secretary, read the Executive Summary.

Action: Councilor Euton made a motion, seconded by Councilor Pena, to appoint Councilor Pena as Mayor Pro Tem for a one-year term.

The motion failed by a vote of 2 to 5 as follows: Yeses: Councilors Pena and Euton. Noes: Mayor McConathy, Councilors Benton, Barta, Wallingford, and Moses.

Action: Councilor Moses made a motion, seconded by Councilor Benton, to approve appoint Councilor Barta as Mayor Pro Tem for a one-year term.

The motion carried by a vote of 5 to 2 as follows: Yeses: Mayor McConathy, Councilors Benton, Barta, Wallingford, and Moses. Noes: Councilors Pena and Euton.

3. **CONSIDERATION OF AND ACTION ON APPOINTMENTS TO CITY COUNCIL COMMITTEES:**

- a) **EMPLOYEE BENEFITS COMMITTEE (THREE POSITIONS);**
- b) **FINANCE/AUDIT COMMITTEE (THREE POSITIONS);**
- c) **HOUSTON-GALVESTON AREA COUNCIL (H-GAC)(REPRESENTATIVE AND ALTERNATE);**
- d) **IMAGE COMMITTEE (ONE VOTING COUNCIL MEMBER);**
- e) **MAIN STREET ADVISORY BOARD (ONE COUNCIL MEMBER EX-OFFICIO);**
- f) **PARKS AND RECREATION BOARD (ONE VOTING COUNCIL MEMBER);**

- g) **PLANNING COMMISSION (ONE COUNCIL MEMBER EX-OFFICIO);**
- h) **PROFESSIONAL SERVICES/ENGINEERING PROJECT REVIEW COMMITTEE (THREE POSITIONS); AND,**
- i) **ROSENBERG DEVELOPMENT CORPORATION (THREE COUNCIL REPRESENTATIVES/DIRECTORS).**

Executive Summary: Each year the City Council appoints and reappoints members to the City's Boards, Committees, and Commissions (Committees) that are to be appointed or reappointed for that particular year. The City Council Committees requiring City Council Members to be appointed are Employee Benefits Committee (three positions); Finance/Audit Committee (three positions); Houston-Galveston Area Council (H-GAC)(Representative and Alternate); Image Committee (one voting Council Member); Main Street Advisory Board (one Council Member ex-officio); Parks and Recreation Board (one voting Council Member); Planning Commission (one Council Member ex-officio); Professional Services/Engineering Project Review Committee (three positions); and Rosenberg Development Corporation (three Council Representatives/Directors). Included in the agenda packet is a copy of the above Committees and the Council Members that previously served.

Key Discussion Points: Linda Cernosek read the Executive Summary.

Employee Benefits Committee (three positions)

Action: Councilor Benton made a motion, seconded by Councilor Barta, to appoint the following members to the Employee Benefits Committee: Councilors Pena, Wallingford, and Moses. The motion carried by a unanimous vote.

Finance/Audit Committee (three positions)

Action: Councilor Benton made a motion, seconded by Councilor Barta, to reappoint the following members to the Finance/Audit Committee: Mayor McConathy, Councilor Benton, and Councilor Euton. The motion carried by a unanimous vote.

Houston-Galveston Area Council (H-GAC)(Representative and Alternate)

Action: Councilor Euton made a motion, seconded by Councilor Moses, to reappoint Mayor McConathy as the Representative to the Houston-Galveston Area Council (HGAC). The motion carried by a unanimous vote.

Action: Mayor McConathy made a motion, seconded by Councilor Benton, to appoint Councilor Pena as the Alternate to the Houston-Galveston Area Council (HGAC). The motion carried by a unanimous vote.

Image Committee (one voting Council Member)

Action: Mayor McConathy made a motion, seconded by Councilor Euton, to reappoint Councilor Benton to the Image Committee as the voting Council Member. The motion carried by a unanimous vote.

Main Street Advisory Board (one Council Member ex-officio)

Action: Councilor Benton made a motion, seconded by Councilor Barta, to reappoint Councilor Pena to the Main Street Advisory Board as the Council Member ex-officio. The motion carried by a unanimous vote.

Parks and Recreation Board (one voting Council Member)

Action: Councilor Benton made a motion, seconded by Councilor Wallingford, to reappoint Councilor Barta to the Parks and Recreation Board as the voting Council Member. The motion carried by a unanimous vote.

Planning Commission (one Council Member ex-officio)

Action: Mayor McConathy made a motion, seconded by Councilor Moses, to appoint Councilor Euton to the Planning Commission as the Council Member ex-officio. The motion carried by a unanimous vote.

Professional Services/Engineering Project Review Committee (three positions)

Action: Councilor Pena made a motion, seconded by Councilor Benton, to reappoint Councilors Benton and Pena, and to appoint Councilor Euton to the Professional Services/Engineering Project Review Committee. The motion carried by a unanimous vote.

Rosenberg Development Corporation (three Council Representatives/Directors)

Action: Mayor McConathy made a motion, seconded by Councilor Benton, to appoint the following City Council Representatives to the Rosenberg Development Corporation: Councilors Barta, Pena, and Moses. The motion carried by a unanimous vote.

4. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1991, A RESOLUTION ACCEPTING THE FILING OF A PETITION BY LAND OWNER FOR ANNEXATION OF 3.483 ACRES OF LAND IN THE EUGENE WHEAT SURVEY, A-396, FORT BEND COUNTY, TEXAS.**

Executive Summary: City staff has received a petition from Lennar Homes, property owner of Walnut Creek (Fort Bend County MUD No. 152) for the voluntary annexation of 3.483 acres and disannexation of 8.709 acres as seen in the documents and vicinity map included in the agenda packet. The main purpose of the request is to not have developable properties that are in multiple jurisdictions. This could be beneficial not only to the developer, but also to the City by avoiding confusion as to what entity (City or County) is responsible for maintenance, emergency response, and other issues. Further, despite being smaller in size than the proposed disannexation tract (3.483 acres versus 8.709), the proposed annexation tract had a higher taxable value for 2014 (\$242,170) than the disannexation tract (est. \$3,136), so this would result in a net fiscal gain to the City.

However, before taking any action on the annexation or disannexation, a Resolution must first be passed accepting the filing of the petition for annexation. Resolution No. R-1991 is regarding the acceptance of the petition for annexation only and does not provide for the disannexation request; annexation and disannexation have different requirements per the City Charter. If passed, separate ordinances for annexation and disannexation of the proposed property will be placed on the July 21, 2015 City Council Agenda. Staff recommends approval of Resolution No. R-1991.

Key Discussion Points: Travis Tanner, Executive Director of Community Development, gave an overview of the item.

Action: Councilor Barta made a motion, seconded by Councilor Wallingford, to approve Resolution No. R-1991, a Resolution accepting the filing of a petition by land owner for annexation of 3.483 acres of land in the Eugene Wheat Survey, A-396, Fort Bend County, Texas. The motion carried by a unanimous vote.

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1984, A RESOLUTION AWARDED BID NO. 2015-09, FOR CONSTRUCTION OF 16-INCH WATER LINE EXTENSION – BRYAN ROAD TO FUTURE ELEVATED STORAGE TANK; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE DOCUMENTS AND/OR AGREEMENTS REGARDING SAME.**

Executive Summary: Bids were received on Wednesday, June 10, 2015, for Bid No. 2015-09 for construction of the FM 2977 16-inch Water Line Extension – Bryan Road to Future Elevated Storage Tank (Project). A total of eight (8) bids were opened and tabulated as indicated on the bid summary form.

Staff recommends Bid No. 2015-09 be awarded to Gonzalez Construction Enterprise, Inc., for the base bid and alternate "A" in the total amount of \$597,984.73 for construction of the Project that will be constructed behind Fire Station No. 3, which is located at the corner of August Green Drive and FM 2977 (Minonite Road). The correspondence from Charles Kalkomey, Project Engineer, included in the agenda packet recommends same. Should the bid be awarded as recommended, the proposal from Gonzalez Construction Enterprise, Inc., will be attached and serve as Exhibit "A" to Resolution No. R-1984. The contract time is 75 calendar days.

This Project is included in the FY2015 Capital Improvement Plan approved by City Council on June 17, 2014. The Project is also a part of the City's approved Groundwater Reduction Plan and will be an essential element necessary to transport the alternative surface water source into the distribution system. This Project will also loop with a dead-end 12-inch water line located on Rohan Road at FM 2977 to create an additional feed for this area of the City/ETJ and help maintain water pressure and capacity necessary to comply with the Texas Commission on Environmental Quality (TCEQ) water system design criteria.

Staff recommends approval of Resolution No. R-1984 which will award Bid No. 2015-09 and provide authorization for the City Manager to negotiate and execute all required documents necessary to facilitate the Agreement.

Key Discussion Points: John Maresh, Assistant City Manager of Public Services, read the Executive Summary. Mr. Maresh advised Council that this company has done good work and has stayed on schedule on the Bamore Road, Phase 3 project for the City; however, there are liquidated damage clauses in the contract in the event of delays. Construction should begin fairly quickly upon completing the contract documents.

Action: Councilor Benton made a motion, seconded by Councilor Moses, to approve Resolution No. R-1984, a Resolution awarding Bid No. 2015-09 to Gonzalez Construction Enterprise, Inc., for construction of 16-inch Water Line Extension – Bryan Road to Future Elevated Storage Tank; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same. The motion carried by a unanimous vote.

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2000, A RESOLUTION AWARDED A BID FOR THE PURCHASE OF A MOTOR GRADER, AND DECLARING CERTAIN EQUIPMENT AS SURPLUS AND APPROVING A TRADE-IN VALUE; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE DOCUMENTS NECESSARY TO FACILITATE SAID PURCHASE AND TRADE-IN.**

Executive Summary: At the Special Meeting on June 22, 2015, the City Council approved Budget Amendment 15-11 through Resolution No. R-1988. Three (3) pieces of essential equipment were included in that Resolution for the Public Works Department: a motor grader, a bucket truck, and an asphalt patch truck. Staff has received a bid for the purchase of a 2015 year model Noram 65E compact motor grader from Mustang Caterpillar in the amount of \$139,000.00 utilizing the BuyBoard Cooperative Purchasing Program. Mustang Caterpillar has also offered a Trade-In value in the amount of \$19,000.00 for the 1999 year model Fiat FG65C currently in the City Public Works equipment fleet. The net cost with the trade-in is \$120,000.00. Both the Fleet Supervisor and the Public Works Director believe the trade-in value is very fair and the City should accept it.

Staff recommends approval of Resolution No. R-2000, awarding a bid for the purchase of a motor grader and declaring the 1999 year model Fiat FG65C motor grader as surplus equipment; and authorizing the City Manager to negotiate and execute appropriate documents necessary to facilitate said purchase and trade-in in the net amount of \$120,000.00. Should City Council approve the Resolution, the proposal will be attached to serve as Exhibit "A".

Key Discussion Points: John Maresh read the Executive Summary.

Action: Councilor Benton made a motion, seconded by Councilor Barta, to approve Resolution No. R-2000, a Resolution awarding a bid for the purchase of a motor grader to Mustang Caterpillar and declaring certain equipment as surplus and approving a trade-in value; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents necessary to facilitate said purchase and trade-in. The motion carried by a unanimous vote.

7. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2001, A RESOLUTION AWARDED A BID FOR THE PURCHASE OF AN ASPHALT PATCH TRUCK; AND, AUTHORIZING THE CITY MANAGER**

TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE DOCUMENTS AND/OR AGREEMENTS REGARDING SAME.

Executive Summary: At the Special Meeting on June 22, 2015, the City Council approved Budget Amendment 15-11 through Resolution No. R-1988. Three (3) pieces of essential equipment were included in that Resolution for the Public Works Department: a motor grader, a bucket truck, and an asphalt patch truck. The total funding allocation for these pieces of equipment is \$368,000. Staff has received a bid for the purchase of a 2016 year model Freightliner chassis with a Pro-Patch Asphalt Pothole Patcher. The asphalt patch truck would be purchased from Freightliner of Austin, utilizing the BuyBoard Cooperative Purchasing Program. The total cost, including BuyBoard Administrative Fee is \$144,782.70. Staff would also note the allocation for the asphalt patch truck was initially estimated at \$119,000. However, favorable bids were obtained for both the motor grader (including trade-in value) and bucket truck resulting in a total expenditure amount of \$357,982.70, or \$10,017.30 below the budgeted amount for all three pieces of equipment.

Staff recommends approval of Resolution No. R-2001, awarding a bid for the purchase of an asphalt patch truck in the amount of \$144,782.70 from Freightliner of Austin, utilizing the BuyBoard Cooperative Purchasing Program. Should City Council approve the Resolution, the proposal will be attached to serve as Exhibit "A".

Key Discussion Points: John Maresh read the Executive Summary.

Action: Councilor Barta made a motion, seconded by Councilor Euton, to approve Resolution No. R-2001, a Resolution awarding a bid for the purchase of an asphalt patch truck to Freightliner of Austin; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same. The motion carried by a unanimous vote.

8. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2002, A RESOLUTION AWARDED A BID FOR THE PURCHASE OF A BUCKET TRUCK; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE DOCUMENTS AND/OR AGREEMENTS REGARDING SAME.**

Executive Summary: At the Special Meeting on June 22, 2015, the City Council approved Budget Amendment 15-11 through Resolution No. R-1988. Three (3) pieces of essential equipment were included in that Resolution for the Public Works Department: a motor grader, a bucket truck, and an asphalt patch truck. Staff has received a bid for the purchase of a 2015 year model Ford F550 chassis with a Versalift telescopic aerial platform lift capable of a 45-foot working height. The bucket truck would be purchased from Caldwell Country utilizing the BuyBoard Cooperative Purchasing Program. The total cost, including BuyBoard Administrative Fee is \$93,200.00.

Staff recommends approval of Resolution No. R-2002, awarding a bid for the purchase of a bucket truck in the amount of \$93,200.00 from Caldwell Country utilizing the BuyBoard Cooperative Purchasing Program. Should City Council approve the Resolution, the proposal will be attached to serve as Exhibit "A".

Key Discussion Points: John Maresh read the Executive Summary.

Action: Councilor Barta made a motion, seconded by Councilor Wallingford, to approve Resolution No. R-2002, a Resolution awarding a bid for the purchase of a bucket truck to Caldwell Country; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same. The motion carried by a unanimous vote.

9. ***This item was pulled from the agenda.***

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1995, A RESOLUTION PROVIDING FOR ACCEPTANCE OF A CLASSIFICATION AND COMPENSATION PLAN.

Executive Summary: On June 30, 2015, City Council reviewed and discussed a Final Report regarding job classifications and compensation for City employees as presented by

Gallagher Benefits Services, Inc. The Final Report contained measurable criteria necessary to establish market comparisons to the current level of compensation paid for all City job classifications which make up the City's Classification and Compensation Plan (Plan).

Implementation cost options were also presented and discussed. Ultimately, City Council agreed to defer the discussions regarding the Final Report, Plan, and implementation cost options to the City's Finance Committee (Committee). Said Committee meeting was set in order to take place prior to the July 7th City Council Meeting.

Staff has prepared a draft of Resolution No. R-1995. The Resolution will provide for the acceptance of the Classification and Compensation Plan. Resolution No. R-1995 will also provide an opportunity for City Council to select one of the three recommended cost implementation options, or an alternative form of the options presented.

Staff recommends approval of Resolution No. R-1995 predicated upon final consideration by City Council, and will be completed with the insertion of Implementation Cost Option 1, Option 2, or Option 3, and the establishment of an effective date.

10. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1993, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, BUDGET AMENDMENT 15-12 IN THE AMOUNT OF \$98,325 FOR THE WATER LINE OVERSIZING FOR THE TEXAS STATE TECHNICAL COLLEGE PROJECT.**

Executive Summary: At the June 22, 2015 Special Meeting, City Council approved Resolution No. R-1992 which authorized funds in an amount not to exceed \$100,000 for oversizing the water line to serve the Texas State Technical College (TSTC) in order to accommodate additional future development around the Fort Bend campus. Budget Amendment 15-12 in the amount of \$98,325 is for the delta between 12-inch and 16-inch upsize of the water line for the TSTC Project. Staff recommends allocating the necessary funds from the Subsidence Fund, Retained Earnings.

Budget Amendment 15-12 is included in the agenda packet as Exhibit "A" to Resolution No. R-1993. Staff recommends approval of Resolution No. R-1993 as presented.

Key Discussion Points: Joyce Vasut read the Executive Summary.

Action: Councilor Barta made a motion, seconded by Councilor Moses, to approve Resolution No. R-1993, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Budget Amendment 15-12 in the amount of \$98,325 for the water line oversizing for the Texas State Technical College Project. The motion carried by a unanimous vote.

11. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1996, A RESOLUTION APPROVING FY2016 BUDGET PRIORITIES.**

Executive Summary: As part of the FY2016 Budget process, each Department was asked to submit their needs, not including operational expenses, for FY2016. The needs were submitted as either a (1) capital request (over \$100,000), (2) a supplemental request (under \$100,000), or (3) a personnel request. The majority of the items requested were identified during the strategic planning process. Once the requests were compiled, City management (Department Directors) met and prioritized the requests.

A listing of requests, as prioritized by management, was presented to City Council at the June 23, 2015 City Council Workshop for discussion. Based on the discussion, City Council prioritized the requests from one (1) to twenty-five (25). The top 25 requests, as prioritized by City Council, were presented at the June 30, 2015 Special City Council Workshop.

Resolution No. R-1996 includes the 25 highest prioritized requests and, should City Council approve, allows City staff to determine the number of items that may be funded and included in the proposed FY2016 Budget. Staff recommends approval of Resolution No. R-1996.

Key Discussion Points: Joyce Vasut read the Executive Summary and explained that passing this Resolution does not mean that all of the projects will be funded; rather, it gives staff a priority list for guidance when trying to fund as many of the projects as possible. Ms. Vasut requested clarification from Council regarding their wishes with the Firewall, which Council stated is a priority to fund prior to a technology audit, along with ticket writers, if possible.

Action: Councilor Euton made a motion, seconded by Councilor Moses, to approve Resolution No. R-1996, a Resolution approving FY2016 Budget Priorities. The motion carried by a unanimous vote.

12. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1997, A RESOLUTION APPROVING CAPITAL IMPROVEMENT PLAN PRIORITIES FOR FY2016.**

Executive Summary: During the FY2016 Budget process, staff reviewed the current Capital Improvement Plan (CIP) and is recommending that a total of twenty-three (23) projects be addressed in FY2016. Exhibit "A" to Resolution No. R-1997 lists the twenty-three (23) individual projects. The Planning Commission met on May 20, 2015, and also recommended approval of the projects proposed for the FY2016 CIP. These projects were also presented to City Council at the June 23, 2015 City Council Workshop.

Existing funding is available for eleven (11) of the Capital Projects. Three (3) projects can be funded using General Fund Balance which will require a budget adjustment at a future meeting. The Railroad Quiet Zones Project is awaiting additional costing information before funding can be determined.

There are several remaining Capital Projects which are not completely funded. Funding for these projects may include the issuance of Certificates of Obligation, as follows:

- **Issue Certificates of Obligation – November 2015 - \$4,915,200 (to be paid with Subsidence Fees)**
 - Chloramine Conversion System (GRP) - \$376,200
 - Water Plant No. 8 (GRP) - \$4,539,000
- **Issue Certificates of Obligation – November 2015 - \$5,000,000 (to be paid with Water/Wastewater fees)**
 - WWTP 1A Collection System (Phase Two) - \$5,000,000
- **Issue Certificates of Obligation - March 2016 - \$5,612,000**
 - Bryan Road – \$2,300,000
 - Spacek Road Improvements - Phase II – \$312,000
 - Old Richmond Road/Jennetta Street and Avenue F Drainage - \$3,000,000
- **Issue Certificates of Obligation – March 2016 - \$4,317,000 (to be paid with Water/Wastewater fees)**
 - Spacek Road Sewer Lift Station - \$2,617,000
 - Spacek Road Sewer Line - \$1,700,000

The actual details regarding the issuance of Certificates of Obligation, including the dollar amounts and timing of the issues, will be analyzed and strategized during the first quarter of FY2016 to determine the best options for the City.

Approval of Resolution No. R-1997 will establish the City's FY2016 Capital Improvements Plan and allow for the projects to be properly included in the proposed FY2016 Budget. Staff recommends approval of Resolution No. R-1997.

Key Discussion Points: Joyce Vasut read the Executive Summary.

Action: Councilor Euton made a motion, seconded by Councilor Barta, to approve Resolution No. R-1997, a Resolution approving Capital Improvement Plan priorities for FY2016.

The motion carried by a unanimous vote.

13. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1998, A RESOLUTION APPROVING CAPITAL IMPROVEMENT PLAN PRIORITIES FOR FY2017 THROUGH FY2020.**

Executive Summary: Pursuant to the City Charter which requires a five-year Capital Improvement Plan (CIP), staff has prepared a proposed schedule for Capital Projects in FY2017, FY2018, FY2019 and FY2020. The development of the CIP for FY2017 to FY2020 is based on several factors, including but not limited to:

- Unfunded Mandates (Fort Bend Subsidence District, TCEQ)
- Liability/Risk Management including noncompliance violations which subject the City to monetary fines, penalties and/or enforcement actions
- Protect the health, safety and welfare of the citizens and the environment
- Opportunities to leverage City funds with Fort Bend County Mobility Bond Funds or grant funds
- Quality of life/growth including City parks and City facilities

The proposed FY2017-FY2020 CIP is attached to Resolution No. R-1998 as Exhibit "A". Staff recommends approval of Resolution No. R-1998.

Key Discussion Points: Joyce Vasut read the Executive Summary. This list is a fluid document as serves as a general outline of future needs.

Action: Councilor Barta made a motion, seconded by Councilor Moses, to approve Resolution No. R-1998, a Resolution approving Capital Improvement Plan priorities for FY2017 to FY2020. The motion carried by a unanimous vote.

14. ***This item was considered at the beginning of the Agenda as item 2a.***
CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1994, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A CONTRACT EXTENSION, BY AND BETWEEN THE CITY AND PATTILLO, BROWN AND HILL, LLP, FOR THE PROVISION OF PROFESSIONAL AUDIT SERVICES FOR FISCAL YEARS ENDING SEPTEMBER 30, 2015, AND SEPTEMBER 30, 2016.

15. **HOLD EXECUTIVE SESSION TO DELIBERATE THE EMPLOYMENT, EVALUATION, OR DUTIES OF THE CITY MANAGER PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE.**

Action: Councilor Barta made a motion, seconded by Councilor Wallingford, to adjourn to Executive Session. The motion carried by a unanimous vote of those present.

An Executive Session was held to deliberate the employment, evaluation, or duties of the City Manager pursuant to Section 551.074 of the Texas Government Code.

16. **ADJOURN EXECUTIVE SESSION, RECONVENE INTO REGULAR SESSION, AND TAKE ACTION AS NECESSARY AS A RESULT OF EXECUTIVE SESSION.**

Mayor McConathy adjourned the Executive Session and reconvened into Regular Session at 9:25 p.m.

17. **ANNOUNCEMENTS.**

- Effective July 21, Announcements will be moved to the beginning of the Agenda.
- Rosenberg Police Explorers are conducting a competition on July 18, 2015 at Terry High School, and are need of volunteers.

18. **ADJOURNMENT.**

There being no further business, Mayor McConathy adjourned the meeting at 9:28 p.m.

Linda Cernosek, TRMC, City Secretary



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
B	Ordinance No. 2015-21 – No Parking on Ward Street

ITEM/MOTION

Consideration of and action on Ordinance No. 2015-21, an Ordinance amending the Code of Ordinances by adding a portion of Ward Street to Section 28-116 of Article III of Division 2 of Chapter 28 thereof, as a portion of a street within the City upon which it is unlawful to park a vehicle; and repealing Ordinance No. 2013-11 in its entirety; providing for the installation of “No Parking” signs indicating the boundaries of the no parking zone along Ward Street; providing a penalty in an amount of not less than \$1.00 nor more than \$200.00 for each violation of any provision hereof; providing for a cumulative and conflicts clause; providing for severability; and providing for an effective date.

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

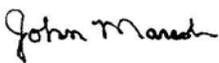
SUPPORTING DOCUMENTS:

1. Ordinance No. 2015-21
2. Location Map
3. Ordinance No. 2013-11 – 02-19-13
4. City Council Regular Meeting Minute Excerpt – 02-19-13

MUD #: N/A

APPROVALS

Submitted by:


 Assistant City Manager of
 Public Services

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney **DNRBHZ/rl**
- City Engineer
- Police Chief **DW/rl**

Approved for Submittal to City Council:


 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

This Ordinance is being presented to City Council for the consideration of the installation of a revised “no parking” zone on a portion of Ward Street at the intersection of FM 1640 (Avenue I). The City approved Ordinance No. 2013-11 on February 19, 2013, to address traffic issues and safety concerns resulting from vehicles that are parked along Ward Street, obstructing vision at the intersection, and constricting the street width. The “no parking” zone presently extends from the south right-of-way line of FM 1640 (Avenue I), seventy (70) feet south along both the east and west sides of Ward Street. The business establishments located on both sides of Ward Street at Avenue I appear to be generating the on-street parking.

An unresolved parking issue on the east side of Ward Street, near this intersection, was recently brought to staff’s attention. According to information provided, vehicles routinely park in the area immediately south of the “no parking” zone which contains two (2) driveways with a minimal amount of separation distance between them. As a result, one of the driveways will always be partially blocked, creating a safety issue for anyone that needs to use the driveway. If approved, the “no parking” zone would be extended an additional five (5) feet south, along the west side of Ward Street and thirty (30) feet south, along the east side of Ward Street to encompass the area between the two (2) driveways. A location map of the proposed “no parking” zone is included in the packet. Ordinance No. 2015-21 would repeal Ordinance No. 2013-11 and establish revised boundaries for this “no parking” zone.

Staff recommends approval of Ordinance No. 2015-21 as presented to address the remaining safety issue.

ORDINANCE NO. 2015-21

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY ADDING A PORTION OF WARD STREET TO SECTION 28-116 OF ARTICLE III OF DIVISION 2 OF CHAPTER 28 THEREOF, AS A PORTION OF A STREET WITHIN THE CITY UPON WHICH IT IS UNLAWFUL TO PARK A VEHICLE; AND REPEALING ORDINANCE NO. 2013-11 IN ITS ENTIRETY; PROVIDING FOR THE INSTALLATION OF “NO PARKING” SIGNS INDICATING THE BOUNDARIES OF THE NO PARKING ZONE ALONG WARD STREET; PROVIDING A PENALTY IN AN AMOUNT OF NOT LESS THAN \$1.00 NOR MORE THAN \$200.00 FOR EACH VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR A CUMULATIVE AND CONFLICTS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Rosenberg, Texas, adopted Ordinance No. 2013-11 on February 19, 2013, amending the Code of Ordinances of the City of Rosenberg, Texas, by adding the portion of Ward Street, from the south right-of-way line of FM 1640 (Avenue I), seventy (70) feet south along the east and west sides of Ward Street, to Section 28-116 of Article III of Division 2 of Chapter 28 thereof, as a portion of a street within the City upon which it is unlawful to park a vehicle; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, finds that said Ordinance No. 2013-11 does not adequately address the unlawful parking of a vehicle along said portion of Ward Street; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, finds that it is necessary to amend the portion of Ward Street upon which it is unlawful to park a vehicle to protect the health, safety and welfare of the public by repealing said Ordinance No. 2013-11; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, finds that it is necessary to adopt a new ordinance establishing the correct portion of Ward Street upon which it is unlawful to park a vehicle; now, therefore,

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

Section 1. 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. The Code of Ordinances of the City of Rosenberg is hereby amended by adding a portion of Ward Street to Section 28-116 of Article III of Division 2 of Chapter 28 thereof to read as follows:

“Sec. 28-116. - Prohibited at any time.

There shall be no parking of any vehicle at any time on any of the following streets or portions of streets:

* * *

Ward Street, from the south right-of-way line of FM 1640 (Avenue I), one-hundred (100) feet south along the east side of Ward Street and seventy-five (75) feet south along the west side of Ward Street.”

Section 3. Ordinance No. 2013-11 amending the Code of Ordinances of the City of Rosenberg, Texas, by adding the portion of Ward Street, from the south right-of-way line of FM 1640 (Avenue I), seventy (70) feet south along the east and west sides of Ward Street to Section 28-116 of Article III of Division 2 of Chapter 28 thereof, as a portion of a street within the City upon which it is unlawful to park a vehicle is hereby repealed in its entirety.

Section 4. When any person is charged with having parked or left standing a vehicle in a "No Parking" zone designated in Section 2 hereof, proof that the vehicle was, at the date and time of the offense alleged, owned by the person charged with the offense shall constitute prima facie evidence that the vehicle was parked or left standing at the place by the owner, but the owner shall have the right to introduce evidence to show that such vehicle was not parked by him or her as charged in the complaint.

Section 5. The City Manager is hereby authorized and directed to cause the placement of official traffic control devices giving notice of the "No Parking" zone as described in Section 2 above.

Section 6. Any person who shall fail to observe and comply with a duly posted traffic control device erected pursuant to this Ordinance, or who shall in any manner

violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$1.00 nor more than \$200.00.

Section 7. 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 8. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance 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 of 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 9. 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:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

APPROVED AS TO FORM:

Scott M. Tschirhart, **CITY ATTORNEY**
Denton Navarro Rocha Bernal Hyde & Zech, P.C.



**Proposed No Parking Zone on Ward St at FM 1640 (Ave I)
City of Rosenberg, Texas**

 Proposed No Parking Zone



Scale:
1:600
or
1 inch = 50 feet



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.



ORDINANCE NO. 2013-11

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY ADDING A PORTION OF "WARD STREET" TO SECTION 28-116 OF ARTICLE III OF DIVISION 2 OF CHAPTER 28 THEREOF, AS A PORTION OF A STREET WITHIN THE CITY UPON WHICH IT IS UNLAWFUL TO PARK A VEHICLE; PROVIDING FOR THE INSTALLATION OF "NO PARKING" SIGNS INDICATING THE BOUNDARIES OF THE NO PARKING ZONE ALONG WARD STREET; PROVIDING A PENALTY IN AN AMOUNT OF NOT LESS THAN \$1.00 NOR MORE THAN \$200.00 FOR EACH VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

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

Section 1. The Code of Ordinances of the City of Rosenberg is hereby amended by adding a portion of "Ward Street" to Section 28-116 of Article III of Division 2 of Chapter 28 thereof to read as follows:

"Sec. 28-116. - Prohibited at any time.

There shall be no parking of any vehicle at any time on any of the following streets or portions of streets:

* * *

Ward Street, from the south right-of-way line of FM 1640(Avenue I), seventy (70) feet south along the east and west sides of Ward Street."

Section 2. When any person is charged with having parked or left standing a vehicle in a "No Parking" zone designated in Section 1 hereof, proof that the vehicle was, at the date and time of the offense alleged, owned by the person charged with the offense shall constitute prima facie evidence that the vehicle was parked or left standing at the place by the owner, but the owner shall have the right to introduce evidence to show that such vehicle was not parked by him or her as charged in the complaint.

Section 3. The City Manager is hereby authorized and directed to cause the placement of official traffic control devices giving notice of the "No Parking" zone as described in Section 1 above.

Section 4. Any person who shall fail to observe and comply with a duly posted traffic control device erected pursuant to this Ordinance, or who shall in any manner violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$1.00 nor more than \$200.00.

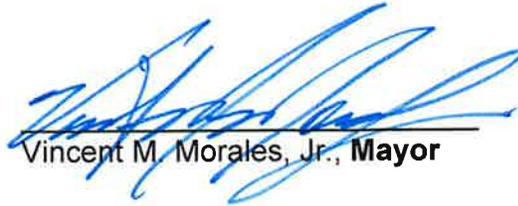
Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of 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.

PASSED AND APPROVED by a vote of 7 "ayes" in favor and 0 "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 19th day of February 2013.

ATTEST:

 *Linda Cernosek*
Linda Cernosek, City Secretary

APPROVED:


Vincent M. Morales, Jr., Mayor

APPROVED AS TO FORM:


Lora Jean D. Lenzsch
CITY ATTORNEY

- E. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1619, A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE DOCUMENTS FOR THE PURCHASE OF CERTAIN REAL PROPERTY, EASEMENTS AND/OR RIGHTS-OF-WAY FOR CAPITAL IMPROVEMENT PROJECTS INCLUDING AIRPORT AVENUE, BAMORE ROAD, BRYAN ROAD, DRY CREEK DRAINAGE, OLD RICHMOND ROAD, SPACEK ROAD, TERRY HIGH SCHOOL WATER REUSE, AND TXDOT ONE-WAY PAIRS.**

Executive Summary: On March 03, 2009, and February 15, 2011, City Council approved Resolutions Nos. R-921 and R-1290 (Resolutions) providing authorization for the City Manager to negotiate compensation and to execute necessary documentation to obtain certain properties, easements, and/or rights-of-way on behalf of the City as it relates to Capital Improvement Projects (Projects). The Resolutions also set a funding threshold not to exceed \$50,000 per individual parcel and set an expiration date for the Resolutions of two (2) years from the date of authorization.

Though some of the required sites have been acquired, the Projects named in Resolution No. R-1619 remain active or will be active in the near future. Staff is seeking approval of Resolution No. R-1619, which will authorize the City Manager to continue the acquisition process for these Projects in an amount not to exceed \$50,000.00 for each parcel, and to set a newly established Resolution expiration date of February 19, 2015.

- F. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2013-14, AN ORDINANCE GRANTING CONSENT TO THE FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 158 FOR THE SALE AND ISSUANCE OF UNLIMITED TAX BONDS, SERIES 2013, IN AN AMOUNT NOT TO EXCEED \$1,600,000.**

Executive Summary: Ordinance No. 2013-14 granting the City's consent to Fort Bend Municipal Utility District 158 (MUD No. 158), to sell Unlimited Tax Bonds, Series 2013, in an amount not to exceed \$1,600,000. MUD No. 158 is located in the City's Extraterritorial Jurisdiction (ETJ), at the southwest corner of Reading Road and Benton Road was included in the agenda packet. The development is identified as River Run on the Brazos and Rivers Mist subdivisions.

City Council consented to the creation of MUD No. 158 on December 14, 2004, through Ordinance No. 2004-29, and which was originally proposed as a 158.54 acre development. The Water Supply and Wastewater Services and Development Agreements between the City and Ventana Development Reading, LP, were executed on February 22, 2005. City Council approved Ordinance No. 2006-19 on August 15, 2006, consenting to the addition of approximately 59 acres. MUD No. 158 now is comprised of approximately 217.5 acres.

- G. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2013-11, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY ADDING A PORTION OF "WARD STREET" TO SECTION 28-116 OF ARTICLE III OF DIVISION 2 OF CHAPTER 28 THEREOF, AS A PORTION OF A STREET WITHIN THE CITY UPON WHICH IT IS UNLAWFUL TO PARK A VEHICLE; PROVIDING FOR THE INSTALLATION OF "NO PARKING" SIGNS INDICATING THE BOUNDARIES OF THE NO PARKING ZONE ALONG WARD STREET; PROVIDING A PENALTY IN AN AMOUNT OF NOT LESS THAN \$1.00 NOR MORE THAN \$200.00 FOR EACH VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.**

Executive Summary: This Ordinance is being presented to City Council for the consideration of the installation of a "no parking" zone on a portion of Ward Street at the intersection of FM 1640 (Avenue I). The City has been made aware of traffic issues and safety concerns resulting from vehicles that are parked along Ward Street and obstructing the vision at the intersection and constricting the street width. The "no parking" zone would extend from the south right-of-way line of FM 1640 (Avenue I), seventy (70) feet south along both the east and west sides of Ward Street. The business establishments located on both sides of Ward Street at Avenue I appear to be generating the on-street parking. If approved, the vehicles would have to park in the off-street parking lots for the respective business establishments. A location map of the proposed "no parking" zone is included in the packet.

Staff recommends approval of Ordinance No. 2013-11 as presented to address this safety issue.

- H. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1617, A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, A CONSENT TO ASSIGNMENT AGREEMENT RELATING TO THE TEMPORARY ASSIGNMENT OF WATER UNDER THE BRAZOS RIVER AUTHORITY**

Staff will continue to monitor the revenues and expenses. At this time, no major changes need to be made to meet budget projections. Additionally, the Quarterly Investment Report is included for your review as required by the Public Funds Investment Act.

Staff recommends the acceptance of the Quarterly Financial Reports and the Investment Report for the First Quarter of Fiscal Year 2013.

Mayor Morales stated he has a request from Councilor McConathy to move Item E into the Regular Agenda as Item 2A.

Action: Councilor McConathy made a motion, seconded by Councilor Suter to pull Item E on the Consent Agenda and move it to the Regular Agenda as Item 2A and to approve Items A, B, C, D, F, G, H, I, J, K and L on the Consent Agenda.

Key discussion points:

- Councilor McConathy asked for clarification on Items D and G where we are recommending no parking areas for Ward Street and Carlisle. She wants to make sure the businesses and residences that will be affected will be notified by mail so they have advance warning and placement of signs.
- Councilor Benton stated he noticed it is seventy feet from Avenue I south and is for both sides and will not cross over into the residents behind the bakery, is that correct.
- John Maresh, Assistant City Manager stated it is just up to the driveway at those businesses. It will not go to the residential homes.
- Councilor Benton referenced Item D and stated there is a no parking ordinance being proposed for Carlisle Street. Why and who requested that and have those people been informed?
- Jack Hamlett, City Manager stated the business located at Avenue H and Carlisle requested it. When Chief Gracia looked at it, we get traffic from the apartments parked on both sides especially on weekends and evenings. That road is narrow and if there is traffic on both sides a fire truck or emergency vehicle could not get down that street. We proposed it only on one side, not the apartment side. That would allow us to make sure we have main access for emergency vehicles.
- Councilor Benton referenced Item J and asked what the concern is regarding the City and what we are trying to accomplish with this regulation.
- Cyndy Powell, Assistant to the City Manager stated in the development process when they are constructing a facility they need to haul off construction debris. This ordinance would license those haulers of construction debris at a development. It would not affect those that are doing so called home projects.
- Jack Hamlett stated under our previous solid waste contract there was an exclusive to that. With the new contract we allow this to occur and this opens it up for competition.
- Councilor Benton stated the cost for the permit is \$500. Is that in line with what other cities charge?
- Jack Hamlett stated you can go with a franchise fee and you add it to their revenue or you can set a specific amount. Staff feel that \$500.00 is fair and they pay one fee and makes it simpler on the administrative side and the permit side.
- Councilor Benton asked how many \$500.00 permits we have. Jack Hamlett stated none, this will be the first time it has been opened up for competition.
- Councilor Grigar referenced Item G and commented that he is glad to see that come about on Ward Street. He has complaints and people are parked on the west side of it. He thanked the City Attorney, Police Department and Public Works for bringing this forth.
- Councilor Segura referenced Item C and stated the meeting with the Texas Department of Transportation (TxDOT) regarding the one-way pairs will be a refresher meeting to let the public know where this project is. Mayor Morales stated yes. This started in 2003 as a request to TxDOT on how to solve the problem. TxDOT came up with the idea of the one-way pairs and previous Councils agreed to the solution after public hearings and studying the situation. This is a TxDOT project.
- Councilor Segura stated he was not on Council in 2003 but was prior to that and brought us to the point when TxDOT made the presentation. It would be beneficial for those that were not on Council to see how we got to where we are.
- Mayor Morales thanked staff for being able to get the information together and getting the information updated.

REGULAR AGENDA

2A. *This item was formerly Item E on the Consent Agenda.*

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1619, A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE DOCUMENTS FOR THE PURCHASE OF CERTAIN REAL PROPERTY, EASEMENTS AND/OR RIGHTS-OF-WAY FOR CAPITAL IMPROVEMENT PROJECTS INCLUDING AIRPORT AVENUE, BAMORE ROAD, BRYAN ROAD, DRY CREEK DRAINAGE, OLD RICHMOND ROAD, SPACEK ROAD, TERRY HIGH SCHOOL WATER REUSE, AND TXDOT ONE-WAY PAIRS.

Executive Summary: On March 03, 2009, and February 15, 2011, City Council approved Resolutions Nos. R-921 and R-1290 (Resolutions) providing authorization for the City Manager to negotiate compensation and to execute necessary documentation to obtain certain properties, easements, and/or rights-of-way on behalf of the City as it relates to Capital Improvement Projects (Projects). The Resolutions also set a funding threshold not to exceed \$50,000 per individual parcel and set an expiration date for the Resolutions of two (2) years from the date of authorization.

Though some of the required sites have been acquired, the Projects named in Resolution No. R-1619 remain active or will be active in the near future. Staff is seeking approval of Resolution No. R-1619, which will authorize the City Manager to continue the acquisition process for these Projects in an amount not to exceed \$50,000.00 for each parcel, and to set a newly established Resolution expiration date of February 19, 2015.

Key discussion points:

- Jack Hamlett gave an overview of the item regarding Resolution No. R-1619.

Action: Councilor Suter made a motion, seconded by Councilor Segura to approve Resolution No. R-1619, a Resolution authorizing the City Manager to negotiate and execute documents for the purchase of certain real property, easements and/or rights-of-way for Capital Improvement Projects including Airport Avenue, Bamore Road, Bryan Road, Dry Creek Drainage, Old Richmond Road, Spacek Road, Terry High School Water Reuse, and TxDOT One-Way Pairs.

Questions/Comments:

- Councilor Suter referred to prior meeting minutes included in the agenda packet and stated this is a continuation of what was approved in the past.
- Councilor Segura stated this is a continuation of what was done before.
- Councilor McConathy stated she wanted to take the opportunity to once again voice her opposition to the TxDOT one-way pairs. She did not want to object to all of the other consent agenda items as a result of her opposition of the one-way pairs.
- Councilor Benton stated he concurs and agrees with seven of the eight items, but not the one-way pairs. For clarification, the City Manager is approved up to \$50,000 for each item, there are eight items and that is \$400,000, is that correct. Jack Hamlett stated it is \$50,000 per parcel. There could be several in each project. We don't know the extent of a couple of these projects. He can only obligate the City up to what Council approved in the budget. Each of these projects have a budget appropriation at the different phases. He is not obligated to exceed that appropriation.
- Councilor Benton asked if that amount should be in the motion. Jack Hamlett stated that will change from year to year in the budget and by project.
- Councilor Benton stated he has a concern about pre-approving potentially hundreds of thousands of dollars. Jack Hamlett stated that has been done when you approved the budget for these projects. This allows us to keep the project moving forward. If we get a settlement with a property owner and it is under \$50,000 we can conclude it, get scheduled through the title company and have it done without having to bring it back to City Council.
- Councilor Benton asked what would be wrong with bringing it back to City Council. Jack Hamlett stated that slows down the process. Sometimes negotiations are very touchy and some people would prefer not to have their negotiations in an open forum.
- Councilor Benton stated he is not comfortable approving a blank check even though there are some limitations. He would prefer that Council have another opportunity after the negotiation.
- Councilor Grigar read parts of the Resolution and asked if that is \$50,000 per parcel of each of



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
C	Ordinance No. 2015-22 – MUD No. 152 Voluntary Annexation

ITEM/MOTION

Consideration of and action on Ordinance No. 2015-22, an Ordinance providing for the extension of the City Limits of the City of Rosenberg, Texas, by voluntary annexation of 3.483 acres of land in the Eugene Wheat Survey, A-396, Fort Bend County, Texas; granting to said tract of land and to all current and future inhabitants of said tract of land the rights and privileges of other citizens and binding said current and future inhabitants by all of the acts, ordinances, regulations and resolutions of said City, now in effect and to be hereafter adopted; adjusting the boundaries of Council District No. 4 to include the tract annexed hereby; providing a severability clause; providing for an effective date; providing for a savings clause and repealing conflicting ordinances or resolutions.

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:

1. Ordinance No. 2015-22
2. Resolution No. R-1991 – 07-07-15
3. Vicinity Map
4. Charter Excerpt – Part I, The Charter, Article I, Section 1.03(c)
5. City Council Meeting Draft Minute Excerpt – 07-07-15

MUD #: 152 (Walnut Creek)

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 *DNRBHZ/tt*
- City Engineer
- (Other)

Approved for Submittal to City Council:

Robert Gracia
 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

City staff received a petition from Lennar Homes, property owner of Walnut Creek (Fort Bend County MUD No. 152), for the voluntary annexation of 3.483 acres and the disannexation of 8.709 acres as seen in the attached vicinity map. The purpose the request is to not have developable properties that are in multiple jurisdictions. This could be beneficial not only to the developer and to future homeowners in the subdivision, but also to the City by avoiding confusion as to what entity (City or County) is responsible for maintenance, emergency response, and other issues. Despite being smaller in size than the proposed disannexation tract, the annexation tract had a higher taxable value in 2014, so this should result in a net fiscal gain to the City.

On July 07, 2015, City Council passed Resolution No. R-1991 recognizing the petition for annexation. As discussed on July 07, separate ordinances for annexation and disannexation of the proposed property are required and have been placed on this Agenda. Staff recommends approval of Ordinance No. 2015-22.

ORDINANCE NO. 2015-22

AN ORDINANCE OF THE CITY OF ROSENBERG, TEXAS, PROVIDING FOR THE EXTENSION OF THE CITY LIMITS OF THE CITY OF ROSENBERG, TEXAS, BY VOLUNTARY ANNEXATION OF 3.483 ACRES OF LAND IN THE EUGENE WHEAT SURVEY, A-396, FORT BEND COUNTY, TEXAS; GRANTING TO SAID TRACT OF LAND AND TO ALL CURRENT AND FUTURE INHABITANTS OF SAID TRACT OF LAND THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID CURRENT AND FUTURE INHABITANTS BY ALL OF THE ACTS, ORDINANCES, REGULATIONS AND RESOLUTIONS OF SAID CITY, NOW IN EFFECT AND TO BE HEREAFTER ADOPTED; ADJUSTING THE BOUNDARIES OF COUNCIL DISTRICT NO. 4 TO INCLUDE THE TRACT ANNEXED HEREBY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

WHEREAS, the City Council of the City of Rosenberg, Texas, finds that it received a request for annexation from Lennar Homes of Texas Land and Construction, Ltd., attached hereto and incorporated herein for all purposes as **Exhibit "A"**, the owner of 3.483 acres of land in the Eugene Wheat Survey, A-396, Fort Bend County, Texas; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, finds the eligible property (the "Property") is located in the extraterritorial jurisdiction of the City of Rosenberg and is contiguous to the City Limits, which is more particularly described in **Exhibit "A"**; and,

WHEREAS, the procedures prescribed by the Texas Local Government Code and the Rosenberg City Charter have been duly followed with respect to the annexation of the herein described territory; and,

WHEREAS, on July 07, 2015, City Council heard said petition and arguments for and against the same and granted said petition; now, therefore,

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

Section 1. All of the above premised are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. The land and territory lying outside of, but adjacent to and contiguous to the City of Rosenberg, Texas, more particularly described in **Exhibit "A"** attached hereto and incorporated herein for all purposes, is hereby added and annexed

to the City of Rosenberg, Texas, and said territory, as described, shall hereafter be included within the boundary limits of said City, and the present boundary limits of said City, at the various points contiguous to the area described in **Exhibit "A"**, are altered and amended so as to include said areas within the corporate limits of the City of Rosenberg, Texas.

Section 3. The land and territory more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by reference, shall be part of the City of Rosenberg, Texas, and inhabitants thereof shall be entitled to all the rights and privileges as citizens and shall be bound by the acts, ordinances, resolutions, and regulations of the City of Rosenberg, Texas.

Section 4. The land and territory described in Exhibit "A", shall be included in Council District No. 4 and said election district boundary shall be adjusted or reconfigured to include the annexed area.

Section 5. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

Section 6. The City Secretary is hereby directed to file with the County Clerk of Fort Bend County, Texas, a certified copy of this ordinance.

Section 7. If any section, subsection, sentence, paragraph, phrase, word, or provision be found to be illegal, invalid, unconstitutional or if any portion of said properties is incapable of being annexed by the City of Rosenberg, Texas, for any reason whatsoever, the adjudication shall not affect another section, sentence, phrase, word, paragraph or provision of this Ordinance or the application of any other section, sentence, phrase, word, paragraph or provision to any other person or portion of said properties, situation or circumstance, nor shall the adjudication affect any other section, sentence, phrase, word, paragraph or provision of any other ordinance of the City of Rosenberg, Texas. The City Council declares that it would have adopted the valid portions and applications of the Ordinance and would have annexed the valid properties

without the invalid part and invalid properties and to this end the provisions of this Ordinance are declared to be severable.

Section 8. This ordinance shall be effective from and after July 21, 2015.

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.

Cynthia A. McConathy, **Mayor**

ATTEST:

Linda Cernosek, TRMC, **City Secretary**

APPROVED AS TO FORM:

Scott M. Tschirhart, **CITY ATTORNEY**
Denton Navarro Rocha Bernal Hyde & Zech, P.C.

PETITION FOR ADDITION OF LAND TO AND REMOVAL OF LAND FROM
THE CITY OF ROSENBERG, TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership ("Petitioner"), the owner of the land hereinafter described, acting pursuant to the provisions of Chapter 43, Texas Local Government Code, particularly Section 43.028 together with all amendments and additions thereto, petition this Honorable City Council to annex the land described by metes and bounds in Exhibit "A" attached hereto ("Annexation Tract") to the City and to deannex the land described by metes and bounds in Exhibit "B" attached hereto ("Deannexation Tract") from the City. In support of this Petition, the Petitioners represent, covenant, and agree as follows:

I.

The Petitioner holds fee simple title to and full ownership of both the Annexation Tract and the Deannexation Tract and Petitioner hereby certifies that there are presently no lienholders on the Annexation Tract or the Deannexation Tract.

II.

Petitioner desires that the Deannexation Tract be disannexed in accordance with Section 43.146 of the Texas Local Government Code and not for failure to provide services as set forth in Section 43.141, Texas Local Government Code.

III.

Petitioner acknowledges that the amount of property taxes and fees collected by the City during the time the Deannexation Tract has been located within the City is less than or equal to the amount of money that the City has spent for the direct benefit of the Deannexation Tract during the same period. Petitioner waives any remedies or rights as set forth in law or equity pertaining to recovery of property taxes and fees collected by the City relative to the Deannexation Tract.

IV.

The Annexation Tract and the Deannexation Tract lie entirely within Fort Bend County, Texas and are accurately described by metes and bounds in Exhibit "A" and Exhibit "B", attached hereto and incorporated herein for all purposes.

V.

The Annexation Tract and the Deannexation Tract are located within the boundaries of extraterritorial jurisdiction of the City as defined by 42.001, Texas Local Government Code.

VI.

The Annexation Tract and the Deannexation Tract are without residents.

VII.

The Annexation Tract is contiguous to the City.

VIII.

This Petition shall constitute an election on the part of the Petitioner, its successors and assigns, for the Annexation Tract and any improvements that are now or may hereafter be constructed thereon, to become liable for all present and future debts of the City in the same manner and to the same extent as other lands and improvements in the City are liable for the City's debts. The Petitioner hereby agrees that the Annexation Tract, and all improvements thereon presently existing or to be constructed hereby assumes its share of liability for the payment of any and all bonds or other obligations to the City that are currently outstanding or hereafter issued and that are currently or hereafter voted by unissued. Petitioner also agrees that the annexation tract, and all improvements thereon presently existing or to be constructed shall be taxes equally with all other property in the City. Petitioner acknowledges, consents to, and affirmatively requests the assumption by the Annexation Tract of a pro rata share of all obligations of the City, and of the taxes levied or hereafter to be levied by the City.

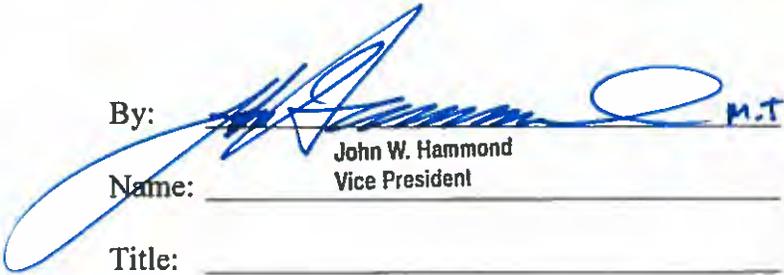
IX.

The execution and submission of this Petition shall not constitute an election by Petitioners to change the tax status of the Annexation Tract or the Deannexation Tract and shall not constitute a waiver by the Petitioner of rights, powers, and privileges under the Texas Constitution and statutes regarding the tax status of the Annexation Tract or the Deannexation Tract.

WHEREFORE, the Petitioner prays that this Petition be granted, that the Annexation Tract be added to and become part of the City, that the Deannexation Tract be disannexed, discontinued and removed from the City, and that this Petition, if granted by filed for record and be recorded in the Official Records of Fort Bend County, Texas.

LENNAR HOMES OF TEXAS LAND AND
CONSTRUCTION, LTD., a Texas limited partnership,
d/b/a/ Friendswood Development Company

By: LENNAR TEXAS HOLDING COMPANY, a Texas
corporation, its General Partner

By:  M.T.
Name: John W. Hammond
Vice President
Title: _____

STATE OF TEXAS §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the 11 day of May,
2015, by John W. Hammond, the Vice President of Lennar Texas Holding Company, a Texas
corporation, the General Partner of Lennar Homes of Texas Land and Construction, Ltd., a Texas limited
partnership, d/b/a/ Friendswood Development Company, on behalf of said corporation, company and
limited partnership.




Notary Public, State of TEXAS

AFTER RECORDING, RETURN TO:
SMITH, MURDAUGH, LITTLE & BONHAM, L.L.P.
2727 Allen Parkway, Suite 1100
Houston, Texas 77019

EXHIBIT "A"

**METES AND BOUNDS DESCRIPTION
OF 3.483 ACRES OF LAND
IN THE EUGENE WHEAT SURVEY, A-396
FORT BEND COUNTY, TEXAS**

All that certain 3.483 acres of land, being a portion of the 127.00 acre tract described in the deed from Mary Pochyla, et al. to Lennar Homes of Texas Land and Construction, Ltd., recorded under File No. 2004033837, in the Official Public Records of Real Property of Fort Bend County, Texas, in the Eugene Wheat Survey, A-396, Fort Bend County, Texas, and more particularly described by metes and bounds as follows: (All bearings based on the Texas Coordinate System of 1983, South Central Zone)

BEGINNING at a 3/4 iron rod found for the north corner of Restricted Reserve "A", of ROSEHAVEN SECTION ONE REPLAT NO. ONE, according to the plat thereof recorded under File No. 20060266, in the Map Records of Fort Bend County, Texas, common to the northeast corner of the herein described tract, in the southwest line of Irby Cobb Boulevard (70' R.O.W.);

THENCE South 49° 11' 42" West – 16.06 feet, along a northeast line of said ROSEHAVEN SECTION ONE REPLAT NO. ONE, to a 3/4 iron rod found for an angle corner, common to an angle corner of the herein described tract;

THENCE North 87° 12' 18" West – 13.76 feet, continuing along said northeast line, to a 3/4 iron rod found for an angle corner, common to an angle corner of the herein described tract;

THENCE South 46° 16' 20" West – 92.22 feet, continuing along said northeast line, to a 3/4 iron rod found for an angle corner, common to an angle corner of the herein described tract;

THENCE South 15° 09' 11" West – 20.00 feet, continuing along said northeast line, to a 3/4 iron rod found for an angle corner, common to an angle corner of the herein described tract, and a point on a non-tangent curve to the left;

THENCE along said curve to the left, continuing along said northeast line, in a southwesterly direction, having a central angle of 117° 24' 45", a chord bearing and distance of South 46° 26' 48" West – 85.45 feet, a radius of 50.00 feet, and an arc distance of 102.46 feet, to a 3/4 iron rod found for the end of curve;

THENCE South 56° 15' 47" West – 101.95 feet, continuing along said northeast line, to a 3/4 iron rod found for an angle corner, common to an angle corner of the herein described tract;

THENCE South 06° 19' 46" West – 12.87 feet, continuing along said northeast line, to a 3/4 iron rod found for an angle corner, common to an angle corner of the herein described tract;

Page 2 – 3.483 Acre Tract

THENCE South 41° 49' 03" West – 119.63 feet, continuing along said northeast line, to a 3/4 iron rod found for an angle corner, common to an angle corner of the herein described tract;

THENCE South 30° 14' 43" West – 339.13 feet, continuing along said northeast line, to a 3/4 iron rod found for an angle corner, common to an angle corner of the herein described tract;

THENCE South 42° 07' 11" West – 62.03 feet, continuing along said northeast line, to the south corner of the herein described tract;

THENCE North 02° 39' 54" East – 149.34 feet to the Point of Curvature of a curve to the right;

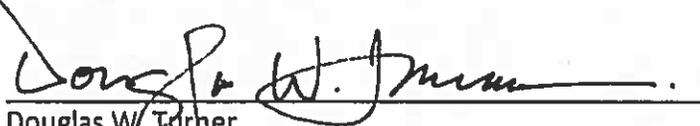
THENCE along said curve to the right, in a northerly direction, having a central angle of 19° 47' 33", a chord bearing and distance of North 12° 33' 41" East – 204.96 feet, a radius of 596.28 feet, and an arc distance of 205.98 feet, to the end of curve;

THENCE North 22° 27' 27" East – 537.14 feet to a point on a non-tangent curve to the right, in the southwest right-of-way line of said Irby Cobb Boulevard;

THENCE along said curve to the right, along said southwest right-of-way line, in a southeasterly direction, having a central angle of 28° 34' 54", a chord bearing and distance of South 55° 05' 45" East – 343.11 feet, a radius of 695.00 feet, and an arc distance of 346.70 feet, to the POINT OF BEGINNING of the herein described tract and containing 3.483 acres of land.

Prepared by:
IDS Engineering Group
Job No. 371-135-00-560

December 12, 2008



Douglas W. Turner
Registered Professional Land Surveyor
Texas Registration Number 3988



RESOLUTION NO. R-1991

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, ACCEPTING THE FILING OF A PETITION BY LAND OWNER FOR ANNEXATION OF 3.483 ACRES OF LAND IN THE EUGENE WHEAT SURVEY, A-396, FORT BEND COUNTY, TEXAS.

* * * * *

WHEREAS, pursuant to the City Charter, the City accepts the filing of the petition for annexation (attached hereto as **Exhibit "A"**); and,

WHEREAS, the City shall, not less than five (5) and not more than thirty (30) days after the filing of said petition, hear said petition and grant or refuse said petition; and,

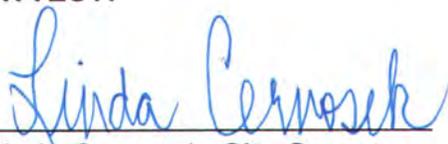
WHEREAS, the land described in said petition is contiguous and adjacent to the City of Rosenberg; now, therefore,

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

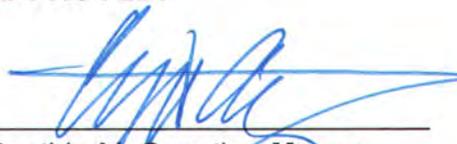
Section 1. City Council has determined that said petition for annexation has been filed and said petition for annexation shall be heard on July 7, 2015, with notice to be sent to petitioner. City Council will listen to arguments for and against the petition and take action at that time.

PASSED, APPROVED, AND RESOLVED this 7th day of July 2015.

ATTEST:


Linda Cernosek, **City Secretary**

APPROVED:


Cynthia McConathy, **Mayor**



PETITION FOR ADDITION OF LAND TO AND REMOVAL OF LAND FROM
THE CITY OF ROSENBERG, TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

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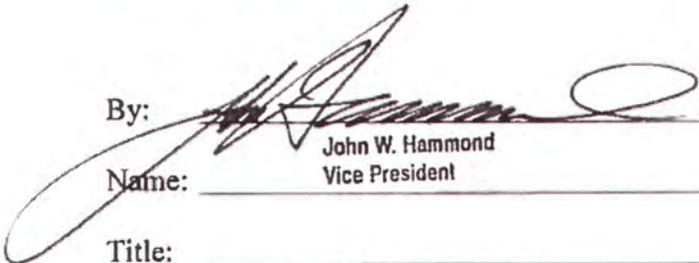
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LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a Texas limited partnership, d/b/a/ Friendswood Development Company

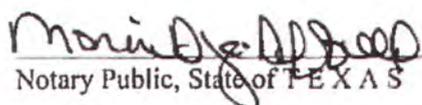
By: LENNAR TEXAS HOLDING COMPANY, a Texas corporation, its General Partner

By:  M.T.
Name: John W. Hammond
Vice President
Title: _____

STATE OF TEXAS §
COUNTY OF FORT BEND §

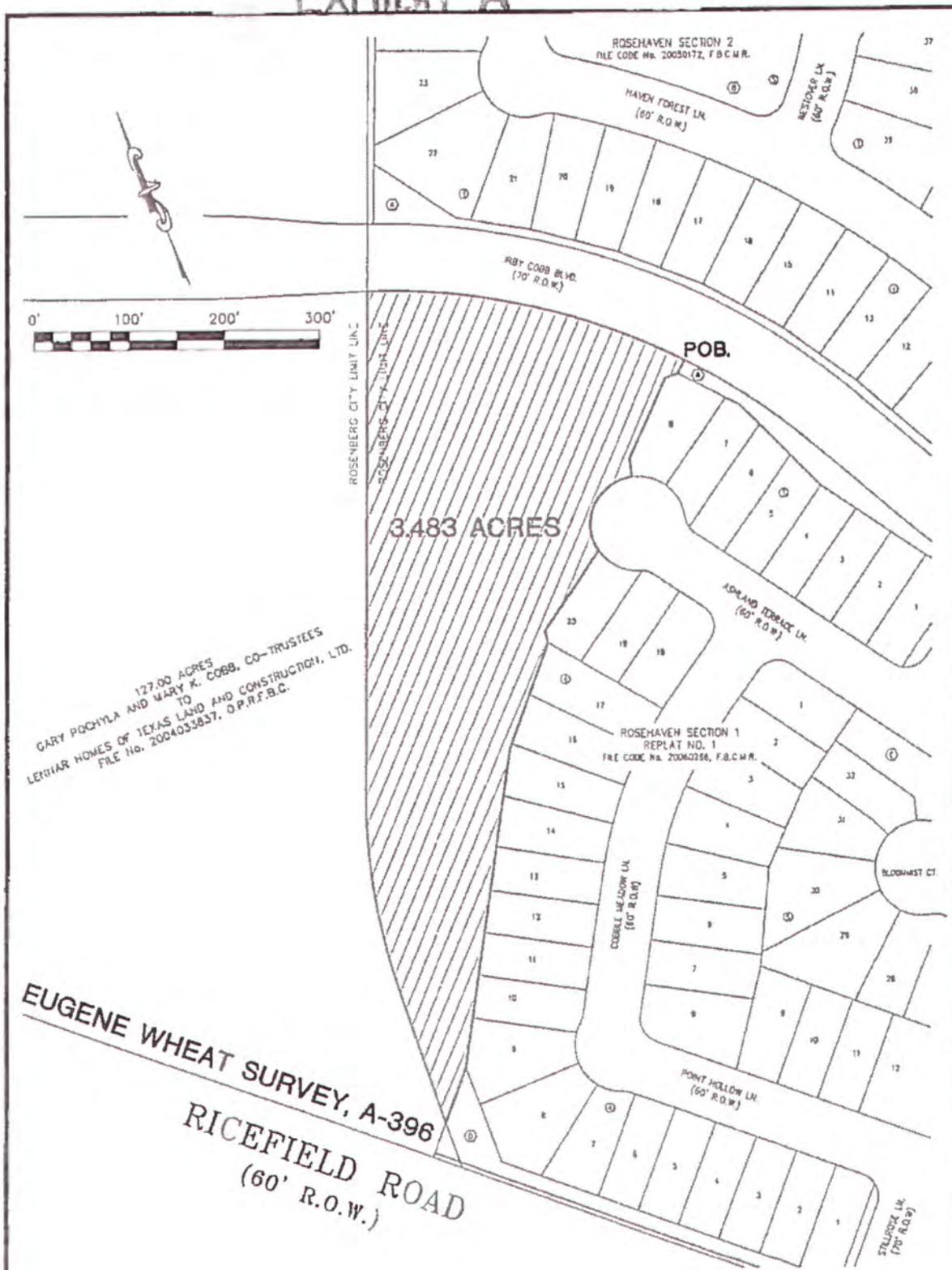
This instrument was acknowledged before me on the 11 day of May, 2015, by John W. Hammond the Vice President of Lennar Texas Holding Company, a Texas corporation, the General Partner of Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, d/b/a/ Friendswood Development Company, on behalf of said corporation, company and limited partnership.




Notary Public, State of TEXAS

AFTER RECORDING, RETURN TO:
SMITH, MURDAUGH, LITTLE & BONHAM, L.L.P.
2727 Allen Parkway, Suite 1100
Houston, Texas 77019

EXHIBIT A



 <p>IDS Engineering Group</p>	13333 HWY. Freeway Suite 200 Houston, Tx. 77040 Phone: 713-462-5178	
	EXHIBIT 3.483 ACRES EUGENE WHEAT SURVEY, A-396 FORT BEND COUNTY, TEXAS	
DRAWN ON APPROVED FOR ISSUE:	ORIGINAL ISSUE DATE: DECEMBER 12, 2008	ORIGINAL SCALE: 1" = 100' JOB NO.: 371-135-00-580

NOTE: THE BEARING CONVENTION USED ON THIS SURVEY IS BASED ON: TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE.

EXHIBIT

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Page 2 – 3.483 Acre Tract

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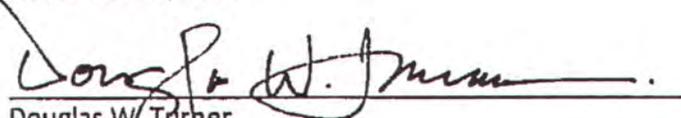
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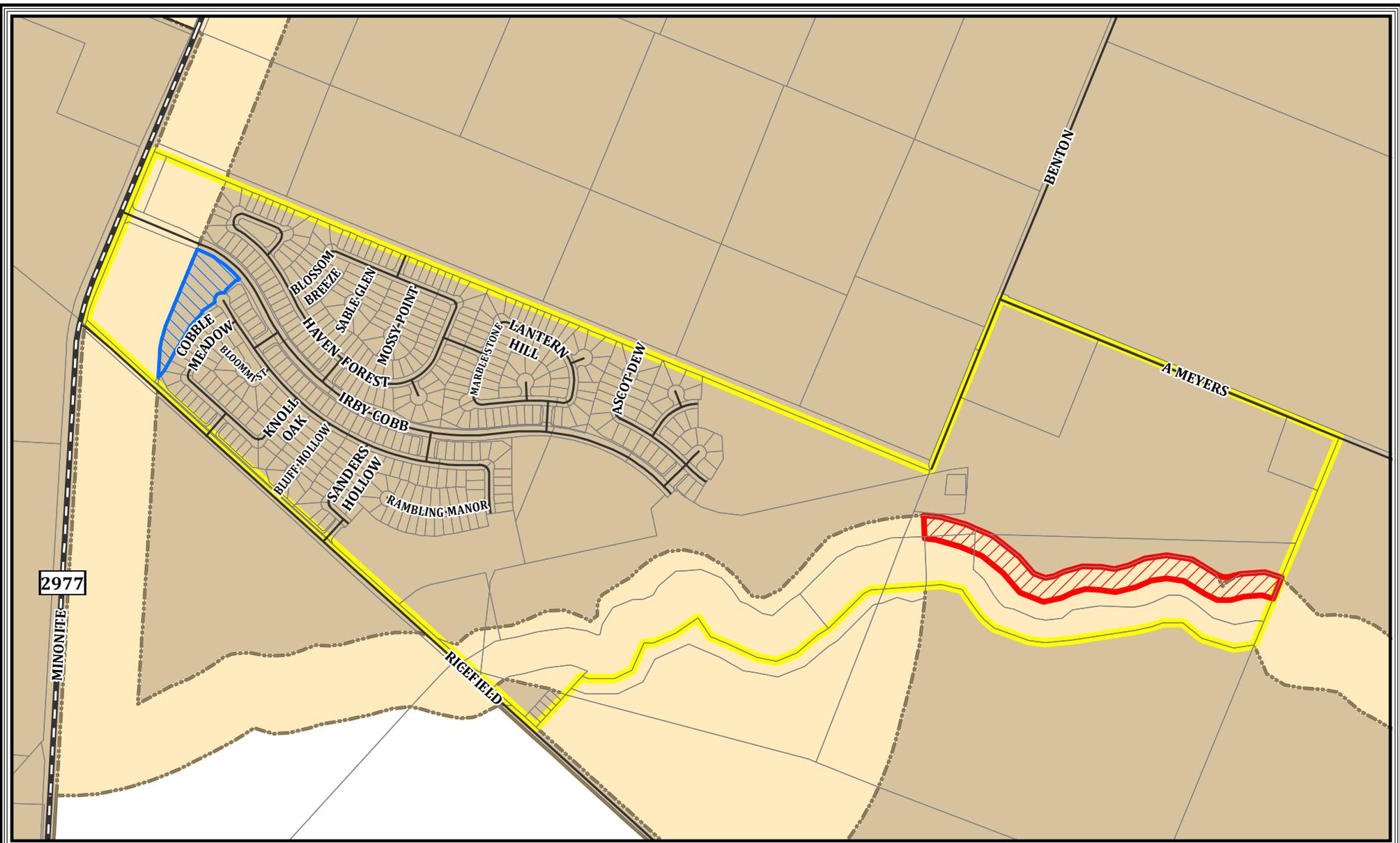
Prepared by:
IDS Engineering Group
Job No. 371-135-00-560

December 12, 2008



Douglas W. Turner
Registered Professional Land Surveyor
Texas Registration Number 3988

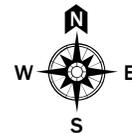
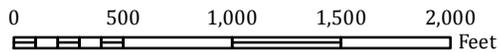




Walnut Creek Proposed Annexation & Disannexation City of Rosenberg, Texas

- | | | | |
|--|----------------|--|--------------------------------|
| | Interstate | | Proposed for Annexation |
| | US Highway | | Proposed for Disannexation |
| | State Highway | | FBCAD 2014 3rd Quarter Parcels |
| | Farm-to-Market | | MUD No. 152 |
| | Public Road | | Rosenberg City Limits |
| | | | Rosenberg ETJ |

Scale:
1:10,500
or
1 inch = 875 feet



Created by: City of Rosenberg GIS - Paul M. Jones
Date Created: November 20, 2014
Original Size: 8.5" x 11"
K:\GIS\MAPS\Planning\2014\WalnutCreek.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.



Sec. 1.03. Extension of boundaries.

The boundaries of the City of Rosenberg may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, in any of the methods hereinafter designated:

- (a) *Extending limits in accordance with Article 974 of the Revised Civil Statutes* [V.T.C.A., Local Government Code § 43.021]. Where such additional territory adjoins the corporate limits of the city and contains three or more inhabitants qualified to vote for members of the state legislature, such adjacent territory may be annexed to the city in the manner and in conformity with the procedure set forth in Article 974 of the Revised Statutes of the State of Texas of 1925, as now or hereafter amended [V.T.C.A., Local Government Code § 43.021].
- (b) *Extension of limits by election.* The city council shall have the power to order an election or elections for the purpose of annexing territory lying adjacent to the City of Rosenberg. Such order shall include the survey notes of the area sought to be annexed. The city council shall give notice of the date and place of balloting at such election by publication of the order in a newspaper of general circulation published in the City of Rosenberg at least thirty days prior to the date on which such election is ordered. The residents of the City of Rosenberg and the territory sought to be annexed, who are qualified to vote for members of the state legislature, shall be qualified to vote at such election. The city council shall, at its next meeting, canvass the return of such election and if a majority of the votes cast at such election by the residents of Rosenberg, and if a majority of the votes cast at such election by the residents of said territory being considered for annexation, favor such annexation, the council shall declare the said territory annexed to the City of Rosenberg, and the boundary limits of the City of Rosenberg shall thereafter be extended and fixed so as to include such territory.
- (c) *Annexation of unoccupied lands on petition of owners.* The owner or owners of any land which is without residents, contiguous and adjacent to the city may, by petition in writing to the city council, request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The city council shall thereafter, and not less than five and not more than thirty days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as the city council may see fit. If the city council grants such petition, it may by proper ordinance receive and annex such territory as a part of the city.
- (d) *Annexation by amendments to charter.* The boundary limits of the city may be fixed and additional territory added or annexed thereto by amendment to the Charter of the city.
- (e) *Extending limits by action of the city council.* The city council shall have power by ordinance to fix the boundary limits of the City of Rosenberg and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, with or without the consent of the residents or the owners of land within the territory annexed. Upon the introduction of such an ordinance in the city council it may be passed on the first reading, and thereafter shall be published in a newspaper of general circulation published in the City of Rosenberg one time, and shall not thereafter be finally acted upon until at least thirty days have elapsed after the publication thereof. Any citizen of the City of Rosenberg, or resident or owner of land within the territory to be annexed shall have the right to contest said annexation by filing with the city council a written petition setting out his reasons for said contest and after such citizen, resident or owner of land within the territory shall have been given an opportunity to be heard, said ordinance, in original or amended form, as said city council in its judgment may determine, shall be finally acted upon and any territory so annexed shall be a part of the City of Rosenberg.
- (f) *Annexation by any other method provided by law.* Additional territory may also be annexed to the city in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law. Same shall be in addition to the methods hereinabove provided.
- (g) *Annexed territory to become part of the city.* Upon completion of any one of the procedures hereinabove provided, the territory so annexed shall become a part of the city, and said land

and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the city and shall be bound by the acts, ordinances, resolutions and regulations of the city.

State law reference— Voter approval required under certain circumstances, V.T.C.A., Local Government Code § 43.022; annexation of sparsely occupied areas, V.T.C.A., Local Government Code § 43.028.

Professional Services/Engineering Project Review Committee (three positions)

Action: Councilor Pena made a motion, seconded by Councilor Benton, to reappoint Councilors Benton and Pena, and to appoint Councilor Euton to the Professional Services/Engineering Project Review Committee. The motion carried by a unanimous vote.

Rosenberg Development Corporation (three Council Representatives/Directors)

Action: Mayor McConathy made a motion, seconded by Councilor Benton, to appoint the following City Council Representatives to the Rosenberg Development Corporation: Councilors Barta, Pena, and Moses. The motion carried by a unanimous vote.

4. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1991, A RESOLUTION ACCEPTING THE FILING OF A PETITION BY LAND OWNER FOR ANNEXATION OF 3.483 ACRES OF LAND IN THE EUGENE WHEAT SURVEY, A-396, FORT BEND COUNTY, TEXAS.**

Executive Summary: City staff has received a petition from Lennar Homes, property owner of Walnut Creek (Fort Bend County MUD No. 152) for the voluntary annexation of 3.483 acres and disannexation of 8.709 acres as seen in the documents and vicinity map included in the agenda packet. The main purpose of the request is to not have developable properties that are in multiple jurisdictions. This could be beneficial not only to the developer, but also to the City by avoiding confusion as to what entity (City or County) is responsible for maintenance, emergency response, and other issues. Further, despite being smaller in size than the proposed disannexation tract (3.483 acres versus 8.709), the proposed annexation tract had a higher taxable value for 2014 (\$242,170) than the disannexation tract (est. \$3,136), so this would result in a net fiscal gain to the City.

However, before taking any action on the annexation or disannexation, a Resolution must first be passed accepting the filing of the petition for annexation. Resolution No. R-1991 is regarding the acceptance of the petition for annexation only and does not provide for the disannexation request; annexation and disannexation have different requirements per the City Charter. If passed, separate ordinances for annexation and disannexation of the proposed property will be placed on the July 21, 2015 City Council Agenda. Staff recommends approval of Resolution No. R-1991.

Key Discussion Points: Travis Tanner, Executive Director of Community Development, gave an overview of the item.

Action: Councilor Barta made a motion, seconded by Councilor Wallingford, to approve Resolution No. R-1991, a Resolution accepting the filing of a petition by land owner for annexation of 3.483 acres of land in the Eugene Wheat Survey, A-396, Fort Bend County, Texas. The motion carried by a unanimous vote.

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1984, A RESOLUTION AWARDDING BID NO. 2015-09, FOR CONSTRUCTION OF 16-INCH WATER LINE EXTENSION – BRYAN ROAD TO FUTURE ELEVATED STORAGE TANK; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE DOCUMENTS AND/OR AGREEMENTS REGARDING SAME.**

Executive Summary: Bids were received on Wednesday, June 10, 2015, for Bid No. 2015-09 for construction of the FM 2977 16-inch Water Line Extension – Bryan Road to Future Elevated Storage Tank (Project). A total of eight (8) bids were opened and tabulated as indicated on the bid summary form.

Staff recommends Bid No. 2015-09 be awarded to Gonzalez Construction Enterprise, Inc., for the base bid and alternate "A" in the total amount of \$597,984.73 for construction of the Project that will be constructed behind Fire Station No. 3, which is located at the corner of August Green Drive and FM 2977 (Minonite Road). The correspondence from Charles Kalkomey, Project Engineer, included in the agenda packet recommends same. Should the bid be awarded as recommended, the proposal from Gonzalez Construction Enterprise, Inc., will be attached and serve as Exhibit "A" to Resolution No. R-1984. The contract time is 75 calendar days.



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
D	Ordinance No. 2015-23 – MUD No. 152 Disannexation

ITEM/MOTION

Consideration of and action on Ordinance No. 2015-23, an Ordinance providing for the disannexation from the corporate boundaries of the City of Rosenberg, Texas, of 8.709 acres of land in the Wiley Martin League, A-56, Fort Bend County, Texas, pursuant to the petition for disannexation; adjusting the boundaries of Council District No. 4 to exclude the tract disannexed hereby; containing certain findings; providing for non-severability; and establishing an effective date.

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:

- Ordinance No. 2015-23

MUD #: 152 (Walnut Creek)

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 *DNRBHZ/rl*
 City Engineer
 (Other)

Approved for Submittal to City Council:

Robert Gracia
 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

As discussed in the previous Agenda item, City staff received a petition from Lennar Homes, property owner of Walnut Creek (Fort Bend County MUD No. 152), for the voluntary annexation of 3.483 acres and the disannexation of 8.709 acres. The purpose the request is to not have developable properties that are in multiple jurisdictions. This could be beneficial not only to the developer and to future homeowners in the subdivision, but also to the City by avoiding confusion as to what entity (City or County) is responsible for maintenance, emergency response, and other issues. Despite being larger in size than the proposed annexation tract, the disannexation tract had a lower taxable value in 2014, so this should result in a net fiscal gain to the City.

On July 07, 2015, City Council passed Resolution No. R-1991 recognizing the petition for annexation. As discussed on July 07, separate ordinances for annexation and disannexation of the proposed property are required and have been placed on this Agenda. Staff recommends approval of Ordinance No. 2015-23, thereby disannexing 8.709 acres of land in MUD No. 152 pursuant to the petition.

ORDINANCE NO. 2015-23

AN ORDINANCE OF THE CITY OF ROSENBERG, TEXAS, PROVIDING FOR THE DISANNEXATION FROM THE CORPORATE BOUNDARIES OF THE CITY OF ROSENBERG, TEXAS, OF 8.709 ACRES OF LAND IN THE WILEY MARTIN LEAGUE, A-56, FORT BEND COUNTY, TEXAS, PURSUANT TO THE PETITION FOR DISANNEXATION; ADJUSTING THE BOUNDARIES OF COUNCIL DISTRICT NO. 4 TO EXCLUDE THE TRACT DISANNEXED HEREBY; CONTAINING CERTAIN FINDINGS; PROVIDING FOR NON-SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code Section 43.142 provides that a home-rule municipality may dis-annex an area in the municipality according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by Chapter 43; and,

WHEREAS; Section 1.04 of the City Charter provides that the City may dis-annex territory by ordinance; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, has received a Petition for Disannexation (the "Petition") regarding 8.709 acres of land in the Wiley Martin League, A-56, Fort Bend County, Texas, from the owner of such tract; and,

WHEREAS, the City Council hereby finds and determines that all requisites for dis-annexation pursuant to the applicable provisions of the Texas Local Government Code and the Home Rule Charter of the City have been followed; and,

WHEREAS, the petitioner acknowledges, and City Council finds, that the amount of property taxes and fees collected by the City during the time the land was located within the City is less than or equal to the amount of money that the City has spent for the direct benefit of the land during the that period; and,

WHEREAS, the petitioner acknowledges, and City Council finds, that the petition waives any remedies or rights in law or equity pertaining to recovery of property taxes and fees collected by the City; and, therefore, the City shall not be required to refund any taxes or fees to the petitioner; and,

WHEREAS, the petitioner acknowledges, and City Council finds, that the petition does not allege that the City Council failed or refused to provide services or to cause services to be provided within the territory with a period required by statute or specified in a service plan prepared for the territory; and, therefore, the dis-annexation does not fall under the purview of Texas Local Government Code Section 43.141; and,

WHEREAS, the petitioner acknowledges, and City Council finds, that the territory to be dis-annexed does not include the dis-annexation of a road or highway; and,

WHEREAS, the City Council hereby further finds and determines that the dis-annexation of the 8.709 acres is necessary and appropriate and in the best interests of the City; now, therefore,

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

Section 1. The above findings are hereby incorporated for all purposes as if each word was set out herein; the petition for dis-annexation is attached hereto as **Exhibit “A”** and is hereby incorporated for all purposes as if it were set out fully herein.

Section 2. As of the effective date of this Ordinance, the land and territory shown on **Exhibit “B”** is hereby dis-annexed from the corporate limits of the City of Rosenberg, Texas, and said territory as described shall hereafter be removed from the boundary limits of said City, and the present boundary limits of said City are altered and amended so as to remove the territory from the corporate limits of the City of Rosenberg, Texas.

Section 3. The City Council hereby finds and determines that the property herein dis-annexed should be excluded from Council District No. 4 and, in this regard, hereby approves the exclusion of such tract and parcel of property from Council District No. 4, and directs that the City’s official map depicting the boundaries of the City’s four (4) single-member district be modified, amended, and redrawn to reflect such exclusion.

Section 4. As of the effective date of this Ordinance, the land and territory so described and so amended shall no longer be part of the City of Rosenberg, Texas, and the land and territory shall no longer bear any of the taxes levied by the City of Rosenberg, Texas, and the future inhabitants thereof shall no longer be entitled to any rights or privileges as citizens; nor shall they be bound by the acts, ordinances, resolutions, and regulations of the City of Rosenberg, Texas, as such shall be limited in application to the citizens and corporate limits of said City.

Section 5. The City Secretary be, and she is hereby, authorized and directed to forthwith cause a certified copy of this Ordinance to be delivered to the County Clerk of Fort Bend County, Texas, as required by § 41.0015, TEXAS LOCAL GOVERNMENT CODE.

Section 6. This Ordinance is not severable.

Section 7. This Ordinance shall be effective immediately from and after passage.

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:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

APPROVED AS TO FORM:

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

PETITION FOR ADDITION OF LAND TO AND REMOVAL OF LAND FROM
THE CITY OF ROSENBERG, TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership ("Petitioner"), the owner of the land hereinafter described, acting pursuant to the provisions of Chapter 43, Texas Local Government Code, particularly Section 43.028 together with all amendments and additions thereto, petition this Honorable City Council to annex the land described by metes and bounds in Exhibit "A" attached hereto ("Annexation Tract") to the City and to deannex the land described by metes and bounds in Exhibit "B" attached hereto ("Deannexation Tract") from the City. In support of this Petition, the Petitioners represent, covenant, and agree as follows:

I.

The Petitioner holds fee simple title to and full ownership of both the Annexation Tract and the Deannexation Tract and Petitioner hereby certifies that there are presently no lienholders on the Annexation Tract or the Deannexation Tract.

II.

Petitioner desires that the Deannexation Tract be disannexed in accordance with Section 43.146 of the Texas Local Government Code and not for failure to provide services as set forth in Section 43.141, Texas Local Government Code.

III.

Petitioner acknowledges that the amount of property taxes and fees collected by the City during the time the Deannexation Tract has been located within the City is less than or equal to the amount of money that the City has spent for the direct benefit of the Deannexation Tract during the same period. Petitioner waives any remedies or rights as set forth in law or equity pertaining to recovery of property taxes and fees collected by the City relative to the Deannexation Tract.

IV.

The Annexation Tract and the Deannexation Tract lie entirely within Fort Bend County, Texas and are accurately described by metes and bounds in Exhibit "A" and Exhibit "B", attached hereto and incorporated herein for all purposes.

V.

The Annexation Tract and the Deannexation Tract are located within the boundaries of extraterritorial jurisdiction of the City as defined by 42.001, Texas Local Government Code.

VI.

The Annexation Tract and the Deannexation Tract are without residents.

VII.

The Annexation Tract is contiguous to the City.

VIII.

This Petition shall constitute an election on the part of the Petitioner, its successors and assigns, for the Annexation Tract and any improvements that are now or may hereafter be constructed thereon, to become liable for all present and future debts of the City in the same manner and to the same extent as other lands and improvements in the City are liable for the City's debts. The Petitioner hereby agrees that the Annexation Tract, and all improvements thereon presently existing or to be constructed hereby assumes its share of liability for the payment of any and all bonds or other obligations to the City that are currently outstanding or hereafter issued and that are currently or hereafter voted by unissued. Petitioner also agrees that the annexation tract, and all improvements thereon presently existing or to be constructed shall be taxes equally with all other property in the City. Petitioner acknowledges, consents to, and affirmatively requests the assumption by the Annexation Tract of a pro rata share of all obligations of the City, and of the taxes levied or hereafter to be levied by the City.

IX.

The execution and submission of this Petition shall not constitute an election by Petitioners to change the tax status of the Annexation Tract or the Deannexation Tract and shall not constitute a waiver by the Petitioner of rights, powers, and privileges under the Texas Constitution and statutes regarding the tax status of the Annexation Tract or the Deannexation Tract.

WHEREFORE, the Petitioner prays that this Petition be granted, that the Annexation Tract be added to and become part of the City, that the Deannexation Tract be disannexed, discontinued and removed from the City, and that this Petition, if granted by filed for record and be recorded in the Official Records of Fort Bend County, Texas.

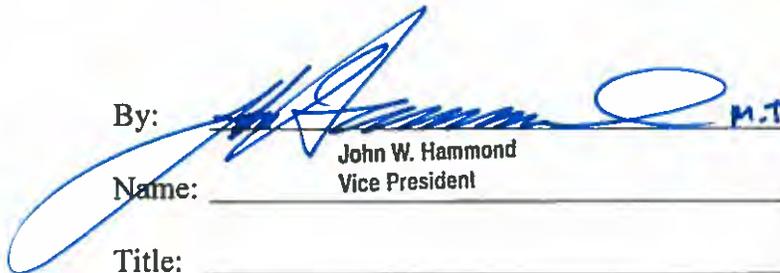
LENNAR HOMES OF TEXAS LAND AND
CONSTRUCTION, LTD., a Texas limited partnership,
d/b/a/ Friendswood Development Company

By: LENNAR TEXAS HOLDING COMPANY, a Texas
corporation, its General Partner

By:

Name:

Title:

 M.T.
John W. Hammond
Vice President

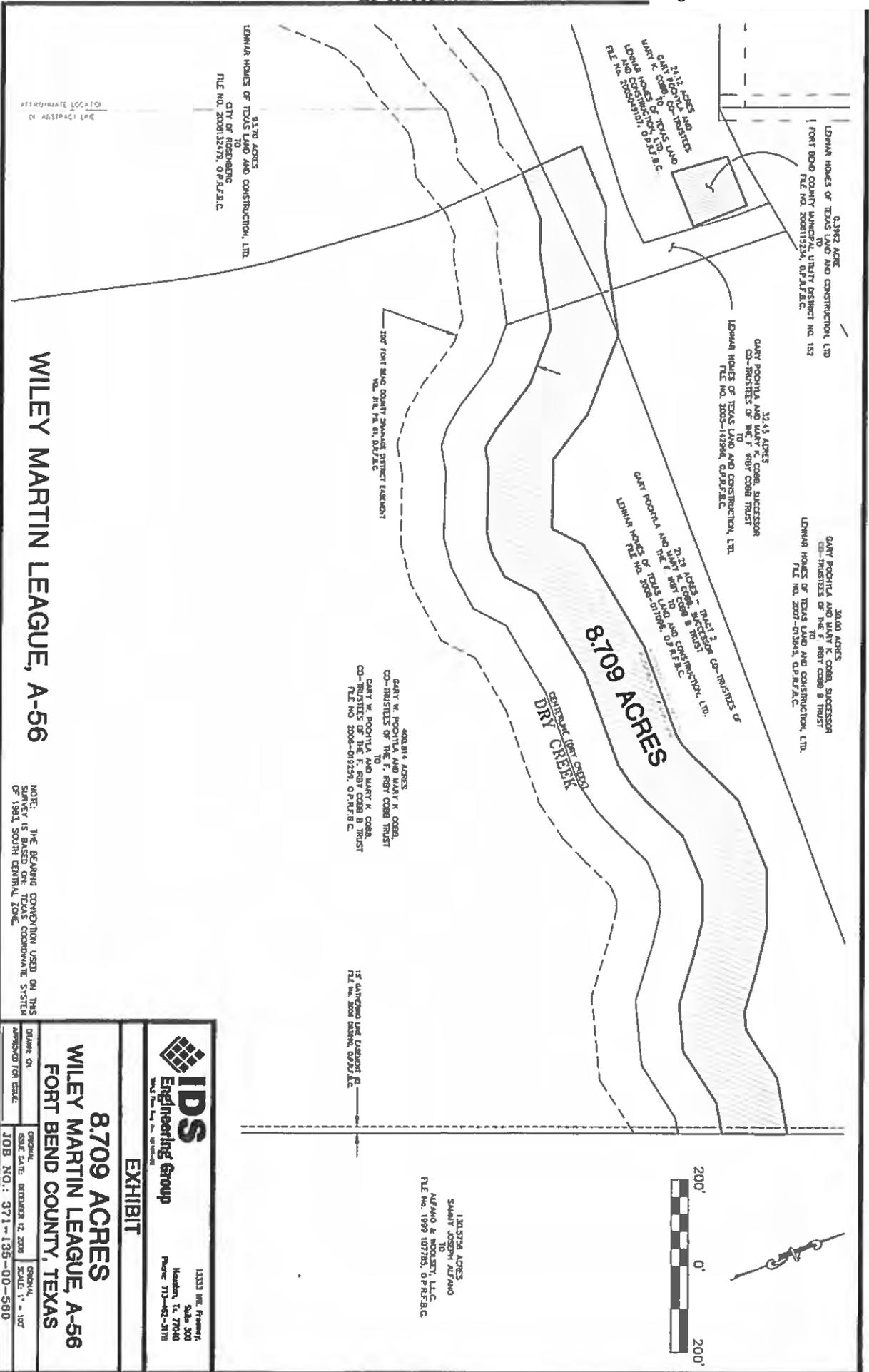
STATE OF TEXAS §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the 11 day of May,
2015, by John W. Hammond, the Vice President of Lennar Texas Holding Company, a Texas
corporation, the General Partner of Lennar Homes of Texas Land and Construction, Ltd., a Texas limited
partnership, d/b/a/ Friendswood Development Company, on behalf of said corporation, company and
limited partnership.




Notary Public, State of TEXAS

AFTER RECORDING, RETURN TO:
SMITH, MURDAUGH, LITTLE & BONHAM, L.L.P.
2727 Allen Parkway, Suite 1100
Houston, Texas 77019



WILEY MARTIN LEAGUE, A-56

NOTE: THE BEARING CONVENTION USED ON THIS SURVEY IS BASED ON TEXAS COORDINATE SYSTEM OF 1983 SOUTH CENTRAL ZONE.

IDS
Engineering Group

8.709 ACRES
WILEY MARTIN LEAGUE, A-56
FORT BOND COUNTY, TEXAS

EXHIBIT

13333 Hill Freeway, Suite 300
Houston, TX 77040
Phone 713-462-3178

DATE: DECEMBER 12, 2008
SCALE: 1" = 100'
JOB NO.: 371-135-00-590

EXHIBIT "B"

**METES AND BOUNDS DESCRIPTION
OF 8.709 ACRES OF LAND
IN THE WILEY MARTIN LEAGUE, A-56
FORT BEND COUNTY, TEXAS**

All that certain 8.709 acres of land, being a portion of the 21.29 acre tract described as Tract 2 in the deed from Gary Pochyla and Mary K. Cobb, Successors Co-Trustees of the F. Irby Cobb B Trust to Lennar Homes of Texas Land and Construction, Ltd., recorded under File No. 2008017096, in the Official Public Records of Real Property of Fort Bend County, Texas, the 30.00 acre tract described in the deed from Gary Pochyla and Mary K. Cobb, Successors Co-Trustees of the F. Irby Cobb B Trust to Lennar Homes of Texas Land and Construction, Ltd., recorded under File No. 2007013845, in the Official Public Records of Real Property of Fort Bend County, Texas, and the 32.45 acre tract described as Tract 3 in the deed from Gary Pochyla and Mary K. Cobb, Successors Co-Trustees of the F. Irby Cobb B Trust to Lennar Homes of Texas Land and Construction, Ltd., recorded under File No. 2005142966, in the Official Public Records of Real Property of Fort Bend County, Texas, in the Wiley Martin League, A-56, Fort Bend County, Texas, and more particularly described by metes and bounds as follows: (All bearings based on the Texas Coordinate System of 1983, South Central Zone)

COMMENCING at a Railroad Rail found for the southeast corner of the 400.814 acre tract described in the deed from Gary Pochyla and Mary K. Cobb, Successors Co-Trustees of the F. Irby Cobb B Trust to Gary Pochyla and Mary K. Cobb, Successors Co-Trustees of the F. Irby Cobb B Trust recorded under File No. 2006019259, in the Official Public Records of Real Property of Fort Bend County, Texas, common to the southwest corner of the 130.5756 acre tract described in the deed from Sammy Joseph Alfano to Alfano & Woolsey, L.L.C., recorded under File No. 1999107785, in the Official Public Records of Fort Bend County, Texas, in the northeast right-of-way line of Ricefield Road (60' R.O.W.); **THENCE** North 42° 01' 11" East - 1922.84 feet, along an easterly line of said 400.814 acre tract, common to a westerly line of said 130.5756 acre tract to a 1-1/2 inch iron pipe found for an angle corner of said 400.814 acre tract, common to an angle corner of said 130.5756 acre tract; **THENCE** North 22° 23' 11" East - 2013.70 feet, continuing along said common line to the southeast corner and **POINT OF BEGINNING** of the herein described tract;

THENCE North 78° 07' 42" West – 75.22 feet to an angle corner of the herein described tract;

THENCE South 79° 33' 51" West – 142.04 feet to an angle corner of the herein described tract;

THENCE North 73° 14' 10" West – 107.83 feet to an angle corner of the herein described tract;

Page 2 -- 8.709 Acre Tract

THENCE North 51° 03' 51" West – 121.45 feet to an angle corner of the herein described tract;

THENCE North 54° 24' 55" West – 85.52 feet to an angle corner of the herein described tract;

THENCE North 68° 24' 56" West - 86.53 to an angle corner of the herein described tract;

THENCE South 89° 43' 07" West – 114.71 feet to an angle corner of the herein described tract;

THENCE South 66° 19' 37" West - 118.58 feet to an angle corner of the herein described tract;

THENCE South 69° 11' 33" West – 52.92 feet to an angle corner of the herein described tract;

THENCE South 78° 51' 28" West – 56.73 feet to an angle corner of the herein described tract;

THENCE North 87° 47' 58" West - 225.56 feet to an angle corner of the herein described tract;

THENCE South 81° 35' 51" West – 218.19 feet to an angle corner of the herein described tract;

THENCE South 49° 38' 31" West – 83.51 feet to an angle corner of the herein described tract;

THENCE South 84° 23' 25" West – 65.78 feet to an angle corner of the herein described tract;

THENCE North 82° 08' 28" West – 45.48 feet to an angle corner of the herein described tract;

THENCE North 66° 26' 29" West – 151.24 feet to an angle corner of the herein described tract;

THENCE North 77° 45' 57" West – 46.18 feet to an angle corner of the herein described tract;

THENCE North 50° 37' 20" West – 7.89 feet to an angle corner of the herein described tract;

THENCE North 37° 33' 54" West – 45.50 feet to an angle corner of the herein described tract;

THENCE North 31° 05' 54" West – 131.38 feet to an angle corner of the herein described tract;

Page 3 – 8.709 Acre Tract

THENCE North 47° 13' 06" West – 138.75 feet to an angle corner of the herein described tract;

THENCE North 76° 05' 13" West – 107.94 feet to an angle corner of the herein described tract;

THENCE North 76° 14' 47" West – 75.15 feet to an angle corner of the herein described tract;

THENCE North 66° 21' 45" West – 76.71 feet to an angle corner of the herein described tract;

THENCE North 89° 17' 21" West – 116.81 feet to the southwest corner of the herein described tract, in an easterly line of the 77.01 acre tract described in the deed from Gary Pochyla and Mary K. Cobb, Successors Co-Trustees of the F. Irby Cobb B Trust to Lennar Homes of Texas Land and Construction, Ltd., recorded under File No. 2008132498, in the Official Public Records of Real Property of Fort Bend County, Texas;

THENCE North 02° 09' 31" West – 150.19 feet, partially along said easterly line, to the northwest corner of the herein described tract;

THENCE South 89° 17' 21" East – 154.75 feet to an angle corner of the herein described tract;

THENCE South 66° 21' 45" East – 94.15 feet to an angle corner of the herein described tract;

THENCE South 76° 14' 47" East – 62.39 feet to an angle corner of the herein described tract;

THENCE South 76° 05' 13" East – 146.76 feet to an angle corner of the herein described tract;

THENCE South 47° 13' 06" East – 198.60 feet to an angle corner of the herein described tract;

THENCE South 31° 05' 54" East – 133.24 feet to an angle corner of the herein described tract;

THENCE South 77° 45' 57" East – 7.02 feet to an angle corner of the herein described tract;

THENCE South 66° 26' 29" East – 145.43 feet to an angle corner of the herein described tract;

THENCE South 82° 08' 28" East – 7.08 feet to an angle corner of the herein described tract;

THENCE North 84° 23' 25" East – 1.14 feet to an angle corner of the herein described tract;

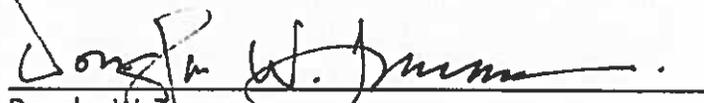
THENCE North 49° 38' 31" East – 79.53 feet to an angle corner of the herein described tract;

Page 4 – 8.709 Acre Tract

THENCE North 81° 35' 51" East – 275.06 feet to an angle corner of the herein described tract;
THENCE South 87° 47' 58" East – 221.93 feet to an angle corner of the herein described tract;
THENCE North 78° 51' 28" East – 26.51 feet to an angle corner of the herein described tract;
THENCE North 69° 11' 33" East – 36.49 feet to an angle corner of the herein described tract;
THENCE North 66° 19' 37" East – 145.88 feet to an angle corner of the herein described tract;
THENCE North 89° 43' 07" East – 174.73 feet to an angle corner of the herein described tract;
THENCE South 68° 24' 56" East – 133.93 feet to an angle corner of the herein described tract;
THENCE South 54° 24' 55" East – 108.35 feet to an angle corner of the herein described tract;
THENCE South 51° 03' 51" East – 96.45 feet to an angle corner of the herein described tract;
THENCE South 73° 14' 10" East – 42.15 feet to an angle corner of the herein described tract;
THENCE North 79° 33' 51" East – 135.32 feet to an angle corner of the herein described tract;
THENCE South 78° 07' 42" East - 132.64 feet to the northeast corner of the herein described tract, in an easterly line of said 400.814 acre tract, common to a westerly line of said 130.5756 acre tract;
THENCE South 22° 23' 11" West - 152.56 feet, along said common line, to the POINT OF BEGINNING of the herein described tract and containing 8.709 acres of land.

Prepared by:
IDS Engineering Group
Job No. 371-135-00-560

December 12, 2008



Douglas W. Turner
Registered Professional Land Surveyor
Texas Registration Number 3988





CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
2	Proposed Eagle Scout Project for Brazos Park – Edible Arbor Trail
ITEM/MOTION	

Review and discuss a presentation regarding a proposed Eagle Scout Project by Matthew Banse of Troop 1656 to build an Edible Arbor Trail in Brazos Park, and take action as necessary.

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. Presentation – Edible Arbor Trail for Brazos Park
2. Parks and Recreation Board Meeting Draft Minute Excerpt – 06-25-15

MUD #: N/A

APPROVALS

Submitted by:


 Darren McCarthy
 Parks and Recreation
 Director

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney
- City Engineer
- Exec. Dir. of Support Services 

Approved for Submittal to City Council:


 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

On June 25, 2015, at the regularly scheduled Parks and Recreation Board (Board) meeting, Matthew Banse, Troop 1656, presented a proposal to build an Edible Arbor Trail (Project) in Brazos Park. The trail would include fifteen (15) trees, three (3) of each type, along the path for visitors to enjoy and pick the fruits from. The five (5) different types of trees, the Pineapple Pear, Meyer’s Lemon, Satsuma Orange, Brown Turkey Fig, and Santa Rosa Plum, were all chosen for their ability to withstand the Texas climate. Matthew will build a drip irrigation system for each tree that will allow rain water to be collected. This irrigation system would also be covered by netting to prevent debris from entering the system. Matthew’s father and uncle will be donating some of the trees and he will be contacting vendors for donations and fundraising to complete the Project. Matthew also plans to build signs for visitors to learn about each type of tree planted along the trail. The Project is budgeted to be about \$870.00. Friends of North Rosenberg have endorsed the Project and have offered to assist with the upkeep of the trail. After reviewing the presentation, the Board unanimously recommended the Project plan for approval.

Staff and the Parks and Recreation Board recommend approval of the proposed Eagle Scout Project for an Edible Arbor Trail at Brazos Park.



Edible Arbor Trail for Brazos Park

By Matthew Banse- Troop 1656

- Five varieties of fruit trees along the Brazos Trail
 - Lemon
 - Pear
 - Plum
 - Fig
 - Orange
- 12-15 Trees, or 3 of each kind
- Planning with Mr. Rick Adams, CPCTMN

My Proposal

- Families can enjoy the fruits in nature
- Attracts more people to the park
- Trees add beauty to the park
- Promotes nature to families



Purpose



- Hardy and tough
- Grows up to 25 feet
- Harvest - late summer.

Pear Tree (Pineapple)



- Citrus fruit
- Native to China
- Lemon / Mandarin orange
- 6 to 10 feet
- Hardy in warm climates
- Harvest - January to February

Lemon Tree (Meyer's)



- 10 to 20 feet tall
- Heat tolerant
- Survives freezing temperatures down to 10 degrees
- Harvest - late June

Fig Tree (Brown Turkey)



- Hardy trees
- Survives down to 30 degrees
- 20 to 35 feet tall
- Harvest - February to March

Orange Tree (Satsuma)



- Harvest - mid July
- 18 to 20 feet tall
- Heat tolerant
- Only needs rain water

Plum Tree (Santa Rosa)

- Help from family:
 - Grandfather offered to try and graft some trees
 - Uncle offered to supply some orange trees
- Aiming for low costs:
 - Checking the local nurseries for donations
 - 5 gallon size trees are \$20-\$25 dollars each

Possible source for trees



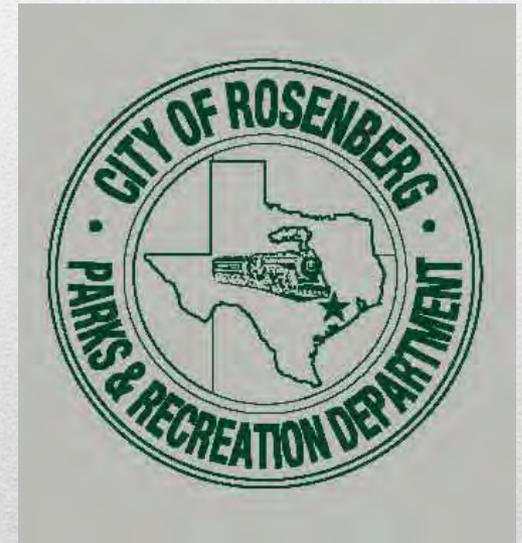
Satellite image of Brazos Park
(courtesy of google maps)

- Watering/irrigation system for each tree
 - Five gallon bucket
 - Two layers of three bricks
 - Gravity draws water out
- Hose access to the tree
 - Slow release for continual hydration
- Similar system in Seabourne Creek Nature Park.



Drip irrigation

- Informational sign for each variety of tree
- Sign for the front entrance of the park
 - Logo of Rosenberg
 - Welcome to Brazos Park Edible Arbor Trail
 - Completed by
- Sign materials:
 - 10x14 040 aluminum.
 - Concrete
 - Pole



Informational Signs



- Missouri City Edible Arbor Trail sign

- Sign design will be similar

Sign example

Proposed sign design:

- L shaped angle iron or steel tubing
- 10X14 in size
- 0.40 aluminum
- 3 to 4 feet above ground



Sign Concept

JUNE/JULY

- Begin fundraising
- Acquire trees from vendors and relatives

SEPTEMBER

- Pre planting maintenance on trees
- Gather supplies

OCTOBER

- Continue tree maintenance
- Sign construction
- Irrigation bucket building

NOVEMBER

- Work days to plant trees
- Contact 811 before any digging is done

Time line

- Working hours: 9:30am - 3:30pm, with a lunch break.
- Project breakdown:
 - Day 1: Build signs
 - Day 2: Build irrigation buckets
 - Day 3: Plant trees
- Any delay may cause another day of work.

Work Days

- Safety procedures with the workers
- Demonstrations on how to use the tools
- Tools will be given to the appropriate scouts
- Small tractor may be used with a post hole digger attachment
 - Operated by my father

SAFETY!!!!!!

Materials:	
Trees	\$ 300.00
Mulch, T-posts, Buckets, Hoses, Fasteners	\$ 150.00
Supplies:	
Snacks, Water, First Aid Kit, Garbage Bags	\$ 50.00
Tools:	
To plant the trees	\$ -
Other:	
Signs and Concrete	\$ 370.00
TOTAL	\$ 870.00

Estimated Budget

- I propose to plant fruit trees of multiple varieties, including Lemon, Pear, Plum, Fig, Orange.
- My purpose for this project is so that families can come out and pick the fruits while enjoying the park.
- My sources for the trees will be either my grandfather, my uncle, Caldwell Nursery, or a mix of all.
- There will be a drip irrigation system for the trees.
- I would like to put up informational signs for the trees.

Overview

DRAFT

2. CONSIDERATION OF AND ACTION ON PROPOSED EAGLE SCOUT PROJECT BY MATTHEW BANSE OF TROOP 1656 TO BUILD AN EDIBLE ARBOR TRAIL IN BRAZOS PARK.

Key Discussion: Darren McCarthy, Parks and Recreation Director, introduced Matthew Banse of Troop 1656 to discuss an Edible Arbor Trail project in Brazos Park. Matthew informed the board members that for his project, he would like to promote nature by planting a variety of fruitful trees for families to enjoy while strolling along the trail. The Edible Arbor Trail will consist of 15 trees, with three of each variety and signs to educate those passing by. The various and vibrant colors of the trees will add to the beauty of the park and encourage families to visit to truly enjoy nature. The five types of trees are Pineapple Pear Tree, Meyer's Lemon Tree, Satsuma Orange Tree, Brown Turkey Fig Tree, and the Santa Rosa Plum Tree. Characteristics of these trees include the ability to withstand warm climates, while the fig and orange trees' also possess the ability to withstand freezing temperatures. At maturity, the plum can grow up to four feet, the lemon can grow up to ten feet, the fig can reach up to 20 feet, the pear can reach up to 25 feet, and the orange can grow up to 35 feet. The fruits will harvest from January through late summer in the order of lemon, orange, fig, plum, and pear. Matthew plans to hydrate the trees through drip irrigation, similar to the one used in Seabourne Creek Nature Park. The estimated cost of the project comes to about \$870.00 that he will obtain through donations and fundraising. Matthew mentioned that his grandfather is working on grafting several of the trees, his uncle will supply some orange trees, and the rest needed will come from the best value or donations from local vendors. The time anticipated to plant will be in November. He is currently fundraising and researching the best value. In October, he will be maintaining the trees and constructing the signs. In September, Matthew will prep the trees for planting and gather the supplies needed. Matthew plans to receive help from his troop members and family. He also will conduct safety lessons on tool use. Julia Worley asked if the trees will need to be covered after planting because of the freezing season. Matthew responded that the type of trees being used were picked for that reason and should be good. Rudy Guerrero asked how they were to be maintained. Matthew replied that once the irrigation system is placed, then the trees should be maintenance free. Darren added that he has reviewed the project with the Friends of North Rosenberg, who are always asking for projects in Brazos Park, and they are happy to help conduct maintenance when needed to the trees. Julia also asked if the drip irrigation system could collect rain water. Matthew said he is planning to net the buckets so water can be collected and leaves or debris will stay out. He also mentioned that he will be building a protective base made out of medium width PVC piping to prevent the newly planted trees from weeding or lawn maintenance damaging.

ACTION: Rudy Guerrero made a motion, seconded by Julia Worley, to accept construction of the Edible Arbor Trail project in Brazos Park. The motion carried unanimously by a vote of those present.

3. CONSIDERATION OF AND ACTION ON TOWER OF REFUGE BACK-TO-SCHOOL OUTREACH EVENT ON SATURDAY, AUGUST 8, 2015, IN SUNSET PARK.

Key Discussion: Darren McCarthy, Parks and Recreation Director, introduced the Tower of Refuge members to discuss their Back-To-School Outreach Event. Eric Edmonds, informed the board of the successful outreach event held last year at Sunset Park. This event is an outreach program that helps provide school supplies to those in the community in need. All supplies will be donated by the organization and they plan to have about 200 back packs to hand out. Eric mentioned the advertising will be done by social media, word of mouth, and flyers in the neighborhood. Amanda Barta asked about the time frame of the event and Eric replied that they would like to hold the event from ten in the morning until two in the afternoon to beat the heat. He included that there will be games, raffle items, food, and refreshments, such as nachos, popcorn cotton candy, snow cones, hot dogs, chips water, tea, and lemonade. The organization would like to make this a fun event for the community to be able to come out again. Julia Worley asked if a child receiving the backpack needed to meet a certain criteria and Eric responded no and that everyone was welcome to come to the event.

ACTION: Stanley Kucherka made a motion, seconded by Bertha Nell Kelm, to allow Tower of Refuge to proceed with the Back-To-School Outreach Event at Sunset Park on August 8, 2015. The motion carried unanimously by a vote of those present.



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
3	Appointments to City of Rosenberg Boards, Committees and Commissions

ITEM/MOTION

Consideration of and action on appointments to the following Boards, Committees and Commissions:

- a) Planning Commission;
- b) Animal Control Shelter Advisory Board;
- c) Building and Standards Board;
- d) Image Committee; and,
- e) Parks and Recreation Board.

FINANCIAL SUMMARY	ELECTION DISTRICT
-------------------	-------------------

Annualized Dollars:	Budgeted:	<input type="checkbox"/> District 1
<input type="checkbox"/> One-time	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> District 2
<input type="checkbox"/> Recurring	Source of Funds: N/A	<input type="checkbox"/> District 3
<input checked="" type="checkbox"/> N/A		<input type="checkbox"/> District 4
		<input checked="" type="checkbox"/> City-wide
		<input type="checkbox"/> N/A

SUPPORTING DOCUMENTS: MUD #: N/A

1. Advertisement - City of Rosenberg Calling for Volunteers – May 31, June 7, and June 14, 2015
2. List of Current Committee Members and Applicants - 07-10-15
3. 2015 Committee Applications and Committee List (Previously provided under separate cover)

APPROVALS

Submitted by:	Reviewed by:	Approved for Submittal to City Council:
	<input type="checkbox"/> Exec. Dir. of Administrative Services	
Linda Cernosek	<input type="checkbox"/> Asst. City Manager of Public Services	Robert Gracia
City Secretary	<input type="checkbox"/> City Attorney	City Manager
	<input type="checkbox"/> City Engineer	
	<input type="checkbox"/> (Other)	

EXECUTIVE SUMMARY

Each year the City Council appoints and reappoints members to the City's Boards, Committees, and Commissions (Committees) that are to be appointed or reappointed for that particular year. Attached is a list of current Committee members and applicants, the advertisement published in the Fort Bend Herald newspaper on May 31, June 7 and June 14, 2015, and on the City's webpage. The deadline for applications was Friday, June 19, 2015. The 2015 Committee Applications were previously sent to City Council under separate cover and included a cover sheet with a brief description of each of the Committees that are being appointed/reappointed. The applications were received from current and new applicants for the specific Committee(s) they are interested in serving.

Included is the current City of Rosenberg Committee List for those Committee positions that are to be appointed/reappointed at this time.

CULVER: Judge plans to retire at June 30

CONTINUED FROM PAGE 1

capacities: as a deacon, a church trustee, membership on many multiple committees and staff search committees, and as a Sunday school teacher for children and for young adults.

Upon his recommendation for appointment by the Baptist General Convention of Texas, Culver has also served over 17 years as a trustee for the South Texas Children's Home Ministries in Beeville, Texas.

As a District Judge, Culver presides over the most serious types of felony criminal cases in the state of Texas, including "death penalty" cases, and large civil lawsuits filed in Fort Bend County, such as election law violations, contract disputes, personal injury damages and wrongful death claims.

"Whether a civil jury finds the damages to be minimal or in the millions of dollars, I believe all the parties have a right to expect the trial judge to be knowledgeable of the law and to apply the rules fairly and impartially," he said.

"Some of the most difficult criminal cases in my court involve

children who have been treated terribly, and sometimes killed.

All victims, and their families, have a right to be treated with dignity and respect. That has been my goal as a judge for over 34 years and I continually strive to make that goal a reality."

Managing the trial dockets is essential in order to keep the court's civil and criminal cases as current as possible. By holding annual Civil Dismissal Dockets, Culver has made it clear to all lawyers that cases in the 240th District Court will either be ready for trial within the time constraints allowed by law, or dismissed.

His criminal and civil dockets are current and he strives to keep them that way. Culver believes the court system should be open to all citizens and he was the first Fort Bend County District Judge to empanel Asian-American members as grand jurors. He has diligently worked to see that the grand jury process represents a true cross-section of Fort Bend County residents.

His court uses computer-assisted technology, real-time court reporting transcription, and sign

language interpreters to assist hearing impaired jurors, as well as the use of sign language interpreters for non-English speaking litigants and witnesses in civil and criminal cases.

In looking towards the looming changes in his court, Culver committed to working closely with whomever Gov. Abbott appoints to succeed him as 240th District Judge.

He comments that in order to facilitate a seamless transition, a great and motivated staff is required.

"I have a wonderful team with my court coordinator, Becky Fisher, and a very dedicated court reporter, Liz Wittu. I appreciate both of them and their efforts on behalf of the people of Fort Bend County. Those efforts are commendable. Our Associate Judge, Pedro Ruiz, assists both the 240th and the 400th district courts in our various civil and criminal, pre-trial and trial responsibilities."

"All of my staff share my determination that the goal of the 240th Court remains to be a model of efficiency of administration and dispositions."

City of Rosenberg Calling for Volunteers

The City's boards, commissions, and committees serve as a link to City Council and staff to help keep Rosenberg's City government responsive and accountable to the needs of the citizenry. The City relies on the advice and expertise provided by resident volunteers. Service on any City board, commission or committee is a privilege and a responsibility which could involve a significant time commitment. Members serve on a volunteer basis without compensation and are expected to diligently attend and participate in all meetings.

Those boards/committees seeking members include:

- 1) Animal Control Shelter Advisory Board
- 2) Building and Standards Board
- 3) Image Committee
- 4) Parks and Recreation Board
- 5) Planning Commission

Current volunteers to any board/committee will be considered for reappointment based on, but not limited to, their demonstrated commitment and responsibility to the position including attendance. Appointments are made by City Council.

Applicants must complete an Information Statement and Application and submit to the City Secretary's office, at City Hall, 2110 4th Street to be considered for appointment. Applications are due no later than Friday, June 19, 2015. Call 832-595-3340 or go to www.ci.rosenberg.tx.us for more information.

**2015 Committee Appointments
and
New Applications**

Animal Control Shelter Advisory Board

(Per Texas Health and Safety Code, Section 823.005, membership is comprised of at least one licensed veterinarian, one county or municipal official, one person whose daily duties include the daily operation of an animal shelter and one representative from an animal welfare organization.)

Current Members: Staff: Jackie Jurasek, Renee McAnally, and David Mirelez; Dr. William Hester, DVM; Joni Huff; and Carolyn Seiler.

Resignations: Joni Poche (deceased)

New Applicants:

- Laura M. Knizner
- Tammy Nelson

Building and Standards Board

(Members serve two-year terms/no staggered terms)

Meetings held as needed, at Rosenberg Civic Center

Staff: Building Official

Current Members: Robert Duran (Contractor); Devin Koeppen (Utility Representative); Walter Urbish (Master Electrician).

Resignations: Howard Stinnett (Citizen At Large); Tim Sweat (Mechanical Rep HVAC); and Charlie Wenzel (Master Plumber).

New Applicants:

- Cowboy Bill (Citizen At Large)
- Cathi Cross (Citizen At Large)
- Phillip Grudziecki (Master Plumber)
- Shawn Schulze (Mechanical Rep HVAC)

Image Committee

(Established in 1994) (One year term)

Meetings held third Monday of month, at 6:00 p.m., Rosenberg Civic Center

Council Representative: Councilor Benton (voting member, effective 9/2/2014)

Staff: Executive Director of Support Services, and Citizen Relations Coordinator (staff support)

Current Members: Joyce Bartos; Linda Carroll; Rufus Guebara III; Stanley Kucherka; Rose Pickens; Sergio Villagomez; and Lisa Wallingford

Resignations/No response: Cowboy Bill (resigned); Lisa McGarity, Chamber (no response); Austin Hernandez/Student Advisory (graduated); Howard Stinnett (resigned); Lila Villagomez (applied for another board)

New Applicants:

- Cathi Cross
- Eric Ramirez

✓ Attendance Schedule of Members

Parks and Recreation Board

(Established December 1962, then by Ordinance (19)84-30 called for 7-13 members; recommendation is to have no more than 9 members for quorum purposes.

Members serve a one-year term)

Meetings held fourth Thursday of month at 6:00 p.m. at the Rosenberg Civic Center
(Merged Special Event Members into Parks Board 2/18/2014)

Council Representative: Councilor Barta (voting member effective 09-02-2014)

*Staff: Executive Director of Support Services, Parks and Recreation Director,
Recreation Program Coordinator*

Current Members: William Allen; Teresa Bailey; Melissa Dixon; Rudy Guerrero; Bertha Nell Kelm; Stanley Kucherka; Raymond Kueck; Eric Ramirez; Julia Worley and George Zepeda

Resignations/No response: Eric Juarez (no response)

New Applicants:

- Celerina "Lila" Villagomez

✓ Attendance Schedule of Members

Planning Commission

(Established by Charter – Members serve two-year terms – Appointed in odd numbered years, after Council election) Commissioners may not serve on any other City committees

Meetings held on fourth Wednesday of month, at 4:00 p.m., in City Hall Council Chamber.

Council Ex-Officio: Councilor McConathy Staff: Executive Director of Community Development

Current Members: Alicia Casias; Michael Parsons; Pete Pavlovsky; Lester Phipps, Jr.; Wayne Poldrack; James Urbish

Resignations/No response: None.

New Applicants:

- Charlotte Davis
- Joe Hernandez
- Steven Monk
- Marcus Morales
- Lisa Wallingford
- George Zepeda

✓ Attendance Schedule of Members

*Note that Lisa Wallingford applied for committees prior to being elected to the City Council.



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
4	Resolution No. R-2003 – Designating West Fort Bend Management District Director

ITEM/MOTION

Consideration of and action on Resolution No. R-2003, a Resolution designating a Director to the West Fort Bend Management District Board of Directors for a four-year term, beginning June 01, 2015, and ending June 01, 2019.

FINANCIAL SUMMARY	ELECTION DISTRICT
-------------------	-------------------

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds: N/A**ELECTION DISTRICT**

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

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

1. Resolution No. R-2003
2. Bronsell Correspondence – 06-29-15

APPROVALS

Submitted by:**Cynthia A. McConathy/rl**Cynthia A. McConathy
Mayor**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 West Fort Bend Management District (the "District") has requested that the City appoint an applicant to serve as a Board Director for a four-year term to run from June 01, 2015, to June 01, 2019. Anthony Sulak currently serves as Rosenberg's representative on the District's Board of Directors. Per the attached correspondence from Mandi Bronsell, Executive Director of the District, the legislation creating the District, Texas Special District Local Laws Code Section 3835.052, provides that the City will appoint the District's Directors from persons recommended by the District's Board of Directors.

Two (2) applications were received by the District for the new term: Anthony Sulak and Ronald E. Ewer. The proposed Resolution No. R-2003 will allow City Council to designate the Rosenberg representative to serve on the District Board of Directors for a four-year term. The applications for Mr. Sulak and Mr. Ewer are attached to the correspondence from Ms. Bronsell for City Council's review and consideration.

RESOLUTION NO. R-2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, DESIGNATING A DIRECTOR TO THE WEST FORT BEND MANAGEMENT DISTRICT BOARD OF DIRECTORS FOR A FOUR-YEAR TERM, BEGINNING JUNE 01, 2015, AND ENDING JUNE 01, 2019.

* * * * *

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

Section 1. That _____ is hereby designated as the City's Director to the West Fort Bend Management District Board of Directors for a four-year term, to commence June 01, 2015, and end June 01, 2019.

Section 2. That the Executive Director of the West Fort Bend Management District shall notify the herein above named Director.

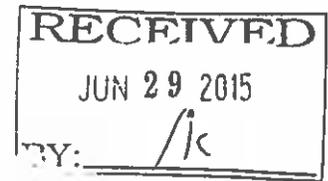
PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**



The Honorable Cynthia McConathy
The City of Rosenberg
P.O. Box 32
Rosenberg, TX 77471-0032

Re: West Fort Bend Management District

Dear Mayor McConathy:

The legislation creating the West Fort Bend Management District (the "District"), Texas Special District Local Laws Code Section 3835.052 (reference copy enclosed), provides that the City will appoint the District's directors from persons recommended by the District's Board of Directors (the "Board"). One current Board director previously appointed by the City of Rosenberg (the "City"), Anthony Sulak, term expired June 1, 2015. A notice seeking applications for appointment to the Board was posted to the District's website for twenty-five days. Two applications were received during that time period. The current Director, Anthony Sulak has requested to continue serving and would like to be appointed to a new term. Mr. Sulak owns property and owns and operates a services business within the District and is qualified to serve as director under Chapter 375 of the Texas Local Government Code. Mr. Ron Ewer has also applied to be a director and operates a business within the District which qualifies him to serve as well. I am enclosing both applicants resumes. Please let me know at your earliest convenience which of these applicants you wish to serve as the City appointment.

Please do not hesitate to contact me with any questions or if you need additional information. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Mandi Bronsell".

Mandi Bronsell
Executive Director

Enclosures

Board Candidate Questionnaire

Name: RONALD E. EWER

Position/Title: OWNER / DEALER PRINCIPAL

Employer: LEGACY FORD

Address: 27225 SOUTHWEST FREEWAY

City: ROSENBERG State: TX Zip: 77471 7146

Telephone: 281.802.9436 Fax: 832.363.2126

Email: REWER@LEGACYFORDTX.COM Web: WWW.LEGACYFORDTX.COM

Number of Years with Present Employer: 9 Years in Richmond/Rosenberg: 9

Educational Background: Raised in Minnesota and attended an Engineering Trade School from 1980-1981. Around 1986 relocated to Dallas, TX and began career in Automotive Industry. In 1997, received an offer to relocate to Houston, TX to open Planet Ford dealership. In 2000, was promoted to Partner. In 2005, purchased an existing dealership in Rosenberg, TX and renamed it Legacy Ford.

Community Activities: As a strong advocate for Educational Programs, has sponsored events and constructed marquees and/or scoreboards for several school districts: Lamar CISD, Fort Bend ISD, and Needville ISD. As a devoted community patron has contributed many resources to sponsor to Fort Bend Seniors Meals on Wheels, Texana Center, Access Health, Fort Bend Child Advocates, American Red Cross Greater Houston Chapter, Fort Bend Women's Center, Arc of Fort Bend, Fort Bend Hispanic Heritage Forum, Fort Bend Rainbow Room, Behind the Badge Charities, Fort Bend County Sheriff's Department, the City of Rosenberg Police Department and The City of Richmond Police Department. Since 2009, annually hosts a large donation drive for the Marine Toys for Tots Foundation. Since 2010, has generously donated bottled water and time to the Fort Bend Seniors' Hurricane Preparedness Campaign.

Other Memberships, Achievements, etc: 2015 Frank M. Adams Award for Outstanding Community Volunteer Service; 2013-2014 Texana's Contract Work Company of the Year; 2013 Community Builder Award by the Rosenberg Masonic Lodge; 2012 Houston Business Journal's Outstanding Small Corporation and National Philanthropy Day Award; 2009 Central Fort Bend Chamber Alliance's Business Person of the Year; 2013 Nominee for Ford Motor Company's Salute to Dealers for strong community involvement. Four time winner of Ford Motor Company's President's Award (2008-2011) for outstanding customer service and sales performance and a six-time winner of Ford's Top 100 Ford Dealership award. Current Memberships: Houston Area Ford Dealer Advertising Fund, Chairman/Vice-Chairman; Ford Customer Service Division: Fixed Operations Strategic Advisory Board, Chairman; NCM 20 Group: Ford 1.5, Chairman; Houston Quick Lane Advertising Association, Member; Ford Customer Service Division: SM Dealer Advisory Board, Member; West Fort Bend Management District, Member; Texana Center Advisory Board, Member; Fort Bend Seniors Board of Directors, Advisor; Texas Wing Formation Club, Vice-President.

Board Candidate Questionnaire

How did you hear about the District?:

I feel privileged to have been involved with the West Fort Bend Management District since 2006 and the planning process of the U.S. 59 Corridor.

1. If selected, how do you feel you could contribute to the success of the District?

As a successful business owner and vested interest in the community, I believe as a board member I can bring valuable input for positive growth and development in West Fort Bend County.

2. Are you willing to give time and energy for the next four years to support the mission of the West Fort Bend Management District?

Yes

3. Do you have the time to be an active Member of the Board of Director's which includes: attending monthly Board meetings, preparing for monthly Board meetings in advance, review of projects and proposals and attendance at District presentations or sponsored events?

Yes

4. Are you familiar with the District's standards and guidelines?

Yes

5. Are you comfortable discussing the District standards in a Board meeting and giving comments on commercial development site plans?

Yes

CANDIDATE INFORMATION

Name: Anthony Sularik

Position/Title: Engineer Operator

Employer: Houston Fire Department / Owner of Sularik Services - property town management

Address: 1200 2nd st.

City: Rosenberg TX State: Texas Zip: 77471

Telephone: 281-686-1454 Fax: _____

Email: AJSULARIK@JAHOO.COM Web: _____

Number of Years with Present Employer: 18 Years in Richmond/Rosenberg: 41

Educational Background: Associates Applied Science, Fire + Est Cert. Fire, (WASC) (HCC)

BBA From U of H, 5 years experience in structural & civil drafting & design.
23 yrs experience in landscaping & design, and structural repair/construction

Community Activities: Member of Holy Rosary Catholic Church, Member of Knights of Columbus in Needville, board member of WFBMD

Served on city committees such as sign ordinance committee, and the rental inspection program.
As owner of Sularik Services, I have been able to provide discounted or free services to seniors in
Other Memberships, Achievements, etc: our community as needed.

How did you hear about the District?:

I learned about the District through community involvement and attending council meetings in the past.

Board Candidate Questionnaire

1. If selected, how do you feel you could contribute to the success of the District?

I believe that having been on the labor & financial side of many projects gives me a true understanding of the requirements in the district's standards. Having served on the Board, I see the future challenges, opportunities, and areas that need a larger focus to enhance the benefits the district provides. Having spent much time traveling I have gotten to experience many communities and have broadened my eyes to the potential our city can reach. Having lived my entire life in the community I have seen many changes, and I want to be a part of what will make the community great.

2. Are you willing to give time and energy for the next four years to support the mission of the West Fort Bend Management District?

yes

3. Do you have the time to be an active Member of the Board of Director's which includes: attending monthly Board meetings, preparing for monthly Board meetings in advance, review of projects and proposals and attendance at District presentations or sponsored events?

yes

4. Are you familiar with the District's standards and guidelines?

yes

5. Are you comfortable discussing the District standards in a Board meeting and giving comments on commercial development site plans?

yes



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
5	FY2016 Budget Presentation and Discussion
ITEM/MOTION	
Review and discuss presentation regarding the City's FY2016 Budget/Rosenberg Development Corporation's FY2016 Budget, and take action as necessary.	
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 City and RDC Budget documents to be provided at the City Council Meeting

APPROVALS

Submitted by:


 Robert Gracia
 City Manager


 Joyce Vasut
 Executive Director of
 Administrative Services

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

This Agenda item allows the City Manager to submit the FY2016 Proposed Budget for the City of Rosenberg and the Rosenberg Development Corporation (RDC) to the City Council. The Executive Director of Administrative Services will present the highlights of the FY2016 Proposed Budgets. City Council will be given the opportunity to review and discuss the Proposed Budgets during the presentations prepared for future meetings, workshops and public hearings.



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
6	Resolution No. R-2005 – Sanitary Sewer Pipe Bursting Project Engineering Services Contract
ITEM/MOTION	

Consideration of and action on Resolution No. R-2005, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Contract for Engineering Services for Phase II – Sanitary Sewer Pipe Bursting Project for engineering and surveying services for the Sanitary Sewer Pipe Bursting Project, by and between the City and Kelly R. Kaluza and Associates, Inc., in the amount of \$446,500.00.

FINANCIAL SUMMARY	ELECTION DISTRICT
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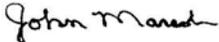
Annualized Dollars:	Budgeted:	<input checked="" type="checkbox"/> District 1
<input checked="" type="checkbox"/> One-time	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	<input checked="" type="checkbox"/> District 2
<input type="checkbox"/> Recurring		<input checked="" type="checkbox"/> District 3
<input type="checkbox"/> N/A	Source of Funds:	<input type="checkbox"/> District 4
	423-0000-550-7032 (CP1514)	<input type="checkbox"/> City-wide
		<input type="checkbox"/> N/A

SUPPORTING DOCUMENTS:

MUD #: N/A

1. Resolution No. R-2005
2. Project Location Map – Phase II
3. Wastewater Treatment Plant 1-A Service Area Map
4. Wastewater Treatment Plant 1-A Collection Line Rehab Cost Estimate
5. Resolution No. R-1997 – 07-07-15
6. City Council Meeting Minute Draft Excerpt – 07-07-15
7. City Council Meeting Minute Excerpt – 01-28-14

APPROVALS

Submitted by:  John Maresh Assistant City Manager of Public Services	Reviewed by: <input checked="" type="checkbox"/> Exec. Dir. of Administrative Services  <input type="checkbox"/> Asst. City Manager for Public Services <input checked="" type="checkbox"/> City Attorney DNRBHZ/1 <input type="checkbox"/> City Engineer <input type="checkbox"/> (Other)	Approved for Submittal to City Council:  Robert Gracia City Manager
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EXECUTIVE SUMMARY

During the January 28, 2014, City Council Workshop, staff provided information regarding the overall condition of the sanitary sewer collection system within the Wastewater Treatment Plant No. 1A service area. Cost estimates to replace the remainder of the sewer collection system lines, certain lift stations, and replacement of the chemical disinfection system at the wastewater treatment plant were also provided. The overall objective is to complete the rehabilitation work in this service area within the next three (3) to four (4) year period. This Project is included in the FY2016 Capital Improvement Plan approved by City Council as Resolution No. R-1997 on July 07, 2015.

The proposed Sanitary Sewer Pipe Bursting Project (Project) – Phase II is the next phase of the sewer collection system line replacement. This Project will continue replacement of collection system lines south of Avenue F. This Project is necessary to maintain compliance with Texas Commission on Environmental Quality (TCEQ) regulations regarding sanitary sewer overflows and increased inflow/infiltration flows experienced during rain events. The 2014 Certificates of Obligation Phase I Capital Project balance has sufficient funding for the engineering services. Upon completion of the engineering design and bidding process, the construction bid award would be placed on a future Agenda for City Council consideration and approval. The preliminary construction cost estimate for this phase of the Project is approximately 3.3

million dollars. The construction will be funded with proceeds from proposed Certificates of Obligation, which will also be presented at a future City Council Meeting prior to December 31, 2015.

Staff recommends approval of Resolution No. R-2005, authorizing the City Manager to execute a Contract for Engineering Services for Sanitary Sewer Pipe Bursting Project – Phase II with Kelly R. Kaluza & Associates, Inc., for the engineering and surveying services for the Sanitary Sewer Pipe Bursting Project, in the amount of \$446,500.00.

RESOLUTION NO. R-2005

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 CONTRACT FOR ENGINEERING SERVICES FOR PHASE II - SANITARY SEWER PIPE BURSTING PROJECT FOR ENGINEERING AND SURVEYING SERVICES FOR THE SANITARY SEWER PIPE BURSTING PROJECT, BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND KELLY R. KALUZA AND ASSOCIATES, INC., IN THE AMOUNT OF \$446,500.00.

* * * * *

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

Section 1. The City Council of the City of Rosenberg hereby authorizes the City Manager to execute a Contract for Engineering Services for Phase II - Sanitary Sewer Pipe Bursting Project (Contract) for the engineering and surveying services for the Sanitary Sewer Pipe Bursting Project, by and between the City of Rosenberg, Texas, and Kelly R. Kaluza & Associates, Inc., in the amount of \$446,500.00.

Section 2. A copy of said Contract is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **CITY SECRETARY**

Cynthia A. McConathy, **MAYOR**

STATE OF TEXAS §

COUNTY OF FORT BEND §

**CONTRACT FOR ENGINEERING SERVICES FOR
PHASE II - SANITARY SEWER PIPE BURSTING PROJECT
CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS**

THIS AGREEMENT, entered into as of this _____ day of _____, 2015, by and between the City of Rosenberg, Texas, hereinafter called "CITY", and Kelly R. Kaluza & Associates, Inc., hereinafter called "ENGINEER".

The Parties hereto do mutually agree as follows:

**ARTICLE I
SCOPE OF WORK**

The scope of work is set forth in Attachment "A", attached hereto and made a part of this contract. Deviations from the scope of work may be authorized from time to time by CITY by prior written authorization.

**ARTICLE II
SCHEDULE OF WORK**

The ENGINEER agrees to begin work immediately upon execution of this contract and to proceed diligently with said work to completion, as described in Attachment "A".

No work will begin without written authorization from the CITY or its representatives.

**ARTICLE III
COMPENSATION**

For and in consideration of the work performed hereunder, the CITY agrees to compensate the ENGINEER on a monthly basis. On or about the fifth day of each month, the ENGINEER will submit to the CITY an invoice for services performed by the ENGINEER during the previous month. Terms of each invoice shall be Net 30 Days. Compensation for services of ENGINEER will be as set forth in Attachment "A". The ENGINEER will provide the CITY with a monthly completion estimate to support requests for payment. The ENGINEER will make every effort to satisfy the project schedule of the project in the completion of this work.

ARTICLE IV
TERMINATION

Either party may terminate this contract upon giving written notice to the other party at least ten (10) days prior to the date of termination. In the event of termination, the ENGINEER shall deliver to the CITY all finished or unfinished plans, documents, data, studies, surveys, drawings, maps, models, photographs, etc., prepared by the ENGINEER under this contract. The ENGINEER shall be entitled to receive just and equitable compensation for any work satisfactorily completed in accordance with the provisions of this agreement prior to termination. If the ENGINEER has completed the preliminary, design, surveying, acquisition, or construction phase prior to termination, he will be entitled to the fee stipulated in the fee distribution under the delineation of Basic Services in the Scope of Work detailed on Attachment "A" of this contract. If termination should occur prior to completion of one of the phases of engineering services (preliminary, design, surveying, acquisition or construction), the ENGINEER will be reimbursed for his work under that particular phase under the terms of the "Additional Services" described hereinafter, and Attachment "B", Standard Rate Schedule for Engineering Services.

ARTICLE V
PROGRESS REPORTS

The ENGINEER shall submit monthly progress reports and attend progress meetings as scheduled by the CITY and as detailed in the Scope of Work. Each report shall outline work accomplished and special problems or delays encountered during the previous report period and the planned work activities and special problems or delays anticipated for the next report period.

ARTICLE VI
INDEPENDENT CONTRACTOR

In the performance of work or services hereunder, the ENGINEER shall be deemed an independent contractor, and any of its employees performing work required hereunder shall be deemed solely employees of the ENGINEER, or its subcontractors where permitted.

ARTICLE VII
INSURANCE

ENGINEER agrees to furnish, if requested by the CITY, a certificate reflecting their coverage by workmen's compensation insurance, and public liability insurance for bodily injury and property damage in amounts and with carriers satisfactory to the CITY and agrees that such coverage shall be maintained during the term of this contract. ENGINEER shall be responsible for determining that its subcontractors, where permitted, likewise carry and maintain adequate insurance coverages.

ARTICLE VIII
LIABILITY

ENGINEER agrees to indemnify and hold the CITY harmless from each and every claim, suit, judgment, or damage to or from injury or death of any person or persons, caused by or arising out of or in connection with the operations of ENGINEER and its subcontractors, where permitted, under this agreement, except as same may be due to the negligence of the CITY.

ARTICLE IX
SUBCONTRACTS

In fulfilling its duties pursuant to this contract, ENGINEER may subcontract to individuals, corporations, organizations, governments or governmental subdivisions or agencies, partnerships, associations, or other legal entities. Such subcontracts will be entered into only with written approval from the CITY.

ARTICLE X
TRANSFER OF INTEREST

Neither the CITY nor ENGINEER may assign or transfer their individual interest in the contract without the written consent of the other party. The CITY and ENGINEER each binds itself and its successors and assigns to the other party with respect to all covenants to this contract. Nothing herein is to be construed as creating a personal liability on the part of any officer or agent of any public body which may be a party hereto.

ARTICLE XI
AUDITS AND RECORDS

At any time during normal business hours and as often as the CITY may deem necessary, the ENGINEER shall make available to representatives of the CITY for examination all of its records with respect to all matters covered by this contract and will permit representatives of CITY to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this contract, for a period of three (3) years from the date of final settlement or for such other longer period, if any, as is required by applicable statute or lawful requirement.

ARTICLE XII
OWNERSHIP DOCUMENTS

Original finished or unfinished plans, documents, data, field notes, studies, surveys, drawings, maps, models, reports, photographs, etc., developed in connection with the services performed hereunder belong to, and remain the property of, the CITY.

ARTICLE XIII
EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, ENGINEER agrees as follows:

- (a) ENGINEER will not discriminate against any employee or applicant for employment because of race, creed, sex, color, or national origin. ENGINEER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ENGINEER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY setting forth the provisions of this non-discrimination clause.
- (b) ENGINEER will, in all solicitation or advertisement for employees placed by or on behalf of ENGINEER, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- (c) ENGINEER will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- (d) ENGINEER will include the provisions a. through c. in every subcontract or purchase order unless exempted.

ARTICLE XIV

A. INTEREST OF MEMBERS OF CITY

No member of the governing body of the CITY and no other officer, employee, or agent of the CITY who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract and the ENGINEER shall take appropriate steps to assure compliance.

B. INTEREST OF OTHER LOCAL PUBLIC OFFICIALS

No member of the governing body of the locality and no other public official of such locality, who exercised any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract; and ENGINEER shall take appropriate steps to assure compliance.

C. INTEREST OF ENGINEER AND EMPLOYEES

ENGINEER covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. ENGINEER further covenants that in the performance of this contract, no person having any such interest shall be employed.

**ARTICLE XV
MAILING ADDRESSES**

All notices and communications under this contract to be mailed or delivered to CITY shall be sent to the address of the CITY as follows, unless and until ENGINEER is otherwise notified:

MR. JOHN MARESH
CITY OF ROSENBERG
POST OFFICE BOX 32
ROSENBERG, TEXAS 77471

All notices and communications under this contract to be mailed or delivered to ENGINEER shall be sent to the address of ENGINEER as follows, unless and until CITY is otherwise notified:

MR. KELLY R. KALUZA
KELLY R. KALUZA & ASSOCIATES, INC.
3014 AVENUE I
ROSENBERG, TEXAS 77471

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted by the sending party.

**ARTICLE XVI
CONTRACT AMENDMENTS**

The parties hereto, without invalidating this contract, may alter or amend this contract upon advance written agreement of the parties, approved by the CITY.

**ARTICLE XVII
MISCELLANEOUS PROVISIONS**

- (a) This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.
- (b) This agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this agreement.

- (c) In case one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- (d) Findings Confidential: All of the reports, information, data, etc., prepared or assembled by the ENGINEER under this contract are confidential and the ENGINEER agrees that they shall not be made available to any individual or organization without prior written approval of the CITY.
- (e) Copyright: No report, map, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the ENGINEER.
- (f) Compliance with Local Laws: ENGINEER shall comply with all applicable laws, ordinances and codes of the State and local governments, and the ENGINEER shall save the CITY harmless with respect to any damages arising from any tort done in performing any work embraced by the contract.
- (g) This Agreement is subject to the provisions of the Texas Prompt Payment Act, Texas Government Code Ch. 2251.
- (h) This Agreement is intended for the benefit of the parties to this Agreement only, and this Agreement shall not be construed to grant any benefits or rights to any persons other than the City of Rosenberg and Kelly R. Kaluza & Associates, Inc.

EXECUTED in multiple counterparts, each of which is deemed to be an original and as of the day and date first written in this contract.

CITY OF ROSENBERG

BY: _____

TITLE: _____

DATE: _____

ATTEST:

KELLY R. KALUZA & ASSOCIATES, INC.

BY: Kelly Kaluza
Kelly R. Kaluza, P.E.

DATE: 5/15/15

ATTACHMENT "A"

**CITY OF ROSENBERG
DESIGN FOR THE CONSTRUCTION OF
PHASE II - SANITARY SEWER PIPE BURSTING PROJECT
CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS**

**SCOPE OF WORK FOR PROFESSIONAL ENGINEERING AND SURVEYING SERVICES
FOR THE CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS**

The following scope of work consists of the Professional Engineering and Surveying Services to be provided to the City of Rosenberg, hereinafter called "CITY", by Kelly R. Kaluza & Associates, Inc., hereinafter called "ENGINEER".

Scope of Work - Basic Services

Engineering and surveying services for the project are summarized as follows:

A. Preliminary and Engineering Design Phase

Prepare preliminary and final design plans and specifications. The expected work tasks are as follows:

- (1) Prepare preliminary engineering design memorandum.
 - Define the service area to be included in the project.
 - Review project alternatives and phasing of construction work.
 - Establish preliminary design requirements for the proposed facilities.
 - Prepare estimate of construction costs for the project.

- (2) Prepare final construction plans and technical specifications.
 - Prepare construction plans including the following sheets:
 - Title/Cover Sheet
 - Overall Layouts
 - Plan and Profiles for Sanitary Sewer Line Pipe Bursting
 - Construction Details

 - Prepare technical specifications for proposed facilities including:
 - Excavation
 - Sanitary Sewer System
 - Service Connections
 - Pavement Repairs
 - Utility Line Adjustment
 - Bore & Jack Encasement Pipe

- (3) Submit construction plans and specifications to Texas Commission on Environmental Quality, Texas Department of Transportation, and City of Rosenberg for approval.
- (4) Prepare a final estimate of the most probable cost for the project.
- (5) Prepare the construction bid package including:
 - Notice to Bidders
 - Instruction and Information to Bidders
 - Bid Proposal
 - Standard Form of Agreement
 - Bond Forms
 - General Conditions
 - Special Conditions
 - Technical Specifications
 - Construction Plans

B. Construction Phase

- (1) Assist the City of Rosenberg in the bidding process.
 - Advertisement of bids.
 - Pre-bid conference.
 - Opening and tabulating bids.
 - Evaluation of construction bids received.
 - Provide engineer's recommendation of bid award letter.
- (2) Assist in preparation of formal Contract Documents between the City of Rosenberg and the successful construction bidder.
- (3) Make periodic visits to the Project to observe progress and quality of the work being performed. Construction observation reports to accompany monthly invoices.
- (4) Consult with the Owner during construction including:
 - Issue all instructions to the Contractor.
 - Prepare and issue routine Change Orders to the Contractor upon review and approval by the City.
 - Review and respond to Contractor RFI's.
 - Interpret drawings and specifications.
 - Review project submittals.
 - Review material and equipment tests.
 - Review monthly and final estimate for payment by the City of Rosenberg.
 - Review pre-rehab TV inspection videos and approve for rehab.
 - Review post-rehab TV inspection videos and approve work.
 - Monthly meetings with City staff and Contractor.

- Conduct a final inspection of the Project with the City of Rosenberg and submit recommendations regarding the Project status.
- Coordinate inspection and acceptance of any construction activity and pavement repair in TxDOT right-of-way with TxDOT.
- Coordinate 1-year warranty inspection and any required corrective items.

C. Surveying and Reimbursement of Reproduction Costs

- (1) Survey the proposed project site and alignments.
 - Establish horizontal and vertical control in the field.
 - Locate, in the field, all existing features and properties related to proposed project site and alignments.
 - Prepare a strip map, on plan and profile sheets, showing existing features and properties.
 - Prepare field note descriptions and survey plat of proposed easements, if necessary.
- (2) Provide ten (10) full size copies of plans and contract documents to the City of Rosenberg during the bidding process and contract preparation along with two (2) half-size sets of the plans to Public Works for their use. Provide three (3) electronic copies of plans and contract documents to the City of Rosenberg in pdf. Format on CD's.

D. Record Drawing Construction Plans

- Preparation of record drawing construction plans upon completion of construction work.
- Provide three (3) full size blackline drawings, two (2) half-size copies and three (3) electronic copies in a pdf. format on CD's of the record construction drawings to the City of Rosenberg.

Additional Services

If authorized in writing by CITY, ENGINEER will furnish the following Additional Services that are not considered a normal or customary part of the Scope of Work. Additional Services shall be paid for on an hourly basis at the rate shown in the Schedule of Hourly Rates by Personnel Classification (Attachment "B"). Separate budgets will be established for any Additional Services authorized by the CITY.

NO ADDITIONAL SERVICES ARE ANTICIPATED FOR THIS PROJECT AT THIS TIME.

1. Services resulting from significant changes in the general scope of the project.
2. Revisions to previously approved plans, reports, studies, or other project documents.
3. New and/or additional acquisition activities resulting from unknown needs prior to project initiation, site changes, and/or condemnation proceedings.

4. Assistance to the CITY as an expert witness in any litigation with third parties, arising from the development or construction of the project, including preparation of engineering data and reports.
5. Services after issuance of Certificate of Completion, and any other special or miscellaneous assignments specifically authorized by the CITY.

Schedule

Preparation of the plans and specifications for the project is anticipated to take one-hundred fifty (150) days.

Bid and contract phase activities are estimated to take two (2) months, once approval to proceed with bid advertisement is received.

Schedule for Construction Phase activities will be dictated by the construction contractor's schedule.

Compensation

Engineering and surveying services to be provided under this contract shall be compensated as outlined below.

I. Phase II - Sanitary Sewer Pipe Bursting Project (See Attached Map Exhibit)

(A) Preliminary and Engineering Design Phase -	\$354,000.00
(B) Construction Phase -	\$ 23,500.00
(C) Surveying and Reimbursement of Reproduction Cost -	\$ 64,000.00
(D) Record Drawing Construction Plans -	<u>\$ 5,000.00</u>
GRAND TOTAL =	\$446,500.00

ENGINEER will invoice CITY on a monthly basis for services rendered during the preceding month. Invoices will be based on the ENGINEER's estimate of percentage completion to date of invoice.

CITY agrees to remit ENGINEER's invoices in full within thirty (30) days of receipt.

Attachment "B"

SCHEDULE OF HOURLY CHARGES BY PERSONNEL CLASSIFICATION
Effective June, 2013

KELLY R. KALUZA & ASSOCIATES, INC.
CONSULTING ENGINEERS, SURVEYORS, AND PLANNERS

The charges for professional Engineering, Surveying, and Drafting services are based on the following daily or hourly rates:

ENGINEERING, SURVEYING, AND DRAFTING

Principal.....	\$ 175.00/Hour
Sr. Project Manager.....	\$ 150.00/Hour
Project Manager.....	\$ 145.00/Hour
Survey Manager.....	\$ 140.00/Hour
Project Engineer.....	\$ 110.00/Hour
Project Surveyor.....	\$ 90.00/Hour
Sr. Designer.....	\$ 90.00/Hour
Designer.....	\$ 80.00/Hour
CAD Technician.....	\$ 70.00/Hour
Contract Coordinator.....	\$ 65.00/Hour
Secretarial.....	\$ 60.00/Hour
Field Party (2 Men).....	\$ 120.00/Hour
Field Party (3 Men).....	\$ 140.00/Hour
Field Party (4 Men).....	\$ 150.00/Hour
Construction Observation.....	\$ 750.00/Day

ADDITIONAL EXPENSES

1. Reproduction Work - At prevailing commercial rate.
2. Field Note Descriptions - \$70.00/Set.
3. ATV Rental - \$115.00/Day.
4. Other Consultants - At cost plus 10% for handling.
5. All Other Expenses - At cost plus 10% for handling.
6. Global Positioning System (GPS) Surveying an additional charge of \$25.00 per hour will be charged for equipment.

KELLY R. KALUZA & ASSOCIATES, INC.
Consulting Engineers & Surveyors
Engineering Firm No. F-1339 Surveying Firm No. 10010000
3014 Avenue I, Rosenberg, Texas 77471
Phone: (281) 341-0808
Fax: (281) 341-6333

Rates Subject to Change

06/13

CITY OF ROSENBERG - NORTHSIDE SAN SEWER REHAB PHASE 2

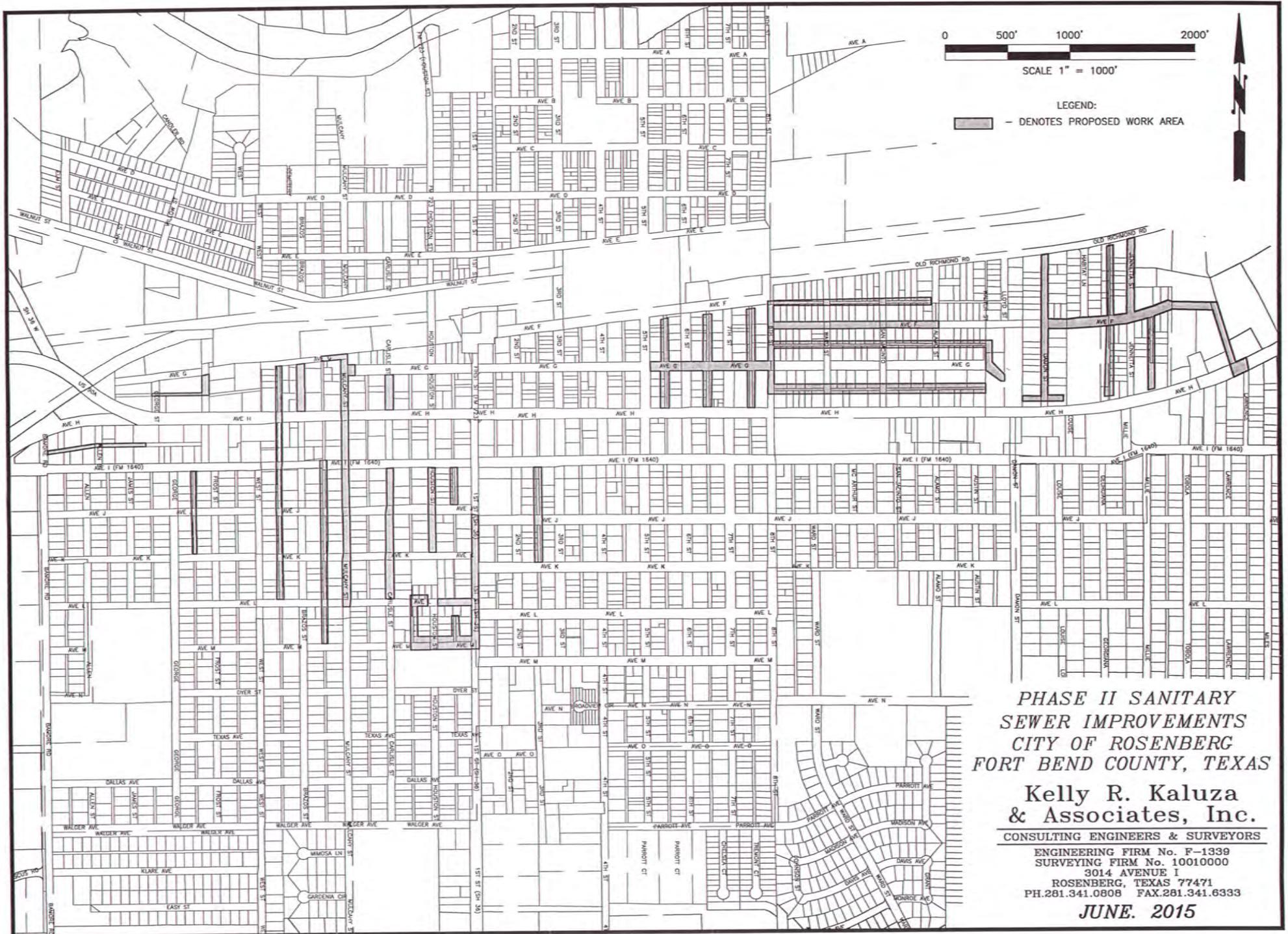
6/12/2015

BASE BID ITEM	QUANTITY	UNIT	PRICE	TOTAL
PRECONSTRUCTION CLEANING & CCTV EXISTING SEWER LINE	33,700	LF	\$3.50	\$117,950.00
POINT REPAIR INCL. PROTRUDING SERVICE LINE TAPS	150	EA	\$300.00	\$45,000.00
30" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$260.00	\$0.00
24" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$220.00	\$0.00
20" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$160.00	\$0.00
18" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	750	LF	\$150.00	\$112,500.00
16" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	600	LF	\$120.00	\$72,000.00
12" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	1,400	LF	\$85.00	\$119,000.00
10" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	2,400	LF	\$65.00	\$156,000.00
8" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	28,550	LF	\$45.00	\$1,284,750.00
TRENCH BOX OR SHORING OF SANITARY SEWER EXCAVATION	1,500	LF	\$1.00	\$1,500.00
POST CONSTRUCTION CCTV NEW SEWER LINE	33,700	LF	\$3.00	\$101,100.00
REMOVE AND DISPOSE OF EXISTING MANHOLE	5	EA	\$500.00	\$2,500.00
REMOVE AND DISPOSE OF EXISTING MAINLINE CLEANOUT	24	EA	\$450.00	\$10,800.00
STD. SANITARY SEWER MANHOLE	29	EA	\$4,500.00	\$130,500.00
EXTRA DEPTH FOR SANITARY MANHOLE	60	VF	\$130.00	\$7,800.00
SANITARY MANHOLE DROP	0	EA	\$500.00	\$0.00
SANITARY MANHOLE INFLOW PREVENTER	75	EA	\$100.00	\$7,500.00
SANITARY SEWER MAINLINE CLEANOUT	11	EA	\$500.00	\$5,500.00
REHABILITATION OF EXISTING SANITARY MANHOLE	500	VF	\$250.00	\$125,000.00
CONNECT NEW 30 SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$800.00	\$0.00
CONNECT NEW 24" SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$600.00	\$0.00
CONNECT NEW 20" SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$500.00	\$0.00
CONNECT NEW 18" SAN. SEWER TO EXISTING SANITARY MANHOLE	5	EA	\$475.00	\$2,375.00
CONNECT NEW 16" SAN. SEWER TO EXISTING SANITARY MANHOLE	3	EA	\$450.00	\$1,350.00
CONNECT NEW 12" SAN. SEWER TO EXISTING SANITARY MANHOLE	7	EA	\$400.00	\$2,800.00
CONNECT NEW 10" SAN. SEWER TO EXISTING SANITARY MANHOLE	11	EA	\$300.00	\$3,300.00
CONNECT NEW 8" SAN. SEWER TO EXISTING SANITARY MANHOLE	105	EA	\$300.00	\$31,500.00
SAWCUT, R & R EXIST ASPHALT PAVING & BASE TxDOT SPEC	300	SY	\$250.00	\$75,000.00
SAWCUT, REMOVE & REPLACE EXISTING ASPHALT PAVING & BASE	700	SY	\$130.00	\$91,000.00
SAWCUT, REMOVE & REPLACE EXISTING CONCRETE PAVEMENT	50	SY	\$130.00	\$6,500.00
SHORT SAN. SEWER SERVICE ASSY. INCL. CONNECTION TO MAIN	550	EA	\$550.00	\$302,500.00
LONG SAN. SEWER SERVICE ASSY. INCL. CONNECTION TO MAIN	85	EA	\$1,100.00	\$93,500.00
RECONNECT EXISTING SANITARY SEWER SERVICE	635	EA	\$550.00	\$349,250.00
PLUG & ABANDON EXISTING SANITARY SEWER	0	EA	\$500.00	\$0.00
HYDROMULCH SEEDING	0	SY	\$5.00	\$0.00
BYPASS PUMPING	0	LS	\$50,000.00	\$0.00
MOBILIZATION	1	LS	\$30,000.00	\$30,000.00
BONDS, INSURANCE, ETC.	1	LS	\$30,000.00	\$30,000.00
SIGNAGE, FLAGMEN, TRAFFIC CONTROL, ETC.	1	LS	\$15,000.00	\$15,000.00
CONSTRUCTION STAKING	0	BUD	\$2,000.00	\$0.00
			BASE BID TOTAL=	\$3,333,475.00

CITY OF ROSENBERG - NORTHSIDE SAN SEWER REHAB PHASE 3

6/12/2015

BASE BID ITEM	QUANTITY	UNIT	PRICE	TOTAL
PRECONSTRUCTION CLEANING & CCTV EXISTING SEWER LINE	21,018	LF	\$3.50	\$73,563.00
POINT REPAIR INCL. PROTRUDING SERVICE LINE TAPS	136	EA	\$300.00	\$40,800.00
30" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$260.00	\$0.00
24" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$220.00	\$0.00
20" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$160.00	\$0.00
18" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$150.00	\$0.00
16" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$120.00	\$0.00
12" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	860	LF	\$85.00	\$73,100.00
10" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	0	LF	\$65.00	\$0.00
8" HDPE SDR-19 SEWER LINE BY PIPE BURSTING METHOD	20,158	LF	\$45.00	\$907,110.00
TRENCH BOX OR SHORING OF SANITARY SEWER EXCAVATION	1,360	LF	\$1.00	\$1,360.00
POST CONSTRUCTION CCTV NEW SEWER LINE	21,018	LF	\$3.00	\$63,054.00
REMOVE AND DISPOSE OF EXISTING MANHOLE	0	EA	\$500.00	\$0.00
REMOVE AND DISPOSE OF EXISTING MAINLINE CLEANOUT	10	EA	\$450.00	\$4,500.00
STD. SANITARY SEWER MANHOLE	18	EA	\$4,500.00	\$81,000.00
EXTRA DEPTH FOR SANITARY MANHOLE	18	VF	\$130.00	\$2,340.00
SANITARY MANHOLE DROP	0	EA	\$500.00	\$0.00
SANITARY MANHOLE INFLOW PREVENTER	53	EA	\$100.00	\$5,300.00
SANITARY SEWER MAINLINE CLEANOUT	9	EA	\$500.00	\$4,500.00
REHABILITATION OF EXISTING SANITARY MANHOLE	342	VF	\$250.00	\$85,500.00
CONNECT NEW 30 SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$800.00	\$0.00
CONNECT NEW 24" SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$600.00	\$0.00
CONNECT NEW 20" SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$500.00	\$0.00
CONNECT NEW 18" SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$475.00	\$0.00
CONNECT NEW 16" SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$450.00	\$0.00
CONNECT NEW 12" SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$400.00	\$0.00
CONNECT NEW 10" SAN. SEWER TO EXISTING SANITARY MANHOLE	0	EA	\$300.00	\$0.00
CONNECT NEW 8" SAN. SEWER TO EXISTING SANITARY MANHOLE	87	EA	\$300.00	\$26,100.00
SAWCUT, R & R EXIST ASPHALT PAVING & BASE TxDOT SPEC	50	SY	\$250.00	\$12,500.00
SAWCUT, REMOVE & REPLACE EXISTING ASPHALT PAVING & BASE	560	SY	\$130.00	\$72,800.00
SAWCUT, REMOVE & REPLACE EXISTING CONCRETE PAVEMENT	0	SY	\$130.00	\$0.00
SHORT SAN. SEWER SERVICE ASSY. INCL. CONNECTION TO MAIN	304	EA	\$550.00	\$167,200.00
LONG SAN. SEWER SERVICE ASSY. INCL. CONNECTION TO MAIN	102	EA	\$1,100.00	\$112,200.00
RECONNECT EXISTING SANITARY SEWER SERVICE	406	EA	\$550.00	\$223,300.00
PLUG & ABANDON EXISTING SANITARY SEWER	0	EA	\$500.00	\$0.00
HYDROMULCH SEEDING	0	SY	\$5.00	\$0.00
	0	LS	\$50,000.00	\$0.00
		PHASE 3 BID TOTAL=		\$1,956,227.00



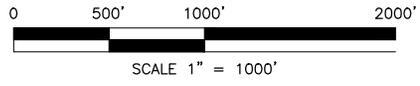
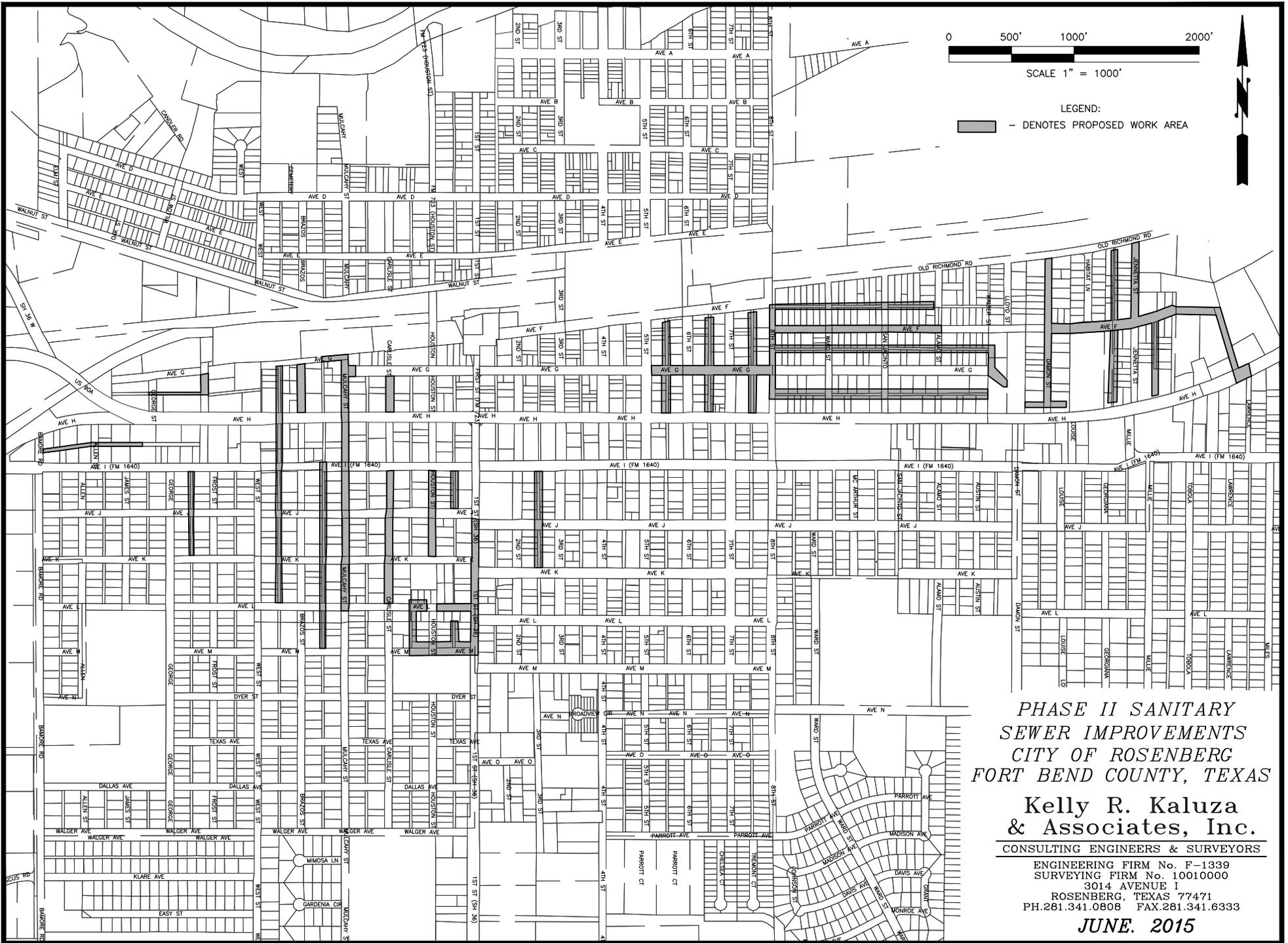
*PHASE II SANITARY
SEWER IMPROVEMENTS
CITY OF ROSENBERG
FORT BEND COUNTY, TEXAS*

**Kelly R. Kaluza
& Associates, Inc.**

CONSULTING ENGINEERS & SURVEYORS

ENGINEERING FIRM No. F-1339
SURVEYING FIRM No. 10010000
3014 AVENUE I
ROSENBERG, TEXAS 77471
PH.281.341.0808 FAX.281.341.6333

JUNE, 2015



LEGEND:
 [Shaded Gray Box] - DENOTES PROPOSED WORK AREA

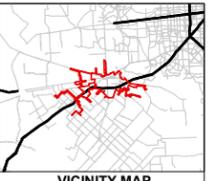
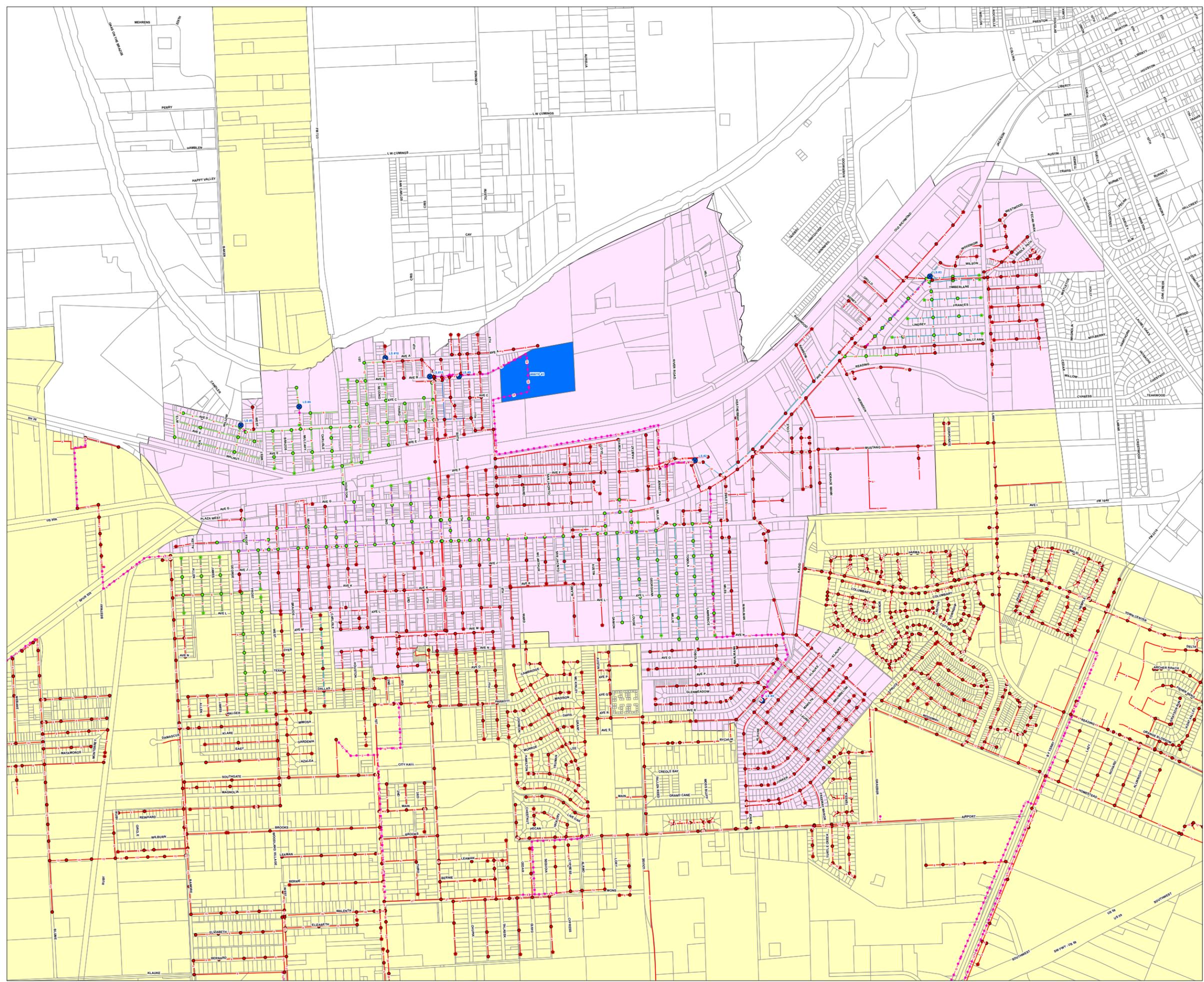
*PHASE II SANITARY
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JUNE. 2015



VICINITY MAP
Scale: 1 inch equals 5 miles

- LEGEND**
- FBCAD Parcel
 - Rosenberg City Limits
 - WWTP 1A Service Area
 - Lift Station
 - Wastewater Treatment Plant
- Sanitary Sewer Connection**
- Manhole
 - Cleanout
 - Manhole (Previously Rehabed)
 - Cleanout (Previously Rehabed)
- Sanitary Sewer Line**
- To Be Rehabed
 - 2008 Rehab
 - 2009 Rehab
 - 2010 Rehab
 - 2011 Rehab
 - 2013 Rehab
 - Forcemain



CITY OF ROSENBERG
FORT BEND COUNTY, TEXAS

JONES & CARTER
ENGINEERS & ARCHITECTS
State Board of Professional Engineers Registration No. 8-478
1816 Westinghouse
Houston, Texas 77056-1318 (281) 462-9900

**WWTP 1A
SANITARY SEWER
CONDITIONS**

1 inch equals 500 feet

Disclaimer:
This product is offered for informational purposes and may not have been prepared for or be suitable for legal, engineering, or planning purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property, governmental and/or political boundaries or related facilities to said boundary. No express warranties are made by Jones & Carter, Inc. concerning the accuracy, completeness, timeliness, or validity of the information included within this product.
Coordinate System: NAD 83 TX S CENTRAL GCS REF
Vertical Datum: NAVD 1988

**CITY OF ROSENBERG
WASTEWATER TREATMENT PLANT 1A SERVICE AREA
COLLECTION LINE REHAB**

	<u>Total</u>	<u>Rehabbed</u>	<u>To Be Rehabbed</u>	<u>Rehab Cost</u>
Sanitary Sewer Lines (lf)	251,088	84,164	166,924	\$9,030,000
Manholes	586	183	403	\$430,000
Services			1,766	<u>included in line costs</u>
Total Construction				\$9,460,000
Contingencies (15%)				\$1,420,000
Engineering				<u>\$1,630,000</u>
Total				<u>\$12,510,000</u>

RESOLUTION NO. R-1997

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, APPROVING CAPITAL IMPROVEMENT PLAN PRIORITIES FOR FY2016.

* * * * *

WHEREAS, the City staff of the City of Rosenberg has identified its priorities for Capital Improvement Projects; and,

WHEREAS, the City Manager has recommended twenty-three (23) Capital Improvement Projects to be addressed in FY2016; and,

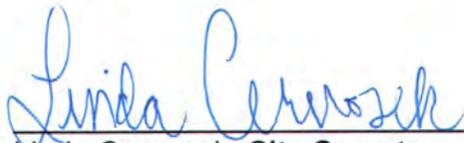
WHEREAS, the FY2016 Budget will include funding for the majority of the recommended Capital Improvement Projects and recommendations for funding other projects; now, therefore,

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

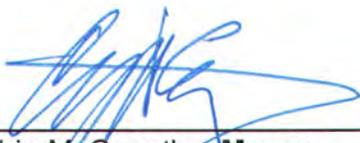
Section 1. City Council hereby approves the FY2016 Capital Improvements Plan for the City of Rosenberg which is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this 7th day of July 2015.

ATTEST:


Linda Cernosek, **City Secretary**

APPROVED:


Cynthia McConathy, **Mayor**



FY2016 CAPITAL IMPROVEMENT PROJECTS

GENERAL/STREETS AND DRAINAGE PROJECTS

1. Airport Avenue – Phase Two
2. **Avenue C Connector from 8th Street to River Road**
3. **Bamore Road Connector to I-69**
4. Bryan Road
5. Dry Creek Drainage Improvements
6. FM 2218 from I-69 to State Highway 36 (TxDOT)
7. **Old Richmond Road/Jennetta Street and Avenue F Drainage**
8. **Railroad Quiet Zones**
9. Sidewalks – Replace/Removal of Existing
10. Spacek Road Improvements – Phase Two
11. **State Highway 36 from I-69 to FM2218 (TxDOT)**
12. Traffic Signal at Reading Road and Town Center Boulevard
13. Traffic Signal for Reading Road at Spacek Road
14. US Highway 59/I-69 Expansion from FM 762 to **Beasley** (TxDOT)

WATER AND WASTEWATER PROJECTS

Alternate Water Projects (GRP):

15. **A Meyer Road/Benton Road/Rohan Road Waterline Extensions/Oversizing (GRP)**
16. **Chloramine Conversion System (GRP)**
17. FM 2977 Water Storage Tank (GRP)
18. **Water Plant No. 8 (GRP)**

Other Water and Wastewater Projects:

19. **North Side Water Improvements – Phase Three**
20. Spacek Road Sewer Lift Station
21. Spacek Road Sewer Line
22. Utility Adjustments for I-69 Improvement Project (TxDOT)
23. **WWTP 1A Collection System – Phase Two**

Key Discussion Points: Joyce Vasut read the Executive Summary and explained that passing this Resolution does not mean that all of the projects will be funded; rather, it gives staff a priority list for guidance when trying to fund as many of the projects as possible. Ms. Vasut requested clarification from Council regarding their wishes with the Firewall, which Council stated is a priority to fund prior to a technology audit, along with ticket writers, if possible.

Action: Councilor Euton made a motion, seconded by Councilor Moses, to approve Resolution No. R-1996, a Resolution approving FY2016 Budget Priorities. The motion carried by a unanimous vote.

12. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1997, A RESOLUTION APPROVING CAPITAL IMPROVEMENT PLAN PRIORITIES FOR FY2016.**

Executive Summary: During the FY2016 Budget process, staff reviewed the current Capital Improvement Plan (CIP) and is recommending that a total of twenty-three (23) projects be addressed in FY2016. Exhibit "A" to Resolution No. R-1997 lists the twenty-three (23) individual projects. The Planning Commission met on May 20, 2015, and also recommended approval of the projects proposed for the FY2016 CIP. These projects were also presented to City Council at the June 23, 2015 City Council Workshop.

Existing funding is available for eleven (11) of the Capital Projects. Three (3) projects can be funded using General Fund Balance which will require a budget adjustment at a future meeting. The Railroad Quiet Zones Project is awaiting additional costing information before funding can be determined.

There are several remaining Capital Projects which are not completely funded. Funding for these projects may include the issuance of Certificates of Obligation, as follows:

- **Issue Certificates of Obligation – November 2015 - \$4,915,200 (to be paid with Subsidence Fees)**
 - Chloramine Conversion System (GRP) - \$376,200
 - Water Plant No. 8 (GRP) - \$4,539,000
- **Issue Certificates of Obligation – November 2015 - \$5,000,000 (to be paid with Water/Wastewater fees)**
 - WWTP 1A Collection System (Phase Two) - \$5,000,000
- **Issue Certificates of Obligation - March 2016 - \$5,612,000**
 - Bryan Road – \$2,300,000
 - Spacek Road Improvements - Phase II – \$312,000
 - Old Richmond Road/Jennetta Street and Avenue F Drainage - \$3,000,000
- **Issue Certificates of Obligation – March 2016 - \$4,317,000 (to be paid with Water/Wastewater fees)**
 - Spacek Road Sewer Lift Station - \$2,617,000
 - Spacek Road Sewer Line - \$1,700,000

The actual details regarding the issuance of Certificates of Obligation, including the dollar amounts and timing of the issues, will be analyzed and strategized during the first quarter of FY2016 to determine the best options for the City.

Approval of Resolution No. R-1997 will establish the City's FY2016 Capital Improvements Plan and allow for the projects to be properly included in the proposed FY2016 Budget. Staff recommends approval of Resolution No. R-1997.

Key Discussion Points: Joyce Vasut read the Executive Summary.

Action: Councilor Euton made a motion, seconded by Councilor Barta, to approve Resolution No. R-1997, a Resolution approving Capital Improvement Plan priorities for FY2016.

13. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1998, A RESOLUTION APPROVING CAPITAL IMPROVEMENT PLAN PRIORITIES FOR FY2017 THROUGH FY2020.**

Executive Summary: Pursuant to the City Charter which requires a five-year Capital Improvement Plan (CIP), staff has prepared a proposed schedule for Capital Projects in FY2017, FY2018, FY2019 and FY2020. The development of the CIP for FY2017 to FY2020 is based on several factors, including but not limited to:

- Unfunded Mandates (Fort Bend Subsidence District, TCEQ)
- Liability/Risk Management including noncompliance violations which subject the City to monetary fines, penalties and/or enforcement actions
- Protect the health, safety and welfare of the citizens and the environment
- Opportunities to leverage City funds with Fort Bend County Mobility Bond Funds or grant funds
- Quality of life/growth including City parks and City facilities

The proposed FY2017-FY2020 CIP is attached to Resolution No. R-1998 as Exhibit "A". Staff recommends approval of Resolution No. R-1998.

Key Discussion Points: Joyce Vasut read the Executive Summary. This list is a fluid document as serves as a general outline of future needs.

Action: Councilor Barta made a motion, seconded by Councilor Moses, to approve Resolution No. R-1998, a Resolution approving Capital Improvement Plan priorities for FY2017 to FY2020. The motion carried by a unanimous vote.

14. ***This item was considered at the beginning of the Agenda as item 2a.***

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1994, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A CONTRACT EXTENSION, BY AND BETWEEN THE CITY AND PATTILLO, BROWN AND HILL, LLP, FOR THE PROVISION OF PROFESSIONAL AUDIT SERVICES FOR FISCAL YEARS ENDING SEPTEMBER 30, 2015, AND SEPTEMBER 30, 2016.

15. **HOLD EXECUTIVE SESSION TO DELIBERATE THE EMPLOYMENT, EVALUATION, OR DUTIES OF THE CITY MANAGER PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE.**

Action: Councilor Barta made a motion, seconded by Councilor Wallingford, to adjourn to Executive Session. The motion carried by a unanimous vote of those present.

An Executive Session was held to deliberate the employment, evaluation, or duties of the City Manager pursuant to Section 551.074 of the Texas Government Code.

16. **ADJOURN EXECUTIVE SESSION, RECONVENE INTO REGULAR SESSION, AND TAKE ACTION AS NECESSARY AS A RESULT OF EXECUTIVE SESSION.**

Mayor McConathy adjourned the Executive Session and reconvened into Regular Session at 9:25 p.m.

17. **ANNOUNCEMENTS.**

- Effective July 21, Announcements will be moved to the beginning of the Agenda.
- Rosenberg Police Explorers are conducting a competition on July 18, 2015 at Terry High School, and are need of volunteers.

18. **ADJOURNMENT.**

There being no further business, Mayor McConathy adjourned the meeting at 9:28 p.m.

Linda Cernosek, TRMC, City Secretary

year.

Key discussion points:

- John Maresh, Assistant City Manager read the Executive Summary regarding the item.
- Councilor Benton asked if Council could get a list of City owned property.
- Robert Gracia, City Manager stated staff is in the process of doing an inventory of all City owned property.
- Councilor McConathy stated her only concern is that the City maintains the appropriate buffer especially around the business.
- No action was taken on the item.

2. REVIEW AND DISCUSS SANITARY SEWER COLLECTION SYSTEM, LIFT STATION AND WASTEWATER TREATMENT PLANT REHABILITATION PROJECT, AND COST ESTIMATES FOR WASTEWATER TREATMENT PLANT 1-A SERVICE AREA, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.

Executive Summary: This item has been placed on the Workshop Agenda to offer City Council the opportunity to discuss the overall condition of the sanitary sewer collection system within the Wastewater Treatment Plant No. 1-A service area and providing funding for the required improvements to protect the health, safety and welfare of our citizens. While efforts have been made over the past five (5) year period to replace as many of the sewer lines as possible, the overall system remains in poor condition. In many instances, the sewer collection lines have deteriorated to the point the pipe is non-existent resulting in street cave-ins and complete line stoppages that often necessitate emergency repairs.

Staff has prepared and included in the packet, cost estimates for the for the following projects:

1. Collection system line replacement within Wastewater Treatment Plant No. 1-A service area
2. Lift Station rehabilitation/replacements
3. Conversion of Wastewater Treatment Plant No. 1A effluent disinfection from chlorine gas to liquid bleach

In order to protect the health, safety and welfare of the public and the environment, the above listed projects will need to be considered for funding and construction at the earliest time possible.

Key discussion points:

- John Maresh read the Executive Summary regarding the item. Slides were shown pointing out the overall condition of the sanitary sewer collection system:
- Root intrusions in pipe
- Pipe completely deteriorated causing cave-ins.
- Cracks in joints and pipe separation
- Grease accumulation
- Cable and missing pipe in main line
- Mayor Morales asked if there are any recommendations prior to going to budget.
- John Maresh stated the system is in need of rehabilitation. The cost estimate we put together with the help of the City Engineer is \$12.5 million for the collection line work. The lift station in the worst condition is in the Wastewater Plant 2 service area, lift station #11 on B.F. Terry by Fort Bend Appraisal District office. We are keeping that lift station operating with a band aid right now. The approximate cost for that is \$1.1 million. The lift station in Service Area 1 at Fiesta. The Fiesta lift station is a very large lift station and is in bad shape and is approximately \$2.1 million project. Lift Station #4 is located at 1818 Jones Street is approximately \$700,000.
- From a safety aspect, Wastewater Plant 1A still operates using chlorine gas for disinfection and to convert that to bleach is approximately \$266,000 for the conversion.
- Mayor Morales asked if there is a recommendation from staff for Council.
- John Maresh stated it all needs attention. The budget aspect is Council's call. Staff can look at some options whether through CO's. We have to remember it is a health/safety issue and we need to stay ahead of the regulatory agencies. We don't want to have an administrative order issued by the regulatory agency and we are on their time line. We need to stay ahead of that.

- Mayor Morales stated this is something Council should consider as Certificates of Obligation (CO's).
- John Maresh stated it would be better because this is a regulatory issue versus a bond election. This is a mandate to stay in compliance with these regulations. Certificates of Obligation would probably be better. This is not a "want or an extra" this is a need.
- Councilor Euton stated the total is well over our \$10 million a year that keeps us in the best borrowing status. Would you want to do this in phases and if so, which phases would you recommend?
- John Maresh stated we could not construct this in a one year period. Staff has not broken it down into phases. Depending on the amount of funding available we could tailor the project to fit.
- Councilor Euton asked if the lift stations, since they are a lesser amount, would they need to be done before or are they done together. If we move forward when could we start?
- John Maresh stated they need to be done together. The one in the worst condition is on B.F. Terry which is in the service area for Wastewater Plant #2. If funding were made available we could get the engineering portion started right away and go to construction as soon as the plans are put together.
- Joyce Vasut, Finance Director stated based on the cost of engineering we probably could start even sooner than we could issue Certificates of Obligation. We have a healthy water/sewer fund balance which could start the process for some engineering work.
- Councilor Bolf asked how long the pipes shown in the video have been there. When this is done is there any preventative or cleaning that can be done to maintain them?
- John Maresh stated it was probably when the system was originally installed many decades ago. Regarding a preventative maintenance program, due to our budget constraints and mandates to reduce expenses each year, we do not have a preventative maintenance program. We are strictly reactive fixing emergencies. That is the only funding we had available in the last five year period.
- If you look at the condition of the pipe in the pictures, in many cases if we are not doing a rehab project, we do more harm than good if we try to clean those lines because the high pressure water jet breaks a lot of the pipe out.
- Councilor Bolf stated she knows there is not a program in place but if the City could adopt one to maintain any new work done we would be ahead. Once we get this fixed we need to consider a preventative maintenance program.
- John Maresh pointed out that the pipe that was installed originally was either concrete or clay. Everything used now is PVC or polyethylene which is better and not subject to deterioration with the sewer gases.
- Robert Gracia stated we are in the process of doing a complete assessment of all of our assets and we have identified issues City wide from infrastructure to facilities and will be providing our findings during the budget workshop coming up in March. We have been aggressively identifying those problems.
- Councilor Benton concurred because this is not something frivolous he had no problem with certificates of obligation being issued for some of these costs.
- What are some examples of the band-aid solutions used for the B.F. Terry lift station?
- John Maresh stated an on-going issue is the pumps are so old you cannot get parts for them. New ones have to be bought and retrofit them. We replaced one and the pumps are still losing prime. It is difficult to trouble shoot because the pipe is old and corroded and that is an on-going problem. The new stations are all submersible pumps and motors and a lot of those issues are eliminated.
- Councilor Benton asked how long the \$12.5 million would be phased in – 3 to 4 years.
- John Maresh stated staff would have to look at that but that would be realistic. We could not do it at one time. It could be a five year program.
- Councilor Benton stated when folks pay their water bills they expect us to use those monies to improve or repair or expand. Hopefully, we have the cash flow to do that. Joyce Vasut seems to think we do.
- Joyce Vasut clarified we would have cash to start the process. If we issue CO's for these

projects that would all be CO's that we as the City would obligate water/sewer revenues to pay for. Depending on how much we did per year and how large the debt service that may require some increases in some sewer and water rates.

- Councilor McConathy referenced the first sheet showing the sanitary sewer lines – 167,031 linear feet of lines to be rehabbed. How does that equate to the red lines on the map? Are we talking about rehabbing all the lines throughout the City or just a portion? In terms of cost what is the cost of rehab versus new installation?
- John Maresh stated just a portion, the area within the service area for Plant 1A. The lines are being replaced because there is not a way to rehab where the pipe is gone. On large diameter lines a liner can be put inside the pipe and heat it and expand and forms a new pipe inside the existing pipe. That works well and is cost effective for the large diameter pipes but the typical lines that service the residential homes and alleys in many cases are 6" lines that are small and when you try to insert a sleeve you are restricting the size of that pipe. We have found it is more cost effective to pipe burst and pull a cable through the existing line and pull a new polyethylene pipe and install a new pipe. By doing that you are able to increase it and get more capacity in that line.
- Councilor McConathy asked if we are documenting where our water/wastewater lines are being placed for future generations of City employees to follow.
- John Maresh stated on what is being replaced as we go along. We need to work on mapping the existing water and sewer lines to get a general inventory of our system. We are doing that as we do replacement work but overall we have not been able to put the time and effort into that.
- Councilor McConathy does not disagree. This needs to be done. She will support this project.
- Mayor Morales asked Council, based on Joyce Vasut's comment, we would want to move forward with the engineering as soon as possible and want staff to come back with a plan of how we would proceed in phases with those costs tied to possible CO's.
- Councilor Benton stated the Timber Lane area, Damon, Louise, Georgina and Millie Streets were redone. A lot of the north side has been redone.
- John Maresh stated yes. We have been able to use the Community Development Block Grant (CDBG) grant funds for the north side. There are a few areas we cannot use CDBG funding for because some areas are in the flood plain and CDBG does not allow us those funds for lines that are within the flood plain. We would have to have the City fund that portion of that work. CDBG funds have been beneficial.

3. REVIEW AND DISCUSS PROPOSAL FOR ENGINEERING SERVICES FOR PROVIDING CONSTRUCTION PROJECT REPRESENTATION SERVICES FOR 2014, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.

Executive Session: This item has been placed on the Workshop Agenda to offer City Council the opportunity to discuss the Proposal for Engineering Services for Providing Construction Project Representation Services for 2014. The Proposal was initially presented to the Professional Services/Engineering Project Review Committee (Committee) on November 21, 2013. The Committee took action recommending the Proposal be placed on the next City Council Workshop Agenda to allow for further discussion. A copy of the Proposal was included in the agenda packet for review.

City Council has annually approved the Proposal from Jones & Carter, Inc., since its inception in 2009 as a means to provide consistent construction project oversight and to control the overall construction management costs for Capital Projects. The contracted inspection services have worked out well for the City during the past five (5) years and the inspectors have been able to monitor and observe numerous construction projects simultaneously. The inspectors are able to communicate with the City's Project Director on a daily basis. Jones & Carter, Inc. has a full-service construction phase department with adequate resources to manage multiple project inspections. They also have a sufficient number of inspectors that are familiar with the City of Rosenberg construction standards and are able to provide coverage when inspectors are unavailable due to vacations, illness or training. The current program also provides the greatest amount of flexibility to the City when the number of Capital Projects increases or decreases, as the City only pays for the actual hours of inspection time required.



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
7	Resolution No. R-2006 – Lift Station No. 2 Replacement Engineering Services Proposal
ITEM/MOTION	

Consideration of and action on Resolution No. R-2006, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Proposal for Engineering and Surveying Services for Lift Station No. 2 Replacement, by and between the City and Jones and Carter, Inc., in the amount of \$290,000.00.

FINANCIAL SUMMARY	ELECTION DISTRICT
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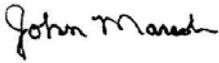
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<input checked="" type="checkbox"/> One-time	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> District 2
<input type="checkbox"/> Recurring	Source of Funds:	<input type="checkbox"/> District 3
<input type="checkbox"/> N/A	423-0000-550-7031 (CP1515)	<input type="checkbox"/> District 4
		<input type="checkbox"/> City-wide
		<input type="checkbox"/> N/A

SUPPORTING DOCUMENTS:

MUD #: N/A

1. Resolution No. R-2006
2. Project Location Map
3. Resolution No. R-1997 – 07-07-15 – Please refer to previous Agenda item
4. City Council Meeting Draft Meeting Minute Excerpt – 07-07-15 – Please refer to previous Agenda item
5. City Council Meeting Minute Excerpt – 01-28-14 – Please refer to previous Agenda item

APPROVALS

Submitted by:	Reviewed by:	Approved for Submittal to City Council:
	<input checked="" type="checkbox"/> Exec. Dir. of Administrative Services 	
Assistant City Manager of Public Services	<input type="checkbox"/> Asst. City Manager for Public Services	Robert Gracia City Manager
	<input checked="" type="checkbox"/> City Attorney DNRBHZ/h	
	<input type="checkbox"/> City Engineer	
	<input type="checkbox"/> (Other)	

EXECUTIVE SUMMARY

During the January 28, 2014, City Council Workshop, staff provided information regarding the replacement of specific lift stations as a part of the overall discussion regarding the condition of the sanitary sewer collection system within the Wastewater Treatment Plant No. 1A service area. The overall objective is to complete all of the sewer line rehabilitation work and lift station replacements within the next three (3) to four (4) year period.

The replacement of Lift Station No. 2 is now ranked as the highest priority amongst the twenty-seven (27) lift stations owned by the City. This particular lift station was originally constructed in the early 1950's, approximately sixty (60) years ago. Some rehabilitation work was performed twenty-nine (29) years ago in 1986 and that has now exceeded its useful life cycle. Much of the equipment is antiquated and repair/replacement parts are becoming increasingly difficult to obtain. This lift station regularly experiences operational problems and is not reliable. This is a major lift station and proactive measures should be taken in order to prevent a catastrophic failure. Supervisory Control and Data Acquisition (SCADA) equipment will also be installed at this lift station as a part of this Project. The SCADA equipment will allow for remote system monitoring and control, further improving reliability. This Project is included in the FY2016 Capital Improvement Plan approved by City Council as Resolution No. R-1997 on July 07, 2015.

The 2014 Certificates of Obligation Phase I Capital Project balance has sufficient funding for the engineering services. Upon completion of the engineering design and bidding process, the construction bid award would be placed on a future Agenda for City Council consideration and approval. The preliminary construction cost estimate for this phase of the Project is approximately 2.66 million dollars.

The construction will be funded with proceeds from proposed Certificates of Obligation, which will also be presented at a future City Council Meeting prior to December 31, 2015.

Staff recommends approval of Resolution No. R-2006, authorizing the City Manager to execute a Proposal with Jones and Carter, Inc., for the engineering and surveying services for the Lift Station No. 2 Replacement, including SCADA equipment, in the amount of \$290,000.00.

RESOLUTION NO. R-2006

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 PROPOSAL FOR ENGINEERING AND SURVEYING SERVICES FOR LIFT STATION NO. 2 REPLACEMENT, BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND JONES AND CARTER, INC., IN THE AMOUNT OF \$290,000.00.

* * * * *

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

Section 1. The City Council of the City of Rosenberg hereby authorizes the City Manager to execute a Proposal for the Engineering and Surveying Services for the Lift Station No. 2 Replacement (Proposal), including SCADA equipment installation, by and between the City of Rosenberg, Texas, and Jones and Carter, Inc., in the amount of \$290,000.00.

Section 2. A copy of said Proposal is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **CITY SECRETARY**

Cynthia A. McConathy, **MAYOR**



July 8, 2015

6335 Gultton, Suite 100
Houston, Texas 77081-1169
Tel: 713.777.5337
Fax: 713.777.5976
www.jonescarter.com

Mr. Robert Gracia
City Manager
City of Rosenberg
P.O. Box 32
Rosenberg, Texas 77471

Re: Proposal for Engineering and Surveying Services for the Lift Station No. 2 Replacement
City of Rosenberg
Fort Bend County, Texas

Dear Mr. Gracia:

Jones and Carter, Inc. (JC) appreciates the opportunity to present our proposal for engineering and land-surveying services in connection with the Lift Station No. 2 Replacement.

PROJECT UNDERSTANDING

JC understands the condition of Lift Station No. 2 in the City of Rosenberg (the "City") is deteriorated and requires complete replacement at a new site within the existing right-of-way of Avenue F. The existing lift station will be demolished. The replacement lift station includes construction of a twenty-five foot (25') diameter by thirty foot (30') deep cast-in-place wet well, five (5) submersible pumps sized for a firm pumping capacity of 5,556 gallons per minute, riser piping and valves, on-site force main and gravity sanitary sewer, bypass pumping, site work and installation of fencing, replacement of electrical panel, controls, automatic transfer switch and diesel generator, and connection to the existing City SCADA system.

Based on our understanding of the project, the review and approval process, and the site characteristics, we prepared the following scope of services and fee proposal for your consideration.

SCOPE OF SERVICES

Design Phase Basic Services provided by Jones and Carter, Inc. include:

1. Coordination meetings with City staff (Up to two (2) meetings).
2. Preparation of detailed technical specifications and construction drawings.
3. Preparation of a pre-bid construction cost estimate and bidding documents.



Mr. Robert Gracia
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July 8, 2015

4. Field surveys of site. Surveying services do not include preparation of any easement exhibits or metes and bounds. Should this be necessary, we can perform these services for an additional fee.
5. Geotechnical Engineering and Report.

Construction Phase Basic Services provided by Jones and Carter, Inc. include:

1. Review of bids, tabulation, and issuance of a Recommendation of Award.
2. Preparation of Construction Contract Documents.
3. Review of shop drawings and submittals.
4. Preparation and review of pay estimates and change orders as necessary.
5. Engineering during construction to monitor progress and answer questions.
6. Perform a final inspection and issue a Certificate of Substantial Completion.
7. Field project representation. Based on part time inspection of 360 hours over the course of 240 days construction.
8. Preparation of Record Drawings from the Contractor's As-Built drawings.
9. Construction Staking.

COMPENSATION

Compensation for BASIC SERVICES will be on a lump sum basis. Our preliminary construction cost estimate for this project is \$2,666,000. Based on this estimate, our fees for the project will be as follows:

<u>Task</u>	<u>Estimated Engineering Fee</u>
1. Design Phase Services (Lump Sum)	\$202,000
2. Construction Phase Services (Lump Sum)	<u>\$88,000</u>
Total Estimated Fee	\$290,000



Mr. Robert Gracia
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July 8, 2015

PROJECT SCHEDULE

JC will submit approved plans and specifications within 180 calendar days after receipt of a written notice to proceed. We estimate construction to be completed in 270 days after construction notice to proceed is issued.

SPECIAL CONSIDERATIONS

This proposal is based on the following special considerations:

1. All compensation shall be in accordance with the enclosed General Conditions of Agreement and constitutes the entire agreement between the City of Rosenberg and JC.
2. Any review or permit fees associated with the project shall be paid by the Client, or if paid by JC, shall be considered as a reimbursable expense not included in any lump sum or not-to-exceed fees proposed.
3. The proposal fees shall be considered in their entirety for the scope of services. Should you wish to contract with us for only a portion of the work, we reserve the right to negotiate individual scope items on their own merits.
4. This proposal shall be valid for sixty (60) calendar days from this date and may be extended upon approval by this office.



Mr. Robert Gracia
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July 8, 2015

We thank you for the opportunity to submit this proposal and look forward to working with you. An executed copy of this proposal will serve as our notice to proceed. Please return a signed copy to our office. Should you have any questions, please call.

Sincerely,

A blue ink signature of Tobin Synatschek, written in a cursive style.

Tobin Synatschek, P.E.
Senior Vice President

A blue ink signature of Carlos P. Cotton, written in a cursive style.

Carlos P. Cotton, P.E.
Executive Vice President

AWS/lkh
V:\Opportunity Documents\OP-6316-00\PP-Lift Station No. 2 Replacement 2015-07-08.doc
Enclosure(s)

APPROVED BY:

Signature

Name and Title (Printed)

Date



GENERAL CONDITIONS OF AGREEMENT
JONES AND CARTER, INC.

AUTHORIZATION FOR WORK TO PROCEED

Signing of this PROPOSAL/AGREEMENT for services shall be authorization by the CLIENT for Jones and Carter, Inc. (JC), to proceed with the work, unless stated otherwise in the AGREEMENT.

STANDARD OF PRACTICE

Services performed by JC under this AGREEMENT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the engineering profession currently practicing in the same locality under similar conditions. No other representation, expressed or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any report, opinion, document, etc., prepared by JC.

BILLING AND PAYMENT

The CLIENT, recognizing that timely payment is a material part of the consideration of this AGREEMENT, shall pay JC for services performed in accordance with the rates and charges set forth herein. Invoices shall be submitted by JC on a monthly basis and the full amount shall be due and payable to JC upon receipt. If the CLIENT objects to all or any portion of an invoice, the CLIENT shall notify JC in writing within seven (7) calendar days of the invoice date and pay that portion of the invoice not in dispute.

The CLIENT shall pay an additional charge of 0.75% of the invoiced amount per month for any payment received by JC more than thirty (30) days from receipt of the invoice, excepting any portion of the invoiced amount in dispute and resolved in favor of the CLIENT. Payment thereafter shall be first applied to accrued interest and then to the principal unpaid amount.

OWNERSHIP/REUSE OF DOCUMENTS

All documents, including original drawings, opinions of probable construction cost, specifications, field notes, and data provided or furnished by JC pursuant to this AGREEMENT are instruments of service in respect to the Project and JC shall retain ownership and property interest therein whether or not the project is completed. The CLIENT may make and retain copies for the use of the Project by the CLIENT and others; however, such documents are not intended or suitable for reuse by the CLIENT or others on extensions of the Project or on any other Project. Any such reuse without written approval or adaptation by JC for the specific purpose intended shall be at the CLIENT'S sole risk and without liability to JC, and the CLIENT shall indemnify and hold harmless JC from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

COST ESTIMATES

Cost estimates prepared by the engineer represent his best judgment as a design professional familiar with the construction industry. It is recognized, however, that the engineer has no control over the cost of labor, materials, or equipment; over the contractor's methods of determining bid prices; or over competitive bidding or market conditions. Accordingly, the engineer cannot and does not guarantee that bids will not vary from any cost estimate prepared by him.

INSURANCE

JC agrees to maintain Workers' Compensation Insurance to cover all of its own personnel engaged in performing services for the CLIENT under this AGREEMENT.

LIMITATION OF LIABILITY

JC agrees to carry out and perform the services herein agreed to in a professional and competent manner. The CLIENT agrees that JC shall not be liable for error, omission, or breach of warranty (either expressed or implied) in the preparation of designs and drawings, preparation of surveys, designation and selection of materials and equipment for the project, or the performance of any other services in connection with any assignment for which specific authorization is given by CLIENT under this agreement, except to the extent that he fails to exercise the usual degree of care and judgment of an ordinarily prudent engineer in the same or similar circumstances or conditions.

Version 13-08-22

In order for the CLIENT to obtain the benefit of a fee which includes a lesser allowance for risk funding, the CLIENT agrees to limit JC's liability arising from JC's professional acts, errors or omissions, such that the total aggregate liability of JC shall not exceed JC's total fee for the services rendered on this project.

INDEMNIFICATION

JC agrees, to the fullest extent permitted by law, to indemnify and hold the CLIENT harmless from any damage, liability, or cost (including reasonable attorney's fees and costs of defense) to the extent caused by JC's negligent acts, errors, or omissions in the performance of professional services under this AGREEMENT including anyone for whom JC is legally liable.

The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold JC harmless from any damage, liability, or cost (including reasonable attorney's fees and costs of defense) to the extent caused by the CLIENT'S negligent acts, errors, or omissions and those of his or her contractors, subcontractors or consultants, or anyone for whom the CLIENT is legally liable, and arising from the Project that is the subject of this AGREEMENT.

JC is not obligated to indemnify the CLIENT in any manner whatsoever for the CLIENT'S own negligence.

CONSEQUENTIAL DAMAGES

The CLIENT shall not be liable to JC and JC shall not be liable to the CLIENT for any consequential damages incurred by either due to the fault of the other, regardless of the nature of this fault, or whether it was committed by the CLIENT or JC employees, agents, or subcontractors. Consequential Damages include, but are not limited to, loss of use and loss of profit.

TERMINATION

This AGREEMENT may be terminated with or without cause at any time prior to completion of JC's services either by the CLIENT or by JC, upon seven (7) days written notice to the other at the address of record. Termination shall release each party from all obligation of this AGREEMENT except compensation payable to JC for services rendered prior to Termination. Compensation payable at termination shall include payment for services rendered and costs incurred up to the termination date in accordance with JC's currently effective hourly rate schedule and direct expense reimbursement policy.

SUCCESSORS AND ASSIGNS

CLIENT and JC each binds himself, and his partners, successors, executors, administrators, and assigns to the other party of this AGREEMENT and to partners, successors, executors, administrators, and assigns of such other party in respect to all covenants of this AGREEMENT. Neither CLIENT nor JC shall assign, sublet, or transfer his interest in this AGREEMENT, without written consent of the other. Nothing contained herein shall be construed as giving any rights or benefits hereunder to anyone other than the CLIENT and JC.

SEVERABILITY

Any provision or part of the AGREEMENT held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the CLIENT and JC, who agree that the AGREEMENT shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

SPECIAL PROVISIONS

The amount of an excise, VAT, gross receipts, or sales tax that may be imposed shall be added to the compensation as stated in the proposal.

CONTROLLING LAW

This AGREEMENT shall be governed by the laws of the State of Texas.



6335 Gulfton, Suite 100
Houston, Texas 77081-1169
Tel: 713.777.6397
Fax: 713.777.5976
www.jonescarter.com

SCHEDULE OF HOURLY RATES
Effective January 2015 - Subject to Annual Revision in January 2016

ENGINEERING PERSONNEL

Engineer I	\$ 86
Engineer II	\$ 92
Engineer III	\$104
Engineer IV	\$110
Engineer V	\$120
Engineer VI	\$135
Engineer VII	\$155
Sr. Project Engineer	\$170
Sr. Project Manager	\$190
Division Manager	\$200
Senior Manager/Practice Leader	\$225
Corporate Manager	\$250

ELECTRICAL ENGINEERING PERSONNEL

Electrical Engineer I	\$ 90
Electrical Engineer II	\$100
Electrical Engineer III	\$110
Electrical Engineer IV	\$120
Electrical Engineer V	\$130
Electrical Engineer VI	\$135
Electrical Engineer VII	\$155
Sr. Electrical Project Engineer	\$170
Sr. Electrical Project Manager	\$190

CONSTRUCTION PERSONNEL (Includes

Project Representative I	\$ 53
Project Representative II	\$ 60
Project Representative III	\$ 70
Project Representative IV	\$ 80
Project Representative Coordinator	\$ 85
Construction Engineer I	\$ 84
Construction Engineer II	\$ 89
Construction Engineer III	\$100
Construction Engineer IV	\$110
Construction Engineer V	\$120
Construction Engineer VI	\$135
Construction Manager	\$170

OFFICE PERSONNEL

Office Assistant	\$ 35
Engineer's Assistant I	\$ 45
Engineer's Assistant II	\$ 60
Engineer's Assistant III	\$ 75
Admin I	\$ 40
Admin II	\$ 50
Admin III	\$ 60
Admin IV	\$ 73
Contract Coordinator	\$ 60
Staff Assistant	\$ 80
Assistant Controller/ Chief Accountant	\$100
Corporate/Project Acct. I	\$ 70
Corporate/Project Acct. II	\$ 85

SURVEYING PERSONNEL

4-Man Field Crew	\$155
3-Man Field Crew	\$145
2-Man Field Crew	\$125
4-Man Field Crew w/Robotic Survey	\$180
3-Man Field Crew w/Robotic Survey	\$170
2-Man Field Crew w/Robotic Survey	\$150
1-Man Field Crew w/Robotic Survey	\$125
4-Man Field Crew w/GPS System	\$210
3-Man Field Crew w/GPS System	\$200
2-Man Field Crew w/GPS System	\$170
1-Man Field Crew w/GPS System	\$150
Survey Technician I	\$ 55
Survey Technician II	\$ 70
Survey Technician III	\$ 90
Project Surveyor I	\$ 67
Project Surveyor II	\$ 80
Project Surveyor III	\$ 92
Project Surveyor IV	\$108
Chief of Survey Crews	\$ 98
Registered Prof. Land Surveyor	\$135
Survey Manager	\$150

DESIGNERS/DRAFTING PERSONNEL

CAD Operator I	\$ 43
CAD Operator II	\$ 50
CAD Operator III	\$ 60
CAD Operator IV	\$ 70
CAD Operator V	\$ 84
CAD Manager	\$ 92
Designer I	\$ 84
Designer II	\$ 94
Designer III	\$100
Designer IV	\$108
Designer V	\$115
Designer VI	\$130
GIS Operator I	\$ 65
GIS Operator II	\$ 80
GIS Operator III	\$ 90
GIS Operator IV	\$105
GIS Operator V	\$120
Computer Tech	\$ 60
Computer Manager	\$100

PLANNING PERSONNEL

Planner I	\$ 70
Planner II	\$ 85
Planner III	\$100
Planner IV	\$120
Planner V	\$150

JC2015FinalStandard revised 01/30/15



6335 Gulfton, Suite 100
Houston, Texas 77081-1189
Tel: 713.777.5337
Fax: 713.777.5976
www.jonescarter.com

SCHEDULE OF REIMBURSABLE EXPENSES
Effective January 2014
Subject to Annual Revision in January 2015

1. **Reproduction performed in office**

<u>Size</u>	<u>Black & White</u>	<u>Color</u>
8½" x 11" (single-sided)	\$0.05/page	\$.50/page
8½" x 11" (double-sided)	\$0.15/page	\$ 1.00/page
8½" x 14"	\$0.15/page	\$.75/page
11" x 17"	\$0.20/page	\$ 1.00/page

<u>Large Document Prints/Plots</u>	<u>Black & White</u>	<u>Color</u>
Translucent Bond	\$0.30/sq ft	\$ 4.00/sq ft
Color Bond	\$0.35/sq ft	\$ 5.00/sq ft
Photographic Bond	\$4.00/sq ft	\$ 8.00/sq ft
Vellum	\$1.00/sq ft	N/A
Mylar (4 mil)	\$2.00/sq ft	N/A

Aerial Backgrounds

All sizes \$5.00/sheet (plus above sq. ft. cost)

- 2. Facsimiles sent: \$1.00/each
- 3. Transportation (mileage): (\$0.55/mile)
- 4. Audio/Video Conferencing
 - a. Audio Conferencing \$0.15/minute/person
 - b. Video Conferencing \$0.50/minute/person
 - c. Audio/Video Conferencing \$0.65/minute/person
- 5. Subcontracts and all other outside expenses and fees: Actual cost plus 10% service charge
- 6. Surveying Expenses
 - a. Crew Rates: Includes time charged portal to portal and the first 120 miles of transportation and standard survey equipment
 - b. Special Rental Equipment: Actual cost plus 10%
 - c. Stakes: Cost plus 10% service charge where an excessive number of wooden stakes or any special stakes are required
 - d. Iron Rods and Pipes: Cost plus 10%
 - e. All-Terrain Vehicle (ATV): \$150/day
 - f. Overnight Stays: \$190/night
 - g. Overtime Rates: Jobs requiring work on weekends or holidays billed at 1.5 times the standard rate
 - h. Sales Tax: To be paid on boundary-related services
 - i. Deliveries, abstracting services, outside reproduction costs, and other reimbursable expenses charged at cost plus 10%

Final 2013
Standard



Old Richmond Road

Jeannetta Street

Fiesta

Lift Station No. 2

US90A / Avenue H

© 2015 Google

Google earth

1995

Imagery Date: 5/2/2014 29°33'36.21" N 95°47'28.68" W elev 106 ft eye alt 1799 ft



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
8	Resolution No. R-2007 - Fort Bend County Cooperation Agreement

ITEM/MOTION

Consideration of and action on Resolution No. R-2007, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Cooperation Agreement, by and between the City and Fort Bend County regarding Urban County Qualification for cooperative participation in the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG), HOME Investment Partnership, and/or Emergency Solutions Grant (ESG) programs.

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. Resolution No. R-2007
2. Kindell Correspondence – 07-08-15
3. Cooperation Agreement – 06-14-94
4. City Council Meeting Minute Excerpt – 06-07-94

APPROVALS

Submitted by:

John Maresh
Assistant City Manager of
Public Services

Reviewed by:

- Exec. Dir. of Administrative Services
 Asst. City Manager of Public Services
 City Attorney **DNRBHZ/rl**
 Police Chief
 Project Director

Approved for Submittal to City Council:

Robert Gracia
City Manager

EXECUTIVE SUMMARY

The City of Rosenberg and Fort Bend County (County) entered into a Cooperation Agreement (Agreement) on June 14, 1994, which qualified the City to participate with the County in federal Community Development Block Grant (CDBG) programs. The U.S. Department of Housing and Urban Development (HUD) is requesting an updated Cooperation Agreement between the City and Fort Bend County to reflect changes to program policies and regulations relating to community development and housing rehabilitation assistance programs.

Resolution No. R-2007 would authorize the Mayor to execute a new Agreement with the County, attached as Exhibit "A" to said Resolution, for cooperative participation in these HUD grant programs. Staff recommends approval of Resolution No. R-2007 as presented.

RESOLUTION NO. R-2007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, TEXAS, A COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND FORT BEND COUNTY REGARDING URBAN COUNTY QUALIFICATION FOR COOPERATIVE PARTICIPATION IN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIP, AND/OR EMERGENCY SOLUTIONS GRANT (ESG) PROGRAMS.

* * * * *

WHEREAS, on June 07, 1994, the City of Rosenberg entered into a Cooperation Agreement for Fort Bend County for participation in the implementation of the Community Development Block Grant (CDBG) Program; and,

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has requested a new Cooperative Agreement to include updates due to changes in policies and regulations for said grant programs as part of HUD's Urban County Qualification process; and,

WHEREAS, the City Council has determined it to be in the best interest for the citizens of Rosenberg to enter into an updated Cooperative Agreement with Fort Bend County for future participation in HUD grant programs; now, therefore,

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

Section 1. The City Council of the City of Rosenberg hereby authorizes the Mayor to execute a Cooperation Agreement (Agreement) by and between the City of Rosenberg and Fort Bend County, Texas, regarding urban county qualification for cooperative participation in the U.S. Department of Housing and Urban Development grant programs to include CDBG, HOME Investment Partnership, and Emergency Solutions Grant (ESG) programs.

Section 2. A copy of said Agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this _____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **CITY SECRETARY**

Cynthia A. McConathy, **MAYOR**

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

COOPERATION AGREEMENT

This Agreement, is made and entered into by Fort Bend County, a body corporate and politic under the laws of the State of Texas, hereinafter sometimes referred to as "County", and the City of Rosenberg, a municipal corporation under the laws of the State of Texas, hereinafter sometimes referred to as "City".

WITNESSETH:

WHEREAS, the City has elected to have its population included as a portion of that population to the County in the County's "urban county" application to the U.S. Department of Housing and Urban Development for funding for the Community Development Block Grant Program, said application being hereinafter sometimes referred to as the "Grant Application;" and

WHEREAS, the City's area and population are within the boundaries of Fort Bend County; and

WHEREAS, the County is willing to include all of the City's population in the Grant Application and to cooperate with the City in the implementation of the City's Community Development Program; and

WHEREAS, the County certifies that it is following an approved Comprehensive Housing Affordability Strategy; and

WHEREAS, the Texas Legislature has enacted the "Texas Community Development Act of 1975," codified at VTCA Local Government Code §373.001 et seq., which provides, in part, for the authorization of cities to implement a community development program; and

WHEREAS, the governing body of the County duly authorizes this Agreement; and

WHEREAS, the governing body of the City duly authorizes this Agreement; and

WHEREAS, the Texas legislature has further enacted "The Interlocal Cooperation Act," Chapter 791, Texas Government Code, which provides, in part, that the County may contract with the City to perform governmental functions and services for the City;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the County, and the City, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

I.

The City and the County agree to allow the U. S. Department of Housing and Urban Development to use the City's population and other necessary demographic characteristics in the determination of whether the County will qualify as an "urban county" as defined in the Housing and Community Development Act of 1974, as amended, and the rules and regulations promulgated pursuant thereto.

The City and the County acknowledge that this Cooperation Agreement covers the Community Development Block Grant (CDBG) Entitlement Program, the HOME Investment Partnership (HOME) Program and Emergency Solutions Grants (ESG) Programs.

II.

The County and the City agree to cooperate in undertaking or assisting in undertaking, community renewal and lower-income housing activities, specifically urban renewal and publicly assisted housing.

The City understands that it may receive a formula allocation under the HOME Program only through the County, and that it may not apply for grants under the small cities or State Community Development Block Grant Programs from appropriations during the period in which it is participating in the County's CDBG Program. The City further understands that it may not participate in a HOME consortium except through the County.

The City understands that it may receive a formula allocation under the ESG Program only through the County. The City further understands that it cannot form an ESG consortium with other local governments.

III.

The City and the County acknowledge that they are aware that the Grant Application has not yet been completed or submitted to the U. S. Department of Housing and Urban Development and that no determination has been made at the time of execution of this Agreement as to where and for what purposes funding, if any, for the Community Development Block Grant Program will be sought or expended. In this regard it is agreed that County shall not be obligated to seek funds for expenditure in the City or for assistance to residents of the City in the Grant Application. If such funds for expenditure in the City or for assistance to its residents are awarded as a result of the Grant Application, the County may in its sole discretion, override such distribution of the award and spend such funds elsewhere and/or for other purposes when necessary or desirable in order to achieve compliance with Title I of the Housing and Community Development Act of 1974, as amended, and all appropriate implementing regulations applicable thereto or mentioned herein. The City has received no assurance, written or oral, from the County to the contrary, and is aware that the execution of this Agreement does not constitute any guarantee on the part of the County that funds received pursuant to the Grant Application, if any, will be expended for projects within the City limits of the City or for assistance to the residents of the City.

IV.

This Agreement shall remain in full force and effect for the program years 2016 through 2018 (September 1, 2016 - August 31, 2019). The Agreement will be automatically renewed at the end of this period for consecutive three-year periods unless the County or the City provides written notice to the other party specifying that it elects to not to participate in a new qualification period. A copy of that notice must be sent to the designated HUD field office.

By the date specified in HUD's urban county qualification notice for the next qualification period, the County will notify the City in writing of its right not to participate. A copy of the County's notification to the City will be sent to the designated HUD Field Office by the date specified in HUD's urban county qualification notice for the next qualification period.

The City and the County acknowledge that failure by either party to adopt an amendment to the agreement incorporating all changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period shall automatically void the automatic renewal of such qualification period. Copies of executed amendments will be sent to the designated HUD field office.

Subject to the termination provisions of Section XII herein, the City and the County acknowledge that this Agreement remains in effect until the CDBG and HOME funds and income received with respect to the three-year qualification period and any successive qualification periods are expended and the funded activities completed and THAT THE COUNTY AND CITY MAY NOT TERMINATE OR WITHDRAW FROM THE AGREEMENT WHILE THE AGREEMENT REMAINS IN EFFECT.

The County and the City agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities.

V.

In the performance of this Agreement, County and City executing this Agreement agree to take all actions necessary to assure compliance with the urban county's certification under section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, regarding Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and affirmatively furthering fair housing. The parties further agree to comply with section 109 of Title I of the Housing and Community Development Act of 1974, which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975, and all other applicable laws. County funding may not be used for activities in, or in support of, by either party that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with the County's fair housing certification.

VI.

The City agrees to inform Fort Bend County of any income generated by the expenditure of CDBG funds received by the City and that any such income shall be paid to Fort Bend County. Fort Bend County may, in its sole discretion, allow the City to retain program income provided that any and all such income may only be used for eligible activities in accordance with

all CDBG requirements as may then apply. The City understands that Fort Bend County has the responsibility for monitoring income and reporting to HUD on the use of any such program income, and the City, therefore, agrees to meet such record keeping and reporting requirements as may be required by the County for this purpose. In the event of close-out or change in status of the City, any program income that is on hand or received subsequent to the close-out or change in status will be paid to Fort Bend County.

VII.

The City agrees and understands that the following terms and conditions will apply with regard to real property acquired or improved in whole or in part using CDBG funds that is within the control of the City during the term of this Agreement.

- a) The City shall timely notify Fort Bend County of any modification or change in the use of property from that planned at the time of acquisition or improvement, including disposition.
- b) The City shall reimburse Fort Bend County in an amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG funds) of property acquired or improved with CDBG funds that is sold or transferred for a use which does not qualify under CDBG regulations.

VIII.

The City agrees that program income generated from the disposition or transfer of real property prior to or subsequent to the grant close-out, change of status, or termination of this Agreement shall be treated according to 24 CFR 570.504.

IX.

The County and the City acknowledge that the County shall not fund activities in or in support of any city that does not affirmatively further fair housing within its jurisdiction or that impedes the County's actions to comply with fair housing laws and orders.

X.

The County and the City acknowledge that the City has adopted and is enforcing, to the extent authorized by state law, a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations. The City has adopted a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of a non-violent civil rights demonstration within the City's jurisdiction.

XI.

The City agrees and understands that pursuant to 24 CFR 570.501(b), it is subject to the same requirements applicable to sub-recipients, including the requirement of a written agreement as set forth in 24 CFR 570.503.

XII.

Should the U. S. Department of Housing and Urban Development reject or refuse to accept this Agreement for any reason, the County shall promptly notify City of such rejection, and either party may then terminate this Agreement by giving written notice of such termination to the other party.

XIII.

The City may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan city, urban county, general local government, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113-235.

XIV.

The County and City executing this Agreement agree that the County has authority to carry out activities which will be funded from annual Community Development Block Grants from Federal Fiscal Year appropriations and from any program income generated from the expenditure of such funds.

XIV.

This Agreement shall be of no force and effect unless and until it is executed by both parties hereto and certified by counsel for all parties hereto on the forms set forth below.

Execution Page Follows

IN WITNESS WHEREOF this instrument in duplicate originals, has been executed by the parties hereto as follows:

- a. It has been executed on behalf of Fort Bend County on the _____ day of _____, 2015, by the County Judge of Fort Bend County and attested by the County Clerk of Fort Bend County pursuant to an order authorizing such execution;
- b. It has been executed on behalf of the City on the _____ day of _____, 2015, by its Mayor and attested by its City Secretary, pursuant to action of the City Council of the City authorizing such execution.

FORT BEND COUNTY

ATTEST:

ROBERT HEBERT, County Judge

Laura Richard, County Clerk

CITY OF ROSENBERG

Mayor

Printed Name

ATTEST:

City Secretary

Printed Name

CERTIFICATE OF CITY ATTORNEY

I have examined the foregoing Agreement, and as City Attorney for the City named therein, I certify that the terms and provisions of this Agreement are fully authorized under State and local law applicable to the City. (Including but not limited to the City's Charter and Ordinances.)

Date

City Attorney

Printed Name

CERTIFICATE OF COUNTY ATTORNEY, FORT BEND COUNTY, TEXAS

I have examined the foregoing Agreement, and as statutory civil counsel to the County named therein, I certify that the terms and provisions of the Agreement are fully authorized under state and local law, and that this agreement provides full legal authority for the County to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing. To the extent that this certificate relates the state and local law applicable to the City (including but not limited to the City's Charter and Ordinances), this certificate is given in total reliance upon the foregoing Certificate of the City Attorney and the undersigned disclaims any responsibility or liability for the City Attorney and the errors or omissions, if any, in making such certificate.

Date

June 29, 2015

ROY CORDES
County Attorney

Roy Cordes Jr

ORDER

THE STATE OF TEXAS

COUNTY OF FORT BEND

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On this the _____ day of _____, 2015, Commissioners Court, sitting as the governing body of Fort Bend County, Texas, at a regular meeting, upon motion of Commissioner _____, seconded by Commissioner _____, duly put and carried,

IT IS ORDERED that the County Judge Robert Hebert be, and he is hereby, authorized to execute, and Laura Richard, County Clerk, is hereby authorized to attest, for and on behalf of Fort Bend County, an Agreement between Fort Bend County, and the City of Rosenberg for the purpose of cooperating in the County's Community Block Grant Application, which Agreement is hereby referred to and made a part hereof for all purposes as though fully set out herein.

FORT BEND COUNTY

ATTEST:

ROBERT HEBERT, County Judge

Laura Richard, County Clerk

MODIFICATION REGARDING POLICY PROHIBITING EXCESSIVE FORCE

The County and City by executing this Agreement certify that each has adopted and is enforcing to the extent authorized by state law:

- 1) a policy prohibiting the use of excessive force by law enforcement agencies against any individuals engaged in non-violent civil rights demonstrations; and
- 2) a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction

"In accordance with section 519 of Public Law 101-140, the 1990 HUD Appropriations Act, _____ certifies that: it has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations."

IN WITNESS WHEREOF this instrument has been executed by the parties hereto as follows:

- a. It has been executed on behalf of Fort Bend County on the ____ day of _____, 2015, by the County Judge of Fort Bend County and attested by the County Clerk of Fort Bend County pursuant to an order authorizing such execution;
- b. It has been executed on behalf of the City on the ____ day of _____, 2015, by its Mayor and attested by its City Secretary, pursuant to action of the City Council of the City authorizing such execution.

FORT BEND COUNTY

ROBERT HEBERT, County Judge

ATTEST:

Laura Richard, County Clerk

CITY OF ROSENBERG

ATTEST:

Mayor

City Secretary

Printed Name



COMMUNITY DEVELOPMENT

Fort Bend County, Texas

Marilynn Kindell
Director
July 8, 2015

(281) 341-4410
Fax (281) 341-3762

The Honorable Cynthia McConathy
City of Rosenberg
2110 Fourth Street
Rosenberg, Texas 77471

Re: Urban County Qualification

Dear Mayor McConathy:

In July, 1994 the City of Rosenberg entered into a cooperation agreement with Fort Bend County to be included in the implementation of the County's Community Development Block Grant (CDBG) Program. The agreement is still in effect due to the automatic renewal provision in Paragraph IV.

The U.S. Department of Housing and Urban Development is requiring that the original cooperation agreement be amended to include updates due to changes in program policies and regulations. This letter serves as a request for City of Rosenberg to enter into a new cooperation agreement with the County. Signing this agreement would enable your City to request grant funds from the County for CDBG-eligible projects and permit low and moderate income City residents to apply for housing rehabilitation assistance and assistance through other CDBG-funded programs. The agreement also covers the HOME Investment Partnerships (HOME) Program and the Emergency Solutions (ESG) Program.

I will be available to meet with you to answer any questions you may have about the Urban County Qualification process and the CDBG, HOME and ESG programs. **The deadline for returning the cooperation agreement to Fort Bend County is July 21, 2015.**

If you have any questions, please contact me at 281-341-4410.

Sincerely,

A handwritten signature in cursive script that reads "Marilynn Kindell".

Marilynn Kindell
Director

Enclosures: New Cooperation Agreement and Previously Executed Cooperation Agreement

STATE OF TEXAS

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§
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COUNTY OF FORT BEND

COOPERATION AGREEMENT

This Agreement, made and entered into by Fort Bend County, a body corporate and politic under the laws of the State of Texas, hereinafter sometimes referred to as "County", and the City of Rosenberg, a municipal corporation under the laws of the State of Texas, hereinafter sometimes referred to as "City".

WITNESSETH:

WHEREAS, the City has elected to have its population included as a portion of that population to the County in the County's "urban county" application to the U. S. Department of Housing and Urban Development for funding for the Community Development Block Grant Program, said application being hereinafter sometimes referred to as the "Grant Application;" and

WHEREAS, the City's area and population are within the boundaries of Fort Bend County; and

WHEREAS, the County is willing to include all of the City's population in the Grant Application and to cooperate with the City in the implementation of the City's Community Development Program; and

WHEREAS, the County certifies that it is following an approved Comprehensive Housing Affordability Strategy; and

WHEREAS, the Texas Legislature has enacted the "Texas Community Development Act of 1975," codified at VTCA Local Government Code §373.001 et seq., which provides, in part, for the authorization of cities to implement a community development program; and

WHEREAS, the governing body of the County duly authorizes this Agreement; and

WHEREAS, the governing body of the City duly authorizes this Agreement; and

WHEREAS, the Texas legislature has further enacted "The Interlocal Cooperation Act," Chapter 791, Texas Government Code, which provides, in part, that the County may contract with the City to perform governmental functions and services for the City;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the County, and the City, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

I.

The City and the County agree to allow the U. S. Department of Housing and Urban Development to use the City's population and other necessary demographic characteristics in the determination of whether the County will qualify as an "urban county" as defined in the Housing and Community Development Act of 1974, as amended, and the rules and regulations promulgated pursuant thereto.

The City and the County acknowledge that this Cooperation Agreement covers both the Community Development Block Grant (CDBG) Entitlement Program and the HOME Investment Partnership Program; and

II.

The County and the City agree to cooperate in undertaking or assisting in undertaking, community renewal and lower income housing activities, specifically urban renewal and publicly assisted housing.

The City understands that it may not apply for grants under the small cities or State Community Development Block Grant Programs from appropriations during the period in which it is participating in the County's CDBG Program. The City further understands that it may not participate in a HOME consortium except through the County.

III.

The City and the County acknowledge that they are aware that the Grant Application has not yet been completed or submitted to the U. S. Department of Housing and Urban Development and that no determination has been made at the time of execution of this Agreement as to where and for what purposes funding, if any, for the Community Development Block Grant Program will be sought or expended. In this regard it is agreed that County shall not be obligated to seek funds for expenditure in the City or for assistance to residents of the City in the Grant Application. If such funds for expenditure in the City or for assistance to its residents are awarded as a result of the Grant Application, the County may in its sole discretion, override such distribution of the award and spend such funds elsewhere and/or for other purposes when necessary or desirable in order to achieve compliance with Title I of the Housing and Community Development Act of 1974, as amended, and all appropriate implementing regulations applicable thereto. The City has received no assurance, written or oral, from the County to the contrary, and is aware that the execution of this Agreement does not constitute any guarantee on the part of the County that funds received pursuant to the Grant Application, if any, will be expended for projects within the City limits of the City or for assistance to the residents of the City.

The City and the County acknowledge that failure by either party to adopt an amendment to the agreement incorporating all changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for the year in which the next qualification of the urban county is scheduled shall automatically terminate the agreement following the expenditure of all CDBG funds allocated for use in the participating units jurisdiction.

IV.

This Agreement shall remain in full force and effect for the program years 1995 through 1997 (September 1, 1995 - August 31, 1998). The Agreement will be automatically renewed at the end of this period for consecutive three-year periods unless the Agreement is specifically terminated in writing by either party before the end of the County's three-year qualification period. The City and the County acknowledge that they have been advised and are aware that federal regulations applicable to the Grant Application do not permit the County to allow the City and the County to withdraw from this Agreement or otherwise terminate the term of this Agreement at any time during the period covered by the Agreement.

The City and the County acknowledge that this Agreement remains in effect until the CDBG and HOME funds and income received with respect to the three- year qualification period and any successive qualification periods are expended and the funded activities completed and that the County and City may not terminate or withdraw from the Agreement while the Agreement remains in effect.

V.

In the performance of this Agreement, County and all cooperating units of general local government executing this Agreement agree to take all actions necessary to assure compliance with County's certification required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, section 109 of Title I of the Housing and Community Development Act of 1974, and other applicable laws.

VI.

The City agrees to inform Fort Bend County of any income generated by the expenditure of CDBG funds received by the City and that any such income shall be paid to Fort Bend County. Fort Bend County may, in its sole discretion, allow the City to retain program income provided that any and all such income may only be used for eligible activities in accordance with all CDBG requirements as may then apply. The City understands that Fort Bend County has the responsibility for monitoring income and reporting to HUD on the use of any such program income, and the City, therefore, agrees to meet such record keeping and reporting requirements as may be required by the County for this purpose. In the event of close-out or change in status of the City, any program income that is on hand or received subsequent to the close-out or change in status will be paid to Fort Bend County.

VII.

The City agrees and understands that the following terms and conditions will apply with regard to real property acquired or improved in whole or in part using CDBG funds that is within the control of the City during the term of this Agreement.

- a) The City shall timely notify Fort Bend County of any modification or change in the use of property from that planned at the time of acquisition or improvement, including disposition.
- b) The City shall reimburse Fort Bend County in an amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG funds) of property acquired or improved with CDBG funds that is sold or transferred for a use which does not qualify under CDBG regulations.

VIII.

The City agrees that program income generated from the disposition or transfer of real property prior to or subsequent to the grant close-out, change of status, or termination of this Agreement shall be treated according to 24 CFR 570.504.

IX.

The County and the City acknowledge that the County shall not fund activities in or in support of any city that does not affirmatively further fair housing within its jurisdiction or that impedes the County's actions to comply with fair housing laws and orders.

X.

The County and the City acknowledge that the City has adopted and is enforcing, to the extent authorized by state law, a policy prohibiting the use of excessive force by law enforcement agencies against any individuals engaged in non-violent civil rights demonstrations in the city. The City has adopted a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of a non-violent civil rights demonstration within the City.

XI.

The City agrees and understands that pursuant to 24 CFR 570.501(b), it is subject to the same requirements applicable to sub-recipients, including the requirement of a written agreement as set forth in 24 CFR 570.503.

XII.

Should the U. S. Department of Housing and Urban Development reject or refuse to accept this Agreement for any reason, the County may terminate this Agreement by giving written notice of the same to the City.

XIII.

The County and all cooperating units of general local government executing this Agreement agree that the County has authority to carry out activities which will be funded from annual Community Development Block Grants from Federal Fiscal Year appropriations and from any program income generated from the expenditure of such funds.

XIV.

This Agreement shall be of no force and effect unless and until it is executed by both parties hereto and certified by counsel for all parties hereto on the forms set forth below.

IN WITNESS WHEREOF this instrument in duplicate originals, has been executed by the parties hereto as follows:

- a. It has been executed on behalf of Fort Bend County on the 14 day of June, 1994, by the County Judge of Fort Bend County and attested by the County Clerk of Fort Bend County pursuant to an order authorizing such execution;
- b. It has been executed on behalf of the City on the 7th day of June, 1994, by its Mayor and attested by its City Secretary, pursuant to action of the City Council of the City authorizing such execution.

FORT BEND COUNTY

Roy L. Cordes, Jr.
Roy L. Cordes, Jr., County Judge



By: Dianne Wilson
Dianne Wilson, County Clerk

CITY OF ROSENBERG

Lupe A. Mestri
Mayor

ATTEST:
By: Lyn Adolphus
City Secretary

CERTIFICATE OF CITY ATTORNEY

I have examined the foregoing Agreement, and as City Attorney for the City named therein, I certify that the terms and provisions of this Agreement are fully authorized under State and local law applicable to the City. (Including but not limited to the City's Charter and Ordinances.)

6/7/94
Date


City Attorney

CERTIFICATE OF COUNTY ATTORNEY, FORT BEND COUNTY, TEXAS

I have examined the foregoing Agreement, and as statutory civil counsel to the County named therein, I certify that the terms and provisions of the Agreement are fully authorized under state and local law, and that this agreement provides full legal authority for the County to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing. To the extent that this certificate relates the state and local law applicable to the City (including but not limited to the City's Charter and Ordinances), this certificate is given in total reliance upon the foregoing Certificate of City Attorney and the undersigned disclaims any responsibility or liability for the City Attorney's and the errors or omissions, if any in making such certificate.

June 13, 1994
Date


Ben W. Childers, County Attorney

ORDER

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

On this the 14 day of June, 1994, the Commissioners Court, sitting as the governing body of Fort Bend County, Texas, at a regular meeting, upon motion of Commissioner O'Shields, seconded by Commissioner Prestage, duly put and carried,

IT IS ORDERED that the County Judge Roy L. Cordes, Jr. be, and he is hereby, authorized to execute, and Dianne Wilson, County Clerk, is hereby authorized to attest, for and on behalf of Fort Bend County, an Agreement between Fort Bend County, and the City of Rosenberg for the purpose of cooperating in the County's Community Block Grant Application for the 1994 program year, which Agreement is hereby referred to and made a part hereof for all purposes as though fully set out herein.

Certification for Contracts, Grants, Loans
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making for entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000. for each such failure.

Executed this 7th date of June 1994.

By Lupe A. Uresti
(signature)

LUPE A. URESTI
(typed or printed name)

MAYOR
(title, if any)

Covered Action: COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
(type and identity of program, project or activity)

CONSENT AGENDA

City Secretary, Lyn Adolphus, advised that she had corrected Bill Knesek's title from "Economic Development Coordinator" to "Grants/Economic Development Coordinator" on line 25, page 1, and the spelling of the name "Vesilka" to "Veselka" on line 21, page 9 of the May 17, 1994, minutes.

Councilor Hopkins made a motion to approve the Consent Agenda as follows:

1. Approval of minutes of Regular Council Meeting of May 17, 1994.
2. Approval of Budget Adjustment No. 94-15 in the amount of \$2,600 to transfer funds for purchase of Lanier court reporting machine.
3. Approval of Cooperation Agreement renewal with Fort Bend County for Community Development Block Grant Program effective September 1, 1995, through August 31, 1998.

The motion was seconded by Councilor Becerra and carried by a unanimous vote.

REGULAR AGENDA

RECESS REGULAR SESSION, RECONVENE SESSION

Mayor Uresti recessed the Regular Session at 7:56 p.m. and reconvened the Session at 8:08 p.m.

CONSIDERATION OF APPROVAL OF SECOND AND FINAL READING OF ORDINANCE NO. 94-09 ESTABLISHING REGULATIONS FOR MOBILE HOMES WITHIN THE CITY LIMITS

Mayor Uresti advised that Don Meyer, Public Works Director, was present to answer any questions regarding this proposed ordinance.

Mayor Uresti advised throughout the debate regarding this ordinance that she was against its passage. She suggested that another workshop be held to review it to determine what repercussions its passage might have on the community and to work out details where valid concerns existed.

During the lengthy discussion of these proposed regulations, members of Council reviewed the concerns that had prompted the contemplated ordinance and voiced the need for additional clarifications and modifications to the current draft. A couple of changes that had been made to the draft of the ordinance since the first reading were described.

In response to inequities pointed out earlier in comments from the audience, the consensus of the Council was to grandfather the current locations, as they are, providing that the new standards apply to anyone who begins a new business; but that the fencing and screening



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
9	Resolution No. R-2008 – Authorizing Disannexation Survey for Spacek Tracts

ITEM/MOTION

Consideration of and action on Resolution No. R-2008, a Resolution determining a public purpose and authorizing funding in an amount not to exceed \$3,500 for survey costs related to a proposed disannexation petition by the residents of the Spacek Tracts; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, necessary documents and/or agreements to facilitate same.

FINANCIAL SUMMARY

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds:

N/A

ELECTION DISTRICT

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

SUPPORTING DOCUMENTS:

1. Resolution No. R-2008
2. City Council Meeting Minute Excerpt – 03-24-15

MUD #: N/A

APPROVALS

Submitted by:

Scott M. Tschirhart/rl

Scott M. Tschirhart
City Attorney

Reviewed by:

- Exec. Dir. of Administrative Services 
- Asst. City Manager of Public Services
- City Attorney
- City Engineer
- Exec. Dir. of Community Development TLT

Approved for Submittal to City Council:


Robert Gracia
City Manager

EXECUTIVE SUMMARY

This item has been included on the Agenda to offer City Council an opportunity to consider determining a public purpose and authorization of funding, in an amount not to exceed \$3,500, for survey costs associated with a proposed disannexation petition by some of the residents of a specified part of the real property that was annexed by the City on or about November 22, 2011, commonly known as the "Spacek Tracts." This survey would be a necessary prerequisite for giving public notice and circulating a petition among the qualified voters in the affected area pursuant to the City Charter Section 1.04 and Chapter 43 of the Texas Local Government Code.

RESOLUTION NO. R-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, DETERMINING A PUBLIC PURPOSE AND AUTHORIZING FUNDING IN AN AMOUNT NOT TO EXCEED \$3,500 FOR SURVEY COSTS RELATED TO A PROPOSED DISANNEXATION PETITION BY RESIDENTS OF THE SPACEK TRACTS; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, TEXAS, NECESSARY DOCUMENTS AND/OR AGREEMENTS TO FACILITATE SAME.

* * * * *

WHEREAS, the City of Rosenberg lawfully annexed the properties known as the Spacek Tracts on or about November 22, 2011, and as set forth in Ordinance No. 2011-27 attached hereto as **Exhibit "A"**; and,

WHEREAS, the City has received communications from some of the residents of the subject properties who wish to be disannexed from the corporate limits of the City of Rosenberg; and,

WHEREAS, the City Council has determined that, due to the specific and unusual circumstances presented by this particular annexation, there is a public purpose to be served by using public funds to pay for a survey of the portion of the Spacek Tracts proposed to be disannexed; now, therefore,

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

Section 1. The Rosenberg City Council hereby authorizes funding in an amount not to exceed \$3,500 for survey costs related to a proposed disannexation petition by residents of that portion of the Spacek Tracts that is proposed to be disannexed.

Section 2. The City Manager is hereby authorized to negotiate and execute any and/or all documentation necessary to facilitate said survey.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

CITY OF ROSENBERG, TEXAS

ORDINANCE NO. 2011-27

AN ORDINANCE OF THE CITY OF ROSENBERG, TEXAS, PROVIDING FOR THE EXTENSION OF ROSENBERG, TEXAS CITY LIMITS BY THE ANNEXATION OF ADJACENT TRACTS OF LAND DESCRIBED IN EXHIBIT "A", AND GENERALLY LOCATED ON THE EAST SIDE OF SPACEK ROAD, NORTH OF BRYAN ROAD, AND ON THE EAST AND WEST SIDES OF F.M. 2977, AND ON THE SOUTH SIDE OF ROHAN ROAD; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING THAT SUCH AREAS SHALL BECOME A PART OF THE CITY AND THAT THE OWNERS AND INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND TO BE HEREAFTER ADOPTED; FURTHER PROVIDING FOR AMENDING THE OFFICIAL BOUNDARIES OF THE CITY AS HERETOFORE ADOPTED; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR SAID ORDINANCE TO TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE.

WHEREAS, Texas Local Government Code section 43.021 authorizes the City of Rosenberg, as a home-rule municipality, to extend its City limit boundaries through the annexation of area adjacent to those boundaries; and

WHEREAS, Article 1, section 1.03 of the City Charter of the City of Rosenberg provides that the City Council has authority by ordinance to fix the City limit boundaries, provide for the alteration and extension of said boundaries, and annex additional territory lying adjacent to said boundaries in any manner provided by law; and

WHEREAS, the area to be annexed lies within the extraterritorial jurisdiction of the City of Rosenberg, Texas, and lies adjacent to the City of Rosenberg, Texas; and

WHEREAS, Texas Local Government Code section 43.052(h)(1) provides that an area proposed for annexation containing fewer than one hundred (100) separate tracts of land on which one or more residential dwellings are located on each tract is exempted from the state law requirement that an area proposed for annexation first be identified in an annexation plan; and

WHEREAS, the areas described herein contain fewer than one hundred (100) separate tracts of land on which one or more residential dwellings are located on each tract and are, therefore, exempted from the above-described annexation plan requirement; and

WHEREAS, Texas Local Government Code section 43.035(a)(2) stipulates that a municipality may not annex an area appraised for ad valorem tax purposes as land for agricultural use under Subchapter C or D, Chapter 23, Tax Code and Texas Local Government Code section 43.035(b)(1) provides that a municipality must offer to make a development agreement with landowners eligible under Texas Local Government Code 43.035(a)(2) to guarantee the continuation of the extraterritorial status of the area; and

WHEREAS, the City of Rosenberg executed non-annexation Development Agreements for eligible properties, which said properties are particularly described in the attached Exhibit "B", and said non-annexation Development Agreements were approved by City Council; and

WHEREAS, pursuant to Texas Local Government Code section 43.035(c) an area adjacent or contiguous to an area that is the subject of a development agreement under Texas Local Government Code section 43.035(b)(1) is considered adjacent or contiguous to the municipality; and

WHEREAS, two separate public hearings were conducted on the proposed annexation in accordance with Chapter 43 of the Texas Local Government Code, the first being held on October 18, 2011, at the City Hall Council Chamber, 2110 4th Street, Rosenberg, Texas 77471, and the second public hearing being held on October 25, 2011, at the City Hall Council Chamber, 2110 4th Street, Rosenberg, Texas 77471; and

WHEREAS, the public hearings were conducted and held not more than forty (40) days nor less than twenty (20) days prior to the institution of annexation proceedings and such public hearings gave all interested persons the right to appear and be heard on the proposed annexation of such land; and

WHEREAS, all required written notices were timely sent to all property owners and others entitled to written notice before the 30th day before the first public hearing; and

WHEREAS, notice of the public hearings was published in a newspaper of general circulation in the City and in the area proposed to be annexed by publication at least once in said newspaper not more than twenty (20) days nor less than ten (10) days prior to each public hearing; and

WHEREAS, notice of the public hearings was posted on the City's Internet website on or after the twentieth (20th) day but before the tenth (10th) day before the date of each public hearing and remained posted until the date of the hearings; and

WHEREAS, a third public hearing was conducted and held at a suitable site in the area proposed for annexation on November 16, 2011, not more than forty (40) days prior to the institution of annexation proceedings and such public hearing gave all interested persons the right to appear and be heard on the proposed annexation of such land; and

WHEREAS, notice of the third public hearing was published in a newspaper of general circulation in the City and in the area proposed to be annexed by publication at least once in said newspaper not less than ten (10) days prior to each public hearing; and

WHEREAS, notice of the third public hearing was posted on the City's Internet website before the tenth (10th) day before the date of the third public hearing and remained posted until the date of the hearing; and

WHEREAS, all required statutory notices pursuant to the Chapter 43 of the Texas Local Government Code and of the Charter of the City of Rosenberg, Texas, have been accomplished; and

WHEREAS, the proposed service plan was made available for public inspection and explained to the inhabitants of the area at the public hearings held.

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

SECTION 1

All of the above premised are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

The land and territory lying outside of, but adjacent to and contiguous to the City of Rosenberg, Texas, more particularly described in Exhibit "A" and depicted in a map in Exhibit "A.1" attached hereto

and incorporated herein for all purposes, is hereby added and annexed to the City of Rosenberg, Texas, and said territory, as described, shall hereafter be included within the boundary limits of said City, and the present boundary limits of said City, at the various points contiguous to the area described in Exhibit "A", are altered and amended so as to include said areas within the corporate limits of the City of Rosenberg, Texas.

SECTION 3

The land and territory more particularly described in Exhibit "A", attached hereto and incorporated herein by reference, shall be part of the City of Rosenberg, Texas, and inhabitants thereof shall be entitled to all the rights and privileges as citizens and shall be bound by the acts, ordinances, resolutions, and regulations of the City of Rosenberg, Texas.

SECTION 4

A service plan outlining the provisions of necessary municipal services to the properties described in Exhibit "C" is hereby approved and the implementation of said plan is hereby authorized. Such plan is attached hereto and incorporated herein as Exhibit "C".

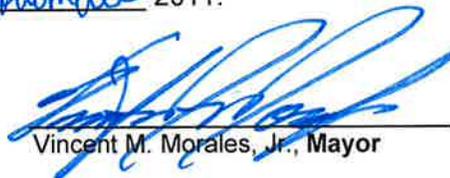
SECTION 5

If any section, subsection, sentence, paragraph, phrase, word, or provision be found to be illegal, invalid, unconstitutional or if any portion of said properties is incapable of being annexed by the City of Rosenberg, Texas, for any reason whatsoever, the adjudication shall not affect another section, sentence, phrase, word, paragraph or provision of this Ordinance or the application of any other section, sentence, phrase, word, paragraph or provision to any other person or portion of said properties, situation or circumstance, nor shall the adjudication affect any other section, sentence, phrase, word, paragraph or provision of any other ordinance of the City of Rosenberg, Texas. The City Council declares that it would have adopted the valid portions and applications of the Ordinance and would have annexed the valid properties without the invalid part and invalid properties and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6

This ordinance shall be effective from and after November 22, 2011.

PASSED AND APPROVED by a vote of 5 "ayes" in favor and 2 "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 19th day of November 2011.



Vincent M. Morales, Jr., Mayor

ATTEST:


Linda Cernosek, City Secretary

APPROVED AS TO FORM AND LEGALITY:


Lora Lenzsch, City Attorney



METES AND BOUNDS DESCRIPTION

SPACEK TRACTS

FIELD NOTES FOR A 230.4 ACRE TRACT OF LAND IN THE ROBERT HANDY SURVEY, ABSTRACT 187, AND THE WILLIAM LUSK SURVEY, ABSTRACT 276, FORT BEND COUNTY, TEXAS, WITH ALL BEARINGS BASED UPON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83, BASED UPON GPS OBSERVATIONS OF CITY OF ROSENBERG CONTROL MONUMENT RS25.

BEGINNING at a 5/8 inch iron rod found in the northwest right-of-way line of F. M. Highway 2977 for the east corner of a called 1.000 acre tract recorded under County Clerk's File No. 2003131519, Official Public Records, Fort Bend County, Texas, same being the south corner of an adjoining called 173.34 acre tract recorded under County Clerk's File Number 2010054252, Official Public Records, Fort Bend County, Texas, for the upper east corner and **Place of Beginning** of the herein described tract, said point also being a south corner of the existing City of Rosenberg City Limits (Annexation No. 55, Ordinance No. 97-12);

THENCE North 67 degrees 51 minutes 00 seconds West along the present City of Rosenberg City Limits, being the southwest line of said adjoining called 173.34 acre tract, 1,548.57 feet to a point for the most easterly north corner of the herein described tract, being the north corner of a called 1.223 acre tract recorded under County Clerk's File Number 9716198, Official Public Records, Fort Bend County, Texas, same being the east corner of an adjoining called 18.715 acre tract recorded under County Clerk's File Number 2006090515, Official Public Records, Fort Bend County, Texas, and being a reentry corner to the present city of Rosenberg City Limits;

THENCE South 22 degrees 38 minutes 11 seconds West along the present City of Rosenberg City Limits, (Annexation No. 74, Ordinance No. 2006-03) being the southeast line of said adjoining called 18.715 acre tract, at 1.20 feet pass a found 3/4 inch iron pipe and continuing for a total distance of 576.93 feet to a 1/2 inch iron pipe found for a reentry corner to the herein described tract, same being the south corner of said adjoining called 18.715 acre tract, and being in the northwest line of a called 1.224 acre tract recorded under County Clerk's File Number 2003049652, Official Public Records, Fort Bend County, Texas, said point also being in the northeast line of Meadow Lane;

THENCE North 67 degrees 45 minutes 17 seconds West along the present City of Rosenberg City Limits, being the southwest line of said adjoining called 18.715 acre tract and the northeast line of Meadow Lane, 1,346.15 feet to a 5/8 inch iron rod found for corner, said point being the west corner of said adjoining called 18.715 acre tract, same being a reentry corner to the present City of Rosenberg City Limits, and being in the southeast line of an adjoining called 1.000 acre tract recorded under County Clerk's File Number 2004007009, Official Public Records, Fort Bend County, Texas;

THENCE South 22 degrees 36 minutes 08 seconds West along the present City of Rosenberg City Limits, (Annexation No. 58, Ordinance No. 98-31 [Tract 3]) 1,030.09 feet to a point for a reentry corner to the herein described tract, same being the west corner of a called 1.0 acre tract recorded under County Clerk's File Number 2001087319, Official Public Records, Fort Bend County, Texas, and the south corner of an adjoining called 0.655 acre tract recorded under County Clerk's File Number 2001087319, Official Public Records, Fort Bend County, Texas, and being in the northeast line of a called 21.788 acre tract recorded under County Clerk's File Number 2003164645, Official Public Records, Fort Bend County, Texas;

THENCE North 67 degrees 47 minutes 08 seconds West along the present City of Rosenberg City Limits, same being the northeast line of said called 21.788 acre tract, 207.80 feet to a point for the most westerly north corner of the herein described tract, said point being a reentry corner to the present City of Rosenberg City Limits, said point bears South 67 degrees 47 minutes 08 seconds East, 10.00 feet from a 1/2 inch iron pipe found in the southeast right-of-way line of Spacek Road;

THENCE South 22 degrees 24 minutes 27 seconds West along the present City of Rosenberg City Limits, being along a line 10.00 feet southeast of and parallel to the southeast right-of-way line of Spacek Road, 1,072.98 feet to a point for the west corner of the herein described tract, being a reentry corner to the present City of Rosenberg City Limits, and being 500 feet northeast of the northeast right-of-way line of Bryan Road;

THENCE South 67 degrees 53 minutes 30 seconds East along the southwest line of the herein described tract and along the present City of Rosenberg City Limits (Annexation No. 20, Ordinance No. 85-14), same being along a line 500 feet perpendicular from and parallel to the northeast right-of-way line of Bryan Road, 3,206.63 feet to a point in the southeast right-of-way line of F. M. Highway 2977, same being the northwest line of an adjoining called 41.58 acre tract recorded under County Clerk's File Number 2007000110, Official Public Records, Fort Bend County, Texas, for the most westerly south corner of the herein described tract;

THENCE North 22 degrees 23 minutes 49 seconds East along the southeast right-of-way line of F. M. Highway 2977, same being the northwest line of said adjoining called 41.58 acre tract, 602.35 feet to a point for a reentry corner to the herein described tract, said point being the north corner of said adjoining called 41.58 acre tract, same being the west corner of an adjoining called 0.977 acre tract recorded under County Clerk's File Number 2007019710, Official Public Records, Fort Bend County, Texas;

THENCE South 67 degrees 40 minutes 10 seconds East along the northeast line of said adjoining called 41.58 acre tract and the northeast line of a second adjoining called 41.58 acre tract recorded in Volume 708, Page 9, Deed Records, Fort Bend County, Texas, same being the southwest line of said called 0.977 acre tract, the southwest line of the adjoining residue of a called 5.00 acre tract recorded under County Clerk's File Number 9760274, Official Public Records, Fort Bend County, Texas, the southwest line of the residue of a called 31.85 acre tract recorded under County Clerk's File Number 2009129103, Official Public Records, Fort Bend County, Texas, and the southwest line of a called 16.313 acre tract recorded under County Clerk's File Number 2002111994, Official Public Records, Fort Bend County, Texas, 1,688.75 feet to a ½ inch iron pipe with cap marked "Kalkomey Surveying" found for the most easterly south corner of the herein described tract and the south corner of said called 16.313 acre tract, same being the west corner of an adjoining called 16.313 acre tract recorded under County Clerk's File Number 2011016213, Official Public Records, Fort Bend County, Texas;

THENCE North 22 degrees 24 minutes 12 seconds East along the southeast line of said called 16.313 acre tract, same being the northwest line of said adjoining called 16.313 acre tract, 1,549.95 feet to a ½ inch iron rod with cap marked "Precision" found on said line at its intersection with the southwest right-of-way line of Rohan Road for the lower east corner of the herein described tract;

THENCE North 67 degrees 35 minutes 54 seconds West along the southwest right-of-way line of Rohan Road, and along the extension of the southwest right-of-way line of Rohan Road based on a 60-foot width, crossing F. M. Highway 2977, 1,786.98 feet to a point for a reentry corner to the herein described tract, said point being in the northwest right-of-way line of F. M. Highway 2977, same being the southeast line of a called 1.000 acre tract recorded under County Clerk's File Number 9651176, Official Public Records, Fort Bend County, Texas;

THENCE North 22 degrees 25 minutes 36 seconds East along the northwest right-of-way line of F. M. Highway 2977, 520.33 feet to the **Place of Beginning** and containing 230.4 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Exhibit "B" to Ordinance No. 2011-27

Exhibit "B"

**OWNER: THOMAS JAMES ALLEN & HELEN J
2425 SPACEK RD
RICHMOND, TX 77469-8954**

Fort Bend Central Appraisal District Tax Account Number: 0187-00-000-0254-901

Legal Description: 0187 R E HANDY, TRACT 25 (PT), ACRES 20.3732

**OWNER: PATANJALI YOG FOUNDATION USA INC
323 W ALKIRE LAKE DR
SUGAR LAND, TX 77478-3511**

Fort Bend Central Appraisal District Tax Account Number: 0187-00-000-0252-901

Legal Description: 0187 R E HANDY, ACRES 58.0494, Not in City of Rosenberg

2011 ANNEXATION City of Rosenberg, Texas Municipal Service Plan for Spacek Tracts

Description of the area: approximately 227.5162 acres known as the Spacek Tracts, generally located on the east side of Spacek Road, north of Bryan Road, and on the east and west Sides of F.M. 2977, and on the south side of Rohan Road.

Upon annexation of the area identified above, the City of Rosenberg will provide City services utilizing methods by which it extends services to any other equivalent area of the City.

Services provided by the effective date of annexation:

1. POLICE PROTECTION

Upon annexation, the City of Rosenberg will provide police protection to the newly annexed area in the same or similar level of service now being provided to other areas of the City with like topography, land use and population density as those found within the newly annexed area. The Police Department will have the responsibility to respond to all dispatched calls for service or assistance within the newly annexed area.

2. FIRE PROTECTION

Upon annexation, the City of Rosenberg will provide fire protection services to the newly annexed area in the same or similar level of service now being provided to other areas of the City with like topography, land use and population density as those found within the newly annexed area.

3. EMERGENCY MEDICAL SERVICES

The City of Rosenberg does not currently provide any emergency medical services.

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

The City of Rosenberg is not aware of the existence of any publicly owned water and wastewater facilities in the newly annexed area. All of the newly annexed properties have existing water wells and septic systems which shall continue to be maintained in accordance with the City's Code of Ordinances.

5. SOLID WASTE SERVICE

The City of Rosenberg contracts for the collection of solid waste and refuse within the corporate limits of the City. Solid waste collection will be provided, within ninety (90) days after the effective date of annexation, to citizens in the newly annexed area at the same or similar level of service now being provided to other areas of the City with like topography, land use and density as those found within the newly annexed area. The City may negotiate with the annexed area to allow continued services with an existing solid waste management provider. After the second anniversary of the annexation date, the City will impose fees and provide the service.

If areas with private roads and/or gates are arranged so that garbage may be collected without creating a safety hazard, the City, at its discretion, may collect the garbage provided proper indemnification is received from the homeowners association or individual property owners. The City will then impose fees and provide the service. In the event the City does not collect garbage within the areas with private roads and/or gates, residents of these areas will not be billed for service after the two-year date.

6. ROADS AND STREETS/ STREET LIGHTING

Any and all public roads, streets, alleyways or street lighting shall be maintained to the same degree and extent that other public roads, streets, alleyways, and street lighting are maintained in areas of the City with like topography, land use and density as those found within the newly annexed area. Private roads will remain under the ownership of the homeowners association and as such maintained by the association. Roads that are not part of a homeowners association and are privately owned will remain under private ownership and as such maintained by the individual owner(s).

7. MAINTENANCE OF PARKS, PLAYGROUNDS, AND SWIMMING POOLS

The City of Rosenberg is not aware of the existence of any publicly owned parks, playgrounds or swimming pools now located in the proposed annexed area. In the event any such parks, playgrounds, or swimming pools do exist and are public facilities, the City will maintain such areas and facilities to the extent and degree an to the same or similar level of service now being provided to the other such areas and facilities within the corporate limits of the City with like topography, land use and density as those found within the newly annexed area. Private facilities will remain under the ownership of the homeowners association and as such maintained by the association. Private facilities that are not part of a homeowners association and are privately owned will remain under private ownership and as such maintained by the individual owner(s).

8. MAINTENANCE OF ANY PUBLICLY OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City of Rosenberg is not aware of the existence of any publicly owned facility, building or other municipal service now located in the proposed area of annexation. In the event any publicly owned facility, building, or other municipal service does exist and are public facilities, the City will maintain such areas and facilities to the extent and degree and to the same or similar level of service now being provided to other such areas and facilities within the corporate limits of the City with like topography, land use and density as those found within the newly annexed areas.

9. OTHER SERVICES

The City of Rosenberg finds and determines that such services as planning, code enforcement, animal control, parks and recreation, court and general administration will be made available after the effective date of annexation at the same or similar level of service now being provided to other areas of the City with similar topography, land use and density as those found within the newly annexed area.

CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS TO BE COMPLETED WITHIN 2 ½ YEARS.

1. POLICE AND FIRE PROTECTION AND SOLID WASTE COLLECTION

The City of Rosenberg finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of annexation of the particular annexed area for the purpose of providing police protection, fire protection, or solid waste collection. The City finds and determines that it has at the present time adequate facilities and other resources to provide the same type, kind and level of service and protection which is presently being administered to other areas already incorporated in the City of Rosenberg with like topography, land use and population density as those found with the newly annexed areas.

2. WATER AND WASTEWATER FACILITIES

For the next 2 ½ years, the City of Rosenberg finds and determines that existing homes will remain on water wells and septic systems. Thereafter, construction of any capital improvements for water and wastewater services to the newly annexed area will be developed pursuant to the City's capital improvement plan, and in accordance with the City's Code of Ordinances.

3. ROADS AND STREETS

The City of Rosenberg finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed area. Thereafter, construction of any roads and streets will be developed pursuant to the City's capital improvement plan and in accordance with the City's Code of Ordinances.

4. MAINTENANCE OF PARKS, PLAYGROUNDS, AND SWIMMING POOLS AND ANY OTHER PUBLICLY OWNED FACILITY, BUILDING OR SERVICE.

The City of Rosenberg finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed area for the purpose of parks maintenance, playgrounds, swimming pools and other publicly owned facility, building or service.

SPECIFIC FINDINGS

The City of Rosenberg finds and determines that this proposed service plan will not provide any fewer services and will not provide a lower level of service in the area being considered for annexation that were in existence in the proposed areas at the time immediately preceding the annexation process. Given the proposed annexation areas' topography, land utilization and population density, the service levels to be provided in the newly annexed area will be equivalent to those provided to other areas of the City with similar characteristics.

TERMS

This plan shall be valid for a term of ten (10) years. Renewal of the Service Plan is at the discretion of the City of Rosenberg.

LEVEL OF SERVICE

Nothing in this plan shall require the City to provide a uniform level of full municipal services to each area of the City including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

AMENDMENTS

The plan shall not be amended unless public hearings are held in accordance with Chapter 43 of the Texas Local Government Code.

CITY OF ROSENBERG

CITY COUNCIL WORKSHOP MEETING MINUTES

On this the 24th day of March, 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
Dallis Warren	Police Chief
Tommy Havelka	Police Officer
Wade Goates	Fire Chief
Angela Fritz	Executive Director of Information Services
Darren McCarthy	Parks and Recreation Director
Rigo Calzoncin	Public Works Director
Kevin Williams	Utilities Superintendent
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

1. REVIEW AND DISCUSS THE CURRENT STATUS OF THE SPACEK TRACTS' SERVICE PLAN, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.

Executive Summary: In November 2011, the City of Rosenberg annexed the area known as the "Spacek Tracts," consisting of approximately 230 acres generally located east of Spacek Road and on both sides of FM 2977; south of Fort Bend County MUD No. 144 and Rohan Road; and north of Bryan Road. A vicinity map of the area and Ordinance No. 2011-27 are included in the agenda packet for reference.

Due to concerns that have been raised regarding the annexation of this area and the related provision of City services, staff will provide an overview including, but not limited to, the following:

- Municipal service plan for the area (Exhibit "C" to Ordinance No. 2011-27)
- City services that have been provided to date and the estimated cost of providing those services
- Planned capital improvements in the area and related cost estimates
- The estimated cost of extending City water and sanitary sewer through the majority of the area
- The estimated ad valorem tax revenue collected specifically from the area
- The required procedures per City Ordinance/Charter and State law for the disannexation of this or other areas within the City limits
- The provision of fire protection services to the area

This item has been placed on the Agenda for City Council to discuss and provide direction to staff.

Key Discussion Points:

- Travis Tanner, Executive Director of Community Development gave an overview of the item.
- Mr. Tanner gave a presentation regarding current investments in the area, scheduled improvements, and future estimated costs to provide services to the area. Also included were the requirements for disannexation as stated in the City Charter.
- Upon annexation of the Spacek Tract, some City services were provided, such as fire, police, and trash. Others, such as water and sewer, have not been developed in that area to date.
- After discussion, the general consensus of the Council was in favor of disannexation, following proper procedures.

Questions/Comments:

- **Q:** Has there been a petition received to date for disannexation?
- **A:** No petition has been received to date. Some signatures have been gathered by a large number of residents in the area, but it is a small, residential area, and is not representative of the original annexation.
- **C:** We can lawfully disannex as long as the services remain contiguous and it does not cut off our ETJs.
- **Q:** Can Council initiate the disannexation without a petition?
- **A:** No we cannot. We must have a petition from the majority of the qualified voters who live in the area. We could do so if it was unoccupied territory, but if there are residences, we must have a majority under our Charter. When we receive a petition, we would have to confirm the number of qualified voters in this area.
- **Q:** Is there any plan to provide the services (water, sewer, etc.) to this area?
- **A:** The current five year CIP has a waterline to be installed along Lark Street. That project is going to be constructed regardless of disannexation, because that project is directly related to our groundwater reduction projects. Other than that, there are no other water or sanitary sewer projects on our five year CIP.
- **C:** Many of the other developments in the same area, such as the Oaks of Rosenberg neighborhood, would not be a part of the City and be afforded the services they are receiving had the Council not had the foresight to annex them. Other residents in the area took many years to receive their City-provided services that they are now enjoying. A potential issue is this area not being included in the ESD (Emergency Services District) #6, so if we disannex them, they would be without emergency services.
- **C:** Beginning September 30, 2016, the fire department is to cease operation in unincorporated areas of Fort Bend County. This was at the heart of the annexation in the first place.
- **C:** Most of the calls that are responded to by our fire department are EMS calls, and there is County-provided EMS to service the area.
- **C:** The City can still choose to provide Emergency Services to the ETJ and be reimbursed by the County for those services, but the reimbursement amount is a shortfall to the actual cost of services.
- **C:** Under State law, if we choose to disannex this piece of property, we will not be able to reannex it for any purpose for a period of ten years.
- **C:** We need to do our due diligence to inform these citizens before they begin signing a

formal petition of the potential consequences, such as the ten year time period and the emergency services. We recommend having a Town Hall Meeting to disclose this information to the residents.

Speaker:

- **Hebert Castillo, 1310 Cardinal Drive, Richmond, Texas** addressed the Council regarding this item, and presented approximately 70 petitions, which equates to 60% of the people who live in the community by his calculation. The residents are well aware of the consequential change of services and the challenges they will present, but they have dealt with these challenges before the annexation. This community is self-sufficient; the only potential issue may be fire service, which is being discussed with both the Fire Chief and the County Commissioner. In ten years, they may be requesting to be back in the City limits, but for now, they want to be disannexed.

2. REVIEW AND DISCUSS USE OF PORTABLE BUILDINGS AS AN INTERIM SOLUTION FOR OFFICE SPACE NEEDS AT WASTEWATER TREATMENT PLANT 1-A, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.

Executive Summary: During the course of the Facilities Master Plan study, City management and the Blue Ribbon Facilities Task Force (Task Force) identified a potentially dangerous office arrangement at Wastewater Treatment Plant 1-A. Several staff members have offices and workstations adjacent to a high-pressure chlorine injector. As chlorine can be a toxic chemical beyond certain thresholds, both City management and the Task Force members recognized the potential danger presented to the adjacent employees in the event of an accidental chlorine leak. Included in the agenda packet is correspondence from the Task Force recommending that the City take immediate action to mitigate this potential hazard.

Staff has considered a plan for a lease with option to purchase of modular buildings that will separate the office functions, as well as break room and meeting area space, from the operational buildings. Additional supporting documentation includes estimates and schematics for modular buildings that could fulfill the Utility Department's office needs. Due to the unusual combination of features required in the employee modular building, this facility will likely require a custom design.

Upon City Council direction to do so, staff will return in the near future with a Request for Proposals document for consideration.

Key Discussion Points:

- Jeff Trinker, Executive Director of Support Services gave an overview of the item.
- The Blue Ribbon Facilities Task Force toured all of the facilities owned by the City, and they immediately raised concern for the health and safety of the employees at this Wastewater Treatment Plant with regards to their close proximity to large quantities of pressurized chlorine. They have witnessed signs of chlorine infiltration in the office space, as evidenced by corrosion to metal objects such as pipes and file cabinets.
- Staff is asking for direction to investigate the acquisition of modular building(s) to relocate Utilities staff, and would like permission to submit a Request for Proposals.
- Robert Gracia, City Manager, emphasized the critical nature of the unsafe work environment.
- After discussion, the general consensus was to gather information through the RFP process and bring it back to Council at a later date.

Questions/Comments:

- **Q:** How long has this condition existed?
- **A:** This condition has existed for a numbers of years.
- **Q:** Are we in violation of any sort of hazardous material regulations?
- **A:** No, but in general, chlorine is a very hazardous material and it is not good to inhale.
- **C:** Typically, the lab building (which was the original intent of this structure) is just for the use of wastewater treatment plant operators for record keeping, as they spend the majority of their time outdoors. It was not intended for full-time offices of employees. Such functions are usually in separate buildings.
- **Q:** Are we providing the appropriate ventilation in this facility?
- **A:** We do meet the TCEQ requirements for ventilation.
- **Q:** How many employees are located at this facility at any one period of time?



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
10	Resolution No. R-2004 – Interlocal Agreement for Fire Code and Investigations

ITEM/MOTION

Consideration of and action on Resolution No. R-2004, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Interlocal Agreement for Fire Code and Investigations by and between the City and Fort Bend County, for Fire Code and investigations for Fort Bend County owned or leased buildings located within the City Limits of Rosenberg.

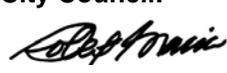
FINANCIAL SUMMARY	ELECTION DISTRICT
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Annualized Dollars:	Budgeted:	<input type="checkbox"/> District 1
<input type="checkbox"/> One-time	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> District 2
<input type="checkbox"/> Recurring	Source of Funds: N/A	<input type="checkbox"/> District 3
<input checked="" type="checkbox"/> N/A		<input type="checkbox"/> District 4
		<input checked="" type="checkbox"/> City-wide
		<input type="checkbox"/> N/A

SUPPORTING DOCUMENTS: MUD #: N/A

- Resolution No. R-2004

APPROVALS

Submitted by:	Reviewed by:	Approved for Submittal to City Council:
	<input type="checkbox"/> Exec. Dir. of Administrative Services	
Wade Goates Fire Chief	<input type="checkbox"/> Asst. City Manager of Public Services	Robert Gracia City Manager
	<input checked="" type="checkbox"/> City Attorney DNRBHZ/wag	
	<input type="checkbox"/> City Engineer	
	<input type="checkbox"/> (Other)	

EXECUTIVE SUMMARY

Resolution No. R-2004 provides the opportunity for City Council to consider an Interlocal Agreement (Agreement) with Fort Bend County, by and through the Fort Bend County Fire Marshal, for Fire Code enforcement and investigations for Fort Bend County owned or leased buildings in the City of Rosenberg. The term of the Agreement, attached to Resolution No. R-2004 as Exhibit "A", is from the date of execution by the last party through midnight on September 30, 2015, and will continue thereafter under the same terms and conditions each October 1st unless specifically terminated by either party.

Staff recommends approval of Resolution No. R-2004, providing authorization for the Mayor to execute an Interlocal Agreement by and between the City and Fort Bend County for Fire Code enforcement and investigations for Fort Bend County owned or leased buildings in the City of Rosenberg.

RESOLUTION NO. R-2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, TEXAS, AN INTERLOCAL AGREEMENT FOR FIRE CODE AND INVESTIGATIONS, BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND FORT BEND COUNTY, TEXAS, FOR FIRE CODE AND INVESTIGATIONS IN FORT BEND COUNTY OWNED OR LEASED BUILDINGS LOCATED WITHIN THE CITY LIMITS OF ROSENBERG.

* * * * *

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

Section 1. The Mayor is hereby authorized to execute, for and on behalf of the City of Rosenberg, Texas, an Interlocal Agreement for Fire Code and Investigations Between the City of Rosenberg and Fort Bend County (Agreement) for Fire Code and Investigations in all Fort Bend County owned or leased buildings within the City Limits of Rosenberg. A copy of such Agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF FORT BEND §

**INTERLOCAL AGREEMENT FOR FIRE CODE AND INVESTIGATIONS
BETWEEN THE CITY OF ROSENBERG AND FORT BEND COUNTY**

This Interlocal Agreement is made by and between **Fort Bend County** ("COUNTY"), a political subdivision of the State of Texas, acting by and through the Commissioners Court of Fort Bend County, and the **City of Rosenberg** ("LOCAL GOVERNMENT") a county, municipality, special district, or other political subdivision (including a corporate or political Local Government organized under State law), acting by and through its City Council.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code authorizes units of local government to contract with one or more units of local government to perform government functions and services;

WHEREAS, this Agreement is entered into pursuant to the authority, under the provisions of, and in accordance with, Chapter 791 of the Texas Government Code, for the performance of governmental functions and services; specifically, fire code inspections and reviews which promote the shared goal of fire protection in Fort Bend County;

WHEREAS, County, by and through the Fort Bend County Fire Marshal, provides fire code inspections and reviews for buildings located in the unincorporated areas of Fort Bend County and has the capacity to provide these services for certain buildings located within the city limits of Local Government; and

WHEREAS, the Parties deem it to be in the best interest of both entities to enter into this Interlocal Agreement.

In consideration of the foregoing and further consideration of the mutual promises, covenants and conditions herein, the parties hereby agree as follows:

- I. Services to be Performed
 - A. The County, by and through the Fort Bend County Fire Marshal, agrees to provide fire code inspections and reviews for all County owned or leased buildings located within the city limits of Local Government, which shall include with all incidental acts, procedures, and methods necessary to accomplish the ends of such service.
 - B. The Parties agree that the County shall use the current fire code adopted by County as the standard for compliance.
 - C. County will report all fire code non-compliance to Local Government, by and through, the Fire Department. County will also provide an annual report for inspections and reviews to Local Government no later than October 15 of each year.

D. Local Government will continue to primary first responder for fire calls.

II. Duration of Agreement

Unless mutually initiated, cancelled, or terminated earlier with thirty (30) days written notice, the term of this Interlocal Agreement will be from the date of execution by the last party until midnight on September 30, 2015, and continuing thereafter under the same terms and conditions for additional one year periods beginning each October 1.

III. Compensation

- A. County shall retain any fees for fire code inspections and plan reviews performed per this Agreement that would have otherwise been remitted to Local Government.
- B. The Parties agree that the retained fees are fair compensation to County for the services or functions performed under the contract for the services to be provided.

IV. Relationship of Parties

The Parties intend that County, in performing services specified in this agreement, shall act as an independent contractor and shall have control of its work and the manner in which it is performed. Neither County, its agents, employees, volunteer help or any other person operating under this Agreement, shall be considered an agent or employee of Local Government and shall not be entitled to participate in any pension or other benefits that Local Government provides its employees.

V. Notice to Parties

- A. Any notice given hereunder by either party to the other shall be in writing and sent by certified mail, return receipt requested.
- B. Notice to County shall be sent to:
 - Fort Bend County
 - Attn: County Judge
 - 401 Jackson
 - Richmond, Texas 77469
- C. Notice to Local Government:
 - City of Rosenberg
 - Attn: Mayor
 - 2110 4th Street
 - P.O. Box 32
 - Rosenberg, Texas 77471
- D. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

VI. Miscellaneous Provisions

- A. This Agreement contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect except in a subsequent modification in writing signed by both parties.
- B. This Agreement shall be governed by and constructed in accordance with the laws of the State of Texas.
- C. No assignment of this Agreement or of any right accrued hereunder shall be made, in whole or in part, by either party without the prior written consent of the other party. Venue shall be in Fort Bend County, Texas.
- D. The undersigned officer and/or agents of the parties hereto are the properly authorized officials of the party presented and have the necessary authority to execute this Agreement on behalf of the parties hereto and each party hereby certifies to the other that any necessary approvals have been duly passed and approved and are now in full force and effect.

FORT BEND COUNTY:

Reviewed:

Robert Hebert, Fort Bend County Judge

Fire Marshal

Date: _____

Attest:

Laura Richard, Fort Bend County Clerk

CITY OF ROSENBERG:

Attest:

Cynthia A. McConathy, Mayor

Date: _____

Linda Cernosek, City Secretary

AUDITOR'S CERTIFICATE

I hereby certify that funds are available from current revenues legally available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this Interlocal Agreement.

Ed Sturdivant, Fort Bend County Auditor



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
11	Resolution No. R-2009 – Reading Road Office Park Development Agreement Assignment and First Amendment

ITEM/MOTION

Consideration of and action on Resolution No. R-2009, a Resolution authorizing the Assignment of the Development Agreement by and between the City and 16 Rose, Ltd., regarding the Reading Road Office Park, a subdivision of 8.928 acres, to Richwest Investors, LLC; and, authorizing the City Manager to execute, for and on behalf of the City, First Amendment to said Agreement.

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. Resolution No. R-2009
2. 16 Rose, Ltd. Development Agreement Excerpt - Section 5.03(b)
3. Reading Road Office Park Development Traffic Impact Analysis Excerpt – 04-05-10
4. Resolution No. R-1214 – 09-21-10
5. City Council Meeting Minute Excerpt – 09-21-10

APPROVALS

Submitted by:

Travis Tanner

Travis Tanner, AICP,
 Executive Director of
 Community Development

Reviewed by:

- Exec. Dir. of Administrative Services *g*
 Asst. City Manager of Public Services *g.m.*
 City Attorney **DNRBHZ/rl**
 City Engineer *OK*
 Economic Development Director *RM*

Approved for Submittal to City Council:

Robert Gracia

Robert Gracia
 City Manager

EXECUTIVE SUMMARY

On September 21, 2010, City Council passed Resolution No. R-1214 authorizing the City Manager to execute a Development Agreement with 16 Rose, Ltd., for the Reading Road Office Park. The Resolution is attached for review. The subject property is located on the east side of Reading Road between FM 2218 and Town Center Boulevard.

Among other things, the Agreement generally provided for the following:

- The use of access easements instead of public streets for lots/reserves to front on
- Fewer parking spaces than the number that would typically be required by City ordinance
- Restrictions on land use and other standards above and beyond City ordinances
- Based on a traffic study performed at the time (see attached study excerpt), a traffic signal is warranted at the intersection of Reading Road and Town Center Boulevard due to the intersection failing at peak traffic hours, particularly during the evening peak hour (level of service F). The developer agreed to participate in one-half (1/2) of the cost of the signal per Section 5.03 (b) of the Agreement.

It is important to note that the City's portion of the signal cost is currently funded. However, the developer has requested to defer payment of their portion of the signal cost until Phase II of the development is platted. That is reflected in the attached proposed First Amendment to the Agreement. Additionally, it is proposed that the City authorize the assignment of the Agreement with 16 Rose, Ltd., to Richwest Investors, LLC.

Staff does not object to these changes based on the rate at which the property is developing and the impact of the

specific development on the need for a signal. Staff believes the signal can be deferred, but should be kept in the Agreement and in the FY2016 Capital Improvements Program (CIP) based on the traffic study and on the projected growth of the surrounding area. Staff recommends approval of Resolution No. R-2009.

RESOLUTION NO. R-2009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING THE ASSIGNMENT OF THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND 16 ROSE, LTD., REGARDING THE READING ROAD OFFICE PARK, A SUBDIVISION OF 8.928 ACRES, TO RICHWEST INVESTORS, LLC; AND, AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, TEXAS, FIRST AMENDMENT TO SAID AGREEMENT.

* * * * *

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

Section 1. The City Council of the City of Rosenberg hereby authorizes the Assignment of the Development Agreement (Assignment) by and between the City and 16 Rose, Ltd., regarding the Reading Road Office Park, a subdivision of 8.928 acres, to Richwest Investors, LLC; and, authorizes the City Manager to execute First Amendment to said Agreement.

Section 2. A copy of said Assignment and First Amendment are attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **CITY SECRETARY**

Cynthia A. McConathy, **MAYOR**

ASSIGNMENT OF DEVELOPMENT AGREEMENT

This Assignment of Development Agreement is executed to be effective as of July 12, 2013 (the "Effective Date"), by and between 16 ROSE, LTD., a Texas limited partnership (the "Assignor"), and RICHWEST INVESTORS, LLC, a Texas limited liability company (the "Assignee").

Background

Assignor entered into that certain Development Agreement between the City of Rosenberg, Texas, a home rule municipality in Fort Bend County, Texas, dated as of September 21, 2010 (the "Development Agreement"). Thereafter, by deed dated as of the Effective Date, Assignor conveyed unto Assignee all rights, titles and interests in the Tract (as that term is defined in the Development Agreement) subject to the terms of the Development Agreement.

Assignor now desires to assign to Assignee its interest in the Development Agreement as Developer in the Tract.

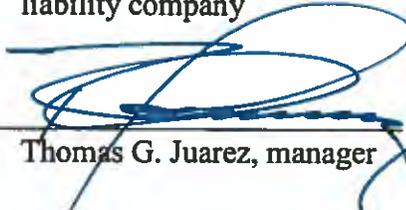
Assignment

NOW, THEREFORE, in consideration of the receipt of TEN AND NO/100 DOLLARS and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor, Assignee and Seller hereby agree as follows:

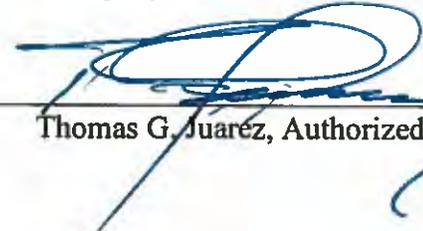
1. **Assignment of Development Agreement.** Assignor hereby ASSIGNS, SETS OVER and TRANSFERS to Assignee, all of its right, title and interest in and to the Development Agreement, together with the rights set forth in Section 2 hereof (the "Assignment").
2. **Assumption.** This Assignment is expressly made without recourse or warranty and is further made subject to the terms and provisions set forth in the Development Agreement. By its acceptance hereof, Assignee herein expressly assumes each, every and all of Assignor's covenants, agreements, and obligations under the Development Agreement as set forth therein.
3. **Miscellaneous.** This Assignment and the obligations of the parties hereunder shall survive the conveyance of the Property and is binding upon and inures to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
4. **Signature.** This Amendment may be executed in multiple counterparts and with facsimile signatures which collectively will be treated as a manually signed original.

EXECUTED to be effective as of the Effective Date.

ASSIGNOR: **16 ROSE LTD.**, a Texas limited partnership
By: **16 Rose GP, LLC**, a Texas limited liability company

By: 
Thomas G. Juarez, manager

ASSIGNEE: **RICHWEST INVESTORS, LLC**, a Texas limited liability company

By: 
Thomas G. Juarez, Authorized Agent

FIRST AMENDMENT
TO
DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement (the "**Amendment**") is entered into as of July _____, 2015 (the "**Effective Date**"), by and between **THE CITY OF ROSENBERG, TEXAS**, a home rule municipality in Fort Bend County, Texas, acting by and through its governing body, the City Council of Rosenberg, Texas (the "**City**"); and **RICHWEST INVESTORS, LLC**, a Texas limited liability company ("**Developer**").

Background

This Amendment amends the terms of that certain Development Agreement between the City and 16 Rose Ltd, dated as of September 21, 2010 (the "**Development Agreement**"). Developer is the successor in interest to 16 Rose, Ltd., by reason of its acquisition of the Tract located within the City's corporate limits, which is described in Exhibit A attached to the Development Agreement. (The capitalized terms used in this Amendment not otherwise defined in this Agreement have the same meaning given to said terms in the Development Agreement.)

The parties now desire to amend the Development Agreement to permit the Developer to pay one-half of the engineering and constructions costs associated with the traffic signal to be located at the intersection of Town Center Boulevard and Reading Road; and pay said amount at the time of, and as a condition to, the approval of any plats for development of Phase II of the Development Plan.

Amendment

In consideration of the mutual covenants contained in this Amendment, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the Development Agreement is hereby amended as follows:

1. **Amendment.**

1.1 **Traffic Signal Contribution.** Section 5.03(b) of the Development Agreement is deleted in its entirety and the following substituted in its place:

(b) **Traffic Signal Contribution.** Developer agrees to contribute to the City one-half, but not to exceed \$110,000, of the engineering and construction costs for the construction of a traffic signal (as required by the City) at the intersection of Town Center Boulevard and Reading Road. Developer agrees to pay to the City said amount as a condition to the approval of any plats to develop Phase II of the Project, as shown on the site plan attached as Exhibit A to the First Amendment to the Agreement, in accordance with the Development Plan. City shall construct the traffic signal within one hundred eighty (180) days of receiving said payment.

2. **Ratification.** Except as amended by this Amendment, the terms and provisions of the Declaration are ratified and confirmed by the parties and remain in effect.
3. **Execution.** This Amendment may be executed in multiple counterparts, which collectively, are treated as a manually signed original.

Executed by the parties hereto to be effective as of the Effective Date hereof.

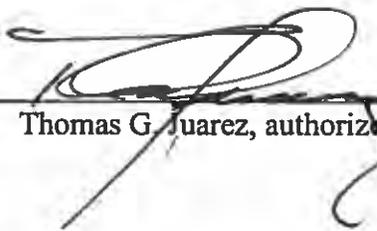
SIGNATURE PAGE IS ANNEXED HERETO

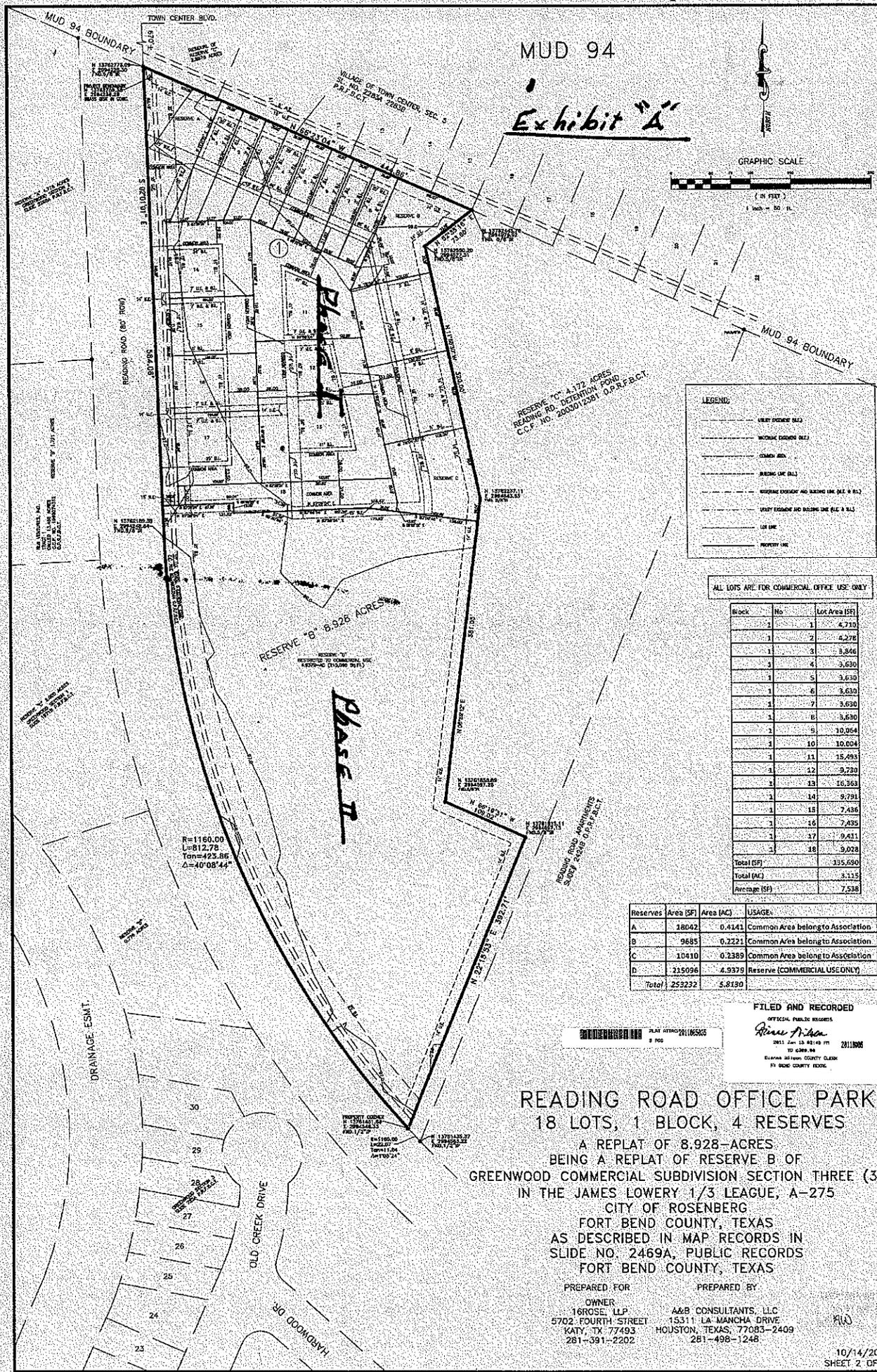
**SIGNATURE PAGE TO DEVELOPMENT AGREEMENT BETWEEN CITY OF
ROSENBERG AND RICHWEST, LLC**

CITY: CITY OF ROSENBERG, TEXAS

By: _____
Name: _____
Its: _____

**DEVELOPER: RICHWEST INVESTORS, LLC, a Texas limited
liability company**

By:  _____
Thomas G. Juarez, authorized agent



LEGEND:

- UTILITY LOCATED (SEE PLAN)
- ROADWAY LOCATED (SEE PLAN)
- COMMON AREA
- BUILDING LINE (SEE PLAN)
- EXISTING EXTERIOR AND BUILDING LINE (SEE PLAN)
- EXISTING EXTERIOR AND BUILDING LINE (SEE PLAN)
- LOT LINE
- PROPERTY LINE

ALL LOTS ARE FOR COMMERCIAL OFFICE USE ONLY

Block	No	Lot Area (SF)
1	1	4,710
1	2	4,278
1	3	5,846
1	4	3,630
1	5	3,630
1	6	3,630
1	7	3,630
1	8	3,630
1	9	10,064
1	10	10,004
1	11	15,493
1	12	9,730
1	13	16,363
1	14	9,791
1	15	7,436
1	16	7,435
1	17	9,411
1	18	9,028
Total (SF)		135,690
Total (AC)		3.115
Average (SF)		7,538

Reserves	Area (SF)	Area (AC)	USAGE
A	38042	0.4141	Common Area belong to Association
B	9685	0.2221	Common Area belong to Association
C	10410	0.2389	Common Area belong to Association
D	215096	4.9379	Reserve (COMMERCIAL USE ONLY)
Total	259232	5.8130	

FILED AND RECORDED
 OFFICIAL PUBLIC RECORDS
James A. Niska
 2011 JUN 13 09:19 AM
 2011006
 CLERK OF COUNTY CLERK
 FORT BEND COUNTY TEXAS

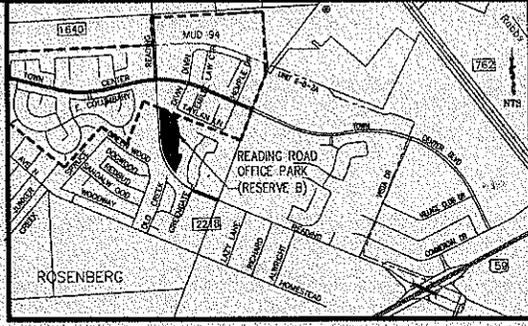
READING ROAD OFFICE PARK
 18 LOTS, 1 BLOCK, 4 RESERVES
 A REPLAT OF 8.928-ACRES
 BEING A REPLAT OF RESERVE B OF
 GREENWOOD COMMERCIAL SUBDIVISION SECTION THREE (3)
 IN THE JAMES LOWERY 1/3 LEAGUE, A-275
 CITY OF ROSENBERG
 FORT BEND COUNTY, TEXAS
 AS DESCRIBED IN MAP RECORDS IN
 SLIDE NO. 2469A, PUBLIC RECORDS
 FORT BEND COUNTY, TEXAS

PREPARED FOR: OWNER
 16ROSE, LLP
 5702 FOURTH STREET
 KATY, TX 77493
 281-391-2202

PREPARED BY: A&B CONSULTANTS, LLC
 15311 LA MANCHA DRIVE
 HOUSTON, TEXAS, 77083-2409
 281-498-1248

GENERAL NOTES

1. B.L. INDICATES BUILDING LINE; U.L. INDICATES UTILITY EASEMENT; S.M. S.L. INDICATES STORM SEWER EASEMENT; W.L.C. INDICATES WATER LINE EASEMENT; S.S.L. INDICATES SANITARY SEWER EASEMENT; P.L. INDICATES PROPERTY LINE; (P.V.) INDICATES PRIVATE.
2. BENCHMARK: CITY OF ROSENBERG CONTROL MONUMENT NO. 38 BRASS DISK LOCATED ON C-BULET ON NORTH SIDE OF READING RD. NE CORNER OF BULET 300' EAST OF US HIGHWAY 59 - NAVD83, 2001 ADJ. (COORD 03) ELEV = 90.41.
3. PROJECT BENCHMARK: BRASS DISK SET IN CONCRETE 15.83 FEET SOUTHWEST OF THE NORTHWEST CORNER OF RESERVE "A" STATE PLANE COORDINATES N = 13742701.09 E = 2991882.22 ELEV = 97.00 NAVD83, 2001 ADJ. (COORD 03).
4. ELEVATIONS USED FOR DRAINAGING CONTOUR LINES ARE BASED UPON CITY OF ROSENBERG MONUMENT NO. 39 (DATA NAVD 83 (2001 ADJ)).
5. THIS PLAT WAS PREPARED TO MEET CITY OF ROSENBERG AND FORT BEND COUNTY REQUIREMENTS.
6. SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY. THIS PLAT WAS PREPARED WITH INFORMATION CONTAINED IN THE TITLE COMMITMENT BY TEXAS SOUTHERN LAND TITLE CO. NO. 10060408 EFFECTIVE OCTOBER 1, 2010. ALL OF THE PROPERTY LOCATED WITHIN THE FOREGOING PLAT IS LOCATED WHOLLY WITHIN THE PROPERTY DESCRIBED IN SAID TITLE COMMITMENT.
7. THIS PLAT LIES WHOLLY WITHIN FORT BEND SUBSIDIARY DISTRICT, FORT BEND COUNTY DRAINAGE DISTRICT, LAMAR CONSOLIDATED J.S.O., AND CITY LIMITS OF ROSENBERG, AND FORT BEND COUNTY, TEXAS.
8. THE SITE IS WITHIN ZONE X (UNSHADDED) OF FLOOD INSURANCE RATE MAP PANEL 481570220A, REVISED JAN. 3, 1997 & 481570220K 2009 RELEASE.
9. APPROVAL OF THIS PLAT WILL EXPIRE ONE YEAR FROM CITY COUNCIL APPROVAL IF NOT RECORDED IN THE REAL PROPERTY RECORDS OF THE COUNTY OF FORT BEND.
10. THERE ARE NO PIPELINES NOR PIPELINE EASEMENTS WITHIN THE LIMITS OF THE SUBDIVISION.
11. FIVE-EIGHTHS INCH (5/8") IRON RODS THREE FEET (3') IN LENGTH ARE SET ON ALL PERMETER BOUNDARY CORNERS, ALL ANGLE POINTS, ALL POINTS OF CURVATURE AND TANGENCY, AND ALL BLOCK CORNERS, UNLESS OTHERWISE NOTED.
12. THE MINIMUM SLAB ELEVATION SHALL BE 99.50 FEET, TWELVE INCHES (12") ABOVE THE 100 YEAR FLOOD PLAIN ELEVATION AND MAXIMUM FLOODING ELEVATION, EIGHTEEN INCHES (18") ABOVE NATURAL GROUND, OR TWELVE INCHES (12") ABOVE THE TOP OF CURB AT THE FRONT OF THE LOT, WHICHEVER IS HIGHER.
13. THE DRAINAGE SYSTEM FOR THIS SUBDIVISION SHALL BE DESIGNATED TO MEET THE REQUIREMENTS OF THE FORT BEND COUNTY DRAINAGE DISTRICT WHICH ALLOWS FOR STREET PAVING WITH INTERSECTING RAINFALL EVENTS.
14. ALL EASEMENTS ARE COVERED ON LOT LINES UNLESS OTHERWISE INDICATED.
15. THIS PLAT LIES WITHIN FORT BEND COUNTY ZONING ORDINANCE ZONE NO. L23.
16. THE COORDINATES AND BEARINGS SHOWN HEREON ARE TEXAS STATE PLANE COORDINATES SOUTH CENTRAL ZONE (SR80 AND 83) AND MAY BE EMPLOYED TO THE SURFACE BY APPLYING THE FOLLOWING CONVERSION SCALE FACTOR OF 0.9999941.
17. THE SUBDIVISION CONTAINS ONE OR MORE PERMANENT ACCESS EASEMENTS THAT HAVE NOT BEEN DEDICATED TO THE PUBLIC OR ACCEPTED BY THE CITY OF ROSENBERG OR ANY OTHER LOCAL GOVERNMENT AGENCY AS PUBLIC RIGHTS-OF-WAY. THE CITY OF ROSENBERG HAS NO OBLIGATION, NOR DOES ANY OTHER LOCAL GOVERNMENT AGENCY HAVE OBLIGATION, TO MAINTAIN OR IMPROVE ANY PERMANENT EASEMENT WITHIN THE SUBDIVISION, WHICH OBLIGATION SHALL BE SOLE RESPONSIBILITIES OF THE PROPERTY OWNERS OF THIS SUBDIVISION.
18. AREAS IDENTIFIED AS RESERVES A, B, AND C SHALL BE RESTRICTED FOR THE USE OF OWNERS OF THE PROPERTY IN THE SUBDIVISION. AREAS IDENTIFIED AS RESERVES A, B, AND C SHALL BE MAINTAINED AND MAINTAINED UNDER A BONA FIDE AGREEMENT AMONG THE OWNERS OF THE PROPERTY IN THE SUBDIVISION.
19. SIDEWALKS SHALL BE BUILT OR CAUSE TO BE BUILT THROUGH RESTRICTIVE COVENANTS WITHIN ALL ROAD RIGHTS-OF-WAYS DEDICATED TO THE PUBLIC.
20. SITE PLANS SHALL BE SUBMITTED TO THE CITY OF ROSENBERG FOR STAFF REVIEW AND APPROVAL PRIOR TO CONSTRUCTION. DRAINAGE REQUIREMENTS FOR THE LOCATIONS, WIDTHS, AND OFFSET FROM AN INTERSECTION AND ANY EXISTING DRAINWAYS, SHALL CONFORM TO THE DESIGN STANDARDS OF THE CITY OF ROSENBERG.
21. NO OWNER OF THE LAND SUBJECT TO AN EASEMENT MAY PLACE, BUILD OR CONSTRUCT ANY PERMANENT BUILDING, STRUCTURE OR OBSTRUCTION OF ANY KIND OVER, UNDER OR UPON THE EASEMENT, PROVIDED THAT SUCH OWNER MAY CROSS OR COVER THE EASEMENT WITH A PAVED DRIVEWAY/PARKING LOT UNDER THE FOLLOWING CONDITIONS. THE DRIVEWAY SHALL BE JOINED AT THE BOUNDARY LINE OF THE EASEMENT TO LIMIT THE AMOUNT OF PAVING THAT MUST BE REMOVED TO PROVIDE ACCESS, AND THERE SHALL BE NO OBLIGATION OF THE CITY TO REPLACE/REPAIR ANY PAVING REMOVED IN THE EXERCISE OF THE EASEMENT.
22. SUBJECT TO THE WEST FORT BEND MANAGEMENT DISTRICT DEVELOPMENT STANDARDS, WEST FORT BEND MANAGEMENT DISTRICT, RESERVE A TREE SURVEY AND TREE PRESERVATION PLAN PRIOR TO REMOVAL OF ANY TREES 10" IN DIAMETER OR GREATER FROM PROPERTY, WEST FORT BEND MANAGEMENT DISTRICT SHALL BE NOTIFIED PRIOR TO ANY CLEARING OR CONSTRUCTION. SITE PLANS SHALL BE SUBMITTED TO THE CITY OF ROSENBERG AND WEST FORT BEND MANAGEMENT DISTRICT FOR STAFF REVIEW AND APPROVAL PRIOR TO PREPARING TO MEET CITY OF ROSENBERG, FORT BEND COUNTY AND CONSTRUCTION. THIS PLAT WAS WEST FORT BEND MANAGEMENT DISTRICT REQUIREMENTS.



VICINITY MAP

Exhibit "A"

I, Robert Armitage, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct, was prepared from an actual survey of the property made under my supervision on the ground and that all boundary corners, angle points of curvature and other points of reference have been marked with iron (or other suitable permanent ferrous metal) pipes and a length of not less than three (3) feet.

Robert Armitage
 Robert Armitage
 Texas Registration No. 5685



This is to certify that the Planning Commission of the City of Rosenberg, Texas has approved this plat and subdivision of READING ROAD OFFICE PARK in conformance with the laws of the State of Texas and the ordinances of the City of Rosenberg as shown hereon and authorizes the recording of this plat this 17th day of November, 2010.

Jim Franklin
 Jim Franklin, Chairman

Wayne Poltrack
 Wayne Poltrack, Secretary

This is to certify that the City Council of the City of Rosenberg, Texas has approved this plat and subdivision of READING ROAD OFFICE PARK in conformance with the laws of the State of Texas and the ordinances of the City of Rosenberg as shown hereon and authorizes the recording of this plat this 18th day of November, 2010.

Joe M. Gurnack-Moyl
 Joe M. Gurnack-Moyl

Linda Comstock
 Linda Comstock, City Secretary

I, Dorene Wilson, County Clerk in and for Fort Bend County, Texas, do hereby certify that the foregoing instrument, with its certificate of authorization, was filed for recording in my office on this 17th day of November, A.D. 2010, at 2:14:52 o'clock P. M., in volume no. 20110202 of the Map Records of Fort Bend County for said county. Witness my hand and seal of office, at Richmond, Texas, this day and the date last above written.

Dorene Wilson
 Dorene Wilson, County Clerk
 Fort Bend County, Texas



STATE OF TEXAS
 COUNTY OF FORT BEND
 CITY OF ROSENBERG:

We, 16ROSE, LLP, acting by and through Thomas Juarez, President, of 16ROSE, LLP, hereinafter referred to as Owner of the 8.928-acre tract described in the above and foregoing map of Reading Road Office Park, do hereby make and establish said subdivision and development plan of said property according to all laws, regulations, restrictions and notations on said maps or plat and hereby dedicate to the use of the public forever, all streets (except those streets designated as private streets), parks, water courses, drains, easements and public phone shown hereon for the purposes and considerations therein expressed, and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, all of the property subdivided in the above and foregoing plat shall be restricted in its use which restrictions shall run with the title to the property and shall be enforceable at the option of the City of Rosenberg, Fort Bend County or any citizen thereof, by injunction as follows:

The property subdivided herein is further restricted in its use as specified in the subdivision restrictions as filed for record at Page _____ Vol. _____ of the Deed Records of Fort Bend County, Texas. A copy of said restrictions will be furnished by the purchaser of each and every lot in the subdivision prior to the cultivation of each acre.

IN TESTIMONY WHEREOF, 16ROSE, LLP, has caused these presents to be signed by Thomas Juarez, its Executive Vice President, and its common seal hereunto affixed this 18th day of Dec, A.D. 2010.

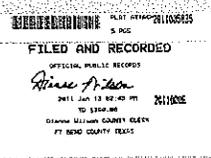
16ROSE, LLP
 By: *Thomas Juarez*
 Thomas Juarez, President
 Date: 12/18/10
 Attest: *Robert Brunson*
 Robert Brunson, Secretary
 Date: 12/18/10

BEFORE ME, the undersigned authority, on this day personally appeared Thomas Juarez, President of 16ROSE, LLP, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 18th day of Dec, A.D. 2010.
3-4-2014
 My Commission Expires

BEFORE ME, the undersigned authority, on this day personally appeared Robert Brunson, Secretary of 16ROSE, LLP, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 18th day of Dec, A.D. 2010.
3-4-2014
 My Commission Expires



READING ROAD OFFICE PARK
 18 LOTS, 1 BLOCK, 4 RESERVES
 A REPLAT OF 8.928-ACRES
 BEING A REPLAT OF RESERVE B OF
 GREENWOOD COMMERCIAL SUBDIVISION SECTION THREE (3)
 IN THE JAMES LOWERY 1/3 LEAGUE, A-275
 CITY OF ROSENBERG
 FORT BEND COUNTY, TEXAS
 AS DESCRIBED IN MAP RECORDS IN
 SLIDE NO. 2469A, PUBLIC RECORDS
 FORT BEND COUNTY, TEXAS

PREPARED FOR: OWNER
 16ROSE, LLP
 5702 FOURTH STREET
 KATY, TX 77493
 281-391-2202

PREPARED BY: A&B CONSULTANTS, LLC
 15311 LA MANCHA DRIVE
 HOUSTON, TEXAS, 77083-2409
 281-498-1248

matters arising either prior to, or subsequent to, its actual period of ownership of the Tract, or a portion thereof, acquired through foreclosure (or deed in lieu of foreclosure).

ARTICLE V PROVISIONS FOR DEVELOPER

Section 5.01 Waiver of Actions Under Private Real Property Rights Preservation Act. The Developer hereby waives its right, if any, to assert any causes of action against the City accruing under the Private Real Property Rights Preservation Act, Chapter 2007, Texas Government Code (the **Act**), that the City's execution or performance of this Agreement or any authorized amendment or supplements thereto may constitute, either now or in the future, a "Taking" of Developer's, Developer's grantee's, or a grantee's successor's "Private Real Property," as such terms are defined in the Act. Provided, however, that this waiver does not apply to, and the Developer and Developer's grantees and successors do not waive their rights under the Act to assert a claim under the Act for any action taken by the City beyond the scope of this Agreement which otherwise may give rise to a cause of action under the Act.

Section 5.02 Developer's Right to Continue Development. The City and the Developer hereby acknowledge and agree that, subject to Section 7.04 of this Agreement, the Developer may sell all or a portion of the Tract to one or more Persons who shall be bound by this Agreement and perform the obligations of Developer hereunder. If there is more than one Person acting as a Developer hereunder, the acts or omissions of one Developer which result in that Developer's default shall not be deemed the acts or omissions of any other Developer, and a performing Developer shall not be held liable for the nonperformance of another Developer. In the case of nonperformance by one or more Developers, the City may pursue all remedies against such nonperforming Developer as set forth in Section 6.05 hereof, but shall not impede the planned or ongoing development activities nor pursue remedies against the performing Developer.

Section 5.03 Covenants of Developer

(a) **Lake Amenity.** Developer agrees to construct the lake amenity as shown in the Development Plan and maintain the lake amenity with sufficient water levels to make it aesthetically attractive (and not for any other use, such as fishing or boating or any other recreational purpose) in the reasonable opinion of the Developer.

(b) **Traffic Signal Construction.** Developer agrees to contribute to the City one-half of the engineering and construction costs for the construction of a traffic signal (as required by the City) at the intersection of Town Center Boulevard and Reading Road, Developer agrees to pay the City said amount before the first certificate of occupancy is issued within the tract. City shall construct the traffic signal within one hundred eighty (180) days of receiving said payment.

ARTICLE VI MATERIAL BREACH, NOTICE AND REMEDIES

Section 6.01 Material Breach of Agreement. It is the intention of the parties to this Agreement that the Tract be developed in accordance with the terms of this Agreement and the Development Plan.

(a) The parties acknowledge and agree that any major deviation from the Development Plan and the concepts of development contained therein and any substantial deviation by Developer from the material terms of this Agreement would frustrate the intent of this Agreement, and therefore, would be a material breach of this Agreement. A material breach of this Agreement by Developer shall be deemed to have occurred in any of the following instances:

Traffic Impact Study

Reading Road Office Park Development Rosenberg, Texas

Submitted to:
The City of Rosenberg

Prepared for:
TTL Corp



M. Irfan
4-5-2010

TBPE FIRM REGISTRATION NO. F-9492

Prepared by:



9111 Katy Freeway, Suite 310
Houston, Texas 77024

April 5, 2010



EXECUTIVE SUMMARY

This study examined site traffic impacts of the proposed Reading Road Office Park development on the intersections of Reading Road and Town Center Boulevard, a 4-way stop control, and Reading Road and B F Terry (FM 2218), a signalized intersection, Rosenberg, Texas. The study analyzed traffic impacts based on existing morning and evening peak period traffic conditions. The study also conducted a traffic signal warrant analysis at the intersection of Reading Road and Town Center Boulevard.

KEY FINDINGS

In conducting the analyses, the following findings and conclusions were made:

- The vehicular trip generation for the project was derived based on the trip generation rates from the *ITE Trip Generation Manual*, 7th Edition. The trip generation rates for Office Building (ITE Code 710) were used to estimate the number of inbound and outbound trips during the peak hours.
- The project was estimated to generate 181 trips during the morning peak hour (159 inbound and 22 outbound) and 174 trips during the PM peak hour (30 inbound and 144 outbound trips).
- Based on the findings of this report, it can be concluded that the intersection of Reading Road and B F Terry (FM 2218), currently signalized intersection, will remain operating at acceptable level of service C for both the morning and evening peak hours after the proposed development is in place and the proposed roadway improvements on B F Terry Blvd (FM 2218) and Reading Road are done by the State Department of Transportation.
- It is concluded that a traffic signal is warranted at the intersection of Reading Road and Town Center Blvd. (All-way stop control intersection) based on the existing 2010 traffic volumes, No Build Scenario.
- It is also concluded that the intersection of Reading Road and Town Center Blvd. is expected to operate at levels of service D (30.3 sec/veh) and F (100.6 sec/veh) at 2011 No Build Scenario for both the morning and evening peak hours respectively. Without the additional projected traffic of this development, the intersection is already experiencing a significant delay with Level of service F in the evening peak hour. The proposed development resulted to change the levels of service at this intersection from **D (30.3 sec/veh) to E (42.1 sec/veh)** and from **F (100.6 sec/veh) to F (118.5 sec/veh)** for both the morning and evening peak hours at the 2011 Build Scenario.

- To mitigate the above described near capacity situation for the morning peak hour and the intersection fail situation for the evening peak hour at the intersection of Reading Road and Town Center Blvd., the installation of a traffic signal seems to improve the levels of service significantly. Our analysis revealed that the intersection significantly improved to levels of service B (17.5 sec/veh) and C (20.8 sec/veh) in the morning and evening peak hours respectively.

RECOMMENDATIONS

Following are the recommendations to mitigate the additional traffic generated by the proposed office park development:

- 1) The installation of a traffic signal is warranted at the intersection of Reading Rd and Town Center Blvd. based on the existing and no build out traffic conditions. Therefore, the City of Rosenberg shall consider installing a fully actuated traffic signal system at this intersection with the proposed project to mitigate the traffic situation at this intersection.
- 2) It is recommended to install left turn lanes on the southbound Reading Rd at the proposed driveway locations #1 and #2 with minimum turn lane storage of 150' at each location.
- 3) It is also recommended to include a left turn lane internally on the driveway location #2 for the exiting traffic onto Reading Road.

The following recommendations are presented for the design and the traffic control at the intersections of proposed site access drives with Reading Road:

- 4) **Project Driveway-1:** Provide a 35-ft radius for the proposed driveway-1, the northernmost driveway, and install the Stop sign R1-1 per Texas Manual on Uniform Traffic Control Device, TMUTCD.
- 5) **Project Driveway-2:** Provide a 35-ft radius for the proposed driveway-2, a full access middle driveway, and install the Stop sign R1-1, per TMUTCD. Make sure that this driveway is properly aligned with the existing church driveway across Reading Road. The project civil designer must review the spacing of the Reading Road median noses at this driveway location to make sure that it meets the standard city requirements or the standard engineering practice which ever are more stringent to provide safe turning movements for all inbound and outbound traffic.
- 6) **Project Driveway-3:** Provide a 35-ft radius for the proposed driveway-3, a right-in and right-out southernmost driveway. Install the Stop sign R1-1 with "ONE WAY arrow" sign R6-2 under per the Texas Manual on Uniform Traffic Control Devices (TMUTCD).

RESOLUTION NO. R-1214

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 DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY AND 16 ROSE, LTD, REGARDING THE READING ROAD OFFICE PARK, A SUBDIVISION OF 8.928 ACRES.

* * * * *

WHEREAS, 16 Rose, LTD ("Developer") desires to develop an office park ("Development") in the area generally located in a proposed subdivision that lies west of the intersection of Reading Road and FM 2218; and,

WHEREAS, in order to facilitate development of said subdivision, the City of Rosenberg, Texas, ("City") and the Developer desire to establish certain restrictions and commitments regarding same; and,

WHEREAS, the City and the Developer agree that the development of the Tract can best be advanced through participation in a Development Agreement;

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

Section 1. The City Council of the City of Rosenberg, Texas, does hereby authorize the City Manager to execute a Development Agreement, by and between the City of Rosenberg, Texas, and 16 Rose, LTD, attached hereto as "Exhibit A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this 21st day of September 2010.

ATTEST:

APPROVED:


Linda Cernosek, CITY SECRETARY


Joe M. Gurecky, MAYOR



DEVELOPMENT AGREEMENT

Between

THE CITY OF ROSENBERG, TEXAS

and

**16 ROSE, LTD.,
a Texas limited partnership**

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**DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF ROSENBERG, TEXAS,
AND
16 ROSE, LTD.**

This Development Agreement (the **Agreement**) is made and entered into as of the ____ day of _____, 2010, by **THE CITY OF ROSENBERG, TEXAS**, a home rule municipality in Fort Bend County, Texas, acting by and through its governing body, the City Council of Rosenberg, Texas (the **City**); and **16 ROSE LTD.**, a Texas limited partnership (the **Developer**).

RECITALS

The City is a home rule city and municipal corporation that provides a full-range of governmental services to its citizens.

The Developer owns or will own approximately 8.93 acres in the City's corporate limits, which acreage is more particularly described in Exhibit A annexed hereto (the **Tract**). The City wishes to provide for the orderly, safe, and healthful development of land within the City's jurisdiction as provided in Chapter 42, Texas Local Government Code.

The Developer desires to develop a high quality office park on the Tract (the **Project**) and acknowledges that to secure financing to develop the Project requires an agreement with the City that will provide long-term certainty concerning the City's regulatory requirements and development standards.

The City and the Developer agree that the development of the Tract can best proceed pursuant to a development agreement.

It is the intent of this Agreement to establish certain restrictions and commitments imposed and made in connection with the development of the Tract. The City and the Developer are proceeding in reliance on the enforceability of this Agreement.

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the City and the Developer agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.01 Terms. Unless the context requires otherwise, and in addition to the terms defined above, the following terms and phrases used in this Agreement shall have the meanings set out below:

Association means **Reading Road Office Park Owners Association**, a non-profit corporation duly incorporated and operating under the laws of the State of Texas, and the Association's successors, replacements, assigns and designees. The members of which are owners of lots within the Tract. **City** means the City of Rosenberg, Texas.

City Council means the City Council of the City or any successor governing body.

Common Area means all real property owned by the Owners or Association for the common use and enjoyment of the Owners. The Common Area is referred to as "Common Area" on designated recorded Parcels and Reserves for specific purposes by any plat of the Tract. The Common Area crosses Parcels and Reserves to provide access to each Parcel and Reserve to and from Reading Road with

parking spaces. The Common Area is also for construction, operation and maintenance all public and private utilities deemed necessary to serve all Parcels and Reserves,

Designated Mortgagee means, whether one or more, any mortgagee or security interest holder that has been designated to have certain rights pursuant to Article V hereof.

Developer means 16 Rose, Ltd., a Texas limited partnership.

Development Ordinance means the City's development ordinance as defined in Section 3.01 of this Agreement.

Development Plan means the plan for the proposed development of the Tract, a copy of which is attached to this Agreement as Exhibit B, as it may be revised from time to time in accordance with the terms of this Agreement and with City approval of any material change, said material change being determined by the City in the City's sole discretion.

Owner means the record owner, whether one or more Persons, of a fee simple title to any Parcel with is part of the Tract, but excluding those Persons have such interest as security for the performance of any obligation.

Parcel means any subdivided portion of the Tract as per a properly subdivision plat filed in the Fort Bend County Clerk's Office which is conveyed to another party.

Person means any individual, partnership, association, firm, trust, estate, public or private corporation, or any other legal entity whatsoever.

Planning Commission means the Planning and Zoning Commission of the City.

Reserve means any subdivided portion of the Tract as per a properly subdivision plat filed in the Fort Bend County Clerk's Office which is conveyed to the **Association**.

Tract means all the land described in the attached Exhibit A and also means any other property proposed for inclusion within the Tract by the Developer, and approved by City Council for such inclusion.

Ultimate Consumer means the purchaser of a tract or lot within the Tract who does not intend to resell, subdivide, or develop the tract or lot in the ordinary course of business.

Section 1.02 Exhibits. The following exhibits are attached to this Agreement as though fully incorporated herein:

<u>Exhibit A</u>	The Tract
<u>Exhibit B</u>	Development Plan
<u>Exhibit C</u>	Declaration of Covenants, Conditions and Restrictions

ARTICLE II DEVELOPMENT PLAN AND PLATTING

Section 2.01 Introduction. The Tract is to be developed as an office park. The land uses within the Tract shall be typical of an office and business park intended for office use and occupancy but not retail purposes.

Section 2.02 Platting. The Developer acknowledges that it is required to plat the Tract into a subdivision, but may do so in one or more subdivisions, tracts, or replats, in accordance with the requirements of the Development Ordinance. *The Developer hereby acknowledges and agrees that the City's final approval of any of the plats of land within the Tract does not constitute in any way the City's reservation, commitment, or statement of availability of water, sanitary sewer, or storm water drainage capacity or services for such land, unless all appropriate fees are paid by the Developer in conjunction with such plat approval.*

Section 2.03 Declaration of Covenants, Conditions and Restrictions. Before the sale of an Ultimate Consumer of the first lots out of the Tracts, the Developer agrees to execute the Declaration of Covenants, Conditions and Restrictions of Reading Road Office Park, in the form annexed hereto as Exhibit C, and arrange to record same in the Real Property Records of Fort Bend County, Texas.

Section 2.04 Automatic Termination. This Agreement shall automatically terminate and be of no further force and effect if the Developer has not initiated construction of any infrastructure within the Tract within two years from the date of this Agreement.

ARTICLE III DESIGN AND CONSTRUCTION STANDARDS AND APPLICABLE ORDINANCES

Section 3.01 Regulatory Standards and Development Quality. The City and the Developer agree that one of the primary purposes of this Agreement is to provide for quality development of the Tract. In exchange for Developer's performance of the obligations under this Agreement to develop the Tract in accordance with certain standards and to provide the overall quality of development described in this Agreement, the City agrees to the extent allowed by law that it will not impose or attempt to impose any moratoriums on building or growth within the Tract and agree to the provisions of Section 3.06 of this Agreement.

The City has established development rules and regulations, which will ensure a quality, unified development. The term ***Development Ordinance***, as used in this Agreement, means each and every ordinance adopted by the City regulating the development. Future amendments or changes to the Development Ordinance are applicable to the extent permitted by law. For purposes of determining which development regulations apply to Developer's plat, the Development Ordinance is the one in effect pursuant to the provisions of this Agreement on the date of the Developer's submittal of its preliminary plat to the City. Notwithstanding the foregoing provisions of this section, the parties agree that the City's plat filing fees, review fees, inspection fees, impact fees, and connection (tap) fees as the City may amend them from time to time, shall be applied to the Developer and the Tract so long as any such amendments adopted by the City Council apply uniformly throughout the City.

Section 3.02 Design Standards for Public Improvements. The Developer shall provide streets, drainage, utilities, facilities, and amenities according to the Development Plan at its sole cost. The Developer shall provide written certification to the City from a professional engineer registered in the state of Texas that the City's then current design criteria for streets, paving, drainage, water, and wastewater improvements have been met. Subject to such certification from a registered professional engineer and approval of the plans by the City Engineer, no approval by the Planning Commission or the City Council shall be required.

Section 3.03 Water Line. The Developer shall provide public water lines with all necessary appurtenances to serve the Parcels and the Reserves. The Developer shall dedicate a 15-foot wide water line easement either by recorded Plat or by separate instrument as approved by the City, generally as shown on the Development Plan. The Developer shall be permitted to construct a 6-inch concrete curb and a 4.5-foot wide sidewalk within the 15-foot water line easement, adjacent to one side of the 15-foot water line easement. The remainder of the 15-foot water line easement shall be unencumbered with any surface improvements. The City shall be granted a 20-foot wide temporary construction easement

adjacent to the 15-foot wide easement for use as necessary for any maintenance, repairs, or other operations associated with the use of the water line within the 15-foot water line easement.

If, during the course of any maintenance, repairs, or other operations associated with the use of the water line within the 15-foot water line easement, the City damages or removes any improvements within the 15-foot water line easement, including but not limited to sidewalks, curbs, pavement, or landscaping, the City shall not be responsible or obligated to repair or replace said improvements.

The City will install all necessary water meters to provide service to the Parcels. All such meters shall be located within the 15-foot water line easement. The Developer or Owners are responsible for extending all service lines from the water meters to the Parcels.

Section 3.04 Other City Utilities. The City shall provide sanitary sewer service to the Tract via the existing sanitary sewer line along Reading Road adjacent to the tract. The Developer is responsible for the construction, operation, and maintenance of all sanitary sewer lines within the Tract necessary to provide service to the Parcels. The City shall not have any obligation or responsibility to maintain, repair, or operate the internal sanitary sewer lines which connect to the City's existing sanitary sewer line in Reading Road.

The Developer shall be responsible for the construction, operation, and maintenance of all internal storm sewers and drainage systems, including the detention basin adjacent to the Tract as shown in the Development Plan. The City shall accept only approved drainage from this detention basin outfall where said outfall connects to the City's storm sewer system located within Reading Road adjacent to the Tract. The City shall not have any obligation or responsibility to maintain, repair, or operate the internal storm sewer lines and related appurtenances, the detention basin, or the detention basin outfall which connects to the City's existing storm sewer line in Reading Road.

Section 3.05 Construction. All water, wastewater, and drainage improvements to serve the Tract (the *Facilities*) shall be constructed by or on behalf of the Developer at the Developer's expense and shall be designed using the City's standard criteria.

Section 3.06 Service Capacity. Subject to the Developer's construction of water, wastewater, and drainage utilities to serve the Tract in accordance with the provisions of Section 3.03, Section 3.04, and Section 3.05, the City shall acknowledge and reserve to the Developer service capacity in such utilities. Developer is not required to construct any water plant, wastewater plant, or lift station facilities, but only is required to construct internal water, wastewater and drainage lines to provide services to the Tract.

Section 3.07 Other Facilities. The Development Plan reflects a proposed landscaping plans and the development of green areas. The Developer hereby agrees to construct such areas in substantial compliance with the Development Plan.

Section 3.08 Access. The City acknowledges that the Parcels and Reserves shown within the Development Plan do not have access to a public roadway or an access easement as defined and required within Chapter 25 of the City's current Code of Ordinances. Through the Declaration of Covenants, Conditions and Restrictions for Reading Road Office Park attached a Exhibit C, which shall be filed of record in the Fort Bend County Clerk's Office prior to City approval of the first subdivision plat pertaining to the Tract and the Common Areas are to be established within the Tract. The Common Areas shall provide the necessary and uninterrupted access to Reading Road from all Parcels and Reserves within the Tract. The City shall have the right to use the Common Areas for all necessary City services, both emergency and non-emergency, including access to the City's water line in Section 3.03.

The City agrees to allow for the platting of the Tract as necessary to create the Parcels, Reserves, and designated Common Areas. The City may not deny the approval of said plats on the basis that the Parcels do not have access to a public roadway or an access easement, as long as the requirements of this Section are met.

Section 3.09 Liability of Ultimate Consumer. Ultimate Consumers have no liability for the failure of the Developer to comply with the terms of this Agreement and are only liable for their own failure to comply with the recorded Declaration of Restrictive Covenants applicable to the Project.

Section 3.10 Building Height. No building (or any portion of building) within the Tract shall exceed a height of thirty (30) feet per fire code.

Section 3.11 Variance to Parking Restriction. City grants the right to the Developer to permit and construct parking spaces for the Project to contain the following dimensions, notwithstanding any ordinance or regulations that otherwise requires the City's approval of a variance to the parking space requirements included in the City's Development Ordinance: 9 feet wide by 19 feet long.

ARTICLE IV PROVISIONS FOR DESIGNATED MORTGAGEE

Section 4.01 Notice to Designated Mortgagee. Any Designated Mortgagee is entitled to simultaneous notice any time that a provision of this Agreement requires notice to Developer.

Section 4.02 Right of Designated Mortgagee to Cure Default. Any Designated Mortgagee shall have the right, but not the obligation, to cure any default in accordance with the provisions of Section 4.03 and Article VII.

Section 4.03 Designated Mortgagee.

(a) At any time after execution and recordation in the Real Property Records of Fort Bend County, Texas, of any mortgage, deed of trust, or security agreement encumbering the Tract or any portion thereof, the Developer (i) shall notify the City in writing that the mortgage, deed of trust, or security agreement has been given and executed by the Developer, and (ii) may change the Developer's address for notice pursuant to Section 8.01 to include the address of the Designated Mortgagee to which it desires copies of notice to be provided.

(b) At such time as a release of any such lien is filed in the Real Property Records of Fort Bend County, Texas, and the Developer gives notice of the release to the City as provided herein, all rights and obligations of the City with respect to the Designated Mortgagee under this Agreement shall terminate.

(c) The City agrees that it may not exercise any remedies of default hereunder unless and until the Designated Mortgagee has been given 30 days written notice and opportunity to cure (or commences to cure and thereafter continues in good faith and with due diligence to complete the cure) the default complained of. Whenever consent is required to amend a particular provision of this Agreement or to terminate this Agreement, the City and the Developer agree that this Agreement may not be so amended or terminated without the consent of such Designated Mortgagee; provided, however, consent of a Designated Mortgagee shall only be required to the extent the lands mortgaged to such Designated Mortgagee would be affected by such amendment or termination.

(d) Upon foreclosure (or deed in lieu of foreclosure) by a Designated Mortgagee of its security instrument executed by the Developer encumbering the Tract, such Designated Mortgagee (and its affiliates) and their successors and assigns shall not be liable under this Agreement for any defaults that are in existence at the time of such foreclosure (or deed in lieu of foreclosure). Furthermore, so long as such Designated Mortgagee (or its affiliates) is only maintaining the Tract and marketing it for sale, and is not actively involved in the development of the Tract, such Designated Mortgagee (and its affiliates) shall not be liable under this Agreement. Upon foreclosure (or deed in lieu of foreclosure) by a Designated Mortgagee, any development of the property shall be in accordance with this Agreement.

(e) If the Designated Mortgagee or any of its affiliates and their respective successors and assigns, undertakes development activity, the Designated Mortgagee shall be bound by the terms of this Agreement. However, under no circumstances shall such Designated Mortgagee ever have liability for matters arising either prior to, or subsequent to, its actual period of ownership of the Tract, or a portion thereof, acquired through foreclosure (or deed in lieu of foreclosure).

ARTICLE V PROVISIONS FOR DEVELOPER

Section 5.01 Waiver of Actions Under Private Real Property Rights Preservation Act. The Developer hereby waives its right, if any, to assert any causes of action against the City accruing under the Private Real Property Rights Preservation Act, Chapter 2007, Texas Government Code (the **Act**), that the City's execution or performance of this Agreement or any authorized amendment or supplements thereto may constitute, either now or in the future, a "Taking" of Developer's, Developer's grantee's, or a grantee's successor's "Private Real Property," as such terms are defined in the Act. Provided, however, that this waiver does not apply to, and the Developer and Developer's grantees and successors do not waive their rights under the Act to assert a claim under the Act for any action taken by the City beyond the scope of this Agreement which otherwise may give rise to a cause of action under the Act.

Section 5.02 Developer's Right to Continue Development. The City and the Developer hereby acknowledge and agree that, subject to Section 7.04 of this Agreement, the Developer may sell all or a portion of the Tract to one or more Persons who shall be bound by this Agreement and perform the obligations of Developer hereunder. If there is more than one Person acting as a Developer hereunder, the acts or omissions of one Developer which result in that Developer's default shall not be deemed the acts or omissions of any other Developer, and a performing Developer shall not be held liable for the nonperformance of another Developer. In the case of nonperformance by one or more Developers, the City may pursue all remedies against such nonperforming Developer as set forth in Section 6.05 hereof, but shall not impede the planned or ongoing development activities nor pursue remedies against the performing Developer.

ARTICLE VI MATERIAL BREACH, NOTICE AND REMEDIES

Section 6.01 Material Breach of Agreement. It is the intention of the parties to this Agreement that the Tract be developed in accordance with the terms of this Agreement and the Development Plan.

(a) The parties acknowledge and agree that any major deviation from the Development Plan and the concepts of development contained therein and any substantial deviation by Developer from the material terms of this Agreement would frustrate the intent of this Agreement, and therefore, would be a material breach of this Agreement. A material breach of this Agreement by Developer shall be deemed to have occurred in any of the following instances:

(1) Developer's failure to develop the Tract in compliance with the approved Development Plan, as from time to time amended; or Developer's failure to secure the City's approval of any material or significant modification or amendment to the Development Plan; or

(2) Failure of Developer to substantially comply with a provision of this Agreement or a City ordinance applicable to the Tract.

(b) The parties agree that nothing in this Agreement can compel the Developer to proceed or continue to develop the Tract within any time period.

(c) The parties acknowledge and agree that any substantial deviation by the City from the material terms of this Agreement would frustrate the intent of this Agreement and, therefore, would be a

material breach of this Agreement. A material breach of this Agreement by the City shall be deemed to have occurred in any of the following instances:

- (1) The imposition or attempted imposition of any moratorium on building or growth on the Tract prohibited by State law or this Agreement;
- (2) An attempt by the City to enforce any City ordinance within the Tract that is inconsistent with the terms and conditions of this Agreement;
- (3) An attempt by the City to require modification or amendment of the Development Plan where it complies with the requirements of this Agreement; or
- (4) An attempt by the City to unreasonably withhold approval of a plat of land within the Tract that complies with the requirements of this Agreement.

If a party to this Agreement believes that another party has, by act or omission, committed a material breach of this Agreement, the provisions of this Article VI provide the remedies for such default.

Section 6.02 Notice of Developer's Default.

(a) The City shall notify the Developer and each Designated Mortgagee in writing of an alleged failure by the Developer to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The alleged defaulting Developer shall, within 30 days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or, in a written response to the City, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(b) The City shall determine (i) whether a failure to comply with a provision has occurred; (ii) whether such failure is excusable; and (iii) whether such failure has been cured or will be cured by the alleged defaulting Developer or a Designated Mortgagee. The alleged defaulting Developer shall make available to the City, if requested, any records, documents or other information necessary to make the determination.

(c) In the event that the City determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the City, or that such failure is excusable, such determination shall conclude the investigation.

(d) If the City determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured by the alleged defaulting Developer or a Designated Mortgagee in a manner and in accordance with a schedule reasonably satisfactory to the City, then the City Council may proceed to mediation under Section 6.04 and subsequently exercise the applicable remedy under Section 6.05.

Section 6.03 Notice of City's Default.

(a) The Developer shall notify the City in writing of an alleged failure by the City to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The City shall, within 30 days after receipt of such notice or such longer period of time as the Developer may specify in such notice, either cure such alleged failure or, in a written response to the Developer, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(b) The Developer shall determine (i) whether a failure to comply with a provision has occurred; (ii) whether such failure is excusable; and (iii) whether such failure has been cured or will be cured by the City. The City shall make available to the Developer, if requested, any records, documents or other information necessary to make the determination. In the event that the Developer determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the Developer, or that such failure is excusable, such determination shall conclude the investigation.

(c) If the Developer determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured by the City in a manner and in accordance with a schedule reasonably satisfactory to the Developer, then the Developer may proceed to mediation under Section 6.04 and subsequently exercise the applicable remedy under Section 6.05.

Section 6.04 Mediation. In the event the parties to this Agreement cannot, within a reasonable time, resolve their dispute pursuant to the procedures described in Sections 6.02 or 6.03, the parties agree to submit the disputed issue to non-binding mediation. The parties shall participate in good faith, but in no event shall they be obligated to pursue mediation that does not resolve the issue within seven days after the mediation is initiated or 14 days after mediation is requested. The parties participating in the mediation shall share the costs of the mediation equally.

Section 6.05 Remedies. In the event of a determination by the City that the Developer has committed a material breach of this Agreement that is not resolved in mediation pursuant to Section 6.04, the City may, subject to the provisions of Section 6.02, file suit in a court of competent jurisdiction in Fort Bend County, Texas, and seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act and or termination of this Agreement as to the breaching Developer. In the event of a determination by a Developer that the City has committed a material breach of this Agreement that is not resolved in mediation pursuant to Section 6.04, the Developer may file suit in a court of competent jurisdiction in Fort Bend County, Texas, and seek any relief available, at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act to enforce compliance with or termination of this Agreement.

ARTICLE VII BINDING AGREEMENT, TERM, AMENDMENT, AND ASSIGNMENT

Section 7.01 Beneficiaries. This Agreement shall bind and inure to the benefit of the City and the Developer, their successors and assigns. In addition to the City and the Developer, Designated Mortgagees, and their respective successors or assigns, shall also be deemed beneficiaries to this Agreement. The terms of this Agreement shall constitute covenants running with the land comprising the Tract and shall be binding on all future Developers and owners of any portion of the Tract, other than Ultimate Consumers. Notwithstanding the foregoing statement, an Ultimate Consumer shall, to the extent allowed by law, be bound by the Developer's waiver of rights described in Section 5.01. **Section 7.02**

Term. This Agreement shall bind the parties and continue for 25 years from the date of this Agreement, unless terminated on an earlier date pursuant to other provisions or by express written agreement executed by the City and Developer. Upon the expiration of 25 years from the date of this Agreement, this Agreement may be extended, at the Developer's request and with City Council approval, for successive one-year periods.

Section 7.03 Termination. In the event this Agreement is terminated as provided in this Agreement or is terminated pursuant to other provisions, or is terminated by mutual agreement of the parties, the parties shall promptly execute and file of record, in the County Clerk Official Records of Fort Bend County, a document confirming the termination of this Agreement, and such other documents as may be appropriate to reflect the basis upon which such termination occurred.

Section 8.03 Severability. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected.

Section 8.04 Waiver. Any failure by a party hereto to insist upon strict performance by the other party of any material provision of this Agreement shall not be deemed a waiver thereof or of any other provision hereof, and such party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

Section 8.05 Applicable Law and Venue. The construction and validity of this Agreement shall be governed by the laws of the State of Texas without regard to conflicts of law principles. Venue shall be in Fort Bend County, Texas.

Section 8.06 Reservation of Rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws.

Section 8.07 Further Documents. The parties agree that at any time after execution of this Agreement, they will, upon request of another party, execute and deliver such further documents and do such further acts and things as the other party may reasonably request in order to effectuate the terms of this Agreement.

Section 8.08 Incorporation of Exhibits and Other Documents by Reference. All Exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

Section 8.09 Effect of State and Federal Laws. Notwithstanding any other provision of this Agreement, Developer, its successors or assigns, shall comply with all applicable statutes or regulations of the United States and the State of Texas, as well as any City ordinances not in conflict with this Agreement, and any rules implementing such statutes or regulations.

Section 8.10 Authority for Execution. The City hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the City Charter and City ordinances. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreements of such entities.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this agreement as of _____, 2010.

CITY:

CITY OF ROSENBERG, TEXAS

By: _____
Name: _____
Its: _____

DEVELOPER:

16 ROSE, LTD., a Texas limited partnership

By: **16 ROSE GP, LLC**, a Texas limited liability
company
Its: **General Partner**

By: _____
Name: _____
Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE TRACT

8.923 acres of land, being all of RES. "B", in Block 2, of GREENWOOD COMMERCIAL SUBDIVISION, SECTION THREE (3), a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded under Slide No. 2469/A of the Plat Records of Fort Bend County, Texas.

EXHIBIT B
DEVELOPMENT PLAN

EXHIBIT C

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

**COVENANTS, CONDITIONS AND RESTRICTIONS
FOR READING ROAD OFFICE PARK**

This Declaration of Covenants, Conditions and Restrictions (this *Declaration*) is made on _____, 2010, by **16 ROSE, LTD**, a Texas limited partnership (the *Declarant*).

RECITALS:

WHEREAS, Declarant is the owner and developer of that certain tract of land located in Fort Bend County, Texas (the *Property*) as more particularly described on Exhibit A attached hereto and shown on the site plan attached as Exhibit B (the *Site Plan*), both of which exhibits are made by this reference a part hereof; and

WHEREAS, Declarant desires to subject the Property to the easements, restrictions, covenants and conditions which are set forth in this Declaration to provide a common scheme of development in order to protect the quality of the Property and maintain the value of the Property over a long period of time for the benefit of the Property and each current and subsequent owner (s) thereof.

NOW, THEREFORE, Declarant hereby declares that all of the Property described on Exhibit B shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof, Declarant hereby declares as follows:

ARTICLE I DEFINITIONS

1.1 The following capitalized terms used in this Declaration, are defined as follows:

ACC has the definition given to such term in Section 6.1 hereof.

Association means **Reading Road Office Park Owners Association**, a non-profit corporation duly incorporated and operating under the laws of the State of Texas, and the Association's successors, replacements, assigns and designees. The powers granted to the Association under these restrictions are vested in the Board of Directors unless otherwise expressly set forth herein.

Board or **Board of Directors** means the Board of Directors as described in the Bylaws of the Association, as same may be amended from time to time.

Building(s) means any permanently enclosed structure(s) which has (have) been, will be or may be constructed within an Owner's Permissible Building Area (as that term is hereinafter defined), but such term does not include Common Area Improvements (as that term is hereinafter defined).

Common Area means all real property owned by the Owners or Association for the common use and enjoyment of the Owners. The Common Area is referred to as "Common Area" on designated recorded Parcels and Reserves for specific purposes by any plat of the Tract. The Common Area crosses Parcels and Reserves to provide access to each Parcel and Reserve to and from Reading Road with parking spaces. The Common Area is also for construction, operation and maintenance all public and private utilities deemed necessary to serve all Parcels and Reserves,

Common Area Improvements means all improvements which will be or may be constructed on a Parcel under the terms of this Declaration within the Common Area, including, all perimeter sidewalks, parking areas, access and egress drives, service drives, lighting standards, signage, and all other improvements which would be part of the "Common Area" as herein defined, and all improvements

constructed from time to time in replacement of the same or in such redesign of the same as may be approved to by the Association.

Reserve Improvements means all improvements which will be or may be constructed on a Reserve, including, all perimeter sidewalks, parking areas, access and egress drives, service drives, lighting standards, signage, and all other improvements, and all improvements constructed from time to time in replacement of the same or in such redesign of the same as may be approved to by the Association.

Common Utility Facilities means utility systems and facilities from time to time situated on or serving the Parcels, up to the building wall of any Building, for use or service in common by the Owners within the Common Area or the Reserve, such as the following: storm water drainage, retention and disposal facilities, sanitary sewer systems, manholes, underground domestic and fire protection water systems, underground natural gas systems, underground electric power cables and systems, underground telephone, television cables and fiber optic cables and systems, and all other utility systems and facilities for such common use or service, including, without limitation, those installed under the provisions of this Declaration and as replacements thereto,

Conversion Date means the date of the earlier to occur of (i) the moment title to all of the Parcels shall have been conveyed to one or more third parties by Declarant, or (ii) December 31, 2020.

Default Rate means the lesser of (i) 12% per annum and (ii) the maximum rate allowed by applicable law.

Grantee means an Owner to whom an easement is granted, it being intended that the grant benefits the Owner and its heirs, executors, administrators, successors, assigns, occupants and permittees. The Grantee may permit from time to time its occupants and permittees to use such easements; provided, however, that no such permission or the division of the dominant estate permits or results in a use of the easement in excess of the use contemplated at the date of the creation of such easement.

Grantor means the Owner granting an easement in such Owner's Parcel, it being intended that the grant binds the Owner and its heirs, executors, administrators, successors and assigns.

Improvements means Building(s), signage and Common Area Improvements on a Parcel.

Member means an Owner, including Declarant.

Mortgage means any duly recorded mortgage or deed of trust encumbering a Parcel. The term **First Mortgage** refers to a Mortgage which has priority over all other Mortgages encumbering a specific Parcel.

Mortgagee means the mortgagee or beneficiary under any Mortgage, including without limitation any bank, insurance company, savings and loan association, pension and profit sharing trust or plan, or other bona fide lender, and Declarant. The term **First Mortgagee** means the holder of a Mortgage that has priority over all other Mortgages encumbering a Parcel.

Owner means the record owner, whether one or more Persons, of a fee simple title to any Parcel which is a part of the Property, but excluding those Persons having such interest as security for the performance of any obligation.

Occupant means any Person legally entitled to use or occupy and use all or any portion of a Parcel or Improvements constructed thereon Person under an ownership right or any lease, sublease, license, concession, or other similar agreement.

Parcel means any Parcel of land shown on Exhibit B.

Permissible Building Area means an area designated as such on the Site Plan within which a Building of a certain size and height may be constructed as hereinafter more fully provided. No building, structure or improvements (other than Common Area Improvements) shall be erected or maintained outside of a Permissible Building Area.

Permittee means all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended use of the Property. Among others, Persons engaging in the following activities on the Common Areas are not considered a Permittee:

- A. Exhibiting any placard, sign, or notice;
- B. Distributing any circular, handbill, placard, or booklet;
- C. Soliciting memberships or contributions;
- D. Parading, picketing, or demonstrating; and
- E. Failing to comply with the rules and regulations adopted by the ACC governing the use and operation of the Common Area.

Person means a natural person, partnership (whether general or limited), trust, real estate investment trust, business trust, estate, association, corporation, limited liability company, unincorporated organization, custodian, nominee or any other individual or entity in its own or any representative capacity.

Property means that certain real property described on the attached Exhibit B.

Reserve means any subdivided portion of the Tract as per a subdivision plat properly filed in the Fort Bend County Clerk's Office which is conveyed to the **Association** and shown on Exhibit B.

Separate Utility Facilities means any of the following not installed under the terms of this Declaration and not for use in common by other Owners or for service of the Common Area: storm water drainage facilities, sanitary sewer systems (including, without limitation, underground storm and sanitary sewer systems), underground domestic and fire protection water systems, underground natural gas systems, underground electric power, cables and systems, underground telephone, television cables and fiber optic cables and systems, and all other utility systems and facilities reasonably necessary solely for the use or service of any Improvement situated on any Parcel.

1.2 **Construction.** Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter. All references to "Articles", "Sections", "subsections" and "clauses" refer to articles, sections, subsections and clauses of this Agreement, unless otherwise specified. The captions in this Agreement are for convenience only, and shall not affect the meaning or interpretation of this Agreement. In this Agreement, "including" is used only to indicate examples, without limitation as to the indicated examples, and without limiting any generality that precedes it.

ARTICLE II EASEMENTS

2.1 For the purposes of this Declaration, the following provisions govern and control:

- (a) With the exception of the self-help easements set forth in Section 2.5, all easements granted herein are nonexclusive and are irrevocable and perpetual.

- (b) Except as otherwise specifically provided, all easements herein shall be easements appurtenant and not easements in gross.
- (c) All easements granted hereunder are created by this Declaration, without the necessity of confirmation by any other document. Likewise, upon the termination or release of any easement (in whole or in part) in respect of all or any part of any Parcel, in accordance with the express terms hereof, such termination or release becomes effective without the necessity of confirmation by any other document. However, upon the request of an Owner, the other Owners agree to sign and acknowledge a document memorializing the existence, termination, or release of any easement, in whole or part, if the form and substance of the document is approved by the other Owners and governing regulatory authorities. No grant of an easement under this Article II imposes any greater obligation on any Owner to construct or maintain its Building except as expressly provided in this Declaration.
- (d) Enjoyment of the easements granted by this Section commences on the date when such easement are recorded or construction of the Common Areas or Reserves are substantially completed.
- (e) Each Owner hereby reserves the right to eject from the Common Area on its Parcel any Person not authorized to use the same. In addition, each Owner reserves the right to close off the Common Area of its Parcel for such reasonable periods of time as may be legally necessary in the reasonable opinion of its attorneys to prevent the acquisition of prescriptive rights by anyone before closing off any part of the Common Areas as provided above, such Owner must give at least 15 days written notice to each other Owner of its intention to do so and must coordinate its closing with the activities of the other Owners so that no unreasonable interference in the passage of pedestrians or vehicles or with the operation of the Property occurs.

2.2 **Easement for Use of Common Area.** Each Owner, as Grantor pursuant to this Declaration, hereby grants to the other Owner(s) easements in the Common Area on such Grantor's Parcel for the following purposes:

- (a) Ingress to and egress from the Grantee's Parcel;
- (b) The passage and parking of vehicles (provided, however, the Owner or occupant of a Parcel and the employees of the Owner or occupant of a Parcel may only park on such Owners or Occupant's designated parking space(s) and/or undesignated shared parking spaces;
- (c) The passage and accommodation of pedestrians; and
- (d) The easements provided for in this Section 2.2 are subject to the rights to use the Common Area for other purposes provided for in this Declaration; provided, however, that no changes shall be made in the Common Area or in the location or design of Common Area Improvements, except as otherwise herein provided.

2.3 **Easement for Utility Facilities.**

- (a) The site contains public utility easements and public water line easements as shown on Exhibit B. Within these easements, no dwelling, structure, planting, or other material shall be placed or permitted to remain thereon which may damage or interfere with the installation and maintenance of facilities in the easements. The Owner of such Parcel, except for maintenance of which a public utility company or governing agency is responsible, therein shall continuously maintain the area of each Parcel and all improvements. Such easements shall at all times be open and accessible.

- (b) Each Owner, as Grantor pursuant to this Declaration, hereby grants to the other Owners perpetual easements to Grantor's Parcel, except within such Owner's Permissible Building Area, as shown on Exhibit B for the installation, use, operation, maintenance, repair, replacement, relocation and removal of Common Utility Facilities and Separate Utility Facilities serving the Parcel of the Grantee.
- (c) All Separate Utility Facilities installed in the Common Area, whether installed pursuant to this Section or otherwise, and all Common Utility Facilities, shall be underground if reasonably possible and the location of the Separate Utility Facilities shall be subject to the approval of the Owner across whose Parcel the same are to be located.
- (d) Except as otherwise provided herein, the Grantee of any easement for Separate Utility Facilities under this Section shall be responsible, as between such Grantee and the Grantor, for the installation, maintenance, repair and removal at Grantee's cost of all Separate Utility Facilities installed by the Grantee pursuant to the easement grant, as well as for all Separate Utility Facilities installed by the Grantee on its own Parcel. Any such installation, maintenance, repair, replacement relocation and removal of Separate Utility Facilities shall be performed by Grantee only after 30 days advance notice to Grantor of Grantee's intention to do such work. However, in the case of an emergency, any such work may be immediately performed after giving such advance notice to Grantor as is practicable under the circumstances. In addition, all such installation, maintenance, repair and removal must be performed in a manner that causes as little disturbance to Grantor's Parcel as may be practicable under the circumstances, and any portions of the surface area of Grantor's Parcel which may have been excavated, damaged or otherwise disturbed as a result of such work must be restored, at the sole cost and expense of Grantee, to the same condition as prior to the commencement of any such work. The Grantee is obligated to defend and indemnify Grantor from and against any and all liens, losses, liabilities, costs or expenses (including reasonable attorney's fees), incurred in connection with Grantee's exercise of easement rights granted in this Section 2.3 except to the extent occasioned by Grantor's negligent or wrongful acts or omissions to act.
- (e) The Grantor of any easement for Separate Utility Facilities under this Section 2.3 may use the utility facilities installed pursuant to such easement; provided, however, that the increase in costs incurred in order to make such utility facilities adequate to serve Grantor's additional use shall be borne by such Grantor; and provided, further, that Grantor gives written notice within the time period called for in Section 2.3(d) and otherwise complies with the requirements of Section 2.3 hereof.
- (f) The Grantor of any easement under this Section 2.3 may relocate on its Parcel any Separate Utility Facilities or Common Utility Facilities installed thereon under any easement granted by it; provided, however, that such relocation:
 - (i) May be performed only after Grantor has given Grantee 30 days written notice of its intention to relocate such facilities;
 - (ii) May not interfere with or diminish the utility services to the Grantee (however, temporary interferences with and diminutions in utility services shall be permitted if they occur during the non-business hours of the Grantee, and Grantee has been so notified under Subsection 2.3(a) hereof. Grantor shall promptly reimburse Grantee for all costs, expenses and losses incurred by Grantee as a result of such interferences or diminution, or both;
 - (iii) May not reduce or unreasonably impair the usefulness or function of the facilities in question;

- (iv) Must be located underground, if reasonably possible;
 - (v) Must be performed without cost or expense to Grantee; and
 - (vi) If Common Utility Facilities or Separate Utility Facilities are involved that provide service to the Grantee, such relocation must be undertaken in accordance with plans approved by the Grantee and the Association.
 - (vii) Must obtain approvals from governing regulatory agencies.
- (g) All Common Utility Facilities lying within any Common Area are included within Common Area Improvements.
 - (h) Declarant hereby establishes and grants a non-exclusive easement for the benefit of the Owner of each Parcel to use, maintain and repair any storm water drainage system now or hereafter located on any Parcel, together with the right to discharge surface water runoff across portions of the Property in accordance with the design of the stormwater drainage system. No Owner may alter the flow of surface water on its Parcel onto the Parcel of another Owner unless any such alteration in the water flow results from the natural consequence of normal construction activities or the existence of the Owner's Improvements substantially as shown on the Site Plan.

2.4 Construction Easement.

- (a) Each Owner hereby grants to the other Owners easements in the Common Area of such Grantor's Parcel, and where appropriate and necessary, in the Permissible Building Area on its Parcel, but only prior to the commencement of construction by such Grantor of Improvements on its Parcel, for the purpose of facilitating the initial construction of the Grantee's Improvements contemplated by this Declaration. With respect to any Parcels on which fresh dirt is dumped, the area shall be sloped to meet any contiguous property or public roads, and shall be smoothed in a level manner consistent with the contours of the adjoining property or in accordance with a grading plan approved by the Declarant, which approval shall not be unreasonably withheld, conditioned or delayed. The location of all easements granted in this Section 2.4 are subject to the approval of Declarant.
- (b) Each Grantee agrees to use due care in the exercise of the rights granted under this Section 2.4 and, in the event the exercise of the rights granted under this Section 2.4 requires Grantee to enter upon the Parcel of Grantor, to first obtain the consent of Grantor (which consent shall not be unreasonably conditioned, withheld, or delayed) as to the methods and timing in the exercise of such rights so as to avoid cost or damage to Grantor.
- (c) Each Owner covenants and agrees that in connection with the exercise of such easement rights, it may not damage or injure the Buildings or other improvements of any other Owner, and interfere with or interrupt the business operation conducted by any other Owner. In addition, each Grantee, at its sole cost and expense, shall promptly repair, replace or restore any and all Improvements of Grantor which have been damaged or destroyed and indemnify and defend Grantor from and against all liens, losses, liabilities, costs or expenses (including reasonable attorneys' fees) incurred in connection with or arising out of Grantee's exercise of said easement rights, except to the extent occasioned by Grantor's negligent or wrongful act or omission to act.
- (d) Grantee's Improvements in such temporary construction easements shall, for purposes of maintenance, operation, insurance, taxes, repairs, reconstruction and restoration under this Declaration, are part of the Grantee's Parcel and are not part of the Grantor's Parcel

for such purposes. Except as reasonably necessary for the construction of any Building, no structure of a temporary character may be erected or allowed to remain on any Parcel.

- 2.5 **Self Help Easement.** Each Owner hereby grants to the Association an easement and license to enter upon its Parcel for the purpose of exercising the cure rights provided under Article IV of this Declaration. The duration of the easements granted under this Section shall be coterminous with the respective provisions of the Declaration which give the Association the right or the obligation to perform any work pursuant to this Declaration.
- 2.6 **Signage Easement.** Declarant hereby grants to the Association an easement in gross for the construction, operation, maintenance, repair and replacement.
- 2.7 **Easement for Trash Dumpster.** Declarant hereby grants to the Association an easement in gross for the access, placement, maintenance, repair and replacement of a trash dumpster on Reserve in the location shown on the Site Plan (the ***Dumpster Area***).
- 2.8 **No Barrier Agreement.** No barriers, fences, walls, grade changes or other obstructions shall be erected so as to impede or interfere in any way with the free flow of vehicular and pedestrian traffic between those portions of the Parcels from time to time devoted to pedestrian access, vehicular roadways or parking area, or in any manner unreasonably restrict or interfere with the use and enjoyment by any of the Owners of the rights and easements created by this Article. Notwithstanding the foregoing, each Owner may temporarily close or block traffic on its Parcel in accordance with Section 2.2 of this Declaration and may temporarily fence off portions of its Parcel as reasonably required for the purpose of repair, construction and reconstruction.

ARTICLE III. RESTRICTIONS

- 3.1 **Land Use, Building Type and Height.** Each Parcel may be used only for professional or general office use and such related services which are ancillary to such professional or general office use. No building (or any portion of building) within the Tract shall exceed a height of thirty (30) feet.
- 3.2 **Nuisances.** No Parcel may be used in any manner which could constitute a nuisance or an annoyance to the other Owners and their Permittees.
- 3.3 **Use Restrictions.**
- (a) During the term of this Declaration, no portion of the Property may be used for any of the following purposes:
- (i) A tavern, bar, nightclub, discotheque or any other establishment selling alcoholic beverages for on-premises consumption.
 - (ii) A liquor store or other establishment for the sale of alcoholic beverages for off-premises consumption.
 - (iii) A retail store selling retail merchandise or retail services shall include, by way of example but without limitation, hair salons, tanning salons, manicure salons, and repair shops. This subsection does not prohibit a permitted business from providing professional services which shall include, by way of example but without limitation, engineering, medical, attorney and accounting services.
 - (iv) A restaurant, cafeteria or cafe, including a sit down, fast food or drive through eating establishment.

- (v) An establishment for the sale or lease of automobiles, trucks, mobile homes or recreational motor vehicles.
- (vi) A bowling alley, billiard parlor, bingo parlor, arcade, game room or other amusement center.
- (vii) A theater (motion picture or live performance).
- (viii) A health club, gymnasium or spa.
- (ix) A service station, automotive repair shop or truck stop.
- (x) A flea market or pawn shop.
- (xi) A training or educational facility.
- (xii) A car wash.
- (xiii) A child day care facility.
- (xiv) A dry cleaning plant or central laundry or Laundromat.
- (xv) A hotel, motel, apartment, townhome, condominium, or other residence.
- (xvi) A storage mini-warehouse facility.
- (xvii) A governmental office.
- (xviii) An adult type bookstore or other establishment selling renting, displaying or exhibiting pornographic materials or obscene materials or providing adult type entertainment or activities.
- (xix) A massage parlor.
- (xx) A tattoo parlor.
- (xxi) A skating rink.
- (xxii) A mortuary, crematorium or funeral home.
- (xxiii) A mobile home or trailer court, labor camp, junkyard or stockyard.
- (xxiv) A landfill, garbage dump or other such facility for the dumping, disposing, incineration or reduction of garbage.
- (xxv) A telephone call center.
- (xxvi) A gambling establishment or betting parlor.
- (xxvii) Any animal raising or keeping facilities, except that a veterinary clinic IS not prohibited so long as it does not have any outside runs or kennels.
- (xxviii) An assembling, manufacturing, industrial, distilling, refining or smelting facility.
- (xxix) Trash container storage, except as designated on the Site Plan.

- (xxx) A mechanical work shop.
- (b) Signs located in the setback adjacent to Reading Road shall conform to City of Rosenberg standards. The location and size of any pylon or monument signs or other signage constructed on any Parcel are subject to the approval by the ACC, as prescribed in Section 6.2 hereof. In addition, all signage may be used only for the advertising of the Owners, tenants or occupants of the Parcel. The installation, repair and replacement of a sign panel are the sole responsibility of the Owner or occupant that is using the panel to advertise its business. All other maintenance and repair expenses for the signs shall be divided equally among the Parcels. The Association is responsible for prorating such costs among the Owner, and providing such information as may be reasonably requested by an Owner in support thereof. An Owner shall pay its share of all such costs and fees within 30 days following its receipt of an invoice therefor. If an Owner fails to pay for its portion of the repair and maintenance of the signs and such failure continues for a period of ten days after written notice thereof is sent by the Association, the Association is entitled to claim a lien in accordance with Section 7.3 on the Parcel of the defaulting Owner for the unpaid amount. Any unpaid amount owed by an Owner under the terms of this section bears interest at the Default Rate from the date of expiration of said ten day period until paid.
- (c) No other freestanding signs may be located upon any of the Parcels, except (i) signs to facilitate the free direction and flow of traffic, which must be uniform throughout the Property, and (ii) freestanding temporary signs used by Declarant or any Owner in advertising the sale or lease of any Parcel are allowed.
- (d) Unless otherwise approved by the ACC, all building signs must conform to the following standards:
- (i) All signs shall identify the occupant by its name or business.
 - (ii) All signs shall be of such size and shape as shall be established by the ACC.
 - (iii) Signs may not project above the roofline of the Improvement on which it is attached.
 - (iv) Flashing or moving signs are prohibited.
 - (v) All signs shall be kept in a first class appearance and operating condition.
- (e) The ACC shall prescribe additional standards for all signs within the Property in order to preserve a uniform and pleasant atmosphere within the Property. The Association shall have authority to remove or cause to be removed any signs which do not comply with this Declaration. The cost of any such removal, plus a reasonable amount to defray the overhead expenses of the Association, shall be paid by the Owner of the Parcel upon which such non-conforming sign has been installed. If an Owner fails to reimburse the Association within 30 days after receipt of demand, the Association is entitled to claim a lien in accordance with Section 7.3 on the Parcel of the defaulting Owner for the unpaid amount which amount bears interest at the Default Rate from the date of expiration of said 30 day period until paid.

ARTICLE IV. MAINTENANCE, TAXES AND INSURANCE

- 4.1 **Maintenance.** Each Owner shall maintain the Building(s) and the Common Areas on its Parcel in good order and condition and state of repair, including without limitation sweeping and removal of

trash, litter and refuse, painting and striping of parking areas, repair and replacement of paving, as necessary, maintenance of landscaped areas (including replacement and replanting), removal of ice and snow from driveways and parking areas, and maintenance and repair of lighting standards and signs. Each Owner also covenants that it will keep the *inside* and outside of all glass in the doors and windows of its Buildings clean; maintain its Buildings at its own expense in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests; not permit accumulation of garbage, trash, rubbish and other refuse, and remove same, at its own expense; and keep such refuse in proper containers or compactors in places designated therefor until called for, for removal. The maintenance and repair of the Buildings and Improvements on each Parcel must be of such a character that their appearance is that of a unified, first class professional business park. Accordingly, the Owners shall cooperate with each other in good faith with respect to said maintenance and repair and, to the extent reasonably possible, coordinate such repair and maintenance duties and obligations. The Association is authorized to coordinate the removal of trash and the repair and maintenance of the Common Area and to assess the prorated expense therefor against each Parcel. An Owner shall pay its proportional share of all such costs and fees within 30 days following its receipt of a detailed invoice therefor. If such Owner fails to reimburse the Association, within 30 days after receipt of demand the Association is entitled to claim a lien in accordance with Section 7.3 on the Parcel of the defaulting Owner for the unpaid amount, which amount bears interest at the Default Rate from the date of expiration of said 30 day period until paid.

- 4.2 **Damage and Destruction.** In the event of the destruction and damage to any extent to any of the Buildings and Improvements, the Owner of the Parcel upon which said Buildings and Improvements are situated, shall (1) diligently commence (subject to the provisions of Article VI) and pursue completion of the repair or restoration of its Building and Improvements to substantially similar in appearance before such destruction or damage, or (2) within 30 days or such reasonable time thereafter, as may be necessary after the destruction or damage, demolish the remaining Buildings and Improvements, clear and remove debris from the Parcel and leave the Parcel in a clean and safe condition.
- 4.3 **Defaults in Maintenance Responsibilities.** If an Owner fails in its maintenance obligations as set forth in Sections 4.1 or 4.2 hereof, which failure continues for a period of 30 days (ten business days in the event of a failure to pay money) after receipt of written notice thereof specifying the particulars of such failure, such failure constitutes a default under this Declaration and the Association may thereafter perform such maintenance obligations without any liability for damages for wrongful entry trespass or otherwise to any Person, in addition to the Association's pursuit of other remedies allowed under the terms hereof or by law.
- 4.4 **Taxes.** Each Owner shall pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities, all real property taxes and assessments which are levied against such Owner's Parcel. In the event an Owner fails to pay when due all taxes and assessments described herein, which failure continues for a period of ten days after written notice thereof, such failure constitutes a default under this Declaration and the Association may, in addition to the Association's other remedies, thereafter pay such taxes if such taxes are delinquent and the owing Owner has not commenced and is not duly prosecuting any contest of such taxes. In such event, the Association shall then bill the defaulting Owner for the expenses incurred. The defaulting Owner has ten days within which to pay the invoice submitted to it by the Association. If the defaulting Owner fails or refuses to pay said invoice, the Association is entitled to claim a lien in accordance with Section 7.3 on the Parcel of the defaulting Owner for the amount of such unpaid invoice, which amount bears interest at the Default Rate from the date of the expiration of said ten day period until paid.
- 4.5 **Insurance, Indemnification, Waiver of Subrogation.**
- (a) Each Owner will at all times maintain or cause to be maintained with respect to its Parcel and all Buildings and Improvements thereon:

- (i) commercial property insurance against loss or damage by fire, lighting and other risks customarily covered by an all-risks policy of property insurance for the full replacement cost of the Building(s) and Improvements located thereon; and
 - (ii) Commercial general liability insurance (including contractual liability coverage) against claims for bodily injury, death or property damage occurring on, in or about such Owner's Parcel with combined single limit coverage of not less \$1,000,000 per occurrence. In the event an Owner fails to maintain the insurance described above, which failure continues for a period of ten days after written notice thereof, such failure shall constitute a default under this Declaration and the Association may, in addition to such Association's other remedies, thereafter obtain and pay for such insurance. The Association shall then bill the defaulting Owner for the expenses incurred. The defaulting Association shall have ten business days within which to pay the bill. If the defaulting Owner does not so pay, the Association shall be entitled to claim a lien in accordance with Section 7.3 on the Parcel of the defaulting Owner for the amount of the bill, which amount shall bear interest at the Default Rate from the date of expiration of said ten business day period until paid.
- (b) To the extent not covered by the insurance policies described above, each Owner (the *Indemnitor*) will pay and indemnify and defend each of the other Owners and the Association (the *Indemnitee*) from and against, all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees), causes of action, suits, claims, demands or judgments of any nature that are asserted against the Indemnitee by a third party to the extent the same are not covered by the Insurance policies described above and that arising from (i) any injury to or death of a person or loss of or damage to property occurring on the Indemnitor Parcel, (ii) any use or condition of the Indemnitor Parcel, or (iii) any negligence or tortious acts of the Indemnitor or any of his tenants, licensees, invitees, customers, agents or employees.
- (c) Each Owner (the *Releasor*) hereby releases the other Owners and the Association (the *Releasee*) from any and all liability or responsibility to the Releasor anyone claiming through or under the Releasor by way of subrogation or otherwise for any incurred loss or damage to any person or property caused by fire or other peril or other such loss, damages, or other insured event or negligence of the Releasee, or anyone for whom such Releasee may be responsible, provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage contain a waiver of subrogation endorsement, to the effect that any such release shall not adversely affect or impair said policy or policies or prejudice the right of the Releasor to recover thereunder.

ARTICLE V. PROPERTY OWNERS ASSOCIATION

- 5.1 **Memberships.** The Association is or will be created to act on behalf of the Owners and the Declarant, as provided in this Declaration. The Declarant and each Owner is automatically a Member of the Association. Any Person which is granted or retains a security interest in a Parcel is not a Member, unless such Person acquires fee title to such Parcel arising from foreclosure proceedings or a deed in lieu of such foreclosure.
- 5.2 **Classes of Voting Members.** The Association has two classes of Members:
- (a) Class A is all Members other than the Declarant. Class A members are entitled to one for each Parcel that is owned by that Member. If two or more persons or entities hold undivided interests in any Parcel, all such persons or entities shall be Class A Members, and the vote for such Parcel shall be exercised as they, among themselves, determine, but in no event are there more than one vote with respect to each such Parcel.

- (b) The Class B Member is the Declarant. The Class B Member is entitled to ten votes for each Parcel that is owned by Declarant until the Conversion Date, after which time there shall be no Class B Member.

Voting rights may be assigned, in whole or in part, by an Owner to a ground tenant with a primary term of not less than 20 years plus renewal options.

5.3 Assessments:

- (a) Each Owner, other than the Declarant, by acceptance of a deed, whether or not it shall be so expressed in any such deed, agrees to pay to the Association the following (the **Assessments**):
 - (i) Annual assessments per Section 5.3(c);
 - (ii) Special assessments per Section 5.3(d); and
 - (iii) Assessments are fixed, established, and collected from time to time as provided in this Declaration.
- (b) The Assessments shall be used to promote the comfort, health and safety as stated in Articles of its incorporation. Among the purposes is the installation, maintenance and operation of project signs, removal of debris, dirt and other trash from the streets adjacent to the Property, and mowing and cleaning the area within the Common Area, if not done by the Owners, maintenance and landscaping of esplanade/medians of public streets adjacent to the Property, retaining of professionals to operate the Association, advise the Association and the ACC and otherwise assist in the management of the affairs of the Association and the furtherance of its business.
- (c) Each Owner shall pay to the Association an annual Assessment of **\$1,000** per Parcel owned. The annual Assessment may be increased or decreased by vote of the Members, as provided in Section 5.3(e) hereof. The Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual Assessment for any year at a lesser (but not a greater) amount. If the Association accumulates a surplus at the end of any year which is more than two times the maximum total permissible annual Assessment for that year, the Directors of the Association shall reduce the next total annual Assessment by the amount of the surplus.
- (d) In addition to annual Assessments, the Association may, by vote of its Members as set out in Section 5.3(f), levy on the Owners a special Assessment for the purpose of defraying the cost of any construction, repair or replacement of a Common Area Improvement, or Reserve Improvement or for carrying out other purposes of the Association as stated in its Articles of Incorporation.
- (e) The increase in the rate of the annual Assessment must be approved by a majority vote of the Members, voting in person or by proxy at a meeting duly called for such purpose written notice of which shall have been given to all Members at least 30 days in advance the written notice shall set forth the purpose of the meeting.
- (f) A special Assessment must be approved by a majority vote of the Members, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall have been given to all Members at least thirty days in advance. The written notice shall set forth the purpose of the meeting.

- (g) Annual Assessments commence as to each Parcel with the sale of such Parcel by Declarant.
- (h) The first annual Assessment shall become due and payable on **January 1, 2012**, and shall be considered delinquent if not paid by January 31, 2012. The Assessments for any year after 2012 shall become due and payable on January 1 of such year and shall be considered delinquent if not paid by January 31 of that year. The due date and delinquent date of any special Assessment under Section 5.3(d) hereof shall be fixed in the resolution authorizing such Assessment.
- (i) The annual and special Assessments are the personal, corporate, company or liability for such Assessments, whether or not they participate in the Association or derive any benefits from the Assessments. In the event of default in the payment of any such Assessment, each Owner must pay interest at the Default Rate from the due date until paid, together with all costs, including reasonable attorneys' fees, incurred in collection.
- (j) All sums assessed and due pursuant to Section 5.3(j) are a continuing lien and charge on the Parcel covered by such Assessment, which shall bind the Parcel, and the Owner, its heirs, successors and assigns. This lien is superior to all other liens and charges, except tax liens. The Association may without obligation, subordinate the lien to any other lien. To evidence the Assessment lien, the Association may prepare and record a written notice of Assessment lien setting forth the information required in Section 7.3.
- (k) The Association may utilize professional advisors, including attorneys, engineers, land planners, architects and other development consultants who may also represent the Declarant. The Association recognizes that there is mutual benefit to the Declarant and the Association for use of the same professionals in consideration of those professionals agreeing to render services to the Association, the Association waives any claims or causes of action for or relating to any conflict of interest with the respect to the representation of both the Declarant and the Association by the same professional advisor.

ARTICLE VI. ARCHITECTURAL CONTROL COMMITTEE

- 6.1 **The ACC.** The Board of Directors may designate and appoint an Architectural Control Committee (the **ACC**) composed of not less than three individuals who shall serve at the pleasure of the Board of Directors, one of whom must be a Member of the Association. For the benefit of the Owners and to maintain the aesthetics of the Property, the ACC shall implement and oversee the architectural control set forth in these restrictions and the architectural standards and guidelines that may be promulgated by the Board of Directors of the Association. The ACC shall report its findings and recommendations to the Board of Directors of the Association with respect to compliance with the architectural standards for new construction, or modifications of or additions to existing Improvements within the Property. The Board of Directors, by a majority vote, has the final authority to decide all architectural matters and to approve and disapprove of all plans and specifications for new construction, or modifications of or additions to existing Improvements within the Property. Members of the ACC may, at any time, be relieved of their position and substitute members therefore appointed, respectively by majority vote of the Board of Directors of the Association. The Board of Directors may perform the duties of the ACC during any period of time in which an ACC has not been designated by the Board of Directors.
- 6.2 **Function and Powers of ACC.**
- (a) No Improvement may be erected, constructed, placed or altered on any Parcel (excluding any Parcel owned by Declarant) until plans and specifications, in such form and detail as the ACC may require, have been submitted to and approved in writing by the ACC.

- (b) The decision of any two members of the ACC, acting singly or at a meeting, is final, conclusive and binding upon the Owner and the ACC. The ACC may designate a professional representative to advise it or to act on its behalf and may charge any applicant a reasonable fee to defray the cost of such representative. The ACC may enter any portion of the Property, including any improvements, to inspect them for compliance with this Declaration. The inspection of improvements shall be after reasonable advance notice of at least 48 hours and may occur only during normal business hours.

6.3 Contents of Plans and Specifications.

- (a) Before the commencement of construction of any improvements, three sets of plans and specifications must be submitted to the ACC and, unless waived in advance and in writing by the ACC, must include the following:
 - (i) A site plan showing the location of all improvements.
 - (ii) Exterior elevations.
 - (iii) Exterior materials, colors, textures and shapes, including color and reflective intensity of exterior glass surfaces.
 - (iv) Structural design.
 - (v) Exterior illumination, including locations, manufacturer's fixture number and supporting photometric test data.
 - (vi) Fire protection system.
 - (vii) Building signs, including size, color, materials and location.
 - (viii) Proposed use of such Parcel.
 - (ix) The location, screening and configuration of antennas and satellite dishes.
 - (x) Landscaping of the Parcel.
- (b) If the ACC neither approves nor rejects such plans and specifications in writing within 30 days after submission of the last of any required documentation to the ACC, the proposed plan and specifications shall be deemed to be approved, subject to compliance with this Declaration or any amendments thereto. Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to, or responsibility for the quality, safety or design of the improvement or the ultimate construction thereof. Should an Owner or occupant proceed to place any improvement upon or proceed with any construction, alteration or exterior change on any improvements located on a Parcel without first applying for and obtaining the written approval of the ACC, such Owner or occupant shall be in violation of this Declaration and will be thereafter required to submit plans and specifications, together with such other documents as the ACC may deem appropriate, even after construction has commenced.
- (c) The ACC has 45 days from receipt of the last of any required documentation submitted after commencement of construction, alteration, or exterior changes without prior written approval, to respond by approval, disapproval or modification requirement. The Association shall have the right to obtain restraining orders and/or temporary or permanent injunctions to terminate or halt construction, alteration or exterior changes

which have not been reviewed and approved by the ACC in accordance herewith. All enforcement costs and reasonable attorney's fees incurred by the Association in connection with the Associations' exercise of the right to obtain restraining orders and/or permanent injunctions under this Section shall be recoverable against the Owner. In violation this Declaration, when an Owner has neglected to submit plans and specification for approval, failure of the ACC to exercise the powers granted by this Article VI is not considered a waiver of its right to do so either before or after the Building or other Improvements or any exterior addition or alteration thereto has been completed.

- 6.4 **Approval Criteria for the ACC.** Approval of plans and specifications shall be based, among other things, on conformity to this Declaration, the specific and general intent hereof, as determined by the ACC; general adequacy of structural design; harmony of exterior design with the neighboring structures and sites; relation of finished grades and elevations to neighboring sites; compatibility with a first class professional business park; and compliance with applicable regulatory requirements.
- 6.5 **Limitation of Liabilities.** Neither the ACC, the Association nor the Members are liable to anyone submitting plans and specifications for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Each Owner waives any liability of or claims against the ACC, the Association, the Members and the officers, directors and employees of the Association and the members of the ACC, relating thereto.
- 6.6 **Variances.** The ACC may issue variances from compliance with the terms of this Declaration, so long as the ACC determines that the variance is due to hardship, the general benefits intended from this Declaration are achieved, the variance is not material in character, and the variance is in the best interests of the Property and the Owners. Variances may be granted retroactively or prospectively. A notice of variance signed by a representative of the ACC recorded in the Real Property Records of Fort Bend County, Texas, will be evidence of the proper issuance of a variance and may be relied upon by the Owner and third parties.

ARTICLE VII. DEFAULTS AND REMEDIES

- 7.1 **Default.** The occurrence of anyone or more of the following events constitutes a material default and breach of this Declaration by the non-performing party (a ***Defaulting Owner***):
- (a) The failure to perform any obligation of Article IV hereof within the time requirements cited therein;
 - (b) The failure to make any payment required to be made hereunder within ten business days of the due date; or
 - (c) The failure to observe or perform any of the other covenants, conditions or obligations of this Declaration or to abide by the restrictions and requirements herein provided, other than as described in Section 7.1(a) above, within 30 days after the issuance of a notice by the Association specifying the nature of the default claimed.
- 7.2 **Right to Cure.** With respect to any default under Section 7.1, the Association has the right, but not the obligation, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the defaulting Owner, provided, however, that in the event the default shall constitute an emergency condition involving an immediate and imminent threat of substantial injury of harm to persons or property, the Association acting in good faith, has the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, due to such emergency, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the Association has the right to enter upon the Parcel of the defaulting Owner (but not into any

Building) to perform any necessary work or furnish any necessary materials or services to cure the default of the defaulting Owner. Each Owner is responsible for the non-performance or default of its occupants and lessees. If the Association cures a default, the defaulting Owner shall reimburse the Association for all costs and expenses incurred in connection with such curative action, plus interest at the Default Rate, within ten business days of receipt of demand, together with reasonable documentation supporting the expenditures made.

7.3 **Liens.**

- (a) Costs and expenses accruing or assessed under Section 7.2 and the amounts described in Section 7.1 constitute a lien against the defaulting Owner's Parcel. The lien shall attach and take effect only upon recordation of a claim of lien in the applicable real estate records office of the county in which the said Parcel is located. The claim of lien shall include the following:
- (i) The name and address of the lien claimant;
 - (ii) A statement concerning the basis for the claim of lien and identifying the lien claimant as a non-defaulting and/or curing Owner;
 - (iii) An identification by name and address (if known) of the Owner or reputed Owner of the Parcel or interest therein against which the lien is claimed;
 - (iv) A description of the Parcel against which the lien is claimed,
 - (v) A description of the work performed which has given rise to the claim of lien, a statement itemizing the total amount due, including interest;
 - (vi) A statement that the lien is claimed pursuant to the provisions of this Declaration, reciting the date land recordation number hereof.
- (b) The notice shall be duly acknowledged and contain a certificate that a copy thereof has been served upon the Owner against whom the lien is claimed, by personal service or by mailing under Section 8.3 hereof. The lien so claimed shall attach from the date of recordation solely in the amount claimed thereby and may be enforced (a) non-judicially, by foreclosure in like manner as a deed of trust lien on real property or (b) in any judicial proceedings allowed by law, including without limitation, suit in the nature of a suit to foreclose a mortgage or mechanic's lien under the applicable provisions of the law of the State in which the Property is located. The then current President of the Association is appointed the trustee for the purposes of a non-judicial foreclosure. The President may resign and appoint a successor trustee at any time without any formality other than a written resignation and appointment. In any foreclosure proceeding, whether judicial or non-judicial, the Owner is required to pay the costs and reasonable attorneys' fees incurred by the Association. The Association may bid at the foreclosure sale and acquire the Parcel being foreclosed.

- 7.4 **Subordination of the Lien to Mortgagees.** Any assessment lien described in this Declaration and the superior title herein reserved are deemed subordinate to a First Mortgage, which may have heretofore or may hereafter lend money in good faith for the purchase of, or the construction of any Improvements on, any Parcel or any renewal, extension, rearrangement or refinancing thereof. Each such First Mortgagee so obtaining title to such Parcel, pursuant to the remedies provided in the Mortgage evidencing such Mortgagee's lien or by means of mortgage foreclosure, accepts, or is deemed to accept, title to the Parcel free and clear of any claims for unpaid, charges or assessments against such Parcel which accrued prior to the time such holder' acquired title to such Parcel, except for the Association's lien for future accruing assessments and charges survive such foreclosure or other mortgage proceedings. No such sale or transfer

relieves such holder acquiring title to a Parcel from liability for any charges or assessments thereafter becoming due or from the lien thereof. Any other sale or transfer of a Parcel does not affect the Association's lien for a charge or assessment. The Association agrees to give each such Mortgagee 30 days advance written notice of the Association's proposed foreclosure of such liens, which notice may be sent to the address of such Mortgagee set forth in the recorded Mortgage by prepaid United States mail, certified and return receipt requested, and set forth in such notice a statement of delinquent charges or assessments upon which the proposed action is based.

- 7.5 **Other Remedies.** The Association has the right to prosecute any proceedings at law or in equity against any Defaulting Owner hereto, or any other person violating or attempting to violate or defaulting upon any of the provisions contained in this Declaration, and to recover damages (including costs and reasonable attorney's fees) for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants or conditions of this Declaration, or to obtain a decree to compel performance of any such terms, covenants or conditions, it being agreed that the remedy at law for a breach of any such term, covenant or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available under this Declaration or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.
- 7.6 **No Waiver.** No delay or omission in the exercise of any right accruing upon any default of any Owner or occupant shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. No waiver of any default under this Declaration shall be effective or binding unless made in writing by the Association and no such waiver shall be implied from any omission to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default or period of time specified in such express waiver. One or more written waivers of any default under any provision of this Declaration shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained in this Declaration.
- 7.7 **No Termination for Breach.** No breach, whether or not material of the provisions of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect, in any manner, any other rights or remedies which any Owner may have hereunder by reason of any breach of the provisions of this Declaration.
- 7.8 **Limitation of Liability.** Notwithstanding the foregoing, any person acquiring fee or leasehold title to a Parcel, or any portion thereof, shall be bound by this Declaration only as to the Parcel or portion of the Parcel acquired or possessed by such person. In addition, such person shall be bound by this Declaration only during the period such person is the lessee or fee Owner or occupant of such Parcel or portion of the Parcel. Upon conveyance or transfer of the fee or leasehold interest said Owner is released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue before said conveyance or transfer.
- 7.9 **Breach.** In the event of a breach hereof, the non-prevailing party shall pay the costs and reasonable attorney's fees of the prevailing party,

ARTICLE VIII. MISCELLANEOUS

- 8.1 **Estoppels Certificates.** Each Owner shall, upon not less than 30 days written notice from the other Owner, execute and deliver to such requesting Owner a certificate in recordable form stating that (i) either this Declaration is unmodified and in full force and effect or is modified (and stating the modification); and (ii) whether or not to the best of its knowledge the requesting Owner is in default in any respect under this Declaration and if in default specifying such default.

8.2 **Terms and Perpetuity.** The agreements, conditions, covenants, and restrictions created and imposed herein shall be effective upon the date hereof and shall continue in full force and effect, to the benefit of and being binding upon all Owners, their heirs, executors, administrators, successors, successors-in-title, assigns and tenants, including any ground lessee under a ground lease and the customers, employees and invitees of such parties until the expiration of 60 years from the date hereof, unless terminated or amended by the consent of all the Owners pursuant to a writing recorded in the Real Property Records of Fort Bend County, Texas. Said agreements and restrictions shall be unaffected by any change in the ownership of any real property covered by this Declaration or by any change of use, demolition, reconstruction, expansion or other Circumstances, except as specified herein. Notwithstanding the provisions of this Section 8.2 to the contrary, with the exception of the self-help easements set forth in Section 2.5, the easements contained herein that are binding and benefiting the Parcels shall be perpetual and shall run with the land. Upon termination of the agreements, conditions, covenants and restrictions of this Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Declaration except as related to the easements set forth in this Declaration, with the exception of the self-help easements set forth in Section 2.5, terminate and have no further force or effect.

8.3 **Notices.** Any notice required or permitted to be given under this Declaration shall be in writing and shall be deemed to have been given upon deposit in the United States Mail, certified mail, return receipt requested, postage prepaid, and addressed to the Owner being notified at the address given below (or such other address which any Owner may designate for itself from time to time hereafter by written notice to the Association).

Declarant: 16 Rose, Ltd.
5702 Fourth Street
Katy, Texas
Attn: Thomas G. Juarez
Telephone: (281) 391-2202
Facsimile: (281) 391-2260

Other Owner: The address of the Parcel owned by such Owner.

8.4 **Ground Lease Assignment.** The rights and obligations of any Owner hereunder may be assigned in whole or in part to a ground lessee or tenant which rights and obligations shall be expressly assumed by such ground lessee or tenant for the term of the ground lease or lease between such Owner and such ground lessee or tenant.

8.5 **Harmony.** The Owners agree to cooperate in creating a reasonably harmonious exterior appearance for the Buildings and Improvements to be constructed within the professional office park. After initial construction of Buildings and other Improvements, no Owner shall make alterations that will substantially change the exterior of its Buildings in a manner which will detract from the harmonious exterior appearance of the professional office park.

8.6 **Severability.** In the event any provision or portion of this Declaration is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

8.7 **No Public Dedication.** Nothing contained herein shall be deemed or implied to be a gift, grant or dedication of the professional office park or any portions thereof, to the general public, or for any public use or purpose whatsoever. Except as may be specifically provided herein, no right, privileges or immunities of any Owner hereto shall inure to the benefit of any third party, nor shall

any third party be deemed or considered to be a beneficiary of any of the provisions herein contained.

- 8.8 **Relationship of the Parties.** Nothing contained herein is construed or interpreted as creating a partnership, joint enterprise or joint venture between or among the Owners, as the relationship between the Owners is an arm's length one that at all times remains that of separate owners of real property. No Owner has the right to act for or on behalf of another Owner, as agent or otherwise, unless expressly authorized to do so by separate written instrument signed by the Owner to be charged or bound, except as otherwise specifically provided herein.
- 8.9 **Amendments by Declarant.** The Declarant reserves the right at any time prior to the Conversion Date, without the joinder of or consent from any other party, to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency and for any other purpose as the Declarant deems to be consistent with the furtherance of the general plan and scheme of development of the Property, provided that any such amendment may not impair or affect the vested property or other rights of any Owner or an Owner's Mortgagee.

SIGNATURE PAGE ANNEXED HERETO

IN WITNESS WHEREOF, Declarant has executed and delivered this Declaration as of the day and year first written above.

Declarant:

16 ROSE, LTD., a Texas limited partnership

By: **16 ROSE GP, LLC**, a Texas limited liability company

Its: General Partner

By: _____

Name: _____

Its: _____

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2010, by _____, a Manager of 16 Rose GP, LLC, a Texas limited liability company, as general partner and on behalf of 16 Rose Ltd, a Texas limited partnership.

Notary's Official Seal:

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

8.923 acres of land, being all of RES. "B", in Block 2, of GREENWOOD COMMERCIAL SUBDIVISION, SECTION THREE (3), a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded under Slide No. 2469/A of the Plat Records of Fort Bend County, Texas.

October 01, 2010. Staff has reviewed infrastructure failures that occurred as a direct result of Hurricane Ike and determined a standby generator for Water Plant No. 3 located at 1024 Grunwald Heights is an eligible project. This project was submitted in the initial round of disaster funding, but was not funded. Staff has revised the application for the standby generator and recommends submission to Fort Bend County. The application is in the approximate amount of \$388,000.00 and does not require any local matching funds. If the application is recommended for funding, a formal agreement with Fort Bend County would have to be approved by City Council at that time. The application does require a Resolution of Support from the City Council.

Staff recommends approval of Resolution No. R-1224, authorizing submission of a grant application on behalf of the City of Rosenberg to Fort Bend County, Texas, for participation in the Texas Community Development Block Grant Program Disaster Recovery Program 2008 Supplemental Disaster Recovery Fund.

Key discussion points:

- John Maresh, Assistant City Manager, read the executive summary regarding Resolution No. R-1224 and explained that the Mayor's signature will be the executor and authorize the Mayor to sign the Interlocal Agreement and related documents.

Action: Councilor Suter made a motion, seconded by Councilor Euton to approve Resolution No. R-1224, a Resolution authorizing the submission of a grant application on behalf of the City to Fort Bend County, Texas, for participation in the Texas Community Development Block Grant Disaster Recovery Program 2008 Supplemental Disaster Recovery Fund with the change to authorize the Mayor to execute the Interlocal Agreement and related documents. The motion carried by a unanimous vote.

3. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1214, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY AND 16 ROSE, LTD., REGARDING THE READING ROAD OFFICE PARK, A SUBDIVISION OF 8.928 ACRES.**

Executive summary: The Reading Road Office Park development is a subdivision of forty-one (41) lots and ten (10) reserves. The proposed subdivision lies west of the intersection of Reading Road and FM 2218 and across from City of Rosenberg Fire Station No. 2 and the Brethren Church. The preliminary plat was approved by the Planning Commission on February 24, 2010. The final plat has not yet been submitted to the Planning Commission or to the City Council.

The developer, Thomas Juarez, presented the initial concept of Reading Road Office Park at the Planning Commission's September 29, 2009 Regular Meeting. At that time, staff noted that the concept proposed a layout contrary to the applicable ordinances relating to internal access, as the proposed lots and reserves are accessed via easements rather than a public right-of-way. After consideration, staff believes a Development Agreement to be the most appropriate means to address this issue. The Planning Commission considered the proposed Development Agreement at their August 25, 2010 Meeting, and voted to forward the item to the City Council for review.

Some of the items that are addressed in this development agreement are:

- Allowances for individual lot access via an acceptable cross-access agreement to be recorded in the Fort Bend County Clerk's Records, and that such access would allow the sale of the individual lots.
- The developer would construct the appropriate access improvements (i.e. left turn lanes on Reading Road), other access improvements as outlined in an approved Traffic Impact Study, and, if warranted, participate in the cost of a traffic signal at the intersection of Reading Road and Town Center Boulevard.
- All lots will be individually metered for water by the City of Rosenberg with water line mains to be constructed in a 15-foot waterline easement. Further, the location of public water lines shall be located in a manner that limits the amount of water line under pavement.
- An acceptable agreement for the maintenance of sanitary and sewer lines and drainage be established between the developer and the future owners.
- Different parking ratio than currently allowed by the City ordinance. The total number of parking spaces proposed is 3.6 spaces per 1,000 square feet of office space. The City's current rules require 4 spaces per 1,000 square feet for general office and 5 spaces per 1,000

square feet for medical offices. The proposed 3.6 spaces per 1,000 square feet of office parking ratio is compatible with other cities. Considering the different uses at the office park at different times, the parking as proposed may be adequate.

- The land uses be restricted to office occupancies of types acceptable to the City in accordance with the Conditions, Covenants, and Restrictions.

The Planning Commission's main concerns at the August meeting focused on traffic on Reading Road, a future traffic signal on Reading Road at Town Center Boulevard, and the reduced parking standard.

The subject property also lies within the boundaries of the West Fort Bend Management District (Management District). If the proposed Development Agreement is approved, the applicant will have to also seek approval from the Management District.

Provided City Council finds the proposed Development Agreement and the proposed Covenants, Conditions, and Restrictions acceptable, the one remaining item staff recommends be added to the proposed Development Agreement is the funding of the traffic signal on Reading Road at Town Center Boulevard. Staff recommends that the Developer agree to funding 50% of the total costs of the traffic signal, and that said signal be constructed and operational prior to the issuance of any Certificates of Occupancy for Section One of this project.

Key discussion points:

- Theresa Grahmann, Planning Director, gave an overview of Resolution R-1214.
- Showed slides of the Reading Road Office Park
- Parking Comparison - Proposed: 3.6/1000

Rosenberg	Office: 5/1000 Medical Office: 6/1000
Sugarland	Office: 4/1000 Medical: 5/1000 Mixed Uses: 3.3/1000
Missouri City	Office: 2.8/1000 Medical: 3.5/1000 Mixed Uses: 3.3/1000
Pearland	Office: 3.3/1000 Medical: 4 per treatment room
- Councilor Suter asked about curb cuts on Reading Road. Charles Kalkomey said the southern most one is a right turn in, right turn out only. The central one and the northern one will have median openings.
- Councilor Suter asked if the median openings already exist. Charles Kalkomey stated without looking at an aerial photo he does not know. Councilor Suter stated his concern is who will pay for it. He is excited about the traffic light that will be coming out of Town Center and the Reading Road complex. The impact study recommends that that be installed—correct? Charles Kalkomey stated yes. Councilor Suter asked who will pay for that. Charles Kalkomey stated we are recommending a 50/50 split. What the report says is that the signal is warranted today without this development. The development agreement does not say that because we did not know what Council's thoughts were. Whatever Council decides needs to be written into the agreement. Any enlargements to those openings to make the driveway openings, the left turn lanes would all be the developer's cost to construct.
- Councilor Suter stated he would lean toward a 50/50 split on the traffic light, in light of the fact that the developer is paying for the other traffic alterations on Reading Road. Jack Hamlett stated we need some limitations on fairness to offer that the City has to put its money. We have to budget our funds and that would give us two budget years to do it. Charles Kalkomey stated before he would be issued a CO for the first building he would escrow his 50% and then that would start out eighteen months to build the signal. That gives him time to get development on the ground and get things sold before he has CO come up with cash for signal.
- Mayor Gurecky referenced the sanitary sewer lines and asked if the number of units

being put on the eight acres will require a lift station. Charles Kalkomey said the preliminary engineering indicates a gravity flow will work.

- Mayor Gurecky asked if there are any intentions by the developer to incorporate the detention area into a park atmosphere with sidewalks or landscaping.
- **Thomas Juarez, 1659 Aberdeen Road, Cat Spring, Texas, addressed Council.** He stated the detention pond will be an amenity lake. He has to make it deeper to have the same retention. He needs a minimum of 4 to 5 foot of water so he does not get weed growth.
- Charles Kalkomey stated for the record that is not in the development agreement, if that is of any concern.
- Councilor Suter stated if the developer is willing to do it, it should probably be put in the development agreement. Green space was also a concern of Planning Commission.
- Thomas Juarez said he does not have a problem putting the amenity lake in the agreement because it is part of his plan.
- Mayor Gurecky asked if there will be buildings in the center eyelets. Thomas Juarez said it will be buildings. Each owner will have the ability to design their own building.

Action: Councilor Suter made a motion, seconded by Councilor Grigar to accept the development agreement with the specified changes of sharing a 50/50 split for the cost of the traffic signal and providing the detention area to be an amenity lake. The motion carried by a unanimous vote.

4. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1211, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR ENGINEERING AND SURVEYING SERVICES FOR THE DESIGN OF A REPLACEMENT WATER LINE CROSSING ALONG 3RD STREET BETWEEN AVENUE F AND AVENUE E BY AND BETWEEN THE CITY AND KELLY R. KALUZA & ASSOCIATES, INC., IN THE AMOUNT OF \$18,000.00.**

Executive summary: Currently, an existing 6" waterline runs along 3rd Street which services the area north of Walnut Street. This line is in need of repair and upgrade. Staff recommends an upgrade from the existing 6" water line to a 12" water line, encased within a 20" steel pipe as it crosses under the railroad right-of-way. In accordance with Section 3 of the Procedures for Review of Professional Services Proposals adopted by City Council on December 01, 2009 (Resolution No. R-1086), staff requested a proposal from Kelly R. Kaluza & Associates, Inc.

Staff has reviewed the Contract, including a design schedule, and recommends City Council's approval of Resolution No. R-1211, a Resolution authorizing the City Manager to execute a Contract for Engineering Services for design of a replacement 12" waterline crossing along 3rd Street, between Avenue F and Avenue E, by and between the City and Kelly R. Kaluza and Associates, Inc., in the amount of \$18,000.00.

Key discussion points:

- John Maresh, Assistant City Manager, read the executive summary and gave an overview of Resolution No. 1211.
- John Maresh explained that it would be advantageous for the City at this point to design and bid this project concurrently with the sewer project to take advantage of the current construction pricing.
- Councilor Segura asked if the 12" water line will be encased within a 20" steel pipe and is that the total length of the pipe or just the part that goes under the railroad. John Maresh stated the casing would be just under the entire width of the railroad right-of-way.
- Jack Hamlett stated one of the reasons this was brought to Council now, is even though we can't bid it with the CDBG, it has to bid separate, we hope to concurrently get the same contractor and deal with the railroad one time and get both water and sewer up to standard.

Action: Councilor Grigar made a motion, seconded by Councilor Salazar to approve Resolution No. R-1211, a Resolution authorizing the City Manager to execute a Contract for Engineering and Surveying Services for the design of a replacement water line crossing along 3rd Street between Avenue F and avenue E by and between the City and Kelly R. Kaluza & Associates, Inc., in the amount of \$18,000.00. The motion carried by a unanimous vote.



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
12	Resolution No. R-2010 - Employee Benefits Trust Declaration of Trust

ITEM/MOTION

Consideration of and action on Resolution No. R-2010, a Resolution authorizing amendments to the Employee Benefits Trust Declaration of Trust, a Trust created for the purpose of providing City officers, employees, and qualified retirees and their dependents, with life, dental, disability, sickness, accident, and other health benefits, either directly or through the purchase of insurance, and to perform operations in furtherance thereof.

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. Declaration of Trust - Redlined
2. Resolution No. R-2010
3. City Council Meeting Minute Excerpt – 08-19-14
4. City Council Meeting Minute Excerpt – 08-20-13
5. City Council Meeting Minute Excerpt – 03-01-11
6. City Council Meeting Minute Excerpt – 09-02-08

APPROVALS

Submitted by:

Lisa Olmeda
 Lisa Olmeda
 Human Resources Director

Reviewed by:

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

Approved for Submittal to City Council:

Robert Gracia
 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

Staff worked with Burke Sunday to establish the Employee Benefits Trust (Trust) for the purpose of providing City personnel and retirees with specific benefits. City Council approved the Declaration of Trust document on September 02, 2008, thus creating the Trust. The City Council amended the Declaration of Trust on March 01, 2011, August 20, 2013, and August 19, 2014, to revise Trustee membership and incorporate updated legislative requirements.

On Wednesday, July 15, 2015, the Employee Benefits Trust Committee met to discuss the necessary changes to the Declaration of Trust, Section I to reflect the change in Trustees, and also to Schedule "A" to reflect the new plan year of 2015-2016. Therefore, the Declaration of Trust document would need to be amended to reflect these changes. Please note that a draft minute excerpt was not yet available at print time for this Agenda packet.

Attached please find a redlined copy of the recommended changes to same for City Council consideration. Mr. Sunday will be available at the City Council meeting to answer any questions.

Staff recommends approval of Resolution No. R-2010, authorizing the amendment to the Employee Benefits Trust Declaration of Trust, attached as Exhibit "A" to said Resolution.

DECLARATION OF TRUST

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

I.

The City of Rosenberg ("City"), as Settlor, designates the members of the Employee Benefits Committee (~~Lynn Moses, Lisa Wallingford, Vincent M. Morales, Jr., Mayor, Amanda Bolf~~ and Jimmie Pena, Councilmembers, Robert Gracia, City Manager, ~~Joyce Vasut~~, Executive Director of Administrative Services, and Lisa Olmeda, Human Resources Director), to be Trustees to hold in trust funds which are the property of the City, and all substitutions and additions to such funds, for the purpose of providing life, disability, dental, sick, accident, and other health benefits to the City's employees, qualified retirees and their dependents.

II. PURPOSE

This is a nonprofit trust created for the purpose of providing City officers, employees, and qualified retirees and their dependents with life, disability, dental, sickness, accident, and other health benefits either directly or through the purchase of insurance and to perform operations in furtherance thereof.

III. DURATION

The Trust shall continue until terminated by operation of law, by majority vote of the Trustees, or by the City Council of the City.

IV. TRUSTEES: APPOINTMENT, COMPENSATION, OFFICERS, AND MEETINGS

APPOINTMENT. The Trustees are appointed by the City of Rosenberg City Council and each Trustee shall serve at the will and pleasure of the City Council.

COMPENSATION. The Trustees shall be reimbursed for all reasonable and necessary expenses incurred by them in the performance of their duties and will otherwise receive no compensation for their service as Trustees. Any approved reimbursement(s) will be made by the City of Rosenberg.

OFFICERS. The Trustees shall elect a Chairman, Vice-Chairman, and Secretary. The Chairman shall preside at meetings of the Trustees and shall have all such other powers as are conferred herein or by majority vote of the Trustees. The Vice-Chairman shall preside at meetings of the Trustees whenever the Chairman is absent. The Secretary will oversee the preparation of meeting agendas, giving notice of meetings to the Trustees, and the minutes of the meetings to the Trustees.

MEETINGS. A meeting of the Trustees may be called by the Chairman or on written request to the Chairman by two Trustees. Trustees shall have at least three days written notice of any meeting. For purposes of this section, electronic mail notice is written notice.

**V.
RIGHTS, POWERS, AND DUTIES OF TRUSTEES; QUORUM AND VOTING**

RIGHTS, POWERS, AND DUTIES. In addition to all other powers and duties conferred on them by this Trust document and imposed or authorized by law, the Trustees shall have the following powers and duties:

1. The Trustees shall carry out all of the duties necessary for the proper operation and administration of the Trust on behalf of the covered persons and shall have all the powers necessary and desirable for the effective administration of the affairs of the Trust.
2. The Trustees have the general power to make and enter into all contracts and agreements necessary or convenient to carry out any of the powers granted by this Trust document or by law or to effectuate the purpose of the Trust. All such contracts and agreements or any other legal documents herein authorized shall be approved by the Trustees and signed by the Chairman on behalf of the Trust. The Trustees may also designate another Trustee to sign such documents.
3. The Trustees shall use the Trust's funds to accomplish the purpose of the Trust, as described in Paragraph II herein, and to operate and administer the Trust solely in the interest of the City's officers, employees, qualified retirees and dependents thereof and for the exclusive purpose of providing benefits to the City defraying the reasonable expenses of administration of the Trust. To this end, the Trustees may purchase life, disability, dental or accident and health insurance to provide coverage for participating City officers, employees, qualified retirees, and their dependents. The Trustees may also adopt a health benefits plan that covers eligible City officers, employees, qualified retirees, and their dependents.
4. The Trustees may accept contributions to the Trust funds from any source including contributions from covered persons receiving benefits from the Trust.
5. The Trustees shall be authorized to contract with any qualified organization to perform any of the functions necessary for providing life, disability, sick, accident, dental and other health benefits, including but not limited to excess loss insurance, stop loss insurance, claims administration, and administrative services. When required by law or desired by the

Trustees, the Trustees may seek sealed competitive bids or sealed competitive proposals with respect to contracts required to carry out the operations of the Trust and to affect the purpose of the Trust.

6. The Trustees shall use the City's depository for the Trust's funds. The Trustees shall designate signatories for the Trust's depository accounts.
7. The Trustees shall use the City's internal and external accounting procedures to arrange for proper accounting and reporting procedures for the Trust's funds and shall also provide for an annual audit of the Trust's financial affairs by a certified public accountant.
8. The City of Rosenberg may purchase insurance for the Trustees and any other fiduciaries appointed by the Trustees and for the City of Rosenberg to cover liability or losses occurring by reason of the act or omission of any one or more of the Trustees or any other fiduciary appointed by them. Any insurance purchased by the City of Rosenberg must give the insurer recourse against the Trustees or other fiduciaries concerned for breach of any fiduciary obligation or fiduciary duty owed to the Trust.
9. The Trustees may retain legal counsel to represent the Trust and the Trustees in all legal proceedings as well as to advise the Trust and the Trustees on all matters pertaining to the operation and administration of the Trust.
10. The Trustees have the authority to terminate the Trust at any time.
11. Upon termination of the Trust, the Trustees shall provide for the payment of Trust obligations, debts, losses, and other liabilities and shall provide for the disposition of the remaining Trust funds in accordance with Paragraph IX herein.
12. The Trustees may contract with the City for the management and operations of the Trust.

QUORUM AND VOTING. A majority of the Trustees shall constitute a quorum for the transaction of business at any meeting of the Trustees and the vote of a majority of the Trustees present shall be required for approval of any action at such meeting. The vote of such majority of the Trustees at such meeting shall constitute action of the Trustees as a group.

VI. BENEFICIARY

The beneficiary of the Trust is the City.

**VII.
TRUST FUNDS**

The Trust funds consist of the funds described in Schedule A hereto as provided by the Settlor to institute this Trust, future contributions by the Settlor, beneficiary contributions, investment income, and any other money or property which shall come into the hands of the Trustees in connection with the administration of the Trust. The Trustees may use the Trust's funds as follows:

1. to pay all expenses which the Trustees consider necessary in establishing the Trust and in administering the Trust and all reasonable expenses incurred by the Trustees in the performance of their duties as defined to be those allowed under Section 222.002(c)(5)(A) [Texas Insurance Code] and or permitted by the State Comptroller of the State of Texas in its role as the administrator of this legislation;
2. to pay premiums on any insurance policies allowed under Section 222.002(c)(5)(A) [Texas Insurance Code] purchased by the Trust;
3. to make authorized investments;
4. to pay claims under any health benefits plan adopted by the Trustees;

**VIII.
LIABILITY OF TRUSTEES AND OFFICERS**

The Trustees shall use ordinary care and reasonable diligence in the exercise of their powers and the performance of their duties hereunder; and they shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith, nor for any action taken or omitted by any agent, employee or independent contractor selected with reasonable care; nor for loss incurred through investment of the Trust funds or failure to invest. No Trustee shall be liable for any action taken or omitted by any other Trustee. No Trustee shall be required to give a bond or other security to guarantee the faithful performance of his or her duties hereunder. To the fullest extent permitted by law: (a) the City of Rosenberg shall indemnify each Trustee who was, is, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding ("Proceeding"), any appeal therein, or any inquiry or investigation preliminary thereto, by reason of the fact that the Trustee is or was a Trustee; (b) the City of Rosenberg shall pay or reimburse a Trustee for expenses incurred (i) in advance of the final disposition of a Proceeding to which such Trustee was, is or is threatened to be made a party, and (ii) in connection with such Trustee's appearance as a witness or other participation in any Proceeding.

**IX.
AMENDMENT, REVOCATION AND TERMINATION**

This Declaration of Trust and the Trust created herein shall terminate when and if required by operation of law. The Trustees shall have the power to amend, modify, terminate or revoke, in whole or in part, this Declaration of Trust and the Trust created herein by majority vote at a duly called meeting at which a quorum is present. Notwithstanding the foregoing, the Trustees shall have no power to amend Paragraph II of this Declaration of Trust. The Beneficiary of the Trust shall have the right to amend or terminate this Declaration of Trust. Its approval shall be a condition or requirement for an authorized amendment by the Trustees.

Upon termination of the Trust, the Trustees shall pay all obligations, debts, losses, and other liabilities of the Trust. Thereafter, the Trustees shall first use the remaining trust funds to pay covered claims of persons covered under the City's health benefits plan that may be in effect at the time of termination of the Trust and, then, either apply any remaining balance of the funds for the benefit of those covered persons in such manner as the Trustees determine shall best carry out to purposes of this Trust or pay such balance over to such covered persons on a per capita basis. Notwithstanding the foregoing, the Trustees, upon termination of the Trust and payment of all Trust obligations may, by vote of a majority of the Trustees, transfer the remaining funds or any portion thereof to the City for the purposes provided in Paragraph II herein or trustees of any trust or trusts established for a substantially similar purpose to be applied for uses substantially similar to those set forth in Paragraph II herein.

**X.
GOVERNING LAW**

This Declaration of Trust and the Trust created herein shall be construed and governed by the laws of the State of Texas in force from time to time.

**XI.
MISCELLANEOUS**

Whenever the context so admits and such treatment is necessary to interpret this Declaration of Trust in accordance with its apparent intent, the use herein of the singular shall include the plural, and vice versa, and the use of the feminine, masculine, or neuter gender shall be deemed to include the other genders.

The captions or headings above the various Paragraphs of this Declaration of Trust have been included only to facilitate the location of the subjects covered by each Paragraph but shall not be used in construing this Declaration of Trust.

If any clause or provision of this Declaration of Trust proves to be or is adjudged invalid or void for any reason, such invalid or void clause, provision, or portion shall not affect the whole, but the balance of the provisions hereof shall remain operative and shall be carried into effect insofar as is legally possible.

IN WITNESS WHEREOF, the undersigned parties have executed this amended Declaration of Trust on the dates of their respective acknowledgments below. By joining in the execution of this Declaration of Trust, the Trustees signify acceptance of the Trust created hereunder, and covenant that the Trust will be executed with all due fidelity. This Trust is effective as of the last date of signature below.

CITY OF ROSENBERG, SETTLOR

~~Vincent M. Morales, Jr.~~Cynthia A. McConathy, Mayor

TRUSTEES:

~~Vincent M. Morales, Jr., Mayor~~Lynn Moses, Trustee

~~Lisa Wallingford, Amanda Bolf,~~ Trustee

Jimmie Pena, Trustee

Robert Gracia, Trustee

Joyce Vasut, Trustee

Lisa Olmeda, Trustee

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Cynthia A. McConathy~~Vincent M. Morales, Jr.~~, Mayor of the City of Rosenberg, on behalf of Settlor.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Lynn Moses~~Vincent M. Morales, Jr.~~, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Lisa Wallingford~~Amanda Belf~~, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Jimmie Pena, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Robert Gracia, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Joyce Vasut, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Lisa Olmeda, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

Amended: 08-20-1407-15-15

SCHEDULE A

The following is a list of the assets initially transferred by the City of Rosenberg, Settlor, to the Trust:

| City of Rosenberg's first month (October 2014⁵) contributions for Employee, Dependent, and Retiree Medical/Pharmacy Benefits, Dental Benefits, Life Insurance Benefits, and Long Term Disability Benefits.

| City of Rosenberg Employee, Dependents, and Retirees first month (October 2014⁵) of Plan Year's payroll deductions or contributions for Medical/Pharmacy Benefits, Dental Benefits, Life Insurance Benefits, and Long Term Disability Insurance Benefits.

RESOLUTION NO. R-2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING AMENDMENTS TO THE EMPLOYEE BENEFITS TRUST DECLARATION OF TRUST, A TRUST CREATED FOR THE PURPOSE OF PROVIDING CITY OFFICERS, EMPLOYEES, AND QUALIFIED RETIREES AND THEIR DEPENDENTS, WITH LIFE, DENTAL, DISABILITY, SICKNESS, ACCIDENT, AND OTHER HEALTH BENEFITS, EITHER DIRECTLY OR THROUGH THE PURCHASE OF INSURANCE, AND TO PERFORM OPERATIONS IN FURTHERANCE THEREOF.

* * * * *

WHEREAS, the City Council has approved the establishment of an Employee Benefit Trust ("Trust") for purpose of providing City officers, employees, and qualified retirees and their dependents, with life, dental, disability, sickness, accident, and other health benefits either directly or through the purchase of insurance; and,

WHEREAS, the City Council has granted its approval to amend the Trust; and,

WHEREAS, the Trust will endeavor to establish necessary operations for the benefit of the Trust and the City officers, employees, qualified retirees, and their dependents; now, therefore,

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

Section 1. The City Council hereby authorizes an amendment to the Employee Benefits Trust Declaration of Trust, designating all members of the Employee Benefits Committee to be Trustees, and authorizing the Trust to purchase various forms of insurance for the benefit of City officers, employees, qualified retirees, and their dependents.

Section 2. A copy of such amended Employee Benefits Trust Declaration of Trust is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this _____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

DECLARATION OF TRUST

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

I.

The City of Rosenberg ("City"), as Settlor, designates the members of the Employee Benefits Committee (Lynn Moses, Lisa Wallingford, and Jimmie Pena, Councilmembers, Robert Gracia, City Manager, Joyce Vasut, Executive Director of Administrative Services, and Lisa Olmeda, Human Resources Director), to be Trustees to hold in trust funds which are the property of the City, and all substitutions and additions to such funds, for the purpose of providing life, disability, dental, sick, accident, and other health benefits to the City's employees, qualified retirees and their dependents.

**II.
PURPOSE**

This is a nonprofit trust created for the purpose of providing City officers, employees, and qualified retirees and their dependents with life, disability, dental, sickness, accident, and other health benefits either directly or through the purchase of insurance and to perform operations in furtherance thereof.

**III.
DURATION**

The Trust shall continue until terminated by operation of law, by majority vote of the Trustees, or by the City Council of the City.

**IV.
TRUSTEES: APPOINTMENT, COMPENSATION, OFFICERS, AND MEETINGS**

APPOINTMENT. The Trustees are appointed by the City of Rosenberg City Council and each Trustee shall serve at the will and pleasure of the City Council.

COMPENSATION. The Trustees shall be reimbursed for all reasonable and necessary expenses incurred by them in the performance of their duties and will otherwise receive no compensation for their service as Trustees. Any approved reimbursement(s) will be made by the City of Rosenberg.

OFFICERS. The Trustees shall elect a Chairman, Vice-Chairman, and Secretary. The Chairman shall preside at meetings of the Trustees and shall have all such other powers as are conferred herein or by majority vote of the Trustees. The Vice-Chairman shall preside at meetings of the Trustees whenever the Chairman is absent. The Secretary will oversee the preparation of meeting agendas, giving notice of meetings to the Trustees, and the minutes of the meetings to the Trustees.

MEETINGS. A meeting of the Trustees may be called by the Chairman or on written request to the Chairman by two Trustees. Trustees shall have at least three days written notice of any meeting. For purposes of this section, electronic mail notice is written notice.

V.
RIGHTS, POWERS, AND DUTIES OF TRUSTEES; QUORUM AND VOTING

RIGHTS, POWERS, AND DUTIES. In addition to all other powers and duties conferred on them by this Trust document and imposed or authorized by law, the Trustees shall have the following powers and duties:

1. The Trustees shall carry out all of the duties necessary for the proper operation and administration of the Trust on behalf of the covered persons and shall have all the powers necessary and desirable for the effective administration of the affairs of the Trust.
2. The Trustees have the general power to make and enter into all contracts and agreements necessary or convenient to carry out any of the powers granted by this Trust document or by law or to effectuate the purpose of the Trust. All such contracts and agreements or any other legal documents herein authorized shall be approved by the Trustees and signed by the Chairman on behalf of the Trust. The Trustees may also designate another Trustee to sign such documents.
3. The Trustees shall use the Trust's funds to accomplish the purpose of the Trust, as described in Paragraph II herein, and to operate and administer the Trust solely in the interest of the City's officers, employees, qualified retirees and dependents thereof and for the exclusive purpose of providing benefits to the City defraying the reasonable expenses of administration of the Trust. To this end, the Trustees may purchase life, disability, dental or accident and health insurance to provide coverage for participating City officers, employees, qualified retirees, and their dependents. The Trustees may also adopt a health benefits plan that covers eligible City officers, employees, qualified retirees, and their dependents.
4. The Trustees may accept contributions to the Trust funds from any source including contributions from covered persons receiving benefits from the Trust.
5. The Trustees shall be authorized to contract with any qualified organization to perform any of the functions necessary for providing life, disability, sick, accident, dental and other health benefits, including but not limited to excess loss insurance, stop loss insurance, claims administration, and administrative services. When required by law or desired by the

Trustees, the Trustees may seek sealed competitive bids or sealed competitive proposals with respect to contracts required to carry out the operations of the Trust and to affect the purpose of the Trust.

6. The Trustees shall use the City's depository for the Trust's funds. The Trustees shall designate signatories for the Trust's depository accounts.
7. The Trustees shall use the City's internal and external accounting procedures to arrange for proper accounting and reporting procedures for the Trust's funds and shall also provide for an annual audit of the Trust's financial affairs by a certified public accountant.
8. The City of Rosenberg may purchase insurance for the Trustees and any other fiduciaries appointed by the Trustees and for the City of Rosenberg to cover liability or losses occurring by reason of the act or omission of any one or more of the Trustees or any other fiduciary appointed by them. Any insurance purchased by the City of Rosenberg must give the insurer recourse against the Trustees or other fiduciaries concerned for breach of any fiduciary obligation or fiduciary duty owed to the Trust.
9. The Trustees may retain legal counsel to represent the Trust and the Trustees in all legal proceedings as well as to advise the Trust and the Trustees on all matters pertaining to the operation and administration of the Trust.
10. The Trustees have the authority to terminate the Trust at any time.
11. Upon termination of the Trust, the Trustees shall provide for the payment of Trust obligations, debts, losses, and other liabilities and shall provide for the disposition of the remaining Trust funds in accordance with Paragraph IX herein.
12. The Trustees may contract with the City for the management and operations of the Trust.

QUORUM AND VOTING. A majority of the Trustees shall constitute a quorum for the transaction of business at any meeting of the Trustees and the vote of a majority of the Trustees present shall be required for approval of any action at such meeting. The vote of such majority of the Trustees at such meeting shall constitute action of the Trustees as a group.

VI. BENEFICIARY

The beneficiary of the Trust is the City.

**VII.
TRUST FUNDS**

The Trust funds consist of the funds described in Schedule A hereto as provided by the Settlor to institute this Trust, future contributions by the Settlor, beneficiary contributions, investment income, and any other money or property which shall come into the hands of the Trustees in connection with the administration of the Trust. The Trustees may use the Trust's funds as follows:

1. to pay all expenses which the Trustees consider necessary in establishing the Trust and in administering the Trust and all reasonable expenses incurred by the Trustees in the performance of their duties as defined to be those allowed under Section 222.002(c)(5)(A) [Texas Insurance Code] and or permitted by the State Comptroller of the State of Texas in its role as the administrator of this legislation;
2. to pay premiums on any insurance policies allowed under Section 222.002(c)(5)(A) [Texas Insurance Code] purchased by the Trust;
3. to make authorized investments;
4. to pay claims under any health benefits plan adopted by the Trustees;

**VIII.
LIABILITY OF TRUSTEES AND OFFICERS**

The Trustees shall use ordinary care and reasonable diligence in the exercise of their powers and the performance of their duties hereunder; and they shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith, nor for any action taken or omitted by any agent, employee or independent contractor selected with reasonable care; nor for loss incurred through investment of the Trust funds or failure to invest. No Trustee shall be liable for any action taken or omitted by any other Trustee. No Trustee shall be required to give a bond or other security to guarantee the faithful performance of his or her duties hereunder. To the fullest extent permitted by law: (a) the City of Rosenberg shall indemnify each Trustee who was, is, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding ("Proceeding"), any appeal therein, or any inquiry or investigation preliminary thereto, by reason of the fact that the Trustee is or was a Trustee; (b) the City of Rosenberg shall pay or reimburse a Trustee for expenses incurred (i) in advance of the final disposition of a Proceeding to which such Trustee was, is or is threatened to be made a party, and (ii) in connection with such Trustee's appearance as a witness or other participation in any Proceeding.

**IX.
AMENDMENT, REVOCATION AND TERMINATION**

This Declaration of Trust and the Trust created herein shall terminate when and if required by operation of law. The Trustees shall have the power to amend, modify, terminate or revoke, in whole or in part, this Declaration of Trust and the Trust created herein by majority vote at a duly called meeting at which a quorum is present. Notwithstanding the foregoing, the Trustees shall have no power to amend Paragraph II of this Declaration of Trust. The Beneficiary of the Trust shall have the right to amend or terminate this Declaration of Trust. Its approval shall be a condition or requirement for an authorized amendment by the Trustees.

Upon termination of the Trust, the Trustees shall pay all obligations, debts, losses, and other liabilities of the Trust. Thereafter, the Trustees shall first use the remaining trust funds to pay covered claims of persons covered under the City's health benefits plan that may be in effect at the time of termination of the Trust and, then, either apply any remaining balance of the funds for the benefit of those covered persons in such manner as the Trustees determine shall best carry out to purposes of this Trust or pay such balance over to such covered persons on a per capita basis. Notwithstanding the foregoing, the Trustees, upon termination of the Trust and payment of all Trust obligations may, by vote of a majority of the Trustees, transfer the remaining funds or any portion thereof to the City for the purposes provided in Paragraph II herein or trustees of any trust or trusts established for a substantially similar purpose to be applied for uses substantially similar to those set forth in Paragraph II herein.

**X.
GOVERNING LAW**

This Declaration of Trust and the Trust created herein shall be construed and governed by the laws of the State of Texas in force from time to time.

**XI.
MISCELLANEOUS**

Whenever the context so admits and such treatment is necessary to interpret this Declaration of Trust in accordance with its apparent intent, the use herein of the singular shall include the plural, and vice versa, and the use of the feminine, masculine, or neuter gender shall be deemed to include the other genders.

The captions or headings above the various Paragraphs of this Declaration of Trust have been included only to facilitate the location of the subjects covered by each Paragraph but shall not be used in construing this Declaration of Trust.

If any clause or provision of this Declaration of Trust proves to be or is adjudged invalid or void for any reason, such invalid or void clause, provision, or portion shall not affect the whole, but the balance of the provisions hereof shall remain operative and shall be carried into effect insofar as is legally possible.

IN WITNESS WHEREOF, the undersigned parties have executed this amended Declaration of Trust on the dates of their respective acknowledgments below. By joining in the execution of this Declaration of Trust, the Trustees signify acceptance of the Trust created hereunder, and covenant that the Trust will be executed with all due fidelity. This Trust is effective as of the last date of signature below.

CITY OF ROSENBERG, SETTLOR

Cynthia A. McConathy, Mayor

TRUSTEES:

Lynn Moses, Trustee

Lisa Wallingford, Trustee

Jimmie Pena, Trustee

Robert Gracia, Trustee

Joyce Vasut, Trustee

Lisa Olmeda, Trustee

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Cynthia A. McConathy, Mayor of the City of Rosenberg, on behalf of Settlor.

Notary Public, State of Texas
My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Lynn Moses, Trustee.

Notary Public, State of Texas
My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Lisa Wallingford, Trustee.

Notary Public, State of Texas
My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Jimmie Pena, Trustee.

Notary Public, State of Texas
My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Robert Gracia, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Joyce Vasut, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2015, by Lisa Olmeda, Trustee.

Notary Public, State of Texas

My Commission Expires: _____

(SEAL)

Amended: 07-15-15

SCHEDULE A

The following is a list of the assets initially transferred by the City of Rosenberg, Settlor, to the Trust:

City of Rosenberg's first month (October 2015) contributions for Employee, Dependent, and Retiree Medical/Pharmacy Benefits, Dental Benefits, Life Insurance Benefits, and Long Term Disability Benefits.

City of Rosenberg Employee, Dependents, and Retirees first month (October 2015) of Plan Year's payroll deductions or contributions for Medical/Pharmacy Benefits, Dental Benefits, Life Insurance Benefits, and Long Term Disability Insurance Benefits.

8. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1837, A RESOLUTION AUTHORIZING THE RESALE OF PROPERTY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO FOR ALL PURPOSES, HAVING BEEN ACQUIRED THROUGH TAX FORECLOSURE PROCEEDINGS.**

Executive Summary: Mike Darlow with Perdue, Brandon, Fielder, Collins and Mott LLP (PBFCM), provided a list of property held in trust by the City or Fort Bend County on lots in the City that did not sell at the initial tax sale. Mr. Darlow suggested that the City Council authorize the tax attorneys to conduct a second tax sale to try to sell the lots. City staff has reviewed the list and approved those properties in Exhibit 'A' for resale. Yolanda Humphrey from PBFCM will be available at the meeting to answer any questions that council may have.

Staff recommends approval of Resolution No. R-1837, a Resolution authorizing the resale of property described in Exhibit "A" that was acquired through tax foreclosure proceedings. Upon approval of the Resolution, staff will include the required approval date in the Resolution.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding the item.
- Yolanda Humphrey of Perdue, Brandon, Fielder, Collins and Mott, LLP was present for any questions from Council. She gave an overview of the item.

Questions/Comments:

- Councilor Benton stated these properties will go back at a lower amount.
- Yolanda Humphrey stated they will look at the value of the property, judgment, etc., and the bid amount may be less than the cost of these properties.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Resolution No. R-1837, a Resolution authorizing the resale of property described in Exhibit "A", properties having been acquired through tax foreclosure proceedings. The motion carried by a unanimous vote of those present.

9. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1838, A RESOLUTION AUTHORIZING AMENDMENTS TO THE EMPLOYEE BENEFITS TRUST DECLARATION OF TRUST, A TRUST CREATED FOR THE PURPOSE OF PROVIDING CITY OFFICERS, EMPLOYEES, AND QUALIFIED RETIREES AND THEIR DEPENDENTS, WITH LIFE, DENTAL, DISABILITY, SICKNESS, ACCIDENT, AND OTHER HEALTH BENEFITS, EITHER DIRECTLY OR THROUGH THE PURCHASE OF INSURANCE, AND TO PERFORM OPERATIONS IN FURTHERANCE THEREOF.**

Executive Summary: Staff worked with Burke Sunday to establish the Employee Benefits Trust (Trust) for the purpose of providing City personnel and retirees with specific benefits. City Council approved the Declaration of Trust document on September 02, 2008, thus creating the Trust. The City Council also amended the Declaration of Trust on March 01, 2011, July 19, 2011, and also on August 20, 2013, in regards to Trustee membership and updated legislative requirements.

On Tuesday, August 19, 2014, the Employee Benefits Trust Committee will meet to discuss the necessary changes to the Declaration of Trust, Section I to reflect the change in Trustees, and also to Schedule "A" to reflect the new plan year of 2014. Therefore, the Declaration of Trust document would need to be amended to reflect these changes.

A redlined copy of the recommended changes to same was included in the agenda packet for City Council consideration. Mr. Sunday will be available at the City Council meeting to answer any questions.

Staff recommends approval of Resolution No. R-1838, authorizing the amendment to the Employee Benefits Trust Declaration of Trust, attached as Exhibit "A" to said Resolution.

Key discussion points:

- Lisa Olmeda, Human Resources Director read the Executive Summary regarding the item.

Action: Councilor Bolf made a motion, seconded by Councilor Benton to approve Resolution No. R-1838, a Resolution authorizing amendments to the Employee Benefits Trust Declaration of Trust, a Trust created for the purpose of providing City Officers, employees, and qualified retirees and their dependents, with life, dental, disability, sickness, accident, and other health benefits, either directly or through the purchase of insurance, and to perform operations in furtherance thereof. The motion carried by a unanimous vote of those present.

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1684, A RESOLUTION AUTHORIZING AMENDMENTS TO THE EMPLOYEE BENEFITS TRUST DECLARATION OF TRUST, A TRUST CREATED FOR THE PURPOSE OF PROVIDING CITY OFFICERS, EMPLOYEES, AND QUALIFIED RETIREES AND THEIR DEPENDENTS, WITH LIFE, DENTAL, DISABILITY, SICKNESS, ACCIDENT, AND OTHER HEALTH BENEFITS, EITHER DIRECTLY OR THROUGH THE PURCHASE OF INSURANCE, AND TO PERFORM OPERATIONS IN FURTHERANCE THEREOF.**

Executive Summary: Staff worked with Burke Sunday of SAI/CCBS to establish the Employee Benefits Trust (Trust) for the purpose of providing City personnel and retirees with specific benefits. City Council approved the Declaration of Trust document on September 02, 2008, thus creating the Trust. The City Council also amended the Declaration of Trust on March 01, 2011, and also on July 19, 2011, in regards to membership and updated legislative requirements.

On Tuesday, August 20, 2013, the Employee Benefits Trust Committee will meet to discuss the necessary changes to the Declaration of Trust, Section I to reflect the change in Trustees, and also Schedule "A" to reflect the new plan year of 2013. Therefore, the Declaration of Trust document would need to be amended to reflect the changes.

A redlined copy of the recommended changes to same for City Council consideration was included in the agenda packet. Mr. Sunday will be available at the City Council meeting to answer any questions.

Staff recommends approval of Resolution No. R-1684, authorizing the amended Employee Benefits Trust Declaration of Trust, attached as Exhibit "A" to said Resolution.

Key discussion points:

- Lisa Olmeda, Human Resources Director gave an overview of the item regarding Resolution No. R-1684.

Action: Councilor McConathy made a motion, seconded by Councilor Euton to approve Resolution No. R-1684, a Resolution authorizing amendments to the Employee Benefits Trust Declaration of Trust, a Trust created for the purpose of providing City officers, employees, and qualified retirees and their dependents, with life, dental, disability, sickness, accident, and other health benefits, either directly or through the purchase of insurance, and to perform operations in furtherance thereof. The motion carried by a unanimous vote.

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1685, A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN ADMINISTRATIVE SERVICES AGREEMENT, BY AND BETWEEN THE CITY OF ROSENBERG AND THE ROSENBERG EMPLOYEE BENEFITS TRUST, FOR THE PROVISION OF CERTAIN ADMINISTRATIVE SERVICES FOR A TERM OF ONE (1) YEAR.**

Executive Summary: This Administrative Services Agreement (Agreement) will accommodate certain administrative services that may be performed by the City of Rosenberg on behalf of the Rosenberg Employee Benefits Trust (Trust).

The Trust will meet on Tuesday, August 20, 2013, immediately preceding the Regular City Council Meeting. During the meeting, the Trust will be asked to approve the Agreement.

Staff recommends approval of Resolution No. R-1685, a Resolution authorizing the Interim City Manager to execute an Administrative Services Agreement, attached to Resolution No. R-1685 as Exhibit "A", for the provision of certain administrative services for a term of one (1) year, commencing October 01, 2013.

Key discussion points:

- Lisa Olmeda gave an overview of the item regarding Resolution No. R-1685.

Action: Councilor Euton made a motion, seconded by Councilor McConathy to approve Resolution No. R-1685, a Resolution authorizing the Interim City Manager to execute, for and on behalf of the City, an Administrative Services Agreement, by and between the City of Rosenberg and the Rosenberg Employee Benefits Trust, for the provision of certain administrative services for a term of one (1) year. The motion carried by a unanimous vote.

stated they are working with Customer Service to get some data together and it should be in the 98% savings range for the meter accuracy.

- Councilor Segura asked what the warranty stage period is. Chad Nobles stated the project is currently in the warranty stage. They have a one year warranty on a lot of the devices. Lamps and ballasts have a three or five year warranty. A lot of things are in the warranty period and as things fail they will replace those while in the warranty stage. After warranty stage we still have the guarantee associated with the energy savings and meter accuracy over the term of the contract. Items completed six months ago are six months into the warranty period.
- Councilor Suter asked when all our savings are counted up do you consider what we would have paid to replace a ballast. Chad Nobles stated if it is a failure on their side from a warranty standpoint it does not count as savings. Are the operational and maintenance savings associated with the “big picture” of the project? Yes, there were some taken into account early on. For example, on the lighting side there is some savings in the first couple of years where if you would have not done anything you would have cost associated with those maintenance items.
- Councilor Euton asked if we put the rebate towards the debt service or does this go into operations? Jack Hamlett stated we would put these savings toward the debt service because we had to borrow those funds from the state. That would help reduce our payments there.

3. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1292, A RESOLUTION AUTHORIZING AMENDMENTS TO THE EMPLOYEE BENEFITS TRUST DECLARATION OF TRUST, A TRUST CREATED FOR THE PURPOSE OF PROVIDING CITY OFFICERS, EMPLOYEES, AND QUALIFIED RETIREES AND THEIR DEPENDENTS, WITH LIFE, DENTAL, DISABILITY, SICKNESS, ACCIDENT, AND OTHER HEALTH BENEFITS, EITHER DIRECTLY OR THROUGH THE PURCHASE OF INSURANCE, AND TO PERFORM OPERATIONS IN FURTHERANCE THEREOF.**

Executive Summary: Staff worked with Burke Sunday of City-County Benefit Services to establish the Employee Benefits Trust (Trust) for the purpose of providing City personnel and retirees with specific benefits. City Council approved the Declaration of Trust document on September 02, 2008, thus creating the Trust.

The Trustees will be meeting on Tuesday, March 01, 2011, to review certain recommended changes necessary to revise the Declaration of Trust. Attached please find a copy of the recommended changes to same for your consideration. Mr. Sunday will be available at the City Council meeting to answer any questions.

Staff recommends approval of Resolution No. R-1292, authorizing the amended Employee Benefits Trust Declaration of Trust.

Key discussion points:

- Lisa Olmeda, Personnel Director, read the Executive Summary regarding Resolution No. R-1292.

Action: Councilor Suter made a motion seconded by Councilor Salazar to approve Resolution No. R-1292, a Resolution authorizing amendments to the Employee Benefits Trust Declaration of Trust, a Trust created for the purpose of providing City officers, employees, and qualified retirees and their dependents, with life, dental, disability, sickness, accident, and other health benefits, either directly or through the purchase of insurance, and to perform operations in furtherance thereof. The motion carried by a unanimous vote of those present.

4. **REVIEW AND DISCUSS AN INDEPENDENT ANALYSIS REPORT OF CONTACT DATA COLLECTED BY THE POLICE DEPARTMENT FOR CALENDAR YEAR 2010, AND TAKE ACTION AS NECESSARY.**

Executive Summary: In accordance with Senate Bill 1074, more commonly known as the “Texas Racial Profiling Data Collection Law”, all state law enforcement agencies are required to submit a report to their governing body – whether a county or municipality. The report must contain totals on racial profiling data, as well as analysis of the prevalence of racial profiling. The report has been provided to City Council under separate cover and will be available for public review in the City Secretary’s office.

Dr. Alex del Carmen will be present at the meeting to discuss his independent assessment of the data collected.

Key discussion points:

- Robert Gracia, Police Chief, introduced Dr. Alex del Carmen.
- Dr. Alex del Carmen presented the annual report regarding racial profiling. The Police Department is in the top 1% for being proactive.

money as if it is their own.

- o Insure there is no question in the City's mind as to whether City hires OE/B for Phase 2.
- Mayor Gurecky and Councilors thanked the Park Board and the Seabourne Creek Task Force and all involved for their efforts on this project.

Action: Councilor Hopkins made a motion, seconded by Councilor Suter to approve recommendation from the Professional Services/Engineering Project Review Committee for O'Malley Engineers, L.L.P., to provide professional services for the Seabourne Creek Park Project Phase I. The motion carried by a unanimous vote of those present.

3. HOLD PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO FISCAL YEAR 2008-2009 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.

Mayor Gurecky opened the Public Hearing at 7:48:26 p.m., and as there were no comments, he closed the Public Hearing at 7:48:58 p.m.

4. HOLD SECOND PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO THE PROPOSED AD VALOREM TAX RATE FOR THE FISCAL YEAR BEGINNING OCTOBER 01, 2008, AND ENDING SEPTEMBER 30, 2009, AND TAKE ACTION AS NECESSARY.

Mayor Gurecky opened the Public Hearing at 7:49:06 p.m., and as there were no comments, he closed the Public Hearing at 7:49:39 p.m.

5. CONSIDERATION OF AND ACTION ON THE 2008 CERTIFIED PROPERTY TAX ROLL OF \$1,457,831,365, NEW PROPERTY VALUES OF \$66,792,997, AND THE ANTICIPATED COLLECTION RATE OF 100%.

Executive Summary: The Fort Bend County Tax Assessor/Collector, Patsy Schultz, requests that the City Council acknowledge receipt in the minutes of the Certified Appraisal Roll Totals, the Value of New Property, and the Anticipated Collection Rate for the 2008 Tax Year.

Staff recommends that City Council accept the Certified Appraisal Roll Totals, the Value of New Property, and the Anticipated Collection Rate for the 2008 Tax Year as presented by the County Tax Assessor/Collector.

Key discussion points:

- Mindi Snyder read the executive summary.

Action: Councilor Hopkins made a motion, seconded by Councilor Grigar to approve the 2008 Certified Property Tax Roll of \$1,457,831,365, New Property Values of \$66,792,997, and the Anticipated Collection Rate of 100%.

Further discussion:

- Mayor Gurecky commented that in 2007, the tax roll was slightly over 1 billion. This past year we have seen that grow from 1.1 billion by \$350 million dollars. At lot is attributed to valuation increases on property, but also what we see in Phase I and II of NewQuest Properties makes up for the loss we have had this past year.

Upon voting the motion carried by a unanimous vote of those present.

6. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-862, A RESOLUTION APPROVING AND ADOPTING THE DECLARATION OF A NONPROFIT TRUST MORE PARTICULARLY IDENTIFIED AS AN EMPLOYEE BENEFITS TRUST CREATED FOR THE PURPOSE OF PROVIDING CITY OFFICERS, EMPLOYEES, AND QUALIFIED RETIREES AND THEIR DEPENDENTS, WITH LIFE, DENTAL, DISABILITY, SICKNESS, ACCIDENT, AND OTHER HEALTH BENEFITS EITHER DIRECTLY OR THROUGH THE PURCHASE OF INSURANCE AND TO PERFORM OPERATIONS IN FURTHERANCE THEREOF.

Executive Summary: Staff has worked with Burke Sunday of City-County Benefit Services to obtain a renewal quote on the City Health Insurance Premiums. Burke has worked with CIGNA to finalize a premium that is 18.5% higher than the current annual premium and the budget has been finalized to allow the increase to be absorbed by the City and no increase will be passed along to the employees. The coverage will remain the same. The dollar amount of the retiree contribution for the City was capped

and any increase in the rates will be passed on to the retiree.

The Employee Benefits Committee did review the preliminary information that was presented by Burke Sunday on July 09, 2008 and the proposal to create an Employee Benefits Trust. The trust will save the City 2%, or approximately \$48,000, in tax that would otherwise be added to the 18.5%. Mr. Sunday will be available at the City Council meeting to make a presentation. A meeting of the Employee Benefits Trustees will be coordinated to allow the renewal of the current contract with CIGNA and then the final step of authorizing the transfer of funds will be presented to City Council on September 16, 2008.

Staff recommends approval of Resolution No. R-862, approving the creation of the Employee Benefits Trust.

Key discussion points:

- Mindi Snyder read the executive summary.
- Burke Sunday with City-County Benefit Services gave a brief summary of the trust and it will allow the City to reduce their costs going forward by two percent (2%) each year. The trustees will be the Employee Benefits Committee and three staff members.
- Councilor Segura asked if the City is absorbing the cost of the employees and any increase in benefits for retirees will be paid by the retirees. Burke Sunday stated the retirees benefits were capped last year and they will have to pay any increase.

Action: Councilor Hopkins made a motion, seconded by Councilor Suter to approve Resolution No. R-862, a Resolution approving and adopting the declaration of a nonprofit trust more particularly identified as an Employee Benefits Trust created for the purpose of providing City officers, employees, and qualified retirees and their dependents, with life, dental, disability, sickness, accident, and other health benefits either directly or through the purchase of insurance and to perform operations in furtherance thereof. The motion carried by a unanimous vote of those present.

7. CONSIDERATION OF AND ACTION ON PROPOSED CIGNA HEALTHCARE GROUP BENEFITS RENEWAL FOR CITY OF ROSENBERG EMPLOYEES, AND QUALIFIED RETIREES AND THEIR DEPENDENTS.

Executive Summary: In the event that City Council does not create the Employee Benefits Trust (Trust), this item has been added to offer City Council the opportunity to act upon the proposed renewal of the City's employee healthcare benefits as offered by Cigna.

However, should City Council approve the Trust, City Council may also wish to act upon the proposal, sending the proposed extension forward to the Trust as a recommendation.

Key discussion points:

- Mindi Snyder stated she met with Bill Olson and Burke Sunday prior to this meeting to get direction on this item.
- Bill Olson explained that the Trust is created and there will be an organizational meeting next Tuesday. The actions of the Trust will be to appoint officers and to extend the term of the current insurance contract with Cigna Healthcare for an additional one year. This is to ask Council to give the approval of the extension of that contract by the Trust. We envision that the City and the Trust will enter into a contract whereby the City will collect the premiums and pay the premiums to the insurance company and provide any other administrative services necessary in the administration of the health insurance coverage for employees and retirees. This item is asking for Council's approval of the Trust, renewal of the current policy for one year with increased premium cost and further authorizes any other action that may be necessary in order for the Trust to execute the one year extension.

Action: Councilor Hopkins made a motion, seconded by Councilor Grigar to approve that the Trust further agree to the one year extension with Cigna with the provisions where the City will pay the additional 18.5% premium increase and any other actions that may be necessary by the Trust to make it occur. The motion carried by a unanimous vote of those present.

Mayor Gurecky recognized Chief Gracia and his officers for providing security at the Council meetings.

8. CONSIDER MOTION TO ADJOURN FOR EXECUTIVE SESSION.

Action: Councilor Hopkins made a motion, seconded by Councilor Grigar to adjourn for Executive



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
13	Resolution No. R-2011 - Administrative Services Agreement for the Rosenberg Employee Benefits Trust

ITEM/MOTION

Consideration of and action on Resolution No. R-2011, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Administrative Services Agreement, by and between the City and the Rosenberg Employee Benefits Trust, for the provision of certain administrative services for a term of one (1) year.

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

- Resolution No. R-2011

APPROVALS

Submitted by:

Lisa Olmeda

Lisa Olmeda
 Human Resources Director

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

Robert Gracia
 City Manager

EXECUTIVE SUMMARY

This Administrative Services Agreement (Agreement) will accommodate certain administrative services that may be performed by the City of Rosenberg on behalf of the Rosenberg Employee Benefits Trust (Trust).

The Trust met on Wednesday, July 15, 2015. The Trust recommended is recommending City Council approval of the Agreement. Please note that a draft minute excerpt from this meeting was not yet available at print time for this Agenda packet.

Staff recommends approval of Resolution No. R-2011, authorizing the City Manager to execute an Administrative Services Agreement, attached to Resolution No. R-2011 as Exhibit "A", for the provision of certain administrative services for a term of one (1) year, commencing October 01, 2015.

RESOLUTION NO. R-2011

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, AN ADMINISTRATIVE SERVICES AGREEMENT, BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND THE ROSENBERG EMPLOYEE BENEFITS TRUST, FOR PROVISION OF CERTAIN ADMINISTRATIVE SERVICES FOR A TERM OF ONE (1) YEAR.

* * * * *

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

Section 1. The City Manager is hereby authorized to execute an Administrative Services Agreement (Agreement), by and between the City of Rosenberg, Texas, and the Rosenberg Employee Benefits Trust, for the provision of certain administrative services. A copy of such Agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

ADMINISTRATIVE SERVICES AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

THIS AGREEMENT is made, entered into, and executed by and between the CITY OF ROSENBERG, TEXAS (the "City"), a municipal corporation of the State of Texas, and the City of Rosenberg Employee Benefits Trust (the "Trust").

WITNESSETH:

WHEREAS, the City represents that it is capable of providing and qualified to provide certain services to the Trust and the City desires to perform the same;

NOW, THEREFORE, the Trust and the City in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

1.

SCOPE OF AGREEMENT

The City agrees to perform certain services as outlined and defined in Exhibit "A", attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work."

2.

CHARACTER AND EXTENT OF SERVICES

The City shall do all things necessary to render the services and perform the Scope of Work in a workmanlike manner. It is expressly understood and agreed that the City is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that the City shall not have the authority to obligate or bind the Trust, or make representations or commitments on behalf of the Trust or its officers or employees, without the express prior approval of the Trust. Because the Trust was created and exists for the benefit of the City, its employees and retirees, no compensation shall be paid the City for its services to the Trust.

3.

TERM

The term of this Agreement shall be for a period of one (1) year commencing on October 1, 2015, and ending on September 30, 2016.

4.

NONDISCRIMINATION

The City and the Trust shall not discriminate in any way against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity or national origin, in connection with or related to the performance of this Agreement.

5.

ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the Trust at the following address:

Rosenberg Employee Benefits Trust
2110 4th Street
Rosenberg, Texas 77471

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Rosenberg
2110 4th Street
Rosenberg, Texas 77471
Attn: City Manager

6.

SUCCESSORS AND ASSIGNS

The Trust and the City bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Neither the Trust nor the City shall assign or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer, employee or agent of the Trust or the City.

7.

DISCLOSURE OF INFORMATION

Subject to the requirements of the Texas Public Information Act and any other applicable law, the City shall not release any material or information developed in the performance of its services hereunder without the permission, oral or written, of the Trust.

8.

MODIFICATIONS

This instrument, including Exhibit "A", contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

9.

ADDITIONAL SERVICES

If authorized in writing by the Trust, the City shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the Scope of Work, as defined in Exhibit "A".

10.

MISCELLANEOUS PROVISIONS

A. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Fort Bend County, Texas.

B. This Agreement is for sole benefit of the Trust and the City, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

C. The City shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records evidencing or relating to charges for services, or expenditures and disbursements charged to the Trust, and all documents and records that demonstrate performance under this Agreement, for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

D. The Trust and the City agree that a waiver by the other party of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by the Trust of the performance of any work or services by the City shall not be deemed to be a waiver of any term or condition of this Agreement.

IN WITNESS WHEREOF, the City of Rosenberg, Texas, has lawfully caused this Agreement to be executed by its City Manager; and the Rosenberg Employee Benefits

Trust, acting by its duly authorized Chairman of the Board of Trustees, does now sign, execute, and deliver this instrument.

EXECUTED on the _____ day of _____ 2015.

ATTEST:

CITY OF ROSENBERG, TEXAS

Linda Cernosek, City Secretary

Robert Gracia, City Manager

**ROSENBERG EMPLOYEE BENEFITS
TRUST**

By: _____

Name: _____

Title: Chairman

EXHIBIT "A"

SCOPE OF WORK

A. Scope of Work: The City shall perform all work necessary to administer a health benefits program for its employees, qualified retirees, and their dependents (the "Beneficiaries"), including, but not limited to, the following:

- 1) Coordinate with the health, life, disability, and any other insurance providers selected by the Trust (the "Providers") to provide benefits to the Beneficiaries;
- 2) Create and maintain all necessary records of coverage, eligibility, and any other necessary data required by the Providers for the Beneficiaries;
- 3) Pay all premiums to the Providers in a timely manner;
- 4) Report to the Trust on the status of the work done under this Agreement at such times as the Trust may require but at least annually;
- 5) Maintain a separate fund on the books of the City to receive premium contributions from the City, its employees, and qualified retirees, and from which to pay premiums to Providers.
- 6) Such additional services as the parties may agree.

B. Time for Performance: The City shall perform all services under this Agreement in a timely fashion in accordance with the requirements of the contracts between the Trust and the Providers, and the customary standards of the field.



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
14	Resolution No. R-2012 – BlueCross BlueShield of Texas Healthcare Plan and Life Insurance Funding
ITEM/MOTION	

Consideration of and action on Resolution No. R-2012, a Resolution authorizing funding for a Contract with BlueCross BlueShield of Texas, for healthcare benefits for City employees, qualified retirees, and their dependents; and, for life insurance for City employees for one (1) year; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a Contract for same.

FINANCIAL SUMMARY	ELECTION DISTRICT
Annualized Dollars: <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring <input type="checkbox"/> N/A	<input type="checkbox"/> District 1 <input type="checkbox"/> District 2 <input type="checkbox"/> District 3 <input type="checkbox"/> District 4 <input type="checkbox"/> City-wide <input checked="" type="checkbox"/> N/A
Budgeted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Source of Funds: Insurance Fund (601)	
SUPPORTING DOCUMENTS:	MUD #: N/A

- Resolution No. R-2012
- BlueCross BlueShield FY2015-2016 Proposal - Medical/Rx Plans Renewal Rates

APPROVALS		
Submitted by:	Reviewed by:	Approved for Submittal to City Council:
 Lisa Olmeda Human Resources Director	<input checked="" type="checkbox"/> Exec. Dir. of Administrative Services  <input type="checkbox"/> Asst. City Manager of Public Services <input type="checkbox"/> City Attorney <input type="checkbox"/> City Engineer <input type="checkbox"/> (Other)	 Robert Gracia City Manager

EXECUTIVE SUMMARY
<p>Staff has worked with Burke Sunday with Gallagher Benefits Services, Inc., to obtain quotes for the City's health benefit and life insurance. BlueCross BlueShield of Texas submitted a Best and Final 12.04% increase from the current rates; however, accepting the proposal for \$25,000 life insurance per employee would reduce the increase to 10.98% instead of 12.04%.</p> <p>Funding for the Contract and proposed rates for FY2016 at \$ 2,383,293.60 and for life insurance for employees at \$23,072, would provide one (1) year of coverage with BlueCross BlueShield of Texas, beginning October 01, 2015, through September 30, 2016. The health insurance plan covers active employees and retirees under the age of 65. The life insurance covers active employees.</p> <p>In FY2014-2015, the annual premium was \$2,024,326.80. The annualized increase to current annual proposed premium rates will be \$358,966.80.</p> <p>Staff recommends approval of the funding for the proposed Contract with BlueCross BlueShield of Texas for the PPO Plan. The Employee Benefits Trust met on July 15, 2015, and has recommended approval to City Council. Please note a draft minute excerpt for this meeting was not yet available at print time for this Agenda packet.</p> <p>Staff recommends approval of Resolution No. R-2012, authorizing funding for a Contract with BlueCross BlueShield of Texas, for healthcare benefits for City of Rosenberg employees, qualified retirees, and their dependents; and, for life insurance for City employees for one (1) year; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a Contract for same.</p>

RESOLUTION NO. R-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING FUNDING FOR A CONTRACT WITH BLUECROSS BLUESHIELD OF TEXAS FOR HEALTHCARE BENEFITS FOR CITY OF ROSENBERG EMPLOYEES, QUALIFIED RETIREES, AND THEIR DEPENDENTS; AND, FOR LIFE INSURANCE FOR CITY OF ROSENBERG EMPLOYEES FOR ONE (1) YEAR; AND, AUTHORIZING THE ROSENBERG EMPLOYEE BENEFITS TRUST TO NEGOTIATE AND EXECUTE A CONTRACT FOR SAME.

* * * * *

WHEREAS, it is the goal of City Council to provide employees, qualified retirees, and their dependents with appropriate healthcare benefits; and,

WHEREAS, it is the goal of City Council to provide employees with life insurance benefits; and,

WHEREAS, City Council and staff have made every effort to provide comprehensive yet affordable healthcare to said employees, qualified retirees, and their dependents; and,

WHEREAS, the Rosenberg Employee Benefits Trust has reviewed, approved, and been authorized to execute a Contract with BlueCross BlueShield of Texas, on behalf of said employees, qualified retirees, and their dependents; now, therefore,

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

Section 1. City Council hereby approves and authorizes funding to facilitate a Contract with BlueCross BlueShield of Texas for the provision of healthcare benefits to City of Rosenberg employees, qualified retirees, and their dependents.

Section 2. City Council hereby approves and authorizes funding to facilitate a Contract with BlueCross BlueShield of Texas, for the provision of life insurance benefits to City of Rosenberg employees.

Section 3. The Rosenberg Employee Benefits Trust is hereby authorized to negotiate and execute a Contract for said benefits.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

Medical/Rx Plans Renewal Rates

Medical/Rx Plan Rate History

2006 Plan Year through 2015-2016 Plan Year

<u>Core Plan</u>	2006 Plan Year	2007 Plan Year	2008 Plan Year ¹	2008-2009 Plan Year	2009-2010 Plan Year	2010-2011 Plan Year	2011-2012 Plan Year	2012-2013 Plan Year	2013-2014 Plan Year
Employee Only	\$686.00	\$689.00	\$414.00	\$488.75	\$535.94	\$488.64	\$461.28	\$471.89	\$462.45
Employee + Spouse	\$829.00	\$849.00	\$865.40	\$1,025.51	\$1,125.47	\$1,026.15	\$968.67	\$990.95	\$971.13
Employee + Children	\$799.00	\$814.00	\$782.97	\$927.83	\$1,066.00	\$928.42	\$876.40	\$896.56	\$878.63
Employee + Family	\$874.00	\$899.00	\$1,277.49	\$1,513.84	\$1,739.28	\$1,514.79	\$1,429.93	\$1,462.82	\$1,433.56
Annual Variance (EE)		0.44%	-39.91%	18.06%	9.66%	-8.83%	-5.60%	2.30%	-2.00%
Cumulative Variance		0.44%	-39.65%	-28.75%	-21.87%	-28.77%	-32.76%	-31.21%	-32.59%

<u>Core Plan</u>	2014-2015 Plan Year	2015-2016 Plan Year
Employee Only	\$446.28	\$504.48
Employee + Spouse	\$937.19	\$1,059.41
Employee + Children	\$847.93	\$958.51
Employee + Family	\$1,383.47	\$1,563.89
Annual Variance (EE)	-3.50%	13.04%
Cumulative Variance	-34.94%	-26.46%

¹ January -September (Short Plan Year to reposition plan to coincide with City's Fiscal Year)



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
15	Resolution No. R-2013 – Assurant Employee Benefits Dental Plan Funding

ITEM/MOTION

Consideration of and action on Resolution No. R-2013, a Resolution authorizing funding for a Contract with Assurant Employee Benefits for dental care benefits for City employees, qualified retirees, and their dependents; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a Contract for same.

FINANCIAL SUMMARY	ELECTION DISTRICT
-------------------	-------------------

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds:

Insurance Fund (601)

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

SUPPORTING DOCUMENTS:

1. Resolution No. R-2013
2. Assurant Employee Benefits PPO and DHMO FY15-16 Proposed Rates

MUD #: N/A

APPROVALS

Submitted by:

Lisa Olmeda
 Lisa Olmeda
 Human Resources Director

Reviewed by:

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

Approved for Submittal to City Council:

Robert Gracia
 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

Staff worked with Burke Sunday of Gallagher Benefits Services, Inc., to obtain quotes for the City's dental care benefits. Assurant Employee Benefits submitted a proposed 0.0% for the DHMO and 0.0% for the PPO Plan, due to the rate being guaranteed for two years for FY14-15 and FY15-16. The employees pay 100% of the premium.

The annual renewal premium will be \$85,791.00 for the PPO Plan and \$12,877.20 for the DHMO Plan, totaling \$98,668.20.

The Employee Benefits Trust (Trust) met on Wednesday, July 15, 2015. At that time, the Trust considered approval of the Contract with Assurant Employee Benefits and recommended approval of same to City Council. Please note that a draft minute excerpt was not yet available for this item at print time for this Agenda packet. Funding for the Contract and proposed rates at \$98,668.20 would provide for one (1) year coverage with Assurant Employee Benefits beginning October 01, 2015, through September 30, 2016.

Staff recommends approval of Resolution No. R-2013, a Resolution authorizing funding for a Contract with Assurant Employee Benefits for dental care benefits for City employees, qualified retirees, and their dependents; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a Contract for same.

RESOLUTION NO. R-2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING FUNDING FOR A CONTRACT WITH ASSURANT EMPLOYEE BENEFITS FOR DENTAL CARE BENEFITS FOR CITY OF ROSENBERG EMPLOYEES, QUALIFIED RETIREES, AND THEIR DEPENDENTS; AND, AUTHORIZING THE ROSENBERG EMPLOYEE BENEFITS TRUST TO NEGOTIATE AND EXECUTE A CONTRACT FOR SAME.

* * * * *

WHEREAS, it is the goal of City Council to provide employees, qualified retirees, and their dependents with appropriate dental care benefits; and,

WHEREAS, City Council and staff have made every effort to provide comprehensive yet affordable dental care to said employees, qualified retirees, and their dependents; and,

WHEREAS, the Rosenberg Employee Benefits Trust has reviewed, approved, and been authorized to execute a Contract with Assurant Employee Benefits, on behalf of said employees, qualified retirees, and their dependents; now, therefore,

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

Section 1. City Council hereby approves and authorizes funding to facilitate a Contract with Assurant Employee Benefits for the provision of dental care benefits to City of Rosenberg employees, qualified retirees, and their dependents.

Section 2. The Rosenberg Employee Benefits Trust is hereby authorized to negotiate and execute a Contract for said dental care benefits.

PASSED, APPROVED, AND RESOLVED this ____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

Dental Plan Renewal Rates (PPO/DHMO)

Dental Plan Rate History

2008 Plan Year through 2015-2016 Plan Year

<u>Dental PPO</u>	2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
	Plan Year ¹	Plan Year	Plan Year	Plan Year	Plan Year ²	Plan Year	Plan Year	Plan Year	Plan Year
Employee Only	\$31.58	\$33.16	\$31.70	\$32.98	\$29.41	\$29.41	\$32.50	\$26.75	\$26.75
Employee + Spouse	\$67.82	\$71.21	\$68.09	\$70.95	\$58.81	\$58.81	\$64.99	\$54.00	\$54.00
Employee + Children	\$79.17	\$83.13	\$79.49	\$82.70	\$79.68	\$79.68	\$88.05	\$75.00	\$75.00
Employee + Family	\$115.41	\$121.18	\$115.68	\$120.55	\$109.08	\$109.08	\$120.53	\$102.00	\$102.00
Annual Variance (EE)		5.00%	-4.40%	4.04%	-10.82%	0.00%	10.51%	-17.69%	0.00%
Cumulative Variance		5.00%	0.38%	4.43%	-6.87%	-6.87%	2.91%	-15.29%	-15.29%
<u>Dental DHMO</u>	2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
	Plan Year ¹	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year
Employee Only	\$14.98	\$15.73	\$10.05	\$10.41	\$9.75	\$9.75	\$10.14	\$10.00	\$10.00
Employee + Spouse	\$32.18	\$33.79	\$21.58	\$22.34	\$20.19	\$20.19	\$21.00	\$17.24	\$17.24
Employee + Children	\$37.56	\$39.44	\$25.19	\$26.08	\$24.32	\$24.32	\$25.29	\$23.22	\$23.22
Employee + Family	\$54.76	\$57.50	\$36.72	\$38.01	\$32.45	\$32.45	\$33.75	\$31.81	\$31.81
Annual Variance (EE)		5.01%	-36.11%	3.58%	-6.34%	0.00%	4.00%	-1.38%	0.00%
Cumulative Variance		5.01%	-32.91%	-30.51%	-34.91%	-34.91%	-32.31%	-33.24%	-33.24%

¹ January -September (Short Plan Year to reposition plan to coincide with City's Fiscal Year)

² Annual Maximum benefits increased to \$1,500



CITY COUNCIL COMMUNICATION

July 21, 2015

ITEM #	ITEM TITLE
16	Resolution No. R-2014 – Premium Contribution Rates for FY2016
ITEM/MOTION	

Consideration of and action on Resolution No. R-2014, a Resolution approving employee and retiree premium contribution rates to the City's health insurance plan.

FINANCIAL SUMMARY	ELECTION DISTRICT
--------------------------	--------------------------

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

Yes No N/A

Source of Funds:

Insurance Fund (601)

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

SUPPORTING DOCUMENTS:

1. Resolution No. R-2014
2. Health Insurance Comparison
3. Resolution No. R-1688 – 08-20-13
4. Resolution No. R-697 – 12-06-05
5. City Council Meeting Minute Excerpt – 08-20-13
6. City Council Meeting Minute Excerpt – 12-06-05
7. Employee Benefits Committee Meeting Draft Minute Excerpt – 07-29-14

MUD #: N/A

APPROVALS**Submitted by:**

Joyce Vasut

Joyce Vasut
Executive Director of
Administrative Services

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney
- City Engineer
- Human Resources Director *JO*

Approved for Submittal to City Council:

Robert Gracia

Robert Gracia
City Manager

EXECUTIVE SUMMARY

On August 20, 2013, the City Council approved Resolution No. R-1688, which adopted a Premium Incentive Program under the Affordable Care Act (ACA) health care reform law, effective January 01, 2014. In January 2014, the Biometric Screening and Risk Assessment incentive was implemented. In Fiscal Year 2014-2015, the Tobacco Use incentive was implemented. In order to receive the premium incentive deductions, the employee must comply with the established incentive regulations. The Premium Incentive Program will continue in FY2016.

As noted in the Blue Cross and Blue Shield Contract (previous Agenda item), the health insurance rates will increase 10.98% for FY2016. During the July 15, 2015, Employee Benefits Committee/Employee Benefits Trust Meetings, the Committee Members reviewed the premium contribution rates. City staff submitted two (2) options. In Option 1, the percentage paid by the employee and the City remain the same at 10% by employee and 90% by the City for employee coverage and 48.5% paid by employee and 51.5% by City for dependent coverage. In this option, the increase affects both the employee and the City. In Option 2, the percentage paid by the employee and the City are adjusted to 100% paid by the City for employee coverage and 50% paid by employee and 50% by the City for dependent coverage. This option was presented as requested by the Employee Benefits Committee/Employee Benefits Trust during last year's meeting. Based on this option, the City's cost increases by \$130,000.

The Employee Benefits Committee/Employee Benefits Trust discussed the first two (2) options on the Health Insurance Comparison at the meeting on July 15, 2015, and is recommending City Council approval for Option 2 which includes the City paying 100% of the employee's insurance premium and the employees paying 50% of the dependent coverage while the City pays the remaining 50%. Option 2 allows the City to continue the City's

target to reduce the City's percentage paid for dependent coverage while providing 100% of the employee's coverage.

Following the Employee Benefits Committee/Employee Benefits Trust meetings, a Committee and Council member requested additional options to be presented. Option 3 was suggested in which the City pays the amount of the 10.98% increase for both the employee and the dependent coverage. This option is more economical for the City but it contradicts the City target to reduce the City's contribution for dependent coverage.

Option 4 was also prepared as a more economical option for the City while remaining on target to increase the City's contribution for employee coverage and to decrease the City's contribution for dependent coverage. In Option 4, the percentage paid by the employee and the City are adjusted to 5% paid by the employee and 95% paid by the City for employee coverage and 50% paid by employee and 50% by the City for dependent coverage.

On December 06, 2005, the City Council approved Resolution No. R-697, amending the policy on health insurance premium payments for its retirees based on a sliding scale for the years of service to the City of Rosenberg, effective January 01, 2006. This policy continues to govern retiree contribution rates for healthcare premiums.

The Employee Benefits Committee/Employee Benefits Trust recommends approving employee and tenured retiree premium contribution rates to the City's health insurance plan as Option 2, in which the percentage paid by the employee and the City are adjusted to 100% paid by City for employee coverage and 50% paid by employee and 50% by the City for dependent coverage. The percentages will be inserted in Resolution No. 2014 as directed by the City Council.

RESOLUTION NO. R-2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, APPROVING EMPLOYEE AND RETIREE PREMIUM CONTRIBUTION RATES TO THE CITY'S HEALTH INSURANCE PLAN.

* * * * *

WHEREAS, it is the goal of City Council to provide employees, qualified retirees, and their dependents with appropriate healthcare benefits; and,

WHEREAS, City Council and staff have made every effort to provide comprehensive yet affordable healthcare to said employees, qualified retirees, and their dependents; and,

WHEREAS, the Rosenberg Employee Benefits Trust has reviewed and approved, the established premium contribution rate; now, therefore,

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

Section 1. City Council hereby approves employee and retiree premium contribution rates to the City's health insurance plan.

Section 2. The employee and retiree premium contribution rates for coverage to the City's health insurance plan are hereby established at ____%.

PASSED, APPROVED, AND RESOLVED this _____ day of _____ 2015.

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Cynthia A. McConathy, **Mayor**

City of Rosenberg
Health Insurance Comparison
Current Plan FY 2015 vs Proposed Options FY 2016

	Current Plan - FY 2015		Proposed Plan - FY 2016 Option # 1		Proposed Plan - FY 2016 Option # 2		Proposed Plan - FY 2016 Option # 3		Proposed Plan - FY 2016 Option # 4	
	<u>Without Incentives</u>		<u>Without Incentives</u>		<u>Without Incentives</u>		<u>Without Incentives</u>		<u>Without Incentives</u>	
	<u>Employee</u>	<u>City</u>	<u>Employee</u>	<u>City</u>	<u>Employee</u>	<u>City</u>	<u>Employee</u>	<u>City</u>	<u>Employee</u>	<u>City</u>
Employee/Retiree Only	\$ 94.63 21.2%	\$ 351.65 78.8%	\$ 99.53 20.1%	\$ 395.75 79.9%	\$ 50.00 10.1%	\$ 445.28 89.9%	\$94.63 19.1%	\$400.65 80.9%	\$ 74.76 15.1%	\$ 420.52 84.9%
Spouse	\$ 238.09 48.5%	\$ 252.82 51.5%	\$ 264.23 48.5%	\$ 280.58 51.5%	\$ 272.41 50.0%	\$ 272.41 50.0%	\$238.09 43.7%	\$306.72 56.3%	\$ 272.41 50.0%	\$ 272.41 50.0%
Employee and Spouse	\$ 332.72	\$ 604.47	\$ 363.76	\$ 676.33	\$ 322.41	\$ 717.69	\$332.72	\$707.37	\$ 347.17	\$ 692.92
Children	\$ 194.80 48.5%	\$ 206.85 51.5%	\$ 216.19 48.5%	\$ 229.56 51.5%	\$ 222.88 50.0%	\$ 222.88 50.0%	\$194.80 43.7%	\$250.95 56.3%	\$ 222.88 50.0%	\$ 222.88 50.0%
Employee and Children	\$ 289.43	\$ 558.50	\$ 315.72	\$ 625.31	\$ 272.88	\$ 668.16	\$289.43	\$651.60	\$ 297.64	\$ 643.39
Family	\$ 454.54 48.5%	\$ 482.65 51.5%	\$ 504.45 48.5%	\$ 535.65 51.5%	\$ 520.05 50.0%	\$ 520.05 50.0%	\$454.54 43.7%	\$585.56 56.3%	\$ 520.05 50.0%	\$ 520.05 50.0%
Employee and Family	\$ 549.17	\$ 834.30	\$ 603.98	\$ 931.40	\$ 570.05	\$ 965.33	\$549.17	\$986.21	\$ 594.81	\$ 940.57
	<u>With 1 Incentive</u>		<u>With 1 Incentive</u>		<u>With 1 Incentive</u>		<u>With 1 Incentive</u>		<u>With 1 Incentive</u>	
Employee/Retiree Only	\$ 69.63 15.6%	\$ 376.65 84.4%	\$ 74.53 15.0%	\$ 420.75 85.0%	\$ 25.00 5.0%	\$ 470.28 95.0%	\$69.63 14.1%	\$425.65 85.9%	\$ 49.76 10.0%	\$ 445.52 90.0%
Spouse	\$ 238.09 48.5%	\$ 252.82 51.5%	\$ 264.23 48.5%	\$ 280.58 51.5%	\$ 272.41 50.0%	\$ 272.41 50.0%	\$238.09 43.7%	\$306.72 56.3%	\$ 272.41 50.0%	\$ 272.41 50.0%
Employee and Spouse	\$ 307.72	\$ 629.47	\$ 338.76	\$ 701.33	\$ 297.41	\$ 742.69	\$307.72	\$732.37	\$ 322.17	\$ 717.92
Children	\$ 194.80 48.5%	\$ 206.85 51.5%	\$ 216.19 48.5%	\$ 229.56 51.5%	\$ 222.88 50.0%	\$ 222.88 50.0%	\$194.80 43.7%	\$250.95 56.3%	\$ 222.88 50.0%	\$ 222.88 50.0%
Employee and Children	\$ 264.43	\$ 583.50	\$ 290.72	\$ 650.31	\$ 247.88	\$ 693.16	\$264.43	\$676.60	\$ 272.64	\$ 668.39
Family	\$ 454.54 48.5%	\$ 482.65 51.5%	\$ 504.45 48.5%	\$ 535.65 51.5%	\$ 520.05 50.0%	\$ 520.05 50.0%	\$454.54 43.7%	\$585.56 56.3%	\$ 520.04 50.0%	\$ 520.05 50.0%
Employee and Family	\$ 524.17	\$ 859.30	\$ 578.98	\$ 956.40	\$ 545.05	\$ 990.33	\$524.17	\$1,011.21	\$ 569.80	\$ 965.57
	<u>With Both Incentives</u>		<u>With Both Incentives</u>		<u>With Both Incentives</u>		<u>With Both Incentives</u>		<u>With Both Incentives</u>	
Employee/Retiree Only	\$ 44.63 10.0%	\$ 401.65 90.0%	\$ 49.53 10.0%	\$ 445.75 90.0%	\$ - 0.0%	\$ 495.28 100.0%	\$44.63 9.0%	\$450.65 91.0%	\$ 24.76 5.0%	\$ 470.52 95.0%
Spouse	\$ 238.09 48.5%	\$ 252.82 51.5%	\$ 264.23 48.5%	\$ 280.58 51.5%	\$ 272.41 50.0%	\$ 272.41 50.0%	\$238.09 43.7%	\$306.72 56.3%	\$ 272.41 50.0%	\$ 272.41 50.0%
Employee and Spouse	\$ 282.72	\$ 654.47	\$ 313.76	\$ 726.33	\$ 272.41	\$ 767.69	\$282.72	\$757.37	\$ 297.17	\$ 742.92
Children	\$ 194.80 48.5%	\$ 206.85 51.5%	\$ 216.19 48.5%	\$ 229.56 51.5%	\$ 222.88 50.0%	\$ 222.88 50.0%	\$194.80 43.7%	\$250.95 56.3%	\$ 222.88 50.0%	\$ 222.88 50.0%
Employee and Children	\$ 239.43	\$ 608.50	\$ 265.72	\$ 675.31	\$ 222.88	\$ 718.16	\$239.43	\$701.60	\$ 247.64	\$ 693.39
Family	\$ 454.54 48.5%	\$ 482.65 51.5%	\$ 504.45 48.5%	\$ 535.65 51.5%	\$ 520.05 50.0%	\$ 520.05 50.0%	\$454.54 43.7%	\$585.56 56.3%	\$ 520.05 50.0%	\$ 520.05 50.0%
Employee and Family	\$ 499.17	\$ 884.30	\$ 553.98	\$ 981.40	\$ 520.05	\$ 1,015.33	\$499.17	\$1,036.21	\$ 544.81	\$ 990.57

Monthly Increase to Employee and Total Annual Cost to City+A35

	#	Option # 1		Option # 2		Option # 3		Option # 4	
		<u>Employee Monthly Increase/ (Decrease)</u>	<u>City Annual Increase/ (Decrease)</u>	<u>Employee Monthly Increase/ (Decrease)</u>	<u>City Annual Increase/ (Decrease)</u>	<u>Employee Monthly Increase/ (Decrease)</u>	<u>City Annual Increase/ (Decrease)</u>	<u>Employee Monthly Increase/ (Decrease)</u>	<u>City Annual Increase/ (Decrease)</u>
Employee/Retiree	133	\$ 4.90	\$ 70,383.60	\$ (44.63)	\$ 149,430.29	\$0.00	\$ 78,200.81	\$ (19.86)	\$ 109,906.94
Employee and Spouse	31	\$ 31.04	\$ 26,731.36	\$ (10.31)	\$ 42,115.74	\$0.00	\$ 38,278.56	\$ 14.45	\$ 32,903.53
Employee and Children	35	\$ 26.29	\$ 28,060.83	\$ (16.55)	\$ 46,054.37	\$0.00	\$ 39,101.27	\$ 8.21	\$ 35,653.49
Employee and Family	44	\$ 54.81	\$ 51,268.09	\$ 20.88	\$ 69,181.28	\$0.00	\$80,205.92	\$ 45.65	\$ 56,105.89
Annual Cost to City			\$ 176,443.88		\$ 306,781.67		\$ 235,786.55		\$ 234,569.85
Increase in Cost over Option 1					\$ 130,337.79		\$ 59,342.67		\$ 58,125.97

RESOLUTION NO. R-1688

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF ROSENBERG, TEXAS, AUTHORIZING CITY STAFF
TO IMPLEMENT A PREMIUM INCENTIVE PROGRAM.**

* * * * *

WHEREAS, the City of Rosenberg, Texas, deems it necessary and proper and in the best interest of both its current and future employees to implement a Premium Incentive Program for the City of Rosenberg; now, therefore,

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

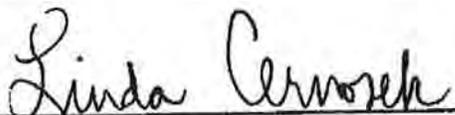
Section 1. That the Premium Incentive Program (Program) be adopted and implemented as proposed.

Section 2. That the Program be in effect as of January 1, 2014, with initial implementation of the screening and risk assessment to take place in October and November 2013, and thereafter, the screening, risk assessment and tobacco use in July and August 2014 for the fiscal year beginning October 1st.

Section 3. That a copy of such Program is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED the 20th day of August 2013.

ATTEST:



Linda Cemosek, City Secretary

APPROVED:



Vincent M. Morales, Jr., Mayor



**CITY OF ROSENBERG
PREMIUM INCENTIVE PROGRAM**

- I. POLICY STATEMENT**
Under the Affordable Care Act (ACA) health care reform law permits employers to reduce the cost of employees' health insurance premiums if they participate in certain programs effective January 1, 2014.
- II. APPLICABILITY**
Participating in a wellness program could dramatically cut employee premiums. Wellness programs must be structured so "every individual participating" can "receive the full amount of any reward or incentive, regardless of any health factor." That means participation is the key, not employee success in actually improving their health.
- III. PREMIUM INCENTIVE**
- A. Employees become eligible for incentives by completing Biometric Screening and Risk Assessment beginning January 1, 2014.
 - B. Non-smokers are eligible for an incentive deduction; whereas smokers would be required to pay a premium surcharge beginning October 1, 2014.
- IV. BIOMETRIC SCREENING AND RISK ASSESSMENT**
- A. The City of Rosenberg will utilize the services of an outside vendor to conduct the Biometric Screening and Risk Assessment.
 - B. The outsider vendor will provide the City of Rosenberg with statistical information and/or reports as the City of Rosenberg will receive information compliant with Health Privacy Practices.
- V. CONFIDENTIALITY**
- A. The outside vendor will ensure that no person will obtain individual tests retained by the vendor and will not release results without obtaining written authorization from the tested individual.
 - B. Statistical information and/or reports relating to the test of City employees may be released to the City.
- VI. COMPLIANCE**
- A. During the open enrollment period, employees shall comply in order to receive the premium incentive; compliance will result in an incentive deduction.
 - B. During a qualified event, employees shall comply during the next open enrollment period to receive the premium incentive; compliance will result in an incentive deduction.
- VII. COSTS**
- A. The non-compliance bi-weekly cost for the employees effective January 1, 2014:
 - 1. Compliance of Biometric Screening and Risk Assessment – Incentive Deduction of \$25.00.
 - B. The non-compliance bi-weekly cost for the employee effective October 1, 2014, and thereafter:
 - 1. Compliance of Biometric Screening and Risk Assessment – Incentive Deduction of \$25.00.
 - 2. Non-Tobacco Use – Incentive Deduction of \$25.00; whereas Tobacco Use will receive a surcharge of \$25.00

RESOLUTION R-697

**A RESOLUTION OF THE CITY OF ROSENBERG, TEXAS,
COMMITTING TO A POLICY ON HEALTH INSURANCE PREMIUM
PAYMENTS FOR ITS FUTURE RETIREES**

WHEREAS, the City of Rosenberg deems it necessary and proper and in the best interest of its self-funded health insurance plan to amend the policy on health insurance premium payments for its future retirees;

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Rosenberg, Texas as follows:

Section 1. That as of January 1, 2006, the City of Rosenberg will enact a sliding scale for payment of retiree premiums based upon completed years of service prior to retirement.

Section 2. That existing retirees and current employees who have completed ten (10) or more years of service with the City of Rosenberg before January 1, 2006, will be grandfathered, allowing them to continue under the current premium structures.

Section 3. That as of January 1, 2006, the retiree premium structure will be as follows:

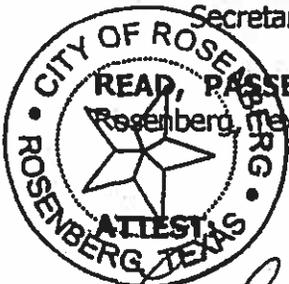
Years of Service	5-9	10-19	20-29	30+
% of Total Premium	100%	70%	40%	Tenured Retiree Premium

Section 4. That all retirees will continue under the current plans offered by the City (Plan A or B) until the occurrence of one of the following events:

- When a retiree becomes **covered under the group benefit plan** of another employer, their coverage under the City's plan would terminate.
- When a retiree becomes **eligible for Medicare**, they would be transferred to a "Medicare Supplementary" plan offered by the City. Their dependents could continue full coverage until which time they become ineligible for coverage or Medicare eligible. Once they become Medicare eligible, they too would transfer to the Medicare Supplementary plan.

Section 5. That one copy of the Retiree Premium Structure be on file with the City Secretary's Office.

READ, PASSED, AND APPROVED at a regular meeting of the City Council, of the City of Rosenberg, Texas the 6th day of December, 2005.



Lyn Adolphus
Lyn Adolphus, CITY SECRETARY

APPROVED:

Joe M. Gurecky
Joe M. Gurecky, MAYOR

7. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1686, A RESOLUTION AUTHORIZING FUNDING FOR A CONTRACT WITH BLUECROSS BLUESHIELD OF TEXAS, FOR HEALTHCARE BENEFITS FOR CITY EMPLOYEES, QUALIFIED RETIREES, AND THEIR DEPENDENTS; AND, AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR SAME.**

Executive Summary: Staff worked with Burke Sunday of SAI/CCBS to obtain quotes in 2011 for the City's health insurance benefits. BlueCross BlueShield of Texas was approved by City Council as the City's health insurance provider for FY11-12. For FY2012-13, BlueCross BlueShield of Texas submitted a 2.3% increase on the renewal. For FY2013-14, BlueCross BlueShield of Texas has submitted a blended 0.94% increase. As presented to the Employee Benefits Committee on July 31, 2013, staff recommends approval of the blended 0.94% renewal rates.

The Employee Benefits Trust will meet on August 20, 2013, prior to the City Council meeting and their recommendation on said health insurance benefits will be presented to City Council at its meeting. Action by the City Council approving the Contract and renewal rates at \$1,992,522.68, which would provide one (1) year coverage with BlueCross BlueShield of Texas beginning October 01, 2013, through September 30, 2014.

Staff recommends approval of the proposed Contract with BlueCross BlueShield of Texas for the PPO Plan. Staff recommends approval of Resolution No. R-1686, a Resolution authorizing the funding for a Contract with BlueCross BlueShield of Texas, for healthcare benefits, and authorizing the Interim City Manager to negotiate and execute a Contract for same.

Key discussion points:

- Lisa Olmeda gave an overview of the item regarding Resolution No. R-1686.

Action: Councilor Euton made a motion, seconded by Councilor Grigar to approve Resolution No. R-1686, a Resolution authorizing funding for a contract with BlueCross BlueShield of Texas, for healthcare benefits for City employees, qualified retirees, and their dependents; and, authorizing the Interim City Manager to negotiate and execute a contract for same. The motion carried by a unanimous vote.

8. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1687, A RESOLUTION AUTHORIZING FUNDING FOR A CONTRACT WITH GUARDIAN FOR DENTAL CARE BENEFITS FOR CITY EMPLOYEES, QUALIFIED RETIREES, AND THEIR DEPENDENTS; AND, AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR SAME.**

Executive Summary: City Council selected Guardian to be the City's insurance/benefit provider for dental care in FY11-12. The rate was guaranteed for two (2) years for FY11-12 and FY12-13. The renewal for the PPO includes a 10.50% increase and the renewal for the DHRM includes a 4.0% increase. The employee pays 100% of the premium. The annual renewal premium will be \$92,062.32 for the PPO Plan and \$12,283.92 for the DHMO Plan, totaling \$104,346.24.

The Employee Benefits Trust (Trust) will meet on Tuesday, August 20, 2013. At that time, the Trust will consider approval of the Contract with Guardian. It will then be necessary for City Council to consider funding said Contract.

Staff recommends approval of Resolution No. R-1687, a Resolution authorizing the funding for a Contract with Guardian, for dental care benefits as indicated, and authorizing the Interim City Manager to negotiate and execute said Contract.

Key discussion points:

- Lisa Olmeda gave an overview of the item regarding Resolution No. R-1687.

Action: Councilor Euton made a motion, seconded by Councilor Grigar to approve Resolution No. R-1687, a Resolution authorizing funding for a Contract with Guardian for dental care benefits for City employees, qualified retirees, and their dependents; and, authorizing the Interim City Manager to negotiate and execute a contract for same. The motion carried by a unanimous vote.

9. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1688, A RESOLUTION AUTHORIZING THE CITY STAFF TO IMPLEMENT A PREMIUM INCENTIVE PROGRAM.**

Executive Summary: Under the Affordable Care Act (ACA) health care reform law permits employers to reduce the cost of employees' health insurance premiums if they participate in certain programs effective January 1, 2014. On July 31, 2013, the Employee Benefits Committee discussed the Premium Incentive Program (Program). Staff is recommending the City Council adopt the Program. The Program would encourage employees to complete the following for FY2013-2014:

- Biometric Screening – The screening would be scheduled in October 2013 and November 2013. Appointments may be made at Open Enrollment, to be held September 3-5, 2013, at the Civic Center from 8:00 a.m. – 5:00 p.m.
- Risk Assessment – To be conducted during the Biometric Screening.

The Biometrics Screening and the Risk Assessment would need to be completed by the employee by November 30, 2013, in order to receive compliance with the Program; otherwise the employee would be responsible for paying a non-compliance premium effective January 2014. Additionally, the Program would incorporate an incentive based on non-tobacco use in FY2014-2015.

Staff recommends approval of Resolution No. R-1688, a Resolution authorizing City staff to implement a Premium Incentive Program.

Key discussion points:

- Lisa Olmeda gave an overview of the item regarding Resolution No. R-1688.

Action Councilor Benton made a motion, seconded by Councilor Euton to approve Resolution No. R-1688, a Resolution authorizing the City staff to implement a Premium Incentive Program. The motion carried by a unanimous vote.

10. **CONSIDERATION OF AND ACTION ON THE 2013 CERTIFIED PROPERTY TAX ROLL OF \$1,642,493,053.00, NEW PROPERTY VALUES OF \$61,770,460.00, APPRAISED VALUE OF ALL PROPERTIES OF \$2,108,815,573.00, AND THE ANTICIPATED COLLECTION RATE OF 100%.**

Executive Summary: The Fort Bend County Tax Assessor/Collector, Patsy Schultz, requests that the City Council acknowledge in the minutes receipt of the Certified Appraisal Roll Totals, the Value of New Property, and the Anticipated Collection Rate for the 2013 Tax Year.

Staff recommends that City Council accept the Certified Appraisal Roll Totals, the Value of New Property, and the Anticipated Collection Rate for the 2013 Tax Year as presented by the County Tax Assessor/Collector.

Key discussion points:

- Joyce Vasut gave an overview of the item regarding the 2013 Certified Property Tax Roll with staff's recommendation to accept the Certified Tax Roll.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to accept the 2013 Certified Property Tax Roll of \$1,642,493,053.00, New Property Values of \$61,770,460.00, Appraised Value of All Properties of \$2,108,815,573.00, and the Anticipated Collection Rate of 100%.

Questions/Comments:

- Councilor Benton asked what the difference is in dollars from the last fiscal year and the difference in \$.50 cents and \$.51 cents.
- Joyce Vasut stated the difference in dollars was covered in the tax rate calculation. It is about \$486,000 in revenues from the increases. The difference in dollars is from a \$.50 cent to \$.51 cent tax rate is \$168,000.

Upon voting the motion carried by a unanimous vote.

11. **CONSIDERATION AND APPROVAL OF ORDINANCE NO. 2013-34, AN ORDINANCE APPROVING REDEMPTION OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS, SERIES 2003.**

Executive Summary: The City of Rosenberg had issued several waterworks and sewer system Revenue Bonds in the past. Many of these revenues bonds have been either paid out or refunded as General Obligation Bonds. The only remaining true Revenue Bond is the Waterworks and Sewer System Revenue Bond, Series 2003. The amount due on the projected call date of September 24, 2013, is \$1,162,211.31. (A payment in the amount of \$131,460.00 was made on August 01, 2013). The projected

ACTION: Councilor Hopkins made a motion, seconded by Councilor Sebesta, to approve the Special Joint City Council and Planning and Zoning Commission Meeting Minutes of November 28, 2005. The motion carried, as follows: **Yes: Mayor Gurecky and Councilors Martinez, Segura, Grigar, Hopkins and Sebesta. Abstained: Councilor Suter.**

CONSIDERATION OF AND ACTION ON AUTHORIZATION FOR CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, AN AGREEMENT BETWEEN THE CITY OF ROSENBERG AND THE ROSENBERG-RICHMOND AREA CHAMBER OF COMMERCE FOR CONTRACTED SERVICES FOR THE 2005-2006 FISCAL YEAR.

Councilor Hopkins questioned whether the City could legally enter into a contract with the Rosenberg Richmond Area Chamber of Commerce payment agreement. He said that the money for the agreement was allocated from the Rosenberg Development Corporation (RDC) budget. There was a discussion about options to amend the wording in the contract.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Suter, to authorize the City Manager to execute, for and on behalf of the City of Rosenberg, an agreement between the City of Rosenberg and the Rosenberg-Richmond Chamber of Commerce for contracted services for the 2005-2006 fiscal year, subject to the amendment of Section 3, as follows: Replace the first sentence with the sentence "*As compensation for all services provided hereunder, the Rosenberg Development Corporation shall pay the Contractor, on behalf of the City of Rosenberg, \$10,000 for participation in the Rosenberg-Richmond Area Chamber of Commerce.*" The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON ACCEPTANCE OF THE NOTICE OF AWARD FOR THE CITY OF ROSENBERG IN THE AMOUNT OF \$62,410 FOR THE 2004 ASSISTANCE TO FIREFIGHTER'S GRANT, AND APPROVAL OF ASSOCIATED BUDGET ADJUSTMENT NO. 06-05, IN THE AMOUNT OF \$6,934.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Grigar, to accept the Notice of Award for the City of Rosenberg in the amount of \$62,410 for the 2004 Assistance to Firefighter's grant and to approve the associated Budget Adjustment No. 06-05, in the amount of \$6,934, amended to allocate the funds from the Unreserved Fund Balance. The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON PROPOSAL TO AWARD CONTRACT TO LIFE INVESTORS INSURANCE COMPANY FOR THE CITY OF ROSENBERG'S STOP LOSS AND LIFE COVERAGE.

Six insurance carriers made proposals for the City's stop loss coverage renewal insurance. Based on the offers received, it was recommended that the City renew its contract with Life Investors and American Stop Loss. Teri Beck, Personnel Director, explained the proposal process and answered questions from Council. She said that based on the City's stop loss experience over the past year, the quote was reasonable. Councilor Hopkins, who serves on the Employees Benefits Committee, expressed support for the award of the contract to Life Investors Insurance Company.

ACTION: Councilor Grigar made a motion, seconded by Councilor Suter, to award contract to Life Investors Insurance Company for the City of Rosenberg's stop loss and life coverage. The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON RESOLUTION R-697, REGARDING THE CITY'S POLICY AND COMMITMENT ON HEALTH INSURANCE PREMIUM PAYMENTS FOR ITS FUTURE RETIREES.

The proposed resolution states that as of January 1, 2006, the City will enact a sliding scale for payment of retiree premiums based upon completed years of service prior to retirement. Existing retirees and current employees who have completed ten or more years of service with the City before January 1, 2006, will be grandfathered, allowing them to continue under the current premium structures. Ms. Beck made a presentation of the suggested changes to the retiree premium payments, as follows.

Existing retirees and current employees who have completed 10 or more years of service with the City before January 1, 2006 will be grandfathered, allowing them to continue under the current premium structures.

Retiree Premium Structure:

Years of Service	5-9	10-19	20-29	30+
Percent of Total Premium	100%	70%	40%	Tenured Retiree Premium

Example:

Based upon rates effective January 1, 2006.

Years of Service	5-9	10-19	20-29	30+
Plan A				
Retiree Only	497	348	199	80
Retiree & Children	625	438	250	195
Retiree & Spouse	652	456	261	240
Retiree & Family	710	497	284	290
Plan B				
Retiree Only	510	417	239	97
Retiree & Children	660	525	300	234
Retiree & Spouse	693	548	313	288
Retiree & Family	760	596	341	348

All retirees could continue under the current plans offered by the City (Plan A or B) until one of the following events:

- When a retiree becomes **covered under the group benefit plan** of another employer, their coverage under the City's plan would terminate.
- When a retiree becomes **eligible for Medicare**, they would be transferred to a "Medicare Supplementary" plan offered by the City. Their dependents could continue full coverage until which time they become ineligible for coverage or Medicare eligible. Once they become Medicare eligible, they too would transfer to the Medicare Supplementary plan.

During the discussion it was recommended that the word "could" after "retirees" and before the word "continue" should be changed to the word "will" on the first line of Section 4 in Resolution R-697.

ACTION: Councilor Grigar made a motion, seconded by Councilor Suter, to approve Resolution R-697, caption as follows: "A RESOLUTION OF THE CITY OF ROSENBERG, TEXAS, COMMITTING TO A POLICY ON HEALTH INSURANCE PREMIUM PAYMENTS FOR ITS FUTURE RETIREES", amended to replace the word "could" with the word "will" in Section 4, as discussed. The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON A VARIANCE REQUEST FOR ENGELBRECHT ENTERPRISES FOR EXEMPTION FROM THE DESIGN STANDARDS 6.3.6F, RELATING TO MAXIMUM CUL-DE-SAC LENGTH.

Mayor Gurecky announced that he requested that this item and the next item be pulled for additional review. He asked that staff set a goal to accomplish this review by year end, so that at the first meeting in January 2006, Council can readdress these items without delay.

David Neeley, City Manager, asked what the staff was to review. Mayor Gurecky said that he wanted staff to study the possible drainage that might be accomplished if the City can work out an agreement with Reliant Energy or whatever is necessary to utilize the possibility of the drainage that exists on the former railroad right-of-way now owned by Reliant Energy.

CONSIDERATION OF AND ACTION ON A VARIANCE REQUEST FOR ENGELBRECHT ENTERPRISES FOR EXEMPTION FROM THE SUBDIVISION REGULATIONS SECTION 25-52(B)(2)(A), RELATING TO CURB AND GUTTER REQUIREMENTS.

See above comments.

- --DHMO Benefits co-pay schedule comparable
- --Two (2) Year rate cap on DHMO
- Recommendation – Accept the Best Offer from Assurant Employee Benefits (Dental Plans)
- --Rationale – best value proposition
- --Demonstrates “larger” number of PPO network providers in Fort Bend County
- --Opportunity to reduce cost to employees who participate at 100% of the total cost
- **Recommendation – Accept the Best Offer from Assurant Employee Benefits (Dental DHMO/PPO).**

Dental DHMO:	
Employee (42)	\$10.00
Employee + Spouse (11)	\$17.24
Employee + Children (9)	\$23.22
Employee + Family (8)	\$31.81
Total Monthly	\$1,073.10
Total Yearly	\$12,877.20
Variance to Current	-7.05%
Second Year Rate Offer/Cap	2 year
Dental PPO:	
Employee (59)	\$26.75
Employee + Spouse (23)	\$54.00
Employee + Children (21)	\$75.00
Employee + Family (27)	\$102.00
Total Monthly	\$7,149.25
Total Yearly	\$85,791.00
Variance to Current	-16.05%
<i>In Network/Out of Network:</i>	
Annual Deductible (I)	\$50.00
Annual Deductible (F)	\$150.00
Preventative	100%
Basic	80%
Major	50%
Annual Maximum (I)	\$1,500
Orthodontia (less than 19)	50%
Orthodontia Lifetime	\$1,500.

Action: Councilor Bolf made a motion, seconded by Councilor Pena to accept the best and final proposal from Blue Cross/Blue Shield proposal for the health benefits (core) and the best and final proposal from Assurant Employee Benefits for the DHMO and PPO dental plans for the City employees/active retirees for the 2014-2015 Plan Year. The motion carried by a unanimous vote.

3. **CONSIDERATION OF AND ACTION ON RECOMMENDATION FOR HEALTH INSURANCE RATES FOR FY2014-2015.**

Executive Summary: This item provides the Committee the opportunity to discuss recommendations for Health Insurance rates for FY14-15.

Key discussion points:

- Joyce Vasut explained that the City pays 90% of the employee’s health insurance and the employee pays 10%. If the City keeps these rates, this will be about a 2% savings for everyone. Currently, there are 131 employees taking the medical insurance and 26 taking employee-spouse; 36 taking Employee-Children, and 40 taking Employee-Family.
- If the employee uses in-network physicians the deductible is \$1,000 (Individual); \$2,000 (Family deductible) per year; out of network, the deductible is \$2,000 (Individual); \$4,000 (Family deductible).
- The retirees have a pre-65 retiree health option and the over-65 retiree health option.
- Burke Sunday explained how this affects the GASB liability and the debt the City was in when the City was self-funded some years back. He also explained that some cities pay 100% of the

employee cost and some that pay the base plan.

- Councilor Bolf stated she would like to see all of the employee's medical cost paid by the City.
- Burke Sunday stated he would bring those figures to the Employee Benefits Trust meeting on August 19, 2014 and they could decide at that point which direction they wanted to proceed.

Action: No action was taken.

4. **REVIEW AND DISCUSS THE PREMIUM INCENTIVE PROGRAM, AND TAKE ACTION AS NECESSARY.**

Executive Summary: This item provides the Committee the opportunity to discuss the Premium Incentive Program.

Key discussion points:

- Lisa Olmeda and Burke Sunday stated this is the second year of the Biometric Health Screening program which is part of the incentive program. This second year also provides for non-tobacco incentive. Next year the City will add another incentive for various health issues and for people to become more proactive with their health.
- Lisa Olmeda advised the Employee Trust Committee will be meeting on August 19, 2014 at 6:00 p.m. prior to the City Council Meeting.

Action: No action was taken.

3. **ADJOURNMENT.**

Action: There being no further business, Mayor Morales adjourned the Employee Benefits Meeting at 6:15 p.m.

DRAFT

Linda Cernosek, TRMC, City Secretary
City of Rosenberg

ITEM 17

Hold Executive Session to deliberate the potential purchase, exchange, lease, or value of real property pursuant to Section 551.072 of the Texas Government Code.

ITEM 18

Adjourn Executive Session, reconvene into Regular Session, and take action as necessary as a result of Executive Session.

ITEM 19

Announcements.

ITEM 20

Adjournment.