

## 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, November 18, 2014

**TIME:** 7:00 p.m.

**PLACE:** Rosenberg City Hall  
City Hall Council Chamber  
2110 4<sup>th</sup> 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 Deborah Pihoda, First Assembly of God, Rosenberg)

Introduction and Badge Pinning of New Firefighters. (Wade Goates, Fire Chief)

### 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 Workshop Meeting Minutes for October 28, 2014. (Linda Cernosek, City Secretary)
  - B. Consideration of and action on Ordinance No. 2014-42, an Ordinance amending the Code of Ordinances by deleting Article III of Chapter 26 thereof, and substituting therefor a new Article III of Chapter 26; providing for property tax abatement guidelines and criteria; and providing for severability. (Randall Malik, Economic Development Director)
  - C. Consideration of and action on the Quarterly Investment Report for the quarter ending September 30, 2014. (Joyce Vasut, Executive Director of Administrative Services)
  - D. Consideration of and action on Resolution No. R-1875, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Budget Amendment 15-02 in the amount of \$12,000.00 for Police Department training and Rosenberg Christmas Nights dinner. (Joyce Vasut, Executive Director of Administrative Services)

## REGULAR AGENDA

2. Review and discuss a presentation by artist Eric Kaposta regarding proposed sculpture additions to Seabourne Creek Park, and take action as necessary. (Joan Williams McLeod)
3. Consideration of and action on presentation by Kimberly Brown, Executive Director, regarding the Housing Authority of the City of Rosenberg Annual Report for Fiscal Year Ended September 30, 2014. (Kimberly Brown)
4. Review and discuss a presentation by Morris Architects regarding the Livable Centers Study, and take action as necessary. (Armandina Chapa)
5. Review and discuss the proposed installation of pole mounted radar speed signs on certain streets within the City of Rosenberg, and take action as necessary. (William Benton, Councilor, At Large Position One)
6. Consideration of and action on Resolution No. R-1877, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Advance Funding Agreement for Bridge Replacement or Rehabilitation Off the State System, by and between the City and the State of Texas, acting by and through the Texas Department of Transportation, regarding a project generally described as replacement of the W. Fairgrounds Road bridge over Seabourne Creek. (John Maresh, Assistant City Manager of Public Services)
7. Consideration of and action on Resolution No. R-1874, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Intergovernmental Agreement, by and between the City and the Houston-Galveston Area Council (H-GAC) for participation in a Regional DWI Task Force from November 01, 2014, to September 30, 2015. (Dallis Warren, Police Chief)
8. Review and discuss proposed cancellation of the December 23, 2014 Workshop Meeting, and take action as necessary. (Linda Cernosek, City Secretary)
9. Announcements.
10. Adjournment.

[EXECUTION PAGE TO FOLLOW]

DATED AND POSTED this the \_\_\_\_\_ day of \_\_\_\_\_ 2014, at \_\_\_\_\_ m.,

by \_\_\_\_\_.

\_\_\_\_\_  
Attest:  
Linda Cernosek, TRMC, City Secretary

\_\_\_\_\_  
Approved for Posting:  
Robert Gracia, City Manager

\_\_\_\_\_  
Approved:  
Vincent M. Morales, Jr., 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.

## **Introduction and Pinning of New Firefighters.**

## **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. City Council Workshop Meeting Minutes – October 28, 2014**

**CITY OF ROSENBERG**  
**CITY COUNCIL WORKSHOP MEETING MINUTES**  
**\*\*\*DRAFT\*\*\***

On this the 28<sup>th</sup> day of October, 2014, 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                                |
| Jeff Trinker        | Executive Director of Support Services        |
| Joyce Vasut         | Executive Director of Administrative Services |
| Travis Tanner       | Executive Director of Community Development   |
| Angela Fritz        | Executive Director of Information Services    |
| Tonya Palmer        | Building Official                             |
| Wade Goates         | Fire Chief                                    |
| Jeremy Heath        | Assistant Economic Development Director       |
| Kaye Supak          | Executive Assistant                           |

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

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

**CALL TO ORDER.**

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

**AGENDA**

1. **REVIEW AND DISCUSS THE “DANGEROUS BUILDINGS” ORDINANCE, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

**Executive Summary:** This item has been included to allow City Council an opportunity to discuss possible revisions to the “Dangerous Buildings” Ordinance, and to direct staff accordingly.

**Key discussion points:**

- Robert Gracia, City Manager asked Scott Tschirhart, City Attorney to provide information regarding the item for discussion.
- Scott Tschirhart explained that Chapter 54 of Texas Local Government Code should be followed in these cases. Chapter 54 affords the City civil penalties up to \$50,000 a day and a determination by the courts that a building is something that needs to be torn down.
- After discussion by Council, Mayor Morales reiterated that Code Enforcement needs to follow all the Chapter 54 guidelines and once that has been done, if further cooperation is not achieved, then it is filed in District Court.
- As clarification, Scott Tschirhart stated that at that point an Executive Session should be held to allow Council to discuss whether to go to District Court.

- No action was taken on the item.

2. **REVIEW AND DISCUSS CITY COUNCIL STAGGERED TERMS AND THE ORDER OF POSITIONS FOR ELECTION, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

**Executive Summary:** This item has been included to allow City Council to hold discussion regarding staggered terms and the order of positions for election.

**Key discussion points:**

- Scott Tschirhart, City Attorney provided Council with examples for staggered terms and the orders of positions for election. Discussion has been held with LULAC.
- After a lengthy discussion, the general consensus of the Council was to have three (3) year staggered terms for a term limit of two (2) terms of six (6) maximum total years of service. After the six (6) years of contiguous service, the mayor or council member must sit out for one (1) term of three (3) years before running again for any position including Mayor or City Council Member.
- The At Large Position 1 and the position of Mayor will run on the ballot with Council Districts 1 and 2.
- No action was taken on the item.

3. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 7:10 p.m.

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Linda Cernosek, TRMC, City Secretary



# CITY COUNCIL COMMUNICATION

## November 18, 2014

| ITEM #   | ITEM TITLE   |
|--|--|
| <b>B</b>   | <b>Ordinance No. 2014-42 - Tax Abatement Guidelines and Criteria</b> |
| <b>ITEM/MOTION</b>   |  |
| Consideration of and action on Ordinance No. 2014-42, an Ordinance amending the Code of Ordinances by deleting Article III of Chapter 26 thereof, and substituting therefor a new Article III of Chapter 26; providing for property tax abatement guidelines and criteria; and providing for severability. |  |
| <b>FINANCIAL SUMMARY</b>   | <b>ELECTION DISTRICT</b>   |

**Annualized Dollars:**

- One-time
- Recurring
- N/A

**Budgeted:**

- Yes  No  N/A

**Source of Funds:**

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

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

1. Ordinance No. 2014-42
2. Texas Property Tax Code Excerpt – Chapter 312. Property Redevelopment and Tax Abatement Act
3. Ordinance No. 2012-39 – 11-06-12
4. City Council Meeting Minute Excerpt – 11-06-12

**APPROVALS****Submitted by:**

Randall Malik  
Economic Development  
Director

**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  
City Manager

**EXECUTIVE SUMMARY**

Chapter 312.002(a) of the Texas Property Tax Code requires that a taxing jurisdiction adopt guidelines and criteria (guidelines) in order to consider granting tax abatement to qualifying projects in the future. It further requires that those guidelines must be reauthorized every two (2) years (Chapter 312.002(c) of the Texas Property Tax Code).

The City of Rosenberg's guidelines were last adopted as Ordinance No. 2012-39 on November 06, 2012. In order to continue to have the ability to consider tax abatement, the City Council must adopt tax abatement guidelines. Staff has reviewed the existing guidelines and recommends re-adoption of the tax abatement guidelines. Refer to attached Ordinance No. 2014-42.

Staff recommends approval of Ordinance No. 2014-42 as presented.

**ORDINANCE NO. 2014-42**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY DELETING ARTICLE III OF CHAPTER 26 THEREOF, AND SUBSTITUTING THEREFOR A NEW ARTICLE III OF CHAPTER 26; PROVIDING FOR PROPERTY TAX ABATEMENT GUIDELINES AND CRITERIA; AND PROVIDING FOR SEVERABILITY.**

**WHEREAS**, the City Council recognizes the benefits of establishing guidelines and criteria governing tax abatement agreements by the City of the Rosenberg; and,

**WHEREAS**, the City of Rosenberg elects to become eligible to participate in tax abatement; now, therefore,

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

Section 1. The Code of Ordinances of the City of Rosenberg, Texas, is hereby amended by deleting Article III of Chapter 26 thereof, and substituting therefor a new Article III of Chapter 26 to provide as follows:

**“ARTICLE III. PROPERTY TAX ABATEMENT GUIDELINES AND CRITERIA**

**Sec. 26-51. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The city council shall have the power from time to time to provide such additional and/or modified definitions that they may find desirable and necessary. The words and phrases as herein set out shall be deemed and understood to mean:

*Abatement* shall mean the full or partial exemption from ad valorem taxes of certain real property and certain limited types of tangible personal property, as hereinafter provided, located in a reinvestment zone designated by the City of Rosenberg for economic development purposes.

*Agreement* shall mean a contractual agreement between a property owner and/or lessee and the city.

*Base year value* shall mean the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value

of eligible property improvements made after January 1 but before the execution of the agreement.

*Deferred maintenance* shall mean improvements necessary for continued operation which do not improve productivity or alter the process technology, reduce pollution or conserve resources.

*Eligible facilities* shall mean new, expanded or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely, as a result of granting abatement, to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the city. Eligible facilities do not include facilities which, in the determination of the office of the city manager or the city council, are intended primarily to provide goods or services to residents or existing businesses located in the city. Eligible facilities may include, but shall not be limited to, retail sales establishments generating municipal sales taxes and providing goods or services with an intended wide distribution area, industrial buildings, hotels, office buildings or property owned or leased by a certified air carrier, on the condition that the certified air carrier make specific real property improvements or lease for a term of ten (10) years or more within the reinvestment zone. Eligible facilities shall not include rolling stock, railroad cars, trucks, aircraft, or any other vehicle(s) that are intended to be means of transportation of equipment, raw materials or any other products or services whatsoever.

*Expansion* shall mean the addition of buildings, structures, fixed machinery, as that term is defined herein, equipment, or payroll for purposes of increasing production, services, or a combination thereof.

*Facility* shall mean property improvements completed or in the process of construction which together comprise an integral whole.

*Fixed machinery* shall include any machinery permanently installed or attached to realty, buildings, or any permanently constructed improvement upon real property.

*Hotel* shall mean a commercial structure which provides overnight accommodations to travelers and which contains one-hundred fifty (150) rooms or more.

*Modernization* shall mean a complete or partial demolition of a facility and the complete or partial reconstruction or installation of a facility of similar or expanded production or service capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, as

that term is herein defined, equipment or pollution control devices, or resource conservation equipment.

*New facility* shall mean a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

*Office building* shall mean a new office building, addition to existing office buildings or build out of unoccupied space within existing buildings.

*Productive life* shall mean the number of years a property improvement is expected to be in service in a facility.

*Tangible personal property* shall mean tangible personal property classified as such under state law, but excluding inventory and/or supplies and tangible personal property that was located in the investment zone at any time before the period covered by the agreement with the city.

**Sec. 26-52. - Application.**

- (a) Any present or potential owner of taxable property in the city may request the creation of a reinvestment zone and property tax abatement by filing a written request with the city and providing such disclosures and supporting documents that may from time to time be requested by the city. The city may at any time require the applicant to submit a metes and bounds survey or other survey prepared by a registered Texas Engineer or a licensed Texas Surveyor of the realty subject to the proposed abatement. Prior to the consideration of any application for creation of a reinvestment zone or an abatement agreement, the applicant shall deposit with the city an application fee that is refundable upon the successful completion of the proposed abated improvements, in such amount as shall be established from time to time by city council, to cover administrative expenses incurred by the city in considering and processing such application, including, but not limited to, costs for publication of notices, legal and appraisal services, and in-house staff services. The amount of such application fee shall be one-hundred dollars (\$100) for abatements less than \$200,000 in improvements and non-freeport exempt inventory; two-hundred dollars (\$200) for abatements ranging from \$200,001 to \$500,000 in improvements and non-freeport exempt inventory; five-hundred dollars (\$500) for abatements ranging from \$500,001 to \$1,000,000 in improvements and non-freeport exempt inventory; and one thousand dollars (\$1,000) for abatements over \$1,000,000 in improvements and non-freeport exempt inventory. The application shall be forwarded to the office of the city manager for review and recommendation to the city council of the city for final disposition.

- (b) The application shall consist of a completed Economic Impact Questionnaire, as may be prescribed from time to time by the City of Rosenberg, which shall provide detailed information on the items described in section 26-55(g) hereof; a map and property description; and a time schedule for undertaking and completing the planned improvements. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity of the applicant as to the ability of the applicant to successfully utilize the anticipated investment in land, buildings and non-moveable tangible personal property and other factors and information concerning the applicant that the office of the city manager or the city council may find appropriate. The applicant shall at no time acquire any rights, privileges or authority, either monetary or otherwise, by reason of filing any application or providing any documentation in conjunction with an application filed herein. Applicant shall, as a part of the application process, sign and execute a statement which shall provide:

*I (We), the undersigned applicant(s), certify that all requirements of the Code of Ordinances of the City of Rosenberg have been met in relation to the application filed herein and further acknowledge that no rights or privileges may be relied on as a part of any application. In addition, it is acknowledged that the city council may or may not grant any application or request hereunder purely as a matter of discretion and that there is no legal right to rely on any previous actions taken in same or similar applications nor in previous actions taken on another application concerning the same or similar property.*

**Sec. 26-53. - Action by city council on application.**

- (a) The city council shall, within a reasonable time after completion of the review of all documents submitted by the applicant and such other investigation and inquiry as shall be deemed appropriate by the office of the city manager or the city council and upon receipt of a report and recommendation from the office of the city manager, proceed to call and hold all required public hearings. Unless otherwise required by law, no formal action by the city council shall at any time be necessary. Unless otherwise directed, the city manager may expedite such procedures and practices as shall be necessary to expedite all required approvals.
- (b) Information that is provided to the city in connection with an application or request for tax abatement and that describes the specific processes or business activities to be conducted or the equipment or other property to be

located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential. If the city should exercise its absolute discretion and fail to approve a tax abatement agreement, then all information submitted by the applicant shall be returned by the city.

**Sec. 26-54. - Procedure to establish a reinvestment zone.**

- (a) Prior to the adoption of an ordinance designating a reinvestment zone, the city may require the applicant to pay all costs and shall require the applicant to provide all appropriate information so that the city can give all notices required by applicable law, including but not limited to (i) written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located no later than the seventh day before the date of the public hearing for the creation of the reinvestment zone, and (ii) publication in a newspaper of general circulation within such taxing jurisdiction no later than the seventh day before the date of the public hearing for the creation of the reinvestment zone, to provide all interested parties the opportunity to present all relevant information.
- (b) The city shall not establish a reinvestment zone for the purpose of abatement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or installation or improvements related to a proposed modernization, expansion, or new facility.
- (c) Information that is provided to the city in connection with an application or request for tax abatement, including the creation of a reinvestment zone, and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential. If the city should exercise its absolute discretion and fail to approve a tax abatement agreement, then all information submitted by the applicant shall be returned by the city and shall not be available for public inspection.

**Sec. 26-55. - Criteria for granting.**

- (a) *Eligible facilities.* Upon application, eligible facilities, as defined and described in this chapter, shall be considered for the tax abatement as hereinafter provided.
- (b) *Creation of new value.* Abatement may only be granted for the additional value of eligible property improvements expended subsequent to the creation of the reinvestment zone and approval of the reinvestment

agreement as specified in the reinvestment agreement between the city and the property owner or lessee, subject to such limitations as the city may from time to time require or as may be specified in the agreement between the parties.

- (c) *Eligible new and existing facilities.* Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- (d) *Ineligible property.* The following types of property shall be fully taxable and ineligible for tax abatement: land; supplies; inventory; tools; furnishing; and other forms of movable personal property; housing, including apartment complexes; deferred maintenance; property to be rented or leased, except as provided in subsection (e) of this section; and property which has a productive life of less than ten (10) years. In addition, rolling stock, railroad cars, trucks, aircraft or any other vehicle(s) that are intended to be means of transportation of equipment, raw materials or any other products or services whatsoever shall be fully ineligible.
- (e) *Owned/leased facilities.* If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee.
- (f) *Economic qualification.* In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:
  - (1) Must be expected to have an increased appraised ad valorem tax value of at least two hundred thousand dollars (\$200,000.00) upon completion of the anticipated improvements or expansion based upon the Fort Bend Central Appraisal Districts assessment of the eligible property, or, for proposed improvements under \$200,000, add a minimum of twenty (20) full-time employees; and
  - (2) Must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis in the city.
- (g) *Standards for tax abatement.* The following factors, among such other factors as determined necessary by the city council, shall be considered in determining whether to grant tax abatement:
  - (1) Value of land and existing improvements, if any;
  - (2) Type and value of proposed improvements;
  - (3) Productive life of proposed improvements;
  - (4) Number of existing jobs to be retained by proposed improvements;

- (5) Number of type of new jobs to be created by proposed improvements;
- (6) Amount of local payroll and the wage rates to be created;
- (7) Whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdictions;
- (8) Amount of local sales taxes to be generated directly;
- (9) Amount the property tax base valuation will be increased during the term of abatement and after abatement, which shall include a definitive commitment that such valuation shall not, in any case, be less than two hundred thousand dollars (\$200,000.00) upon the completion of the anticipated improvements;
- (10) The costs to be incurred by the city to provide facilities or services directly resulting from the new improvements;
- (11) The amount of ad valorem taxes to be paid the city during the abatement period considering (a) the existing values, (b) the percentage of new value abated, (c) the abatement period, and (d) the value after expiration of the abatement period;
- (12) The population growth of the city that occurs directly as a result of new improvements;
- (13) The types of values of public improvements, if any, to be made by applicant seeking abatement;
- (14) Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- (15) The impact on the business opportunities of existing businesses;
- (16) The attraction of other new businesses to the area;
- (17) The overall compatibility with the zoning ordinances and comprehensive plan for the area;
- (18) Whether the project is environmentally compatible with no negative impact on quality of life perceptions; and
- (19) The relationship of the value of real estate to personal property being considered for abatement.

Each eligible facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation by the city council in the exercise of their absolute discretion.

(h) *Amount of abatement.* The percentage of value to be abated and the duration of the tax abatement shall be determined as follows:

(1) For all planned improvements valued at more than one million dollars (\$1,000,000.00), the percentage and duration of the tax abatement shall be determined by the city council in the exercise of its absolute discretion on a case by case basis, taking into consideration the factors listed above in subsection (g).

(2) For planned improvements valued at one million dollars (\$1,000,000.00) or less, the percentage and duration of the tax abatement shall be as set out below in the tax abatement table, and likewise taking into consideration the factors listed above in subsection (g).

**LOW TIER TAX ABATEMENT TABLE**

TABLE INSET:

| VALUE OF PLANNED IMPROVEMENT                | TERM AND PERCENT OF VALUE TO BE ABATED (YEAR) |      |      |     |     |
|---|---|------|------|-----|-----|
|   | 1   | 2    | 3    | 4   | 5   |
| Under 200,000 and 20 full-time jobs created | 100%  | 25%  |      |     |     |
| 200,000--300,000                            | 100%  | 50%  |      |     |     |
| 300,001--500,000                            | 100%  | 50%  | 25%  |     |     |
| 500,001--750,000                            | 100%  | 100% | 50%  | 25% |     |
| 750,001--1,000,000                          | 100%  | 100% | 100% | 50% | 25% |

(i) *Denial of abatement.* Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:

(1) There would be a substantial adverse effect on the provision of government service or tax base;

- (2) The applicant has insufficient financial capacity;
  - (3) Planned or potential use of the property would constitute a hazard to public safety, health, or morals;
  - (4) Violation of other codes or laws; or
  - (5) Any other reason deemed appropriate by the city council.
- (j) *Taxability.* From the execution of the abatement agreement to the end of the agreement period, taxes shall be payable as follows:
- (1) The value of ineligible property as provided in subsection (d) of this section shall be fully taxable; and
  - (2) The base year value of existing eligible property as determined each year shall be fully taxable.

The additional value of new eligible property shall be fully taxable at the end of the abatement period.

**Sec. 26-56. - Agreement.**

- (a) Not later than the seventh day before the date on which the city enters into the abatement agreement, the city will deliver to the presiding officer of the governing body of each other taxing unit in which the property is located a written notice that the city intends to enter into the agreement. The notice shall include a copy of the prepared agreement.
- (b) After approval of the application for tax abatement pursuant to this article and the creation of a reinvestment zone, the city will formally pass a resolution to execute an agreement with the owner and/or lessee of the facility, as required, which shall include:
  - (1) The estimated value to be abated and the base year value;
  - (2) The percent of value to be abated each year as provided in section 26-55(h);
  - (3) The commencement date and the termination date of abatement;
  - (4) The proposed use of the facility, nature of construction, time schedule, map, property description and improvement list as provided in application, section 26-52(b);

- (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided for herein;
  - (6) Size of investment and average number of jobs involved.
  - (7) A requirement that owner and/or lessee certify to City, and to the governing body of each taxing unit, on September 1st of each year, that owner/lessee is in compliance with each applicable term of the Agreement.
- (c) Such agreement shall be executed by the applicant within 180 days after the same has been approved by the city council.

**Sec. 26-57. - Administration.**

- (a) The chief appraiser of the Fort Bend Central Appraisal District will annually determine an assessment of the taxable assessed value of the property taking into consideration the terms of the abatement agreement relating to such real and personal property found within the reinvestment zone and subject to abatement under the terms and provisions of the reinvestment agreement. Each year, the company or individual receiving abatement shall furnish the appraiser with such information as may be necessary for the abatement. Once value has been established, the chief appraiser will notify the city of the amount of the assessment. It shall be the exclusive duty and responsibility of each company and/or individual receiving the benefit of an exemption to comply with all requirements of the Fort Bend Central Appraisal District in order to secure and continue to receive the benefit of any approved tax abatement agreement. Failure to do so shall not be deemed the fault of the City of Rosenberg or any of its officers and employees.
- (b) The abatement agreement shall stipulate that employees and/or designated representatives of the city will have access to the reinvestment zone, to books and records reflecting expenditures and investment during the term of the abatement, and to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one (1) or more representatives of the company or individual receiving the benefit of the abatement agreement present and in accordance with the company's or individual's safety standards.
- (c) The designated representative of the entity receiving the benefit of the abatement shall prepare at the request of the city's representative reports as to the progress and status of all construction and shall, upon the completion

of all anticipated construction, prepare and file a final report of completion in a form as shall be from time to time promulgated by the city. Such report(s) shall be at no cost to the city and provide the following minimum information:

- (1) A description of the work and construction that was contemplated when the abatement was approved by the city and the work and/or improvements actually completed;
  - (2) The date of commencement of construction, significant progress dates, and the date of final construction;
  - (3) The amount of investment including actual cash and/or non-cash investment with a description of the type of investment and when the investment was actually made; and
  - (4) A disclosure of any and all changes, restructuring, or modifications that were made in the finally constructed improvements.
- (d) Upon completion of construction, the designated representative of the city shall annually evaluate each abatement agreement to insure compliance, and a formal report shall be made to the city council regarding the findings of each evaluation. If the evaluation determines the finished facility did not meet the terms of the abatement agreement, then the city will initiate section 26-59(b) together with all other remedies provided by law.
- (e) The city shall timely file with the Texas Department of Commerce and the State Property Tax Board all information required by the tax code.

**Sec. 26-58. - Assignment.**

The rights granted under an abatement agreement may be transferred and assigned by the holder to a new owner or lessee of the same facility or proposed facility upon the approval by resolution of the city council of the City of Rosenberg and the execution of an assignment agreement subject to the city council's approval, all of which shall be subject to the financial capacity of the assignee. The city reserves the right to approve or reject an assignment in the exercise of its absolute discretion and no holder of any abatement rights shall ever have a legal right to the approval of an assignment. All conditions, duties and obligations of the assignor in the abatement agreement, upon discretionary approval of the city council, shall be irrevocably and unconditionally assumed by the assignee upon the same terms and conditions as set out in such abatement agreement. Any assignment shall be to an entity which contemplates the same improvements to the property as set forth in an original abatement agreement, except to the extent such improvements have been completed. No assignment shall ever be approved if the parties to any existing agreement owe outstanding taxes or other debts to any governmental entity.

**Sec. 26-59. - Procedure for determining default and recapture.**

- (a) If the company or individual (i) allows the ad valorem taxes owed the city to become delinquent and fails to timely and properly follow the requirements of law for their protest and/or contest or (ii) violates any of the terms and conditions of the abatement agreement and fails to cure during the cure period described in this section, the agreement made pursuant to the provisions of this article then may be terminated, at the discretion of the city council, and if terminated, all taxes previously abated by virtue of the agreement will be recaptured and shall be paid within thirty (30) days of final termination as shall be ordered by the city council of the City of Rosenberg by ordinance duly passed and adopted.
  
- (b) Should the city determine that the company or individual is in probable default according to the terms and conditions of the agreement, the city shall notify the company or individual of such default in writing at the address stated in the agreement, and shall provide the company or individual believed to be in probable default an opportunity to request a hearing before the city council, who shall finally determine whether a default has occurred. If no request for hearing is made within ten (10) days from the date of the receipt of a notice of probable default, the city council may confirm the existence of an event of default and shall cause a final notice of default to be sent to the company or individual to whom the agreement has been assigned or is the holder thereof.

If a default is determined to exist and is not cured within thirty (30) days, the agreement may be terminated by the city without further notice and the city shall be entitled to recover all costs associated with the default, including attorney's fees and costs.

**Sec. 26-60. - Time limitation; review.**

The guidelines and criteria of this article are effective upon the date of adoption and will remain in force for two (2) years, unless amended by three-fourths (3/4) vote of the entire membership of the city council, at which time all reinvestment zones and tax abatement agreements created pursuant to this article will be reviewed to determine whether the goals have been achieved. Based on that review, the guidelines and criteria of this article may be modified, renewed or eliminated. Any modification, amendment, or elimination that may occur as a result of this review process shall not affect abatement agreements approved prior to the date of such modification, amendment or elimination.

**Sec. 26-61. - Discretion of city.**

The adoption of these guidelines and criteria by the city does not:

- (1) Limit the discretion of the city council to decide whether to enter into a specific tax abatement agreement which absolute right of discretion the city council reserves unto itself, whether or not such discretion may be deemed arbitrary or without basis in fact;
- (2) Limit the discretion of the city council to delegate to its employees the authority to determine whether or not the city council should consider a particular application or request for tax abatement; or
- (3) Create any property, contract, or other legal rights in any person to have the city council consider or grant a specific application or request for tax abatement.

**Sec. 26-62. - Abatement guidelines re-adopted.**

The tax abatement guidelines as herein set out are hereby adopted and approved as to their validity and effectiveness for a period of two (2) years commencing on the date of final passage and approval of Ordinance No. 2012-39 adopting this section for a period of two (2) years thereafter.”

Section 2. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Rosenberg, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

**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 \_\_\_\_\_ 2014.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Linda Cernosek, **City Secretary**

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

**APPROVED AS TO FORM:**

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

## TAX CODE

### CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT

#### SUBCHAPTER A. GENERAL PROVISIONS

§ 312.001. SHORT TITLE. This chapter may be cited as the Property Redevelopment and Tax Abatement Act.

Added by Acts 1987, 70th Leg., ch. 191, § 1, eff. Sept. 1, 1987.

#### § 312.002. ELIGIBILITY OF TAXING UNIT TO PARTICIPATE IN TAX ABATEMENT.

- (a) A taxing unit may not enter into a tax abatement agreement under this chapter and the governing body of a municipality or county may not designate an area as a reinvestment zone unless the governing body has established guidelines and criteria governing tax abatement agreements by the taxing unit and a resolution stating that the taxing unit elects to become eligible to participate in tax abatement. The guidelines applicable to property other than property described by Section 312.211(a) must provide for the availability of tax abatement for both new facilities and structures and for the expansion or modernization of existing facilities and structures.
- (b) The governing body of a taxing unit may not enter into a tax abatement agreement under this chapter unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body under this section.
- (c) The guidelines and criteria adopted under this section are effective for two years from the date adopted. During that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body.
- (d) The adoption of the guidelines and criteria by the governing body of a taxing unit does not:
  - (1) limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;
  - (2) limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or
  - (3) create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.
- (e) The guidelines and criteria adopted by the commissioners court of a county may include a requirement that an application or request for tax abatement submitted to the county under this chapter must be accompanied by a reasonable application fee not to exceed \$1,000.
- (f) On or after September 1, 2001, a school district may not enter into a tax abatement agreement under this chapter.
- (g) "Taxing unit" has the meaning assigned by Section 1.04, except that for a tax abatement agreement executed on or after September 1, 2001, the term does not include a school district that is subject to Chapter 42, Education Code, and that is organized primarily to provide general elementary and secondary public education.

Added by Acts 1989, 71st Leg., ch. 2, § 14.07(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 1137, § 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 20, § 22, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 391, § 26, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 836, § 9.2, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 347, § 4.13(2), eff. May 31, 1993; Acts 1997, 75th Leg., ch. 855, § 9, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, § 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1029, § 3, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1145, § 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1275, § 2(124), eff. Sept. 1, 2003.

**ORDINANCE NO. 2012-39**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY DELETING ARTICLE III OF CHAPTER 26 THEREOF, AND SUBSTITUTING THEREFOR A NEW ARTICLE III OF CHAPTER 26; PROVIDING FOR PROPERTY TAX ABATEMENT GUIDELINES AND CRITERIA; AND PROVIDING FOR SEVERABILITY.**

**WHEREAS**, the City Council recognizes the benefits of establishing guidelines and criteria governing tax abatement agreements by the City of the Rosenberg; and,

**WHEREAS**, the City of Rosenberg elects to become eligible to participate in tax abatement; now, therefore,

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

Section 1. The Code of Ordinances of the City of Rosenberg, Texas, is hereby amended by deleting Article III of Chapter 26 thereof, and substituting therefor a new Article III of Chapter 26 to provide as follows:

**“ARTICLE III. PROPERTY TAX ABATEMENT GUIDELINES AND CRITERIA**

**Sec. 26-51. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The city council shall have the power from time to time to provide such additional and/or modified definitions that they may find desirable and necessary. The words and phrases as herein set out shall be deemed and understood to mean:

*Abatement* shall mean the full or partial exemption from ad valorem taxes of certain real property and certain limited types of tangible personal property, as hereinafter provided, located in a reinvestment zone designated by the City of Rosenberg for economic development purposes.

*Agreement* shall mean a contractual agreement between a property owner and/or lessee and the city.

*Base year value* shall mean the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value

of eligible property improvements made after January 1 but before the execution of the agreement.

*Deferred maintenance* shall mean improvements necessary for continued operation which do not improve productivity or alter the process technology, reduce pollution or conserve resources.

*Eligible facilities* shall mean new, expanded or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely, as a result of granting abatement, to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the city. Eligible facilities do not include facilities which, in the determination of the office of the city manager or the city council, are intended primarily to provide goods or services to residents or existing businesses located in the city. Eligible facilities may include, but shall not be limited to, retail sales establishments generating municipal sales taxes and providing goods or services with an intended wide distribution area, industrial buildings, hotels, office buildings or property owned or leased by a certified air carrier, on the condition that the certified air carrier make specific real property improvements or lease for a term of ten (10) years or more within the reinvestment zone. Eligible facilities shall not include rolling stock, railroad cars, trucks, aircraft, or any other vehicle(s) that are intended to be means of transportation of equipment, raw materials or any other products or services whatsoever.

*Expansion* shall mean the addition of buildings, structures, fixed machinery, as that term is defined herein, equipment, or payroll for purposes of increasing production, services, or a combination thereof.

*Facility* shall mean property improvements completed or in the process of construction which together comprise an integral whole.

*Fixed machinery* shall include any machinery permanently installed or attached to realty, buildings, or any permanently constructed improvement upon real property.

*Hotel* shall mean a commercial structure which provides overnight accommodations to travelers and which contains one-hundred fifty (150) rooms or more.

*Modernization* shall mean a complete or partial demolition of a facility and the complete or partial reconstruction or installation of a facility of similar or expanded production or service capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, as

that term is herein defined, equipment or pollution control devices, or resource conservation equipment.

*New facility* shall mean a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

*Office building* shall mean a new office building, addition to existing office buildings or build out of unoccupied space within existing buildings.

*Productive life* shall mean the number of years a property improvement is expected to be in service in a facility.

*Tangible personal property* shall mean tangible personal property classified as such under state law, but excluding inventory and/or supplies and tangible personal property that was located in the investment zone at any time before the period covered by the agreement with the city.

**Sec. 26-52. - Application.**

- (a) Any present or potential owner of taxable property in the city may request the creation of a reinvestment zone and property tax abatement by filing a written request with the city and providing such disclosures and supporting documents that may from time to time be requested by the city. The city may at any time require the applicant to submit a metes and bounds survey or other survey prepared by a registered Texas Engineer or a licensed Texas Surveyor of the realty subject to the proposed abatement. Prior to the consideration of any application for creation of a reinvestment zone or an abatement agreement, the applicant shall deposit with the city an application fee that is refundable upon the successful completion of the proposed abated improvements, in such amount as shall be established from time to time by city council, to cover administrative expenses incurred by the city in considering and processing such application, including, but not limited to, costs for publication of notices, legal and appraisal services, and in-house staff services. The amount of such application fee shall be one-hundred dollars (\$100) for abatements less than \$200,000 in improvements and non-freeport exempt inventory; two-hundred dollars (\$200) for abatements ranging from \$200,001 to \$500,000 in improvements and non-freeport exempt inventory; five-hundred dollars (\$500) for abatements ranging from \$500,001 to \$1,000,000 in improvements and non-freeport exempt inventory; and one thousand dollars (\$1,000) for abatements over \$1,000,000 in improvements and non-freeport exempt inventory. The application shall be forwarded to the office of the city manager for review and recommendation to the city council of the city for final disposition.

- (b) The application shall consist of a completed Economic Impact Questionnaire, as may be prescribed from time to time by the City of Rosenberg, which shall provide detailed information on the items described in section 26-55(g) hereof; a map and property description; and a time schedule for undertaking and completing the planned improvements. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity of the applicant as to the ability of the applicant to successfully utilize the anticipated investment in land, buildings and non-moveable tangible personal property and other factors and information concerning the applicant that the office of the city manager or the city council may find appropriate. The applicant shall at no time acquire any rights, privileges or authority, either monetary or otherwise, by reason of filing any application or providing any documentation in conjunction with an application filed herein. Applicant shall, as a part of the application process, sign and execute a statement which shall provide:

*I (We), the undersigned applicant(s), certify that all requirements of the Code of Ordinances of the City of Rosenberg have been met in relation to the application filed herein and further acknowledge that no rights or privileges may be relied on as a part of any application. In addition, it is acknowledged that the city council may or may not grant any application or request hereunder purely as a matter of discretion and that there is no legal right to rely on any previous actions taken in same or similar applications nor in previous actions taken on another application concerning the same or similar property.*

**Sec. 26-53. - Action by city council on application.**

- (a) The city council shall, within a reasonable time after completion of the review of all documents submitted by the applicant and such other investigation and inquiry as shall be deemed appropriate by the office of the city manager or the city council and upon receipt of a report and recommendation from the office of the city manager, proceed to call and hold all required public hearings. Unless otherwise required by law, no formal action by the city council shall at any time be necessary. Unless otherwise directed, the city manager may expedite such procedures and practices as shall be necessary to expedite all required approvals.
- (b) Information that is provided to the city in connection with an application or request for tax abatement and that describes the specific processes or business activities to be conducted or the equipment or other property to be

located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential. If the city should exercise its absolute discretion and fail to approve a tax abatement agreement, then all information submitted by the applicant shall be returned by the city.

**Sec. 26-54. - Procedure to establish a reinvestment zone.**

- (a) Prior to the adoption of an ordinance designating a reinvestment zone, the city may require the applicant to pay all costs and shall require the applicant to provide all appropriate information so that the city can give all notices required by applicable law, including but not limited to (i) written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located no later than the seventh day before the date of the public hearing for the creation of the reinvestment zone, and (ii) publication in a newspaper of general circulation within such taxing jurisdiction no later than the seventh day before the date of the public hearing for the creation of the reinvestment zone, to provide all interested parties the opportunity to present all relevant information.
- (b) The city shall not establish a reinvestment zone for the purpose of abatement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or installation or improvements related to a proposed modernization, expansion, or new facility.
- (c) Information that is provided to the city in connection with an application or request for tax abatement, including the creation of a reinvestment zone, and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential. If the city should exercise its absolute discretion and fail to approve a tax abatement agreement, then all information submitted by the applicant shall be returned by the city and shall not be available for public inspection.

**Sec. 26-55. - Criteria for granting.**

- (a) *Eligible facilities.* Upon application, eligible facilities, as defined and described in this chapter, shall be considered for the tax abatement as hereinafter provided.
- (b) *Creation of new value.* Abatement may only be granted for the additional value of eligible property improvements expended subsequent to the creation of the reinvestment zone and approval of the reinvestment

agreement as specified in the reinvestment agreement between the city and the property owner or lessee, subject to such limitations as the city may from time to time require or as may be specified in the agreement between the parties.

- (c) *Eligible new and existing facilities.* Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- (d) *Ineligible property.* The following types of property shall be fully taxable and ineligible for tax abatement: land; supplies; inventory; tools; furnishing; and other forms of movable personal property; housing, including apartment complexes; deferred maintenance; property to be rented or leased, except as provided in subsection (e) of this section; and property which has a productive life of less than ten (10) years. In addition, rolling stock, railroad cars, trucks, aircraft or any other vehicle(s) that are intended to be means of transportation of equipment, raw materials or any other products or services whatsoever shall be fully ineligible.
- (e) *Owned/leased facilities.* If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee.
- (f) *Economic qualification.* In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:
  - (1) Must be expected to have an increased appraised ad valorem tax value of at least two hundred thousand dollars (\$200,000.00) upon completion of the anticipated improvements or expansion based upon the Fort Bend Central Appraisal Districts assessment of the eligible property, or, for proposed improvements under \$200,000, add a minimum of twenty (20) full-time employees; and
  - (2) Must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis in the city.
- (g) *Standards for tax abatement.* The following factors, among such other factors as determined necessary by the city council, shall be considered in determining whether to grant tax abatement:
  - (1) Value of land and existing improvements, if any;
  - (2) Type and value of proposed improvements;
  - (3) Productive life of proposed improvements;
  - (4) Number of existing jobs to be retained by proposed improvements;

- (5) Number of type of new jobs to be created by proposed improvements;
- (6) Amount of local payroll and the wage rates to be created;
- (7) Whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdictions;
- (8) Amount of local sales taxes to be generated directly;
- (9) Amount the property tax base valuation will be increased during the term of abatement and after abatement, which shall include a definitive commitment that such valuation shall not, in any case, be less than two hundred thousand dollars (\$200,000.00) upon the completion of the anticipated improvements;
- (10) The costs to be incurred by the city to provide facilities or services directly resulting from the new improvements;
- (11) The amount of ad valorem taxes to be paid the city during the abatement period considering (a) the existing values, (b) the percentage of new value abated, (c) the abatement period, and (d) the value after expiration of the abatement period;
- (12) The population growth of the city that occurs directly as a result of new improvements;
- (13) The types of values of public improvements, if any, to be made by applicant seeking abatement;
- (14) Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- (15) The impact on the business opportunities of existing businesses;
- (16) The attraction of other new businesses to the area;
- (17) The overall compatibility with the zoning ordinances and comprehensive plan for the area;
- (18) Whether the project is environmentally compatible with no negative impact on quality of life perceptions; and
- (19) The relationship of the value of real estate to personal property being considered for abatement.

Each eligible facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation by the city council in the exercise of their absolute discretion.

(h) *Amount of abatement.* The percentage of value to be abated and the duration of the tax abatement shall be determined as follows:

- (1) For all planned improvements valued at more than one million dollars (\$1,000,000.00), the percentage and duration of the tax abatement shall be determined by the city council in the exercise of its absolute discretion on a case by case basis, taking into consideration the factors listed above in subsection (g).
- (2) For planned improvements valued at one million dollars (\$1,000,000.00) or less, the percentage and duration of the tax abatement shall be as set out below in the tax abatement table, and likewise taking into consideration the factors listed above in subsection (g).

**LOW TIER TAX ABATEMENT TABLE**

TABLE INSET:

| VALUE OF PLANNED IMPROVEMENT                | TERM AND PERCENT OF VALUE TO BE ABATED (YEAR) |      |      |     |     |
|---|---|------|------|-----|-----|
|   | 1   | 2    | 3    | 4   | 5   |
| Under 200,000 and 20 full-time jobs created | 100%  | 25%  |      |     |     |
| 200,000--300,000                            | 100%  | 50%  |      |     |     |
| 300,001--500,000                            | 100%  | 50%  | 25%  |     |     |
| 500,001--750,000                            | 100%  | 100% | 50%  | 25% |     |
| 750,001--1,000,000                          | 100%  | 100% | 100% | 50% | 25% |

(i) *Denial of abatement.* Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:

- (1) There would be a substantial adverse effect on the provision of government service or tax base;

- (2) The applicant has insufficient financial capacity;
  - (3) Planned or potential use of the property would constitute a hazard to public safety, health, or morals;
  - (4) Violation of other codes or laws; or
  - (5) Any other reason deemed appropriate by the city council.
- (j) *Taxability.* From the execution of the abatement agreement to the end of the agreement period, taxes shall be payable as follows:
- (1) The value of ineligible property as provided in subsection (d) of this section shall be fully taxable; and
  - (2) The base year value of existing eligible property as determined each year shall be fully taxable.

The additional value of new eligible property shall be fully taxable at the end of the abatement period.

**Sec. 26-56. - Agreement.**

- (a) Not later than the seventh day before the date on which the city enters into the abatement agreement, the city will deliver to the presiding officer of the governing body of each other taxing unit in which the property is located a written notice that the city intends to enter into the agreement. The notice shall include a copy of the prepared agreement.
- (b) After approval of the application for tax abatement pursuant to this article and the creation of a reinvestment zone, the city will formally pass a resolution to execute an agreement with the owner and/or lessee of the facility, as required, which shall include:
  - (1) The estimated value to be abated and the base year value;
  - (2) The percent of value to be abated each year as provided in section 26-55(h);
  - (3) The commencement date and the termination date of abatement;
  - (4) The proposed use of the facility, nature of construction, time schedule, map, property description and improvement list as provided in application, section 26-52(b);

- (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided for herein;
  - (6) Size of investment and average number of jobs involved.
  - (7) A requirement that owner and/or lessee certify to City, and to the governing body of each taxing unit, on September 1st of each year, that owner/lessee is in compliance with each applicable term of the Agreement.
- (c) Such agreement shall be executed by the applicant within 180 days after the same has been approved by the city council.

**Sec. 26-57. - Administration.**

- (a) The chief appraiser of the Fort Bend Central Appraisal District will annually determine an assessment of the taxable assessed value of the property taking into consideration the terms of the abatement agreement relating to such real and personal property found within the reinvestment zone and subject to abatement under the terms and provisions of the reinvestment agreement. Each year, the company or individual receiving abatement shall furnish the appraiser with such information as may be necessary for the abatement. Once value has been established, the chief appraiser will notify the city of the amount of the assessment. It shall be the exclusive duty and responsibility of each company and/or individual receiving the benefit of an exemption to comply with all requirements of the Fort Bend Central Appraisal District in order to secure and continue to receive the benefit of any approved tax abatement agreement. Failure to do so shall not be deemed the fault of the City of Rosenberg or any of its officers and employees.
- (b) The abatement agreement shall stipulate that employees and/or designated representatives of the city will have access to the reinvestment zone, to books and records reflecting expenditures and investment during the term of the abatement, and to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one (1) or more representatives of the company or individual receiving the benefit of the abatement agreement present and in accordance with the company's or individual's safety standards.
- (c) The designated representative of the entity receiving the benefit of the abatement shall prepare at the request of the city's representative reports as to the progress and status of all construction and shall, upon the completion

of all anticipated construction, prepare and file a final report of completion in a form as shall be from time to time promulgated by the city. Such report(s) shall be at no cost to the city and provide the following minimum information:

- (1) A description of the work and construction that was contemplated when the abatement was approved by the city and the work and/or improvements actually completed;
  - (2) The date of commencement of construction, significant progress dates, and the date of final construction;
  - (3) The amount of investment including actual cash and/or non-cash investment with a description of the type of investment and when the investment was actually made; and
  - (4) A disclosure of any and all changes, restructuring, or modifications that were made in the finally constructed improvements.
- (d) Upon completion of construction, the designated representative of the city shall annually evaluate each abatement agreement to insure compliance, and a formal report shall be made to the city council regarding the findings of each evaluation. If the evaluation determines the finished facility did not meet the terms of the abatement agreement, then the city will initiate section 26-59(b) together with all other remedies provided by law.
- (e) The city shall timely file with the Texas Department of Commerce and the State Property Tax Board all information required by the tax code.

**Sec. 26-58. - Assignment.**

The rights granted under an abatement agreement may be transferred and assigned by the holder to a new owner or lessee of the same facility or proposed facility upon the approval by resolution of the city council of the City of Rosenberg and the execution of an assignment agreement subject to the city council's approval, all of which shall be subject to the financial capacity of the assignee. The city reserves the right to approve or reject an assignment in the exercise of its absolute discretion and no holder of any abatement rights shall ever have a legal right to the approval of an assignment. All conditions, duties and obligations of the assignor in the abatement agreement, upon discretionary approval of the city council, shall be irrevocably and unconditionally assumed by the assignee upon the same terms and conditions as set out in such abatement agreement. Any assignment shall be to an entity which contemplates the same improvements to the property as set forth in an original abatement agreement, except to the extent such improvements have been completed. No assignment shall ever be approved if the parties to any existing agreement owe outstanding taxes or other debts to any governmental entity.

**Sec. 26-59. - Procedure for determining default and recapture.**

- (a) If the company or individual (i) allows the ad valorem taxes owed the city to become delinquent and fails to timely and properly follow the requirements of law for their protest and/or contest or (ii) violates any of the terms and conditions of the abatement agreement and fails to cure during the cure period described in this section, the agreement made pursuant to the provisions of this article then may be terminated, at the discretion of the city council, and if terminated, all taxes previously abated by virtue of the agreement will be recaptured and shall be paid within thirty (30) days of final termination as shall be ordered by the city council of the City of Rosenberg by ordinance duly passed and adopted.
- (b) Should the city determine that the company or individual is in probable default according to the terms and conditions of the agreement, the city shall notify the company or individual of such default in writing at the address stated in the agreement, and shall provide the company or individual believed to be in probable default an opportunity to request a hearing before the city council, who shall finally determine whether a default has occurred. If no request for hearing is made within ten (10) days from the date of the receipt of a notice of probable default, the city council may confirm the existence of an event of default and shall cause a final notice of default to be sent to the company or individual to whom the agreement has been assigned or is the holder thereof.

If a default is determined to exist and is not cured within thirty (30) days, the agreement may be terminated by the city without further notice and the city shall be entitled to recover all costs associated with the default, including attorney's fees and costs.

**Sec. 26-60. - Time limitation; review.**

The guidelines and criteria of this article are effective upon the date of adoption and will remain in force for two (2) years, unless amended by three-fourths (3/4) vote of the entire membership of the city council, at which time all reinvestment zones and tax abatement agreements created pursuant to this article will be reviewed to determine whether the goals have been achieved. Based on that review, the guidelines and criteria of this article may be modified, renewed or eliminated. Any modification, amendment, or elimination that may occur as a result of this review process shall not affect abatement agreements approved prior to the date of such modification, amendment or elimination.

**Sec. 26-61. - Discretion of city.**

The adoption of these guidelines and criteria by the city does not:

- (1) Limit the discretion of the city council to decide whether to enter into a specific tax abatement agreement which absolute right of discretion the city council reserves unto itself, whether or not such discretion may be deemed arbitrary or without basis in fact;
- (2) Limit the discretion of the city council to delegate to its employees the authority to determine whether or not the city council should consider a particular application or request for tax abatement; or
- (3) Create any property, contract, or other legal rights in any person to have the city council consider or grant a specific application or request for tax abatement.

**Sec. 26-62. - Abatement guidelines re-adopted.**

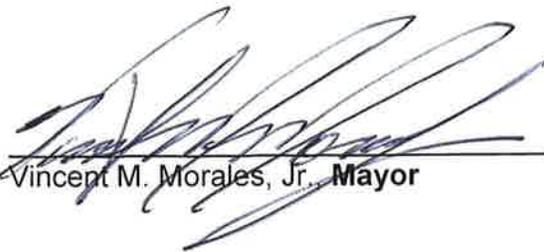
The tax abatement guidelines as herein set out are hereby adopted and approved as to their validity and effectiveness for a period of two (2) years commencing on the date of final passage and approval of Ordinance No. 2012-39 adopting this section for a period of two (2) years thereafter.”

Section 2. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Rosenberg, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

**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 6<sup>th</sup> day of November 2012.

**ATTEST**  
  
  
\_\_\_\_\_  
Linda Gernosek, **City Secretary**

**APPROVED:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Lora Jean D. Lenzsch, **City Attorney**

**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 this time. 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.*

There were no comments from the audience.

**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 SEPTEMBER 19, 2012, SPECIAL MEETING MINUTES FOR OCTOBER 10, 2012, AND REGULAR MEETING MINUTES FOR OCTOBER 16, 2012.**

**B. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2012-39, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING ARTICLE III OF CHAPTER 26 THEREOF, AND SUBSTITUTING THEREFOR A NEW ARTICLE III OF CHAPTER 26; PROVIDING FOR PROPERTY TAX ABATEMENT GUIDELINES AND CRITERIA; AND PROVIDING FOR SEVERABILITY.**

*Executive Summary:* At the October 23, 2012 City Council Workshop, staff reviewed the existing Tax Abatement Guidelines and Criteria (Guidelines). State law requires that the taxing jurisdictions re-authorize these Guidelines every two (2) years. Ordinance No. 2012-39 has been submitted for City Council consideration to re-authorize the existing Guidelines with no changes. Staff recommends approval of Ordinance No. 2012-39 as presented.

**C. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1572, A RESOLUTION APPROVING A CULTURAL DESTINATION DISTRICT FOR HISTORIC DOWNTOWN ROSENBERG.**

*Executive Summary:* The Historic Downtown Rosenberg Cultural Arts Committee has requested that the City of Rosenberg and Fort Bend County designate the downtown area as a Cultural Destination District. The purpose of this designation is to assist in marketing and branding the area for cultural tourism. Fort Bend County adopted a Resolution, included in the agenda packet, at the October 02, 2012 regular meeting of the Fort Bend County Commissioners Court.

Resolution No. R-1572 would approve the designation of the downtown area as a Cultural Destination District. Staff recommends approval of Resolution No. R-1572 as presented.

**D. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1568, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN INTERLOCAL PROJECT AGREEMENT, BY AND AMONG THE CITY, FORT BEND COUNTY, THE CITY OF SUGAR LAND, THE CITY OF MISSOURI CITY, AND THE CITY OF STAFFORD, FOR PARTICIPATION IN THE MEGA ADOPTION EVENT, "HUNTING FOR HOMES", ON NOVEMBER 03, 2012.**

*Executive Summary:* This 2<sup>nd</sup> annual adoption event, "Hunting for Homes", is a co-operative effort between most of the Animal Control Agencies in Fort Bend County. The intention of this event is to draw the public's attention to local Animal Control Agencies when they are searching for a pet to adopt. The animals at this event exceed all requirements for adoption from an Animal Control Facility.

Resolution No. R-1568 authorizes the City Manager to execute an Interlocal Project Agreement (Agreement) for this event. It should be noted that the event is scheduled for Saturday, November 03, 2012. As the Agreement was not available for consideration on a City Council Agenda prior to the event date, this Resolution is being presented for approval for record keeping purposes for the City and the other participating entities.

Mayor Morales stated there were changes on Item E. There were some redline changes requested by the Attorney for MUD No. 144. The changes were provided to Council in a handout. Item G was moved from the Consent Agenda to the Regular Agenda as Item 2A.

**Action:** Councilor McConathy made a motion, seconded by Councilor Salazar to approve Items A, B, C, D, E, F, H, and I including the changes on Item E on the Consent Agenda and moving Item G from the Consent Agenda to the Regular Agenda as Item No. 2A. The motion carried by a unanimous vote.

## REGULAR AGENDA

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

**CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1564, A RESOLUTION AWARDING THE BID FOR WATER PLANT SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM (SCADA); 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, September 26, 2012, for the Water Plant Supervisory Control and Data Acquisition System (SCADA). A total of two (2) bids were received and tabulated as indicated on the bid summary form included in the Agenda packet.

Staff recommends the bid be awarded to Bloc Design-Build for the base bid of \$198,357.52. The Contract time is one-hundred twenty (120) calendar days. Should the bid be awarded as recommended, the proposal from Bloc Design-Build will be attached and serve as Exhibit "A" to Resolution No. R-1564. Funding for this project has been appropriated in Fund 520 - GRP Water Projects.

Staff recommends approval of Resolution No. R-1564 which will award the bid for Water Plant Supervisory Control and Data Acquisition System (SCADA) and provide authorization for the City Manager to negotiate and execute all required documents necessary to facilitate the Agreement.

**Action:** Councilor Salazar made a motion, seconded by Councilor Grigar to approve R-1564, a Resolution awarding the bid for Water Plant Supervisory Control and Data acquisition System (SCADA); and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same.

### **Questions/Comments:**

- Councilor Salazar stated in reading the material and the sensitivity of the bids and asked if we request just certain companies for security reasons.
- John Maresh, Assistant City Manager, stated we went out for bids and Jones and Carter, Charles Kalkomey; City Engineer has a contract to design the system. In using their knowledge of companies as well as information we had of reputable companies that specialize in this type of equipment, those are the companies we talked to about receiving price quotations.
- Councilor Salazar asked if we chose those two companies.
- John Maresh stated yes. After staff and Jones and Carter reviewed systems and what other systems other municipalities are using these were the two best firms we felt comfortable with and we pursued proposals from them.
- Councilor Benton asked if the SCADA system is mandated in any way. John Maresh stated it will be necessary in moving forward meeting the requirements of the Subsidence District for the thirty percent (30%) ground water reduction. When we get to the sixty percent (60%) reduction we will have to have the capabilities to control the amount of water we are pumping from our wells to monitor and control as we introduce an alternate water supply. It is a critical element to get to meet our ground water reduction.
- Jack Hamlett, City Manager stated that as part of our Ground Water Reduction Plan it was approved by the Subsidence District.
- Councilor Benton asked Charles Kalkomey which cities he visited that have this type of system and are they comparative to our size city. Charles Kalkomey stated San Marcos, Port Arthur and League City. He does not know how big Port Arthur is. San Marcos and League City are probably smaller but the components are all the same whether you have ten or thirty they all work the same.
- Councilor Benton asked if there are any cities in Fort Bend County that have this system. Charles Kalkomey stated they may not have this product, but they have SCADA systems in use.
- Councilor Benton asked if this product will improve efficiency and if so how? John Maresh stated it



# CITY COUNCIL COMMUNICATION

November 18, 2014

| ITEM # | ITEM TITLE  |
|--------|---|
| C      | Quarterly Review of the City of Rosenberg Investment Report |

## ITEM/MOTION

Consideration of and action on the Quarterly Investment Report for the quarter ending September 30, 2014.

| FINANCIAL SUMMARY   | ELECTION DISTRICT   |
|---|---|
| <b>Annualized Dollars:</b><br><input type="checkbox"/> One-time<br><input type="checkbox"/> Recurring<br><input checked="" type="checkbox"/> N/A    | <input type="checkbox"/> District 1<br><input type="checkbox"/> District 2<br><input type="checkbox"/> District 3<br><input type="checkbox"/> District 4<br><input checked="" type="checkbox"/> City-wide<br><input type="checkbox"/> N/A |
| <b>Budgeted:</b><br><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A<br><b>Source of Funds:</b> N/A | <b>MUD #:</b> N/A   |

### SUPPORTING DOCUMENTS:

1. Quarterly Investment Report – 09-30-14

## APPROVALS

Submitted by:

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

The Quarterly Investment Report for the quarter ending September 30, 2014, is presented for review as required by the City of Rosenberg Investment Policy and Public Funds Investment Act.

- Renewed Certificate of Deposit for \$2 million at a higher yield rate of 0.33% and invested an additional \$2 million in the Certificates of Deposit Account Registry Service (CDARS) for a six (6) month period to ensure liquidity and increase diversification. CDARS are also safe since they are FDIC insured.

Staff recommends acceptance of the Quarterly Investment Report for the quarter ended September 30, 2014.

**CITY OF ROSENBERG, TEXAS  
QUARTERLY INVESTMENT REPORT  
FOR THE QUARTER ENDED SEPTEMBER 30, 2014**

The investment portfolio detailed in the attached report includes all investment transactions made during the above referenced period. The investment portfolio and all related transactions comply with the investment policy of the City of Rosenberg, Texas and the Public Funds Investment Act of the State of Texas.



Investment Officer: \_\_\_\_\_

Joyce Vasut, Executive Director of Administrative Services

Date: 10/30/2014

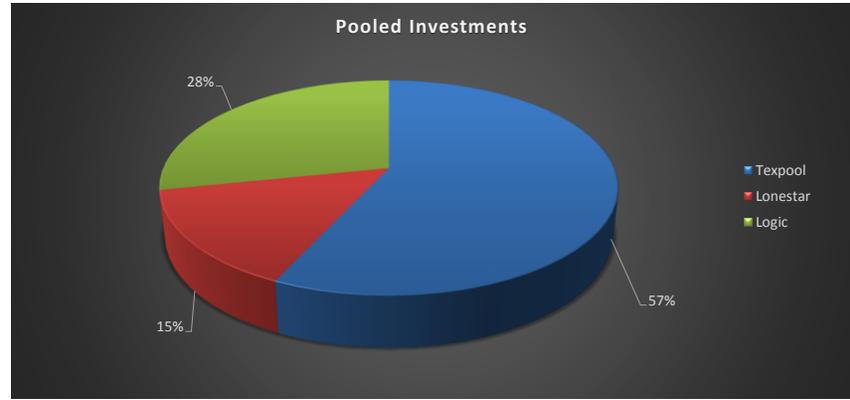
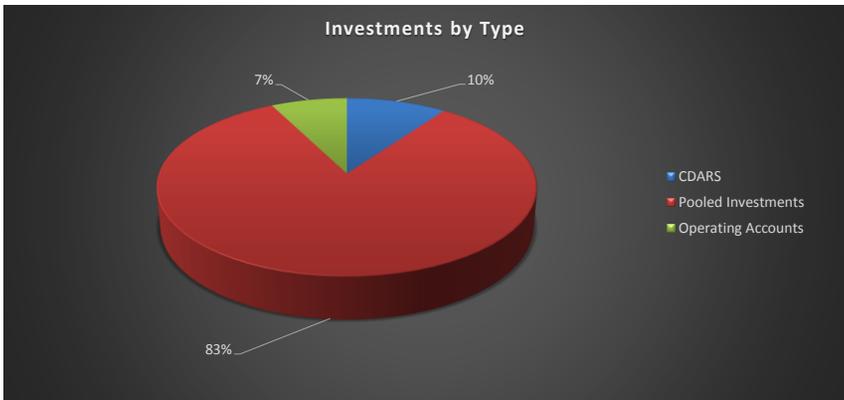
**CITY OF ROSENBERG, TEXAS  
 QUARTERLY INVESTMENT REPORT  
 AS OF SEPTEMBER 30, 2014**

**Balance Comparison by Quarter**

| <b>INVESTMENT BALANCES BY TYPE</b> | <b>Book<br/>Value<br/>12/31/2013</b> | <b>Book<br/>Value<br/>3/31/2014</b> | <b>Book<br/>Value<br/>6/30/2014</b> | <b>Book<br/>Value<br/>9/30/2014</b> |
|------------------------------------|--------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| CDARS                              | \$ 2,000,000                         | \$ 4,004,992                        | \$ 4,004,992                        | 6,010,384                           |
| TEXPOOL                            | 24,427,860                           | 30,576,574                          | 32,996,725                          | 28,599,884                          |
| LOGIC                              | 8,509,336                            | 7,680,634                           | 14,692,707                          | 14,196,058                          |
| LONESTAR                           | 9,957,042                            | 7,957,690                           | 7,958,565                           | 7,459,543                           |
| AMEGY BANK - OPERATING ACCOUNT     | 1,770,041                            | 4,698,722                           | 786,353                             | 4,565,976                           |
| <b>TOTAL CASH AND INVESTMENTS</b>  | <b>\$ 46,664,279</b>                 | <b>\$ 54,918,612</b>                | <b>\$ 60,439,342</b>                | <b>\$ 60,831,845</b>                |

**CITY OF ROSENBERG, TEXAS  
INVESTMENTS OUTSTANDING AS OF SEPTEMBER 30, 2014**

| Purchase Date               | Description                            | Maturity Date | # Days to Maturity | Cost      | Par Value     | Coupon Yield | 6/30/2014    |              | Quarterly Activity |              |             | 9/30/2014    |              | Unrealized Gain/Loss |  |
|-----------------------------|--|---------------|--------------------|-----------|---------------|--------------|--------------|--------------|--------------------|--------------|-------------|--------------|--------------|----------------------|--|
|                             |  |               |                    |           |               |              | Book Value   | Market Value | Purchases          | Maturities   | Interest    | Book Value   | Market Value |                      |  |
| CERTIFICATES OF DEPOSIT     |  |               |                    |           |               |              |              |              |                    |              |             |              |              |                      |  |
| 9/12/2013                   | CDARS                                  | 09/11/14      | 364                | 2,000,000 | -             | 0.27%        | 2,004,992    | 2,004,992    |                    |              | (2,004,992) | -            | -            |                      |  |
| 1/9/2014                    | CDARS                                  | 01/08/15      | 364                | 2,000,000 | 2,000,000     | 0.25%        | -            | -            | 2,000,000          |              |             | 2,000,000    | 2,000,000    |                      |  |
| 9/11/2014                   | CDARS                                  | 03/12/15      | 182                | 2,000,000 | 2,000,000     | 0.17%        | 2,000,000    | 2,000,000    |                    |              |             | 2,000,000    | 2,000,000    |                      |  |
| 9/11/2014                   | CDARS                                  | 09/10/15      | 364                | 2,000,000 | 2,000,000     | 0.33%        | -            | -            |                    | 2,010,384    |             | 2,010,384    | 2,010,384    |                      |  |
|                             |  |               |                    |           |               |              | \$ 4,004,992 | \$ 4,004,992 | 4,010,384          | (2,004,992)  | -           | \$ 6,010,384 | \$ 6,010,384 |                      |  |
| N/A                         | Texpool - Consolidated Cash            | N/A           | N/A                |           | 28,599,884    | 0.03%        |              |              |                    |              |             |              |              |                      |  |
|                             |  |               |                    |           |               |              |              | 7%           |                    |              |             |              |              | 10% OF TOTAL         |  |
|                             |  |               |                    |           |               |              | 32,996,725   | 32,996,725   | 6,291,933          | (10,691,528) | 2,754       | 28,599,884   | 28,599,884   | -                    |  |
|                             |  |               |                    |           |               |              | 32,996,725   | 32,996,725   | 6,291,933          | (10,691,528) | 2,754       | 28,599,884   | 28,599,884   |                      |  |
|                             |  |               |                    |           |               |              |              | 59%          |                    |              |             |              |              | 57% OF POOLS         |  |
| N/A                         | LONESTAR - General Fund Liquidity Plus | N/A           | N/A                |           | 4,188,995     | 0.05%        | 3,688,525    | 3,688,966    | 500,000            |              | 470         | 4,188,995    | 4,189,523    | 529                  |  |
| N/A                         | LONESTAR - CO Series 2013              | N/A           | N/A                |           | 3,270,548     | 0.05%        | 4,270,040    | 4,270,550    |                    |              | (1,000,000) | 3,270,548    | 3,270,961    | 413                  |  |
|                             |  |               |                    |           |               |              | 7,958,565    | 7,959,516    | -                  | (1,000,000)  | 978         | 7,459,543    | 7,460,484    | 941                  |  |
|                             |  |               |                    |           |               |              |              | 14%          |                    |              |             |              |              | 15% OF POOLS         |  |
| N/A                         | Logic - Consolidated Cash              | N/A           | N/A                |           | 7,556,090     | 0.08%        | 6,754,502    | 6,754,502    | 800,000            |              | 1,587       | 7,556,090    | 7,556,090    | -                    |  |
| N/A                         | Logic - 2009 General Obligation        | N/A           | N/A                |           | 570,707       | 0.08%        | 1,570,379    | 1,570,379    |                    |              | 328         | 570,707      | 570,707      | -                    |  |
| N/A                         | Logic - CO 2010B                       | N/A           | N/A                |           | 413,283       | 0.08%        | 713,137      | 713,137      |                    |              | (300,000)   | 413,283      | 413,283      |                      |  |
| N/A                         | Logic - Series 2012 Bonds              | N/A           | N/A                |           | 644,890       | 0.08%        | 644,743      | 644,743      |                    |              | 147         | 644,890      | 644,890      |                      |  |
| N/A                         | Logic - Series 2014 Bonds              | N/A           | N/A                |           | 5,011,088     | 0.08%        | 5,009,946    | 5,009,946    |                    |              | 1,143       | 5,011,088    | 5,011,088    |                      |  |
|                             |  |               |                    |           |               |              | 14,692,707   | 14,692,707   | 800,000            | (1,300,000)  | 3,350       | 14,196,058   | 14,196,058   |                      |  |
|                             |  |               |                    |           |               |              |              | 26%          |                    |              |             |              |              | 28% OF POOLS         |  |
| TOTAL POOLED INVESTMENTS    |  |               |                    |           |               |              | 55,647,997   | 55,648,948   | 7,091,933          | (12,991,528) | 7,082       | 50,255,485   | 50,256,426   |                      |  |
| CITY DEPOSITORY- Amegy Bank |  |               |                    |           |               |              |              |              |                    |              |             |              |              |                      |  |
|                             |  |               |                    |           |               |              |              | 92%          |                    |              |             |              |              | 83% OF TOTAL         |  |
| N/A                         | Consolidated Cash                      | N/A           | N/A                |           | 4,565,976     | 0.00%        | 786,353      | 786,353      | 18,684,194         | (14,904,571) |             | 4,565,976    | 4,565,976    |                      |  |
|                             |  |               |                    |           |               |              | 786,353      | 786,353      | 18,684,194         | (14,904,571) | -           | 4,565,976    | 4,565,976    |                      |  |
|                             |  |               |                    |           |               |              |              | 1%           |                    |              |             |              |              | 7% OF TOTAL          |  |
| TOTAL PORTFOLIO             |  |               |                    |           | \$ 60,821,461 | 0.06%        | 60,439,343   | 60,440,293   | 29,786,511         | (29,901,091) | 7,082       | 60,831,845   | 60,832,786   | 941                  |  |





# CITY COUNCIL COMMUNICATION

## November 18, 2014

| ITEM # | ITEM TITLE                                     |
|--------|--|
| D      | Resolution No. R-1875 - Budget Amendment 15-02 |

### ITEM/MOTION

Consideration of and action on Resolution No. R-1875, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Budget Amendment 15-02 in the amount of \$12,000.00 for Police Department training and Rosenberg Christmas Nights dinner.

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

**Annualized Dollars:**

- One-time
- Recurring
- N/A

**Budgeted:**

- Yes  No  N/A

**Source of Funds:**

See Attached

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

**SUPPORTING DOCUMENTS:**

MUD #: N/A

1. Resolution No. R-1875

### APPROVALS

**Submitted by:**


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

As part of the Rosenberg Christmas Nights, the City is selling tickets for an evening dinner/theatre event. The ticket sales will be considered revenue by the City and offsetting expenses will be recorded to pay those providing the dinner and entertainment. This budget adjustment allows for the recording of revenues and offsetting expenses for the Rosenberg Christmas Nights Dinner/Theatre event in the amount of \$6,000.

This budget adjustment also provides \$6,000 for ethics training expense for the Rosenberg Police Department. Federal Forfeiture revenues from Fund Balance will be used to cover this cost.

Budget Amendment 15-02 is included as Exhibit "A" to Resolution No. R-1875. Staff recommends approval of Resolution No. R-1875 as presented.

**RESOLUTION NO. R-1875**

**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, BUDGET AMENDMENT 15-02 IN THE AMOUNT OF \$12,000.00 FOR POLICE DEPARTMENT TRAINING AND ROSENBERG CHRISTMAS NIGHTS DINNER.**

\* \* \* \* \*

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

Section 1. The City Council hereby authorizes Budget Amendment 15-02 (Amendment), in the amount of \$12,000.00 for Police Department training and Rosenberg Christmas Nights dinner.

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

**PASSED, APPROVED, AND RESOLVED** this \_\_\_\_ day of \_\_\_\_\_ 2014.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Linda Cernosek, **City Secretary**

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

CITY OF ROSENBERG, TEXAS  
REQUEST FOR BUDGET AMENDMENT

NUMBER: 15-02

Fund: 101 and 227

Departments: Special Events & Police Department

Fiscal Year: 2014-15

Item [ ] was [ X ] was not included in the Department's original budget request.

Type of expenditure: ( ) Recurring ( X ) Nonrecurring

Type of adjustment: ( ) line-item transfer [ ] department transfer  
( X ) request for additional funds [ ] accounting correction

The budget amendment requested will require the following revisions;

FUND BALANCE/RETAINED EARNINGS ACCOUNT(S) :

| <u>ACCOUNT NUMBER</u> | <u>ACCOUNT DESCRIPTION</u> | <u>ORIGINAL BUDGET (1)</u> | <u>REQUESTED TRANSFER</u> | <u>AMENDED BUDGET</u> |
|-----------------------|----------------------------|----------------------------|---------------------------|-----------------------|
| 227-0000-350-0000     | Unreserved Fund Balance    | \$ 79,526.00               | \$ (6,000.00)             | \$ 73,526.00          |
|                       |                            | -                          | -                         | -                     |
|                       |                            | -                          | -                         | -                     |
|                       |                            | -                          | -                         | -                     |
|                       |                            | -                          | -                         | -                     |
|                       | TOTAL                      | \$ 79,526.00               | \$ (6,000.00)             | \$ 73,526.00          |

REVENUE ACCOUNT(S) :

| <u>ACCOUNT NUMBER</u> | <u>ACCOUNT DESCRIPTION</u>                | <u>ORIGINAL BUDGET (1)</u> | <u>REQUESTED TRANSFER</u> | <u>AMENDED BUDGET</u> |
|-----------------------|---|----------------------------|---------------------------|-----------------------|
| 101-0000-466-5500     | Rosenberg Christmas Nights - Meal Tickets | -                          | \$ 6,000.00               | \$ 6,000.00           |
|                       |   | \$ -                       | -                         | -                     |
|                       |   | -                          | -                         | -                     |
|                       |   | -                          | -                         | -                     |
|                       | TOTAL                                     | \$ -                       | \$ 6,000.00               | \$ 6,000.00           |

EXPENSE ACCOUNT(S) :

|                   |                                   |      |              |              |
|-------------------|-----------------------------------|------|--------------|--------------|
| 101-1955-540-5330 | Rosenberg Christmas Nights Dinner | \$ - | \$ 6,000.00  | \$ 6,000.00  |
| 227-3000-520-5510 | Travel - Education & Training     | -    | 6,000.00     | 6,000.00     |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | \$ -         |
|                   |                                   | -    | -            | -            |
|                   |                                   | -    | -            | -            |
|                   | TOTAL                             | \$ - | \$ 12,000.00 | \$ 12,000.00 |

Reason(s) for Amendment: Please explain the reason(s) the amendment is requested.  
(Attach additional sheets if necessary.)

This budget adjustments allows for the recording of revenues and offsetting expense for the Rosenberg Christmas Nights Dinner and to budget for ethics training for the Police Department.

Department Head \_\_\_\_\_ Date \_\_\_\_\_ Director of Finance \_\_\_\_\_ Date \_\_\_\_\_

Assistant City Manager \_\_\_\_\_ Date \_\_\_\_\_

City Manager \_\_\_\_\_ Date \_\_\_\_\_ Mayor/City Council (if between divisions or capital outlay) \_\_\_\_\_ Date \_\_\_\_\_

ACCOUNTING USE ONLY: DATE POSTED: \_\_\_\_\_ Group # \_\_\_\_\_ POSTED BY: \_\_\_\_\_



# CITY COUNCIL COMMUNICATION

November 18, 2014

|  |  |
|--|--|
| <b>ITEM #</b>  | <b>ITEM TITLE</b>                                    |
| 2  | Proposed Sculpture Additions to Seabourne Creek Park |
| <b>ITEM/MOTION</b>   |  |
| Review and discuss a presentation by artist Eric Kaposta regarding proposed sculpture additions to Seabourne Creek Park, and take action as necessary. |  |
| <b>FINANCIAL SUMMARY</b>   | <b>ELECTION DISTRICT</b>                             |

**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. McLeod Correspondence – 10-03-14

**APPROVALS**

**Submitted by:**

*Joan Williams McLeod/rl*

Joan Williams McLeod

**Reviewed by:**

Exec. Dir. of Administrative Services  
 Asst. City Manager of Public Services  
 City Attorney  
 City Engineer  
 City Secretary *(rl)*

**Approved for Submittal to City Council:**

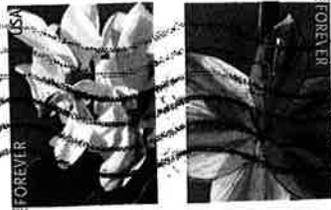
Robert Gracia  
City Manager

**EXECUTIVE SUMMARY**

Ms. Joan Williams McLeod has requested an opportunity to propose the addition of sculpture to Seabourne Creek Park. Ms. McLeod has invited artist Eric Kaposta to make a presentation to City Council regarding this proposal.

Jean Williams  
53 Cedar Lane  
Dalveston, Texas 77551

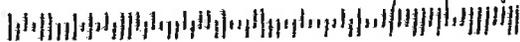
01 OCT 2014 PM 7 L



RECEIVED  
OCT 09 2014  
BY: [Signature]

Mayor Vincent Morales  
City Manager Robert Gracia  
Rosenberg City Council  
2110 4th Street  
Rosenberg  
Texas

77471



Thank You

Jean Williams  
Mr. Leo



angelique



September 30, 2014

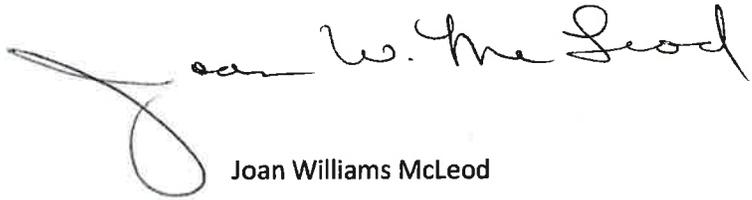
53 Cedar Lawn Circle  
Halveston, TX 77551

Dear Members of City Council:

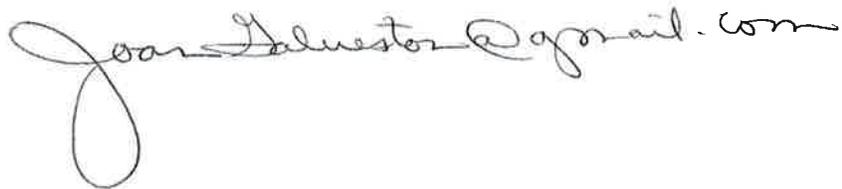
Recently, I sent a letter to the Seabourne Park Director and City of Rosenberg Mayor about an alternative proposal for the Seabourne Park land. I am planning to bring the renowned sculpture artist, Eric Kaposta, to discuss his work in parks. We would like to be on the agenda for the meeting on October 21<sup>st</sup>, 2014.

My contact number is 713-459-8719. His phone number is 713-294-0000.

Sincerely,

Handwritten signature of Joan Williams McLeod in black ink.

Joan Williams McLeod

Handwritten email address: Joan.Halveston@gmail.com in black ink.

RECEIVED

OCT 03 2014

September 19, 2014  
53 Cedar Lane  
Galveston Texas 77551  
713-459-8719

Dear Darren McCarthy,

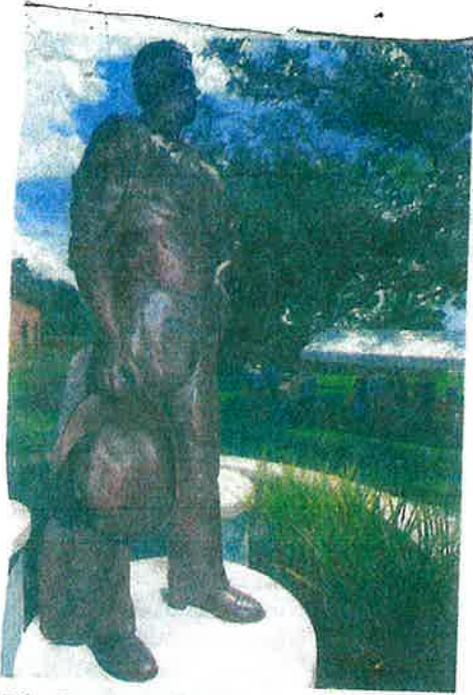
This letter is meant to first compliment the very beautiful Seabourn Park. The City of Rosenberg made a great decision to buy the property General Homes Corp. had put together for a subdivision. They verbally agreed to call the 100 acres we sold Williams Crossing or Prairie. We all benefited from the receivership price that you were able to buy after General Homes bankruptcy.

The 6 acres we gave in 1993 is being crossed by a pipeline of oil or natural gas which is dangerous for park purposes as our deed stated for use. I don't want a lawsuit over the fact that was raised in the last 20 years. Did they know about the pipeline condemnation before the 20 expired last December?

There are 368 acres in the Park, and I think it would be fair to let my family profit on the pipeline and donate a bronze statue or two to commemorate the past citizens of Ft. Bend County. This was my family's vision in 1993. Please read what the Dickinson Park has done.

Sincerely,  
Joan DeLoed  
joan.deloed@gmail.com

①



"The Rancher", a bronze sculpture by Houston sculptor Eric Kaposta stands in front of the Dickinson Public Library. STUART VILLANUEVA/The Daily News

## Dickinson unveils the first Founders statue

By **JOHN WAYNE FERGUSON**  
The Daily News

### » DICKINSON

Five years ago in a Dickinson High School art classroom, Abbie Laird and her classmates made model sculptures representing the city's founders.

Not actual people, mind you, but the archetypes that represent Dickinson started as, and what it came to be. A rancher. A farmer. A shopkeeper.

On Saturday, Laird was on hand to see the unveiling of a life-size version of her original sculpture.

See statue | A7

2



Dickinson residents and special guests gather around the newly unveiled statue, "The Rancher," at the Dickinson Public Library on Saturday. The statue is one of three

being added to the site. "The Shopkeeper" and "The Farmer" will soon accompany it. Photos by STUART VIL-LANUEVA/The Daily News

## STATUE

Continued from Page A1

The Dickinson Historical Society revealed the first of the city's three Founders Statues on Saturday during a short ceremony near the city library. The statue depicts a mustachioed reacher carrying a cowboy hat and wearing chaps starting into the distance.

"They were very similar," Laird said of her original models of the statue. "The concepts were very similar, too. I think it's awesome; it looks really good."

The statue is the first of three the historical society hopes to install at the park. Charlotte Kohrs, the group's president, said they hoped to finish the fundrais-



Houston artist and actress, above, Velia Mukherjee takes a selfie on her phone with Houston sculptor Eric Kaposta in front of his statue "The Rancher," left.

Wayne Ferguson at 409-683-5226 or [john.ferguson@galvnews.com](mailto:john.ferguson@galvnews.com).

ing for the remaining two statues by the end of the year.

"It's just so exciting to bring a piece of fine art to the people of Dickinson," Kohrs said. "I don't think there's anything like it here, and we're adding to it."

Kohrs said she hoped that the statue would bring attention to the community and the pioneers who helped establish the area, starting as early as the 1820s.

Each of the sculptures costs up to \$18,000. The society has hopes of raising \$35,000 more to install the other two statues and develop the nearby area into a park.

The bronze statue was constructed in pieces, said sculptor

Eric Kaposta. He made the original in clay then sent sections of molds of that piece to a foundry where wax was poured into them. The wax molds were then cast into bronze and each section was welded together to make the final piece.

Kaposta — whose sculptures can be found in a number of places, including Houston and

New Orleans — said that when he sees a city investing in public art it's a sign that a community is invested in it in future.

"With a bronze sculpture, whatever the meaning is, it lasts a long time," Kaposta said. "Whatever that story is, they'll tell (it) in a long time from now."

---

Contact reporter John

③



# CITY COUNCIL COMMUNICATION

November 18, 2014

| ITEM # | ITEM TITLE                      |
|--------|---------------------------------|
| 3      | Housing Authority Annual Report |

## ITEM/MOTION

Consideration of and action on presentation by Kimberly Brown, Executive Director, regarding the Housing Authority of the City of Rosenberg Annual Report for Fiscal Year Ended September 30, 2014.

| FINANCIAL SUMMARY  | ELECTION DISTRICT   |   |
|--|---|---|
| <b>Annualized Dollars:</b><br><input type="checkbox"/> One-time<br><input type="checkbox"/> Recurring<br><input checked="" type="checkbox"/> N/A | <b>Budgeted:</b><br><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A<br><b>Source of Funds:</b> N/A | <input type="checkbox"/> District 1<br><input type="checkbox"/> District 2<br><input type="checkbox"/> District 3<br><input type="checkbox"/> District 4<br><input checked="" type="checkbox"/> City-wide<br><input type="checkbox"/> N/A |
| <b>MUD #: N/A</b>  |   |   |

## SUPPORTING DOCUMENTS:

1. Brown Correspondence - 11-10-14

## APPROVALS

### Submitted by:

  
Linda Cernosek, TRMC  
City Secretary

### 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 Housing Authority of the City of Rosenberg is mandated by US Department of Housing and Urban Development (HUD) to make an annual report to the Rosenberg City Council. Kimberly Brown, Executive Director, requested to be placed on the City Council Agenda in order to present the Fiscal Year ending September 30, 2014, Report to the Mayor and City Council.



Housing Authority  
OF THE  
City of Rosenberg

November 10, 2014

Mrs. Linda Cernosek, City Secretary  
City of Rosenberg Housing Authority  
P.O. Box 32  
Rosenberg, TX 77471

Dear Mrs. Cernosek:

The Rosenberg Housing Authority respectfully requests to be placed on your November 18, 2014, City Council Agenda.

The Housing Authority's Annual Report for fiscal year ended September 30, 2014, will be presented to the Mayor and Council.

If you need additional information, please feel free to call me.

Sincerely,

A handwritten signature in black ink that reads "Kimberly Brown". The signature is fluid and cursive, with the first name being more prominent.

Kimberly Brown  
Executive Director



# CITY COUNCIL COMMUNICATION

November 18, 2014

|               |   |
|---------------|---|
| <b>ITEM #</b> | <b>ITEM TITLE</b>                       |
| <b>4</b>      | <b>Livable Centers Study Discussion</b> |

**ITEM/MOTION**  
 Review and discuss a presentation by Morris Architects regarding the Livable Centers Study, and take action as necessary.

|                          |                          |
|--------------------------|--------------------------|
| <b>FINANCIAL SUMMARY</b> | <b>ELECTION DISTRICT</b> |
|--------------------------|--------------------------|

**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. Livable Centers Study Project Scope
2. Map of Study Area

**MUD #:** N/A

**APPROVALS**

**Submitted by:**

**Armandina Chapa/rl**

Armandina Chapa  
Morris Architects

**Reviewed by:**

- Exec. Dir. of Administrative Services
- Asst. City Manager for Public Services
- City Attorney
- City Engineer
- Economic Development Director *RM*

**Approved for Submittal to City Council:**

Robert Gracia  
City Manager

**EXECUTIVE SUMMARY**

The Houston–Galveston Area Council (H-GAC) has selected Rosenberg for a Livable Centers Case Study (Study) for the U.S. 90A corridor. The purpose of the Study is to facilitate a revitalization plan for the Highway 90A corridor through Rosenberg.

The H-GAC Board of Directors has approved a contract with Morris Architects to facilitate the Rosenberg/U.S 90A Livable Centers Study. Representatives of Morris Architects will attend the meeting to brief City Council on the Study and answer any questions regarding same.

**TASK 1: PUBLIC ENGAGEMENT**

DURATION: 9 Months, concurrent with all tasks

DESCRIPTION:

We believe that public outreach is an integral part of the study process. A good public outreach process accomplishes several things. At its most basic, it creates a record of public participation that will meet agency requirements to adopt the plan and will support applications for funding for plan recommendations. It addresses conflicts within the community, bringing resolution, finding areas of agreement, and addressing specific concerns. It draws on the daily experiences and historical knowledge of residents, employees, businesses, and agency staff, helping define the problem and identifying possible answers that the team might not otherwise have thought of. Most significantly, a good public outreach process builds a consensus, building a coalition that puts political power behind the plan and empowering leaders to implement the plan. This avoids the stalemate between competing interests that can prevent necessary change. The most successful transit plans – those that guide the development of a transit system over decades – are driven forward by community leaders and elected officials that feel ownership of the results. A good public outreach process will enable that result.

METHODOLOGY:

We propose to conduct public outreach on four parallel tracks:

**The first track** is the H-GAC, West Fort Bend Management District, City of Rosenberg, Rosenberg Economic Development Corporation and Texas Department of Transportation, who as the client, will guide both the process and outcome of the plan.

**The second track** is the stakeholder advisory committee consisting of a wide range of stakeholders, including representatives of a range of agencies that work with or areas affected by transit, residents, businesses, employees, landowners, and other interest groups. The composition of this committee is crucial to create a good balance in discussions. Ideally, members represent groups or are visible and influential in the community so that they represent all the others who cannot be in the room. The stakeholder committee is involved in the project from the beginning and meets regularly to provide input to the project and to vet ideas. Everything that will be presented to the public is presented to the stakeholder group first. Stakeholder meetings are structured to be interactive, with open-ended questions, free-flowing facilitated discussion, interactive exercises that are intended to have the stakeholders confront the issues and challenges raised by the study, and study areas tours. The stakeholders will want to be involved hands on in crafting their future transit, including modes, routes, branding, and user experience; we will create exercises that allow that.

**The third track** is elected officials. Elected officials can be invited to the stakeholder committee, and for some elected officials this is the best way to involve them. However, many elected officials have schedules so busy that they cannot attend regularly scheduled meetings, and many prefer to meet in small groups. Thus, we create a parallel elected official involvement process, making sure that they have the same opportunities the stakeholders do to shape the plan but doing it by reaching out directly and scheduling meetings when their schedules involve. This is tailored specifically to the elected officials in question; some will want more meetings, or more detailed discussions, than others.

**The fourth track** is for the general public. This consists of focus groups, workshops, hearings, and presentations in addition to a parallel online process. Workshops are intended to identify issues and build ideas, promoting interaction between the public and the project team as well as between members of the public. Hearings, on the other hand, are intended to verify the vision and recommendations that have come out of workshops and the stakeholder process. Ideally, a hearing will result in little or no adjustment the plan since it has captured the public input we got from workshops and the general public. Presentations, which we believe are useful during the course of the project as well as at the end, are updates on the plan and summaries of the results given to local groups including civic clubs, chambers of commerce, and non-profits; they are intended to spread the word and direct interested people to the other public events. For anyone who cannot attend events, the project website will include online surveys, activities, and documents that mirror the information presented at events. Like stakeholders, the public wants the opportunity to get hands on, and we will use multiple means to achieve that.

1.1: The public engagement outreach and process will include:

- Client Meetings
- Stakeholder Advisory Committee Meetings
- Elected Official Meetings
- Public Meetings
- Other Outreach Activities (Tours, etc.)

**TASK 2: NEEDS ASSESSMENT**

DURATION: 6 Weeks

DESCRIPTION:

In this phase, we will collect information about the study area and define a vision based on past work. We will collect all existing conditions work from previous studies, and analyze to identify gaps. Gather additional existing conditions information as required. We will summarize and combine the visions laid out in previous work. Based on this, we will work with H-GAC and project sponsor to define project goals and specific programmatic objectives for the study.

METHODOLOGY:

The needs assessment phase will involve our full team and include several sub-tasks in order to capture the current picture and build a foundation for the design process. Following is a list of major sub-tasks to be performed and a brief description of the methodology for each.

2.1: Review recommendations and outcomes from previous studies and reports

Collect and review existing documents. Identify critical goals, recommendations, and background data. Summarize issues that this project will address or consider. Summarize existing needs as captured in previous studies. Summarize vision as laid out in previous studies. Elements what will be reviewed:

- Local Demographics
- Transportation Infrastructure (Circulation and Connectivity)
- Land Use
- Built Form and Building Types
- Housing
- Open Space and Parks
- Drainage and Flooding Issues
- Community Facilities
- Historic Resources/Cultural Assets
- Market Trends
- Existing and potential public realm funding sources

2.2: Kickoff Meeting

- Define appropriate interface with organizations and agencies involved in the study area
- Identify Key goals of project
- Identify stakeholders
- Identify community concerns and needs
- Confirm schedule and major milestones.
- Discuss existing and potential public realm funding sources
- Develop and define public involvement plan and approach

2.3: Observe and document existing conditions in the study area. Visit study area to capture conditions, utilization and character of place. Assemble existing conditions data from previous studies and other information sources. Elements that will be documented include:

- Local Demographics
- Transportation Infrastructure (Circulation and Connectivity)
- Land Use
- Built Form and Building Types
- Housing
- Open Space and Parks
- Drainage and Flooding Issues
- Community Facilities
- Historic Resources/Cultural Assets
- Market Trends
- Existing and potential public realm funding sources

2.4: Evaluate recommendations, proposed projects and their impacts. Compile recommendations from past studies. Catalog current and proposed public and private projects in the study area. Elements that will be considered include:

- Local Demographics
- Transportation Infrastructure (Circulation and Connectivity)
- Land Use
- Built Form and Building Types
- Housing
- Open Space and Parks
- Drainage and Flooding Issues
- Community Facilities
- Historic Resources/Cultural Assets
- Market Trends
- Existing and potential public realm funding sources

2.5 Gather available Economic Data from previous studies

- Review Rosenberg's population, household, and employment data and projections.
- Summarize big picture economic trends for the study area and the surrounding areas in terms of commercial real estate activity, corporate tenant occupancy and residential households.
- Identify adjacent or nearby developments or projects that have impacted (or may impact in the future) the economic picture.

2.6 Summarize information and prepare Task 1 sections of final report. Elements that will be documented include:

- Local Demographics
- Transportation Infrastructure (Circulation and Connectivity)
- Land Use
- Built Form and Building Types
- Housing
- Open Space and Parks
- Drainage and Flooding Issues
- Community Facilities
- Historic Resources/Cultural Assets
- Market Trends
- Existing and potential public realm funding sources

2.7 Client Meeting

2.8 Other Meetings

- Brief public officials on study.
- Update stakeholders on study.

### **TASK 3: DEVELOP CONCEPTUAL PLAN**

DURATION: 8 Weeks

DESCRIPTION:

Shape a vision, supported by a set of recommendations, for the study area based on the information gathered in Task 2.

METHODOLOGY:

Multi-day workshop involving the H-GAC / study sponsors, public officials, stakeholder advisory committee, and the study team.

### 3.1: Prepare for workshop

- Summarize findings from Task 2 in concise presentation
- Establish Workshop Agenda

• Reach out to drive attendance and participation of key stakeholders, using targeted invitations, stakeholder organization e-mails lists/newsletters/and meetings, media, and social media (Support from project sponsors required.)

### 3.2: Hold Workshop

- Present findings on existing conditions and needs
- Present visions from previous studies
- Discuss goals and visions for study area with elected officials, study sponsors, and stakeholders.
- Reach consensus on goals and visions
- Present recommendations from previous studies, categorized into Circulation and Connectivity, Economic and Urban Development, Housing, Place Making, Image and Branding, Parks and Open Space, and Sustainability
  - Using a focus group approach, identify projects and policies to encourage and support innovative redevelopment projects on underutilized properties, improve the mobility and safety of pedestrians, bicyclists, motorists, and transit users, provide greater housing options; and protect and promote existing cultural and environmental assets that contribute to the area's unique identity
- Confirm a consolidated list of recommendations

3.3 Develop recommendations using work done in previous studies, develop and fully define each recommendation. Elaborate and quantify ideas. Present refined ideas to elected officials, study sponsors, and stakeholders. Elements that will be included in recommendations include:

- Transportation Infrastructure (Circulation and Connectivity)
- Land Use
- Built Form and Building Types
- Housing
- Open Space and Parks
- Drainage and Flooding Issues
- Community Facilities
- Historic Resources/Cultural Assets
- Existing and potential public realm funding sources

3.4: Summarize results Prepare Task 3 sections of final report identifying alternatives and ideas developed in the workshop. Meet with project Client and Sponsor. Refine and issue report to stakeholders that include the following elements:

- Transportation Infrastructure (Circulation and Connectivity)
- Land Use
- Built Form and Building Types
- Housing
- Open Space and Parks
- Drainage and Flooding Issues
- Community Facilities
- Historic Resources/Cultural Assets
- Existing and potential public realm funding sources

### 3.5: Client Meeting

### 3.7: Other Meetings

- Update public officials
- Issue report to stakeholders

**TASK 4: DEVELOP DESIGNS FOR SPECIFIC PROPOSED RECOMMENDATIONS**DURATION: 6 WeeksDESCRIPTION:

Conceptual ideas and input generated in Task 3 will be developed in more detail. These will include improvements to the pedestrian realm, including adequate sidewalks, crosswalks, pedestrian-oriented lighting, and other amenities, improvements that will support local transit, improvements to U.S. 90A that will improve the safety and mobility while supporting economic development, proposed mixed-use and infill/redevelopment areas, streetscapes, signage, design guidelines, development regulations, and public policies.

METHODOLOGY:

This phase of work consists of detailed design work on preferred alternatives and recommendations. We will focus on creating detailed recommendations for public realm improvements, land use recommendations and an architectural vocabulary and typology that will ensure the coherence and character of the neighborhood.

4.1: In-house workshops to scrutinize concepts from Task 3 and develop specific solutions and tools in accord with project goals.

- Clearly identify the critical projects and the elements that developed in detail
- Identify leaders and organizations critical to project realization
- Identify areas of further research / outreach

4.2: Create mixed-use and identify infill development areas

- Plan of proposed mixed-use solutions in study area
- Toolbox of development types and typologies for study area
- Identify Funding Sources
- Identify Catalytic Projects

4.3: Create and modify plans, sections, sketches that establish vision for the public realm within study area

- Develop transportation plan
- Develop streetscape improvements to encourage pedestrian and bike activity
- Develop open space proposals
- Develop program of amenities in the Public Realm to strengthen sense of place

4.4: Develop signage, wayfinding and public art opportunities4.5: Client Meeting**TASK 5: DEVELOP IMPLEMENTATION PLAN FOR PROPOSED RECOMMENDATIONS**DURATION: 8 WeeksDESCRIPTION:

Create an overall project implementation plan that prioritizes projects based on impact and feasibility; identify funding strategies for housing, and other projects and map policy recommendations that may facilitate plan realization. Identify leadership and stakeholders instrumental to achievement of overall and individual projects.

METHODOLOGY:

Based on information gathered throughout the study, a phased implementation will be envisioned and mapped. Each phase for both public realm and land development projects will be coordinated with public and/or private funding sources and strategies. Pro-forma costs for projects will be developed and gaps in funding will be identified. A project Matrix will be created to cross reference inter-related investments.

5.1: Create prioritized project list with funding strategies and cost estimates for public realm projects defined in Task 4

- Key Projects
- Implementers
- Cost and funding sources
- Policy and / or ordinance recommendations to support goals and design standards

5.2: Create prioritized project list with funding strategies and cost estimates for prototype housing projects defined in Task 4

- Key Projects
- Implementers
- Cost and Funding Sources
- Policy and / or ordinance recommendations to support goals and design standards

5.3: Create project list for commercial / business development in the study area defined in Task 4

- Potential projects / opportunities
- Project partners or advocates
- Promotional strategies
- Next Steps (after the plan)

5.4: Overall Project Matrix5.5: Final Client Presentation5.6: Incorporate input5.7: Present Final Plan to Stakeholders / Public**TASK 6: DETAILED IMPLEMENTATION**

DURATION: 10 Weeks

DESCRIPTION:

In this task, we will develop selected recommendations to a high level of detail.

METHODOLOGY:

Based on the prioritization in Task 5, we will have the subject matter specialists on our team develop a selected set of projects and policies to a level of detail that will support immediate implementation.

6.1: Regulatory recommendations

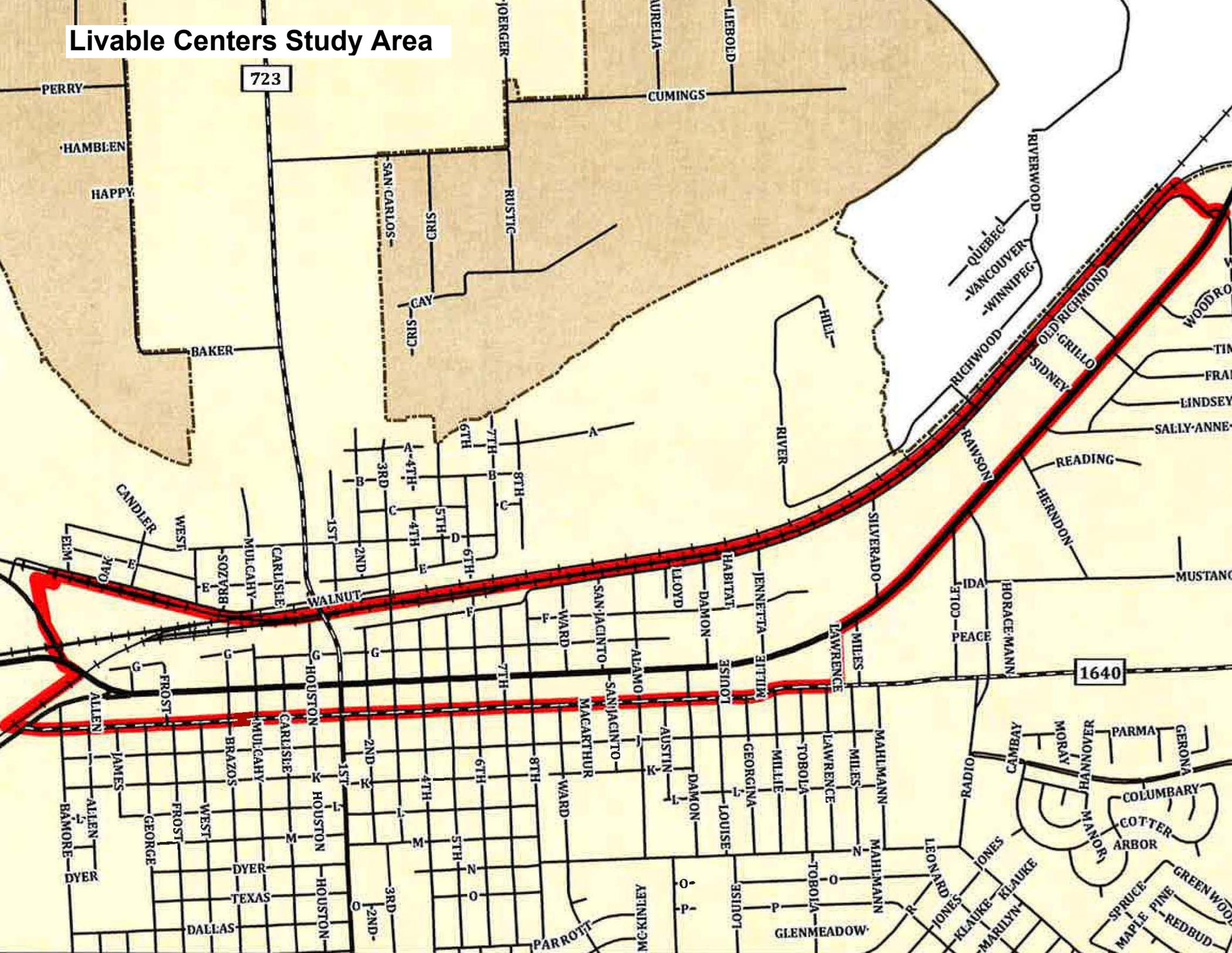
- Develop outline text for proposed ordinances to support the plan

6.2: Project recommendations

Develop schematic plans of improvements for the following elements:

- Transportation Infrastructure (Circulation and Connectivity)
- Land Use
- Built Form and Building Types
- Housing
- Open Space and Parks
- Drainage and Flooding Issues
- Community Facilities
- Historic Resources/Cultural Assets
- Existing and potential public realm funding sources

# Livable Centers Study Area





# CITY COUNCIL COMMUNICATION

November 18, 2014

| ITEM #  | ITEM TITLE  |
|---|---|
| 5   | Proposed Installation of Pole Mounted Radar Speed Signage |
| <b>ITEM/MOTION</b>  |   |
| Review and discuss the proposed installation of pole mounted radar speed signs on certain streets within the City of Rosenberg, and take action as necessary. |   |
| <b>FINANCIAL SUMMARY</b>  | <b>ELECTION DISTRICT</b>                                  |

**Annualized Dollars:**

- One-time
- Recurring
- N/A

**Budgeted:**

- Yes  No  N/A

**Source of Funds:**

410-0000-550-7035  
223-0000-550-5710

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

**SUPPORTING DOCUMENTS:**

**MUD #:** N/A

1. Photo Example - Bamore Road Pole Mounted Radar Speed Sign

**APPROVALS**

**Submitted by:**

**William Benton/rl**

William Benton  
Councilor, At Large Position  
One

**Reviewed by:**

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

**Approved for Submittal to City Council:**

Robert Gracia  
City Manager

**EXECUTIVE SUMMARY**

This Agenda item was requested to allow City Council an opportunity to discuss potential locations for the installation of pole mounted radar speed signs, and to direct staff accordingly. The following three (3) locations were submitted by Councilor Benton for consideration:

1. Grunwald Heights Boulevard;
2. Wagon Wheel Lane; and,
3. Walnut Glen Lane in the Oaks of Rosenberg.

Additionally, staff has identified the following four (4) locations for such signage at the recommendation of the Police Department:

4. Lane Drive;
5. Southgate Drive;
6. Jones Street; and,
7. J. Meyer Road.

The equipment cost is approximately \$3,800.00 per sign. The labor and equipment to install and maintain each sign is provided by the Public Works Department.

SPEED  
LIMIT  
30

YOUR  
SPEED  
36

LOWER  
LANE  
PRIORITY

LOWER  
LANE  
PRIORITY



# CITY COUNCIL COMMUNICATION

## November 18, 2014

| ITEM # | ITEM TITLE  |
|--------|---|
| 6      | Resolution No. R-1877 - Advance Funding Agreement |

### ITEM/MOTION

Consideration of and action on Resolution No. R-1877, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Advance Funding Agreement for Bridge Replacement or Rehabilitation Off the State System, by and between the City and the State of Texas, acting by and through the Texas Department of Transportation, regarding a project generally described as replacement of the W. Fairgrounds Road bridge over Seabourne Creek.

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

**Annualized Dollars:**

- One-time
- Recurring
- N/A

**Budgeted:**

- Yes  No  N/A

**Source of Funds:**

415-0000-550-7030  
CP 1405

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

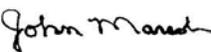
**SUPPORTING DOCUMENTS:**

|                   |
|-------------------|
| <b>MUD #:</b> N/A |
|-------------------|

1. Resolution No. R-1877
2. Nitsch Correspondence – 09-23-14
3. Resolution No. R-1855 – 09-02-14
4. Resolution No. R-1843 – 08-19-14
5. City Council Meeting Minute Excerpt – 09-02-14
6. City Council Meeting Minute Excerpt – 08-19-14

### 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
- City Engineer
- (Other)

**Approved for Submittal to City Council:**

  
Robert Gracia  
City Manager

### EXECUTIVE SUMMARY

Recently, the Texas Department of Transportation (TxDOT) submitted documentation regarding replacement of the W. Fairgrounds Road bridge over Seabourne Creek utilizing the “Off-System Bridge Replacement Program” (Program). City Council previously approved Resolution No. R-1843 on August 19, 2014, and Resolution No. R-1855 on September 02, 2014, authorizing participation in the Program and to utilize the “Participation Waived” form of project agreement. The local “Participation Waived” project will consist of the improvements to add drainage capacity to the Louise Street bridge over Dry Creek.

The Advanced Funding Agreement, attached as Exhibit “A” to Resolution No. R-1877, should now be the last document required to formalize the bridge replacement project.

Staff recommends approval of Resolution No. R-1877, which will authorize the City Manager to execute the Advance Funding Agreement for Bridge Replacement of Rehabilitation Off the State System for replacement of the W. Fairgrounds Road bridge over Seabourne Creek.

**RESOLUTION NO. R-1877**

**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 ADVANCE FUNDING AGREEMENT FOR BRIDGE REPLACEMENT OR REHABILITATION OFF THE STATE SYSTEM, BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION, REGARDING A PROJECT GENERALLY DESCRIBED AS REPLACEMENT OF THE W. FAIRGROUNDS ROAD BRIDGE OVER SEABOURNE CREEK.**

\* \* \* \* \*

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

Section 1. The City Manager is hereby authorized to execute an Advance Funding Agreement for Bridge Replacement or Rehabilitation Off the State System (Agreement), by and between the City of Rosenberg, Texas, and the State of Texas, acting by and through the Texas Department of Transportation for participation in a project generally described as the replacement of the W. Fairgrounds Road bridge over Seabourne Creek.

Section 2. 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 \_\_\_\_\_ 2014.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Linda Cernosek, **CITY SECRETARY**

\_\_\_\_\_  
Vincent M. Morales, Jr., **MAYOR**

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Not Research and Development

**STATE OF TEXAS           §**

**COUNTY OF TRAVIS       §**

**ADVANCE FUNDING AGREEMENT  
For Bridge Replacement or Rehabilitation  
Off the State System**

**THIS Advance Funding Agreement (the Agreement)** is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State", and the City of Rosenberg, acting by and through its duly authorized officials, called the "Local Government."

**WITNESSETH**

**WHEREAS**, Title 23 United States Code Section 144 authorizes federal funds to assist the states in the replacement or rehabilitation of deficient bridges located on public highways, roads, and streets, including those under the jurisdiction of local governments; and

**WHEREAS**, the Texas Transportation Code Sections 201.103 and 222.052 establish that the State shall plan and make policies for the construction of a comprehensive system of state highways and public roads in cooperation with local governments; and

**WHEREAS**, the Local Government owns one or more bridges on a public road or street located at W. Fairgrounds Road at Seabourne Creek, and these bridges are included in the currently approved off-state system federal-aid Highway Bridge Replacement and Rehabilitation Program (HBRRP) as authorized by Texas Transportation Commission Minute Order Number 113967 dated June 26, 2014; and

**WHEREAS**, the Governing Body of the Local Government has approved entering into this Agreement by resolution or ordinance, which is attached to and made a part of this agreement as Attachment A for the development of the specific programmed replacement or rehabilitation project, called the "Project". The Project is identified in the location map shown as Attachment B, which is attached to and made a part of this agreement.

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**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth, it is agreed as follows:

## **AGREEMENT**

### **1. Period of this Agreement**

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until terminated as provided in Article 2.

### **2. Termination of this Agreement**

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A.** The Agreement is terminated in writing with the mutual consent of the parties;
- B.** The Agreement is terminated by one party because of a breach, in which case any cost incurred because of the breach shall be paid by the breaching party;
- C.** The Local Government elects not to develop the project and the project does not proceed, in which case the Local Government agrees to reimburse the State for one-hundred percent (100%) of its reasonable actual direct and indirect costs incurred for the project; or
- D.** The project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds, in which case the State may at its discretion terminate the agreement.

### **3. Amendments**

Amendments to this Agreement may be made due to changes in the character of the work, the terms of the Agreement, or the responsibilities of the parties. Amendments shall be enacted through a mutually agreed upon written amendment executed by all parties to this Agreement.

### **4. Remedies**

This Agreement shall not be considered as specifying the exclusive remedy for any Agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

### **5. Scope of Work**

The scope of work for this Agreement is the replacement or rehabilitation of the bridges identified in the recitals of this Agreement. This replacement or rehabilitation

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shall be accomplished in the manner described in the plans, specifications, and estimates developed in accordance with this Agreement and which are incorporated in this agreement by reference.

**6. Right of Way and Real Property**

- A.** The Local Government is responsible for the provision and acquisition of all necessary right of way and will not be reimbursed with federal or state funds for the required right of way.
- B.** The Local Government authorizes the State, its consultant, contractor, or other designated representative to enter the sites of these bridges and adjacent right of way or relocation right of way to perform surveys, inspections, construction, and other activities necessary to replace or rehabilitate these bridges and approaches.

**7. Adjustment of Utilities**

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is completed.

**8. Environmental Assessment and Mitigation**

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

- A.** The State is responsible for the identification and assessment of any environmental problems associated with the development of the Project governed by this Agreement.
- B.** Cost participation in environmental assessment and remediation work shall be paid by the parties in the same ratio as construction costs and will be included in the construction costs identified in Attachment D, Estimate of Direct Costs.
- C.** The State is responsible for providing any public meetings or public hearings required for development of the environmental assessment.

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D. The State will not begin construction of the Project until identified environmental problems have been remediated, unless provided for otherwise.

**9. Compliance with Texas Accessibility Standards and ADA**

All parties to this Agreement shall ensure that the plans for and the construction of the Project subject to this Agreement are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

**10. Architectural and Engineering Services**

The State is responsible for performance of any required architectural or preliminary engineering work. The Local Government may review and comment on the work as required to accomplish the public purposes of the Local Government. The State will cooperate fully with the Local Government in accomplishing these local public purposes to the degree permitted by state and federal law. The Local Government review shall not unduly delay the development of the Project.

**11. Construction Responsibilities**

A. The State shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.

B. Upon completion of the Project, the State will issue a "Notification of Completion" acknowledging the Project's construction completion.

**12. Project Maintenance**

After the Project has been completed, the Local Government shall accept full ownership, and operate and maintain the facilities authorized by this Agreement for the benefit of and at no charge of toll to the public. This covenant shall survive the completion of construction under this Agreement.

**13. Local Project Sources and Uses of Funds**

A. A Project Cost Estimate is provided in Attachment D, Estimate of Direct Costs.

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- B.** Attachment D provides a source of funds estimate as well as the estimated direct preliminary engineering, construction engineering, and construction costs for the Project in total and by the Local Government.
- C.** The required Local Government participation is based solely upon the State's estimate of the eligible work at the time this Agreement is executed and will not be adjusted during construction except as needed to include any Project cost item or portion of a cost item ineligible for state or federal participation. In addition to its share of estimated direct engineering and construction costs, the Local Government is responsible for the direct cost of any project cost item or portion of a cost item that is not eligible for federal participation under the federal HBRRP. The Local Government is also responsible for any cost resulting from changes made at the request of the Local Government. The State and the Federal Government will not reimburse the Local Government for any work performed before federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information.
- D.** If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.
- E.** After execution of this Agreement, but thirty (30) days prior to the performance of any work by the State, the Local Government shall remit to the State the amount specified in Attachment D for the Local Government's contribution for preliminary engineering. The Local Government will pay, at a minimum, its funding share for this estimated cost of preliminary engineering.
- F.** Forty-five (45) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction costs and any other costs owed.
- G.** If, at the completion or termination of the Project, the State determines that additional funding is required by the Local Government, the State shall notify the

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Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.

- H.** Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied to the State Project.
- I.** Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.
- J.** The State will not pay interest on any funds provided by the Local Government.
- K.** The Local Government funding participation responsibilities include Project direct costs only, except when the Project is terminated before completion at the request of the Local Government as addressed in the Termination provision of this Agreement.
- L.** The amounts shown on Attachment D are estimates only. If actual costs exceed the estimates, this shall be considered a fixed price agreement, and no additional funding shall be required of the Local Government except to the extent that the additional costs result from changes made at the request of the Local Government or to the extent that the additional costs are not eligible for federal participation under the federal HRRP. If actual costs are less than the estimates, Local Government participation shall be recalculated based on actual costs. If the recalculation results in a reduction in participation by the Local Government, the State shall pay the difference to the Local Government upon completion of the Project.
- M.** Under the provisions of Texas Transportation Code Section 222.053 certain counties qualify as Economically Disadvantaged Counties (EDC) in comparison to other counties in the state as below average per capita property value, below average per capita income, and above average unemployment, for certain years. If applicable, in consideration of such EDC status that may be applicable for the Project, the required local match fund participation has been adjusted to N/A percent (NA %).
- N.** The State will not execute the contract for the construction of a Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- O.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit

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committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

- P. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly, and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

**14. Performance by Local Government of Equivalent-Match Projects (EMP) in Return for Waiver of Local Match Participation Funding on Participation-Waived Projects (PWP)**

- A. **Applicability.** If a request for waiver has been received and approved by the State's District Engineer, then the required ten percent matching fund participation or percent as adjusted for EDC consideration, as shown in Attachment D, Estimate of Direct Costs, but excluding ineligible costs under the bridge program, is waived. This waiver is based on the commitment of the Local Government to spend an equivalent amount of funds for structural or safety improvement on "other" bridge structures and other conditions as specified in 43 TAC Section 15.55(d). If a waiver has been granted, the Project shall be defined to be a PWP and the work on the "other" bridge structures that will be improved by the Local Government shall be defined to be the EMPs. Attachment C to this Agreement shows a list of EMPs under this Agreement.
- B. **Project Cost Estimate for PWP.** Attachment D to this Agreement shows the estimated direct preliminary engineering, construction engineering, and construction costs for the PWP in total and local match fund participation being waived or partially waived.
- C. **Credit Against EMP Work.** Any local match fund participation that has already been paid, or which the Local Government is agreeable to paying to the State, will be credited against EMP work to be performed by the Local Government. If applicable, this credit will be reflected in Attachment D to this Agreement.
- D. **Responsibilities of the Local Government on EMPs.**
  - 1. The Local Government shall be responsible for all engineering and construction, related costs, and compliance with all applicable state and federal environmental regulations and permitting requirements.

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2. The structural or safety improvement work on the EMPs shall be performed subsequent to the final execution of this Agreement but within three (3) calendar years after the earliest contract award of the related PWPs.
  3. Written documentation, suitable for audit, of the structural or safety improvement work completed on the EMPs shall be kept on file by the Local Government for four (4) years after completion of work or claims, lawsuits, or audits related to those items, whichever is longer. A notice of completion of work on the EMPs shall be delivered to the State's District Engineer no later than thirty (30) calendar days after work is completed on the EMPs.
  4. Failure by the Local Government to adequately complete the EMPs within the stated three-year period shall result in the Local Government being excluded from receiving such waivers for a minimum of five (5) years.
- E. Funding of Ineligible or Additional Work Not Waived.** Regardless of any waiver of eligible program costs, the Local Government shall pay the State one-hundred percent (100%) of the cost of any PWP item or portion of a cost item that is not eligible for federal or state participation, and one-hundred percent (100%) of the costs resulting from additional work on the PWP performed solely at the request of the Local Government. If the ineligible or additional work is preliminary engineering, the payment shall be made at least thirty (30) days prior to the beginning of preliminary engineering work on the PWP. If the ineligible or additional work is for construction or construction engineering, the payment shall be made at least forty-five (45) days prior to the date set for receipt of bids for construction of the PWP.

## 15. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

State: Director, Bridge Division  
Texas Department of Transportation  
125 E. 11<sup>th</sup> Street  
Austin, Texas 78701

Local Government: The Honorable Vincent M. Morales, Jr.  
Mayor, City of Rosenberg  
P. O. Box 32  
Rosenberg, Texas 77471-0032

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the

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above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

**16. Legal Construction**

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

**17. Responsibilities of the Parties**

The parties to this Agreement agree that no party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**18. Ownership of Documents**

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

**19. Compliance with Laws**

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

**20. Sole Agreement**

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the subject matter of this Agreement.

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**21. Office of Management and Budget (OMB) Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

**22. Procurement and Property Management Standards**

The parties shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.

**23. Inspection of Books and Records**

The parties to the Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the Federal Highway Administration (FHWA) and the U.S. Office of the Inspector General, or their duly authorized representatives, for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, the FHWA, and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

**24. Civil Rights Compliance**

The parties to this Agreement shall comply with the regulations of the U.S. Department of Transportation as they relate to nondiscrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

**25. Disadvantaged Business Enterprise (DBE) Program Requirements**

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.

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Not Research and Development

- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity and attachments found at web address [http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou\\_attachments.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf).
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

## 26. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the Local Government certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall

CSJ # 0912-34-188  
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Code Chart 64 # 36650  
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Seabourne Creek  
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Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive Federal funds and, when requested by the State, to furnish a copy of the certification.

**27. Lobbying Certification**

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

- A.** No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C.** The parties shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. 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.

**28. Federal Funding Accountability and Transparency Act Requirements**

- A.** Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B.** The Local Government agrees that it shall:
  - 1. Obtain and provide to the State, a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award

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provides for more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR web-site whose address is:

<https://www.sam.gov/portal/public/SAM/>;

2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five (5) executives to the State if:
  - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
  - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

## 29. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this Agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this Agreement.

## 30. Local Government Restrictions

In the case that the Local Government has an existing, future, or proposed local ordinance, commissioners court order, rule, policy, or other directive that is more restrictive than the state or federal regulations that results in an increase cost to the State for the project, the local government is responsible for all increased costs associated with the ordinance, order, policy, directive, or change.

## 31. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B. If threshold expenditures of \$500,000 or more are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>.
- C. If expenditures are less than \$500,000 during the Sub-recipient's fiscal year, the Sub-recipient must submit a statement to TxDOT's Audit Office as follows: "We

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Federal Highway Administration  
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Not Research and Development

did not meet the \$500,000 expenditure threshold and therefore, are not required to have a single audit performed for FY \_\_\_\_\_."

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

CSJ # 0912-34-188  
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Not Research and Development

**32. Signatory Warranty**

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

**THIS AGREEMENT IS EXECUTED** by the State and the Local Government in duplicate.

**THE LOCAL GOVERNMENT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**THE STATE OF TEXAS**

\_\_\_\_\_  
Gregg A. Freeby, P.E.  
Director, Bridge Division  
Texas Department of Transportation

\_\_\_\_\_  
Date

CSJ # 0912-34-188  
District # 12 Houston  
Code Chart 64 # 36650  
Project: W. Fairgrounds Road at  
Seabourne Creek  
NBI Structure # 12-080-0-C00700-001  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**ATTACHMENT A**  
**RESOLUTION OR ORDINANCE OF LOCAL GOVERNMENT**



September 02, 2014

Mr. Michael W. Alford, P.E.  
Houston District Engineer  
Texas Department of Transportation  
P.O. Box 1386  
Houston, Texas 77251-1386

County: Fort Bend  
Projects: BR  
Roads/Streets: W Fairgrounds Rd at Seabourne Creek  
NBI No.: 12-080-0-C00700-001  
CSJ: 0912-34-188

Re: **Request for Waiver of Local Match Fund Participation Requirement on Federal Off-System Bridge Program Project**

Dear Mr. Alford:

Under the provisions of Texas Administrative Code, Title 43, Section 15.55(d), this Local Government requests waiver of the local match fund participation requirement on the above referenced federal off-system bridge program project referred to as the "participation-waived" project. In return for waiver of this participation, it is proposed that our governing body perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridge(s) or deficient mainlane cross-drainage structure(s), referred to as "equivalent-match project(s)", within the jurisdiction of our governing body.

A certified copy of the Resolution No. R-1855 adopted by the Rosenberg City Council at its September 02, 2014 meeting is attached.

Sincerely,

Robert Gracia  
City Manager

RG/JM/rl

attach: Certified Copy of Resolution No. R-1855

xc: John Maresh, Assistant City Manager of Public Services  
Charles Kalkomey, P.E., City Engineer  
File/Correspondence  
File/Texas Department of Transportation

\*\*\*\*\*  
For TxDOT Use Only

Waiver Approved  
 Waiver Disapproved

  
District Engineer

**CERTIFICATION**

I, Linda Cernosek, City Secretary of the City of Rosenberg, Texas, do hereby certify that I am the custodian of the records of the City of Rosenberg, Texas, and that the attached is a true and correct copy of Resolution No. R-1855, "A Resolution authorizing a request for a waiver of the Local Match Fund Participation Requirement by the Texas Department of Transportation (TxDOT) in consideration of planned improvements to the W. Fairgrounds Road Bridge; and, cause to be performed an "Equivalent-Match Project" located within the City in return for waiver of the Local Match Fund Participation requirement; and, authorizing the City Manager and/or Mayor to negotiate and execute, for and on behalf of the City, appropriate agreements and/or documents regarding same."

Resolution No. R-1855 was approved by the City of Rosenberg City Council on the 2nd day of September, 2014.

WITNESS MY HAND and official Seal of the City of Rosenberg, Texas this 3rd day of September, 2014.



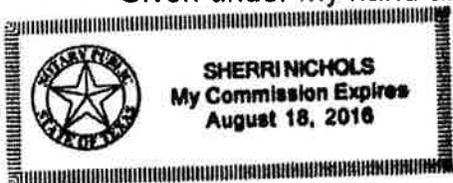
*Linda Cernosek*

Linda Cernosek, TRMC, City Secretary  
City of Rosenberg, Texas

THE STATE OF TEXAS  
COUNTY OF FORT BEND

Before me, the undersigned authority, on this day personally appeared Linda Cernosek, City Secretary of the City of Rosenberg, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 3rd day of September, 2014, A.D.



*Sherril Nichols*  
NOTARY PUBLIC  
IN AND FOR THE STATE OF TEXAS

**RESOLUTION NO. R-1855**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING A REQUEST FOR A WAIVER OF THE LOCAL MATCH FUND PARTICIPATION REQUIREMENT BY THE TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) IN CONSIDERATION OF PLANNED IMPROVEMENTS TO THE W. FAIRGROUNDS ROAD BRIDGE; AND, CAUSE TO BE PERFORMED AN "EQUIVALENT-MATCH PROJECT" LOCATED WITHIN THE CITY IN RETURN FOR WAIVER OF THE LOCAL MATCH FUND PARTICIPATION REQUIREMENT; AND, AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO NEGOTIATE AND EXECUTE, FOR AND BEHALF OF THE CITY OF ROSENBERG, TEXAS, APPROPRIATE AGREEMENTS AND/OR DOCUMENTS REGARDING SAME.**

\* \* \* \* \*

**WHEREAS**, the federal off-system bridge program is administered by the Texas Department of Transportation (the State) to replace or rehabilitate structurally deficient and functionally obsolete (collectively referred to as deficient) bridges located on public roads and streets off the designated state highway system; and

**WHEREAS**, the City of Rosenberg, hereinafter referred to as the Local Government owns a bridge located at; and

| <b>Location of Bridge</b>             | <b>National Bridge Inventory Number (NBI)</b> | <b>Control-Section-Job number (CSJ)</b> |
|---------------------------------------|---|---|
| W Fairgrounds Road at Seabourne Creek | 12-080-0-C00700-001                           | 0912-34-188                             |

**WHEREAS**, a project to remedy this bridge is included in the currently approved program of projects as authorized by Texas Transportation Commission Minute Order Number 113967 dated June 26, 2014; and

**WHEREAS**, the usual fund participation ratio for projects on such program is 80 percent federal, 10 percent state and 10 percent Local Government; and

**WHEREAS**, Texas Administrative Code, Title 43, Section 15.55(d) (43 TAC Section 15.55(d)) provides that under specified conditions the 10 percent Local Government match fund participation requirement may be waived with agreement by the Local Government to perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridges or deficient mainlane cross-drainage structures within its jurisdiction or the jurisdiction of a geographically adjacent or overlapping governmental unit, such a project of structural improvement work being referred to as an "equivalent-match project"; and

**WHEREAS**, the estimated local match fund participation requirement on the approved federal off-system bridge project(s) is \$88,209.00 (dollars), hereinafter referred to as the "participation-waived" project(s), such participation requirement the Local Government proposes be waived and in return perform or cause to be performed equivalent-match project structural improvement work; now, therefore,

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

Section 1. That the Local Government perform, or cause to be performed, the following equivalent-match project(s) in return for waiver of the local match fund participation requirement on the approved federal off-system bridge program (participation-waived) project(s) not yet awarded:

| LOCATION (and NBI structure identification number, if applicable) | ON SCHOOL BUS ROUTE? | DESCRIPTION OF STRUCTURAL IMPROVEMENT WORK                | ESTIMATED COST |
|---|----------------------|---|----------------|
| Louise Street at Dry Creek  | Yes                  | Add 1 additional 7'x10' RCB to the existing 3 7'x10' RCBs | \$169,000.00   |

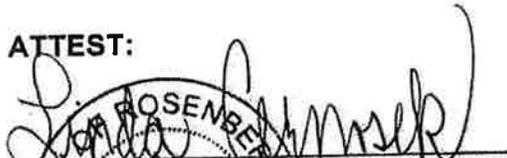
**BE IT FURTHER RESOLVED** that in receiving this waiver, the Local Government acknowledges its obligation to conform with all conditions of 43 TAC Section 15.55(d); such conditions that include but are not restricted to the following:

1. The Local Government must be currently in compliance with load posting and closure regulations as defined in National Bridge Inspection Standards under US Code of Federal Regulations, Title 23, Section 650.303.
2. The equivalent-match project work increases the load capacity of the existing bridge or other mainlane cross-drainage structure, or upgrades the structure to its original load capacity with a minimum upgrade to safely carry school bus loading if located on a school bus route.
3. In performing, or causing to be performed, the equivalent-match project(s), the Local Government assumes all responsibilities for engineering and construction, and complying with all applicable state and federal environmental regulations and permitting requirements for the structures being improved.

4. The work on the proposed equivalent-match project(s) has not begun and will not begin until the local match fund participation waiver approval process has been completed.
5. The Local Government will be allowed three years after the contract award of the participation-waived projects to complete the structural improvement work on the equivalent-match project(s).
6. Should this waiver request be approved, an appropriate written agreement or amendment to a previously executed agreement will be executed between the State and Local Government.

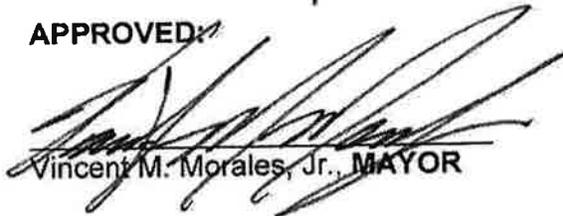
**PASSED, APPROVED, AND RESOLVED** this 1<sup>st</sup> day of September 2014.

**ATTEST:**

  
Linda Cerrusek, CITY SECRETARY



**APPROVED:**

  
Vincent M. Morales, Jr., MAYOR

CSJ # 0912-34-188  
District # 12 Houston  
Code Chart 64 # 36650  
Project: W. Fairgrounds Road at  
Seabourne Creek  
NBI Structure # 12-080-0-C00700-001  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

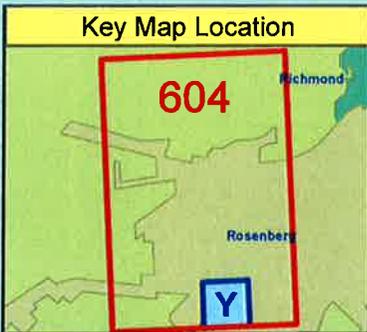
**ATTACHMENT B**  
**PROJECT LOCATION MAP**



**Attachment "B"**  
 CSJ:0912-34-188  
 NBI #12-102-0-B32978-001

**Location:**  
 W Fairgrounds Rd  
 at Seabourne Creek

**Description of Work**  
 Replace Bridge and Approaches  
**City of Rosenberg**



CSJ # 0912-34-188  
 District # 12 Houston  
 Code Chart 64 # 36650  
 Project: W. Fairgrounds Road at  
 Seabourne Creek  
 NBI Structure # 12-080-0-C00700-001  
 Federal Highway Administration  
 CFDA # 20.205  
 Not Research and Development

**ATTACHMENT C \*\***  
**LIST OF DISTRICT ENGINEER APPROVED**  
**EQUIVALENT-MATCH PROJECTS**

| Location (and structure identification number, if applicable) | On School Bus Route? (Yes/No) | Historic Bridge? (Yes/No) | Description of Structural or Safety Improvement Work      | Estimated Cost   |
|---|-------------------------------|---------------------------|---|------------------|
| Louise Street at Dry Creek                                    | Yes                           | No                        | Add 1 additional 7'x10' RCB to the existing 3 7'x10' RCBs | \$169,000        |
|   |                               |                           |   |                  |
|   |                               |                           |   |                  |
|   |                               |                           |   |                  |
|   |                               |                           |   |                  |
|   |                               |                           |   |                  |
|   |                               |                           |   |                  |
| <b>Total</b>  |                               |                           |   | <b>\$169,000</b> |
| <b>EMP work credited to this PWP*</b>                         |                               |                           |   | <b>\$169,000</b> |
| <b>Balance of EMP work available to associated PWPs</b>       |                               |                           |   | <b>\$0</b>       |

\*This total should typically equal the "Balance of Local Government Participation" that is waived as shown in Attachment D.

\*\*This attachment not applicable for non-PWPs.

CSJ # 0912-34-188  
 District # 12 Houston  
 Code Chart 64 # 36650  
 Project: W. Fairgrounds Road at  
 Seabourne Creek  
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## ATTACHMENT D

### ESTIMATE OF DIRECT COSTS

|   | <u>Estimated Cost</u>  | <u>Local Government Participation</u> |
|---|------------------------|---------------------------------------|
| Preliminary Engineering (PE)  | <u>(1) \$72,900</u>    |                                       |
| Ten Percent (10%) or EDC Adjusted Percent of PE for Local Government Participation                              |                        | <u>(3) \$7,290</u>                    |
| Construction  | <u>\$729,000</u>       |                                       |
| Engineering and Contingency (E&C)   | <u>\$80,190</u>        |                                       |
| The Sum of Construction and E&C   | <u>(2) \$809,190</u>   |                                       |
| Ten Percent (10%) or EDC Adjusted Percent of the Sum of Construction and E&C for Local Government Participation |                        | <u>(4) \$80,919</u>                   |
| Amount of Advance Funds Paid by Local Government *  |                        | <u>(5)</u>                            |
| Amount of Advance Funds to be Paid by Local Government *  |                        | <u>(6)</u>                            |
| Balance of Local Government Participation which is to be Waived where the Project is a PWP                      |                        | <u>(3+4-5-6) \$88,209</u>             |
| Total Project Direct Cost   | <u>(1+2) \$882,090</u> |                                       |

\*Credited Against Local Government Participation Amount

If this Project is to be a PWP, Amount of EMP Work Being Credited to this PWP as Shown on Attachment C. \$169,000



P.O. BOX 1386 | HOUSTON, TEXAS 77251-1386 | (713) 802-5000 | WWW.TXDOT.GOV

September 23, 2014

CERTIFIED MAIL 7012 1640 0000 5997 9732

Mr. John Maresh  
Assistant City Manager  
City of Rosenberg  
2220 Fourth Street  
Rosenberg, Texas 77471

RE: CSJ 0912-34-188  
W. Fairgrounds Road at Seabourne Creek  
NBI No. 12-080-0-C00700-001

Dear Mr. Maresh:

Please find attached duplicate originals of the subject agreement. Upon execution of the agreements please have all copies returned to my office for further handling. Please note that your request for waiver of local participation for the subject project has been approved and you are free to begin work on your equivalent match project (EMP). The EMP must be completed within three years of letting your related participation waived project.

If you require further information, please contact me at (713) 802-5633.

Sincerely,

David D. Nitsch  
District Programs Administrator  
Houston District

Attachments

RESOLUTION NO. R-1855

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING A REQUEST FOR A WAIVER OF THE LOCAL MATCH FUND PARTICIPATION REQUIREMENT BY THE TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) IN CONSIDERATION OF PLANNED IMPROVEMENTS TO THE W. FAIRGROUNDS ROAD BRIDGE; AND, CAUSE TO BE PERFORMED AN "EQUIVALENT-MATCH PROJECT" LOCATED WITHIN THE CITY IN RETURN FOR WAIVER OF THE LOCAL MATCH FUND PARTICIPATION REQUIREMENT; AND, AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO NEGOTIATE AND EXECUTE, FOR AND BEHALF OF THE CITY OF ROSENBERG, TEXAS, APPROPRIATE AGREEMENTS AND/OR DOCUMENTS REGARDING SAME.

\* \* \* \* \*

**WHEREAS**, the federal off-system bridge program is administered by the Texas Department of Transportation (the State) to replace or rehabilitate structurally deficient and functionally obsolete (collectively referred to as deficient) bridges located on public roads and streets off the designated state highway system; and

**WHEREAS**, the City of Rosenberg, hereinafter referred to as the Local Government owns a bridge located at; and

| Location of Bridge                    | National Bridge Inventory Number (NBI) | Control-Section-Job number (CSJ) |
|---------------------------------------|--|----------------------------------|
| W Fairgrounds Road at Seabourne Creek | 12-080-0-C00700-001                    | 0912-34-188                      |

**WHEREAS**, a project to remedy this bridge is included in the currently approved program of projects as authorized by Texas Transportation Commission Minute Order Number 113967 dated June 26, 2014; and

**WHEREAS**, the usual fund participation ratio for projects on such program is 80 percent federal, 10 percent state and 10 percent Local Government; and

**WHEREAS**, Texas Administrative Code, Title 43, Section 15.55(d) (43 TAC Section 15.55(d)) provides that under specified conditions the 10 percent Local Government match fund participation requirement may be waived with agreement by the Local Government to perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridges or deficient mainlane cross-drainage structures within its jurisdiction or the jurisdiction of a geographically adjacent or overlapping governmental unit, such a project of structural improvement work being referred to as an "equivalent-match project"; and

**WHEREAS**, the estimated local match fund participation requirement on the approved federal off-system bridge project(s) is \$88,209.00 (dollars), hereinafter referred to as the "participation-waived" project(s), such participation requirement the Local Government proposes be waived and in return perform or cause to be performed equivalent-match project structural improvement work; now, therefore,

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

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| <b>LOCATION (and NBI structure identification number, if applicable)</b> | <b>ON SCHOOL BUS ROUTE?</b> | <b>DESCRIPTION OF STRUCTURAL IMPROVEMENT WORK</b>         | <b>ESTIMATED COST</b> |
|--|-----------------------------|---|-----------------------|
| Louise Street at Dry Creek   | Yes                         | Add 1 additional 7'x10' RCB to the existing 3 7'x10' RCBs | \$169,000.00          |

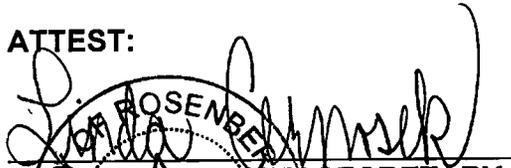
**BE IT FURTHER RESOLVED** that in receiving this waiver, the Local Government acknowledges its obligation to conform with all conditions of 43 TAC Section 15.55(d); such conditions that include but are not restricted to the following:

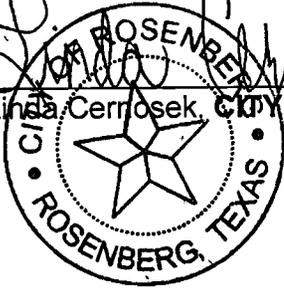
1. The Local Government must be currently in compliance with load posting and closure regulations as defined in National Bridge Inspection Standards under US Code of Federal Regulations, Title 23, Section 650.303.
2. The equivalent-match project work increases the load capacity of the existing bridge or other mainlane cross-drainage structure, or upgrades the structure to its original load capacity with a minimum upgrade to safely carry school bus loading if located on a school bus route.
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4. The work on the proposed equivalent-match project(s) has not begun and will not begin until the local match fund participation waiver approval process has been completed.
5. The Local Government will be allowed three years after the contract award of the participation-waived projects to complete the structural improvement work on the equivalent-match project(s).
6. Should this waiver request be approved, an appropriate written agreement or amendment to a previously executed agreement will be executed between the State and Local Government.

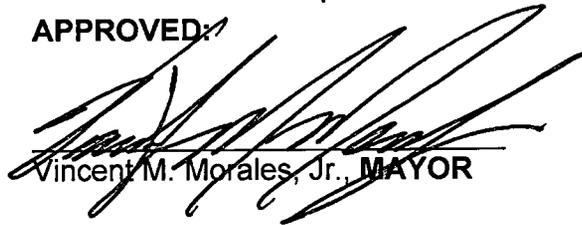
**PASSED, APPROVED, AND RESOLVED** this 2<sup>nd</sup> day of September 2014.

**ATTEST:**

  
Linda Cerritosek, CITY SECRETARY



**APPROVED:**

  
Vincent M. Morales, Jr., MAYOR



September 02, 2014

Mr. Michael W. Alford, P.E.  
Houston District Engineer  
Texas Department of Transportation  
P.O. Box 1386  
Houston, Texas 77251-1386

County: Fort Bend  
Projects: BR  
Roads/Streets: W Fairgrounds Rd at Seabourne Creek  
NBI No.: 12-080-0-C00700-001  
CSJ: 0912-34-188

Re: Request for Waiver of Local Match Fund Participation Requirement on Federal Off-System Bridge Program Project

Dear Mr. Alford:

Under the provisions of Texas Administrative Code, Title 43, Section 15.55(d), this Local Government requests waiver of the local match fund participation requirement on the above referenced federal off-system bridge program project referred to as the "participation-waived" project. In return for waiver of this participation, it is proposed that our governing body perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridge(s) or deficient mainlane cross-drainage structure(s), referred to as "equivalent-match project(s)", within the jurisdiction of our governing body.

A certified copy of the Resolution No. R-1855 adopted by the Rosenberg City Council at its September 02, 2014 meeting is attached.

Sincerely,

Robert Gracia  
City Manager

RG/JM/rl

attach: Certified Copy of Resolution No. R-1855

xc: John Maresh, Assistant City Manager of Public Services  
Charles Kalkomey, P.E., City Engineer  
File/Correspondence  
File/Texas Department of Transportation

\*\*\*\*\*

For TxDOT Use Only

\_\_\_\_\_ Waiver Approved  
\_\_\_\_\_ Waiver Disapproved

\_\_\_\_\_  
District Engineer

**CERTIFICATION**

I, Linda Cernosek, City Secretary of the City of Rosenberg, Texas, do hereby certify that I am the custodian of the records of the City of Rosenberg, Texas, and that the attached is a true and correct copy of Resolution No. R-1855, "A Resolution authorizing a request for a waiver of the Local Match Fund Participation Requirement by the Texas Department of Transportation (TxDOT) in consideration of planned improvements to the W. Fairgrounds Road Bridge; and, cause to be performed an "Equivalent-Match Project" located within the City in return for waiver of the Local Match Fund Participation requirement; and, authorizing the City Manager and/or Mayor to negotiate and execute, for and on behalf of the City, appropriate agreements and/or documents regarding same."

Resolution No. R-1855 was approved by the City of Rosenberg City Council on the 2nd day of September, 2014.

WITNESS MY HAND and official Seal of the City of Rosenberg, Texas this 3rd day of September, 2014.

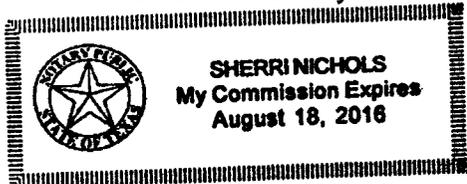


*Linda Cernosek*  
Linda Cernosek, TRMC, City Secretary  
City of Rosenberg, Texas

THE STATE OF TEXAS  
COUNTY OF FORT BEND

Before me, the undersigned authority, on this day personally appeared Linda Cernosek, City Secretary of the City of Rosenberg, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 3rd day of September, 2014, A.D.



*Sherril Nichols*  
NOTARY PUBLIC  
IN AND FOR THE STATE OF TEXAS

RESOLUTION NO. R-1843

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING REPLACEMENT OF THE W. FAIRGROUNDS ROAD BRIDGE AT SEABOURNE CREEK THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) OFF-SYSTEM BRIDGE REPLACEMENT PROGRAM UTILIZING THE "PARTICIPATION WAIVED" PROJECT FORM OF AGREEMENT, APPROVING IMPROVEMENTS TO OTHER BRIDGES EQUAL TO THE 10% LOCAL FUNDING CONTRIBUTION IN THE ESTIMATED AMOUNT OF \$88,209.00; AND, AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO EXECUTE ALL APPROPRIATE AGREEMENTS AND/OR DOCUMENTS REGARDING SAME.

\* \* \* \* \*

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

Section 1. The City Council of the City of Rosenberg hereby authorizes the replacement of the W. Fairgrounds Road bridge at Seabourne Creek Park through the TxDOT Off-System Bridge Replacement Program utilizing the "participation waived" project form of agreement and approves improvements to other bridges equal to 10% of the local funding contribution in the estimated amount of \$88,209.00.

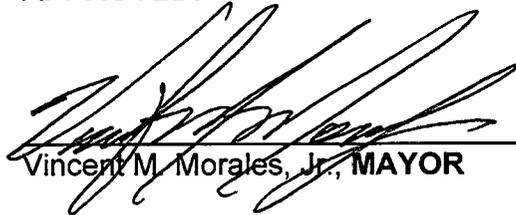
Section 2. The City Manager and/or Mayor are hereby authorized to execute for and on behalf of the City of Rosenberg, appropriate agreements and/or documents regarding same.

PASSED, APPROVED, AND RESOLVED this 19<sup>th</sup> day of August 2014.

ATTEST:

  
Linda Cernosek, CITY SECRETARY

APPROVED:

  
Vincent M. Morales, Jr., MAYOR



members then you remove the voting hindrance on those two committees. This Council voted on this and it was revised November 5, 2013 and is the Rules of Procedure in the back of the book at every meeting. It has the Ex-officio as a part of this.

- Councilor Euton stated she is not sure she understands all the questions. The RDC is a very special committee that has three Council Members on that Board that vote. She does not have any objection to Council Members on other committees voting. She does not know why they were made Ex-officio to begin with. To compare the Parks Board to the RDC is an injustice. They are totally different styles of committees. The RDC has their own guidelines and rules because they are a corporation that was created by law.
- Scott Tschirhart stated the RDC is a governmental entity of its own which makes it different than an advisory board like a Parks Board or Image Committee. That is why it has to be treated under the statute.
- Councilor Pena stated he supports allowing Council Members to vote on these committees.
- Councilor Barta stated she understands the Parks has always been that way. The Image Committee used to be able to vote and she does not know why it was changed. If Council wants it changed back she is fine with that.
- Councilor McConathy stated the Image Committee had a Council Member that voted at one time and if the truth be told, that was changed by a former Councilor as a political maneuver. She would support changing it back to the way it was and also at the Attorney's suggestion making those two positions Regular Members if that is the easiest way to do it.
- Mayor Morales asked legal counsel if a motion could be made to change those rules to let those two committees have voting members.
- Scott Tschirhart advised to appoint those two particular members to those two particular committees as Regular Voting Members rather than do a change to the rules. They will not be appointed as Ex-officio Members as they are now. The motion would be: "I move to appoint the Council Members that serve on the Parks Board and the Image Committee to be Regular Voting Members rather than Ex-officio Members of those Committees".

**Action:** Councilor Benton made a motion, seconded by Councilor McConathy to appoint the Council Members that serve on the Parks Board and the Image Committee to be Regular Voting Members rather than Ex-officio Members of those Committees. **The motion carried by a vote of 6 to 1. Yeses: Mayor Morales, Councilors Benton, McConathy, Pena, Euton and Barta. No: Councilor Grigar.**

7.

**CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1855, A RESOLUTION AUTHORIZING A REQUEST FOR A WAIVER OF THE LOCAL MATCH FUND PARTICIPATION REQUIREMENT BY THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) IN CONSIDERATION OF PLANNED IMPROVEMENTS TO THE W. FAIRGROUNDS ROAD BRIDGE; AND, CAUSE TO BE PERFORMED AN "EQUIVALENT-MATCH PROJECT" LOCATED WITHIN THE CITY IN RETURN FOR WAIVER OF THE LOCAL MATCH FUND PARTICIPATION REQUIREMENT; AND, AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE AGREEMENTS AND/OR DOCUMENTS REGARDING SAME.**

**Executive Summary:** During the August 19, 2014, Regular City Council Meeting, Resolution No. R-1843 authorizing participation in the Texas Department of Transportation (TxDOT) Off-System Bridge Replacement Program for replacement of the W. Fairgrounds Road bridge over Seabourne Creek utilizing the "participation-waived" form of project agreement was approved.

The next step in the process requires approval of Resolution No. R-1855 which identifies the specific project that will be completed in order to meet the ten percent (10%) local match requirement. TxDOT has agreed to allow the upcoming improvements to the Louise Street crossing over Dry Creek as the "equivalent-match" project. The value of the Louise Street project, that consists of adding one (1) 7' X 10' reinforced box culvert under Louise Street, is approximately \$169,000.00 which will meet and exceed the ten percent (10%) local match requirement estimated at \$88,209.00. The Dry Creek Regional Detention Pond Phase I Improvement Project, which also includes the Louise Street drainage structure improvements, can proceed with construction upon approval by the TxDOT Houston District Engineer. This will fulfill the City's local match requirements for the W. Fairgrounds Road bridge replacement project scheduled for 2018.

Staff recommends approval of Resolution No. R-1855 as presented.

**Key discussion points:**

- John Maresh read the Executive Summary regarding the item.

**Action:** Councilor McConathy made a motion, seconded by Councilor Barta to approve Resolution No. R-1855, a Resolution authorizing a request for a waiver of the Local Match Fund Participation requirement by the Texas Department of Transportation (TXDOT) in consideration of planned improvements to the W. Fairgrounds Road Bridge; and, cause to be performed an "Equivalent-Match Project" located within the City in return for waiver of the Local Match Fund Participation requirement; and, authorizing the City Manager and/or Mayor to negotiate and execute, for and on behalf of the City, appropriate agreements and/or documents regarding same. The motion carried by a unanimous vote.

**RECESS SESSION, RECONVENE SESSION.**

Mayor Morales recessed the meeting at 8:28 p.m. and reconvened the meeting at 8:35 p.m.

8. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1814, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A CROSSING AGREEMENT, BY AND BETWEEN THE CITY AND ENTERPRISE CRUDE PIPELINE, LLC, PERMITTING THE INSTALLATION OF A SINGLE, NEW COMMON CARRIER PIPELINE.**

**Executive Summary:** Enterprise Crude Pipeline, LLC (Enterprise), is in the process of constructing a single, new common carrier pipeline for the transportation of oil and petroleum products. The proposed pipeline will cross a City of Rosenberg "exclusive" 20-foot wide utility easement that runs along Spur 529 on the west side of Rosenberg. Because the utility easement is "exclusive" to the City of Rosenberg, Enterprise must receive consent from the City in order to install the pipeline across it. The proposed pipeline crossing location is parallel and adjacent to the Seaway pipeline that was recently constructed.

Staff has prepared a Crossing Agreement (Agreement), attached to Resolution No. R-1814 as Exhibit "A", that will permit the crossing of the easement with the pipeline. The Agreement limits the pipeline crossing width to thirty (30) feet and specifies it is limited to a single pipeline only. The Agreement also stipulates that Enterprise agrees to adjust, or move the pipeline one (1) time without compensation or reimbursement from the City in the event the pipeline location conflicts with future City utility line installations. The Agreement also includes a performance bond in the amount of \$50,000.00 in the unlikely event that damage occurs to the City infrastructure during the pipeline construction by Enterprise.

Staff recommends approval of Resolution No. R-1814, authorizing the City Manager to execute the Crossing Agreement.

**Key discussion points:**

- John Maresh read the Executive Summary regarding the item.

**Questions/Comments:**

**Q:** The performance bond is \$50,000. Didn't a previous agenda item ask for \$100,000 on a similar situation?

**A:** That was primarily for a different crossing. They will be crossing a water line with this project and it will be enough performance bonds. The crossing is an easement adjacent to Spur 529 which is TxDOT right of way.

**Action:** Councilor Barta made a motion, seconded by Councilor Euton to approve Resolution No. R-1814, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Crossing Agreement, by and between the City and Enterprise Crude Pipeline, LLC, permitting the installation of a single, new common carrier pipeline. The motion carried by a unanimous vote.

9. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1852, A RESOLUTION AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A STANDARD UTILITY AGREEMENT, BY AND BETWEEN THE CITY AND TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR WATER AND SANITARY SEWER UTILITY LINE RELOCATIONS NECESSITATED BY THE U.S. HWY 59/I-69 EXPANSION PROJECT.**

**Executive Summary:** The Texas Department of Transportation (TxDOT) U.S. Hwy 59/I-69 Expansion Project has created numerous conflicts with existing City water and sanitary sewer utility lines. The utility lines must be relocated in order to eliminate the conflicts. This Standard Utility Agreement (Agreement) specifically addresses numerous sections of water and sanitary sewer lines that will have be relocated between the Spur 10 and Reading Road phase of the Expansion Project

The Employee Benefits Trust (Trust) will meet on Tuesday, August 19, 2014. At that time, the Trust will consider approval of the Contract with Assurant Employee Benefits. It will then be necessary for City Council to consider funding said Contract. Action by the City Council approving the funding for the Contract and proposed rates at \$98,668.20 would provide one (1) year coverage with Assurant Employee Benefits beginning October 01, 2014, through September 30, 2015.

Staff recommends approval of Resolution No. R-1842, 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.

**Key discussion points:**

- Lisa Olmeda read the Executive Summary regarding the item.

**Action:** Councilor McConathy made a motion, seconded by Councilor Benton to approve Resolution No. R-1842, 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. The motion carried by a unanimous vote of those present.

14. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1843, A RESOLUTION AUTHORIZING REPLACEMENT OF THE W. FAIRGROUNDS ROAD BRIDGE AT SEABOURNE CREEK THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) OFF-SYSTEM BRIDGE REPLACEMENT PROGRAM UTILIZING THE "PARTICIPATION WAIVED" PROJECT FORM OF AGREEMENT, APPROVING IMPROVEMENTS TO OTHER BRIDGES EQUAL TO THE 10% LOCAL FUNDING CONTRIBUTION IN THE ESTIMATED AMOUNT OF \$88,209.00; AND, AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO EXECUTE ALL APPROPRIATE AGREEMENTS AND/OR DOCUMENTS REGARDING SAME.**

**Executive Summary:** Staff recently received correspondence from TxDOT regarding the Off-System Bridge Replacement Program. The City has one (1) bridge, located at Seabourne Creek and West Fairgrounds Road, that qualifies for replacement under this Program.

The City has two (2) options to facilitate the bridge's replacement. One option is to enter into a structured agreement with TxDOT that would consist of federal government funding at 80%, state funding at 10%, and City funding at 10%, or \$88,209.00. TxDOT also offers a "participation-waived" project option that allows the City to perform certain other projects that qualify as an equivalent match. Equivalent-match projects must be completed within three (3) years of letting of the first participation-waived project. According to TxDOT staff, the W. Fairgrounds Road bridge is scheduled for replacement in 2018, therefore the City would have up to three (3) years from that date in which to complete the "participation-waived" project(s) to improve other qualifying deficient structures or drainage facilities. Likewise, the "participation-waived" projects can be completed in advance of the 2018 replacement date. For example, if the existing bridge over Dry Creek is replaced as a part of the Bryan Road improvement project, this would qualify as the local equivalent match project.

Staff is recommending that the City participate in the Off-System Bridge Replacement Program utilizing the "participation-waived" project form of agreement with TxDOT that would require an equivalent dollar amount of \$88,209.00 to structurally improve other qualifying deficient structures of drainage facilities. Resolution No. R-1843 authorizes the replacement of the bridge, authorizes the "participation-waived" project form of agreement, and authorizes the Mayor and/or City Manager to execute all appropriate agreements and other documents to facilitate the project.

**Key discussion points:**

- John Maresh read the Executive Summary regarding the item.

**Questions/Comments:**

- Councilor McConathy stated "if" the existing bridge over Dry Creek is replaced as a result of the Bryan project. It is really not an "if" it's we are going to replace the existing bridge--correct?
- John Maresh stated yes the plan is to replace it.
- Councilor Benton asked if this is the bridge by the treatment plant and the Jehovah's Witness Church that has wooden planks. The City's portion is \$88,209 and that's 10% so the project is an \$880,000 for that small bridge.

- John Maresh stated it will probably be more than that based on the cost of bridges. Typically bridges are concrete structures.
- John Maresh explained that after the agreement is done we will submit a list of different things we want to do to TxDOT and then we can start doing those projects.

**Action:** Councilor Bolf made a motion, seconded by Councilor Euton to approve Resolution No. R-1843, a Resolution authorizing replacement of the W. Fairgrounds Road Bridge at Seabourne Creek through the Texas Department of Transportation (TxDOT) Off-System Bridge Replacement Program utilizing the "participation waived" project form of agreement, approving improvements to other bridges equal to the 10% local funding contribution in the estimated amount of \$88,209.00; and, authorizing the City Manager and/or Mayor to execute all appropriate agreements and/or documents regarding same. The motion carried by a unanimous vote of those present.

15. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1826, A RESOLUTION AWARDED BID NO. 2014-09 FOR CONSTRUCTION OF THE BAMORE ROAD PHASE IV PAVING AND DRAINAGE IMPROVEMENTS PROJECT; 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:** During the August 05, 2014 City Council Meeting, action was taken to table this item for further discussion at the next meeting. Representatives from Gonzalez Construction Enterprise, Inc., are planning to be available at the City Council meeting to answer any questions that may arise.

Bids were received on Wednesday, July 16, 2014, for the Bamore Road Phase IV Paving and Drainage Improvements Project. A total of two (2) bids were opened and tabulated as indicated on the attached bid summary form. The Phase IV project primarily includes construction of the three (3) lane concrete curb and gutter street with underground storm sewer from south of Avenue K to FM 1640 (Avenue I). The portion of Bamore Road between FM 1640 (Avenue I) and Spur 529 will be reconstructed as an asphalt roadway with open ditches. Replacement of the water lines is also included.

Staff recommends Bid No. 2014-09 be awarded to Gonzalez Construction Enterprise, Inc., for the base bid in the amount of \$851,317.67. The attached correspondence from Larry Janak, Project Manager, IDC Engineering, 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-1826. The contract time is 210 calendar days.

Staff recommends approval of Resolution No. R-1826 which will award Bid No. 2014-09 and provide authorization for the City Manager to negotiate and execute all required documents necessary to facilitate the Agreement.

**Key discussion points:**

- John Maresh read the Executive Summary regarding the item.

**Questions/Comments:**

- Councilor Euton asked Gonzales Construction if they are able to do this project with all of their other commitments they have and when do they anticipate completing the cleanup in the other phase.
- Pete Cavazos of Gonzales Construction stated the projects consist of another agreement off Bryan Road and an agreement off of Damascus Road. They have an agreement to keep their materials on the Damascus Road property.
- Councilor Euton stated there is material and tall grass where those materials are. Will that stay there? Will you take care of the weeds on that property?
- Pete Cavazos stated it will not stay there but they do have an agreement to keep materials there until the projects are complete. Yes.
- Councilor Pena stated his concern is the inability to move on projects. You were running late on the Airport Avenue job. My concern is your firm is taking on a project and complete it when it is suppose to be complete and meet the time limits. We have project managers on the projects that can report to us. We have a history of not holding our contractors' feet to the fire. The wishes of this Council is to have the projects completed by contractors who take the projects in the timeframe allotted for the job. There were two timeframes regarding Bamore Road. One was 210 days by your company and 150 days by another company. That is a lot of difference. What would constitute a 60 day differential between the completion of that job?



# CITY COUNCIL COMMUNICATION

November 18, 2014

| ITEM # | ITEM TITLE  |
|--------|---|
| 7      | Resolution No. R-1874 - Intergovernmental Agreement |

### ITEM/MOTION

Consideration of and action on Resolution No. R-1874, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Intergovernmental Agreement, by and between the City and the Houston-Galveston Area Council (H-GAC), for participation in a Regional DWI Task Force from November 01, 2014, to September 30, 2015.

| 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-1874

### APPROVALS

**Submitted by:**


Dallis Warren  
Police Chief

**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  
City Manager

### EXECUTIVE SUMMARY

The Houston-Galveston Area Council (H-GAC) is acting as the administrator for the Texas Department of Transportation (TxDOT) Selective Traffic Enforcement Program (STEP) Grants. Approval of this Intergovernmental Agreement, attached as Exhibit "A" to Resolution No. R-1874, will allow the Rosenberg Police Department to participate in the DWI Task Force Program and receive overtime compensation reimbursement for officers working during selected holiday periods. The City of Rosenberg is eligible for up to \$6,000.00 in reimbursement.

Staff recommends approval of Resolution No. R-1874.

**RESOLUTION NO. R-1874**

**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 INTERGOVERNMENTAL AGREEMENT, BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND THE HOUSTON-GALVESTON AREA COUNCIL (H-GAC), FOR PARTICIPATION IN A REGIONAL DWI TASK FORCE FROM NOVEMBER 01, 2014, TO SEPTEMBER 30, 2015.**

\* \* \* \* \*

**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 an Intergovernmental Agreement (Agreement) for participation in a regional DWI Task Force from November 01, 2014, to September 30, 2015.

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 \_\_\_\_\_ 2014.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Linda Cernosek, **CITY SECRETARY**

\_\_\_\_\_  
Vincent M. Morales, Jr., **MAYOR**

**HOUSTON-GALVESTON AREA COUNCIL  
GENERAL PROVISIONS  
INTERGOVERNMENTAL AGREEMENT**

This Intergovernmental Agreement is made and entered into this 1st day of November, 2014, by and between the Houston-Galveston Area Council, hereinafter referred to as H-GAC, having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and The City of Rosenberg, hereinafter referred to as the Contractor, having its principal place of business at 2110 4<sup>th</sup> Street, Rosenberg, TX 77471.

**WITNESSETH:**

**WHEREAS**, H-GAC hereby engages the Contractor to perform certain services in accordance with the specifications of the Agreement; and

**WHEREAS**, the Contractor has agreed to perform such services in accordance with the specifications of the Agreement;

**NOW, THEREFORE**, H-GAC and the Contractor do hereby agree as follows:

**ARTICLE 1 LEGAL AUTHORITY**

The Contractor warrants and assures H-GAC that it possesses adequate legal authority to enter into this Agreement. The Contractor's governing body, where applicable, has authorized the signatory official(s) to enter into this Agreement and bind the Contractor to the terms of this Agreement and any subsequent amendments hereto.

**ARTICLE 2 APPLICABLE LAWS**

The Contractor agrees to conduct all activities under this Agreement in accordance with all applicable rules, regulations, directives, standards, ordinances and laws in effect or promulgated during the term of this Agreement. Such standards and laws shall include, to the extent applicable, the Uniform Grant and Contract Management Standards ("UGMS") promulgated by the State of Texas and the state and federal statutes referenced therein.

**ARTICLE 3 INDEPENDENT CONTRACTOR**

The execution of this Agreement and the rendering of services prescribed by this Agreement do not change the independent status of H-GAC or the Contractor. No provision of this Agreement or act of H-GAC in performance of the Agreement shall be construed as making the Contractor the agent, servant or employee of H-GAC, the State of Texas or the United States Government. Employees of the Contractor are subject to the exclusive control and supervision of the Contractor. The Contractor is solely responsible for employee payrolls and claims arising therefrom. The Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Contractor pertaining to this Agreement or which would adversely affect the contractor's ability to perform services under this Agreement.

**ARTICLE 4 WHOLE AGREEMENT**

The General Provisions, Special Provisions and Attachments, as provided herein, constitute the complete agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

**ARTICLE 5 SCOPE OF SERVICES**

The services to be performed by the Contractor are outlined in the Special Provisions of this Agreement.

**ARTICLE 6 PERFORMANCE PERIOD**

This Agreement shall be performed during the period which begins **November 1, 2014** and ends **September 30, 2015**. The work under this Agreement shall begin immediately following a formal Notice to Proceed.

**ARTICLE 7 REPORTING REQUIREMENTS**

Reporting requirements are set forth in the Special Provisions of this Agreement. If the Contractor fails to submit to H-GAC in a timely and satisfactory manner any report required by this Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may withhold payments otherwise due and owing the Contractor hereunder. If H-GAC withholds such payments, it shall notify the Contractor of its decision and the reasons therefor. Payments withheld pursuant to this Article may be held by H-GAC until such time as the delinquent obligations for which funds are withheld are fulfilled by the Contractor. The Contractor's failure to timely submit any report may also be considered cause for termination of this Agreement.

**ARTICLE 8 PAYMENTS**

The Contractor agrees that payments are predicated upon properly documented and verified proof of performance delivered and costs incurred by the Contractor in accordance with the terms of this Agreement and shall be paid in accordance with the Compensation Schedule in the Special Provisions.

**ARTICLE 9 NON FUNDING CLAUSE**

Each payment obligation of H-GAC created by this Agreement is conditioned upon the availability of state or federal funds appropriated or allocated for the payment of such obligations. H-GAC shall not be otherwise obligated or liable for any future payments due or for any damages as a result of interruption of payment or termination under this Article.

**ARTICLE 10 INSURANCE**

The Contractor shall maintain insurance coverage for work performed or services rendered under this Agreement as specified in the Special Provisions.

### **ARTICLE 11 REPAYMENTS**

The Contractor understands and agrees that it shall be liable to repay and shall repay upon demand to H-GAC any amounts determined by H-GAC, its independent auditors, or any agency of state or federal government to have been paid in violation of the terms of this Agreement.

### **ARTICLE 12 SUBCONTRACTS**

Except as may be set forth in the Special Provisions, the Contractor agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Agreement or any right, title, obligation or interest it may have therein to any third party without prior written approval of H-GAC.

The Contractor acknowledges that H-GAC is not liable to any subcontractor(s) of the Contractor.

The Contractor shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Agreement as if the performance rendered was rendered by the Contractor.

### **ARTICLE 13 AUDIT**

As a recipient of state or federal assistance through this Agreement, the Contractor acknowledges that it is subject to the Single Audit Act of 1996, P.L. 98-502, (hereinafter referred to as "Audit Act"), OMB Circular No. A-133, and the State of Texas Single Audit Circular incorporated in UGMS.

The Contractor shall have an audit made in accordance with the Single Audit, requirements of the most recently adopted UGMS and OMB Circular A-133 for any of its fiscal years in which Contractor expends more than \$500,000 in state or federal financial assistance.

The Contractor will provide H-GAC a copy of the single audit, including management letter and reporting package required by federal and state rules within 30 days after receipt of the auditor's report, or nine months after the end of the audit period.

H-GAC reserves the right to conduct or cause to be conducted an independent audit of all funds received under this Agreement which may be performed by the local government audit staff, a certified public accountant firm, or other auditors as designated by the H-GAC. Such audit will be conducted in accordance with State law, regulations, and policy, and generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any costs disallowed or overpayment as a result of audit or inspection of records kept by the Contractor on work performed under this Agreement.

### **ARTICLE 14 EXAMINATION OF RECORDS**

The Contractor shall maintain during the course of the work, complete and accurate records of all of the Contractor's costs and documentation of items which are chargeable to H-GAC under this Agreement. H-GAC, through its staff or designated public accounting firm, the State of Texas and the United States Government, including the U.S. Department of Transportation and the U.S. Office of the Inspector General, shall have the right at any reasonable time to inspect, copy and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by it. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Agreement. The

records to be thus maintained and retained by the Contractor shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Contractor's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Contractor's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges. Additionally, the State, the United States Government, and their duly-authorized representatives shall have access to all the governmental records that are directly applicable to this agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

The Contractor further agrees to include in all its subcontracts permitted pursuant to Article 12 hereof, a provision to the effect that the subcontractor agrees that H-GAC and its duly authorized representatives shall, until the expiration of four (4) years after final payment under the subcontract or until all audit findings have been resolved, have access to and the right to examine and copy any directly pertinent books, documents, papers, invoices and records of such subcontractor involving transactions relating to the subcontract.

#### **ARTICLE 15 RETENTION OF RECORDS**

The Contractor shall maintain all records pertinent to this Agreement, including but not limited to those records enumerated in Article 14, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than four (4) calendar years from the later of the date of acceptance of the final contract closeout or the date of the final audit required under Article 13 of this Agreement. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular four (4) year period, whichever is later.

#### **ARTICLE 16 CHANGES AND AMENDMENTS**

Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation; provided if the Contractor may not legally comply with such change, the contractor may terminate its participation herein as authorized by Article 17.

H-GAC may, from time to time, require changes in the scope of the services of the Contractor to be performed hereunder. Such changes that are mutually agreed upon by and between H-GAC and the Contractor in writing shall be incorporated into this Agreement.

#### **ARTICLE 17 TERMINATION PROCEDURES**

The Contractor acknowledges that this Agreement may be terminated under the following circumstances:

##### A. Convenience

H-GAC may terminate this Agreement in whole or in part without cause at any time by written notice by certified mail to the Contractor whenever for any reason H-GAC determines that such termination is in the best interest of H-GAC. Upon receipt of notice of termination, all services hereunder of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination. In the event of termination in whole, the Contractor shall prepare a final invoice within 30 day days of such termination reflecting the services actually performed which have not appeared on any prior invoice, such invoice shall be satisfactory to the Executive Director or his designee. H-GAC agrees to pay the Contractor, in accordance with

the terms of the Agreement, for services actually performed and accruing to the benefit of H-GAC, less payment of any compensation previously paid.

The Contractor may cancel or terminate this Agreement upon thirty (30) days written notice by certified mail to H-GAC. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC. In the event of such termination prior to completion of the Agreement provided for herein, H-GAC agrees to pay services herein specified on a prorated basis for work actually performed and invoiced in accordance with the terms of this Agreement, less payment of any compensation previously paid.

**B. Default**

H-GAC may, by written notice of default to the Contractor, terminate the whole or any part of the Agreement in any one of the following circumstances:

- (1) If the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or
- (2) If the Contractor fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Agreement that completion of the services herein specified within the agreement term is significantly endangered, and in either of these two instances does not cure such failure within a period of ten (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

In the event of such termination, all services of the Contractor and its employees and subcontractors shall cease and the Contractor shall prepare a final invoice reflecting the services actually performed pursuant to the Agreement which have not appeared on any prior invoice. Such invoice must be satisfactory to the Executive Director of H-GAC or his designee. H-GAC agrees to pay the Contractor, in accordance with the terms of this Agreement, for services actually performed and accruing to the benefit of H-GAC as reflected on said invoice, less payment of any compensation previously paid and less any costs or damages incurred by H-GAC as a result of such default, including incremental costs that H-GAC will incur to have the Agreement completed by a person other than the contractor.

**ARTICLE 18 SEVERABILITY**

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

**ARTICLE 19 COPYRIGHTS**

The state or federal awarding agency and H-GAC reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state or federal government or H-GAC purposes:

- (a) The copyright of all maps, data, reports, research or other work developed under this Agreement; and
- (b) Any copyrights or rights of use to copyrighted material which the Contractor purchases with funding under this Agreement. All such data and material shall be furnished to H-GAC on request.

**ARTICLE 20 OWNERSHIP OF MATERIALS**

Except as may be specified in the Special Provisions, all data, reports, research, etc., developed by the Contractor as a part of its work under this Agreement shall become the property of the H-GAC upon completion of this Agreement, or in the event of termination or cancellation hereof, at the time of payment under ARTICLE 8 for work performed. All such data and material shall be furnished to H-GAC on request.

**ARTICLE 21 FORCE MAJEURE**

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with the H-GAC.

**ARTICLE 22 NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

The Contractor agrees to comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Agreement; (j) the regulations of the United States Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60); and (k) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement.

**ARTICLE 23 CONFLICT OF INTEREST**

No officer, member or employee of the Contractor or subcontractors, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or approval of this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Agreement.

**ARTICLE 24 POLITICAL ACTIVITY; LOBBYING CERTIFICATION**

No funds provided under this Agreement may be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with state or local legislators.

The Contractor, if a recipient of federal assistance exceeding \$100,000 through an H-GAC subcontract, will comply with section 319, Public Law 101-121 (31 U.S.C. 1352).

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

- (a) No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. 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.

#### **ARTICLE 25 SECTARIAN INVOLVEMENT PROHIBITED**

The Contractor shall ensure that no funds under this Agreement are used, either directly or indirectly, in the support of any religious or anti-religious activity, worship, or instruction.

#### **ARTICLE 26 CRIMINAL PROVISIONS AND SANCTIONS**

The Contractor agrees that it will perform the Agreement activities in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of the funding entity. The Contractor agrees to promptly notify H-GAC of suspected fraud, abuse or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof and to notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Agreement within twenty-four (24) hours of such occurrence.

Theft or willful damage to property on loan to the Contractor from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Contractor further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation and any other duly authorized investigative unit in carrying out a full investigation of all such incidents.

#### **ARTICLE 27 TITLES NOT RESTRICTIVE**

The titles assigned to the various Articles of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Agreement.

**ARTICLE 28 ACKNOWLEDGEMENT OF FUNDING SOURCE**

The Contractor shall give credit to Federal Transit Administration (FTA), Federal Highway Administration (FHWA), Texas Department of Transportation (TxDOT), National Highway Traffic Safety Administration (NHTSA) and H-GAC as the funding source for this Agreement in all oral presentations, written documents, publicity, and advertisements regarding any of the Contractor’s activities which arise from this Agreement.

**ARTICLE 29 DISPUTES**

Any and all disputes concerning questions of fact or of law arising under this Agreement which are not disposed of by agreement shall be decided by the Executive Director of H-GAC or his designee, who shall reduce his decision to writing and provide notice thereof to the Contractor. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Contractor requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the Contractor shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Contractor may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with H-GAC's final decision.

**ARTICLE 30 GOVERNING LAW; VENUE**

This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas, unless the laws of the State of Texas specifically establish venue in some other county.

**ARTICLE 31 ORDER OF PRIORITY**

In the case of any conflict between the General Provision, the Special Provisions, and Attachments to this Agreement, the following order of priority shall be utilized: Special Provision, General Provisions, and Attachments.

H-GAC and the Contractor have executed the Agreement as of the date first written above.

\_\_\_\_\_  
Jack Steele, Executive Director  
Houston-Galveston Area Council

\_\_\_\_\_  
Vincent Morales, Jr.  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## SPECIAL PROVISIONS

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## 1. COMPENSATION

The Contractor shall be reimbursed by H-GAC for authorized costs in accordance with 48 CFR, Ch 1, Part 31 incurred in performance of the work set out in this contract as specifically described in Attachment A. Detailed records must be maintained to show actual time devoted and costs incurred.

The Contractor will submit a final invoice within 30 days after the completion of work. Invoices submitted after this time will not be honored unless prior arrangements are made and approved in writing by H-GAC.

- A. **Maximum Compensation.** The total reimbursement under this contract shall not exceed **Six Thousand Dollars (\$6,000)**.
- B. **Travel Expenses and Subsistence.** The Contractor shall be paid the actual cost incurred by personnel working on this project for travel expenses and subsistence that are certified as being correct and necessary for and directly associated with performance of this Contract. In-state travel shall be reimbursed at rates established by the State Comptrollers Office: (<http://www.cpa.state.tx.us/>). Transportation costs shall be reimbursed for Coach or comparable airfare or for private automobile, whichever is less. Out-of-state travel shall be reimbursed not to exceed current Federal Per Diem rates as allowed by 41 CFR Part 301-7 and Chapter 301 Federal Travel Regulations; Maximum Per Diem rates; Final Rule. Rental vehicle expenses shall be reimbursed at actual cost of compact car or smaller, unless approved by H-GAC in advance. (Note: Itemized receipt(s) for food is necessary)
- C. **Method of Payment.** H-GAC will reimburse the Contractor for services rendered on the basis of allowable costs up to the amount specified in Section 1, Part A above. Reimbursement shall be made monthly within forty-five (45) days after the receipt of the Contractor's invoice and support documentation, except as stipulated in paragraph E below. An invoice must arrive each month whether or not any expenses have occurred. In addition to documentation for travel and equipment each invoice must be accompanied by a progress report as described in Section 6, Activity Reports, below.
- D. **Billings.** The Contractor shall submit a Request for Reimbursement reflecting the overtime worked within eighteen (18) days of an enforcement period. The Request for Reimbursement shall include the following set of reports, where applicable, reflecting the enforcement activities conducted as part of the Regional DWI Task Force grant:
- i. Agency Enforcement Summary Sheet (which will serve as the Agency's Request for Reimbursement);
  - ii. Officers' Shift Reports;
  - iii. Official Overtime Slips from law enforcement agency;
  - iv. Shift Reports from agency computer-aided dispatch (CAD) systems reflecting time worked;
  - v. Financial printouts from agency accounting system;
  - vi. List of public events attended where DWI and the DWI Task Force were discussed
- E. **Matching Fund Certification.** The Contractor shall record and report benefits and taxes that have been paid on the overtime pay accrued by participating staff during the enforcement period, as well as the number of miles driven by participating staff in the vehicle used for the enforcement activities. The rates for these items are as follows:
- i. Retirement Match: **12.0 percent of wages - \$720.00**
  - ii. Social Security Tax: **6.2 percent of wages - \$372.00**

- iii. Medicare Tax: **1.45 percent of wages - \$87.00**
- iv. Vehicle Mileage Rate: **\$0.56 per mile** (adjusted based on Comptroller's Rate)

These rates may be subject to change based on legislative or local governmental action. H-GAC must be notified of any change in the above-listed rates made by the Contractor.

## **2. CONTRACTOR PERSONNEL**

The Contractor agrees to assign qualified staff members including a Project Manager who shall be responsible for the task administration and work performance. The Project Manager shall be **William Henry**. In the event the Project Manager becomes no longer available to this project, a substitution of like personnel with similar qualifications can only be made after obtaining prior written approval of H-GAC.

## **3. INSPECTION OF WORK**

H-GAC shall have the right to review and inspect the progress of the work described herein at all times.

## **4. PROPRIETARY RIGHTS**

Contractor agrees not to release data or information about the results of the project to any person outside of H-GAC without first obtaining written authorization to release such information from H-GAC. Contractor shall be permitted to list H-GAC as a client for marketing purposes.

## **5. INSURANCE**

H-GAC acknowledges that Contractor is governed by the Texas Tort Claims Act, which sets forth certain limitations and restrictions on the types of liability and the types of insurance coverage that can be required of Contractor. The Contractor represents to H-GAC that it either has adequate General Liability and Property insurance policies in place or sufficient resources to self-insure for all claims for which it may be responsible under the Texas Tort Claims Act. The Contractor further represents to H-GAC that it either has workers' compensation insurance in the amount required by statute or is entitled to self-insure for workers compensation coverage under Texas law and has elected to do so.

## **6. ACTIVITY REPORTS**

The Contractor shall submit to H-GAC activity reports as described in Section One, Parts C and D above. The reports shall reflect enforcement activities accomplished during the previous enforcement period. These reports will include, but not be limited to the list of items required under Section One, Part D.

## **7. DISADVANTAGED BUSINESS ENTERPRISES**

- (1) **Policy.** It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts

financed in whole or part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.

- (2) DBE Obligation. The Contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard the Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The Contractor shall not discriminate on the basis of race, creed, color, national origin, age, or sex in the award and performance of DOT-assisted contracts.

H-GAC has established a goal of 22% DBE participation in its FTA third party contracting opportunities. There, any contract issued under this Agreement will carry a 22% DBE participation goal.

## 8. TITLE VI ASSURANCE

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- (a) Compliance with Regulations. The Contractor shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Contract.
- (b) Nondiscrimination. The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, religion, sex, age, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulation including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- (c) Solicitation for Subcontracts, including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under the subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, religion, age, sex, or national origin.
- (d) Information and Reports. The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by H-GAC or the Department of Transportation (DOT) to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information is required of a Contractor and is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to H-GAC or the Department of Transportation, as appropriate and shall set forth what efforts it has made to obtain the information.
- (e) Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the District shall impose such contract sanctions as it or the Department of Transportation may determine to be appropriate, including, but not limited to:

- (1) Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or
  - (2) Cancellation, termination, or suspension of the Contract, in whole or in part.
- (f) Incorporation of Provisions. The Contractor shall include the provisions of paragraphs (a) through (f) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant hereto. The Contractor shall take such action with respect to any subcontract or procurement as H-GAC may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request H-GAC to enter into such litigation to protect the interests of H-GAC and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **9. COMPLIANCE WITH LAWS**

The Contractor shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish H-GAC with satisfactory proof of its compliance therewith.

## **10. ENERGY POLICY**

Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

## **11. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT REQUIREMENTS**

Contractor agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15) which prohibit the use under nonexempt federal contracts, grants or loans, of facilities included on the EPA list for Violating Facilities.

## **12. DEBARRED BIDDERS**

Contractor, including any of its officers or holders of a controlling interest, is obligated to inform H-GAC whether or not it is or has been on any debarred bidders' list maintained by the United States Government. Should the Contractor be included on such a list during the performance of this project, it shall so inform H-GAC.

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the Local Government certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this

contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

### **13. DRUG-FREE WORKPLACE**

The Contractor agrees that if the Contractor is a recipient of more than \$25,000 in federal assistance through an H-GAC subcontract, the Contractor shall provide a "drug-free" workplace in accordance with the Drug-free Workplace Act (DFWA), March 18, 1989. For purposes of this Section, "drug-free" means a worksite at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance. The Contractor shall:

1. Publish a policy statement prohibiting the manufacture, distribution, dispensation, possession, or use of a controlled substance and notify employees of the consequences for violating this prohibition;
2. Establish a drug-free awareness program;
3. Provide each employee with a copy of its policy statement; and
4. Notify employees that, as a condition of employment, the employee must adhere to the terms of the statement and must notify the employer of any criminal drug offense within five days of conviction.

**ATTACHMENT A - SCOPE OF SERVICES  
REGIONAL DWI TASK FORCE  
RESPONSIBILITIES OF PARTICIPATING AGENCIES:**

The following are a list of expectations for officers and agencies interested in participating in the Regional DWI Task Force. This list is based on TxDOT's requirements for Selective Traffic Enforcement Program (STEP) Grants:

- A. H-GAC will serve as the administrator of the STEP Grant. H-GAC will be responsible for the following activities in the grant's administration:
  - 1. Setting up pre-Task Force meetings with participating agencies to discuss participation, protocols, and operational specifics;
  - 2. Setting up post-Task Force meetings to debrief enforcement activities;
  - 3. Determining how many officers will be participating on an enforcement weekend;
  - 4. Collecting requests for reimbursement, along with associated backup documentation;
  - 5. Submitting requests for reimbursement to TxDOT;
  - 6. Reimbursing agencies for work performed upon receipt of funds from TxDOT;
  - 7. Report on Task Force performance to TxDOT and to Task Force members.
  
- B. Task Force activities will occur during the following periods:
  - 1. Thanksgiving – November 22 – December 1, 2014
  - 2. Christmas/New Years – December 19, 2014 – January 2, 2015 (Two weekends)
  - 3. Spring Break/Rodeo/St. Patrick's Day – March 7-22, 2015 (Two weekends)
  - 4. Memorial Day – May 18 – 31, 2015
  - 5. July 4<sup>th</sup> – June 26 – July 7, 2015
  - 6. Labor Day – August 21 - September 7, 2015
  
- C. Participating agencies will be expected to assist H-GAC in carrying out all performance measures established in the grant, including fulfilling the law enforcement objectives by implementing the Operational Plan contained in this Grant Agreement.
  
- D. Participating agencies will be expected to submit all required reports to H-GAC fully completed with the most current information, and within the required times, as defined in the agency's Agreement with H-GAC and as required by TxDOT. This includes reporting to H-GAC on progress, achievements, and problems in post-operational Performance Reports and attaching necessary source documentation to support all costs claimed in Requests for Reimbursement (RFR).

- E. Participating agencies will be expected to attend H-GAC and TxDOT grant management training, when required.
- F. Participating agencies will be expected to attend meetings according to the following:
  - 1. H-GAC will arrange for Task Force meetings in order to meet with participating agencies prior to an enforcement event to discuss procedures, protocols, and operational specifics relating to the event (e.g. enforcement area determination, intake facility locations, etc.)
  - 2. H-GAC will arrange for Task Force meetings to meet with participating agencies to present status of activities and to discuss problems and the schedule for the following enforcement event's work.
  - 3. H-GAC's project director or other appropriate qualified persons will be available to represent participating agencies at meetings requested by the TxDOT.
- G. Participating agencies will be expected to support grant enforcement efforts with public information and education (PI&E) activities. Salaries being claimed for PI&E activities must be included in the budget.
- H. Participating agencies must maintain verification that all expenses, including wages or salaries, for which reimbursement is requested is for work exclusively related to this project.
- I. Participating agencies, to comply with TxDOT matching fund requirements, will supply the following information (if applicable) associated with the time worked by agency personnel:
  - 1. Retirement match paid by agency
  - 2. Workers Compensation insurance
  - 3. Social Security Tax
  - 4. Medicare Tax
  - 5. Health Insurance
  - 6. Vehicle Mileage for shift
  - 7. Indirect Costs
- J. Participating agencies will be expected to ensure that this grant will in no way supplant (replace) funds from other sources. Supplanting refers to the use of federal funds to support personnel or any activity already supported by local or state funds, or other sources of agency revenue.
- K. Participating agencies will be expected to ensure that each officer working on the STEP project will complete an officer's daily report form. The form should include at a minimum: name, date, badge or identification number, mileage (including starting and ending mileage), hours worked, type of citation issued or arrest made, officer and supervisor signatures. Each officer will need to complete an overtime slip from his or her agency as well, which must be approved by the supervisor.

- L. Participating agencies will be required to identify a supervising officer for each shift being worked by the agency.
- M. Participating agencies will be expected to ensure that no officer above the rank of Lieutenant (or equivalent title) will be reimbursed for enforcement duty, unless the participating agency received specific written authorization from both H-GAC and TxDOT, through eGrants system messaging, prior to incurring costs.
- N. Participating agencies must submit a summary reimbursement request form to H-GAC within eighteen (18) days of the end of the enforcement weekend for reimbursement. With this reimbursement request form shall be attached all of the agency's daily report forms, copies of overtime slips, and copies of the agency's CAD system shift report for the shifts worked. The reimbursement submission must be certified by the agency's financial officer. Failure to submit this information in a timely manner will hold up reimbursements for all participating agencies.
- O. Participating agencies may work additional STEP enforcement hours on holidays or special events not covered under the Operational Plan. However, additional work must be approved in writing by H-GAC and TxDOT, through eGrants system messaging, prior to enforcement. Additional hours must be reported in the Performance Report for the time period for which the additional hours were worked.
- P. An enforcement shift shall be no longer than **eight (8) hours**. Shift length will be determined prior to the shift. However, if an officer makes a STEP-related DWI arrest during the shift, but does not complete the arrest before the shift is scheduled to end, the officer can continue working under the grant to complete that arrest.
- Q. Participating agencies should have a safety belt use policy. If a participating agency does not have a safety belt use policy in place, a policy should be implemented, and a copy maintained for verification during the grant year.
- R. Officers working DWI enforcement must be trained in the National Highway Traffic Safety Administration/International Association of Chiefs of Police Standardized Field Sobriety Testing (SFST).
- S. Participating agencies should have a procedure in place for contacting and using drug recognition experts (DREs) when necessary.
- T. Participating agencies will be expected to follow its own policies and procedures, as well as to enforce and comply with all federal, state, and local laws and regulations.
- U. This grant is a multi-agency effort, requiring all participants to make a diligent effort to patrol and apprehend offenders. Failure of an officer to do so may result in the overall non-achievement of goals, jeopardizing the future ability of being awarded similar grants in the future. If it is deemed that an officer is not producing results, that officer may be denied future shifts during the grant period.



# CITY COUNCIL COMMUNICATION

November 18, 2014

| ITEM # | ITEM TITLE   |
|--------|--|
| 8      | Proposed Cancellation of December 2014 City Council Workshop Meeting |

## ITEM/MOTION

Review and discuss proposed cancellation of the December 23, 2014 Workshop Meeting, 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

**ELECTION DISTRICT**

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

**MUD #:** N/A

## SUPPORTING DOCUMENTS:

1. None

## APPROVALS

**Submitted by:**

  
Linda Cernosek  
City Secretary

**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

Traditionally, the December Workshop is cancelled due to its proximity to the Christmas holidays. The date of the Workshop this year is scheduled for Tuesday, December 23, 2014.

It is recommended that the City Council consider cancelling the December 23, 2014 City Council Workshop meeting.

# **ITEM 9**

**Announcements.**

# **ITEM 10**

**Adjournment.**