

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, September 15, 2015

TIME: 7:00 p.m.

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

PURPOSE: Regular City Council Meeting, agenda as follows:

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

Call to order: City Hall Council Chamber

Invocation and Pledge of Allegiance. (Reverend Deborah Prihoda, First Assembly of God, Rosenberg)

Announcements.

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 Regular Meeting Minutes for August 18, 2015, Special Meeting Minutes for August 25, 2015, Workshop Meeting Minutes for August 25, 2015, and Regular Meeting Minutes for September 01, 2015. (Linda Cernosek, City Secretary)
 - B. Consideration of and action on Resolution No. R-2037, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Termination Agreement by and between the City and Rosenberg FM 2218 LTD. (Randall Malik, Economic Development Director)
 - C. Consideration of and action on Resolution No. R-2035, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Agreement and Acknowledgement of Termination of Water Supply and Wastewater Services Contract between the City of Rosenberg, Texas, and 2218 Rosenberg, L.P. (Randall Malik, Economic Development Director)
 - D. Consideration of and action on Resolution No. R-2036, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Assignment and Assumption of Utility Commitment Letter by and between Fort Bend County Municipal Utility District No. 150 (Wind Meadows) and the City of Rosenberg. (Randall Malik, Economic Development Director)

- E. Consideration of and action on Resolution No. R-2034, a Resolution authorizing the City Manager to execute, for and on behalf of the City, the Assignment of Public Infrastructure, 10' Sanitary Sewer Easement, dated December 5, 2013, which assigns to the City the Easement Agreement (10' Sanitary Sewer Easement) dated February 1, 2006, from WM Commercial, L.P., a Texas limited partnership to Fort Bend County Municipal Utility District No. 150 recorded under Document No. 2006012967 of the Official Public Records of Fort Bend County, Texas, for the sum of \$10.00. (Randall Malik, Economic Development Director)
- F. Consideration of and action on Ordinance No. 2015-28, an Ordinance providing for the disannexation from the corporate boundaries of the City of Rosenberg, Texas, of 1.393 acres (60,689 square feet) located in the Wiley Martin League, A-56, Fort Bend County, Texas (Fort Bend County Municipal Utility District No. 155 – Bonbrook Plantation), pursuant to the petition for disannexation; adjusting the boundaries of Council District No. 4 to exclude the tract disannexed hereby; containing certain findings; providing for non-severability; and establishing an effective date. (Travis Tanner, Executive Director of Community Development)

REGULAR AGENDA

- 2. Review and discuss the proposed renaming of Community Park after Tony Becerra, and take action as necessary. (Jimmie J. Peña, Councilor, District 1)
- 3. Consideration of and action on Resolution No. R-2030, a Resolution awarding Bid No. 2015-13 for the Airport Avenue Phase II Reconstruction Project (Louise Street to West of Graeber Road); and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same. (John Maresh, Assistant City Manager of Public Services)
- 4. Consideration of and action on Resolution No. R-2042, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Memorandum of License Agreement and License Agreement, by and between the City and GTE Mobilnet of South Texas Limited Partnership d/b/a Verizon Wireless, allowing for the installation of antennae, associated cabling and equipment on the City-owned elevated water storage tank located at 2214 Ruby Street. (John Maresh, Assistant City Manager of Public Services)
- 5. Consideration of and action on Resolution No. R-2038, a Resolution authorizing the Mayor to execute a resale deed for real property generally located at Brazos Street and described as Tract 1: Geo Number: 4415000120050901: Lot No. Five (5) in Block No. Twelve (12), of the Kaffenberger Addition to the City of Rosenberg, as more particularly described in Volume 236, Page 562 of the Deed Records of Fort Bend County, Texas. (Joyce Vasut, Executive Director of Administrative Services)
- 6. Consideration of and action on Resolution No. R-2032, a Resolution accepting and approving the Investment Policy of the City of Rosenberg. (Joyce Vasut, Executive Director of Administrative Services)
- 7. Consideration of and action on Resolution No. R-2039, a Resolution authorizing publication of Notice of Intention to Issue Certificates of Obligation, in an aggregate principal amount not to exceed \$10,000,000, for the acquisition, construction and improvement of certain public works, and authorizing certain other matters relating thereto. (Joyce Vasut, Executive Director of Administrative Services)
- 8. Consideration of and action on Resolution No. R-2033, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Budget Amendment 15-13, in the amount of \$605,000 for certain maintenance and operations expenditures. (Joyce Vasut, Executive Director of Administrative Services)
- 9. Consideration of and action on Resolution No. R-2041, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Budget Amendment 15-14, in the amount of \$1,364,281 for certain Capital Improvement Projects. (Joyce Vasut, Executive Director of Administrative Services)
- 10. Consideration of and action on Resolution No. R-2015, a Resolution awarding Bid No. 2015-14 for Mosquito Control Services; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, a General Services Contract related thereto, and/or all necessary documentation regarding same. (Jeff Trinker, Executive Director of Support Services)
- 11. Consideration of and action on Resolution No. R-2016, a Resolution awarding Bid No. 2015-15 for Janitorial Services; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, a General Services Contract related thereto, and/or all necessary documentation regarding same. (Jeff Trinker, Executive Director of Support Services)

12. Hold Executive Session to consult with City Attorney on pending or contemplated litigation, namely Texas Department of Transportation v. Rosenberg condemnation proceedings, pursuant to Section 551.071 of the Texas Government Code.
13. Adjourn Executive Session, reconvene into Regular Session, and take action as necessary as a result of Executive Session.
14. Adjournment.

[EXECUTION PAGE TO FOLLOW]

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

by _____.

Attest:
Anne Stark, Assistant City Secretary

Approved for Posting:
Robert Gracia, City Manager

Approved:
Cynthia A. McConathy, Mayor

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

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

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

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

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

Announcements.

General Comments from the Audience:

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Comments from the Audience for Consent and Regular Agenda Items:

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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. Regular City Council Meeting Minutes – August 18, 2015**
- 2. Special City Council Meeting Minutes – August 25, 2015**
- 3. City Council Workshop Meeting Minutes – August 25, 2015**
- 4. Regular City Council Meeting Minutes – September 01, 2015**

CITY OF ROSENBERG

REGULAR COUNCIL MEETING MINUTES *DRAFT*

On this the 18th day of August, 2015, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

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

STAFF PRESENT

Robert Gracia	City Manager
Scott M. Tschirhart	City Attorney
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager of Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Travis Tanner	Executive Director of Community Development
Lisa Olmeda	Human Resources Director
Dallis Warren	Police Chief
Wade Goates	Fire Chief
James Lewis	Director of Technology
Jenny Pavlovich	Communications Manager
Darren McCarthy	Parks and Recreation Director
Randall Malik	Economic Development Director
Rigo Calzoncin	Public Works Director
Jackie Jurasek	Animal Control Supervisor
Renee McAnally	Animal Control Officer
Kaye Supak	Executive Assistant

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

CALL TO ORDER.

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

INVOCATION AND PLEDGE OF ALLEGIANCE.

Pastor Dave Hodges, Grace Community Bible Church, Richmond, gave the invocation, and Nick Poncik of Troop 801 led the pledge of allegiance to the flag.

PRESENTATION OF CERTIFICATE OF RECOGNITION TO MR. NICK PONCIK OF TROOP 801 FOR HIS EAGLE SCOUT PROJECT BENEFITTING THE ROSENBERG ANIMAL SHELTER.

Jackie Jurasek, Animal Control Supervisor, presented a Certificate of Recognition to Mr. Nick Poncik of Troop 801 for His Eagle Scout Project Benefitting the Rosenberg Animal Shelter.

GENERAL COMMENTS FROM THE AUDIENCE.

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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.

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CONSENT AGENDA

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A. **CONSIDERATION OF AND ACTION ON WORKSHOP MEETING MINUTES FOR JULY 28, 2015, AND REGULAR MEETING MINUTES FOR AUGUST 04, 2015.**

B. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2015-25, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING ALL OF SECTION 28-41 (A) AND (C), STOP SIGNS DESIGNATED, OF ARTICLE II, DIVISION 2 OF CHAPTER 28, STOP STREETS, AND SUBSTITUTING THEREFOR A NEW SECTION 28-41 (A) AND (C) OF ARTICLE II, DIVISION 2 OF CHAPTER 28 THEREOF; PROVIDING FOR A THREE-WAY STOP AT THE INTERSECTION OF CALLENDER STREET AND HOUSTON STREET; PROVIDING A PENALTY IN AN AMOUNT OF NOT LESS THAN \$1.00 OR MORE THAN \$200.00 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.**

Executive Summary: City Council discussed the need for a 3-way stop at the intersection of Callender Street and Houston Street during the July 28, 2015 Workshop. As directed by City Council, staff has prepared Ordinance No. 2015-25 that would designate the intersection of Callender Street and Houston Street as a three-way stop. The intersection currently functions as a one-way stop with Houston Street having the stop condition and Callender Street being uncontrolled.

This item has been placed on the Agenda for consideration and action by City Council. Staff recommends approval of Ordinance No. 2015-25.

C. ***Item C was pulled from the Consent Agenda and moved to Item 2A on the Regular Agenda.***

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2027, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A DEDICATION OF UNOBSTRUCTED DRY PUBLIC UTILITY AND AERIAL EASEMENTS AND RELEASE OF EASEMENT FROM ROSENBERG BUSINESS PARK, LTD., CONTAINING A 3.811 ACRE TRACT OF LAND, AND A 0.196 ACRE TRACT OF LAND, MORE OR LESS, IN THE S. B. PENTECOST SURVEY, A-362 AND A-378, FOR THE PROVISION OF PUBLIC UTILITY EASEMENTS TO SERVE THE ROSENBERG BUSINESS PARK.

D. ***Item D was pulled from the Consent Agenda and moved to Item 2B on the Regular***

Agenda.

CONSIDERATION OF AND ACTION ON A SHORT FORM FINAL PLAT OF READING ROAD OFFICE PARK REPLAT NO. ONE, A TOTAL OF 0.3756 ACRES BEING A REPLAT OF LOT 13, READING ROAD OFFICE PARK IN THE JAMES LOWERY 1/3 LEAGUE, A-275, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS, RECORDED UNDER FORT BEND COUNTY PLAT NO. 20110006; 2 LOTS, 1 BLOCK, 0 RESERVES.

E. CONSIDERATION OF AND ACTION ON QUARTERLY FINANCIAL REPORT AND QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 30, 2015.

Executive Summary: Overall, the financial status of the City is stable. Most funds have positive variances when compared to budget and prior year actual. The largest revenues of sales tax and property tax are positive when compared to budget and expenses are within the 75% benchmark for the third quarter of FY2015.

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

Staff recommends the acceptance of the Quarterly Financial Reports and the Investment Report for the third quarter of Fiscal Year 2015.

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

REGULAR AGENDA

2A. Previously Item C on Consent Agenda.

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2027, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A DEDICATION OF UNOBSTRUCTED DRY PUBLIC UTILITY AND AERIAL EASEMENTS AND RELEASE OF EASEMENT FROM ROSENBERG BUSINESS PARK, LTD., CONTAINING A 3.811 ACRE TRACT OF LAND, AND A 0.196 ACRE TRACT OF LAND, MORE OR LESS, IN THE S. B. PENTECOST SURVEY, A-362 AND A-378, FOR THE PROVISION OF PUBLIC UTILITY EASEMENTS TO SERVE THE ROSENBERG BUSINESS PARK.

Executive Summary: On February 17, 2015, the City of Rosenberg formally accepted two (2) public utility easements: one (1) generally located around the perimeter of the Rosenberg Business Park to allow for utilities to be provided within the Business Park, and a second easement specifically providing for power to the lift station to be located along Business Park Drive. CenterPoint Energy is requiring a separate easement for utilities to service the Rosenberg Business Park. The document serves to both dedicate an unobstructed dry public utility and aerial easement and release and abandon the previous easements accepted by the City. What were previously two (2) separate easements have been consolidated into a single document. Resolution No. R-2027 is necessary to allow for CenterPoint Energy to service the Rosenberg Business Park.

Staff recommends approval of Resolution No. R-2027, authorizing the City Manager to execute and accept a Dedication of Unobstructed Dry Public Utility and Aerial Easements and Release of Easement from Rosenberg Business Park, Ltd. If approved, the fully executed easement will be attached to the Resolution as Exhibit "A".

Key Discussion Points: Randall Malik, Director of Economic Development, explained that this easement was required by CenterPoint Energy to service the Rosenberg Business Park with utilities.

Action: Councilor Benton made a motion, seconded by Councilor Euton, to approve

Resolution No. R-2027, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Dedication of Unobstructed Dry Public Utility and Aerial Easements and Release of Easement from Rosenberg Business Park, Ltd., containing a 3.811 acre tract of land, and a 0.196 acre tract of land, more or less, in the S. B. Pentecost Survey, A-362 and A-378, for the provision of public utility easements to serve the Rosenberg Business Park. The motion carried by a unanimous vote.

2B. **Previously Item D on the Consent Agenda.**

CONSIDERATION OF AND ACTION ON A SHORT FORM FINAL PLAT OF READING ROAD OFFICE PARK REPLAT NO. ONE, A TOTAL OF 0.3756 ACRES BEING A REPLAT OF LOT 13, READING ROAD OFFICE PARK IN THE JAMES LOWERY 1/3 LEAGUE, A-275, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS, RECORDED UNDER FORT BEND COUNTY PLAT NO. 20110006; 2 LOTS, 1 BLOCK, 0 RESERVES.

Executive Summary: The Short Form Final Plat of Reading Road Office Park Replat No. One is a replat of Lot 13, Reading Road Office Park in the James Lowery 1/3 League, A-275, City of Rosenberg, Fort Bend County, Texas, recorded under Fort Bend County Plat No. 20110006. The Plat consists of 0.3756 acres.

The original Plat was recorded in 2011 and the developer now proposes to subdivide one of the existing lots into two (2). There is not an issue with the lot size (with it being commercial, not residential) or anything else in conflict with City ordinances. It should be noted that to have a three-foot (3') interior building line, a firewall will be required. However, this is not uncommon in the development; there are other lots with 3' building lines. A minimum ten-foot (10') building line is generally required (for commercial buildings) to not have a firewall per the International Building Code (IBC).

Also of note is that the development, per an Agreement established in 2010, required the installation of a traffic signal at Reading Road and Town Center Boulevard, which is partially funded by the City. The developer previously submitted a request to City Council to delay the signal installation until Phase II of the development. This request was considered and approved by City Council on July 21, 2015 (Resolution No. R-2009), therefore this contingency for Final Plat approval has been met.

The Planning Commission and staff recommend approval of the Short Form Final Plat of Reading Road Office Park Replat No. One.

Key Discussion Points: Travis Tanner, Executive Director of Community Development, explained that they are taking a lot that was platted in 2011 and are subdividing into two plats. Thomas Juarez, Richwest Investors, LLC, restated that, in his opinion, the installation of a traffic signal at Reading Road and Town Center Boulevard is unnecessary.

Action: Councilor Benton made a motion, seconded by Councilor Barta, to approve a Short Form Final Plat of Reading Road Office Park Replat No. One, a total of 0.3756 acres being a replat of Lot 13, Reading Road Office Park in the James Lowery 1/3 League, A-275, City of Rosenberg, Fort Bend County, Texas, recorded under Fort Bend County Plat No. 20110006; 2 lots, 1 block, 0 reserves.

The motion carried by a vote of 6 to 1 as follows: Yeses: Mayor McConathy, Councilors Benton, Barta, Pena, Wallingford, and Moses. No: Councilor Euton.

2. **HOLD FIRST PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO FISCAL YEAR 2015-2016 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.**

Executive Summary: Section 9.06 of the Rosenberg City Charter requires the Rosenberg City Council to hold a public hearing on the proposed Budget submitted; and, all interested persons shall be given an opportunity to be heard for or against any item or the amount of

any item contained in the proposed Budget.

Notice of this public hearing was published in the newspaper on Sunday, August 09, 2015. The second public hearing on the proposed Budget will be held on Tuesday, August 25, 2015.

This public hearing is held to provide the citizens the opportunity to present their comments regarding the proposed FY2015-2016 Budget.

Key Discussion Points:

- Joyce Vasut, Executive Director of Administrative Services, read the Executive Summary.
- Mayor McConathy opened the public hearing at 7:16:54 p.m.
- There were no speakers.
- Mayor McConathy closed the public hearing at 7:17:04 p.m.

3. **REVIEW AND DISCUSS FISCAL YEAR 2015-2016 BUDGET AS SUBMITTED BY THE CITY MANAGER ON JULY 21, 2015, PURSUANT TO ROSENBERG CITY CHARTER, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: Section 9.08 of the Rosenberg City Charter requires that after the conclusion of the public hearing on the proposed Budget, the City Council may insert new items or may increase or decrease the items of said Budget, except items in proposed expenditures fixed by law. However, if City Council requests to increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

City staff will present the changes that were recommended by City Council during the August 08, 2015 Budget Workshop. At this time, City Council shall have an opportunity to discuss the proposed FY2015-2016 Budget, any changes thereto, and by a majority vote direct staff to make additional changes.

City Council may vote to direct staff to make changes to the Budget. A second public hearing and Budget discussion will be held on Tuesday, August 25, 2015, to finalize the Budget. The final FY2015-2016 Budget will be considered for adoption at the September 01, 2015 City Council Meeting.

Key Discussion Points: Joyce Vasut read the Executive Summary and further explained that, by lowering the Property Tax Rate to an even \$0.47, the budget was decreased by an approximate additional \$90,000; however, she wants to see the CAD appraisals before making those changes.

Action: Councilor Benton made a motion, seconded by Councilor Moses, to direct staff to include the changes requested during the August 08, 2015 Budget Workshop, and reflect these changes during the second public hearing and budget discussion to be held on Tuesday, August 25, 2015. The motion carried by a unanimous vote.

4. **CONSIDERATION OF AND ACTION ON A SECOND READING OF RESOLUTION NO. R-2024, A RESOLUTION PROVIDING FOR THE AMENDMENT OF THE CITY COUNCIL RULES OF PROCEDURE (NINTH EDITION), NAMELY ARTICLE V., ENTITLED AGENDA ORDER, BY REVISING THE ORDER OF ANNOUNCEMENTS BY MOVING ANNOUNCEMENTS TO APPEAR AFTER THE INVOCATION AND PLEDGE OF ALLEGIANCE ON REGULAR CITY COUNCIL MEETING AGENDAS.**

Executive Summary: As discussed at the July 28, 2015 City Council Workshop Meeting, a revision has been made to the City Council Rules of Procedure for placement of Announcements to appear after the Invocation and Pledge of Allegiance on Regular City Council Meeting agendas. Included in the agenda packet is a redlined version of the proposed revision. The first reading of Resolution No. R-2024 on August 04, 2015, was

approved unanimously by City Council.

Staff recommends approval of this second reading of Resolution No. R-2024 as presented. Should City Council approve the revision, attached to the Resolution as Exhibit "A", it will serve as the City Council Rules of Procedure, Ninth Revision.

Key Discussion Points: Scott M. Tschirhart, City Attorney, gave an overview of the item.

Action: Councilor Barta made a motion, seconded by Councilor Benton, to approve Resolution No. R-2024, a Resolution providing for the amendment of the City Council Rules of Procedure (Ninth Edition), namely Article V., entitled Agenda Order, by revising the order of Announcements by moving Announcements to appear after the Invocation and Pledge of Allegiance on Regular City Council Meeting Agendas. The motion carried by a unanimous vote.

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1965, A RESOLUTION AUTHORIZING THE CITY MANAGER TO COMBINE CITY-OWNED REAL PROPERTY AND TO ADD THE AFOREMENTIONED REAL PROPERTY TO COMMUNITY PARK, WITH SAID PROPERTY BEING DESCRIBED AS LOTS 4-7, BLOCK 2, THAT PORTION OF 3RD STREET (80-FOOT WIDE) BETWEEN BLOCK 2 AND BLOCK 3, NORTH OF AND ADJACENT TO AVENUE A, LOTS 1-9, BLOCK 3 THAT CERTAIN 20-FOOT WIDE ALLEY WITHIN BLOCK 3, THAT PORTION OF 4TH STREET (80-FOOT WIDE) BETWEEN BLOCK 3 AND 4, NORTH OF AND ADJACENT TO AVENUE A, LOTS 1-3, BLOCK 4, AND THAT CERTAIN 20-FOOT WIDE ALLEY WITHIN BLOCK 4, LOTS 11-20, BLOCK 11, AND THAT PORTION OF AVENUE A (80-FOOT WIDE) NORTH OF AND ADJACENT TO, LOT 11, BLOCK 11, CITY OF ROSENBERG TOWNSITE, ACCORDING TO A MAP OR PLAT THEREOF RECORDED IN VOLUME P, PAGE 146, DEED RECORDS, FORT BEND COUNTY, TEXAS, INCLUDING ANY ACCRETED PROPERTY BETWEEN SAID PROPERTY; AND, CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.**

Executive Summary: On May 22, 2014, the Parks and Recreation Board (Board) reviewed a proposal to add two (2) City-owned parcels to Community Park. After the motion passed by a unanimous vote of those present, staff presented the proposal to City Council at the September 30, 2014 Workshop Meeting. City Council advised staff to move forward, allowing time to perform due diligence regarding the right-of-way access, utility issues, and to request a title search for each parcel.

After reviewing the title searches with the City Engineer and Executive Director of Community Development, it has been confirmed that the parcels belong to the City and are able to be added to Community Park. These two (2) additional parcels will allow the Parks Department to potentially build a trail around the park, similar to other parks throughout the City and provide an additional off-street parking area for Community Park patrons.

Should City Council choose to dedicate the two tracts as a part of Community Park, the properties will not be able to be divested from the City in the future without putting them on a ballot for consideration during a public referendum.

Staff recommends approval of Resolution R-1965, a Resolution to grant the addition of two (2) adjacent City-owned lots to Community Park; and, authorizing the City Manager to execute any and all necessary documentation to facilitate same.

Key Discussion Points: Darren McCarthy, Parks and Recreation Director, read the Executive Summary, and explained that the City is currently already mowing and maintaining both parcels. Addition 1 could potentially be used for overflow parking as necessary, and Addition 2 could be used in the development of a walking trail.

Action: Councilor Euton made a motion, seconded by Councilor Wallingford, to approve Resolution No. R-1965, a Resolution authorizing the City Manager to combine City-owned real

property and to add the aforementioned real property to Community Park, with said property being described as Lots 4-7, Block 2, that portion of 3rd Street (80-foot wide) between Block 2 and Block 3, north of and adjacent to Avenue A, Lots 1-9, Block 3 that certain 20-foot wide alley within Block 3, that portion of 4th Street (80-foot wide) between Block 3 and 4, north of and adjacent to Avenue A, Lots 1-3, Block 4, and that certain 20-foot wide alley within Block 4, Lots 11-20, Block 11, and that portion of Avenue A (80-foot wide) north of and adjacent to, Lot 11, Block 11, City of Rosenberg Townsite, according to a map or plat thereof recorded in Volume P, Page 146, Deed Records, Fort Bend County, Texas, including any accreted property between said property; and, containing other provisions relating to the subject. The motion carried by a unanimous vote.

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1982, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A LETTER OF INTENT FOR PARTICIPATION IN A PROJECT REGARDING RAILROAD CROSSINGS AND DIRECTIONAL HORNS AND/OR QUIET ZONES, BY AND AMONG THE CITY OF ROSENBERG, THE CITY OF RICHMOND, AND FORT BEND COUNTY, TEXAS.**

Executive Summary: City Council previously discussed the Letter of Intent submitted by Fort Bend County Precinct 1 Commissioner Richard Morrison during the May 26, 2015 City Council Workshop. Commissioner Morrison was unable to attend the Workshop due to an unexpected emergency; therefore, City Council requested the item be placed onto the next Agenda for continued discussion.

During the Workshop discussion, staff did point out that signing the Letter of Intent would obligate the City to fund a portion of the consultant fees necessary to design and estimate construction costs for the directional horns and/or quiet zones. Included in the packet is a Wayside Horn Implementation Proposal provided by Commissioner Morrison's office. The proposal includes consultant fees, construction cost and on-going insurance/maintenance cost estimates. Commissioner Morrison subsequently provided the Engineering Cost sheet (included in the agenda packet) which identifies the total fee amount for the crossings along with the proposed cost allocation per entity. Should City Council choose to support the Project, sample correspondence to notify affected commercial property owners of a proposed special assessment levy has also been provided for review. The Commissioner is scheduled to present the Project proposal to City Council.

Resolution No. R-1982 does include a provision authorizing the expenditure of funds for said purpose in an amount not to exceed, which has not yet been determined. If Resolution No. R-1982 is approved to authorize the City Manager to execute the Letter of Intent, a dollar amount will need to be included, or the provision may be deleted from the Resolution. If approved, a subsequent budget adjustment will also be required.

City Council action on Resolution No. R-1982 will authorize the City Manager to execute the Letter of Intent, included as Exhibit "A", and provide staff with the direction necessary to proceed.

Key Discussion Points: John Maresh, Assistant City Manager of Public Services, read the Executive Summary and introduced Fort Bend County Precinct 1 Commissioner Richard Morrison, who gave a presentation regarding the wayside horns. After discussion, the general consensus of Council was in support of the Resolution, amended to include an amount not to exceed \$100,000, an added contingency on participation by the City of Richmond, Fort Bend County, and the Henderson-Wessendorff Foundation, and the deletion of references to the Letter of Intent (Section 3). Further, the consensus of Council was to exclude the West Fort Bend Management District from any contracts and future maintenance in Rosenberg.

Action: Mayor McConathy made a motion, seconded by Councilor Pena, to approve Resolution No. R-1982, a Resolution authorizing the City Manager to execute, for and on

behalf of the City signifying its intent for participation in a project regarding railroad crossings and directional horns and/or quiet zones, by and among the City of Rosenberg, the City of Richmond, Fort Bend County, Texas, and the Henderson-Wessendorff Foundation, in an amount not to exceed \$100,000. The motion carried by a unanimous vote.

7. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2018, A RESOLUTION AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A STANDARD UTILITY AGREEMENT, AND ANY REVISIONS THEREOF, 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 the remaining segments of water and sanitary sewer lines that will have to be relocated between Reading Road and FM 762. City Council previously approved similar Agreements on September 02, 2014 (Resolution Nos. R-1852 and R-1853) for utility relocations located between Spur 10 and Reading Road. Please note that Resolution Nos. R-1852 and R-1853 have been included without Exhibit "A" due to their size. Should City Council wish to review either Resolution Nos. R-1852 or R-1853 in their entirety, both are available in the City Secretary's office.

Due to the short timeline, TxDOT did contract with an outside engineering firm to prepare the construction plans on behalf of the City. The plans were fully reviewed and approved by City staff. TxDOT is also including the water and sanitary sewer utility line relocation work as a part of the TxDOT road construction contract. By doing so, the TxDOT Contractor assumes full responsibility for scheduling the work and the City does not have to assume the risk of monetary penalties if a delay were to occur in meeting the relocation deadline. This Agreement, attached as Exhibit "A" to Resolution No. R-2018, specifies that TxDOT will fully fund/reimburse the City for all eligible costs associated with the relocation, including engineering and construction costs. The Agreement will also provide reimbursement to the City for expenses associated with both staff and consultant time spent for tasks such as plan reviews, construction inspections and attending TxDOT meetings directly associated with the Project. Staff would also note that said Agreement and attached exhibits may require minor revisions or clarifications during the TxDOT review and approval process.

Staff recommends approval of Resolution No. R-2018 as presented.

Key Discussion Points: John Maresh read the Executive Summary. The project is estimated to take about three and a half years.

Action: Councilor Barta made a motion, seconded by Councilor Euton, to approve Resolution No. R-2018, a Resolution authorizing the City Manager and/or Mayor to execute, for and on behalf of the City, a Standard Utility Agreement, and any revisions thereof, 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. The motion carried by a unanimous vote.

8. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2025, A RESOLUTION AWARDED BID NO. 2015-11 FOR LIME SUBGRADE STABILIZATION, WAIVING INFORMALITIES IN BIDDING; 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: The list of streets for the proposed FY2015 Street Overlay and Reconstruction Project was presented to City Council during the March 24, 2015 Workshop, and was approved on April 07, 2015. The Priority Project List is included in the supporting documentation for this item. The cost estimate for the recommended streets included is

approximately \$848,477. The FY2015 Budget includes \$800,000.00, which should fully fund the FY2015 project, provided staff is able to control the actual material quantities used compared to the estimates provided. During the Workshop, staff recommended the use of a contractor to transport and place the asphalt in lieu of submitting a request to Fort Bend County Road and Bridge. The contractor would be selected utilizing the current Fort Bend County bids. Due to the County's workload, this would allow the Project to be completed much sooner.

Fort Bend County does not have a bid for the lime subgrade stabilization labor and materials that are necessary for the Rosenberg streets requiring reconstruction. Therefore, staff prepared specifications and sealed bids were received on Wednesday, July 29, 2015, for Bid No. 2015-11 for Lime Subgrade Stabilization. A total of two (2) bids were received and tabulated as indicated on the bid summary form included in the agenda packet.

Angel Brothers Enterprises, Ltd. (Angel Brothers), submitted a base bid in the amount of \$415,265.00, which is \$17,677.43 higher than the base bid amount of \$397,587.57 submitted by Gonzalez Construction Enterprise, Inc. Staff recommends awarding Bid No. 2015-11 to the higher bidder Angel Brothers for the following reasons:

1. Century Asphalt currently has the Fort Bend County Contract for asphalt material and the labor to lay down the asphalt. Angel Brothers is a subsidiary of Century Asphalt. By awarding the Bid No. 2015-11 to Angel Brothers, the City would have contractors from the same parent company performing all phases of the work. This will minimize conflicts that are typically encountered when there are multiple contractors working on the same project. In this scenario, Angel Brothers would be performing the lime subgrade stabilization and would also overlay the street with asphalt provided by Century Asphalt under Fort Bend County's Contract.
2. The sealed bid submitted by Gonzalez Construction Enterprise, Inc., included an unusually high unit price for the Performance and Payment Bond in a lump sum amount of \$152,500.00. Whereas, the sealed bid submitted by Angel Brothers included a unit price in the lump sum amount of \$7,500.00 for the Performance and Payment Bond, which is in-line with the costs submitted by other contractors on similar type projects. Staff does not recommend acceptance of a bid with a pay item that includes an unusually large disparity.

During the bid review process, it was also noted that the "Description of Unit" for Bid Item Nos. 1 and 2 were inadvertently swapped on the bid form. However, both of the bidding contractors based the bid prices on the appropriate unit cost, not the description. Therefore, informalities in bidding will need to be waived in order to correct the descriptions and accept the bid.

Staff recommends Bid No. 2015-11 be awarded to Angel Brothers Enterprises, Ltd., for the unit price bid item amounts for an initial term of one (1) year, with the option to automatically renew up to three (3) additional one (1) year terms based on these unit prices. Should the bid be awarded as recommended, the Angel Brothers Enterprises, Ltd., proposal will be attached and serve as Exhibit "A" to Resolution No. R-2025.

In summary, staff recommends waiving informalities in bidding, and approval of Resolution No. R-2025 which will award Bid No. 2015-11 and provide authorization for the Mayor and/or City Manager to negotiate and execute all appropriate documents and/or agreements regarding same.

Key Discussion Points: Rigo Calzoncin, Public Works Director, read the Executive Summary. Scott Tschirhart explained that an unusually high price for a bid bond is a red flag, generally

because of claims.

Action: Councilor Pena made a motion, seconded by Councilor Barta, to approve Resolution No. R-2025, a Resolution awarding Bid No. 2015-11 for Lime Subgrade Stabilization to Angel Brothers Enterprises, Ltd., in the amount of \$415,265.00, waiving informalities in bidding; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same. The motion carried by a unanimous vote.

9. **HOLD EXECUTIVE SESSION TO CONSULT WITH CITY ATTORNEY ON PENDING OR CONTEMPLATED LITIGATION, NAMELY TEXAS DEPARTMENT OF TRANSPORTATION V. ROSENBERG CONDEMNATION PROCEEDINGS, PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE; TO DELIBERATE THE POTENTIAL PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY PURSUANT TO SECTION 551.072 OF THE TEXAS GOVERNMENT CODE; TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, AND EVALUATION OF THE CITY MANAGER PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE; AND, TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL, OR TO HEAR A COMPLAINT OR CHARGE AGAINST AN OFFICER OR EMPLOYEE AS IT RELATES TO THE COMMUNICATIONS DIRECTOR PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE.**

Action: Councilor Euton made a motion, seconded by Councilor Wallingford, to adjourn to Executive Session. The motion carried by a unanimous vote.

An Executive Session was held to consult with City Attorney on pending or contemplated litigation, namely Texas Department of Transportation v. Rosenberg condemnation proceedings, pursuant to Section 551.071 of the Texas Government Code; to deliberate the potential purchase, exchange, lease, or value of real property pursuant to Section 551.072 of the Texas Government Code; to deliberate the appointment, employment, and evaluation of the City Manager pursuant to Section 551.074 of the Texas Government Code; and, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal, or to hear a complaint or charge against an officer or employee as it relates to the Communications Director pursuant to Section 551.074 of the Texas Government Code.

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

Mayor McConathy adjourned the Executive Session and reconvened into Regular Session at 10:02 p.m.

Action: Mayor McConathy made a motion, seconded by Councilor Pena, to give the City Manager direction to immediately terminate the current Communications Director.

The motion carried by a vote of 6 to 1 as follows: Yeses: Mayor McConathy, Councilors Benton, Barta, Pena, Euton, and Moses. No: Councilor Wallingford.

11. **ANNOUNCEMENTS.**

- There were no announcements.

12. **ADJOURNMENT.**

There being no further business, Mayor McConathy adjourned the meeting at 10:03 p.m.

Linda Cernosek, TRMC, City Secretary

CITY OF ROSENBERG

SPECIAL COUNCIL MEETING MINUTES *DRAFT*

On this the 25th day of August, 2015, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Special Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

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

ABSENT

Susan Euton	Councilor, District 2
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STAFF PRESENT

Robert Gracia	City Manager
Scott M. Tschirhart	City Attorney
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager of Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Travis Tanner	Executive Director of Community Development
Tonya Palmer	Building Official
Lisa Olmeda	Human Resources Director
Dallis Warren	Police Chief
Cody Davis	Police Officer
John Thetford	Police Officer
Wade Goates	Fire Chief
Darrell Himley	Assistant Fire Chief
Justin Jurek	Fire Marshal
Darren McCarthy	Parks and Recreation Director
Lydia Acosta	Recreation Program Coordinator
Randall Malik	Economic Development Director
James Lewis	Director of Technology
Jenny Pavlovich	Communications Manager
Luis Garza	Accounting Supervisor
Daniel Kelleher	Main Street Manager
Kaye Supak	Executive Assistant

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

CALL TO ORDER.

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

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.

AGENDA

1. HOLD SECOND PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO FISCAL YEAR 2015-2016 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.

Executive Summary: Section 9.06 of the Rosenberg City Charter requires the Rosenberg City Council to hold a public hearing on the proposed Budget submitted; and, all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item contained in the proposed Budget.

Notice of this public hearing was published in the newspaper on Sunday, August 9, 2015. The first public hearing on the proposed Budget was held on Tuesday, August 18, 2015. This is the second public hearing on the Budget.

This public hearing is held to provide the citizens the opportunity to present their comments regarding the proposed FY2015-2016 Budget.

Key Discussion Points:

- Joyce Vasut, Executive Director of Administrative Services, read the Executive Summary.
- Mayor McConathy opened the public hearing at 6:03:15 p.m.
- There were no speakers.
- Mayor McConathy closed the public hearing at 6:03:31p.m.

2. HOLD DISCUSSION BY CITY COUNCIL ON THE FISCAL YEAR 2015-2016 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.

Executive Summary: Section 9.08 of the Rosenberg City Charter states that after the conclusion of the public hearing on the proposed Budget, the City Council may insert new items or may increase or decrease the items of said Budget, except items in proposed expenditures fixed by law.

The second public hearing on the proposed FY2015-2016 Budget was held immediately preceding this Agenda item. City staff will present the changes that were recommended by City Council during the August 08, 2015 Budget Workshop. At this time, City Council shall have an opportunity to discuss the proposed FY2015-2016 Budget, any additional changes thereto, and by a majority vote direct staff to make additional changes. The final FY2015-2016 Budget will be considered for adoption at the September 01, 2015 City Council Meeting.

Key Discussion Points: Joyce Vasut read the Executive Summary and presented the final list of changes as previously discussed. The final FY2015-2016 Budget and Effective Tax Rate will be considered for adoption at the September 01, 2015 City Council Meeting.

Action: Councilor Benton made a motion, seconded by Councilor Moses, to approve and include the changes to the Fiscal Year 2015-2016 Proposed Budget, which includes the City of

Rosenberg's Capital Improvement Plan (CIP). The motion carried by a unanimous vote of those present.

3. **ADJOURNMENT.**

There being no further business, Mayor McConathy adjourned the meeting at 6:08 p.m.

Linda Cernosek, TRMC, City Secretary

CITY OF ROSENBERG

WORKSHOP COUNCIL MEETING MINUTES *DRAFT*

On this the 25th day of August, 2015, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Workshop Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

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

STAFF PRESENT

Robert Gracia	City Manager
Scott M. Tschirhart	City Attorney
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager of Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Travis Tanner	Executive Director of Community Development
Tonya Palmer	Building Official
Lisa Olmeda	Human Resources Director
Dallis Warren	Police Chief
Cody Davis	Police Officer
John Thetford	Police Officer
Wade Goates	Fire Chief
Darrell Himley	Assistant Fire Chief
Justin Jurek	Fire Marshal
Darren McCarthy	Parks and Recreation Director
Lydia Acosta	Recreation Program Coordinator
Randall Malik	Economic Development Director
James Lewis	Director of Technology
Jenny Pavlovich	Communications Manager
Luis Garza	Accounting Supervisor
Daniel Kelleher	Main Street Manager
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 McConathy called the meeting to order at 6:15 p.m.

AGENDA

1. **REVIEW AND DISCUSS A PRESENTATION ON DIGITAL BILLBOARDS BY LEE VELA OF CLEAR CHANNEL COMMUNICATIONS, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This item has been included to allow for City Council to hear a presentation by Lee Vela of Clear Channel Communications regarding digital billboards.

Key Discussion Points: Cynthia A. McConathy, Mayor, introduced Lee Vela of Clear Channel Outdoor, who gave a presentation on Outdoor Digital Advertising (digital billboards). Digital Billboards have a static message that changes every eight seconds, with controls on light output in accordance with TxDOT regulations. Sign owners coordinate with local officials to display emergency information, such as Amber Alerts, hurricane-related emergency messages, regional FBI alerts, and local crime fighting messages. Clear Channel will remove static billboards at a 3:1 ratio, should this project be approved. The majority consensus of Council was to move forward with an amendment to the existing sign Ordinances, allowing for digital billboards with accompanying regulation language built in.

2. **REVIEW AND DISCUSS PROPOSED POLICY FOR REIMBURSEMENT OF COSTS ASSOCIATED WITH REQUIRED CERTIFICATION OR OTHER TRAINING PROVIDED TO A CITY EMPLOYEE IN THE EVENT THAT THE EMPLOYEE'S EMPLOYMENT SHOULD BE VOLUNTARILY TERMINATED BEFORE COMPLETING A REASONABLE PERIOD OF SERVICE, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: Cities often expend time and money providing training to certain newly hired personnel. The resources may be considered well-spent when the employee remains on the job. However, when they give notice and leave soon after they are hired, the City may wish to consider ways to recover the training costs expended on behalf of such employees.

Should City Council agree that reimbursement of costs associated with certification/training is appropriate if an employee does not complete a reasonable period of service, then it will be necessary to develop a policy to address the method of recovery of such funds. Thus, this item has been added to the Agenda to facilitate such discussion and for City Council to provide direction to staff.

Key Discussion Points: William A. Benton, Councilor, gave background on the item, explaining that, in many cases, the City hires employees who go through a training program at the cost of the City, only to move elsewhere quickly upon completion of certification training. He recommended amending the Employee Policies to allow for reimbursement for training costs, should an employee voluntarily terminate employment. Other recommendations during conversation included increasing incentive pay for completion of certification programs, increasing base salaries in line with the compensation study results in order to retain employees, or delaying incentive pay until a certain amount of time has passed after completion of training. The general consensus was to have the City Attorney work with Human Resources to develop policy language to address the concerns of Council.

3. **REVIEW AND DISCUSS THE UTILITIES DEPARTMENT TEMPORARY BUILDING PROPOSAL, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This item has been included to provide City Council with an update on the Utilities Building Project and to solicit direction from City Council.

As part of the Facilities Master Plan Project, the Blue Ribbon Facilities Task Force (Task Force) and City staff toured various City facilities. During the course of these tours, both the Task Force and staff noticed that Utilities employees were officing in the same building that houses high pressure chlorine cylinders, a situation which presented a possible safety risk to the employees in the event of a chlorine release. Utilities staff have since been moved to an open room (primarily used as the break room) in the storage building, an arrangement that is not workable for the medium to long term. At the March 24, 2015 City Council Workshop Meeting, staff presented the City Council with a recommendation to investigate the possibility of acquiring temporary office space in which to house the Utilities employees. City Council directed staff to continue investigating options.

The Utilities Department decided on a portable office concept. The building is a traditional office space including an eight (8) seat conference room, four (4) offices, workstations for up to five (5) employees, a workstation for a secretary, a drafting room with room for a plotter printer/copier, a small breakroom and men's and women's restrooms. The requirements for this office space were determined by the Utilities Department and then incorporated into the design of the building in order to meet the Department's medium term needs. A second building for field personnel was designed and considered

by staff; however, due to cost concerns, staff only recommends the consideration of the single office building concept at this time. Space has been identified in the site plan that would allow for the placement of an additional building should funding be made available at a later time.

Staff interviewed a number of temporary/modular building suppliers and decided to work with Ilcor Builders (Ilcor) to develop a design and price quote for several reasons: 1) Ilcor allows for complete customization as opposed to more limited customization options with the modular companies; 2) Ilcor constructs the buildings onsite as opposed to modules that are manufactured offsite and transported to the location; 3) Lamar Consolidated I.S.D. highly recommended Ilcor buildings and stated that they do not have the maintenance issues with Ilcor that they have experienced with products from other companies. Ilcor is also a member of the BuyBoard purchasing cooperative and offers pre-negotiated prices for services. Staff proposes funding this Project through the utilization of Water/Wastewater Fund balance.

Key Discussion Points: Jeff Trinker, Executive Director of Support Services, read the Executive Summary and presented a proposal for a temporary office building to relocate the utilities staff. John Maresh, Assistant City Manager of Public Services, confirmed that, even after the eventual conversion from chlorine gas to bleach, the showers will still be required by TCEQ. After discussion, Council directed staff to pursue more cost effective means of acquiring building space, such as getting another company's cost quote, or investigating the purchase of a used building.

Mayor McConathy adjourned the meeting for a break at 7:35 p.m., and reconvened the meeting at 7:45 p.m.

4. **REVIEW AND DISCUSS THE FIRE DEPARTMENT ADMINISTRATION BUILDING, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This item has been placed on the Agenda to offer an opportunity for City Council and Fire Department staff to discuss what may be a possible short-term solution to the space needs that currently exist at the Fire Administration's location at 1012 5th Street.

Recently, the Mayor and staff toured a building located at 4336 Highway 36 South. The building is owned by Fort Bend County and is currently vacant. Fort Bend County had planned to raze the building in January of 2016 but may consider staying the demolition to allow the City's Fire Administration to occupy the building.

Staff is seeking City Council's direction as the building is in need of repair and funding was not included in the proposed FY2016 Budget for building repair or relocation costs. Should City Council look favorably upon this proposal to relocate Fire Administration, it will be necessary to ascertain the extent to which the building needs repair, the cost of said repairs, relocation costs, and ongoing operational costs for the new location. Once this information has been gathered, staff will report back to City Council.

Key Discussion Points: Wade Goates, Fire Chief, gave an overview of the space needs of the Fire Department and the possibility of entering into an Interlocal Agreement with Fort Bend County for the use of their building. The building has been inspected by Code Enforcement, which identified some maintenance issues that will need to be addressed before committing resources, but there were no structural issues. The lease agreement for the current Fire Administration building expires in March, 2016. The general consensus of Council was in favor of further investigation into the use of this building, associated costs, and necessary agreements.

5. **REVIEW AND DISCUSS PROPOSED AMENDMENTS TO THE "RENTAL REGISTRATION AND INSPECTION" ORDINANCE, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: After discussions with rental property owners, the Fire Department is proposing changes to the "Rental Registration and Inspection" Ordinance to revise the registration requirement from an annual registration to a one-time registration, along with a few other minor administrative adjustments.

A redlined Code excerpt has been included in the agenda packet for review and discussion. Should City Council direct staff to proceed, an ordinance will be brought forward for consideration on a future meeting Agenda.

Key Discussion Points: Justin Jurek, Fire Marshal, read the Executive Summary, and the Councilmembers gave direction on amending the Ordinance before bringing it back before Council for approval.

6. **REVIEW AND DISCUSS PROPOSED AMENDMENTS TO THE "SMOKING" ORDINANCE AS IT RELATES TO CITY PARKS, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: At the July 25, 2015 regular meeting, Parks and Recreation Board members made a recommendation requesting staff to pursue an amendment to the City's current "Smoking" Ordinance which would include electronic smoking/vaping devices.

Staff research resulted in unanimous findings from the American Lung Association and the Center for Disease Control, stating concern over lack of government oversight for electronic smoking devices. Further, these organizations widely agree that the products used in electronic smoking devices often contain harmful chemicals which pose serious health risks to children and adolescents. Research also indicates that these devices are often used in conjunction with illegal drugs. On occasion, Parks Department staff has discovered evidence of such illicit use within Rosenberg parks. If parks exist to promote healthy, physical activities then it stands to reason that electronic smoking devices should be included in the City's existing ban on tobacco products, which is in line with the trend among many municipal agencies in Texas and across the country.

Staff is seeking direction from Mayor and City Council on whether or not to proceed with this request. Should City Council direct staff to proceed, a proposed amendment to the "Smoking" Ordinance as it relates to City parks will be placed on a future Agenda for consideration.

Key Discussion Points: Lydia Acosta, Recreation Program Coordinator, read the Executive Summary and gave an overview of recent State legislation passed regarding Electronic Cigarettes, requesting direction from Council as to whether they would like to follow suit. The general consensus of Council was that, if the parks are going to have language against smoking, all forms of smoking should be consistently prohibited, including E-cigarettes.

7. **REVIEW AND DISCUSS UN-MANNED DRONE USE IN CITY PARKS, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: At the regular May 28, 2015 meeting, staff presented a discussion item to the Parks and Recreation Board regarding the utilization of un-manned drones in City parks. In June of 2014, the National Park Service publicly announced the ban of all drones in National Parks due to the numerous complaints of drones disturbing visitors, wildlife, and interfering with emergency rescue situations. The House of Representatives has a bill in committee review, HB 1481, to ban drones in specified areas. Some states have already moved forward banning drones in public places. In an effort to protect all who participate in the parks and events held in parks, staff believes it is in the City's best interest to consider taking the necessary steps to ban all personal unmanned drone use in all Rosenberg City parks.

This item has been added to the Agenda to discuss unmanned drone use in City parks and take action as necessary to direct staff.

Key Discussion Points: Darren McCarthy, Parks and Recreation Director, read the Executive Summary and gave an overview of the item. Scott Tschirhart, City Attorney, confirmed that the City has the authority to ban drone use in the parks. Mr. McCarthy stated that he has concerns for preservation of nature and the respect of privacy, but would recommend providing language for the professional use of drones for special circumstances as permitted by Council, such as during a City-sponsored event in one of the parks. The general consensus was to work with the City Attorney to create an Ordinance addressing drone use in City Parks, to be reviewed by the Parks Board in September, and to return to City Council for final approval in October.

8. **REVIEW AND DISCUSS THE PARKS GROUNDS MAINTENANCE CONTRACT, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: Currently, the Parks Grounds Maintenance is being provided by A's Camo Cutters. The parks covered by the Contract are Harwood, Brazos, Community, and Riverbend Parks. Resolution No. R-1831 was approved by City Council on October 21, 2014, to provide services for one (1) year with an option for an additional one-year term. Per the current Contract, the extension option for the one-year term is \$40,080.00.

Staff recommends exercising the one-year Contract extension option. This item has been placed on

the Workshop Agenda for City Council to direct staff.

Key Discussion Points: Darren McCarthy read the Executive Summary, and Council advised him to move forward with the contract extension.

9. **REVIEW AND DISCUSS THE SEABOURNE CREEK REGIONAL SPORTS COMPLEX GROUNDS MAINTENANCE CONTRACT, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: Currently, the Seabourne Creek Regional Sports Complex Grounds Maintenance Contract is being provided by NRI Brokerage, LLC, dba Earth First Landscapes. Resolution No. R-1832 was approved by City Council on October 21, 2014, to provide services for one (1) year with an option for an additional one-year term. Per the current Contract, the extension option for the one-year term is \$52,980.00.

Staff recommends exercising the additional one-year Contract extension option. This item has been placed on the Workshop Agenda for City Council to direct staff.

Key Discussion Points: Darren McCarthy read the Executive Summary and addressed the single concern that happened with the contractor, which was immediately and fully rectified. Council advised him to move forward with the contract extension.

10. **ADJOURNMENT.**

There being no further business, Mayor McConathy adjourned the meeting at 8:35 p.m.

Linda Cernosek, TRMC, City Secretary

CITY OF ROSENBERG
REGULAR CITY COUNCIL MEETING MINUTES *DRAFT*

On this the 1st day of September, 2015, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

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

STAFF PRESENT

Robert Gracia	City Manager
Scott M. Tschirhart	City Attorney
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager of Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Travis Tanner	Executive Director of Community Development
Tonya Palmer	Building Official
Lisa Olmeda	Human Resources Director
Dallis Warren	Police Chief
Justin Rodgers	Police Officer
Wade Goates	Fire Chief
Randall Malik	Economic Development Director
James Lewis	Director of Technology
Jenny Pavlovich	Communications Manager
Kaye Supak	Executive Assistant

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

CALL TO ORDER.

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

INVOCATION AND PLEDGE OF ALLEGIANCE.

Pastor Bob Sinclair, First United Methodist Church, Rosenberg, gave the invocation and led the pledge of allegiance to the flag.

ANNOUNCEMENTS.

- The funeral for Sheriff Deputy Darren Goforth will take place Friday at 11 a.m. at Second Baptist Church in Houston. Please include his family in your prayers that day.

PRESENTATION OF ROSENBERG IMAGE COMMITTEE BEAUTIFICATION AND RENOVATION AWARDS.

Mayor McConathy and Councilor Benton presented Rosenberg Image Committee Beautification and Renovation Awards to:

- Agnes Helm, Ryan and Jade Ohl 1122 Lawrence Street
- Ryan and Cheryl Duran 503 Houston Street
- Rosenberg Station 5101 Avenue H

PRESENTATION OF PROCLAMATION PROCLAIMING SEPTEMBER 14, 2015, AS STAR-SPANGLED BANNER DAY IN THE CITY OF ROSENBERG.

Mayor McConathy presented a Proclamation Proclaiming September 14, 2015, as Star-Spangled Banner Day in the City of Rosenberg.

GENERAL COMMENTS FROM THE AUDIENCE.

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

- **Carol Reed, 1126 Sally Anne** - There have been improvements on Sally Anne Street, but the speeding problem still persists and she hopes that the City will do more to control the traffic.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

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

CONSENT AGENDA

1. **Review of Consent Agenda.**

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

A. **CONSIDERATION OF AND ACTION ON SPECIAL MEETING MINUTES FOR AUGUST 08, 2015, AND WORKSHOP MEETING MINUTES FOR AUGUST 08, 2015.**

B. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2028, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AMENDMENT 4 TO: SECURITY SERVICES CONTRACT BETWEEN LAMAR CONSOLIDATED INDEPENDENT SCHOOL DISTRICT AND THE CITY OF ROSENBERG FOR POLICE SERVICES PROVIDED BY ROSENBERG POLICE OFFICERS.**

Executive Summary: Amendment 4 to the Security Services Contract (Contract) with Lamar Consolidated Independent School District (LCISD) is to provide for one (1) additional one-year extension to the current Contract.

LCISD and Rosenberg mutually agree that the terms and provisions of the original Agreement, executed by a representative of LCISD on March 22, 2012, and by the City on August 21, 2012, shall renew automatically for a term of one (1) year, ending on August 31, 2016. One (1) additional one-year renewal remains upon mutual agreement of the parties

Amendment 4 is included as Exhibit "A" to Resolution No. R-2028. Staff recommends approval of Resolution No. R-2028 as presented.

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

REGULAR AGENDA

2. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2015-26, AN ORDINANCE APPROVING AND ADOPTING THE CITY OF ROSENBERG, TEXAS, BUDGET FOR THE FISCAL YEAR 2015-2016;**

MAKING APPROPRIATIONS FOR THE CITY FOR SUCH YEAR AS REFLECTED IN SAID BUDGET; AND MAKING CERTAIN FINDINGS AND CONTAINING CERTAIN PROVISIONS RELATING TO THE SUBJECT.

Executive Summary: Ordinance No. 2015-26 provides City Council with the opportunity to consider adopting the FY2015-2016 Budget as prepared and presented by staff and adjusted by City Council during the recent Budget workshops.

The proposed operating Budget as shown in the Combined Budget Summary, or Exhibit "A" of Ordinance No. 2015-26, appropriates those monies necessary to fund City operations, including general operations, water and wastewater operations, debt service obligations, special revenue fund operations, internal service fund operations and capital outlays for FY2015-2016.

This Budget, as presented in Exhibit "A", is based on the proposed FY2015-2016 Budget that was originally presented to City Council on July 21, 2015, and includes the changes presented in the memorandum dated August 26, 2015.

Staff recommends approval of Ordinance No. 2015-26, providing for and adopting the City of Rosenberg, Texas, Budget for the Fiscal Year 2015-2016.

Key Discussion Points: Joyce Vasut, Executive Director of Administrative Services, read the Executive Summary.

Action: Councilor Euton made a motion, seconded by Councilor Barta, to approve Ordinance No. 2015-26, an Ordinance approving and adopting the City of Rosenberg, Texas, Budget for the Fiscal Year 2015-2016; making appropriations for the City for such year as reflected in said Budget; and making certain findings and containing certain provisions relating to the subject. The motion carried by a unanimous vote.

3. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2015-27, AN ORDINANCE PROVIDING FOR THE LEVY AND COLLECTION OF AD VALOREM TAXES OF THE CITY OF ROSENBERG, TEXAS, FOR THE YEAR 2015; PROVIDING FOR THE DATE ON WHICH SUCH TAXES SHALL BE DUE AND PAYABLE; PROVIDING FOR PENALTY AND INTEREST ON ALL TAXES NOT TIMELY PAID; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.**

Executive Summary: Staff recommends the adoption of Ordinance No. 2015-27. This Ordinance levies an ad valorem tax rate of \$0.470000 per \$100 valuation for Tax Year 2015, the collection of which falls in FY2015-2016, beginning October 01, 2015, and ending September 30, 2016. The maintenance and operation tax rate will be set at \$0.253742 per \$100 valuation and the debt service tax rate will be set at \$0.216258 per \$100 valuation.

To approve Ordinance No. 2015-27, it will be necessary for City Council to consider three (3) separate motions in accordance with specific statutory requirements applicable to the adoption of the tax rate, and indicated as follows:

1. Motion: I move that a tax rate of \$0.253742 for the purpose of funding the maintenance and operation expenses of the City be approved;
2. Motion: I move that a tax rate of \$0.216258 for the purpose of paying the accruing interest and to provide a sinking fund for the payment of the indebtedness of the City be approved; and,
3. Motion: I move that the property tax rate be adopted at a tax rate of \$0.470000 per \$100 valuation, and I move to adopt Ordinance No. 2015-27.

Key Discussion Points: Joyce Vasut read the Executive Summary.

Action: Councilor Euton made a motion, seconded by Councilor Moses, that a tax rate of \$0.253742 for the purpose of funding the maintenance and operation expenses of the City be approved. The motion carried by a unanimous vote.

Action: Councilor Euton made a motion, seconded by Councilor Barta, that a tax rate of

\$0.216258 for the purpose of paying the accruing interest and to provide a sinking fund for the payment of the indebtedness of the City be approved. The motion carried by a unanimous vote.

Action: Councilor Euton made a motion, seconded by Councilor Barta, that the property tax rate be adopted at a tax rate of \$0.470000 per \$100 valuation, and to adopt Ordinance No. 2015-27, with an amendment to section 4 correcting the date from 2015 to 2016. The motion carried by a unanimous vote.

4. **CONSIDERATION OF AND ACTION ON RATIFICATION OF ADOPTION OF A BUDGET THAT WILL REQUIRE RAISING MORE REVENUE FROM PROPERTY TAXES THAN IN THE PREVIOUS YEAR DUE TO AN INCREASE IN NEW DEVELOPMENT.**

Executive Summary: In accordance with the requirements of Section 102.007 of the Texas Local Government Code, the City Council is required to have a separate vote to ratify the adoption of a Budget that will require raising more revenue from property taxes than in the previous year. The City Council plans to adopt a tax rate of \$0.47 per \$100, which is less than the effective rate and the rollback rate. Therefore according to Truth-in-Taxation, the City Council is not adopting a tax increase. However, due to the amount of new development, there will be an increase in the amount of taxable property and the City anticipates the collection of more property tax revenue than in the previous year. The 2015-2016 Budget as adopted also anticipates this increase.

In order to ratify the adoption of a Budget that will raise more revenues from property taxes than the previous year, it will be necessary for City Council to indicate such ratification with the following motion:

Motion: I move to ratify the adoption of the 2015-2016 Budget that will require raising more revenue from property taxes than in the previous year due to the increase in new development.

Key Discussion Points: Joyce Vasut read the Executive Summary.

Action: Councilor Pena made a motion, seconded by Councilor Wallingford, to ratify the adoption of the 2015-2016 Budget that will require raising more revenue from property taxes than in the previous year due to the increase in new development.

The motion carried by a vote of 6 to 1 as follows: Yeses: Mayor McConathy, Councilors Barta, Pena, Euton, Wallingford, and Moses. No: Councilor Benton.

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2029, A RESOLUTION AWARDED BID NO. 2015-07 FOR CONSTRUCTION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT RELATED TO CONSTRUCTION SERVICES FOR THE NORTH SIDE WATERLINE IMPROVEMENTS PHASE II; AND, PROVIDING AUTHORIZATION FOR THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE DOCUMENTS AND/OR AGREEMENTS REGARDING SAME.**

Executive Summary: Proposals were received on Wednesday, August 19, 2015, for Phase II of the Community Development Block Grant (CDBG) waterline improvements. The bids were opened and tabulated as indicated on the Bid Summary included in the agenda packet. A total of nine (9) bids were received.

Staff recommends Bid No. 2015-07 be awarded to Scohil Construction Services, LLC, for the Base Bid amount of \$ 179,760.00 and Alternate Bid No.1 in the amount of \$ 63,520.00, for a total amount of \$ 243,280.00 with a term of thirty (30) working days. The attached correspondence from Kelly R. Kaluza & Associates, Inc., recommends same. Should the bid be awarded as recommended, the Scohil Construction proposal will be attached and will serve as Exhibit "A" to Resolution No. R-2029.

CDBG funding of \$210,000.00 has been provided for this project; \$39,900.00 is provided for engineering reimbursement and \$170,100.00 is provided for construction. The City would

provide local matching funds in the amount of \$73,180.00 to fully fund the remaining construction cost that is above the grant amount. The City had budgeted \$61,000.00 for the local matching funds; therefore, a budget adjustment in the amount of \$12,180.00 will be presented at a future meeting.

Staff recommends approval of Resolution No. R-2029 which will award Bid No. 2015-07 and provide authorization for the City Manager to negotiate and execute all required documents necessary to facilitate the Project.

Key Discussion Points: John Maresh, Assistant City Manager of Public Services, read the Executive Summary, and explained that Scohil Construction Services is already in Rosenberg working on Avenues H and I, which is why their total working days are significantly lower than the other bidders. Mr. Maresh stated his confidence that Scohil can meet that schedule, and Larence Turner with Kelly Kaluza Engineering reiterated his confidence that the contractor can complete the job in the 30 day time period as bid.

Action: Councilor Pena made a motion, seconded by Councilor Benton, to approve Resolution No. R-2029, a Resolution awarding Bid No. 2015-07 for construction of the Community Development Block Grant (CDBG) Project related to construction services for the North Side Waterline Improvements Phase II; and, providing authorization for the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same. The motion carried by a unanimous vote.

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2017, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY AND THE FORT BEND SUBSIDENCE DISTRICT REGARDING PARTICIPATION AS A SPONSOR IN THE WATER CONSERVATION EDUCATION PROGRAM.**

Executive Summary: The City of Rosenberg has participated in the Fort Bend Subsidence District (District) Water Conservation Education (Learning to be Water Wise) Program (Program) annually since FY2006-2007. Per the correspondence from Mr. Mike Turco, General Manager, the District is preparing for FY2015-2016 and has provided an Interlocal Agreement to formalize the City's continued sponsorship of the Program. This Agreement, attached to Resolution No. R-2017 as Exhibit "A", will require renewal on an annual basis. The proposed FY2016 Budget Water/Wastewater Fund 514 includes a \$20,000 appropriation for said purpose. This is the same dollar amount as the current FY2014-2015 Budget.

The City receives a Certificate of Deposit water conservation credit equal to 84,000 gallons of groundwater for each student, at a cost of \$35.40 per student. Each Certificate of Deposit can be held for up to 20 years after the issuance date. These water conservation credits are a valuable asset that can be used by the City to help meet the District's 30% groundwater reduction requirement, or they can be sold to other public or private entities that must also comply with the groundwater reduction requirement. Based on the current construction schedule to begin taking delivery of treated surface water from the Brazosport Water Authority, staff does anticipate having to use said credits to help meet the 30% groundwater reduction requirement effective on October 01, 2016.

Staff recommends approval of Resolution No. R-2017 as presented.

Key Discussion Points: John Maresh read the Executive Summary, and members of Council expressed their favor of this credit.

Action: Councilor Euton made a motion, seconded by Councilor Benton, to approve Resolution No. R-2017, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Interlocal Agreement by and between the City and the Fort Bend Subsidence District regarding participation as a sponsor in the Water Conservation Education Program. The motion carried by a unanimous vote.

7. **REVIEW AND DISCUSS PROPOSED CANCELLATION OF THE OCTOBER 06, 2015 REGULAR CITY COUNCIL MEETING, TO ACCOMMODATE THE NATIONAL NIGHT OUT ACTIVITIES, AND TAKE ACTION AS NECESSARY.**

Executive Summary: Last year, the first Regular City Council Meeting in October was cancelled in order to allow for the members of City Council to have time to attend the "National Night Out" events that are planned in the City. This item will offer City Council the opportunity to discuss cancelling the Regular City Council Meeting scheduled for October 06, 2015.

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

Action: Councilor Benton made a motion, seconded by Councilor Moses, to cancel the October 06, 2015 Regular City Council Meeting to accommodate the National Night Out activities. The motion carried by a unanimous vote.

8. **CONSIDERATION OF AND ACTION ON VARIANCE DECISION AND ORDER NO. V2015-01, A VARIANCE REQUEST BY VICTOR MACHA TO THE REQUIREMENTS OF SECTION 25-68 OF THE CODE OF ORDINANCES RELATING TO THE BUILDING LINES FOR SINGLE-FAMILY RESIDENTIAL LOTS, ALLOWING FOR A PROPOSED CARPORT ADDITION TO THE PROPERTY LOCATED AT 1509 GEORGE STREET (ALLENDALE MANOR, BLOCK 12, LOT 3).**

Executive Summary: A Variance Request has been submitted for a proposed carport addition at 1509 George Street (Allendale Manor, Block 12, Lot 3). A vicinity map of the property, application materials, and photos are included in the agenda packet for review. The property is located on the east side of George Street between Avenue M and Dyer Street, and across the street from Holy Rosary Church.

The subdivision, Allendale Manor, was originally platted in 1949. Due to the age of the subdivision, an image of the plat is not available on the County website. However, based on adjoining plats and other subdivisions platted around the same time and for which images are available, it is unlikely that there are platted building lines (or setbacks). The current "Subdivision" Ordinance (Code of Ordinances, Ch. 25, Sec. 25-68) requires a 25' front building line on single-family residential lots. This requirement appears to have been in place since 2005 and, to staff's knowledge, has been enforced consistently since that time.

The property itself appears to have an approximately 23' front setback and the owner wishes to construct a carport approximately 5' from the right-of-way line. Upon further investigation of the area, staff found the following:

- There are ten (10) nonconforming carports within approximately three (3) blocks, or within approximately 1,000', on George Street.
- There are eighteen (18) nonconforming carports within approximately five (5) blocks, or within approximately 1,500', on George Street.

The above is likely because many of the homes either have no garage, have a relatively small garage (i.e., one-car), or have a garage that has been enclosed. *Setbacks and building lines are generally applied to maintain a consistent residential character. However, in this case, the residential character to date includes a relatively high number of carports.*

Variances must be evaluated by the Planning Commission and City Council based on the four (4) criteria outlined in the Code (Sec. 25-8). The following is staff's analysis of each of the criteria.

(1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land;

The applicant has claimed in their application a lack of protection from rain and extreme temperatures. It could also be claimed that the neighborhood being highlighted by many existing/nonconforming carports is unique. Further, it could be argued that it is unreasonable to not allow the property owner to use their land consistently with surrounding properties, unless the Council believes the proposed and existing carports are in any way detrimental to the area (and thus their

existence should not be promoted in the future).

(2) The granting of the variance will not be detrimental to the public safety or welfare, or injurious to other property in the area;

Staff cannot identify any safety concerns or specific negative impacts associated with this request (based in part on many of the nearby properties also having carports without any apparent issues). The applicant claims it will be structurally sound; additionally, it will be required to comply with applicable international codes and would be inspected by the City.

(3) The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this chapter; and

The granting of the variance should not prevent orderly subdivisions in the area. New subdivisions are required to have building lines in accordance with City codes and in that way are not the same as older subdivisions with lesser or nonexistent building lines. Applicant claims no existing carports in the neighborhood are close to meeting the required setback, which is an accurate statement. They (carports) appear to range from zero (0) to five (5) feet from the street right-of-way.

(4) A more appropriate design solution exists which is not currently allowed in this chapter.

The proposed design solution does not appear to be inappropriate for the particular area. It has apparently not been deemed inappropriate for the area in the past (pre-2005).

Staff has no objection to the proposed variance with the condition of a minimum five (5) foot setback from the right-of-way. Lack of objection is based on the surrounding residential character and not being inconsistent with the four (4) criteria as outlined in the Code. The condition of having a five (5) foot setback is recommended to comply with international code requirements. With the latter condition in place, staff sees no further issues.

The Planning Commission recommended approval to City Council of the variance on August 19, 2015. Per the Code, City Council has the ultimate authority to grant variances if it finds that a hardship exists.

Key Discussion Points: Travis Tanner, Executive Director of Community Development, read the Executive Summary and gave a presentation on the proposed carport. The consensus of Council was supportive of the variance, and staff was instructed to review the current Ordinances to accommodate some of the older neighborhoods.

Action: Councilor Barta made a motion, seconded by Councilor Wallingford, to approve Variance Decision and Order No. V2015-01, a Variance Request by Victor Macha to the requirements of Section 25-68 of the Code of Ordinances relating to the building lines for single-family residential lots, allowing for a proposed carport addition to the property located at 1509 George Street (Allendale Manor, Block 12, Lot 3). The motion carried by a unanimous vote.

9. **REVIEW AND DISCUSS A PETITION FOR DISANNEXATION OF 1.393 ACRES (60,689 SQUARE FEET) LOCATED IN THE WILEY MARTIN LEAGUE, A-56, FORT BEND COUNTY, TEXAS (FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 155), AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: City staff has received a request from Beazer Homes and current property owners/residents regarding the disannexation of approximately 1.393 acres from the City of Rosenberg City Limits and in Fort Bend County MUD No. 155 (Bonbrook Plantation). It should also be noted that the petition suggests making said disannexation retroactive prior to January 01, 2015. However, staff has consulted with the City Attorney and we do not believe the latter can be done legally.

As discussed, the petition involves a 1.393-acre tract of land. The tract was originally annexed by the City in 1990 and happens to intersect with a small portion of what is now MUD No. 155, or Bonbrook Plantation. The property in question was platted in 2014 as part of Bonbrook Plantation North

Section Nine. In many cases, lots were subsequently built on and sold, resulting in homeowners or residents being part in and part out of the City.

While the City did not develop the property or necessarily create the situation, having lots in multiple jurisdictions is not a situation that staff recommends continuing. Further, the estimated fiscal impact or loss of ad valorem tax revenue is only approximately \$900 annually based on 2014 City taxes levied.

While staff does not object to releasing the property from the City's jurisdiction based on the circumstances, it is a more rigorous process than if the land was unoccupied. If unoccupied, such a disannexation can be initiated simply by a petition from the property owner. If occupied, however, per state law (Local Government Code, Ch. 43) and City Charter (Sec. 1.04), it requires a petition from the majority of voters residing in the area and additional notification requirements to be completed by petitioner/s.

It appears at this time all registered voters (7 out of 7) have signed the petition. This has been verified by Fort Bend County as of August 24, 2015. Additionally, the petition specifically waives the right for petitioner/s to recover any City property taxes paid to date, so there should not be a negative fiscal impact from that standpoint.

This request was initially submitted in May 2015, with the City Attorney commenting that the disannexation needed to follow publication, posting, voting and timing requirements per state law. According to a letter received from Beazer Homes, dated August 13, 2015, the publishing, posting, voting and timing requirements have been fulfilled. The City Attorney has reviewed the resubmitted petition and attached exhibits and found them to be in conformance with the requirements of the City Charter and the Local Government Code.

Staff believed it was important to first bring this item to City Council for discussion purposes since it will set a precedent for how the City deals with future potential disannexation of occupied property. Therefore it is important to review the requirements per state law.

Key Discussion Points: Travis Tanner gave an overview and presentation of the item. Scott Tschirhart, City Attorney, explained that the petition has been reviewed and is binding, but the ultimate decision of whether to disannex this property is at the discretion of Council. After discussion, Council directed staff to move forward with the disannexation of the property. This item will be brought before Council in the form of an Ordinance at a future meeting.

10. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2031, A RESOLUTION WITHDRAWING CONSENT TO THE ESTABLISHMENT OF ANY DEVELOPMENT STANDARDS OR GUIDELINES OF THE WEST FORT BEND MANAGEMENT DISTRICT AND REPEALING ALL PRIOR DEVELOPMENT STANDARDS AND GUIDELINES ADOPTED BY THE WEST FORT BEND MANAGEMENT DISTRICT.**

Executive Summary: This item has been added to the Agenda to provide City Council with an opportunity to consider Resolution No. R-2031 (Resolution). Standard and guideline adoption by the West Fort Bend Management District (District) must be approved by the cities of Rosenberg and Richmond. This Resolution will withdraw consent by the City of Rosenberg from all previously adopted development standards and guidelines so that no such development standards and guidelines will be enforceable within the District.

Resolution No. R-2031 was attached in the agenda packet for review and consideration.

Key Discussion Points: Mayor McConathy gave an overview of the item. Scott Tschirhart explained his concern that we would not want to leave a space where there are no development standards whatsoever. He recommended delaying the effective date of the Resolution, and providing interim standards before reaching a final solution during a workshop meeting. After discussion, Council requested that an amendment be made to Section 2 to include the following language: "This Resolution shall be effective sixty (60) days from passage."

Action: Councilor Pena made a motion, seconded by Councilor Moses, to approve Resolution No. R-2031, a Resolution withdrawing consent to the establishment of any development standards or guidelines of the West Fort Bend Management District and repealing all prior development standards and guidelines adopted by the West Fort Bend Management District, with amendment to Section 2, making the Resolution effective 60 days from passage. The motion carried by a unanimous vote.

11. **HOLD EXECUTIVE SESSION TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, AND EVALUATION OF THE CITY MANAGER PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE.**

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

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

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

Mayor McConathy adjourned the Executive Session and reconvened into Regular Session at 8:52 p.m.

13. **ADJOURNMENT.**

There being no further business, Mayor McConathy adjourned the meeting at 8:52 p.m.

Linda Cernosek, TRMC, City Secretary



CITY COUNCIL COMMUNICATION

September 15, 2015

ITEM #	ITEM TITLE
B	Resolution No. R-2037 – Termination Agreement Rosenberg FM 2218
ITEM/MOTION	
Consideration of and action on Resolution No. R-2037, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Termination Agreement by and between the City and Rosenberg FM 2218, LTD.	
FINANCIAL SUMMARY	ELECTION DISTRICT

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds: N/A

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

SUPPORTING DOCUMENTS:

1. Resolution No. R-2037
2. MUD No. 150 – Development Agreement 15.0069 Acres – 11-01-05
3. MUD No. 150 - Certificate for Order Dissolving the District – 12-05-13
4. MUD No. 167 - Certificate for Order Add Land – 12-05-13
5. Ordinance No. 2005-31 – 12-13-05
6. Ordinance No. 2013-46 – 12-03-13
7. City Council Meeting Minute Excerpt – 11-01-05
8. City Council Meeting Minute Excerpt – 12-13-05
9. City Council Meeting Minute Excerpt – 12-03-13

MUD #: 150 (Wind Meadows)

APPROVALS

Submitted by:


 Randall Malik
 Economic Development
 Director

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney - *JM/rm*
- City Engineer
- Exec. Dir. of Community Development *TLT*

Approved for Submittal to City Council:


 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

On November 1, 2005, the City of Rosenberg entered into an Agreement Concerning Development of Land with Rosenberg FM 2218, LTD., regarding the development of approximately 15.0069 acres of land located inside the City Limits. Additionally, the Agreement consented to the annexation of said 15.0069 acres into Fort Bend County Municipal Utility District No. 150 (MUD No. 150). Subsequently, water and sanitary sewer utility lines were installed and street and drainage improvements were constructed and accepted by the City.

In 2013, 13.8385 acres of the original 15.0069 acre tract was annexed into Fort Bend County Municipal Utility District No. 167, eliminating the need for capacity from MUD No. 150. The reason for the difference in acreage between the 15.0069 and 13.8385 acres is due to street right-of-way. This, in conjunction with the proposed Wind Meadows development not materializing and the City reaching an Agreement in 2013 for the majority of property in MUD No. 150 to be developed as the Rosenberg Business Park, essentially made MUD No. 150 no longer necessary. On December 5, 2013, the MUD No. 150 was dissolved. This Resolution serves to formally terminate the Development Agreement with Rosenberg FM 2218, Ltd.

Since MUD No. 150 has been dissolved, this item and the succeeding three (3) items will offer the City an opportunity to clean-up and finalize the documentation necessary to conclude any further action associated with the dissolution of MUD No. 150.

Staff recommends approval of Resolution No. R-2037 as presented.

RESOLUTION NO. R-2037

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, TEXAS, A TERMINATION AGREEMENT BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND ROSENBERG FM 2218, LTD.

* * * * *

WHEREAS, the City Council of the City of Rosenberg, Texas, passed and approved an Agreement Concerning Development of Land (Development Agreement) with Rosenberg FM 2218, Ltd., on November 1, 2005, regarding the development of approximately 15.0069 acres of land within Fort Bend County Municipal Utility District No. 150 (District); and,

WHEREAS, the Board of Directors of MUD No. 150 annexed said 15.0069 acres of land into the boundaries of the District on November 1, 2005, and the City of Rosenberg consented to said annexation on November 1, 2005; and,

WHEREAS, the Board of Directors of MUD No. 150 approved an order dissolving the District on December 5, 2013; and,

WHEREAS, the Board of Directors of Fort Bend County Municipal Utility District No. 167 approved an order annexing 13.8385 acres of the 15.0069 acre tract of land into Fort Bend County Municipal Utility District No. 167 on December 5, 2013; now, therefore,

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

Section 1. The City Manager is hereby authorized to execute a Termination Agreement by and between the City of Rosenberg and Rosenberg FM 2218, Ltd., to formally terminate the above-named Development Agreement dated November 1, 2005, and any amendments thereto.

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

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

ATTEST:

APPROVED:

Linda Cernosek, **CITY SECRETARY**

Amanda J. Barta, **MAYOR PRO TEM**

DEVELOPER:

ROSENBERG FM 2218, Ltd.

A Texas Limited Partnership

By: _____

Name: _____

Title: _____

Developer anticipates that construction of Bryan Road, the Turn Lane and the FM 2218 Improvements will commence upon approval of the applicable plans and specifications by TxDOT, the City and the County and will use good faith efforts to complete Bryan Road, the Turn Lane and the FM 2218 Improvements by February 28, 2006, subject to the timely receipt of the applicable governmental approval of the plans and specifications of such improvements.

2.3 Utility Improvements. All water, sanitary sewer and storm sewer utility improvements (“Utility Improvements”) to serve the Tract shall be designed and constructed in compliance with all applicable requirements and criteria of the District, the City and any other applicable governmental entity. The design and construction of the Utility Improvements shall be subject to the review and approval of the City. Developer agrees to use good faith efforts to complete the Utility Improvements by February 28, 2006, subject to the timely receipt of the applicable governmental approval of the Utility Improvements plans and specifications.

ARTICLE III. CITY OBLIGATIONS

3.1. Off-Site Drainage Improvements. The City hereby agrees to design and construct or cause the design and construction, at no cost to Developer or the District, of drainage improvements outside the boundaries of the Tract which shall benefit the Tract so that no additional on-site detention shall be needed (the “Off-Site Drainage Improvements”). The City acknowledges that Developer nor the District shall have any obligation to construct additional off-site drainage and/or detention improvements to serve the Tract based upon the Final Plat approved by the City. The City further agrees to use good faith efforts to complete construction of any required Off-Site Drainage Improvements by February 28, 2006.

3.2. Maximum Number of Connections. The City agrees to provide up to 155 equivalent single family connections of water supply and wastewater treatment capacity to serve the Tract. The Tract is not currently within an impact fee service area.

ARTICLE IV. ANNEXATION OF TRACT INTO DISTRICT

Upon the execution of the Agreement, the District and the owner of the Tract shall submit to the City a Petition for Consent to annex the Tract into the boundaries of the District (the “Petition”). To the extent permitted by law, the City agrees, upon receipt of a properly prepared Petition and in accordance with law to consent to the annexation of the Tract into the boundaries of the District in a timely and expeditious manner. Additionally, upon annexation of the Tract into the District and execution of an amendment to the Utility Contract to include the Tract, the Tract shall be subject to all rights and obligations set forth in the Utility Contract.

**ARTICLE V.
MISCELLANEOUS**

5.1 Law Governing; Venue; Authority for Actions. This Agreement shall be governed by the laws of the State of Texas and no lawsuit shall be prosecuted on this Agreement except in a court of competent jurisdiction located in Fort Bend County.

The parties hereto recognize and understand that disputes may occur or actions may be required under this Agreement and that this Agreement involves a governmental entity and, as such, there can be no delegation to a third party individual or third party entity of the duties and obligations of the parties as herein provided. Thus, the parties agree that actions of the City hereunder with respect to its duties and obligations may be submitted to the City Council of the City for consideration and resolution if and as required by the City's Code of Ordinances. In such event, the City Council of the City, after consideration and hearing, shall render a final decision thereunder and the decision of the City Council shall be the final, binding, and conclusive action of the City with respect thereto. Likewise, the decision of the Board of Directors of the District with respect to the District's duties and obligations hereunder shall be the final, binding, and conclusive action of the District with respect thereto.

5.2 No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or the performance by any party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults or any kind, under any circumstances. In addition, the City specifically reserves all defenses, privileges, and immunities provided by law.

5.3 Addresses and Notice. Unless otherwise provided in this Utility Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to the other (except bills), must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to such party, addressed to the party to be notified. Notice deposited in the mail in the manner herein above described shall be conclusively deemed to be effective, unless otherwise stated in this Utility Contract, from and after the expiration of three (3) days after it is so deposited. Notice given in any such other manner shall be effective when received by the party to be notified. For the purpose of notice, addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:

City Manager
City of Rosenberg
P. O. Box 32
Rosenberg, Texas 77471-0032
Attn: City Manager

If to the Developer, to:

Rosenberg FM 2218, Ltd.
c/o Todd McCombs
17424 W. Grand Parkway South, No. 116
Sugar Land, Texas 77479

With copy to:

Coats, Rose, Yale, Ryman & Lee, P.C.
Attn: Julianne B. Kugle
3 Greenway, Suite 2000
Houston, Texas 77046

The parties shall have the right from time-to-time and at any time to change their respective addresses and each shall have the right to specify any other address by at least fifteen (15) days written notice to the other.

5.4 Merger and Modifications. This Agreement, including the exhibits that are attached hereto and incorporated herein for all purposes, embodies the entire agreement between the parties relative to the subject matter hereof. This Agreement shall be subject to change or modification only with the written mutual consent of the parties.

5.5 Reservation of Rights. All rights, powers, privileges and authority of the parties hereto not restricted or affected by the express terms and provisions hereof are reserved by the parties and, from time to time, may be exercised and enforced by the parties.

5.6 Captions. The captions of each section of this Agreement are inserted solely for convenience and shall never be given effect in construing the duties, obligations or liabilities of the parties hereto or any provisions hereof, or in ascertaining the intent of either party, with respect to the provisions hereof.

5.7 Severability. The provisions of this Agreement are severable, and if any part of this Agreement or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of part of this Agreement to other persons or circumstances shall not be affected thereby.

5.8 Assignability. This Agreement may not be assigned by either party except upon written consent of the other party hereto, which shall not be unreasonably withheld.

5.9 Term and Effect. Except as otherwise specifically set forth herein, this Agreement shall become effective on the date of approval and execution by the City. This Agreement shall remain effective for thirty-five (35) years from the Effective Date hereof.

5.10 Stipulations Relied Upon by City. The Developer understands that the City desires to follow applicable law in all respects; that the City does not want to subject its taxpayers to the costs of litigation and damages for which it has not set aside funds; and that the City has a legitimate interest in wanting to know if Developer believes that a condition is unlawful or of questionable validity or otherwise judicially untested when it is accepting the benefits of this Agreement, so that the City may review the subject condition administratively to make a focused inquiry as to whether in fact it is unlawful based upon the authority provided by Developer, and if found to be unlawful, determine whether to proceed without the condition. Accordingly, for valuable consideration, the Developer stipulates and agrees that the City has relied upon the following in approving this Agreement:

(a) Any protest to any fee, dedication, reservation, condition, or any purported exaction imposed herein shall be filed pursuant to the procedures contained in paragraph 5.1 herein, at the time of approval, or conditional approval or no later than 60 days after the date of the subject approval.

(b) Developer acknowledges that it understands the conditions, voluntarily accepts them, and agrees that they are lawful and constitutional in all respects.

(c) That the benefits of the City's approval to this Agreement equal or outweigh the costs of any conditions imposed upon the Developer in this Agreement.

[EXECUTION PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, on this 1st day of NOV., 2005.

CITY OF ROSENBERG, TEXAS



By: [Signature]
Name: David E. Neeley
Title: City Manager
Date: _____

ATTEST:

APPROVED:

[Signature]
CITY SECRETARY

[Signature]
CITY ATTORNEY

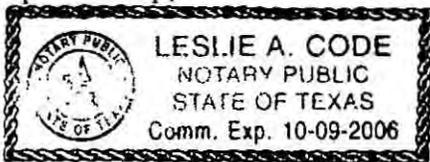
DEVELOPER

ROSENBERG FM 2218, Ltd., a Texas limited partnership

By: [Signature]
Name: Todd McCombs
Its: PRESIDENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this the 26th day of October, 2005, by Todd McCombs, General Partner of Rosenberg FM 2218, Ltd., a Texas limited partnership, on behalf of said limited partnership.



[Signature]
Notary Public
In and For the State of Texas

EXHIBIT "A" - Page 1 of 2 pages

February 20, 2004

*15.0069 acres of land in the J.D. Vermillion Survey, Abstract No. 340,
City of Rosenberg, Fort Bend County, Texas*

A FIELD NOTE DESCRIPTION of 15.0069 acres (653,699 square feet) of land in the J.D. Vermillion Survey, Abstract No. 340, City of Rosenberg, Fort Bend County, Texas; Said 15.0069 acre tract of land being out of the remainder of a 19.641 acre tract conveyed to Werner Partnership, LTD., as recorded under Fort Bend County Clerk's File No. 2001006679 and being more particularly described by metes and bounds as follows with the bearings being based on the Texas State Plane Coordinate System, South Central Zone, as recorded under Fort Bend County Clerk's File No. 9763775;

COMMENCING FOR REFERENCE at a ¼-inch iron pipe found in the southerly right-of-way line of U.S. Highway 59 (width varies) in the easterly line of Lot 1, Danziger - Reese Subdivision, according to the map or plat recorded in Volume 28, Page 17 of the Fort Bend County Plat Records conveyed to SJC Properties, LTD., as recorded under Fort Bend County Clerk's File No. 2000052452 for the southwesterly corner of a tract of land conveyed to the City of Rosenberg, as recorded under Fort Bend County Clerk's File No. 9763775 for the widening of said U.S. Highway 59; from which a 5/8-inch iron rod found bears North 51° 18' 51" East - 0.16 feet,

THENCE; in a northeasterly direction with the southerly right-of-way line of said U.S. Highway 59, with the northerly line of said 19.641 acre tract and with a curve to the left having a radius of 11,679.19 feet, a central angle of 00° 10' 58", a length of 37.25 feet and a chord bearing North 79° 25' 08" East - 37.25 feet to a 5/8-inch iron rod with cap set for the most northerly northwesterly corner and POINT OF BEGINNING of this tract;

THENCE; in a northeasterly direction with the southerly right-of-way line of said U.S. Highway 59, with the northerly line of said 19.641 acre tract and with a curve to the left having a radius of 11,679.19 feet, a central angle of 03° 52' 51", a length of 791.06 feet and a chord bearing North 77° 23' 14" East - 790.91 feet to a 5/8-inch iron rod found for the northeasterly corner of this tract;

THENCE; South 10° 58' 43" East - 237.71 feet with the westerly line of Reserve "A-1", Replat of Grizzard / Flint Division, Section One, according to the map or plat recorded under Slide No. 1803A of the Fort Bend County Plat Records conveyed to Bayou Holdings, L.L.C., as recorded under Fort Bend County Clerk's File No's 9883128 and 9700925 to a 5/8-inch iron rod with cap set for a point-of-curvature;

THENCE; in a southeasterly direction with the southwesterly line of said Reserve "A-1" and with a curve to the left having a radius of 260.00 feet, a central angle of 36° 58' 44", a length of 167.80 feet and a chord bearing South 29° 28' 05" East - 164.91 feet to a 5/8-inch iron rod with cap set for a point-of-tangency;

THENCE; South 47° 57' 27" East - 30.18 feet with the southwesterly line of said Reserve "A-1" to a 5/8-inch iron rod found for the easterly corner of this tract;



EXHIBIT "A" - Page 2 of 2 pages

THENCE; South 42° 02' 52" West - 1,161.17 feet with the northwesterly right-of-way line of State Farm-Market Road 2218 (100 feet wide) and with the southeasterly line of said 19.641 acre tract to a 5/8-inch iron rod found for the southerly corner of this tract;

THENCE; North 09° 26' 25" West - 1,019.63 feet with the easterly line of Lot 16 of said Danziger - Reese Subdivision conveyed to Rhoda Leah Danziger Saka, as recorded under Fort Bend County Clerk's File No. 9339888, with the easterly line of said Lot 1 and with the westerly line of said 19.641 acre tract to a 5/8-inch iron rod with cap set for the most westerly northwesterly corner of this tract;

THENCE; North 80° 33' 35" East - 37.24 feet to a 5/8-inch iron rod with cap set for an interior corner of this tract;

THENCE; North 09° 26' 25" West - 75.81 feet to the POINT OF BEGINNING and containing 15.0069 acres (653,699 square feet) of land.

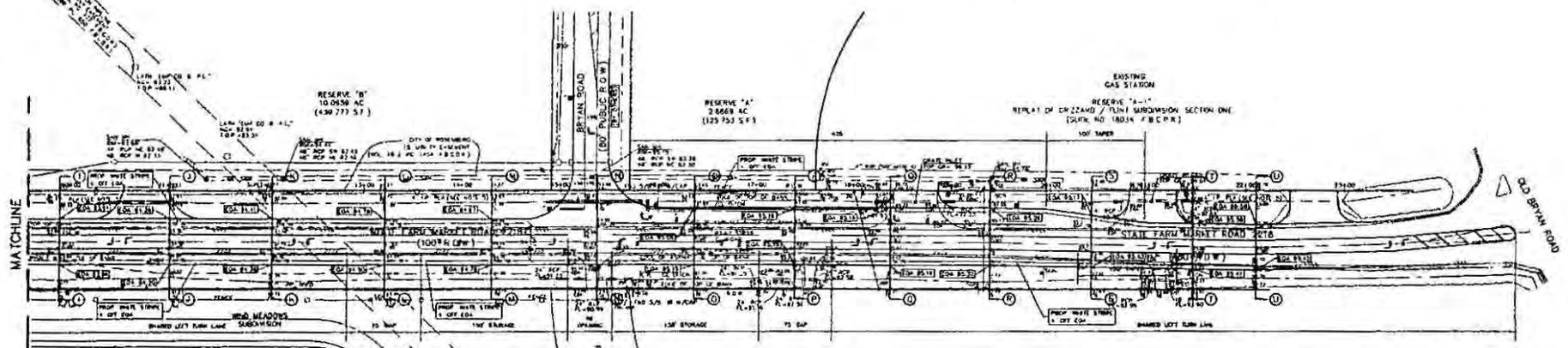
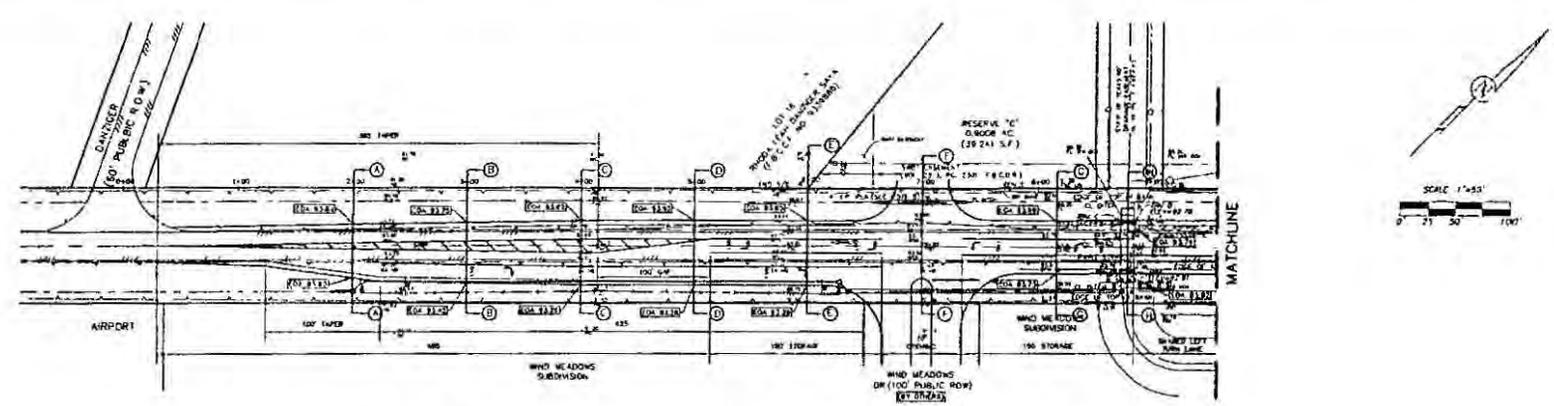
COMPILED BY:

TEXAS ENGINEERING AND MAPPING
Civil Engineers - Land Surveyors
Stafford, Texas
Job No. 656-1
W:\656-1.wpd




Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776

EXHIBIT D



- LEGEND**
- 1. ADJACENT STATEMENT
 - 2. ADJACENT STATEMENT
 - 3. ADJACENT STATEMENT
 - 4. ADJACENT STATEMENT
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DISCLAIMER
 This document is a preliminary plan and is not intended to be used for any purpose other than to show the general location of the proposed improvements. It is not intended to be used for any other purpose and is not intended to be used for any other purpose.

ALL CONTRACTS SHALL BE GOVERNED BY THE TERMS OF THE STANDARD CONTRACT FOR THE CITY OF HOUSTON, TEXAS.

CONTACT JOHN ENGLISH
 5300 WILLOW CREEK SLATE 100
 HOUSTON, TEXAS 77047
 (713) 335-8880
 (713) 335-7600

THIS PLAN WAS PREPARED BY REKHA ENGINEERING INC. AND IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE CITY OF HOUSTON, TEXAS, IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS PLAN. THE CITY OF HOUSTON, TEXAS, IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS PLAN.

FM 2218
 ROSENBERG, TEXAS

REV.	DESCRIPTION	DATE

SITE LAYOUT SCALE 1"=50' DATE 07/15/03

REKHA ENGINEERING INC.
 CIVIL ENGINEERING AND LAND SURVEYING
 5300 WILLOW CREEK SLATE 100
 HOUSTON, TEXAS 77047
 (713) 335-8880
 (713) 335-7600

DESIGNED BY: JMS CHECKED BY: JMS APPROVED BY: JMS
 DATE: 07/15/03



PASSED and APPROVED this 5th day of December, 2013.

ATTEST:

Secretary, Board of Directors



President, Board of Directors

(DISTRICT SEAL)

THE STATE OF TEXAS

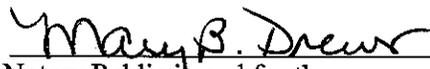
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COUNTY OF HARRIS

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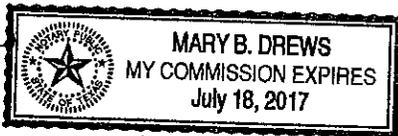
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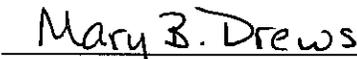
This instrument was acknowledged before me on December 5, 2013 by Brandt Edwards, David Bell, Christopher de Zevallos, and Aloysius R. André of Fort Bend County Municipal Utility District No. 150, a political subdivision of the State of Texas, on behalf of said political subdivision.



Notary Public in and for the
State of TEXAS

(SEAL)





Name Printed or Typed
My commission expires: _____

FORT BEND COUNTY CLERK'S OFFICE
301 JACKSON
RICHMOND, TX 77469

CERTIFICATE OF POSTING

THE STATE OF TEXAS X

COUNTY OF FORT BEND X

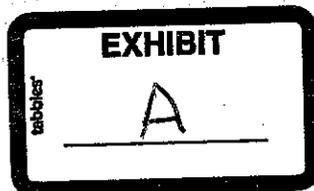
I, DIANNE WILSON, COUNTY CLERK OF FORT BEND COUNTY, TEXAS DO
HEREBY CERTIFY THAT ON THE 18TH DAY OF NOVEMBER 2013, I FILED
THE ATTACHED AND FOREGOING NOTICE OF MEETING IN MY OFFICE.

EXECUTED THIS 19TH DAY OF NOVEMBER, 2013.

DIANNE WILSON, COUNTY CLERK
FORT BEND COUNTY, TEXAS

BY *Vickie Kirk*
VICKIE KIRK, - DEPUTY

SEAL



FILED FOR RECORD

NO. Ch TIME 2:29 ^{A.M.} _{P.M.}

NOV 18 2013

NOTICE

Deanne Wilson
County Clerk Fort Bend Co. Tex.

**FORT BEND MUNICIPAL UTILITY DISTRICT No. 150
NOTICE TO RESIDENTS AND PROPERTY OWNERS OF
FORT BEND MUNICIPAL UTILITY DISTRICT No. 150
AND ALL OTHER INTERESTED PARTIES**

**MUNICIPAL UTILITY DISTRICT BOARD MEETING
TO CONSIDER DISSOLUTION OF THE DISTRICT**

December 5, at 12:00 p.m., at the Law Offices of Sanford Kuhl Hagan Kugle Parker Kahn LLP, 1980 Post Oak Blvd., Suite 1380, Houston, Texas 77056. Pursuant to Sections 54.734-54.738, Texas Water Code, the Board of Directors (the "Board") will meet to consider the dissolution of Fort Bend Municipal Utility District No. 150 (the "District") and the liquidation of the affairs of the District. The Board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

CERTIFICATE OF POSTING OF NOTICE OF MEETING

THE STATE OF TEXAS

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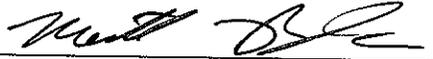
COUNTY OF FORT BEND

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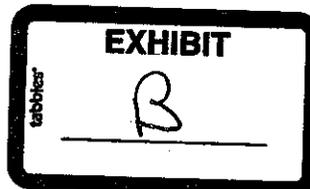
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150

§

I, Matt Baker, the undersigned, hereby state that I posted the attached Notice of Dissolution Meeting of the Board of Directors of Fort Bend County Municipal Utility District No. 150 at 3100 FM 2218 Road, Richmond, Texas 77469, Fort Bend County, Texas, a public location inside the boundaries of the District, on the 21st day of November, 2013 at 11 o'clock a.m., which time was not less than fourteen (14) days prior to the scheduled date and time of the meeting.



(Name)



NOTICE

**FORT BEND MUNICIPAL UTILITY DISTRICT No. 150
NOTICE TO RESIDENTS AND PROPERTY OWNERS OF
FORT BEND MUNICIPAL UTILITY DISTRICT No. 150
AND ALL OTHER INTERESTED PARTIES**

**MUNICIPAL UTILITY DISTRICT BOARD MEETING
TO CONSIDER DISSOLUTION OF THE DISTRICT**

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CERTIFICATE OF POSTING OF NOTICE OF MEETING

THE STATE OF TEXAS

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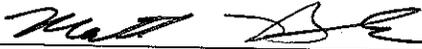
COUNTY OF FORT BEND

§

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150

§

I, Matt Baker, the undersigned, hereby state that I posted the attached Notice of Dissolution Meeting of the Board of Directors of Fort Bend County Municipal Utility District No. 150 at 2980 FM 2218 Road, Richmond, Texas 77469, Fort Bend County, Texas, a public location inside the boundaries of the District, on the 21st day of November, 2013 at 11 o'clock a.m., which time was not less than fourteen (14) days prior to the scheduled date and time of the meeting.



(Name)

NOTICE

**FORT BEND MUNICIPAL UTILITY DISTRICT No. 150
NOTICE TO RESIDENTS AND PROPERTY OWNERS OF
FORT BEND MUNICIPAL UTILITY DISTRICT No. 150
AND ALL OTHER INTERESTED PARTIES**

**MUNICIPAL UTILITY DISTRICT BOARD MEETING
TO CONSIDER DISSOLUTION OF THE DISTRICT**

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CERTIFICATE OF POSTING OF NOTICE OF MEETING

THE STATE OF TEXAS

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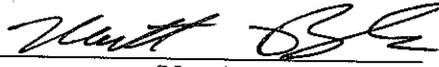
COUNTY OF FORT BEND

§

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150

§

I, Matt Baker, the undersigned, hereby state that I posted the attached Notice of Dissolution Meeting of the Board of Directors of Fort Bend County Municipal Utility District No. 150 at 4808 Bryan Road, Richmond, Texas 77469, Fort Bend County, Texas, a public location inside the boundaries of the District, on the 21st day of November, 2013 at 11 o'clock a.m., which time was not less than fourteen (14) days prior to the scheduled date and time of the meeting.



(Name)

NOTICE

**FORT BEND MUNICIPAL UTILITY DISTRICT No. 150
NOTICE TO RESIDENTS AND PROPERTY OWNERS OF
FORT BEND MUNICIPAL UTILITY DISTRICT No. 150
AND ALL OTHER INTERESTED PARTIES**

**MUNICIPAL UTILITY DISTRICT BOARD MEETING
TO CONSIDER DISSOLUTION OF THE DISTRICT**

December 5, at 12:00 p.m., at the Law Offices of Sanford Kuhl Hagan Kugle Parker Kahn LLP, 1980 Post Oak Blvd., Suite 1380, Houston, Texas 77056. Pursuant to Sections 54.734-54.738, Texas Water Code, the Board of Directors (the "Board") will meet to consider the dissolution of Fort Bend Municipal Utility District No. 150 (the "District") and the liquidation of the affairs of the District. The Board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

11-20
11-21

Sanford Kuhl Hagan
Kugle Parker Kahn

PUBLISHER'S AFFIDAVIT

FBC MUD No. 150

THE STATE OF TEXAS §
COUNTY OF FORT BEND §

Before me, the undersigned authority, on this day personally appeared Stan Woody who being by me duly sworn, deposes and says that he is the Publisher of *Fort Bend Herald* and that said newspaper meets the requirements of Section 2051.044 of the Texas Government Code, to wit:

1. it devotes not less than twenty-five percent (25%) of its total column lineage to general interest items;
2. it is published at least once each week;
3. it is entered as second-class postal matter in the county where it is published; and
4. it has been published regularly and continuously since 1959.
5. it is generally circulated within Fort Bend County.

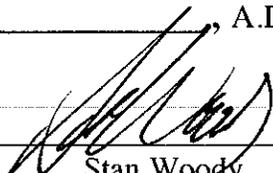
(CLIPPING) (S)

NOTICE
FORT BEND COUNTY
MUNICIPAL UTILITY
DISTRICT No. 150
 NOTICE TO RESIDENTS AND
 PROPERTY OWNERS OF
 FORT BEND COUNTY
 MUNICIPAL UTILITY
 DISTRICT No. 150
 AND ALL OTHER
 INTERESTED PARTIES
MUNICIPAL UTILITY
DISTRICT BOARD MEETING
TO CONSIDER
DISSOLUTION OF THE
DISTRICT
 December 5, 2013 at 12:00
 p.m. at the Law Offices of
 Sanford Kuhl Hagan Kugle
 Parker Kahn LLP, 1980 Post
 Oak Blvd., Suite 1380, Hous-
 ton, Texas 77056 Pursuant to
 Sections 54.734-54.736, Texas
 Water Code, the Board of Di-
 rectors (the "Board") will meet
 to consider the dissolution of
 Fort Bend County Municipal
 Utility District No. 150 (the "Dis-
 trict") and the liquidation of the
 affairs of the District. The
 Board shall hear all interested
 persons and shall consider
 their evidence at the time and
 place stated in the notice.

Publisher further deposes and says that the attached notice was published in said newspaper on the following date(s) to wit:

11-20, 11-21

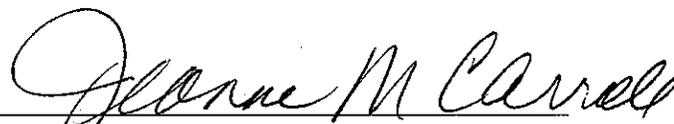
_____, A.D. 2013

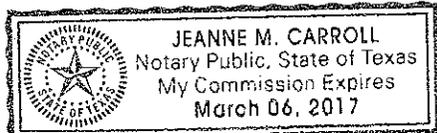

 Stan Woody
 Publisher

SUBSCRIBED AND SWORN BEFORE ME by Stan
Woody who

- X a) is personally known to me, or
- _____ b) provided the following evidence to establish his/her identity, _____

on this the 25th day of Nov, A.D. 2013
to certify which witness my hand and seal of office.


 Notary Public, State of Texas





This document is being re-recorded to attach Exhibit A.

CERTIFICATE FOR ORDER

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

I, the undersigned officer of the Board of Directors of Fort Bend County Municipal Utility District No. 167 hereby certify as follows:

1. The Board of Directors of Fort Bend County Municipal Utility District No. 167 convened in regular session on the 5th day of December, 2013, outside the boundaries of the District, and the roll was called of the members of the Board:

Deana Day	President
Leanne Pfister	Vice President
Jerry L. Schutza	Secretary
Jim Obermeier	Assistant Secretary
Yvonne Cummins	Assistant Secretary

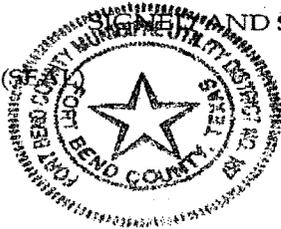
and all of said persons were present except Director(s) _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the meeting: a written

ORDER ADDING LAND

was introduced for the consideration of the Board. It was then duly moved and seconded that the order be adopted, and, after due discussion, the motion, carrying with it the adoption of the order, prevailed and carried unanimously.

2. A true, full, and correct copy of the aforesaid order adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; the action approving the order has been duly recorded in the Board's minutes of the meeting; the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of the Board as indicated therein; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the aforesaid meeting, and that the order would be introduced and considered for adoption at the meeting, and each of the officers and members consented, in advance, to the holding of the meeting for such purpose; the meeting was open to the public as required by law; and public notice of the time, place, and subject of the meeting was given as required by Chapter 551, Texas Government Code, and Section 49.063, Texas Water Code.

SIGNED AND SEALED on the 5th day of December, 2013.



[Signature]
Secretary, Board of Directors

ORDER ADDING LAND

THE STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

WHEREAS, there has been presented to and filed with the Board of Directors of Fort Bend County Municipal Utility District No. 167 (the "District") the petition of Rosenberg FM2218, Ltd., a Texas limited partnership, formerly known as Rosenberg FM2218, L.L.C., a Texas limited liability company (the "Petitioner"), praying that the land described as follows:

13.8385 acres, being all of RESTRICTED RESERVES "A," "B" and "C" of THREE MILE CROSSING, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded under Clerk's File No. 20070127 in the Plat Records of Fort Bend County, Texas,

be added to and become a part of the District; and

WHEREAS, the Board of Directors, after carefully considering the facts and evidence, hereby finds and determines conclusively that:

(1) all of the allegations and statements contained in said petition, including all attachments, are true and correct;

(2) the annexation of the Land is feasible and practical and it is to the advantage of the District to add the Land to the District and it will be a benefit to the Land to add it to the District;

(3) the waterworks, sanitary sewer, and drainage systems and other improvements of the District are sufficient or will be sufficient to supply the added Land without injuring the land already within the District;

(4) the Land is correctly above, and the petition requesting the addition of said Land has been signed and executed in the manner provided by law for the conveyance of real estate and in full conformity with the law;

(5) there are no qualified voters residing on the Land;

(6) Petitioner and the District have submitted a petition to the City of Rosenberg, Texas (the "City"), requesting consent to the proposed annexation, and the City has consented to the District's annexation of the Land; NOW THEREFORE;

BE IT ORDERED BY THE BOARD OF DIRECTORS OF FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 167 THAT:

• Section 1: It is hereby affirmatively found and determined that all of the recitations, matters, and facts set out in the preamble of this Order are true and correct.

Section 2: The Land is hereby added to the District and hereby becomes a part of the District.

Section 3: The Land and all present and future improvements thereon shall be liable for all present and future debts of the District in the same manner as other lands and improvements in the District are liable for said debts, and future taxes levied by the District shall be levied upon all taxable Land and all improvements thereon uniformly and equally on an ad valorem basis with the taxes levied on all other taxable property within the District.

Section 4: The District shall continue to be authorized to issue the bonds authorized at an election or elections held within the District but not yet issued, for the purposes and upon the terms and conditions such bonds were voted, in one or more issues or series, at a future date or dates, when in the Board's judgment such amounts are required for the authorized purposes, and the District shall continue to be authorized to levy taxes to pay principal and interest on the District's bonds and other obligations payable from taxes.

Section 5: The District shall continue to be authorized to levy and collect a maintenance tax not to exceed the amount per \$100 of assessed valuation of all taxable property within the District, including the Land, which tax was approved by the District's voters at an election held within the District.

Section 6: The District secretary, or their designee, is authorized and directed to file for record a copy of the petition described in the preamble hereof and a certified copy of this Order in the office of the County Clerk of County, Texas and with the Texas Commission on Environmental Quality.

• Section 7: The Board enters this Order Adding Land and redefines the boundaries of the District to include all of the land described on **Exhibit A** attached hereto and incorporated herein for all purposes.

Section 8: This Order shall be effective immediately upon its adoption.

[EXECUTION PAGE FOLLOWS]

PASSED AND APPROVED on this 5th day of December, 2013.

FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 167

By: Deana Day
Name: Deana Day
Title: President

ATTEST:

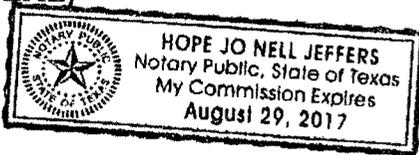
By: [Signature]
Name: Jerry Schultz
Title: Secretary



THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on December 5, 2013, by Deana Day as President and Jerry Schultz as Secretary, of the Board of Directors of FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 167, a political subdivision of the State of Texas, on behalf of said political subdivision.

(NOTARY SEAL)



Hope Jeffers
Notary Public, State of Texas

Attachment:

Exhibit A: Description of the Revised District Boundaries.

After recording, return to: Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027, Attn: Yvonne Onak.

Three tracts, comprising a total of 428.238 acres.

Tract 1

**118.7858 acres in the Robert E. Handy Survey, Abstract No. 187,
and the Simon Jones Labor Survey, Abstract No. 271
City of Rosenberg, Fort Bend County, Texas**

A FIELD NOTE DESCRIPTION of 118.7858 acres of land in the Robert E. Handy Survey, Abstract No. 187 and the Simon Jones Labor Survey, Abstract No. 271, City of Rosenberg, Fort Bend County, Texas; said 118.7858 acre tract being out of a tract of land conveyed to Tristar Real Estate Investments, Inc., as recorded under File No. 9885910 of the Fort Bend County Deed Records; said tract being more particularly described by metes and bounds as follows with the bearings being based on the Texas State Plane Coordinate System, South Central Zone using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING at a broken concrete monument found at the intersection of the southwest right-of-way line of the BNSF Railroad (100 feet wide) with the northwest right-of-way line of F.M. Highway 2977 (100 feet wide) for the northeast corner of this tract;

THENCE; South $22^{\circ} 23' 46''$ West - 1,420.34 feet (called South $25^{\circ} 27' 30''$ West - 1,420.84 feet) with the northwest right-of-way line of said F.M. Highway No. 2977 to a broken concrete monument found for the beginning of a non-tangent curve to the right;

THENCE; in a southwesterly direction with said curve to the right having a central angle of $01^{\circ} 29' 22''$ (called $01^{\circ} 29' 19''$), a radius of 5,679.65 feet, a length of 147.65 feet (called 147.55 feet), and a chord bearing South $23^{\circ} 08' 26''$ West - 147.65 feet (called South $26^{\circ} 10' 35''$ West - 147.55 feet) and with the northwest right-of-way line of said F.M. Highway No. 2977 to a ½-inch iron pipe found for the end of said curve;

THENCE; South $23^{\circ} 46' 21''$ West - 41.20 feet (called South $26^{\circ} 54' 52''$ West - 41.25 feet) with the northwest right-of-way line of said F.M. Highway No. 2977 to a ½-inch iron pipe found for the beginning of a non-tangent curve to the left;

THENCE; in a southwesterly direction with said curve to the left having a central angle of $01^{\circ} 29' 51''$ (called $01^{\circ} 29' 49''$), a radius of 5,779.65 feet, a length of 151.05 feet (called 151.00 feet), and a chord bearing South $23^{\circ} 13' 06''$ West - 151.05 feet (called South $26^{\circ} 17' 09''$ West - 151.00 feet) and with the northwest right-of-way line of said F.M. Highway No. 2977 to a ½-inch iron pipe found for the end of said curve;

THENCE; South $22^{\circ} 20' 42''$ West - 104.72 feet (called South $25^{\circ} 26' 05''$ West) with the northwest right-of-way line of said F.M. Highway No. 2977 to a 5/8-inch iron rod with cap stamped "TEAM" set for the south corner of this tract;

*THENCE; North $67^{\circ} 08' 16''$ West - 1,125.25 feet (called North $67^{\circ} 07' 58''$ West - 1,125.00 feet) with the northeast right-of-way line of Reading Road (100 feet wide) to a 5/8-inch iron rod with cap stamped "TEAM" set for a west corner of this tract;

THENCE; North $22^{\circ} 51' 44''$ East - 326.70 feet with the southeast line of a 1.500 acre tract conveyed to the City of Rosenberg, as recorded in Fort Bend County Clerk's File No. 2002068257 to a ½-inch iron rod with cap stamped "1399206" found for an interior corner of this tract;

•
THENCE; North $67^{\circ} 08' 16''$ West - 200.00 feet with the northeast line of said 1.500 acre tract to a $\frac{5}{8}$ -inch iron rod with cap stamped "TEAM" set for an interior corner of this tract;

THENCE; South $22^{\circ} 51' 44''$ West - 326.70 feet with the northwest line of said 1.500 acre tract to a $\frac{5}{8}$ -inch iron rod with cap stamped "TEAM" set for a south corner of this tract;

THENCE; North $67^{\circ} 08' 16''$ West - 281.20 feet with the northeast right-of-way line of said Reading Road to a $\frac{5}{8}$ -inch iron rod with cap stamped "Kalkomey" found for a point-of-curvature;

THENCE, In a northwesterly direction with a curve to the left having a central angle of $30^{\circ} 00' 00''$, a radius of 609.81 feet, a length of 319.29 feet (called 319.30 feet) and a chord bearing North $82^{\circ} 08' 15''$ West - 315.66 feet (called North $82^{\circ} 07' 58''$ West - 315.66 feet) and with the northeast right-of-way line of said Reading Road to a $\frac{5}{8}$ -inch iron rod with cap stamped "TEAM" found for a point-of-tangency;

• THENCE; South $82^{\circ} 51' 40''$ West - 36.61 feet with the northeast right-of-way line of said Reading Road to a $\frac{5}{8}$ -inch iron rod with cap stamped "Genco Texas" found for an angle point of this tract;

THENCE; North $67^{\circ} 08' 16''$ West - 948.86 feet with the northeast line of a 100 foot easement granted to Richmond Rice Association, as recorded in Volume 125, Page 179 and Volume 217, Page 254 of the Fort Bend County Deed Records to a $\frac{5}{8}$ -inch iron rod with cap stamped "Genco Texas" found for the southwest corner of this tract;

THENCE, In a northwesterly direction with a curve to the left having a central angle of $42^{\circ} 11' 27''$, a radius of 183.73 feet, a length of 135.29 feet and a chord bearing North $06^{\circ} 16' 20''$ West - 132.26 feet and with a tract of land conveyed to the City of Rosenberg, as recorded in Fort Bend County Clerk's File No. 1999030872 to a $\frac{5}{8}$ -inch iron rod with cap stamped "Kalkomey" found for a point-of-tangency;

THENCE; North $27^{\circ} 07' 44''$ West - 215.20 feet (called North $27^{\circ} 06' 13''$ West - 215.51 feet) with said City of Rosenberg tract to a point in power pole for a point-of-curvature;

• THENCE, In a northeasterly direction with a curve to the right having a central angle of $90^{\circ} 18' 46''$ (called $90^{\circ} 18' 22''$), a radius of 100.39 feet, a length of 158.24 feet (called 158.23 feet) and a chord bearing North $18^{\circ} 02' 02''$ East - 142.36 feet (called North $18^{\circ} 02' 59''$ East - 142.36 feet) and with said City of Rosenberg tract to a point in power pole for a point-of-tangency;

THENCE; North $63^{\circ} 11' 13''$ East - 326.30 feet (called North $63^{\circ} 12' 10''$ East - 326.30 feet) with said City of Rosenberg tract to a $\frac{5}{8}$ -inch iron rod with cap stamped "Kalkomey" found for an angle point;

THENCE; North $72^{\circ} 31' 31''$ East - 164.81 feet (called North $72^{\circ} 32' 20''$ East - 164.78 feet) with said City of Rosenberg tract to a $\frac{5}{8}$ -inch iron rod with cap stamped "Kalkomey" found for an angle point;

THENCE; North $69^{\circ} 33' 12''$ East - 171.87 feet (called North $69^{\circ} 34' 01''$ East - 171.85 feet) with said City of Rosenberg tract to a $\frac{5}{8}$ -inch iron rod with cap stamped "Kalkomey" found for an interior corner of this tract;

THENCE; North 00° 25' 34" West - 136.36 feet (called North 00° 26' 12" West - 136.42 feet) with said City of Rosenberg tract to a bent 1/2-inch iron pipe found for an angle point of this tract;

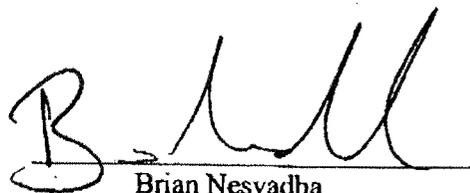
THENCE; North 62° 36' 47" East - 825.33 feet with the south right-of-way line U.S. Highway No. 59 (width varies) to a concrete monument found for an angle point;

THENCE; North 65° 28' 47" East - 749.61 feet (called North 68° 34' 58" East - 749.58 feet) with the south right-of-way line of said U.S. Highway No. 59 to a 5/8-inch iron rod found for an angle point;

THENCE; North 62° 39' 19" East - 164.02 feet (called North 65° 43' 56" East - 164.07 feet) with the south right-of-way line of said U.S. Highway No. 59 to a broken concrete monument found for the north corner of this tract;

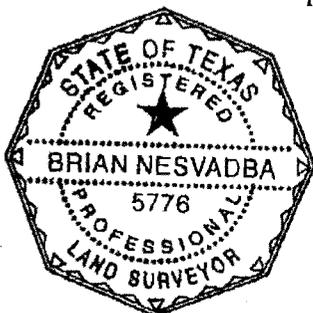
THENCE; In a southeasterly direction with a curve to the left having a central angle of 16° 01' 33" (called 16° 01' 22"), a radius of 5,779.65 feet, a length of 1,616.60 feet (called 1,616.28 feet) and a chord bearing South 54° 53' 49" East - 1,611.33 feet (called South 51° 51' 07" East - 1,611.02 feet) and with the southwest right-of-way line of said BNSF Railroad to the POINT OF BEGINNING and containing 118.7858 acres of land.

COMPILED BY:
Texas Engineering And Mapping Company
Civil Engineers - Land Surveyors
Stafford, Texas
Job No. 356-119



Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776

WA356-119_TRACT1_NEW.wpd



FORT BEND M.U.D. 167 Boundary

**295.6137 acres in the Jane H. Long League, Abstract No. 55,
and the Simon Jones Survey, Abstract No. 271,
City of Rosenberg, Fort Bend County, Texas**

A FIELD NOTE DESCRIPTION of 295.6137 acres of land in the Jane H. Long League, Abstract No. 55 and in the Simon Jones Survey, Abstract No. 271, City of Rosenberg, Fort Bend County, Texas; said 295.62 acre tract being out of Reserve "H" and all of Reserve "K", Block 4, The Villages At Rosenberg, according to the map or plat recorded under Slide No. 1954 A&B of the Fort Bend County Plat Records, being all of Restricted Reserves "A", "B", "C", and "D" and being a part of Town Center Boulevard (100 feet wide), according to the map or plat recorded in Plat No. 20050156 of the Fort Bend County Plat Records, being all of Restricted Reserve "A" and being a part of Restricted Reserves "B", "C", "E", Brazos Town Center, Section Two, according to the map or plat recorded in Plat No. 20050239 of the Fort Bend County Plat Records, being all of Restricted Reserve "A", "B", "C" and part of Reserve "D", Brazos Town Center, Section Three, according to the map or plat recorded in Plat No. 200600081 of the Fort Bend County Plat Records, being out of Reserve "B", Fort Bend Business Center, according to the map or plat recorded under Slide No. 1461B of the Fort Bend County Plat Records, being out of Reserve "E", Replat of Reserve 'C', Fort Bend Business Center, Section Two, according to the map or plat record under Slide No. 2008A of the Fort Bend County Plat Records, and being all of a tract of land conveyed to A-S 83 Town Center-F.M. 2218, L.P., as recorded under Fort Bend County Clerk's File No. 2005145143 and 2005145149; said tract being more particularly described by metes and bounds as follows with the bearings being based on Texas State Plane Coordinate System, South Central Zone (NAD83) per GPS Observations on May 07, 2004 using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING at a 2-inch iron pipe found in the northeasterly right-of-way line of Reading Road (60 feet wide) for a westerly corner of said Reserve "H" and for a westerly corner of this tract;

THENCE; North 22° 17' 11" East - 974.82 feet with the southeasterly line of Fort Bend Business Center according to the map or plat recorded under Slide No. 1461B of the Fort Bend County Plat Records to a 5/8-inch iron rod with cap set for an interior corner;

THENCE; North 67° 45' 06" West - 800.23 feet to a 5/8-inch iron rod with cap set for an interior corner of this tract;

THENCE; South 22° 23' 09" West - 932.09 feet to 5/8-inch iron rod with cap set in the northeasterly right-of-way line of said Reading Road for a southerly corner of this tract;

THENCE; North 64° 53' 47" West - 312.00 feet with the northeasterly right-of-way line of said Reading Road to a 5/8-inch iron rod with cap set for an angle point of this tract;

THENCE; North 67° 14' 51" West - 1,372.27 feet with the northeasterly right-of-way line of said Reading Road to a 5/8-inch iron rod with cap set for a westerly corner of this tract;

THENCE; North 69° 38' 09" West - 316.47 feet with the northeasterly right-of-way line of said Reading Road to a 5/8-inch iron rod with cap found for the southerly corner of Reserve 'D' of said Replat of Reserve 'C', Fort Bend Business Center, Section Two and for a westerly corner of this tract;

THENCE; North 22° 18' 40" East - 223.96 feet with the southeasterly line of said Reserve 'D' to a 5/8-inch iron rod with cap found for an interior corner of this tract;

THENCE; North 69° 40' 22" West - 223.71 feet with the northeasterly line of said Reserve 'D' to a 5/8-inch iron rod with cap found in the southeasterly right-of-way line of F.M. 2218 (100 feet wide), as recorded in Volume 335, Page 547 of the Fort Bend County Deed Records for a westerly corner of this tract;

THENCE; North 22° 20' 30" East - 1,168.26 feet with the southeasterly line of said F.M. 2218 to a 1/2-inch iron pipe found for an angle point of this tract;

THENCE; North 22° 14' 43" East - 713.57 feet with the southeasterly right-of-way line said FM 2218 to a 3/4-inch iron pipe found for an angle point of this tract;

THENCE; North 22° 20' 35" East - 407.56 feet with southeasterly right-of-way line of said F.M. 2218 to a 1/4-inch iron pipe found for a point-of-curvature;

THENCE; with southeasterly right-of-way line of said F.M. 2218 and with a curve to the right having a radius of 1,383.00 feet, a central angle of 12° 10' 41", a length of 293.96 feet and a chord bearing North 28° 28' 48" East - 293.40 feet to a 1/2-inch iron pipe in tree found for the northerly corner of this tract; from which a 3/4-inch iron pipe found bears North 31° 55' 23" East - 11.99 feet;

THENCE; South 68° 07' 55" East - 1,193.28 feet with the southwesterly line of the remainder of a 115.7247 acre tract of land conveyed to C. E. Myska, Trustee, as recorded in Volume 934, Page 66 of the Fort Bend County Deed Records to a 5/8-inch iron rod with cap set for an angle point of this tract;

THENCE; South 37° 13' 12" East - 194.66 feet to a 5/8-inch iron rod with cap set for an angle point of this tract;

THENCE; South 68° 07' 55" East - 1,085.49 feet to a 5/8-inch iron rod with cap set for an angle point of this tract;

THENCE; South 68° 04' 11" East - 51.47 feet to a 5/8-inch iron rod with cap set for an angle point of this tract;

THENCE; North 78° 42' 29" East - 182.52 feet to a 5/8-inch iron rod with cap set for an angle point of this tract;

THENCE; North 68° 04' 11" West - 204.21 feet with a southwesterly line of said The Villages at Rosenberg to a 2-inch iron pipe found for a westerly corner of this tract;

THENCE; North 21° 41' 06" East - 1,979.04 feet with the southeasterly line of a called 115.7247 acre tract of land conveyed to C.E. Myska, Trustee, as recorded in Volume 934, Page 66 of the Fort Bend County Deed Records to a 5/8-inch iron rod with cap set for the northerly corner of this tract;

THENCE; South 37° 02' 26" East - 3,374.42 feet with the southwesterly right-of-way line of the BNSF Railroad right-of-way, as recorded in Volume 75, Page 312 of the Fort Bend County Deed Records to point for an easterly corner of this tract;

•

THENCE; South 52° 42' 48" West - 974.91 feet with the northwesterly line of Reserve "D" of said The Villages At Rosenberg to a 5/8-inch iron rod with cap set for an angle point of this tract;

THENCE; South 62° 39' 13" West - 1,205.30 feet with the northwesterly line of Reserve "E" and Reserve "F" of said The Villages At Rosenberg to a cut "x" in concrete found for a point-of-curvature;

THENCE; in an easterly direction with the northerly line of said Reserve "F" and Reserve "G" of said The Villages At Rosenberg and with said curve to the right having a radius of 100.00 feet, a central angle of 50° 13' 34", a length of 87.66 feet and a chord bearing South 87° 46' 00" West - 84.88 feet to a cut "x" in concrete found for a point-of-tangency for this tract;

THENCE; North 67° 07' 14" West - 206.27 feet with the northeasterly line of said Reserve "G" to a cut "x" in concrete found for a southwesterly corner of this tract;

THENCE; North 22° 52' 43" East - 838.38 feet with the southeasterly line of Reserve "A", The Villages At Rosenberg, Section 2, according to the map or plat recorded under Slide No. 2214B of the Fort Bend County Plat Records conveyed to Rosenberg Venture LTD., as recorded under Fort Bend County Clerk's File No. 2001119747 to a 5/8-inch iron rod found for an interior corner of this tract;

THENCE; North 63° 20' 55" West - 400.66 feet with the northeasterly line of said Reserve "A" to a point for an interior corner of this tract;

THENCE; South 61° 07' 04" West - 71.39 feet with a northwesterly line of said Reserve "A" to an angle point of this tract;

THENCE; North 72° 59' 22" West - 163.95 feet with a northeasterly line of said Reserve "A" to a hole punch in reinforced concrete pipe found for an angle point of this tract;

THENCE; North 51° 19' 13" West - 19.63 feet with a northeasterly line of said Reserve "A" to a 5/8-inch iron rod found for an angle point of this tract;

THENCE; North 22° 12' 51" East - 55.94 feet with the southeasterly right-of-way line of Vista Drive (60 feet wide) according to the map or plat recorded under Slide No. 2214 B of the Fort Bend County Plat Records to a 5/8-inch iron rod with cap set for an interior corner of this tract;

THENCE; North 67° 47' 09" West - 60.00 feet to a 5/8-inch iron rod with cap set for an interior corner of this tract;

THENCE; South 22° 12' 51" West - 767.88 feet with the northwesterly right-of-way line of said Vista Drive to an angle point of this tract;

THENCE; South 22° 17' 31" West - 1,416.44 feet with the northwesterly right-of-way line of said Vista Drive to 5/8-inch iron rod with cap set for the easterly end of a cutback at the intersection of the northwesterly right-of-way line of said Vista Drive with the northeasterly right-of-way line of said Reading Road;

•

THENCE; South 67° 34' 19" West - 21.11 feet with said cutback to a 5/8-inch iron rod with cap set for an angle point of this tract;

THENCE; North 67° 08' 54" West - 84.71 feet with the northeasterly right-of-way line of said Reading Road to the POINT OF BEGINNING and containing 295.6137 acres of land.

COMPILED BY:

Texas Engineering And Mapping Company
Civil Engineers - Land Surveyors
Stafford, Texas
Job No. 356-72
W:\356-78Mud_overall_combo.wpd



Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776



13.8385 acres, being all of RESTRICTED RESERVES "A," "B" and "C" of THREE MILE CROSSING, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded under Clerk's File No. 20070127 in the Plat Records of Fort Bend County, Texas.

ORDINANCE NO. 2005-31

AN ORDINANCE PROVIDING FOR APPROVAL OF AN EXPANSION TO THE TERRITORY OF FORT BEND COUNTY MUD NO. 150 OF FORT BEND COUNTY, TEXAS TO INCLUDE THAT AREA, WITHIN THE CORPORATE LIMITS OF THE CITY OF ROSENBERG, TEXAS, AS FURTHER PROVIDED FOR HEREIN; AND MAKING CERTAIN FINDINGS OF FACT AND OTHER CONCLUSIONS AS HEREIN SET OUT.

WHEREAS, Fort Bend County MUD No. 150 of Fort Bend County, Texas represents it was previously created in accordance with the provisions of applicable law; and

WHEREAS, a majority of the owners of the underlying realty and the Board of Directors of Fort Bend County MUD No. 150 (MUD No. 150), Texas have represented and do represent as evidenced by their acceptance of this consent, by instrument filed in the Office of the City Secretary of the City of Rosenberg, that MUD No. 150, was in all things properly created in accordance with the laws of the State of Texas and that there is no reason or impediment of any type which would prevent MUD No. 150 from adding that certain additional territory, specifically described hereafter, the consent of which is hereby requested by the City of Rosenberg, Texas, (Annexation Consent); and

WHEREAS, the City Council of the City of Rosenberg did previously give its consent for the creation of said MUD No. 150 as to that territory within the corporate limits of the City of Rosenberg; and

WHEREAS, MUD No. 150, despite its earlier creation, expressly stipulates and agrees, that as part of the consideration for the requested Annexation Consent, it will fully comply with the Rosenberg Code of Ordinances, specifically including Chapter 29, entitled "Utilities," Article V, entitled "Creation of Certain Special Districts," Division 1, "In City Municipal Utility Districts," and that such stipulation and agreement is an express condition precedent on the part of the City of Rosenberg (City), for the Annexation Consent and related agreement to provide utility services to MUD No. 150; and

WHEREAS, the City Council of the City of Rosenberg finds and determines that the Board of Directors of MUD No. 150 have duly and properly requested the area, boundaries and configuration of said MUD be altered and adjusted to include additional territory within the corporate limits of the City of Rosenberg as herein set out; now, therefore,

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

Section 1. That the City Council of the City of Rosenberg finds and adopts the findings of fact as herein previously set out as being true and correct findings of fact.

Section 2. That the City Council of the City of Rosenberg, Texas does hereby acknowledge that the Board of Directors of MUD No. 150 have previously requested that

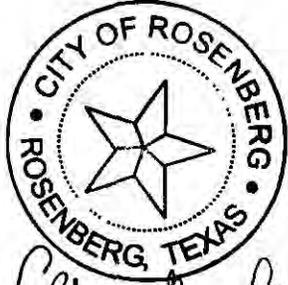
the City Council of the City of Rosenberg give its formal consent in accordance with the referenced condition precedent and applicable law for the expansion of the territory of said MUD No. 150 to include additional area and territory located within the municipal boundaries of the City of Rosenberg.

Section 3. That the City Council of the City of Rosenberg, expressly subject to the condition precedent that MUD No. 150 fully comply with the Rosenberg Code of Ordinances, specifically including Chapter 29, entitled "Utilities," Article V, entitled "Creation of Certain Special Districts," Division 1, "In City Municipal Utility Districts," does hereby give its consent and approves the expansion of the territory of MUD No. 150 to and include all of that area and territory, as set out in the certain exhibit attached hereto and marked Exhibit "A," to include all of the area and territory as therein set out. The consent and approval as herein provided shall be final and binding upon the Board of Directors of MUD No. 150 and the majority of the property owners of the property described and included in the newly configured MUD No. 150, executing and filing a letter with the City Secretary of the City of Rosenberg which shall state that MUD No. 150 is a MUD lawfully created and existing under the laws of the State of Texas, that there is no legal impediment or reason why the area and territory of MUD No. 150 should not be enlarged and configured as described in Exhibit "A," and that MUD No. 150 expressly stipulates and agrees to comply with the above referenced Rosenberg Code of Ordinances.

Section 4. That the City Council of the City of Rosenberg does hereby further direct that the Mayor and City Secretary of the City of Rosenberg, and such officers of the City as shall be necessary and required, shall execute such approvals and other documents that shall be required from time to time in order to effectively place of record and acknowledge that the City Council of the City of Rosenberg has duly and properly approved and consented to this change and modification in the area and territory of the boundaries of the said Municipal Utility District pursuant to the conditions contained herein.

Section 5. That, in addition to the conditions and requirements otherwise set out herein, the consent as herein provided shall be conditioned on the owners of the real property within the geographical configuration of MUD No. 150, hereinafter referred to as "MUD No. 150 property," fully complying with all rules, regulations and requirements that may be in existence or later provided as the same relates to all construction, configuration and the use of land located within the MUD No. 150 property, whether directly expressed or provided by the City of Rosenberg in such other agreements and documents that may be executed relating to the development or use of the MUD No. 150 property.

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 this the 13th of December 2005.



ATTEST:

Linda Cervoni for
Lyn Adolphus, CITY SECRETARY

APPROVED:

Joe M. Gurecky
Joe M. Gurecky, MAYOR

APPROVED AS TO FORM:

W-AOL
William A. Olson, CITY ATTORNEY

EXHIBIT A

PETITION FOR CONSENT TO ADDITION OF LAND TO A MUNICIPAL UTILITY DISTRICT

TO THE HONORABLE MAYOR AND CITY
COUNCIL OF THE CITY OF ROSENBERG, TEXAS:

The undersigned, Fort Bend County Municipal Utility District No. 150 (the "District") and Rosenberg FM2218, LTD., a Texas limited partnership (referred to herein as the "Property Owner"), respectfully petition the City of Rosenberg, Texas for its consent to the addition of land to the District. In support of this Petition, the District would show the following:

I.

The land sought to be added to the District (referred to herein as the "Tract") is described by metes and bounds in Exhibit "A", attached hereto and made a part hereof for all purposes

II.

The Tract lies wholly within Fort Bend County, Texas, and not within the boundaries of any incorporated city or town except for the City of Rosenberg, Texas, as such term is determined pursuant to Chapter 42 V.T.C.A. Local Government Code.

III.

Rosenberg FM2218, LTD. is the holder of title to the Tract as shown by the Fort Bend County Tax Rolls and conveyances of record. No person or entity holds a lien on the Tract, except for Todd McCombs.

IV.

The District was organized, created and established pursuant to an Order of the Texas Commission on Environmental Quality, dated October 27, 2004 in accordance with Article 16, Section 59 of the Constitution of the State of Texas and operates pursuant to Chapters 49 and 54, Texas Water Code, as amended. The District is organized for the purposes found in Chapter 54, Texas Water Code, as amended, to provide for:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;

- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

The District is empowered and authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes of its creation.

V.

The general nature of the work to be done by and within the Tract at the present time is the construction of a waterworks system for domestic and commercial purposes; the construction of a sanitary sewer collection system; the control, abatement and amendment of the harmful excess of waters and the reclamation and drainage of overflowed lands within the lands to be included within the District; and the construction, installation and purchase of such additional facilities, systems, and enterprises as shall be consonant with the purposes for which the District is organized.

VI.

There is a necessity for the improvements above described because the Tract is located within an area that is experiencing substantial and sustained residential and commercial growth, is urban in nature and is not supplied with adequate water, sanitary sewer and drainage facilities and services. The health and welfare of the future inhabitants of the Tract require the acquisition and installation of an adequate waterworks, sanitary sewer and storm drainage system.

The purchase, construction, extension, and improvement of such waterworks system and storm and sanitary sewer collection systems will conserve and preserve the natural resources of this State by promoting and protecting the purity and sanitary condition of the State's waters and will promote and protect the public health and welfare of the community; therefore, a public necessity exists for the inclusion of the Tract within the District.

VII.

Said proposed improvements are practicable and feasible, in that the terrain of the Tract are of such a nature that a waterworks system and sanitary and storm sewer systems can be constructed at a reasonable cost; and said land will be rapidly developed for commercial, multi-family and residential purposes.

VIII.

A preliminary investigation, has been instituted to determine the cost of the project attributable to the Tract, and it is now estimated by those filing this Petition, from such information as they have at this time, that the ultimate cost of the development contemplated will be approximately \$475,000.

IX.

The Board of Directors of the District requests consent to the addition of the Tract to the District under and in accordance with the Ordinances of the City of Rosenberg, Texas, specifically including 29-230 et. seq.

WHEREFORE, the undersigned respectfully pray that this Petition be granted in all respects and that the City Council of the City of Rosenberg, Texas, adopt a resolution giving its written consent to the addition of the Tract to the District.

DATED this May 18, 2005

"DISTRICT"

FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 150



President, Board of Directors

ADDRESS:

Fort Bend County Municipal
Utility District No. 150
c/o Coats, Rose, Yale, Ryman
& Lee, P.C.
3 Greenway Plaza, Suite 2000
Houston, Texas 77046

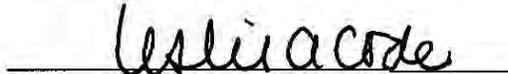
ATTEST:


Secretary, Board of Directors

THE STATE OF TEXAS
COUNTY OF FORT BEND

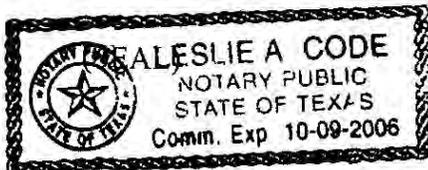
§
§

This instrument was acknowledged before me on May 18, 2005 by
Michael C. Wilde, President of the Board of Directors of Fort Bend Municipal
Utility District No. 150, a political subdivision, on behalf of said political subdivision.


Notary Public in and for
the State of Texas

Leslie A. Code
Name printed or typed

Commission Expires. 10-09-2006



RESPECTFULLY SUBMITTED THIS sept. 13, 2005

“PETITIONER”

ROSENBERG FM2218, LTD.,
a Texas limited partnership

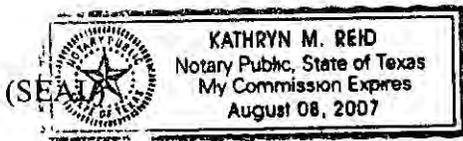
By: 

Name: Todd McCombs
Title: General Partner

THE STATE OF TEXAS
COUNTY OF Ant Bend

§
§
§

This instrument was acknowledged before me on the 13th day of Sept., 2005, by Todd McCombs, general partner of Rosenberg FM2218, LTD., a Texas limited partnership, on behalf of such limited partnership.



Kathryn Reid
Notary Public in and for
the State of Texas

Kathryn Reid
Name printed or typed
Commission Expires: 8/8/07

EXHIBIT "A" - Page 1 of 2 pages

February 20, 2004

**15.0069 acres of land in the J.D. Vermillion Survey, Abstract No. 340,
City of Rosenberg, Fort Bend County, Texas**

A FIELD NOTE DESCRIPTION of 15.0069 acres (653,699 square feet) of land in the J.D. Vermillion Survey, Abstract No. 340, City of Rosenberg, Fort Bend County, Texas; Said 15.0069 acre tract of land being out of the remainder of a 19.641 acre tract conveyed to Werner Partnership, LTD., as recorded under Fort Bend County Clerk's File No. 2001006679 and being more particularly described by metes and bounds as follows with the bearings being based on the Texas State Plane Coordinate System, South Central Zone, as recorded under Fort Bend County Clerk's File No. 9763775;

COMMENCING FOR REFERENCE at a ¼-inch iron pipe found in the southerly right-of-way line of U.S. Highway 59 (width varies) in the easterly line of Lot 1, Danziger - Reese Subdivision, according to the map or plat recorded in Volume 28, Page 17 of the Fort Bend County Plat Records conveyed to SJC Properties, LTD., as recorded under Fort Bend County Clerk's File No. 2000052452 for the southwesterly corner of a tract of land conveyed to the City of Rosenberg, as recorded under Fort Bend County Clerk's File No. 9763775 for the widening of said U.S. Highway 59; from which a ⅝-inch iron rod found bears North 51° 18' 51" East - 0.16 feet,

THENCE; in a northeasterly direction with the southerly right-of-way line of said U.S. Highway 59, with the northerly line of said 19.641 acre tract and with a curve to the left having a radius of 11,679.19 feet, a central angle of 00° 10' 58", a length of 37.25 feet and a chord bearing North 79° 25' 08" East - 37.25 feet to a ⅝-inch iron rod with cap set for the most northerly northwesterly corner and POINT OF BEGINNING of this tract;

THENCE; in a northeasterly direction with the southerly right-of-way line of said U.S. Highway 59, with the northerly line of said 19.641 acre tract and with a curve to the left having a radius of 11,679.19 feet, a central angle of 03° 52' 51", a length of 791.06 feet and a chord bearing North 77° 23' 14" East - 790.91 feet to a ⅝-inch iron rod found for the northeasterly corner of this tract;

THENCE; South 10° 58' 43" East - 237.71 feet with the westerly line of Reserve "A-1", Replat of Grizzard / Flint Division, Section One, according to the map or plat recorded under Slide No. 1803A of the Fort Bend County Plat Records conveyed to Bayou Holdings, L.L.C., as recorded under Fort Bend County Clerk's File No's 9883128 and 9700925 to a ⅝-inch iron rod with cap set for a point-of-curvature;

THENCE; in a southeasterly direction with the southwesterly line of said Reserve "A-1" and with a curve to the left having a radius of 260.00 feet, a central angle of 36° 58' 44", a length of 167.80 feet and a chord bearing South 29° 28' 05" East - 164.91 feet to a ⅝-inch iron rod with cap set for a point-of-tangency;

THENCE; South 47° 57' 27" East - 30.18 feet with the southwesterly line of said Reserve "A-1" to a ⅝-inch iron rod found for the easterly corner of this tract;



EXHIBIT "A" - Page 2 of 2 pages

THENCE; South 42° 02' 52" West - 1,161.17 feet with the northwesterly right-of-way line of State Farm-Market Road 2218 (100 feet wide) and with the southeasterly line of said 19.641 acre tract to a 5/8-inch iron rod found for the southerly corner of this tract;

THENCE; North 09° 26' 25" West - 1,019.63 feet with the easterly line of Lot 16 of said Danziger - Reese Subdivision conveyed to Rhoda Leah Danziger Saka, as recorded under Fort Bend County Clerk's File No. 9339888, with the easterly line of said Lot 1 and with the westerly line of said 19.641 acre tract to a 5/8-inch iron rod with cap set for the most westerly northwesterly corner of this tract;

THENCE; North 80° 33' 35" East - 37.24 feet to a 5/8-inch iron rod with cap set for an interior corner of this tract;

THENCE; North 09° 26' 25" West - 75.81 feet to the POINT OF BEGINNING and containing 15.0069 acres (653,699 square feet) of land.

COMPILED BY:

TEXAS ENGINEERING AND MAPPING
Civil Engineers - Land Surveyors
Stafford, Texas
Job No. 656-1
W\656-1.wpd




Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776

ORDINANCE NO. 2013-46

AN ORDINANCE PROVIDING FOR APPROVAL OF AN EXPANSION TO THE TERRITORY OF FORT BEND COUNTY MUD NO. 167 OF FORT BEND COUNTY, TEXAS, TO INCLUDE THAT AREA, WITHIN THE CORPORATE LIMITS OF THE CITY OF ROSENBERG, TEXAS, AS FURTHER PROVIDED FOR HEREIN; AND MAKING CERTAIN FINDINGS OF FACT AND OTHER CONCLUSIONS AS HEREIN SET OUT.

WHEREAS, Fort Bend County MUD No. 167 of Fort Bend County, Texas represents it was previously created in accordance with the provisions of applicable law; and,

WHEREAS, a majority of the owners of the underlying realty and the Board of Directors of Fort Bend County MUD No. 167 (MUD No. 167), Texas have represented and do represent as evidenced by their acceptance of this consent, by instrument filed in the Office of the City Secretary of the City of Rosenberg, that MUD No. 167, was in all things properly created in accordance with the laws of the State of Texas and that there is no reason or impediment of any type which would prevent MUD No. 167 from adding that certain additional territory, specifically described hereafter, the consent of which is hereby requested of the City of Rosenberg, Texas, (Annexation Consent); and,

WHEREAS, the City Council of the City of Rosenberg did previously give its consent for the creation of said MUD No. 167 as to that territory within the corporate limits of the City of Rosenberg; and,

WHEREAS, MUD No. 167, despite its earlier creation, expressly stipulates and agrees, that as part of the consideration for the requested Annexation Consent, it will fully comply with the Rosenberg Code of Ordinances, specifically including Chapter 29, entitled "Utilities," Article V, entitled "Creation of Certain Special Districts," Division 1, "In City Municipal Utility Districts," and that such stipulation and agreement is an express condition precedent on the part of the City of Rosenberg (City), for the Annexation Consent and related agreement to provide utility services to MUD No. 167; and,

WHEREAS, the City Council of the City of Rosenberg finds and determines that the Board of Directors of MUD No. 167 have duly and properly requested the area, boundaries and configuration of said MUD be altered and adjusted to include additional territory within the corporate limits of the City of Rosenberg as herein set out; now, therefore,

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

Section 1. That the City Council of the City of Rosenberg finds and adopts the findings of fact as herein previously set out as being true and correct findings of fact.

Section 2. That the City Council of the City of Rosenberg, Texas, does hereby acknowledge that the Board of Directors of MUD No. 167 have previously requested that

the City Council of the City of Rosenberg give its formal consent in accordance with the referenced condition precedent and applicable law for the expansion of the territory of said MUD No. 167 to include additional area and territory located within the municipal boundaries of the City of Rosenberg.

Section 3. That the City Council of the City of Rosenberg, expressly subject to the condition precedent that MUD No. 167 fully comply with the Rosenberg Code of Ordinances, specifically including Chapter 29, entitled "Utilities," Article V, entitled "Creation of Certain Special Districts," Division 1, "In City Municipal Utility Districts," does hereby give its consent and approves the expansion of the territory of MUD No. 167 to and include all of that area and territory, as set out in the certain exhibit attached hereto and marked Exhibit "A," to include all of the area and territory as therein set out. The consent and approval as herein provided shall be final and binding upon the Board of Directors of MUD No. 167 and the majority of the property owners of the property described and included in the newly configured MUD No. 167, executing and filing a letter with the City Secretary of the City of Rosenberg which shall state that MUD No. 167 is a MUD lawfully created and existing under the laws of the State of Texas, that there is no legal impediment or reason why the area and territory of MUD No. 167 should not be enlarged and configured as described in Exhibit "A," and that MUD No. 167 expressly stipulates and agrees to comply with the above referenced Rosenberg Code of Ordinances.

Section 4. That the City Council of the City of Rosenberg does hereby further direct that the Mayor and City Secretary of the City of Rosenberg, and such officers of the City as shall be necessary and required, shall execute such approvals and other documents that shall be required from time to time in order to effectively place of record and acknowledge that the City Council of the City of Rosenberg has duly and properly approved and consented to this change and modification in the area and territory of the boundaries of the said Municipal Utility District pursuant to the conditions contained herein.

Section 5. That, in addition to the conditions and requirements otherwise set out herein, the consent as herein provided shall be conditioned on the owners of the real property within the geographical configuration of MUD No. 167, hereinafter referred to as "MUD No. 167 property," fully complying with all rules, regulations and requirements that may be in existence or later provided as the same relates to all construction, configuration and the use of land located within the MUD No. 167 property, whether directly expressed or provided by the City of Rosenberg in such other agreements and documents that may be executed relating to the development or use of the MUD No. 167 property.

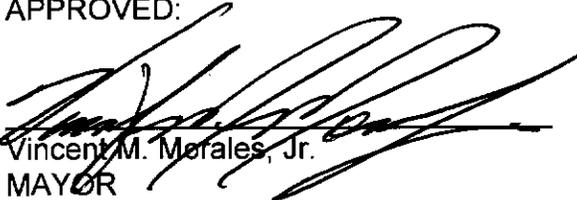
PASSED AND APPROVED by a vote of 7 "ayes" in favor and 0 "noes" against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on this the 3rd of December 2013.

ATTEST:



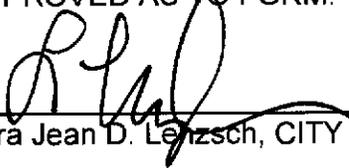
Linda Cernosek
CITY SECRETARY

APPROVED:



Vincent M. Morales, Jr.
MAYOR

APPROVED AS TO FORM:



Lora Jean D. Lenzsch, CITY ATTORNEY



EXHIBIT A

Description of the Land

13.8385 acres, being all of RESTRICTED RESERVES "A," "B" and "C" of THREE MILE CROSSING, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded under Clerk's File No. 20070127 in the Plat Records of Fort Bend County, Texas.

Ms. Beck reported that the proposed changes would account for approximately \$119,700, leaving a deficit of \$8,300. Councilor Hopkins, Councilor Suter, and Mayor Gurecky, members of the Employees Benefit Committee, briefly recounted the challenge to keep up with the spiraling costs for insurance coverage. It was stressed that a great deal of consideration went into the decisions of how to handle the increased costs.

Ken Barefield, 3914 Marilyn Street Rosenberg, TX, spoke as follows:

- Stated appreciation for the City's effort concerning the insurance, noting that these issues present a challenge to the City.
- Expressed concern at the amount of increase in the premium for the retirees, who have a reduced income, with Medicare costs as well. Asked Council to consider lower insurance premiums for retirees who still work for the City on a part-time basis.
- Referred to the cost of \$1300 for a spouse to get back into the insurance program and requested that Council consider letting him back into the program without that expense.

It was pointed out that it is estimated that health care costs would rise from 9% to 12% per year and these costs had to be spread out to retain the coverage. Ms. Beck said that the changes they proposed were consistent with the trend for co-payments, deductibles, and premiums nation-wide. She advised that a memorandum regarding their benefits and compensation package will be sent to City employees.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Suter, to approve the recommendation of the Employee Benefits Committee to implement changes to the City's self-funded health insurance plan. The motion carried by a unanimous vote.

RECESS REGULAR SESSION, RECONVENE SESSION

Mayor Gurecky recessed the Regular Session at 8:51 p.m. and reconvened the Session at 9:06 p.m. *He said that Councilor Martinez had to leave the meeting due to illness.

CONSIDERATION OF AND ACTION ON AUTHORIZATION FOR CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, AN AMENDMENT TO WATER SUPPLY AND WASTEWATER SERVICES CONTRACT BETWEEN THE CITY OF ROSENBERG, TEXAS, AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150.

Mr. Kalkomey advised that the developer of a 15.07 acre tract of land located between US 59 and FM 2218, just west of the intersection of these two highways, requested annexation into Fort Bend County Municipal Utility District No. 150 (MUD No. 150). He noted that the proposed amendment would add an additional 155 equivalent single family connections to MUD No. 150 for this tract. Kalkomey said the petition for annexation into MUD No. 150 will be presented at the next Council meeting. There was a lengthy discussion of this request. David Neeley, City Manager, Charles Kalkomey and Bill Olson, City Attorney, provided members of Council with information relating to the proposed amendment.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Grigar, to approve authorization for the City Manager to execute, for and on behalf of the City of Rosenberg, an Amendment to Water Supply and Wastewater Services Contract between the City of Rosenberg, Texas, and Fort Bend County Municipal Utility District No. 150. Mayor Gurecky asked if the City had the capacity to satisfy this additional service and Mr. Kalkomey confirmed that the City has the capacity now. The motion carried by a unanimous vote of those present.

CONSIDERATION OF AND ACTION ON AUTHORIZATION FOR CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, AN AGREEMENT CONCERNING DEVELOPMENT OF LAND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND ROSENBERG FM 2218, LTD.

Mr. Kalkomey advised that the proposed agreement was for the development of the tract of land discussed in the previous item. He reported that the developer of this 15.07 acre tract of land located between US 59 and FM 2218 requested annexation into Fort Bend County MUD No. 150, so this agreement would outline the responsibilities of both the developer and the City. Kalkomey said that the developer is obligated to construct Bryan Road between US 59 and FM 2218 and for improvements to FM 2218. Mr. Kalkomey said the City is obligated to provide drainage improvements to allow for the development of the tract without detention. He provided details relating to the road improvements, costs and the drainage issues. Mr. Kalkomey advised that the City will request Fort Bend County's assistance with the drainage project.

ACTION: Councilor Grigar made a motion, seconded by Councilor Hopkins, for authorization for the City Manager to execute, for and on behalf of the City of Rosenberg, an Agreement concerning Development of Land between the City of Rosenberg, Texas, and Rosenberg FM 2218, Ltd., amended to insert the word "off-site" between the word "additional" and the word "drainage" on line 5, in Article III. City Obligations, 3.1 Off-Site Drainage Improvements, of the Agreement. The motion carried by a unanimous vote of those present.

CONSIDERATION OF AND ACTION ON ORDINANCE 2005-27 TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY DELETING PARAGRAPH (7) OF SECTION 11-82 OF CHAPTER 11, THEREOF, WHICH PROHIBITS ANY LOCKING DEVICE ON A NOZZLE THAT DISPENSES CLASS 1A LIQUIDS; AND PROVIDING FOR SEVERABILITY.

Rick Todish, Interim Fire Chief, reported that the circumstance that initiated the need to require a locking device on nozzles is no longer valid, partially due to changes in vapor recovery systems, and that the proposed ordinance would delete the portion of the Code of Ordinances adopted in 1989 that prohibited any locking device on a nozzle. He answered questions from the members of Council.

ACTION: Councilor Suter made a motion, seconded by Councilor Grigar, to approve the first and final reading of Ordinance 2005-27, caption as follows: "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY DELETING PARAGRAPH (7) OF SECTION 11-82 OF CHAPTER 11 THEREOF, WHICH PROHIBITS ANY LOCKING DEVICE ON A NOZZLE THAT DISPENSES CLASS IA LIQUIDS; AND PROVIDING FOR SEVERABILITY." The motion carried by a unanimous vote of those present.

CONSIDERATION OF AND ACTION ON ORDINANCE 2005-23 REGARDING THE CREATION OF THE ROSENBERG MUNICIPAL COURT JUVENILE CASE MANAGER FUND AS AUTHORIZED BY STATE LAW BY AUTHORIZING AND DIRECTING THE CREATION OF SAID FUND AND THE USE OF THE PROCEEDS OF SAID FUND IN ACCORDANCE WITH THE ORDINANCE AND STATE LAW.

James A. Baker, Municipal Judge, advised that the Texas Code of Criminal Procedure authored the creation of the Municipal Court Juvenile Case Manager Fund and he requested permission to assess this court fee. Baker reported that if after a year, the collections justified hiring a juvenile case manager, he would like to appoint one. Judge Baker reviewed and discussed the advantages to having a juvenile case manager assist with these juvenile cases. He requested approval of the proposed ordinance. It was pointed out that when this position is considered, space, salary and benefits will have to be included in the cost estimate.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Suter, to approve the first and final reading of Ordinance 2005-23, caption as follows: "AN ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY ADDING THERETO A NEW SECTION 19-39 TO ARTICLE II THEREOF; PROVIDING FOR THE CREATION OF A ROSENBERG MUNICIPAL COURT JUVENILE CASE MANAGER FUND; PROVIDING FOR THE CREATION, ASSESSMENT AND COLLECTION OF A MUNICIPAL COURT JUVENILE CASE MANAGER FEE IN ACCORDANCE WITH ARTICLE 102.0174 OF THE TEXAS CODE OF CRIMINAL PROCEDURE; ADDING SECTION 19-39 OF ARTICLE II, CHAPTER 19; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING OTHER PROVISIONS RELATED TO THE SUBJECT." The motion carried by a unanimous vote of those present.

REVIEW AND DISCUSS THE BAMORE BRIDGE PROJECT, AND TAKE ACTION AS NECESSARY.

Mr. Kalkomey advised that as a part of the agreement with the developer of Fort Bend County MUD No. 148, the City is committed to construct a two-lane road section of Bamore Road from US 59 to the north side of the subdivision, including a bridge structure over Seabourne Creek. He said the funds for this project were provided by the Rosenberg Development Corporation (RDC) in the amount of \$460,000 and City Council originally wanted to build a concrete bridge, but the construction costs have recently risen sharply. Kalkomey reviewed alternate designs--a corrugated metal arch pipe and a galvanized multi-plate arch structure. Each of those structures would include a simple, concrete headwall; but, a decorative headwall could be provided at an additional cost. He discussed the bridge construction and the costs associated with each option, as outlined.

During this discussion, the following subjects were reviewed: (1) Who, besides the developer would be served by the construction of the bridge; (2) TX DOT does not desire to build any more farm-to-market roads,

ACTION: Councilor Hopkins made a motion, seconded by Councilor Sebesta, to approve the waiver of the normal rental fee, but to collect the overtime staffing fee and the \$50.00 refundable deposit. The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON ORDINANCE 2005-31, TO CONSENT TO THE ADDITION OF LAND TO A MUNICIPAL UTILITY DISTRICT BY FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150 AND ROSENBERG FM2218, LTD., A TEXAS LIMITED PARTNERSHIP, (15.0069 ACRES) WITHIN THE CORPORATE LIMITS OF THE CITY OF ROSENBERG.

Charles Kalkomey, City Engineer, described the general location of this property, which is at the southwest corner of U.S. Highway 59 and F.M. Highway 2218 located within the corporate limits of the City of Rosenberg. The owner and the Board of Directors of Fort Bend County MUD No. 150 have requested the City to consent to this tract being added to the existing MUD. Accordingly, a Petition to Consent to Addition of Land to Fort Bend MUD No. 150 and associated Ordinance 2005-31 are presented for consideration by City Council. This tract is adjacent to the Lane Airport tract. Council consented to the addition of 14.6466 acres along Bryan Road to the District on December 14, 2004.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Grigar, to approve Ordinance 2005-31, caption as follows: *"An ordinance providing for approval of an expansion to the territory of Fort Bend County MUD No. 150 of Fort Bend County, Texas to include that area, within the corporate limits of the City of Rosenberg, Texas, as further provided for herein; and making certain findings of fact and other conclusions as herein set out."* The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON ORDINANCE 2005-32, TO CONSENT TO THE ADDITION OF LAND TO A MUNICIPAL UTILITY DISTRICT BY FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 144 AND LUMBERMEN'S INVESTMENT CORPORATION, A DELAWARE CORPORATION, (173.34 ACRES) WITHIN THE CORPORATE LIMITS OF THE CITY OF ROSENBERG.

Charles Kalkomey, City Engineer, explained that Lumbermen's Investment Corporation is proposing that an additional 173.34 acres (located inside the corporate limits of the City of Rosenberg) be added to existing Fort Bend County MUD 144. Accordingly, a Petition for Consent to Addition of land to the Fort Bend MUD No. 144, and associated Ordinance 2005-32 are presented for consideration by City Council. The City consented to the creation of MUD No. 144 and it was approved by City Council on May 3, 2003, and was originally proposed as a 323.02 acre development located within the corporate limits of the City of Rosenberg, with an additional 35.46 acres located in the City's extraterritorial jurisdiction. This proposed annexation will add that portion of the proposed Summer Creek Development currently within the corporate limits of the City into this existing MUD. All required due diligence has been performed, and staff recommends approval of Ordinance 2005-32.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Segura, to approve Ordinance 2005-32, caption as follows: *"An ordinance providing for approval of an expansion to the territory of Fort Bend County MUD No. 144 of Fort Bend County, Texas to include that area, within the corporate limits of the City of Rosenberg, Texas, as further provided for herein; and making certain findings of fact and other conclusions as herein set out."* The motion carried by a unanimous vote.

CONSIDER MOTION TO ADJOURN FOR EXECUTIVE SESSION.

Councilor Hopkins made a motion, seconded by Councilor Segura to adjourn for Executive Session. The motion carried by a unanimous vote.

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

Mayor Gurecky adjourned the Executive Session and reconvened the meeting into Special Session.

meetings on this issue, that the streets in Suburban Estates did not meet the TxDOT standards for a thoroughfare. If that much traffic is using them they don't meet the standards. Our streets have no curbs or sidewalks and as a resident in this neighborhood I've heard continuously over the past two years my neighbors concerns about keeping our neighborhood a safe place where we can safely walk and interact with our neighbors I thank you for the temporary relief given during the construction on FM 2218.

- I would ask that as you continue to encourage the development of Rosenberg, and many of these developments have brought more traffic through our neighborhood, that you take measures to insure that our neighborhood stays safer and continues to be a place we can enjoy.

Questions/Comments:

- Council members reviewed a traffic analysis from October and November. The analysis indicated cut-through traffic varied between 17 percent and 66 percent and a 47 percent average.
- The general consensus of Council was that the area needs some relief.
- Some concern was expressed on setting precedence for the area and concern with other neighborhoods wanting the same for their neighborhoods.
- Four studies have been conducted on Homestead Road since 2011. This year's data reflects traffic after the completion of the FM 2218 construction project and Homestead Road's reopening on August 12.
- Discussion was held regarding the addition of stop signs and lowering the speed limit to 25 mph.
- Charles Kalkomey, City Engineer stated that stop signs are not a recognized traffic calming mechanism. The conditions by engineering guidelines don't warrant putting multi-way stop signs. You can put them in if you want to do that but it does not come with an engineering recommendation.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to install stop signs at Allwright, Lazy Lane, and Richard Streets and reduce the speed limit to twenty-five (25) miles per hour. The motion carried by a unanimous vote.

11. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2013-46, AN ORDINANCE PROVIDING FOR APPROVAL OF AN EXPANSION TO THE TERRITORY OF FORT BEND COUNTY MUD NO. 167 OF FORT BEND COUNTY, TEXAS, TO INCLUDE THAT AREA WITHIN THE CORPORATE LIMITS OF THE CITY OF ROSENBERG, TEXAS, AS FURTHER PROVIDED FOR HEREIN; AND MAKING CERTAIN FINDINGS OF FACT AND OTHER CONCLUSIONS AS HEREIN SET OUT.

Executive Summary: The developer of the Rosenberg Business Park, Fuller Realty Partners (Developer), wishes to dissolve Municipal Utility District No. 150 (MUD No. 150). The 182-acre tract the Developer owns is located within MUD No. 150. MUD No. 150 has never sold bonds or imposed a property tax, and was created to facilitate the residential subdivision originally planned for the property. However, certain infrastructure was constructed by another property owner (Rosenberg F.M. 2218, Ltd.) located in MUD No. 150. That property is the 13.8385 acres located between F.M. 2218 and the U.S. Highway 59 Frontage Road, and split by Bryan Road. MUD No. 150 has an obligation to Rosenberg F.M. 2218, Ltd. to reimburse this developer for the cost of the infrastructure. The reimbursement was to take place once development has occurred and a property tax was established by MUD No. 150. Bonds could then be sold to accommodate the reimbursement.

Attorneys for the Developer and MUD No. 150 have proposed a solution whereby the 13.8385 acres is annexed into MUD No.167 (Brazos Town Center), and these obligations could be addressed through MUD No. 167 when development occurs. MUD No. 150 would then be dissolved and all remaining obligations settled by the Developer. All parties have consented to the arrangement and the last remaining step before the formal annexation (addition of the site into MUD

No. 167) is approval by the City. There would be no financial impact to the City.

Staff has reviewed the documentation and found it to be in compliance with applicable City ordinances. Attachments to the November 11, 2013, correspondence from David Oliver will be available for review in the City Secretary's Office in advance of the meeting. Staff recommends approval of Ordinance No. 2013-46, consenting to the annexation of the 13.8385acre tract by Fort Bend County Municipal Utility District No. 167.

Key discussion points:

- Matt Fielder gave an overview of the item regarding Ordinance No. 2013-46.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Ordinance No. 2013-46, an Ordinance providing for approval of an expansion to the territory of Fort Bend County Mud No. 167 of Fort Bend County, Texas, to include that area within the corporate limits of the City of Rosenberg, Texas, as further provided for herein; and making certain findings of fact and other conclusions as herein set out. The motion carried by a unanimous vote.

12. **CONSIDER MOTION TO ADJOURN FOR EXECUTIVE SESSION.**

Action: Councilor Euton made a motion, seconded by Councilor McConathy to adjourn for Executive Session. The motion carried by a unanimous vote.

13. **HOLD EXECUTIVE SESSION FOR CONSULTATION WITH CITY ATTORNEY TO SEEK OR RECEIVE ADVICE ON LEGAL MATTERS REGARDING PENDING OR CONTEMPLATED LITIGATION PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE; AND, FOR DELIBERATIONS ON THE APPOINTMENT OF POLICE CHIEF PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE.**

An Executive Session was held for consultation with City Attorney to seek or receive advice on legal matters regarding pending or contemplated litigation pursuant to Section 551.071 of the Texas Government Code; and, for deliberations on the appointment of Police Chief pursuant to Section 551.074 of the Texas Government Code.

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

Mayor Morales adjourned the Executive Session and reconvened into Regular Session at 9:16 p.m. Action was taken on the item for appointment of Police Chief pursuant to Section 551.074 of the Texas Government Code. That assessment being between two firms to conduct the practical assessment of the final candidates for the Police Chief position. The Waters Consulting Group, Inc. and Steve Griffith Consulting were presented to Council in Executive Session.

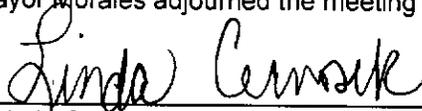
Action: Councilor McConathy made a motion, seconded by Councilor Bolf to approve Steve Griffith Consulting to conduct the practical assessment of the final candidates for the Police Chief position. The motion carried by a unanimous vote.

15. **ANNOUNCEMENTS.**

- Gazebo lighting Wednesday night, December 4, 2013.
- Christmas in Rosenberg Saturday, December 7, 2013.
- Channel 13 Food Drive Friday, December 6, 2013, at Terry High School.

16. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 9:20 p.m.



Linda Cernosek, TRMC, City Secretary



CITY COUNCIL COMMUNICATION

September 15, 2015

ITEM #	ITEM TITLE
C	Resolution No. R-2035 – Agreement and Acknowledgement of Termination of Water Supply and Wastewater Services Contract
ITEM/MOTION	
Consideration of and action on Resolution No. R-2035, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Agreement and Acknowledgement of Termination of Water Supply and Wastewater Services Contract Between the City of Rosenberg, Texas, and 2218 Rosenberg L.P.	
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 #: 150 (Wind Meadows)

1. Resolution No. R-2035
2. MUD No. 150 - Water Supply and Wastewater Services Contract with Amendment - 04-20-04
3. MUD No. 150 - Assignment of Water Supply and Wastewater Services Contract - 12-14-04
4. Ordinance No. 2013-46 - 12-03-15 (See Item No. B)
5. MUD No. 150 - Certificate for Order Dissolving the District - 12-05-13 (See Item No. B)
6. City Council Meeting Minute Excerpt - 04-20-04
7. City Council Meeting Minute Excerpt - 12-14-04
8. City Council Meeting Minute Excerpt - 11-01-05 (See Item No. B)
9. City Council Meeting Minute Excerpt - 12-03-13 (See Item No. B)

APPROVALS

Submitted by:


 Randall Malik
 Economic Development
 Director

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney - *JM/rm*
- City Engineer
- Exec. Dir. of Community Development *TLT*

Approved for Submittal to City Council:


 Robert Gracia
 City Manager

EXECUTIVE SUMMARY

On April 20, 2004, the City of Rosenberg entered into a Water Supply and Wastewater Services Contract (Contract) with 2218 Rosenberg, L.P. The Contract provided the developer the authority to utilize Fort Bend County Municipal Utility District No. 150 (MUD No. 150) to construct, finance, own and operate a water distribution system and a wastewater collection system to serve development occurring within their boundaries. This was specifically for the Wind Meadows development, consisting of 655 proposed residential lots at the time. Subsequently, the Contract was assigned to the MUD No. 150 on December 14, 2004. Additionally, the City and MUD No. 150 amended the Contract on November 1, 2005, to service 15.0069 acres including acreage owned by Rosenberg FM 2218, Ltd. However, the proposed Wind Meadows development did not materialize and the City reached an Agreement in 2013 for the subject property to be developed as the Rosenberg Business Park. Further, the acreage owned by Rosenberg FM 2218, Ltd., was annexed into MUD No. 167. The latter two (2) events essentially made MUD No. 150 no longer necessary. The Board of Directors of MUD No. 150 approved an order dissolving the District on December 5, 2013.

This Resolution No. R-2035 serves to formally terminate the Contract between the City of Rosenberg and the District as agreed upon by the City and MUD No. 150. Staff recommends approval of Resolution No. R-2035 as presented.

RESOLUTION NO. R-2035

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 AGREEMENT AND ACKNOWLEDGEMENT OF TERMINATION OF WATER SUPPLY AND WASTEWATER SERVICES CONTRACT BETWEEN THE CITY OF ROSENBERG AND 2218 ROSENBERG, L.P.

* * * * *

WHEREAS, the City Council of the City of Rosenberg, Texas, passed and approved a Water Supply and Wastewater Services Contract (Contract) between the City of Rosenberg and 2218 Rosenberg, L.P., on April 20, 2004; and,

WHEREAS, the Contract was assigned by 2218 Rosenberg L.P., to Fort Bend County Municipal Utility District No. 150 (MUD No. 150) on December 14, 2004; and,

WHEREAS, the City and District amended the Contract on November 1, 2005, to service 15.007 acres owned by Rosenberg FM 2218, Ltd.; and,

WHEREAS, the Board of Directors of MUD No. 150, approved an order dissolving the District on December 5, 2013; now therefore,

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

Section 1. The City Manager is hereby authorized to execute an Agreement and Acknowledgement of Termination of Water Supply and Wastewater Services Contract by and between the City of Rosenberg and 2218 Rosenberg, L.P.

Section 2. A copy of said Agreement and Acknowledgement of Termination of Water Supply and Wastewater Services Contract is attached hereto as Exhibit "A" and made a part hereof for all purposes.

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

ATTEST:

APPROVED:

Linda Cernosek, **CITY SECRETARY**

Amanda J. Barta, **MAYOR PRO TEM**

IN WITNESS WHEREOF, the Parties have executed this Termination Agreement as of the date and year first written above.

“CITY”

CITY OF ROSENBERG

By: _____
Name: _____
Title: _____

ATTEST:

APPROVED:

By: _____
City Secretary

By: _____
City Attorney

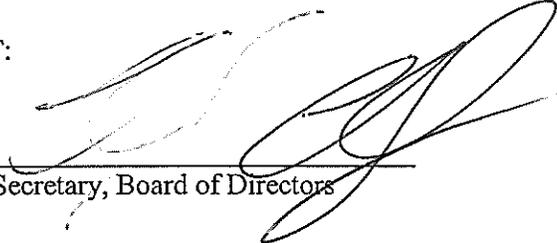
CITY SEAL

“DISTRICT”

**FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 150**

By: 
President, Board of Directors

ATTEST:

By: 
Secretary, Board of Directors

DISTRICT SEAL



WATER SUPPLY AND WASTEWATER
SERVICES CONTRACT BETWEEN THE CITY OF ROSENBERG, TEXAS
AND 2218 ROSENBERG, L.P.

[IN-CITY CONTRACT]

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- Exhibit C - Development Plan

**WATER SUPPLY AND WASTEWATER SERVICES CONTRACT
BETWEEN THE
CITY OF ROSENBERG, TEXAS, AND
2218 ROSENBERG, L.P. (ON BEHALF OF
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150)**

THIS WATER SUPPLY AND WASTEWATER SERVICES CONTRACT ("Utility Contract") is entered into as of the date specified in Section 7.13 hereof, by and between THE CITY OF ROSENBERG, TEXAS (the "City"), a municipal corporation and home-rule city situated in Fort Bend County and 2218 ROSENBERG, L.P., a Texas Limited Partnership, as "Developer", on behalf of proposed Fort Bend County Municipal Utility District No. 150, to be created as a body politic and corporate and a governmental agency of the State of Texas under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, as amended ("District"). (It is the intention of the parties to this Utility Contract that all rights, benefits and obligations pursuant to this Utility Contract shall ultimately be assigned to the District upon its creation. Thus, the representations by the District at this time represent the Developer's commitment to cause or direct the same to occur.)

Recitals

WHEREAS, the City is a home-rule city and municipal corporation that provides a full-range of governmental services to its citizens. The City owns and operates water production and distribution facilities, wastewater collection and treatment facilities, and a fire department; and

WHEREAS, the Developer has purchased or intends to purchase a tract of approximately 170.8 acres which is within the City's corporate limits (the "Tract") attached hereto as Exhibit "A-1" and incorporated herein. The City has consented to the creation of the District over the Tract. The Developer plans to request the District to construct, finance, own and operate a water distribution system and a wastewater collection system to serve development occurring within the boundaries of the District. The development will occur in phases and the Developer anticipates that each phase will be platted separately; and

WHEREAS, the parties recognize that the District cannot approve and execute this Utility Contract until the District is created by the Texas Commission on Environmental Quality and confirmed by a majority of the votes cast at the confirmation election. The City has agreed to provide the services described herein under the conditions and terms set forth in this Utility Contract; and

WHEREAS, this Utility Contract is entered into under the authority of Local Government Code Section 402.014, as amended, and applicable provisions of Chapters 49 and 54 of the Texas Water Code, as amended, and applicable provisions of the City of Rosenberg Code of Ordinances; and

WHEREAS, the City and the Developer have determined that they are authorized by the Constitution and laws of the State of Texas to enter into this Utility Contract and have further determined that the terms, provisions and conditions hereof are mutually fair and advantageous to each. NOW THEREFORE;

AGREEMENT

For and in consideration of the mutual promises, obligations, and benefits contained herein, and subject to the Consent Ordinance of even date herewith, the City, the Developer, and the District agree as follows:

ARTICLE I. DEFINITIONS AND EXHIBITS

1.1 Definitions. Unless the context indicates otherwise, the following words as used in this Utility Contract shall have the following meanings:

Annual Payments means the annual payments, if any, to be made by the City to the District as provided in Section 5.1 and 5.2 hereof.

Approving Bodies shall mean the City, Fort Bend County, Texas, the Texas Commission on Environmental Quality, the Attorney General of Texas, the Comptroller of Public Accounts of Texas, the United States Department of Justice and all other federal, state and local governmental authorities having regulatory jurisdiction and authority over the financing, construction or operation of the Facilities or the subject matter of this Utility Contract.

Bonds shall mean the District's bonds, notes or other evidences of indebtedness issued from time to time for the purpose of financing the costs of acquiring, constructing, purchasing, operating, repairing, improving or extending the Facilities as more fully set forth in Rosenberg Code of Ordinances 29-232, whether payable from ad valorem taxes, the proceeds of one or more future bond issues or otherwise, and including any bonds, notes or similar obligations issued to refund such bonds.

City means the City of Rosenberg, Texas.

City Drainage Tax Rate means the City's tax rate attributable to drainage as calculated pursuant to Article V of this Utility Contract as expressed per \$100 assessed valuation.

City Water System means all the water production pumps, lines, meters, components, facilities, and equipment owned and used by the City to pump, treat, monitor, convey, supply, and distribute Water to the public.

City Wastewater System means all the wastewater treatment facilities, lines, components and equipment owned and used by the City to collect, convey, treat, monitor, regulate, and dispose of Wastewater.

Consent Ordinance means the ordinance of even date herewith adopted by the City consenting to the creation of the District.

Commission means the Texas Commission on Environmental Quality and any successor or successors exercising any of its duties and functions related to municipal utility district.

Detention Tract means the approximately 10 acres located in the District and used for detention facilities to serve the Tract, as shown generally in Exhibit "A-2".

Developer means "2218 Rosenberg, L.P.", a Texas Limited Partnership, its successors and assigns.

Development Plan means the conceptual plan for the development within the MUD attached as Exhibit "C" and approved simultaneously herewith.

District means Fort Bend County Municipal Utility District No. 150, to be created as a body politic and corporate and a governmental agency of the State of Texas and to be organized under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 Texas Water Code, as amended, and which is proposed to include within its boundaries approximately 170.8 acres of land situated wholly within the corporate limits of the City, as described in Exhibit A-1 attached hereto and incorporated herein by reference for all purposes.

District Assets means (i) all rights, title and interests of the District in and to the Facilities, (ii) any Bonds of the District which are authorized but have not been issued by the District, (iii) all rights and powers of the District under any agreements or commitments with any persons or entities pertaining to the financing, construction or operation of all or any portion of the Facilities and/or the operations of the District, and (iv) all books, records, files, documents, permits, funds and other materials or property of the District.

District's Obligations means (i) all outstanding Bonds of the District, (ii) all other debts, liabilities and obligations of the District to or for the benefit of any persons or entities relating to the financing, construction or operation of all or any portion of the Facilities or the operations of the District, and (iii) all functions performed and services rendered by the District, for and to the owners of property within the District and the customers of the Facilities.

Engineers or District Engineers means Pate Engineers, Inc., consulting engineers, or its replacement, successor or assignee designated by the District as its engineer.

Engineering Reports means and refer to that certain Preliminary Engineering Report prepared by the Engineers relating to the creation of the District and describing the initial scope and extent of the Facilities and any additional engineering reports prepared by the Engineers from time to time relating to the issuance of Bonds by the District and operation of the District, copies of which shall be on file in the offices of the District.

Equivalent Single-Family Connection or ESFC means that daily measure of Water and Wastewater that is attributed to one single-family residential home as determined by the City.

Facilities means and include the water supply and distribution, sanitary sewer collection, transportation and treatment, and storm water collection, detention and drainage systems constructed or acquired or to be constructed or acquired by the District to serve lands within and adjacent to its boundaries, and all improvements, appurtenances, additions, extensions, enlargements or betterments thereto, together with all contract rights, permits, licenses, properties, rights-of-way, easements, sites and other interests related thereto, all as more fully described in the Engineering Reports.

Regional Improvements means those Facilities described in Section 2.7 which serve areas outside and inside the District and which may include, but not be limited to: sanitary sewer trunk lines, lift stations and force mains, water trunk lines, offsite drainage right-of-way and ditch improvements, and transportation improvements.

Single-Family Residential Home means a building designated to be used and occupied by one family, with a detached single-family residence being one residential home, a duplex being two residential homes, and each unit in an apartment complex being one residential home.

Tract means the 170.8 acres of land to be developed by the Developer as described in Exhibit "A-1", and to which the City has agreed to provide the services described in this Utility Contract.

Wastewater means the water-carried wastes, exclusive of ground, surface, and storm waters, normally discharged from the sanitary conveniences of residential or commercial structure of a domestic nature (not industrial), meeting the requirements of the City set forth in the City's Code of Ordinances.

Wastewater Service means the services provided by the City in receiving, treating, testing, and disposing of Wastewater from the District.

Water means potable water that meets Federal and State standards for consumption by humans.

Water Supply Service means the services provided by the City in treating, pumping, transporting, and delivering of Water to the District for consumption by District customers in accordance with this Utility Contract.

1.2 Exhibits. The following Exhibits attached or to be attached to this Utility Contract are a part of the Contract as though fully incorporated herein:

- | | | |
|-------------|---|------------------------------------------------------------------|
| Exhibit A-1 | - | Description of the District |
| Exhibit A-2 | - | Description of the Detention Tract |
| Exhibit B | - | In City Procedures (Rosenberg Code of Ordinances Section 29-232) |
| Exhibit C | - | Development Plan |

ARTICLE II.
AGREEMENT CONCERNING WATER SUPPLY
AND WASTEWATER SERVICES TO THE DISTRICT

2.1. City's Obligation to Provide Services. The City agrees to provide Water Supply Services to the District to serve the Tract in accordance with the terms and conditions of this Utility Contract. The City agrees to accept Wastewater from and to provide Wastewater Services to the District to serve the Tract in accordance with the provisions of this Utility Contract.

2.2. Assignment to District. The parties hereto assume that this Utility Contract will be assigned by the Developer to the District after creation of the District. Any provision of this Utility Contract, whether referring to the Developer or the District, shall apply to the Developer until assigned to the District as provided by this Utility Contract; thereafter all provisions, except those contained in Article III, shall apply to the District.

2.3. Standard of Service. The Water Supply Services and Wastewater Services provided by the City to the Developer under this Utility Contract shall be equivalent in quality to the water supply and wastewater services the City provides to other City customers. Nothing contained in this Utility Contract shall create or imply in the Developer or the District a preferential right to the Water Supply Services or Wastewater Services over other customers within the City.

2.4. Maximum Number of Connections. The City agrees to provide up to 693 ESFCs to serve the District. The Tract is not currently within an impact fee service area.

2.5. Facilities. The Facilities, as described in the Engineering Reports, will be designed and constructed in compliance with all applicable requirements and criteria of the applicable Approving Bodies and will be subject to the Consent Ordinance. The design and construction of the Facilities will be subject to the review and approval of the City. The District shall design, construct or extend the Facilities in such phases or stages as the District, in its sole discretion, from time to time may determine to be economically feasible. All designs, design standards, construction plans and drawings for any plants, facilities, connectors or points of connection including all supporting facilities must be reviewed by and approved by the City Engineer before any implementation or construction shall occur as provided herein.

2.6. Letter of Assurance and Issuance of Assignments of Capacity by the District. The City agrees that, at such time as the District has acquired Water Supply Service or Wastewater Service from the City, the City shall, upon reasonable request, issue a letter of assurance that the District is entitled to the use and benefit of such capacity. The letter of assurance shall provide for the use and benefit of quantities of services up to, but not in excess of, the capacities as provided for herein.

The District shall have the right to assign all or part of its capacity on assignment forms approved by the City for reservation of capacity to landowner(s) and developer(s) within its boundaries. At such time as a landowner or developer located within the boundaries of the District

requests a building permit from the City, the City shall honor such assignments of capacity or agreements; provided, however, that the City shall have no duty to honor any assignment of capacity that in the City's sole opinion was not validly issued or which will result in capacity which exceeds the uncommitted capacity reserved by the District.

2.7. Design and Construction of the Facilities; Regional Improvements; Right-of-Way. The Facilities shall be constructed by or on behalf of the District at the District's sole expense and shall be designed using the City's current standard criteria. It is understood and agreed that certain of the Facilities (consisting of sanitary sewerage facilities, water facilities, and drainage facilities) may be oversized to serve areas located within and/or outside the corporate limits of the City but not within the District (hereinafter referred to as "Regional Improvements"). If the City identifies certain Regional Improvements and declares same to the District prior to their construction pursuant to the terms and conditions herein, the District shall be responsible for the engineering and construction of Regional Improvements, and the City shall be responsible for any oversizing. The District agrees that it will provide the necessary engineering and construction for the Regional Improvements, including all necessary appurtenances, subject to the City's obligation to pay its share as set forth below. Before commencing construction of the Regional Improvements, the District must receive the written approval from the City of (i) the plans and specifications for the Regional Improvements, and (ii) a detailed cost estimate for the construction of the Regional Improvements. The cost estimate shall detail which portions of the costs are to serve the District and which portions of the costs are to serve property outside the District (the "Oversizing Costs"). Upon written approval of the plans and specifications and the cost estimate, the District may proceed to construct the Regional Improvements; provided, however, that the City Council of the City shall have the opportunity to review and approve the special provision relating to any payment by the City for Oversizing Costs prior to execution of the construction contract. Following said approval, the City shall execute the special provision of the construction contract which will provide that the City shall pay for the agreed Oversizing Costs directly to the contractor upon receipt of a written pay estimate from the District specifying the City's share. The City shall have the right to inspect the construction of the Regional Improvements. Upon completion of the Regional Improvements, the City shall inspect the same and shall note any deficiencies in the construction of the Regional Improvements. Upon completion, the District shall convey the Regional Improvements and any right-of-way for the Regional Improvements to the City, subject to its acceptance, and the City shall be responsible for the operation and maintenance of the Regional Improvements. The District shall warrant the Regional Improvements or cause any construction contract warranty to run to the City for a period of one year after final completion of the Regional Improvements. Before beginning construction on the Regional Improvements, the District shall provide the City with executed copies of payment and performance bonds that comply with all applicable requirements of law, specifically including the bond requirements of Texas Government Code Chapter 2253 and that name the City as an additional obligee on such bonds. Evidence of proper authority of all signing officers or representatives must be submitted. Additionally, the City shall be provided with a copy of a Certificate of Insurance reflecting that the contractor has general liability and/or excess coverage of at least \$1,000,000 per occurrence and \$2,000,000 aggregate coverage and that the City has been named as an additional insured under said policy. The Certificate of Insurance shall provide that such insurance will not be canceled without at least thirty (30) days prior written notice to the City.

2.8. Ownership by City. As the Facilities are acquired and constructed, the District shall convey the same to the City (except for stormwater detention systems related solely to the Tract) including all warranties, reserving, however, a security interest therein for the purpose of securing the performance of the City under this Utility Contract. The conveyance to the City shall be subject to the acceptance by the City after inspection by the City. At such time as the District's Bonds issued to acquire and construct the Facilities have been discharged, the District shall execute a release of such security interest and the City shall own the Facilities free and clear of such security interest. The District shall not convey, and the City shall not accept, stormwater detention facilities unless specifically provided to the contrary in paragraph 2.9 for Regional Improvements.

2.9. Operation by the City. As construction of each phase of the Facilities (except for stormwater detention systems) is completed, representatives of the City shall inspect the same and, if the City finds that the same has been completed in accordance with the final plans and specifications, the City will accept the same, whereupon such Facilities shall be conveyed to the City as provided in Section 2.8 and operated and maintained by the City at its sole expense as provided herein. In the event that the Facilities have not been completed in accordance with the final plans and specifications, the City will advise the District in what manner said Facilities do not comply, and the District shall immediately correct the same; whereupon the City shall again inspect the Facilities and accept the same if the defects have been corrected. During the term of this Utility Contract, the City will operate the Facilities and provide Water Supply Service and Wastewater Service to all users within the District without discrimination. The City shall at all times maintain the Facilities or cause the same to be maintained, in good condition and working order and will operate the same, or cause the same to be operated, in an efficient and economical manner at a reasonable cost and in accordance with sound business principles in operating and maintaining the Facilities, and the City will comply with all contractual provisions and agreements entered into by it and with all valid rules, regulations, directions or orders by any governmental, administrative or judicial body promulgating the same. Sites for stormwater detention systems shall be conveyed to the District. Notwithstanding the foregoing, prior to the first connection to the Water System within the Tract being made, the District shall enter into a contract with the homeowners association within the District, or other entity acceptable to the City, but hereinafter referred to as "HOA". Said contract shall provide that (a) the HOA will operate and maintain the stormwater detention systems from inception at no cost to the District or the City, (b) the District will grant an easement to the HOA for said purpose, or (c) if the District will be dissolved pursuant to any applicable law, the HOA, prior to the effective date of dissolution, will accept conveyance of the sites for stormwater detention systems in fee from the District, it being understood and agreed that, pursuant to the Ordinance, the City will not own, operate or maintain any stormwater detention Facilities related solely to the Tract. Notwithstanding anything herein to the contrary, if the stormwater detention system is identified as a Regional Improvement, the stormwater detention system shall, in the sole discretion of the City, be conveyed in fee to the City pursuant to Section 2.7 herein for the City to own, operate, and maintain.

2.10. Rates and Meters. The City shall bill and collect from customers of the Facilities and shall from time to time fix such rates and charges for such customers of the Facilities as the City, in its sole discretion, determines are necessary; provided that the rates and charges for services afforded by the Facilities will be equal and uniform to those charged other similar classifications of users in non-municipal utility district areas of the City. All revenues from the

Facilities shall belong exclusively to the City. The City shall be responsible for providing and installing any necessary meters with the individual customers.

2.11. Connection Charges. Notwithstanding any City ordinance to the contrary and except as otherwise specifically set forth herein, the City may impose a charge for connection to the Facilities at a rate to be determined from time to time by the City, provided the charge is equal to the sums charged other City users for comparable connections, and the connection charges shall belong exclusively to the City.

2.12. Default; Remedies. Any party to this Utility Contract that believes that the other party to this Utility Contract has defaulted in the performance of any condition, term, or obligation owed to that party under this Utility Contract shall within ten (10) business days after discovery of said default, give written notice of the default to the defaulting party, specifying in detail the provision or provisions of this Utility Contract that have allegedly been breached, what specific action must be taken to cure or correct the default, and requesting that the City Council of the City provide the parties an opportunity to be heard in public session to discuss the default at the next scheduled city council meeting. The City Council, after review of such request, shall determine whether to provide the parties the opportunity to be heard in public session to discuss the default at the next scheduled city council meeting. Should the party receiving the notice fail to commence action to correct the default within the time determined by City Council and/or thereafter fail to diligently pursue the completion of the action to correct the default, or should City Council determine not to hear the matter, the party giving the notice of default may exercise other available remedies at law and in equity. Notwithstanding the foregoing, the parties hereto shall have all remedies provided at law and in equity with respect to this Utility Contract.

2.13. Temporary Service to the Tract. The City agrees that mobile homes in the District may be served temporarily with potable water wells and a septic system, if necessary as determined by the City in its discretion, in order to conduct an election within the District to confirm its creation as required by law. Said mobile homes may be placed at locations to be designated by Developer at a future date which homes may be located on the designated site until the earlier of the date which is eighteen (18) months after the date of the Order of the Commission creating the District or the date which is one (1) year after directors are elected to serve on the Board of Directors of the District at which time such mobile homes will be removed at the expense of the Developer or District, as appropriate. Said homes must comply with applicable provisions of the City's Code of Ordinances, with the exception of provisions regulating location of mobile homes, and any deed restrictions in effect relative to the designated site. Additionally, all water wells for such service shall be capped and septic systems removed by the District in compliance with all applicable Codes, regulations and law on or before the date of removal of the subject mobile homes, as provided herein.

**ARTICLE III.
DEVELOPMENT PLAN AND DEVELOPER OBLIGATIONS**

3.1. Development Plan. The Developer's Development Plan for the overall development of the District is attached as Exhibit "C." The City and the Developer agree that specific approvals are required for each phase or part of the Development Plan, provided, however, that the City shall not withhold such approvals if the applicable phase or part is substantially in conformance with the Development Plan. In addition, the parties agree as follows:

(a) The Developer understands and agrees that a portion of the consideration for the City to enter into this Utility Contract is the Developer's obligation to develop the property consistent with the Development Plan. The creation of the District was predicated on the Developer's ability to develop the Property in conformance with the Development Plan. The City, the Developer, and the District agree that the Developer shall develop, and the City shall allow development of, the Tract in accordance with the Development Plan. The current Development Plan presented to the District by the Developer provides for 132.85 net acres of single family development, 9.77 net acres of commercial development and the balance of the land shall be for recreational facilities, stormwater detention, open spaces and roadways, as shown on Exhibit "C." Any material change to the Development Plan, as determined by the City, shall be approved by the City and shall conform to the then-current City standard criteria.

(b) The City, the Developer, and the District recognize the City's rights and obligations to insure that all Facilities are constructed in accordance with approved plans and specifications. The City, the Developer, and the District agree that the City shall be named as an additional beneficiary on all construction, payment, performance, and maintenance bonds and that no additional bonds shall be required of the Developer or the District.

(c) The obligations provided in this Article shall be obligations solely of the Developer and shall not be obligations of the District. Further, the Developer's obligations in this Article shall survive the creation of the District and shall exist for the term of this Utility Contract. Notwithstanding any other provision of this Utility Contract, the Developer may not assign any of its obligations under this Article to the District or any other person or entity without the written consent of the City.

3.2 Traffic Improvements.

(a) Traffic Impact Analysis. The Developer hereby agrees, at its sole cost and expense, to prepare an updated Traffic Impact Analysis (TIA) acceptable to the City prior to the City's approval of any plat which shall result in 400 or more platted lots within the District. The subject TIA shall specifically, but shall not be limited to, traffic conditions and needs on F.M. 2218, including traffic signals.

(b) The Developer hereby agrees, at its sole cost and expense, to construct any traffic improvements required by the Texas Department of Transportation ("TxDOT"), identified by the TIA, or determined by the City as being attributable or related to development

within the District. Such improvements shall be constructed in accordance with TxDOT criteria and shall be completed within time frames prescribed by the TIA, TxDOT, or the City

3.3 Airport Notice. Developer acknowledges that the Tract is located in the vicinity of Lane Aviation, Inc. and may be impacted by increased noise and other conditions caused by flights in and out of said airport. Developer hereby agrees to provide notice of same to any subsequent purchaser of land within the District and to require in any contract with homebuilders that said homebuilders obtain the acknowledgment of such notice by any homebuyer upon the purchase of any home.

ARTICLE IV FINANCING OF FACILITIES

4.1 Authority of District to Issue Bonds. The District shall have authority to issue, sell and deliver Bonds from time to time, as deemed necessary and appropriate by the Board of Directors of the District, for the purposes, in such forms and manner and as permitted or provided by federal law, the general laws of the State of Texas and the Consent Ordinance. No Bonds shall be issued by the District unless all terms and conditions of the City's Procedures for the Creation of In-City Municipal Utility Districts attached as Exhibit "B" and of the Consent Ordinance have been followed. Further, the City shall not make such an objection on any basis except non-compliance by the District with the conditions set forth in Section 29-232, subsection 16 of the City's Code of Ordinances, as amended, as and if applicable to the specific series of Bonds then submitted for approval.

4.2 Bonds as Obligation of District. Unless and until the City shall dissolve the District and assume the District Assets and District Obligations, the Bonds of the District, as to both principal and interest, shall be and remain obligations solely of the District and shall never be deemed or construed to be obligations or indebtedness of the City.

ARTICLE V. ANNUAL PAYMENTS AND DISTRICT TAXES

5.1 Calculation of Annual Payments. The revenues generated from within the District by the City Drainage Tax Rate, if any, shall be rebated to the District under this Section. Expressed as a formula, the Annual Payment is:

$$\text{City Drainage Tax Rate} \times \text{District Taxable Assessed Valuation} / 100$$

The Parties recognize that the City Drainage Tax Rate may increase or decrease over time. As such, the City shall annually reevaluate and determine the City Drainage Tax Rate for the purposes of this Utility Contract. The Parties shall use the City's most recent Comprehensive Annual Financial Report and the District's most recent certified tax roll from the Fort Bend Central Appraisal District for the actual collected basis.

5.2 Payment of Annual Payment. The Annual Payment shall begin on February 1 in the calendar year following the calendar year for which the District initially receives a tax roll from the Fort Bend Central Appraisal District and shall be payable each February 1 thereafter (the "Payment Date"), with each such Annual Payment being applicable to the calendar year preceding

the calendar year of each such February 1 (e.g., if the District receives a tax roll for the calendar year 2004, the Annual Payment for such year will be due February 1, 2005). Developer shall be obligated to furnish the City with the certified tax rolls and any related documentation for the requested rebate and make a request for rebate on or before January 31 of each year as provided herein.

5.3 Access to Records for Verifying Calculation of Annual Payments. The City shall maintain proper books, records and accounts of all ad valorem taxes levied by the City from time to time and the calculation of the City's Drainage Tax Rate in the City's Department of Finance and Administration, and shall afford the District or its designated representatives reasonable access thereto for purposes of verifying the amounts of the City's Drainage Tax Rate and the Annual Payment during normal business hours, subject, however, to the provisions of the Texas Open Records Act and other applicable confidentiality laws.

5.4 District Taxes. The District is authorized to assess, levy and collect ad valorem taxes upon all taxable properties within the District to provide for (i) the payment in full of the District's Obligations, including principal, redemption premium, if any, or interest on the Bonds and to establish and maintain any interest and sinking fund, debt service fund or reserve fund and (ii) for administration, operation, and maintenance purposes, all in accordance with applicable law. The parties agree that nothing herein shall be deemed or construed to prohibit, limit, restrict or otherwise inhibit the District's authority to levy ad valorem taxes as the Board of Directors of the District from time to time may determine to be necessary. The City and the District recognize and agree that all ad valorem tax receipts and revenues collected by the District, together with all Annual Payments shall become the property of the District and may be applied by the District to the payment of all or any designated portion of the principal or redemption premium, if any, or interest on the Bonds or otherwise in accordance with applicable law.

5.5 Sale or Encumbrance of Facilities. It is acknowledged that the District may not dispose of or discontinue any portion of the Facilities:

ARTICLE VI. DISSOLUTION OF THE DISTRICT

6.1 Dissolution of District Prior to Retirement of Bonded Indebtedness. The City and the District recognize that, as provided in the laws of the State of Texas and the Consent Ordinance, the City has the right to abolish and dissolve the District and to acquire the District's Assets and assume the District's Obligations. Notwithstanding the foregoing, the City agrees that it will not dissolve the District until the Facilities required to serve the District have been completed and Bonds have been issued to finance the same.

If requested by the District, the City shall afford the District the opportunity to discharge any remaining District's Obligations by either (i) authorizing the District to sell its Bonds before or during a transition period prior to the effective date of dissolution, as established by the City, (ii) pursuant to Local Government Code Section 43.080, as amended, issuing and selling bonds of the City in at least the amount necessary to discharge the District's Obligations, including those under any utility development and reimbursement agreements with developers in the District, or (iii) providing written notice to the District that the City has sufficient funds available from other sources

to discharge the District's Obligations, including those under the utility development and reimbursement agreements with developers in the District. Upon dissolution of the District, the City shall acquire the District's Assets and shall assume the District's Obligations. The City further agrees that it will not dissolve the District until the Developer developing Facilities in the District has/have been reimbursed by the District to the maximum extent permitted by the rules of the Commission or the City assumes any obligation for such reimbursement of the District under such rules.

6.2 Transition upon Dissolution. In the event all required findings and procedures for the dissolution of the District have been duly, properly and finally made and satisfied by the City, and unless otherwise mutually agreed by the City and the District pursuant to then existing law, the District agrees that its officers, agents and representatives shall be directed to cooperate with the City in any and all respects reasonably necessary to facilitate the dissolution of the District and the transfer of the District's Assets to, and the assumption of the District's Obligations by, the City.

ARTICLE VII. MISCELLANEOUS

7.1 City Code of Ordinances, Permits, Fees, Inspections. The District understands and agrees that all City ordinances and codes, including applicable permits, fees and inspections, shall be of full force and effect within its boundaries and shall apply in the same manner as to other areas within the City's corporate limits and this Utility Contract shall at all times be subject to full compliance with the City Code of Ordinances. The District understands and agrees that any improvements to the Detention Tract will be done in accordance with the Development Plan and conditions related thereto and any agreement entered into between the City and the District as provided in Section 3.2 hereof.

7.2 Approvals and Consents. Approvals or consents required or permitted to be given under this Utility Contract shall be evidenced by an ordinance, resolution or order adopted by the governing body of the appropriate party or by a certificate executed by a person, firm or entity previously authorized to give such approval or consent on behalf of the party. Approvals and consents shall be effective without regard to whether given before or after the time required for giving such approvals or consents.

7.3 Force Majeure. If any party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Utility Contract, except the obligation to pay amounts owed or required to be paid pursuant to the terms of this Utility Contract, then the obligations of such party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure", as used herein, shall include without limitation of the

generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy including acts of terrorism, orders of any kind of the government of the United States or the State of Texas or any civil or military authority other than a party to this Utility Contract, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, drought, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply resulting in an inability to provide water necessary for operation of the water and sewer system hereunder or in an inability of the City to provide Water or receive Wastewater, and any other incapacities of any party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party when such settlement is unfavorable to it in the judgment of the party experiencing the difficulty.

7.4 Law Governing; Venue; Authority for Actions. This Utility Contract shall be governed by the laws of the State of Texas and no lawsuit shall be prosecuted on this Utility Contract except in a court of competent jurisdiction located in Fort Bend County.

The parties hereto recognize and understand that disputes may occur or actions may be required under this Utility Contract and that this Utility Contract involves a governmental entity and, as such, there can be no delegation to a third party individual or third party entity of the duties and obligations of the parties as herein provided. Thus, the parties agree that actions of the City hereunder with respect to its duties and obligations may be submitted to the City Council of the City for consideration and resolution if and as required by the City's Code of Ordinances. In such event, the City Council of the City, after consideration and hearing, shall render a final decision thereunder and the decision of the City Council shall be the final, binding and conclusive action of the City with respect thereto. Likewise, the decision of the Board of Directors of the District with respect to the District's duties and obligations hereunder shall be the final, binding and conclusive action of the District with respect thereto.

7.5 No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or the performance by any party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults or any kind, under any circumstances.

7.6 Addresses and Notice. Unless otherwise provided in this Utility Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to the other (except bills), must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to such party, addressed to the party to be notified. Notice deposited in the mail in the manner herein above described shall be conclusively deemed to be effective, unless otherwise stated in this Utility Contract, from and after the expiration of three (3) days after it is so deposited. Notice given in any such other manner shall

be effective when received by the party to be notified. For the purpose of notice, addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:

City Manager
City of Rosenberg
P. O. Box 32
Rosenberg, Texas 77471-0032
Attn: City Manager

If to the Developer, to:

2218 Rosenberg, L.P.
c/o Todd Land Company
Attn: Mr. Michael P. Ross
1800 West Loop South
Suite 1075
Houston, Texas 77027

If to the District, to:

Fort Bend County Municipal Utility District No. 150
c/o Coats, Rose, Yale, Ryman & Lee, P.C.
Attn: Julianne B. Kugle
3 Greenway, Suite 2000
Houston, Texas 77046

The parties shall have the right from time-to-time and at any time to change their respective addresses and each shall have the right to specify any other address by at least fifteen (15) days written notice to the other.

7.7 Assignability. Except as set forth below, this Utility Contract may not be assigned by either party except upon written consent of the other party hereto. Developer shall assign this Utility Contract to the District within ninety (90) days after the results of the election within the District at which the qualified voters vote in favor of confirmation of the creation of the District are declared. If any such election results in a vote against the confirmation of the District, Developer, at its sole option, may terminate this Utility Contract upon thirty (30) days written notice to the City upon payment of all reasonable costs and expenses incurred by the City due to such termination.

7.8 Merger and Modifications. This Utility Contract, including the exhibits that are attached hereto and incorporated herein for all purposes, embodies the entire agreement between

the parties relative to the subject matter hereof. This Utility Contract shall be subject to change or modification only with the written mutual consent of the parties.

7.9 Reservation of Rights. All rights, powers, privileges and authority of the parties hereto not restricted or affected by the express terms and provisions hereof are reserved by the parties and, from time to time, may be exercised and enforced by the parties.

7.10 Captions. The captions of each section of this Utility Contract are inserted solely for convenience and shall never be given effect in construing the duties, obligations or liabilities of the parties hereto or any provisions hereof, or in ascertaining the intent of either party, with respect to the provisions hereof.

7.11 Severability. The provisions of this Utility Contract are severable, and if any part of this Utility Contract or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Utility Contract and the application of part of this Utility Contract to other persons or circumstances shall not be affected thereby.

7.12 Benefits of Contract. This Utility Contract is for the benefit of the City, the Developer, and the District, and shall not be construed to confer any benefit on any other person except as expressly provided for herein.

7.13 Term and Effect. Except as otherwise specifically set forth herein, including in this Section below, this Utility Contract shall become effective on the date Developer closes on its purchase of the Tract, and shall remain in effect until the earlier to occur of (i) the dissolution of the District by the City or (ii) the expiration of thirty-five (35) years from the effective date hereof. Further, this Utility Contract shall automatically terminate unless extended by mutual agreement between City and Developer in the event that (a) the Developer does not close on its purchase of the Tract on or before June 30, 2004, or (b) the Commission does not adopt an order consenting to the creation of the District on or before June 30, 2005.

The City may terminate this Utility Contract after two (2) years from its effective date if the City has not, by that date, received a properly executed copy of the Contract from the District, without modification, and the assignment of the Developer's obligations relating to Water Supply Service and Wastewater Service to the District or after three (3) years from its effective date should the Developer fail to commence substantial construction of Facilities to serve the Tract. Notice shall be given by the City in writing to the Developer and the District at least thirty (30) days prior to the termination date.

7.14 Meetings and Notices. The District shall comply with all provisions of the Procedures for Creation of In-City Municipal Utility Districts related to District meetings and notices.

[EXECUTION PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Utility Contract in multiple copies, each of equal dignity, on this 20th day of April, 2004.

CITY OF ROSENBERG

By: [Signature]
Name: JOE M. GURECKY
Title: MAYOR
Date: APRIL 20, 2004

ATTEST:

[Signature]
CITY SECRETARY

APPROVED:

[Signature]
CITY ATTORNEY

DEVELOPER

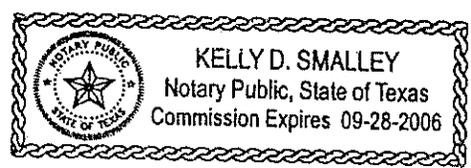
2218 ROSENBERG, L.P., a Texas Limited Partnership

By: Tyee Management LLC

By: [Signature]
Name: Tyler D. Todd
Its: President

This instrument was acknowledged before me on this the 14th day of April, 2004, by Tyler D. Todd, President of Tyee Management LLC, authorized as _____ to sign this Agreement on behalf of 2218 Rosenberg, L.P., a Texas Limited Partnership.

[Signature]
Notary Public
In and For the State of Texas



FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150
170.8 ACRES
IN THE
S.B. PENTECOST SURVEY, A-378
S.B. PENTECOST SURVEY, A-362
FORT BEND COUNTY, TEXAS

ONE TRACT OF LAND TOTALING 170.8 ACRES DESCRIBED AS FOLLOWS:

TRACT ONE

All that certain 170.8 acres of land, which is the 82.699 acre tract described as Parcel One and the 95.858 acre tract described as Parcel Two in the gift deed from Colletta Lake Marshall to Colletta Ray McMillian, et al recorded under Volume 1971, Page 1741, in the Official Public Records of Fort Bend County, Texas, in the S.B. Pentecost Survey, A-378 and the S.B. Pentecost Survey, A-362, Fort Bend County, Texas, and more particularly described by metes and bounds as follows: (All bearing based on the record bearings of said 82.699 acre tract)

PARCEL ONE (82.699 ACRES)

A tract of land of 82.699 acres out of the S. B. Pentecost Survey, Abstract 378, in Fort Bend County, Texas, being out of and part of a tract of land called at 130.7 acres described in a deed from Mrs. Susie Smith to C. J. Dickerson dated February 14, 1938, and recorded in Volume 174, Page 197 of the Deed Records of Fort Bend County, Texas, to which refer in aid hereof, and said land being described by metes and bounds as follows, to-wit:

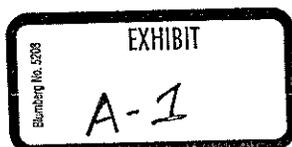
BEGINNING at a point for the South corner of this tract, in the Southeast line of the said C.J. Dickerson 130.7 acre tract, which said corner is situated North 45 deg. 04' 10" West 2606.4 feet and North 45 deg. East 904.96 feet from a 1-1/2" iron pipe marking the South corner of the C.J. Dickerson 150 acre tract, such Point of Beginning being also the most Westerly corner of a 46.714 acre tract conveyed by C.J. Dickerson et al to George C. Lane, Jr.;

THENCE North 45 deg. 04' 10" West with the Northeast line of the said George C. Lane, Jr. Tract at 2213.48 feet pass an iron pipe a total distance of 2248.6 feet to a point in the Northwest line of said C.J. Dickerson 130.7 acre tract, being also the most Northerly corner of the George C. Lane, Jr. 46.714 acre tract for the most Westerly corner of this tract in the Richmond-Needville road;

THENCE North 45 deg. East with the Northwest boundary line of the C.J. Dickerson 130.7 acre tract 1602.04 feet to a point in said Richmond-Needville road for the most Northerly corner of this tract, being also the most Northerly corner of the C.J. Dickerson 130.7 acre tract;

THENCE South 45 deg. 04' 10" East (at 23.6 feet past a corner post and iron pipe) in all 2248.6 feet with the Northeast line of the C.J. Dickerson 130.7 acre tract to a point in such line, the common corner of the C.J. Dickerson 130.7 acre tract and the C.O. Dickerson 150 acre tract for the most Easterly corner of this tract;

THENCE South 45 deg. West 1602.04 feet to the POINT OF BEGINNING and containing 82.699 acres, according to a survey on the ground by Henry Steinkamp, Jr., Registered Professional Engineer, of September 21 and 22, 1961.



PAGE 2 - 170.8 ACRES

PARCEL TWO (95.858 ACRES)

A tract of land 95.058 acres out of the S. B. Pentecost Survey, Abstract 378, Survey No. 12, and the S. Pentecost Survey, Abstract 362, all situated in Fort Bend County, Texas, part of a 150 acre tract described in a deed from G. C. Benton to C.J. Dickerson dated February 5, 1938, and recorded in Volume 174, Page 195 of the Deed Records of Fort Bend County, Texas, to which refer in aid hereof, and said land being described by metes and bounds as follows, to-wit;

BEGINNING at a point, for the South corner of this tract, which is situated North 45 deg, East 904.96 feet from a 1-1/2" iron pipe marking the South corner of the C.O. Dickerson 150 acre tract;

THENCE North 45 deg. 04' 10" West 2.606.4 feet with the Northeast boundary line of the George C. Lane, Jr. 54.148 acre tract to a point in the Northwest line of the C.O. Dickerson 150 acre tract, the common corner of this tract and the said George C. Lane, Jr. Tract for the most Westerly corner of this tract;

THENCE North 45 deg. East 1602.04 feet with the Northwest line of the C.J. Dickerson 150 acre tract, being also the Southeast line of the Robert H. Ray 82.699 acre tract to a point in the Northeast line of the C.J. Dickerson 150 acre tract for the North corner of this tract;

THENCE South 45 deg. 04' 10" East with fence 2606.4 feet to a post and iron pipe for the East corner of the C.O. Dickerson 150 acre tract for the most Easterly corner of this tract;

THENCE South 45 deg. West 1602.04 feet with fence to the PLACE OF BEGINNING, and containing 95.858 acres of land according to a survey of the ground by Henry Setinkamp, Jr., Registered Professional Engineer, dated September 21 and 22, 1961.

SAVE AND EXCEPT (FROM PARCEL ONE AND PARCEL TWO)

A Field Note Description of a 7.802 Acre Tract of Land off of the Southwest side of the Robert H. Ray Estate Call 177.476 Acre Tract in the S.B. Pentecost Survey No. 12, Patent #491, Volume 16, Abstract #378, Fort Bend County, Texas.

Begin at a 3/4 inch iron pipe found marking the East corner of the Lane Aviation 105.672 Acre Tract, recorded in Volume 2669, Page 428 of the Official Public Records of Fort Bend County, Texas; said corner being the South corner of said Robert H. Ray Estate Call 177.476 Acre Tract and the South corner of and PLACE OF BEGINNING for this tract;

THENCE, North 45deg.04'10" West, at 1584.0 feet pass a 1/2 inch iron pipe found, continuing along the Northeast line of said Lane Aviation 105.672 Acre Tract, at 4819.88 feet pass a 3/4 inch iron pipe found in asphalt marking the Southeast right-of-way line of State Farm Market Road No. 2218 (100 feet wide), in all 4855.0 feet to a point marking the West corner of said Robert Ray Estate Call 177.476 Acre Tract and the North corner of said Lane Aviation 105.672 Acre Tract; said corner being the West corner of this tract;

THENCE, North 45 deg. East, along a line in said State Farm Market Road No. 2218, 70.0 feet to a point marking the North corner of this tract;

THENCE, South 45deg.04'10" East at 34.62 feet pass a 1/2 inch iron rod set in the Southeast right-of-way line of State Farm Market Road No. 2218, in all 4854.88 feet to a 1/2 iron rod set marking the East corner of this tract;

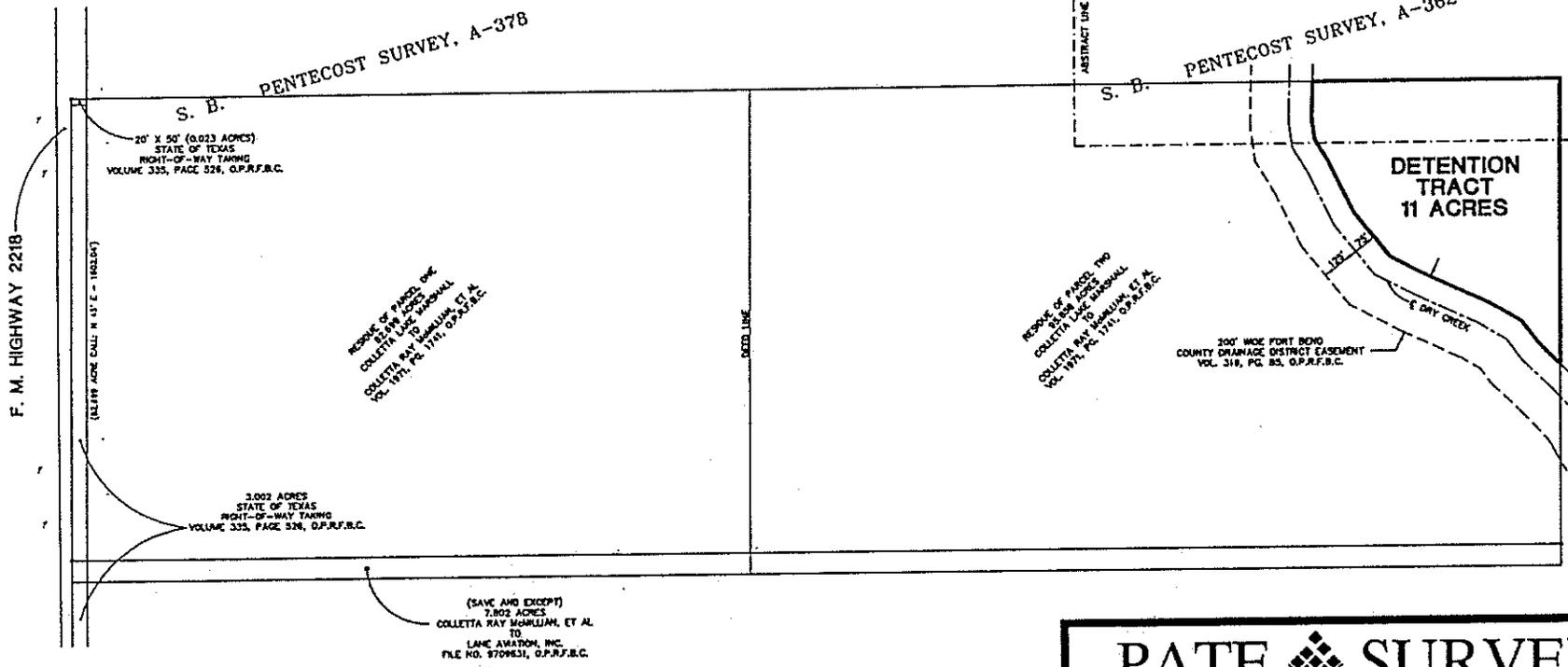
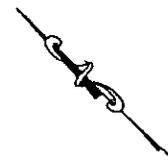
THENCE, South 44deg.53'45" West, along a fence line marking the Southeast line of said Robert H. Ray Estate Tract, 70.0 feet to the place of beginning and containing 7.802 Acres of Land, including 0.056 Acre in State Farm Market Road No. 2218, leaving a net Acreage of 7.746 Acres.

THIS LEGAL DESCRIPTION IS ISSUED IN CONJUNCTION WITH THE DISTRICT BOUNDARY MAP OF FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT 150. TRACT 1 IN THIS DOCUMENT WAS PREPARED UNDER 22TAC-§ 663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTEREST IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTEREST IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.



Rocky J. Bradshaw

Certification Date
February 2004



Stamberg No. 5208

A-2

EXHIBIT

PATE SURVEYORS
A DIVISION OF PATE ENGINEERS, INC.

13333 NW Freeway, Ste 300 • Houston, TX 77040 • Ph713-462-3178 • Fax713-462-3015 • www.pateeng.com

EXHIBIT

**F.B.C.M.U.D. 150
DETONATION TRACT
FORT BEND COUNTY, TEXAS**

DRAWN: DKP	ORIGINAL ISSUE DATE 4/15/04	ORIGINAL SCALE N.T.S.
APPROVED FOR ISSUE:	JOB NO.: 1279-002-00	

Sec. 29-232. Conditions to creation.

The following conditions shall apply to every MUD within the city:

- (1) The MUD may acquire property outside its boundaries with consent of the city only for purposes of providing stormwater drainage and detention, potable water distribution, wastewater collection, and for all other purposes permitted by law.
- (2) The MUD shall not provide services for, or acquire property to provide services for, any property outside its boundaries without the consent of the city.
- (3) The MUD shall not allow use of easements or stormwater drainage facilities owned or controlled by the MUD for any property or development outside its boundaries without the consent of the city.
- (4) The MUD shall pay the actual costs incurred by the city for legal, engineering and financial advisory services in connection with the utility agreement (hereinafter defined) and the adoption of an ordinance consenting to creation of the MUD as set forth in the consent agreement.
- (5) The facilities to be constructed by the MUD shall be designed and constructed in compliance with all applicable requirements and criteria of the applicable regulatory agencies and subject to the applicable provisions of the city's ordinance granting a petition for inclusion of certain territory in the MUD (the "consent ordinance").
- (6) The city shall not allow any connection to be made to the MUD's wastewater system until, with respect to such connection:
 - a. The MUD has issued an assignment of capacity specifying the number of gallons per day of water supply and wastewater treatment allocated for such connection, and has provided a copy thereof to the city manager;
 - b. The city has inspected the connection and premises and has issued a building permit for that connection; and
 - c. All buildings or structures served by connections shall be located entirely within the boundaries of a lot or parcel shown in a plan, plat or replat filed with and finally approved by the city and city council and duly recorded in the official records of the county where the property is located (provided this limitation shall not apply if no plan, plat or replat is required by applicable state statutes or city ordinances).
- (7) Unless and until the city shall dissolve the MUD and assume the properties, assets, obligations and liabilities of the MUD, the bonds of the MUD, as to both principal and interest, shall be and remain obligations solely of the MUD and shall never be deemed or construed to be obligations or indebtedness of the city.
- (8) All contracts with third parties for construction of water, wastewater and stormwater facilities to serve the proposed MUD will contain the following provisions:
 - a. A requirement that all plans and specifications for construction of improvements or modification of improvements which are to be built to serve the MUD and/or require approval of the Texas Commission on Environmental Quality be prepared in accordance with the then adopted city specifications and requirements for such facilities and delivered to the city engineer for approval prior to submission to the Texas Commission on Environmental Quality. All plans and specifications presented to the bidders shall be approved by the city prior to advertising for bids;
 - b. An agreement that all construction or modification of improvements to serve the MUD will be inspected by the city and that no underground improvements will be backfilled prior to inspection and approval by the city; and
 - c. All contracts for construction of improvements will be awarded in compliance with the terms contained within public bidding statutes in Chapter 49 of the Texas Water Code.

- (9) As the MUD's facilities are acquired and constructed, the MUD shall convey the same to the city, including all warranties relating to the facilities; provided, however, that the MUD shall not convey, and the city shall not accept, stormwater detention systems (stormwater detention systems shall be owned and operated by the homeowners association or other entity acceptable to the city as provided in the utility contract and the MUD shall be granted a drainage easement on the stormwater detention systems in a form acceptable to the city).
- (10) As acquisition and/or construction of each phase of the facilities is completed, representatives of the city shall inspect the same and, if the city finds that the same has been completed in accordance with the final plans and specifications, the city will accept the same, whereupon such portion of the facilities shall be operated and maintained by the city at its sole expense; provided, however, that the city shall not accept, or operate and maintain, stormwater detention systems; (stormwater detention systems shall be owned and operated by the homeowners association or other entity acceptable to the city as provided in the consent agreement); and further provided, however, that in the event that the facilities have not been completed in accordance with the final plans and specifications, the city will immediately advise the MUD in what manner said facilities do not comply, and the MUD shall immediately correct the same, whereupon the city shall again inspect the facilities and accept the same if the defects have been corrected.
- (11) The city shall bill and collect from customers of the facilities and shall from time to time fix such rates and charges for such customers of the facilities as the city, in its sole discretion, determines are necessary; provided that the rates and charges for services afforded by the facilities will be equal and uniform to those charged other similar classifications of users in non-MUD areas of the city; and all revenues from the facilities shall belong exclusively to the city without rebate of such revenues to the MUD.
- (12) The city may impose a charge for connection to the facilities at a rate to be determined from time to time by the city, provided the charge is equal to the sums charged other city users for comparable connections; and the connection charge shall belong exclusively to the city.
- (13) The MUD is authorized to assess, levy and collect ad valorem taxes upon all taxable properties within the MUD to provide for: (a) the payment in full of the MUD's obligations, including principal, redemption premium, if any, and interest on the bonds to be issued by the MUD and to establish and maintain any interest and sinking fund, debt service fund or reserve fund, (b) the administration, operation and maintenance purposes, all in accordance with applicable law, and (c) to pay expenses of assessing and collecting the taxes. The city will levy and collect ad valorem taxes upon all taxable properties in the city, including the MUD. The city will agree in the utility agreement to rebate to the MUD on an annual basis city ad valorem taxes attributable to the city's debt service payments for drainage only to the extent required by applicable law.
- (14) Unless the MUD is in default under the terms of its utility agreement after reasonable opportunity to cure, the city shall not dissolve the MUD until the water, wastewater and drainage utilities required to serve the MUD have been completed and bonds issued by the MUD to finance same; and the city shall afford the MUD the opportunity to discharge any obligations of the MUD pursuant to any existing agreements of the MUD with third parties for construction of facilities, by either: (a) authorizing the MUD to sell its bonds before or during a transition period prior to the effective date of dissolution, as established by the city, (b) issuing bonds and selling bonds of the city pursuant to Vernon's Texas Codes Annotated, Local Government Code Section 43.080, as amended, in at least the amount necessary to discharge the MUD's obligations, including those under any such agreements, or (c) providing written notice to the MUD that the city has sufficient funds available from other sources to discharge the MUD's obligations, including those under any such existing agreements with third parties. The City shall have the right to dissolve the MUD if construction of water, wastewater or drainage utilities required to serve the MUD does not begin within thirty-six (36) months of execution of the consent agreement.
- (15) All city ordinances and codes, including applicable permits, fees and inspections, shall be of full force and effect within the boundaries of the MUD in the same manner as with respect to other areas within the city's corporate limits, except as specifically herein provided otherwise.
- (16) No bonds, other than refunding bonds, or notes of the MUD shall be issued or sold unless not less than twenty (20) days following the filing of an application with the Texas Commission on Environmental Quality for the approval of projects and bonds, the MUD provides the city with a copy of such application

and not less than twenty (20) days prior to publication of notice of sale, the MUD provides the city with a copy of the staff memorandum of Texas Commission on Environmental Quality approving the projects and bonds, a copy of its proposed bond order, preliminary official statement, bid form and notice of sale and the following criteria are met. The MUD shall not issue bonds unless the following conditions have been satisfied:

- a. The MUD shall not issue any bonds, other than refunding bonds, unless the purpose for which the proceeds of such bonds may be used is limited to one or more of the following and no others:
 1. Designing, purchasing and/or constructing or otherwise acquiring:
 - (i) waterworks facilities,
 - (ii) wastewater facilities, or
 - (iii) stormwater drainage and detention facilities,
 2. Purchasing, constructing, owning, operating, repairing, improving, extending or otherwise acquiring interests in real property, improvements, facilities, appliances, equipment, buildings, plants or structures necessary or incidental to the operation of waterworks facilities, wastewater facilities, or stormwater drainage facilities. Proceeds of the bonds for costs of operations of the MUD shall not exceed ten (10) percent of the issuance amount.
 3. All costs of issuance of the bonds (including but not limited to legal fees, financial advisory fees, administrative and organizational fees and expenses and costs of operations during construction, bond discount, capitalized interest, developer interest, creation costs, printing expenses, publication expenses and contingencies relative to facilities not yet under contract). Proceeds of the bonds for costs of operations of the MUD shall not exceed ten (10) percent of the issuance amount.
 4. All other purposes authorized by law.
- b. The MUD shall not sell or issue any bonds unless:
 1. The terms of such bonds expressly provide that the MUD reserves and shall have the right to redeem the bonds not later than the 15th anniversary of the date of issuance, without premium.
 2. The bonds, except refunding bonds, are sold after the taking of public bids therefor.
 3. None of such bonds, other than refunding bonds, are sold for less than ninety-five (95) percent of par.
 4. The net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, does not exceed two (2) percent above the highest average interest rate reported by the daily bond buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given and bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given.
 5. The maximum term of any debt issuance shall be no greater than twenty-five (25) years.
 6. The minimum par amount of any bonds issued, except a final issue, shall be one million dollars (\$1,000,000.00).
 7. Each issue of bonds shall be structured to achieve either level principal payments or level debt service payments, excluding the first two (2) years of debt service.
 8. The MUD shall submit to the city pro forma cash flows evidencing a MUD tax rate (both maintenance and operations rate and interest and sinking rate combined) not to

exceed one dollar and fifty cents (\$1.50) per one hundred dollars (\$100.00) assessed valuation.

9. Each bond issue shall not include more than two (2) years of capitalized interest. The city shall review the documents required to be provided hereunder and the evidence of compliance with the foregoing criteria within fifteen (15) days following receipt of same. The issuance of bonds by the MUD must be approved by the city council of the city, or its designee. Any costs incurred by the city in connection with review of the issuance of bonds shall be paid by the MUD, in an amount not to exceed two thousand five hundred dollars (\$2,500.00).

(17) The city acknowledges that a MUD has authority to assess an unlimited tax for payment of debt service. However, prior to implementation of any increase in tax rate above its initial rate, the MUD shall make a formal presentation to city council explaining the need for the increase, at which time residents of the MUD shall be given an opportunity to be heard. Notice of such presentation shall be sent to each owner of taxable property within the MUD as reflected on its most recent certified tax roll. This provision shall be in addition to any requirements of notice and hearing which may be contained in the Texas Water Code and in the Texas Tax Code which apply to the MUD.

(18) In addition to the information the MUD is required to file of record as required by the Texas Water Code, the MUD shall annually deliver to each property owner within the MUD, as reflected on its most recent certified tax roll, written notice of the existence of the MUD and its right to assess taxes in addition to those assessed by the city. Such notice shall also contain a reference to the consent agreement, the consent ordinance and this paragraph. Such notice shall advise the property owner that such documents are available for inspection during regular business hours in the MUD's office.

(19) The majority in value of landowners within the proposed MUD shall enter into a water supply and wastewater services contract ("utility contract") with the city, which shall contain the terms and conditions set forth in this section 29-232, as well as other terms and conditions which may be agreed to by the city or imposed herein. The utility contract shall be assigned by the proponent to the MUD upon its creation;

(20) The utility agreement shall be entered into simultaneously with the adoption of the consent ordinance.

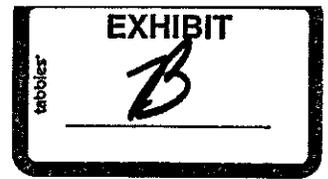
(21) The MUD shall establish an official meeting location within the corporate limits of the city and at all times after the MUD has one hundred (100) residential connections; it is to hold the meetings of its board of directors at such location.

(22) In addition to any other notice requirements applicable to the MUD, the MUD must post an agenda of the meetings of its board of directors at all primary entrances to the MUD and at the location designated for notices at city hall not less than seventy-two (72) hours prior to any meeting. An agenda shall also be provided to the city manager of the city prior to any meeting of the board of directors.

(23) The official office for recordkeeping of the MUD must be accessible to the district residents and shall not require a long distance phone call for a district resident to contact the official office for recordkeeping.

(24) The MUD shall comply with all applicable requirements of the Texas Commission on Environmental Quality regarding the display of signage at entrances into the MUD.

(Ord. No. 2003-02, § 1, 2-4-03; Ord. No. 2003-19, § 2, 4-30-03)



ASSIGNMENT OF
WATER SUPPLY AND WASTEWATER SERVICES CONTRACT BETWEEN THE CITY
OF ROSENBERG, TEXAS AND 2218 ROSENBERG, L.P.

THIS ASSIGNMENT OF WATER SUPPLY AND WASTEWATER SERVICES CONTRACT (this "Assignment") is made effective as of the 4th day of DECEMBER, 2004, by 2218 Rosenberg, L.P. (hereinafter called "Assignor") and Fort Bend County Municipal Utility District No. 150 (hereinafter called "Assignee").

RECITALS:

A. Assignor entered into that certain Water and Wastewater Services Contract, dated April 20, 2004, as amended, (the "Agreement") with the City of Rosenberg, Texas (the "City") regarding the development and financing of water and wastewater facilities to serve the proposed Fort Bend County Municipal Utility District No. 150 (the "District").

B. The Agreement provides that the parties assume that the Agreement will be assigned to the District after the creation of the District.

C. The District has been created by the Texas Commission on Environmental Quality by that certain order Creating Fort Bend County Municipal Utility District No. 150 dated October 27, 2004.

D. The District will hold an election on February 5, 2005 to confirm the creation of the District.

E. Assignor has agreed to assign to Assignee all of Assignor's right, title and interest in, to and under the Agreement, except for the obligations provided in Article III of the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor hereby agree as follows:

1. Assignment. Assignor does hereby unconditionally grant, transfer, bargain, assign, convey and set over to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the Agreement, except for the obligations provided in Article III of the Agreement. By its execution hereof, Assignee agrees to assume in full and in perpetuity each of the duties and obligations of Assignor under the Agreement without exception or qualification. This assignment and assumption is made by Assignor and Assignee with the approval and acknowledgement of the City as indicated by its execution of this Assignment.

2. Assignor's Representations. Assignor represents, warrants, covenants and agrees: (a) that Assignor has the right and authority to make this Assignment; (b) that, to the best of Assignor's knowledge, there is no default under the Agreement now existing and no event has occurred and is continuing which, with the lapse of time or the giving of notice or both, would constitute an event of default under the Agreement; and (c) that Assignor will, upon the request

of Assignee, execute and deliver to Assignee such other documents or take such further actions as Assignee may deem reasonably necessary or appropriate to make effective this Assignment and the various covenants of Assignor herein.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first above written.

ASSIGNOR:

2218 ROSENBERG, L.P.,
a Texas limited partnership

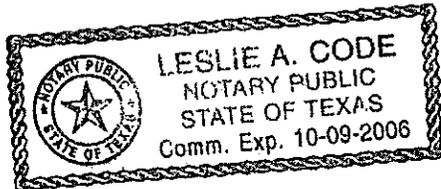
By: Tyee Management, LLC,
a Texas limited liability company

By: *Michael P. Ross*
Name: Michael P. Ross
Its: Vice President

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on November 19, 2004 by Michael P. Ross, Vice President of Tyee Management, LLC, a Texas limited liability company, authorized as Vice President to sign this Assignment on behalf of 2218 ROSENBERG, L.P., a Texas limited partnership.

(SEAL)



Leslie A. Code
Notary Public in and for the
State of T E X A S

ASSIGNEE:

FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 150

By: *Michael C. Wilder*
President, Board of Directors

Attest:

[Signature]
Secretary, Board of Directors

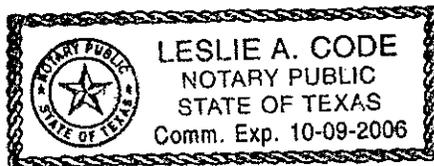
THE STATE OF TEXAS §

COUNTY OF FORT BEND §

This instrument was acknowledged before me on the 19th day of November, 2004, by Michael C. Wilder, President, Board of Directors, Fort Bend County Municipal Utility District No. 150, a political subdivision, on behalf of said political subdivision.

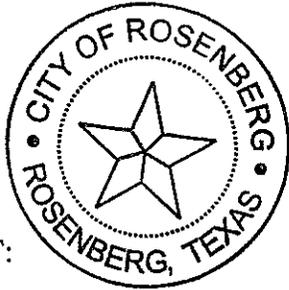
(SEAL)

Leslie A. Code
Notary Public in and for the
State of Texas



The City of Rosenberg hereby executes this Assignment solely for the purpose of granting its consent to the assignment contained herein.

CITY OF ROSENBERG



ATTEST:

Lyn Adolphus
CITY SECRETARY

By: *Joe M. Gurecky*
Name: Joe M. Gurecky
Title: Mayor
Date: December 14, 2004

APPROVED:

Steven J. Matthews
CITY ATTORNEY



AMENDMENT TO
WATER SUPPLY AND WASTEWATER SERVICES CONTRACT
BETWEEN THE CITY OF ROSENBERG, TEXAS AND
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

THIS AMENDMENT TO WATER SUPPLY AND WASTEWATER SERVICES CONTRACT BETWEEN THE CITY OF ROSENBERG, TEXAS AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150 (the "Amendment") is entered into as of the date set forth herein, by and between THE CITY OF ROSENBERG, TEXAS (the "City"), a municipal corporation and home-rule city situated in Fort Bend County and Fort Bend County Municipal Utility District No. 150 ("the District").

RECITALS

WHEREAS, the City and 2218 Rosenberg, L.P. entered into that certain Water Supply and Wastewater Service Contract dated April 20, 2004, (the "Contract"), as assigned from 2218 Rosenberg, L.P. to the District, by that certain Assignment dated December 14, 2004 (the "Assignment") (the Contract and Assignment being collectively referred to as the "Utility Development Agreement" or "UDA");

WHEREAS, the City is a home-rule city and municipal corporation that provides a full-range of governmental services to its citizens; and

WHEREAS, Rosenberg FM 2218, Ltd. has purchased a tract of approximately 15.07 acres of land which is within the City's corporate limits as described in Exhibit "A" attached hereto and incorporated herein (the "Annexation Tract"); and

WHEREAS, Rosenberg FM 2218, Ltd. has submitted to the District a Petition for Annexation of Land for the Annexation Tract to be annexed into the boundaries of the District; and

WHEREAS, the parties hereto wish to amend the Utility Development Agreement to subject the Tract to the rights and obligations of the Utility Development Agreement, reserve additional water supply and wastewater treatment capacity to serve the Annexation Tract and provide for the consent by the City to the annexation of the Annexation Tract. NOW, THEREFORE;

AGREEMENT

For and in consideration of the mutual promises, obligations, and benefits contained herein, the City and the District agree as follows:

Section 1. Section 1.1 of the Contract shall be amended as follows:

Developer means "2218 Rosenberg, L.P.", a Texas limited partnership, its successors and assigns and Rosenberg FM 2218, Ltd., a Texas limited partnership, its successors and assigns.

Annexation Tract means that certain tract of approximately 15.07 acres of land described on Exhibit "A" attached hereto and incorporated herein.

Tract means the 170.8 acres of land described in Exhibit A-1 of the Utility Contract and the Annexation Tract to be developed by the Developer.

Section 2. Section 2.4 of the UDA shall be amended to read as follows:

2.4. Maximum Number of Connections.

The City agrees to provide up to 848 ESFCs to serve the District. 693 ESFCs shall serve the Wind Meadows subdivision and 155 ESFCs shall serve the Annexation Tract.

Section 3. A new Section 3.4 shall be added to the UDA to read as follows:

3.4. Developer Obligations.

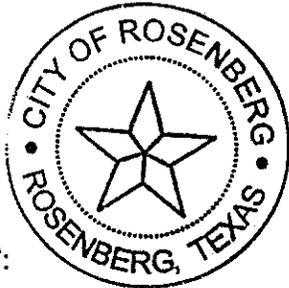
The obligations set forth in Sections 3.1 and 3.2 of this Article III shall be applicable only to 2218 Rosenberg, L.P., its successors, and assigns. The obligations set forth in Section 3.3 of this Article III shall apply to 2218 Rosenberg L.P., Rosenberg FM 2218, Ltd., and their successors and assigns.

Section 4. All other terms and conditions of the UDA shall remain in full force and effect.

[EXECUTION PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in multiple copies, each of equal dignity, on this 1st day of NOV., 2005.

CITY OF ROSENBERG, TEXAS



By: *David E. Neeley*
Name: David E. Neeley
Title: City Manager
Date: _____

ATTEST:

APPROVED:

Sam Adolphus
CITY SECRETARY

W. A. Oll
CITY ATTORNEY

FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 150

By: *Michael Wilde*
Michael Wilde, President

ATTEST:

By: *Christopher Lee de Zevallos*
Christopher Lee de Zevallos, Secretary

ROSENBERG FM 2218, LTD.,
a Texas limited partnership

By: *Todd McCombs*
Todd McCombs, General Partner

February 20, 2004

**15.0069 acres of land in the J.D. Vermillion Survey, Abstract No. 340,
City of Rosenberg, Fort Bend County, Texas**

A FIELD NOTE DESCRIPTION of 15.0069 acres (653,699 square feet) of land in the J.D. Vermillion Survey, Abstract No. 340, City of Rosenberg, Fort Bend County, Texas; Said 15.0069 acre tract of land being out of the remainder of a 19.641 acre tract conveyed to Werner Partnership, LTD., as recorded under Fort Bend County Clerk's File No. 2001006679 and being more particularly described by metes and bounds as follows with the bearings being based on the Texas State Plane Coordinate System, South Central Zone, as recorded under Fort Bend County Clerk's File No. 9763775;

COMMENCING FOR REFERENCE at a 3/4-inch iron pipe found in the southerly right-of-way line of U.S. Highway 59 (width varies) in the easterly line of Lot 1, Danziger - Reese Subdivision, according to the map or plat recorded in Volume 28, Page 17 of the Fort Bend County Plat Records conveyed to SJC Properties, LTD., as recorded under Fort Bend County Clerk's File No. 2000052452 for the southwesterly corner of a tract of land conveyed to the City of Rosenberg, as recorded under Fort Bend County Clerk's File No. 9763775 for the widening of said U.S. Highway 59; from which a 5/8-inch iron rod found bears North 51° 18' 51" East - 0.16 feet,

THENCE; in a northeasterly direction with the southerly right-of-way line of said U.S. Highway 59, with the northerly line of said 19.641 acre tract and with a curve to the left having a radius of 11,679.19 feet, a central angle of 00° 10' 58", a length of 37.25 feet and a chord bearing North 79° 25' 08" East - 37.25 feet to a 5/8-inch iron rod with cap set for the most northerly northwesterly corner and POINT OF BEGINNING of this tract;

THENCE; in a northeasterly direction with the southerly right-of-way line of said U.S. Highway 59, with the northerly line of said 19.641 acre tract and with a curve to the left having a radius of 11,679.19 feet, a central angle of 03° 52' 51", a length of 791.06 feet and a chord bearing North 77° 23' 14" East - 790.91 feet to a 5/8-inch iron rod found for the northeasterly corner of this tract;

THENCE; South 10° 58' 43" East - 237.71 feet with the westerly line of Reserve "A-1", Replat of Grizzard / Flint Division, Section One, according to the map or plat recorded under Slide No. 1803A of the Fort Bend County Plat Records conveyed to Bayou Holdings, L.L.C., as recorded under Fort Bend County Clerk's File No's 9883128 and 9700925 to a 5/8-inch iron rod with cap set for a point-of-curvature;

THENCE; in a southeasterly direction with the southwesterly line of said Reserve "A-1" and with a curve to the left having a radius of 260.00 feet, a central angle of 36° 58' 44", a length of 167.80 feet and a chord bearing South 29° 28' 05" East - 164.91 feet to a 5/8-inch iron rod with cap set for a point-of-tangency;

THENCE; South 47° 57' 27" East - 30.18 feet with the southwesterly line of said Reserve "A-1" to a 5/8-inch iron rod found for the easterly corner of this tract;



EXHIBIT "A" - Page 2 of 2 pages

THENCE; South 42° 02' 52" West - 1,161.17 feet with the northwesterly right-of-way line of State Farm-Market Road 2218 (100 feet wide) and with the southeasterly line of said 19.641 acre tract to a 5/8-inch iron rod found for the southerly corner of this tract;

THENCE; North 09° 26' 25" West - 1,019.63 feet with the easterly line of Lot 16 of said Danziger - Reese Subdivision conveyed to Rhoda Leah Danziger Saka, as recorded under Fort Bend County Clerk's File No. 9339888, with the easterly line of said Lot 1 and with the westerly line of said 19.641 acre tract to a 5/8-inch iron rod with cap set for the most westerly northwesterly corner of this tract;

THENCE; North 80° 33' 35" East - 37.24 feet to a 5/8-inch iron rod with cap set for an interior corner of this tract;

THENCE; North 09° 26' 25" West - 75.81 feet to the POINT OF BEGINNING and containing 15.0069 acres (653,699 square feet) of land.

COMPILED BY:

TEXAS ENGINEERING AND MAPPING
Civil Engineers - Land Surveyors
Stafford, Texas
Job No. 656-1
W3656-1.wpd




Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776

CONTRACT 1045

**WATER SUPPLY AND WASTEWATER
SERVICES CONTRACT BETWEEN THE CITY OF ROSENBERG, TEXAS
AND 2218 ROSENBERG, L.P.**

[IN-CITY CONTRACT]

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- Exhibit C - Development Plan

**WATER SUPPLY AND WASTEWATER SERVICES CONTRACT
BETWEEN THE
CITY OF ROSENBERG, TEXAS, AND
2218 ROSENBERG, L.P. (ON BEHALF OF
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150)**

THIS WATER SUPPLY AND WASTEWATER SERVICES CONTRACT ("Utility Contract") is entered into as of the date specified in Section 7.13 hereof, by and between THE CITY OF ROSENBERG, TEXAS (the "City"), a municipal corporation and home-rule city situated in Fort Bend County and 2218 ROSENBERG, L.P., a Texas Limited Partnership, as "Developer", on behalf of proposed Fort Bend County Municipal Utility District No. 150, to be created as a body politic and corporate and a governmental agency of the State of Texas under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, as amended ("District"). (It is the intention of the parties to this Utility Contract that all rights, benefits and obligations pursuant to this Utility Contract shall ultimately be assigned to the District upon its creation. Thus, the representations by the District at this time represent the Developer's commitment to cause or direct the same to occur.)

Recitals

WHEREAS, the City is a home-rule city and municipal corporation that provides a full-range of governmental services to its citizens. The City owns and operates water production and distribution facilities, wastewater collection and treatment facilities, and a fire department; and

WHEREAS, the Developer has purchased or intends to purchase a tract of approximately 170.8 acres which is within the City's corporate limits (the "Tract") attached hereto as Exhibit "A-1" and incorporated herein. The City has consented to the creation of the District over the Tract. The Developer plans to request the District to construct, finance, own and operate a water distribution system and a wastewater collection system to serve development occurring within the boundaries of the District. The development will occur in phases and the Developer anticipates that each phase will be platted separately; and

WHEREAS, the parties recognize that the District cannot approve and execute this Utility Contract until the District is created by the Texas Commission on Environmental Quality and confirmed by a majority of the votes cast at the confirmation election. The City has agreed to provide the services described herein under the conditions and terms set forth in this Utility Contract; and

WHEREAS, this Utility Contract is entered into under the authority of Local Government Code Section 402.014, as amended, and applicable provisions of Chapters 49 and 54 of the Texas Water Code, as amended, and applicable provisions of the City of Rosenberg Code of Ordinances; and

WHEREAS, the City and the Developer have determined that they are authorized by the Constitution and laws of the State of Texas to enter into this Utility Contract and have further determined that the terms, provisions and conditions hereof are mutually fair and advantageous to each. NOW THEREFORE;

AGREEMENT

For and in consideration of the mutual promises, obligations, and benefits contained herein, and subject to the Consent Ordinance of even date herewith, the City, the Developer, and the District agree as follows:

ARTICLE I. DEFINITIONS AND EXHIBITS

1.1 Definitions. Unless the context indicates otherwise, the following words as used in this Utility Contract shall have the following meanings:

Annual Payments means the annual payments, if any, to be made by the City to the District as provided in Section 5.1 and 5.2 hereof.

Approving Bodies shall mean the City, Fort Bend County, Texas, the Texas Commission on Environmental Quality, the Attorney General of Texas, the Comptroller of Public Accounts of Texas, the United States Department of Justice and all other federal, state and local governmental authorities having regulatory jurisdiction and authority over the financing, construction or operation of the Facilities or the subject matter of this Utility Contract.

Bonds shall mean the District's bonds, notes or other evidences of indebtedness issued from time to time for the purpose of financing the costs of acquiring, constructing, purchasing, operating, repairing, improving or extending the Facilities as more fully set forth in Rosenberg Code of Ordinances 29-232, whether payable from ad valorem taxes, the proceeds of one or more future bond issues or otherwise, and including any bonds, notes or similar obligations issued to refund such bonds.

City means the City of Rosenberg, Texas.

City Drainage Tax Rate means the City's tax rate attributable to drainage as calculated pursuant to Article V of this Utility Contract as expressed per \$100 assessed valuation.

City Water System means all the water production pumps, lines, meters, components, facilities, and equipment owned and used by the City to pump, treat, monitor, convey, supply, and distribute Water to the public.

City Wastewater System means all the wastewater treatment facilities, lines, components and equipment owned and used by the City to collect, convey, treat, monitor, regulate, and dispose of Wastewater.

Consent Ordinance means the ordinance of even date herewith adopted by the City consenting to the creation of the District.

Commission means the Texas Commission on Environmental Quality and any successor or successors exercising any of its duties and functions related to municipal utility district.

Detention Tract means the approximately 10 acres located in the District and used for detention facilities to serve the Tract, as shown generally in Exhibit "A-2".

Developer means "2218 Rosenberg, L.P.", a Texas Limited Partnership, its successors and assigns.

Development Plan means the conceptual plan for the development within the MUD attached as Exhibit "C" and approved simultaneously herewith.

District means Fort Bend County Municipal Utility District No. 150, to be created as a body politic and corporate and a governmental agency of the State of Texas and to be organized under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 Texas Water Code, as amended, and which is proposed to include within its boundaries approximately 170.8 acres of land situated wholly within the corporate limits of the City, as described in Exhibit A-1 attached hereto and incorporated herein by reference for all purposes.

District Assets means (i) all rights, title and interests of the District in and to the Facilities, (ii) any Bonds of the District which are authorized but have not been issued by the District, (iii) all rights and powers of the District under any agreements or commitments with any persons or entities pertaining to the financing, construction or operation of all or any portion of the Facilities and/or the operations of the District, and (iv) all books, records, files, documents, permits, funds and other materials or property of the District.

District's Obligations means (i) all outstanding Bonds of the District, (ii) all other debts, liabilities and obligations of the District to or for the benefit of any persons or entities relating to the financing, construction or operation of all or any portion of the Facilities or the operations of the District, and (iii) all functions performed and services rendered by the District, for and to the owners of property within the District and the customers of the Facilities.

Engineers or District Engineers means Pate Engineers, Inc., consulting engineers, or its replacement, successor or assignee designated by the District as its engineer.

Engineering Reports means and refer to that certain Preliminary Engineering Report prepared by the Engineers relating to the creation of the District and describing the initial scope and extent of the Facilities and any additional engineering reports prepared by the Engineers from time to time relating to the issuance of Bonds by the District and operation of the District, copies of which shall be on file in the offices of the District.

Equivalent Single-Family Connection or ESFC means that daily measure of Water and Wastewater that is attributed to one single-family residential home as determined by the City.

Facilities means and include the water supply and distribution, sanitary sewer collection, transportation and treatment, and storm water collection, detention and drainage systems constructed or acquired or to be constructed or acquired by the District to serve lands within and adjacent to its boundaries, and all improvements, appurtenances, additions, extensions, enlargements or betterments thereto, together with all contract rights, permits, licenses, properties, rights-of-way, easements, sites and other interests related thereto, all as more fully described in the Engineering Reports.

Regional Improvements means those Facilities described in Section 2.7 which serve areas outside and inside the District and which may include, but not be limited to: sanitary sewer trunk lines, lift stations and force mains, water trunk lines, offsite drainage right-of-way and ditch improvements, and transportation improvements.

Single-Family Residential Home means a building designated to be used and occupied by one family, with a detached single-family residence being one residential home, a duplex being two residential homes, and each unit in an apartment complex being one residential home.

Tract means the 170.8 acres of land to be developed by the Developer as described in Exhibit "A-1", and to which the City has agreed to provide the services described in this Utility Contract.

Wastewater means the water-carried wastes, exclusive of ground, surface, and storm waters, normally discharged from the sanitary conveniences of residential or commercial structure of a domestic nature (not industrial), meeting the requirements of the City set forth in the City's Code of Ordinances.

Wastewater Service means the services provided by the City in receiving, treating, testing, and disposing of Wastewater from the District.

Water means potable water that meets Federal and State standards for consumption by humans.

Water Supply Service means the services provided by the City in treating, pumping, transporting, and delivering of Water to the District for consumption by District customers in accordance with this Utility Contract.

1.2 Exhibits. The following Exhibits attached or to be attached to this Utility Contract are a part of the Contract as though fully incorporated herein:

- Exhibit A-1 - Description of the District
- Exhibit A-2 - Description of the Detention Tract
- Exhibit B - In City Procedures (Rosenberg Code of Ordinances Section 29-232)
- Exhibit C - Development Plan

ARTICLE II.
AGREEMENT CONCERNING WATER SUPPLY
AND WASTEWATER SERVICES TO THE DISTRICT

2.1. City's Obligation to Provide Services. The City agrees to provide Water Supply Services to the District to serve the Tract in accordance with the terms and conditions of this Utility Contract. The City agrees to accept Wastewater from and to provide Wastewater Services to the District to serve the Tract in accordance with the provisions of this Utility Contract.

2.2. Assignment to District. The parties hereto assume that this Utility Contract will be assigned by the Developer to the District after creation of the District. Any provision of this Utility Contract, whether referring to the Developer or the District, shall apply to the Developer until assigned to the District as provided by this Utility Contract; thereafter all provisions, except those contained in Article III, shall apply to the District.

2.3. Standard of Service. The Water Supply Services and Wastewater Services provided by the City to the Developer under this Utility Contract shall be equivalent in quality to the water supply and wastewater services the City provides to other City customers. Nothing contained in this Utility Contract shall create or imply in the Developer or the District a preferential right to the Water Supply Services or Wastewater Services over other customers within the City.

2.4. Maximum Number of Connections. The City agrees to provide up to 693 ESFCs to serve the District. The Tract is not currently within an impact fee service area.

2.5. Facilities. The Facilities, as described in the Engineering Reports, will be designed and constructed in compliance with all applicable requirements and criteria of the applicable Approving Bodies and will be subject to the Consent Ordinance. The design and construction of the Facilities will be subject to the review and approval of the City. The District shall design, construct or extend the Facilities in such phases or stages as the District, in its sole discretion, from time to time may determine to be economically feasible. All designs, design standards, construction plans and drawings for any plants, facilities, connectors or points of connection including all supporting facilities must be reviewed by and approved by the City Engineer before any implementation or construction shall occur as provided herein.

2.6. Letter of Assurance and Issuance of Assignments of Capacity by the District. The City agrees that, at such time as the District has acquired Water Supply Service or Wastewater Service from the City, the City shall, upon reasonable request, issue a letter of assurance that the District is entitled to the use and benefit of such capacity. The letter of assurance shall provide for the use and benefit of quantities of services up to, but not in excess of, the capacities as provided for herein.

The District shall have the right to assign all or part of its capacity on assignment forms approved by the City for reservation of capacity to landowner(s) and developer(s) within its boundaries. At such time as a landowner or developer located within the boundaries of the District

requests a building permit from the City, the City shall honor such assignments of capacity or agreements; provided, however, that the City shall have no duty to honor any assignment of capacity that in the City's sole opinion was not validly issued or which will result in capacity which exceeds the uncommitted capacity reserved by the District.

2.7. Design and Construction of the Facilities; Regional Improvements; Right-of-Way. The Facilities shall be constructed by or on behalf of the District at the District's sole expense and shall be designed using the City's current standard criteria. It is understood and agreed that certain of the Facilities (consisting of sanitary sewerage facilities, water facilities, and drainage facilities) may be oversized to serve areas located within and/or outside the corporate limits of the City but not within the District (hereinafter referred to as "Regional Improvements"). If the City identifies certain Regional Improvements and declares same to the District prior to their construction pursuant to the terms and conditions herein, the District shall be responsible for the engineering and construction of Regional Improvements, and the City shall be responsible for any oversizing. The District agrees that it will provide the necessary engineering and construction for the Regional Improvements, including all necessary appurtenances, subject to the City's obligation to pay its share as set forth below. Before commencing construction of the Regional Improvements, the District must receive the written approval from the City of (i) the plans and specifications for the Regional Improvements, and (ii) a detailed cost estimate for the construction of the Regional Improvements. The cost estimate shall detail which portions of the costs are to serve the District and which portions of the costs are to serve property outside the District (the "Oversizing Costs"). Upon written approval of the plans and specifications and the cost estimate, the District may proceed to construct the Regional Improvements; provided, however, that the City Council of the City shall have the opportunity to review and approve the special provision relating to any payment by the City for Oversizing Costs prior to execution of the construction contract. Following said approval, the City shall execute the special provision of the construction contract which will provide that the City shall pay for the agreed Oversizing Costs directly to the contractor upon receipt of a written pay estimate from the District specifying the City's share. The City shall have the right to inspect the construction of the Regional Improvements. Upon completion of the Regional Improvements, the City shall inspect the same and shall note any deficiencies in the construction of the Regional Improvements. Upon completion, the District shall convey the Regional Improvements and any right-of-way for the Regional Improvements to the City, subject to its acceptance, and the City shall be responsible for the operation and maintenance of the Regional Improvements. The District shall warrant the Regional Improvements or cause any construction contract warranty to run to the City for a period of one year after final completion of the Regional Improvements. Before beginning construction on the Regional Improvements, the District shall provide the City with executed copies of payment and performance bonds that comply with all applicable requirements of law, specifically including the bond requirements of Texas Government Code Chapter 2253 and that name the City as an additional obligee on such bonds. Evidence of proper authority of all signing officers or representatives must be submitted. Additionally, the City shall be provided with a copy of a Certificate of Insurance reflecting that the contractor has general liability and/or excess coverage of at least \$1,000,000 per occurrence and \$2,000,000 aggregate coverage and that the City has been named as an additional insured under said policy. The Certificate of Insurance shall provide that such insurance will not be canceled without at least thirty (30) days prior written notice to the City.

2.8. Ownership by City. As the Facilities are acquired and constructed, the District shall convey the same to the City (except for stormwater detention systems related solely to the Tract) including all warranties, reserving, however, a security interest therein for the purpose of securing the performance of the City under this Utility Contract. The conveyance to the City shall be subject to the acceptance by the City after inspection by the City. At such time as the District's Bonds issued to acquire and construct the Facilities have been discharged, the District shall execute a release of such security interest and the City shall own the Facilities free and clear of such security interest. The District shall not convey, and the City shall not accept, stormwater detention facilities unless specifically provided to the contrary in paragraph 2.9 for Regional Improvements.

2.9. Operation by the City. As construction of each phase of the Facilities (except for stormwater detention systems) is completed, representatives of the City shall inspect the same and, if the City finds that the same has been completed in accordance with the final plans and specifications, the City will accept the same, whereupon such Facilities shall be conveyed to the City as provided in Section 2.8 and operated and maintained by the City at its sole expense as provided herein. In the event that the Facilities have not been completed in accordance with the final plans and specifications, the City will advise the District in what manner said Facilities do not comply, and the District shall immediately correct the same; whereupon the City shall again inspect the Facilities and accept the same if the defects have been corrected. During the term of this Utility Contract, the City will operate the Facilities and provide Water Supply Service and Wastewater Service to all users within the District without discrimination. The City shall at all times maintain the Facilities or cause the same to be maintained, in good condition and working order and will operate the same, or cause the same to be operated, in an efficient and economical manner at a reasonable cost and in accordance with sound business principles in operating and maintaining the Facilities, and the City will comply with all contractual provisions and agreements entered into by it and with all valid rules, regulations, directions or orders by any governmental, administrative or judicial body promulgating the same. Sites for stormwater detention systems shall be conveyed to the District. Notwithstanding the foregoing, prior to the first connection to the Water System within the Tract being made, the District shall enter into a contract with the homeowners association within the District, or other entity acceptable to the City, but hereinafter referred to as "HOA". Said contract shall provide that (a) the HOA will operate and maintain the stormwater detention systems from inception at no cost to the District or the City, (b) the District will grant an easement to the HOA for said purpose, or (c) if the District will be dissolved pursuant to any applicable law, the HOA, prior to the effective date of dissolution, will accept conveyance of the sites for stormwater detention systems in fee from the District, it being understood and agreed that, pursuant to the Ordinance, the City will not own, operate or maintain any stormwater detention Facilities related solely to the Tract. Notwithstanding anything herein to the contrary, if the stormwater detention system is identified as a Regional Improvement, the stormwater detention system shall, in the sole discretion of the City, be conveyed in fee to the City pursuant to Section 2.7 herein for the City to own, operate, and maintain.

2.10. Rates and Meters. The City shall bill and collect from customers of the Facilities and shall from time to time fix such rates and charges for such customers of the Facilities as the City, in its sole discretion, determines are necessary; provided that the rates and charges for services afforded by the Facilities will be equal and uniform to those charged other similar classifications of users in non-municipal utility district areas of the City. All revenues from the

Facilities shall belong exclusively to the City. The City shall be responsible for providing and installing any necessary meters with the individual customers.

2.11. Connection Charges. Notwithstanding any City ordinance to the contrary and except as otherwise specifically set forth herein, the City may impose a charge for connection to the Facilities at a rate to be determined from time to time by the City, provided the charge is equal to the sums charged other City users for comparable connections, and the connection charges shall belong exclusively to the City.

2.12. Default; Remedies. Any party to this Utility Contract that believes that the other party to this Utility Contract has defaulted in the performance of any condition, term, or obligation owed to that party under this Utility Contract shall within ten (10) business days after discovery of said default, give written notice of the default to the defaulting party, specifying in detail the provision or provisions of this Utility Contract that have allegedly been breached, what specific action must be taken to cure or correct the default, and requesting that the City Council of the City provide the parties an opportunity to be heard in public session to discuss the default at the next scheduled city council meeting. The City Council, after review of such request, shall determine whether to provide the parties the opportunity to be heard in public session to discuss the default at the next scheduled city council meeting. Should the party receiving the notice fail to commence action to correct the default within the time determined by City Council and/or thereafter fail to diligently pursue the completion of the action to correct the default, or should City Council determine not to hear the matter, the party giving the notice of default may exercise other available remedies at law and in equity. Notwithstanding the foregoing, the parties hereto shall have all remedies provided at law and in equity with respect to this Utility Contract.

2.13. Temporary Service to the Tract. The City agrees that mobile homes in the District may be served temporarily with potable water wells and a septic system, if necessary as determined by the City in its discretion, in order to conduct an election within the District to confirm its creation as required by law. Said mobile homes may be placed at locations to be designated by Developer at a future date which homes may be located on the designated site until the earlier of the date which is eighteen (18) months after the date of the Order of the Commission creating the District or the date which is one (1) year after directors are elected to serve on the Board of Directors of the District at which time such mobile homes will be removed at the expense of the Developer or District, as appropriate. Said homes must comply with applicable provisions of the City's Code of Ordinances, with the exception of provisions regulating location of mobile homes, and any deed restrictions in effect relative to the designated site. Additionally, all water wells for such service shall be capped and septic systems removed by the District in compliance with all applicable Codes, regulations and law on or before the date of removal of the subject mobile homes, as provided herein.

**ARTICLE III.
DEVELOPMENT PLAN AND DEVELOPER OBLIGATIONS**

3.1. Development Plan. The Developer's Development Plan for the overall development of the District is attached as Exhibit "C." The City and the Developer agree that specific approvals are required for each phase or part of the Development Plan, provided, however, that the City shall not withhold such approvals if the applicable phase or part is substantially in conformance with the Development Plan. In addition, the parties agree as follows:

(a) The Developer understands and agrees that a portion of the consideration for the City to enter into this Utility Contract is the Developer's obligation to develop the property consistent with the Development Plan. The creation of the District was predicated on the Developer's ability to develop the Property in conformance with the Development Plan. The City, the Developer, and the District agree that the Developer shall develop, and the City shall allow development of, the Tract in accordance with the Development Plan. The current Development Plan presented to the District by the Developer provides for 132.85 net acres of single family development, 9.77 net acres of commercial development and the balance of the land shall be for recreational facilities, stormwater detention, open spaces and roadways, as shown on Exhibit "C." Any material change to the Development Plan, as determined by the City, shall be approved by the City and shall conform to the then-current City standard criteria.

(b) The City, the Developer, and the District recognize the City's rights and obligations to insure that all Facilities are constructed in accordance with approved plans and specifications. The City, the Developer, and the District agree that the City shall be named as an additional beneficiary on all construction, payment, performance, and maintenance bonds and that no additional bonds shall be required of the Developer or the District.

(c) The obligations provided in this Article shall be obligations solely of the Developer and shall not be obligations of the District. Further, the Developer's obligations in this Article shall survive the creation of the District and shall exist for the term of this Utility Contract. Notwithstanding any other provision of this Utility Contract, the Developer may not assign any of its obligations under this Article to the District or any other person or entity without the written consent of the City.

3.2 Traffic Improvements.

(a) Traffic Impact Analysis. The Developer hereby agrees, at its sole cost and expense, to prepare an updated Traffic Impact Analysis (TIA) acceptable to the City prior to the City's approval of any plat which shall result in 400 or more platted lots within the District. The subject TIA shall specifically, but shall not be limited to, traffic conditions and needs on F.M. 2218, including traffic signals.

(b) The Developer hereby agrees, at its sole cost and expense, to construct any traffic improvements required by the Texas Department of Transportation ("TxDOT"), identified by the TIA, or determined by the City as being attributable or related to development

within the District. Such improvements shall be constructed in accordance with TxDOT criteria and shall be completed within time frames prescribed by the TIA, TxDOT, or the City

3.3 Airport Notice. Developer acknowledges that the Tract is located in the vicinity of Lane Aviation, Inc. and may be impacted by increased noise and other conditions caused by flights in and out of said airport. Developer hereby agrees to provide notice of same to any subsequent purchaser of land within the District and to require in any contract with homebuilders that said homebuilders obtain the acknowledgment of such notice by any homebuyer upon the purchase of any home.

ARTICLE IV FINANCING OF FACILITIES

4.1 Authority of District to Issue Bonds. The District shall have authority to issue, sell and deliver Bonds from time to time, as deemed necessary and appropriate by the Board of Directors of the District, for the purposes, in such forms and manner and as permitted or provided by federal law, the general laws of the State of Texas and the Consent Ordinance. No Bonds shall be issued by the District unless all terms and conditions of the City's Procedures for the Creation of In-City Municipal Utility Districts attached as Exhibit "B" and of the Consent Ordinance have been followed. Further, the City shall not make such an objection on any basis except non-compliance by the District with the conditions set forth in Section 29-232, subsection 16 of the City's Code of Ordinances, as amended, as and if applicable to the specific series of Bonds then submitted for approval.

4.2 Bonds as Obligation of District. Unless and until the City shall dissolve the District and assume the District Assets and District Obligations, the Bonds of the District, as to both principal and interest, shall be and remain obligations solely of the District and shall never be deemed or construed to be obligations or indebtedness of the City.

ARTICLE V. ANNUAL PAYMENTS AND DISTRICT TAXES

5.1 Calculation of Annual Payments. The revenues generated from within the District by the City Drainage Tax Rate, if any, shall be rebated to the District under this Section. Expressed as a formula, the Annual Payment is:

$$\text{City Drainage Tax Rate} \times \text{District Taxable Assessed Valuation}/100$$

The Parties recognize that the City Drainage Tax Rate may increase or decrease over time. As such, the City shall annually reevaluate and determine the City Drainage Tax Rate for the purposes of this Utility Contract. The Parties shall use the City's most recent Comprehensive Annual Financial Report and the District's most recent certified tax roll from the Fort Bend Central Appraisal District for the actual collected basis.

5.2 Payment of Annual Payment. The Annual Payment shall begin on February 1 in the calendar year following the calendar year for which the District initially receives a tax roll from the Fort Bend Central Appraisal District and shall be payable each February 1 thereafter (the "Payment Date"), with each such Annual Payment being applicable to the calendar year preceding

the calendar year of each such February 1 (e.g., if the District receives a tax roll for the calendar year 2004, the Annual Payment for such year will be due February 1, 2005). Developer shall be obligated to furnish the City with the certified tax rolls and any related documentation for the requested rebate and make a request for rebate on or before January 31 of each year as provided herein.

5.3 Access to Records for Verifying Calculation of Annual Payments. The City shall maintain proper books, records and accounts of all ad valorem taxes levied by the City from time to time and the calculation of the City's Drainage Tax Rate in the City's Department of Finance and Administration, and shall afford the District or its designated representatives reasonable access thereto for purposes of verifying the amounts of the City's Drainage Tax Rate and the Annual Payment during normal business hours, subject, however, to the provisions of the Texas Open Records Act and other applicable confidentiality laws.

5.4 District Taxes. The District is authorized to assess, levy and collect ad valorem taxes upon all taxable properties within the District to provide for (i) the payment in full of the District's Obligations, including principal, redemption premium, if any, or interest on the Bonds and to establish and maintain any interest and sinking fund, debt service fund or reserve fund and (ii) for administration, operation, and maintenance purposes, all in accordance with applicable law. The parties agree that nothing herein shall be deemed or construed to prohibit, limit, restrict or otherwise inhibit the District's authority to levy ad valorem taxes as the Board of Directors of the District from time to time may determine to be necessary. The City and the District recognize and agree that all ad valorem tax receipts and revenues collected by the District, together with all Annual Payments shall become the property of the District and may be applied by the District to the payment of all or any designated portion of the principal or redemption premium, if any, or interest on the Bonds or otherwise in accordance with applicable law.

5.5 Sale or Encumbrance of Facilities. It is acknowledged that the District may not dispose of or discontinue any portion of the Facilities.

ARTICLE VI. DISSOLUTION OF THE DISTRICT

6.1 Dissolution of District Prior to Retirement of Bonded Indebtedness. The City and the District recognize that, as provided in the laws of the State of Texas and the Consent Ordinance, the City has the right to abolish and dissolve the District and to acquire the District's Assets and assume the District's Obligations. Notwithstanding the foregoing, the City agrees that it will not dissolve the District until the Facilities required to serve the District have been completed and Bonds have been issued to finance the same.

If requested by the District, the City shall afford the District the opportunity to discharge any remaining District's Obligations by either (i) authorizing the District to sell its Bonds before or during a transition period prior to the effective date of dissolution, as established by the City, (ii) pursuant to Local Government Code Section 43.080, as amended, issuing and selling bonds of the City in at least the amount necessary to discharge the District's Obligations, including those under any utility development and reimbursement agreements with developers in the District, or (iii) providing written notice to the District that the City has sufficient funds available from other sources

to discharge the District's Obligations, including those under the utility development and reimbursement agreements with developers in the District. Upon dissolution of the District, the City shall acquire the District's Assets and shall assume the District's Obligations. The City further agrees that it will not dissolve the District until the Developer developing Facilities in the District has/have been reimbursed by the District to the maximum extent permitted by the rules of the Commission or the City assumes any obligation for such reimbursement of the District under such rules.

6.2 Transition upon Dissolution. In the event all required findings and procedures for the dissolution of the District have been duly, properly and finally made and satisfied by the City, and unless otherwise mutually agreed by the City and the District pursuant to then existing law, the District agrees that its officers, agents and representatives shall be directed to cooperate with the City in any and all respects reasonably necessary to facilitate the dissolution of the District and the transfer of the District's Assets to, and the assumption of the District's Obligations by, the City.

ARTICLE VII. MISCELLANEOUS

7.1 City Code of Ordinances, Permits, Fees, Inspections. The District understands and agrees that all City ordinances and codes, including applicable permits, fees and inspections, shall be of full force and effect within its boundaries and shall apply in the same manner as to other areas within the City's corporate limits and this Utility Contract shall at all times be subject to full compliance with the City Code of Ordinances. The District understands and agrees that any improvements to the Detention Tract will be done in accordance with the Development Plan and conditions related thereto and any agreement entered into between the City and the District as provided in Section 3.2 hereof.

7.2 Approvals and Consents. Approvals or consents required or permitted to be given under this Utility Contract shall be evidenced by an ordinance, resolution or order adopted by the governing body of the appropriate party or by a certificate executed by a person, firm or entity previously authorized to give such approval or consent on behalf of the party. Approvals and consents shall be effective without regard to whether given before or after the time required for giving such approvals or consents.

7.3 Force Majeure. If any party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Utility Contract, except the obligation to pay amounts owed or required to be paid pursuant to the terms of this Utility Contract, then the obligations of such party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure", as used herein, shall include without limitation of the

generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy including acts of terrorism, orders of any kind of the government of the United States or the State of Texas or any civil or military authority other than a party to this Utility Contract, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, drought, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply resulting in an inability to provide water necessary for operation of the water and sewer system hereunder or in an inability of the City to provide Water or receive Wastewater, and any other incapacities of any party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party when such settlement is unfavorable to it in the judgment of the party experiencing the difficulty.

7.4 Law Governing; Venue; Authority for Actions. This Utility Contract shall be governed by the laws of the State of Texas and no lawsuit shall be prosecuted on this Utility Contract except in a court of competent jurisdiction located in Fort Bend County.

The parties hereto recognize and understand that disputes may occur or actions may be required under this Utility Contract and that this Utility Contract involves a governmental entity and, as such, there can be no delegation to a third party individual or third party entity of the duties and obligations of the parties as herein provided. Thus, the parties agree that actions of the City hereunder with respect to its duties and obligations may be submitted to the City Council of the City for consideration and resolution if and as required by the City's Code of Ordinances. In such event, the City Council of the City, after consideration and hearing, shall render a final decision thereunder and the decision of the City Council shall be the final, binding and conclusive action of the City with respect thereto. Likewise, the decision of the Board of Directors of the District with respect to the District's duties and obligations hereunder shall be the final, binding and conclusive action of the District with respect thereto.

7.5 No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or the performance by any party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults or any kind, under any circumstances.

7.6 Addresses and Notice. Unless otherwise provided in this Utility Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to the other (except bills), must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to such party, addressed to the party to be notified. Notice deposited in the mail in the manner herein above described shall be conclusively deemed to be effective, unless otherwise stated in this Utility Contract, from and after the expiration of three (3) days after it is so deposited. Notice given in any such other manner shall

be effective when received by the party to be notified. For the purpose of notice, addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:

City Manager
City of Rosenberg
P. O. Box 32
Rosenberg, Texas 77471-0032
Attn: City Manager

If to the Developer, to:

2218 Rosenberg, L.P.
c/o Todd Land Company
Attn: Mr. Michael P. Ross
1800 West Loop South
Suite 1075
Houston, Texas 77027

If to the District, to:

Fort Bend County Municipal Utility District No. 150
c/o Coats, Rose, Yale, Ryman & Lee, P.C.
Attn: Julianne B. Kugle
3 Greenway, Suite 2000
Houston, Texas 77046

The parties shall have the right from time-to-time and at any time to change their respective addresses and each shall have the right to specify any other address by at least fifteen (15) days written notice to the other.

7.7 Assignability. Except as set forth below, this Utility Contract may not be assigned by either party except upon written consent of the other party hereto. Developer shall assign this Utility Contract to the District within ninety (90) days after the results of the election within the District at which the qualified voters vote in favor of confirmation of the creation of the District are declared. If any such election results in a vote against the confirmation of the District, Developer, at its sole option, may terminate this Utility Contract upon thirty (30) days written notice to the City upon payment of all reasonable costs and expenses incurred by the City due to such termination.

7.8 Merger and Modifications. This Utility Contract, including the exhibits that are attached hereto and incorporated herein for all purposes, embodies the entire agreement between

the parties relative to the subject matter hereof. This Utility Contract shall be subject to change or modification only with the written mutual consent of the parties.

7.9 Reservation of Rights. All rights, powers, privileges and authority of the parties hereto not restricted or affected by the express terms and provisions hereof are reserved by the parties and, from time to time, may be exercised and enforced by the parties.

7.10 Captions. The captions of each section of this Utility Contract are inserted solely for convenience and shall never be given effect in construing the duties, obligations or liabilities of the parties hereto or any provisions hereof, or in ascertaining the intent of either party, with respect to the provisions hereof.

7.11 Severability. The provisions of this Utility Contract are severable, and if any part of this Utility Contract or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Utility Contract and the application of part of this Utility Contract to other persons or circumstances shall not be affected thereby.

7.12 Benefits of Contract. This Utility Contract is for the benefit of the City, the Developer, and the District, and shall not be construed to confer any benefit on any other person except as expressly provided for herein.

7.13 Term and Effect. Except as otherwise specifically set forth herein, including in this Section below, this Utility Contract shall become effective on the date Developer closes on its purchase of the Tract, and shall remain in effect until the earlier to occur of (i) the dissolution of the District by the City or (ii) the expiration of thirty-five (35) years from the effective date hereof. Further, this Utility Contract shall automatically terminate unless extended by mutual agreement between City and Developer in the event that (a) the Developer does not close on its purchase of the Tract on or before June 30, 2004, or (b) the Commission does not adopt an order consenting to the creation of the District on or before June 30, 2005.

The City may terminate this Utility Contract after two (2) years from its effective date if the City has not, by that date, received a properly executed copy of the Contract from the District, without modification, and the assignment of the Developer's obligations relating to Water Supply Service and Wastewater Service to the District or after three (3) years from its effective date should the Developer fail to commence substantial construction of Facilities to serve the Tract. Notice shall be given by the City in writing to the Developer and the District at least thirty (30) days prior to the termination date.

7.14 Meetings and Notices. The District shall comply with all provisions of the Procedures for Creation of In-City Municipal Utility Districts related to District meetings and notices.

[EXECUTION PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Utility Contract in multiple copies, each of equal dignity, on this 20th day of April, 2004.

CITY OF ROSENBERG



By: [Signature]
Name: JOE M. GURECKY
Title: MAYOR
Date: APRIL 20, 2004

ATTEST:

APPROVED:

[Signature]
CITY SECRETARY

[Signature]
CITY ATTORNEY

DEVELOPER

2218 ROSENBERG, L.P., a Texas Limited Partnership

By: Tyee Management LLC

By: [Signature]
Name: Tyler D. Todd
Its: President

This instrument was acknowledged before me on this the 14th day of April, 2004, by Tyler D. Todd President of Tyee Management LLC, authorized as _____ to sign this Agreement on behalf of 2218 Rosenberg, L.P., a Texas Limited Partnership.



[Signature]
Notary Public
In and For the State of Texas

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150
170.8 ACRES
IN THE
S.B. PENTECOST SURVEY, A-378
S.B. PENTECOST SURVEY, A-362
FORT BEND COUNTY, TEXAS

ONE TRACT OF LAND TOTALING 170.8 ACRES DESCRIBED AS FOLLOWS:

TRACT ONE

All that certain 170.8 acres of land, which is the 82.699 acre tract described as Parcel One and the 95.858 acre tract described as Parcel Two in the gift deed from Colletta Lake Marshall to Colletta Ray McMillian, et al recorded under Volume 1971, Page 1741, in the Official Public Records of Fort Bend County, Texas, in the S.B. Pentecost Survey, A-378 and the S.B. Pentecost Survey, A-362, Fort Bend County, Texas, and more particularly described by metes and bounds as follows: (All bearing based on the record bearings of said 82.699 acre tract)

PARCEL ONE (82.699 ACRES)

A tract of land of 82.699 acres out of the S. B. Pentecost Survey, Abstract 378, in Fort Bend County, Texas, being out of and part of a tract of land called at 130.7 acres described in a deed from Mrs. Susie Smith to C. J. Dickerson dated February 14, 1938, and recorded in Volume 174, Page 197 of the Deed Records of Fort Bend County, Texas, to which refer in aid hereof, and said land being described by metes and bounds as follows, to-wit:

BEGINNING at a point for the South corner of this tract, in the Southeast line of the said C.J. Dickerson 130.7 acre tract, which said corner is situated North 45 deg. 04' 10" West 2606.4 feet and North 45 deg. East 904.96 feet from a 1-1/2" iron pipe marking the South corner of the C.J. Dickerson 150 acre tract, such Point of Beginning being also the most Westerly corner of a 46.714 acre tract conveyed by C.J. Dickerson et al to George C. Lane, Jr.;

THENCE North 45 deg. 04' 10" West with the Northeast line of the said George C. Lane, Jr. Tract at 2213.48 feet pass an iron pipe a total distance of 2248.6 feet to a point in the Northwest line of said C.J. Dickerson 130.7 acre tract, being also the most Northerly corner of the George C. Lane, Jr. 46.714 acre tract for the most Westerly corner of this tract in the Richmond-Needville road;

THENCE North 45 deg. East with the Northwest boundary line of the C.J. Dickerson 130.7 acre tract 1602.04 feet to a point in said Richmond-Needville road for the most Northerly corner of this tract, being also the most Northerly corner of the C.J. Dickerson 130.7 acre tract;

THENCE South 45 deg. 04' 10" East (at 23.6 feet past a corner post and iron pipe) in all 2248.6 feet with the Northeast line of the C.J. Dickerson 130.7 acre tract to a point in such line, the common corner of the C.J. Dickerson 130.7 acre tract and the C.O. Dickerson 150 acre tract for the most Easterly corner of this tract;

THENCE South 45 deg. West 1602.04 feet to the POINT OF BEGINNING and containing 82.699 acres, according to a survey on the ground by Henry Steinkamp, Jr., Registered Professional Engineer, of September 21 and 22, 1961.



PAGE 2 - 170.8 ACRES

PARCEL TWO (95.858 ACRES)

A tract of land 95.058 acres out of the S. B. Pentecost Survey, Abstract 378, Survey No. 12, and the S. Pentecost Survey, Abstract 362, all situated in Fort Bend County, Texas, part of a 150 acre tract described in a deed from G. C. Benton to C.J. Dickerson dated February 5, 1938, and recorded in Volume 174, Page 195 of the Deed Records of Fort Bend County, Texas, to which refer in aid hereof, and said land being described by metes and bounds as follows, to-wit;

BEGINNING at a point, for the South corner of this tract, which is situated North 45 deg, East 904.96 feet from a 1-1/2" iron pipe marking the South corner of the C.O. Dickerson 150 acre tract;

THENCE North 45 deg. 04' 10" West 2.606.4 feet with the Northeast boundary line of the George C. Lane, Jr. 54.148 acre tract to a point in the Northwest line of the C.O. Dickerson 150 acre tract, the common corner of this tract and the said George C. Lane, Jr. Tract for the most Westerly corner of this tract;

THENCE North 45 deg. East 1602.04 feet with the Northwest line of the C.J. Dickerson 150 acre tract, being also the Southeast line of the Robert H. Ray 82.699 acre tract to a point in the Northeast line of the C.J. Dickerson 150 acre tract for the North corner of this tract;

THENCE South 45 deg. 04' 10" East with fence 2606.4 feet to a post and iron pipe for the East corner of the C.O. Dickerson 150 acre tract for the most Easterly corner of this tract;

THENCE South 45 deg. West 1602.04 feet with fence to the PLACE OF BEGINNING, and containing 95.858 acres of land according to a survey of the ground by Henry Setinkamp, Jr., Registered Professional Engineer, dated September 21 and 22, 1961.

SAVE AND EXCEPT (FROM PARCEL ONE AND PARCEL TWO)

A Field Note Description of a 7.802 Acre Tract of Land off of the Southwest side of the Robert H. Ray Estate Call 177.476 Acre Tract in the S.B. Pentecost Survey No. 12, Patent #491, Volume 16, Abstract #378, Fort Bend County, Texas.

Begin at a 3/4 inch iron pipe found marking the East corner of the Lane Aviation 105.672 Acre Tract, recorded in Volume 2669, Page 428 of the Official Public Records of Fort Bend County, Texas; said corner being the South corner of said Robert H. Ray Estate Call 177.476 Acre Tract and the South corner of and PLACE OF BEGINNING for this tract;

THENCE, North 45deg.04'10" West, at 1584.0 feet pass a 1/2 inch iron pipe found, continuing along the Northeast line of said Lane Aviation 105.672 Acre Tract, at 4819.88 feet pass a 3/4 inch iron pipe found in asphalt marking the Southeast right-of-way line of State Farm Market Road No. 2218 (100 feet wide), in all 4855.0 feet to a point marking the West corner of said Robert Ray Estate Call 177.476 Acre Tract and the North corner of said Lane Aviation 105.672 Acre Tract; said corner being the West corner of this tract;

THENCE, North 45 deg. East, along a line in said State Farm Market Road No. 2218, 70.0 feet to a point marking the North corner of this tract;

THENCE, South 45deg.04'10" East at 34.62 feet pass a 1/2 inch iron rod set in the Southeast right-of-way line of State Farm Market Road No. 2218, in all 4854.88 feet to a 1/2 iron rod set marking the East corner of this tract;

THENCE, South 44deg.53'45" West, along a fence line marking the Southeast line of said Robert H. Ray Estate Tract, 70.0 feet to the place of beginning and containing 7.802 Acres of Land, including 0.056 Acre in State Farm Market Road No. 2218, leaving a net Acreage of 7.746 Acres.

THIS LEGAL DESCRIPTION IS ISSUED IN CONJUNCTION WITH THE DISTRICT BOUNDARY MAP OF FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT 150. TRACT 1 IN THIS DOCUMENT WAS PREPARED UNDER 22TAC-§ 663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTEREST IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTEREST IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.



Rocky J. Bradshaw

Certification Date
February 2004



F. M. HIGHWAY 221B

(SEESE MORE CALL: R 10' E - 100000')

S. B. PENTECOST SURVEY, A-378

20' X 50' (0.023 ACRES)
STATE OF TEXAS
RIGHT-OF-WAY TAKING
VOLUME 333, PAGE 528, O.P.R.F.B.C.

RECORD OF PARCEL, NO.
25286, 0003
COLLETTA RAY MORGAN, ET AL.
VOL. 1973, PG. 1711, O.P.R.F.B.C.

3.002 ACRES
STATE OF TEXAS
RIGHT-OF-WAY TAKING
VOLUME 333, PAGE 528, O.P.R.F.B.C.

(SAVE AND EXCEPT)
7.802 ACRES
COLLETTA RAY MORGAN, ET AL.
TO
LANE WATCH, INC.
FILE NO. 9709831, O.P.R.F.B.C.

DEED LINE

ABSTRACT LINE (APPROXIMATE LOCATION)

S. B. PENTECOST SURVEY, A-362

DETENTION TRACT
11 ACRES

RECORD OF PARCEL, NO.
25286, 0003
COLLETTA RAY MORGAN, ET AL.
VOL. 1973, PG. 1711, O.P.R.F.B.C.

200' WIDE FORT BEND
COUNTY DRAINAGE DISTRICT EASEMENT
VOL. 319, PG. 65, O.P.R.F.B.C.

J.P. 25

E DRY CREEK

Blumberg No. 5208
A-2
EXHIBIT

PATE SURVEYORS
A DIVISION OF PATE ENGINEERS, INC.
13333 NW Freeway, Ste 300 • Houston, TX 77040 • Ph 713-462-3178 • Fax 713-462-3015 • www.pateeng.com

EXHIBIT

**F.B.C.M.U.D. 150
DETENTION TRACT
FORT BEND COUNTY, TEXAS**

DRAWN: DKP	ORIGINAL ISSUE DATE: 4/15/04	ORIGINAL SCALE: N.T.S.
APPROVED FOR ISSUE:	JOB NO.: 1279-002-00	

Sec. 29-232. Conditions to creation.

The following conditions shall apply to every MUD within the city:

- (1) The MUD may acquire property outside its boundaries with consent of the city only for purposes of providing stormwater drainage and detention, potable water distribution, wastewater collection, and for all other purposes permitted by law.
- (2) The MUD shall not provide services for, or acquire property to provide services for, any property outside its boundaries without the consent of the city.
- (3) The MUD shall not allow use of easements or stormwater drainage facilities owned or controlled by the MUD for any property or development outside its boundaries without the consent of the city.
- (4) The MUD shall pay the actual costs incurred by the city for legal, engineering and financial advisory services in connection with the utility agreement (hereinafter defined) and the adoption of an ordinance consenting to creation of the MUD as set forth in the consent agreement.
- (5) The facilities to be constructed by the MUD shall be designed and constructed in compliance with all applicable requirements and criteria of the applicable regulatory agencies and subject to the applicable provisions of the city's ordinance granting a petition for inclusion of certain territory in the MUD (the "consent ordinance").
- (6) The city shall not allow any connection to be made to the MUD's wastewater system until, with respect to such connection:
 - a. The MUD has issued an assignment of capacity specifying the number of gallons per day of water supply and wastewater treatment allocated for such connection, and has provided a copy thereof to the city manager;
 - b. The city has inspected the connection and premises and has issued a building permit for that connection; and
 - c. All buildings or structures served by connections shall be located entirely within the boundaries of a lot or parcel shown in a plan, plat or replat filed with and finally approved by the city and city council and duly recorded in the official records of the county where the property is located (provided this limitation shall not apply if no plan, plat or replat is required by applicable state statutes or city ordinances).
- (7) Unless and until the city shall dissolve the MUD and assume the properties, assets, obligations and liabilities of the MUD, the bonds of the MUD, as to both principal and interest, shall be and remain obligations solely of the MUD and shall never be deemed or construed to be obligations or indebtedness of the city.
- (8) All contracts with third parties for construction of water, wastewater and stormwater facilities to serve the proposed MUD will contain the following provisions:
 - a. A requirement that all plans and specifications for construction of improvements or modification of improvements which are to be built to serve the MUD and/or require approval of the Texas Commission on Environmental Quality be prepared in accordance with the then adopted city specifications and requirements for such facilities and delivered to the city engineer for approval prior to submission to the Texas Commission on Environmental Quality. All plans and specifications presented to the bidders shall be approved by the city prior to advertising for bids;
 - b. An agreement that all construction or modification of improvements to serve the MUD will be inspected by the city and that no underground improvements will be backfilled prior to inspection and approval by the city; and
 - c. All contracts for construction of improvements will be awarded in compliance with the terms contained within public bidding statutes in Chapter 49 of the Texas Water Code.

(9) As the MUD's facilities are acquired and constructed, the MUD shall convey the same to the city, including all warranties relating to the facilities; provided, however, that the MUD shall not convey, and the city shall not accept, stormwater detention systems (stormwater detention systems shall be owned and operated by the homeowners association or other entity acceptable to the city as provided in the utility contract and the MUD shall be granted a drainage easement on the stormwater detention systems in a form acceptable to the city).

(10) As acquisition and/or construction of each phase of the facilities is completed, representatives of the city shall inspect the same and, if the city finds that the same has been completed in accordance with the final plans and specifications, the city will accept the same, whereupon such portion of the facilities shall be operated and maintained by the city at its sole expense; provided, however, that the city shall not accept, or operate and maintain, stormwater detention systems; (stormwater detention systems shall be owned and operated by the homeowners association or other entity acceptable to the city as provided in the consent agreement); and further provided, however, that in the event that the facilities have not been completed in accordance with the final plans and specifications, the city will immediately advise the MUD in what manner said facilities do not comply, and the MUD shall immediately correct the same, whereupon the city shall again inspect the facilities and accept the same if the defects have been corrected.

(11) The city shall bill and collect from customers of the facilities and shall from time to time fix such rates and charges for such customers of the facilities as the city, in its sole discretion, determines are necessary; provided that the rates and charges for services afforded by the facilities will be equal and uniform to those charged other similar classifications of users in non-MUD areas of the city; and all revenues from the facilities shall belong exclusively to the city without rebate of such revenues to the MUD.

(12) The city may impose a charge for connection to the facilities at a rate to be determined from time to time by the city, provided the charge is equal to the sums charged other city users for comparable connections; and the connection charge shall belong exclusively to the city.

(13) The MUD is authorized to assess, levy and collect ad valorem taxes upon all taxable properties within the MUD to provide for: (a) the payment in full of the MUD's obligations, including principal, redemption premium, if any, and interest on the bonds to be issued by the MUD and to establish and maintain any interest and sinking fund, debt service fund or reserve fund, (b) the administration, operation and maintenance purposes, all in accordance with applicable law, and (c) to pay expenses of assessing and collecting the taxes. The city will levy and collect ad valorem taxes upon all taxable properties in the city, including the MUD. The city will agree in the utility agreement to rebate to the MUD on an annual basis city ad valorem taxes attributable to the city's debt service payments for drainage only to the extent required by applicable law.

(14) Unless the MUD is in default under the terms of its utility agreement after reasonable opportunity to cure, the city shall not dissolve the MUD until the water, wastewater and drainage utilities required to serve the MUD have been completed and bonds issued by the MUD to finance same; and the city shall afford the MUD the opportunity to discharge any obligations of the MUD pursuant to any existing agreements of the MUD with third parties for construction of facilities, by either: (a) authorizing the MUD to sell its bonds before or during a transition period prior to the effective date of dissolution, as established by the city, (b) issuing bonds and selling bonds of the city pursuant to Vernon's Texas Codes Annotated, Local Government Code Section 43.080, as amended, in at least the amount necessary to discharge the MUD's obligations, including those under any such agreements, or (c) providing written notice to the MUD that the city has sufficient funds available from other sources to discharge the MUD's obligations, including those under any such existing agreements with third parties. The City shall have the right to dissolve the MUD if construction of water, wastewater or drainage utilities required to serve the MUD does not begin within thirty-six (36) months of execution of the consent agreement.

(15) All city ordinances and codes, including applicable permits, fees and inspections, shall be of full force and effect within the boundaries of the MUD in the same manner as with respect to other areas within the city's corporate limits, except as specifically herein provided otherwise.

(16) No bonds, other than refunding bonds, or notes of the MUD shall be issued or sold unless not less than twenty (20) days following the filing of an application with the Texas Commission on Environmental Quality for the approval of projects and bonds, the MUD provides the city with a copy of such application

and not less than twenty (20) days prior to publication of notice of sale, the MUD provides the city with a copy of the staff memorandum of Texas Commission on Environmental Quality approving the projects and bonds, a copy of its proposed bond order, preliminary official statement, bid form and notice of sale and the following criteria are met. The MUD shall not issue bonds unless the following conditions have been satisfied:

a. The MUD shall not issue any bonds, other than refunding bonds, unless the purpose for which the proceeds of such bonds may be used is limited to one or more of the following and no others:

1. Designing, purchasing and/or constructing or otherwise acquiring:
 - (i) waterworks facilities,
 - (ii) wastewater facilities, or
 - (iii) stormwater drainage and detention facilities,
2. Purchasing, constructing, owning, operating, repairing, improving, extending or otherwise acquiring interests in real property, improvements, facilities, appliances, equipment, buildings, plants or structures necessary or incidental to the operation of waterworks facilities, wastewater facilities, or stormwater drainage facilities. Proceeds of the bonds for costs of operations of the MUD shall not exceed ten (10) percent of the issuance amount.
3. All costs of issuance of the bonds (including but not limited to legal fees, financial advisory fees, administrative and organizational fees and expenses and costs of operations during construction, bond discount, capitalized interest, developer interest, creation costs, printing expenses, publication expenses and contingencies relative to facilities not yet under contract). Proceeds of the bonds for costs of operations of the MUD shall not exceed ten (10) percent of the issuance amount.
4. All other purposes authorized by law.

b. The MUD shall not sell or issue any bonds unless:

1. The terms of such bonds expressly provide that the MUD reserves and shall have the right to redeem the bonds not later than the 15th anniversary of the date of issuance, without premium.
2. The bonds, except refunding bonds, are sold after the taking of public bids therefor.
3. None of such bonds, other than refunding bonds, are sold for less than ninety-five (95) percent of par.
4. The net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, does not exceed two (2) percent above the highest average interest rate reported by the daily bond buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given and bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given.
5. The maximum term of any debt issuance shall be no greater than twenty-five (25) years.
6. The minimum par amount of any bonds issued, except a final issue, shall be one million dollars (\$1,000,000.00).
7. Each issue of bonds shall be structured to achieve either level principal payments or level debt service payments, excluding the first two (2) years of debt service.
8. The MUD shall submit to the city pro forma cash flows evidencing a MUD tax rate (both maintenance and operations rate and interest and sinking rate combined) not to

exceed one dollar and fifty cents (\$1.50) per one hundred dollars (\$100.00) assessed valuation.

9. Each bond issue shall not include more than two (2) years of capitalized interest. The city shall review the documents required to be provided hereunder and the evidence of compliance with the foregoing criteria within fifteen (15) days following receipt of same. The issuance of bonds by the MUD must be approved by the city council of the city, or its designee. Any costs incurred by the city in connection with review of the issuance of bonds shall be paid by the MUD, in an amount not to exceed two thousand five hundred dollars (\$2,500.00).

(17) The city acknowledges that a MUD has authority to assess an unlimited tax for payment of debt service. However, prior to implementation of any increase in tax rate above its initial rate, the MUD shall make a formal presentation to city council explaining the need for the increase, at which time residents of the MUD shall be given an opportunity to be heard. Notice of such presentation shall be sent to each owner of taxable property within the MUD as reflected on its most recent certified tax roll. This provision shall be in addition to any requirements of notice and hearing which may be contained in the Texas Water Code and in the Texas Tax Code which apply to the MUD.

(18) In addition to the information the MUD is required to file of record as required by the Texas Water Code, the MUD shall annually deliver to each property owner within the MUD, as reflected on its most recent certified tax roll, written notice of the existence of the MUD and its right to assess taxes in addition to those assessed by the city. Such notice shall also contain a reference to the consent agreement, the consent ordinance and this paragraph. Such notice shall advise the property owner that such documents are available for inspection during regular business hours in the MUD's office.

(19) The majority in value of landowners within the proposed MUD shall enter into a water supply and wastewater services contract ("utility contract") with the city, which shall contain the terms and conditions set forth in this section 29-232, as well as other terms and conditions which may be agreed to by the city or imposed herein. The utility contract shall be assigned by the proponent to the MUD upon its creation;

(20) The utility agreement shall be entered into simultaneously with the adoption of the consent ordinance.

(21) The MUD shall establish an official meeting location within the corporate limits of the city and at all times after the MUD has one hundred (100) residential connections, it is to hold the meetings of its board of directors at such location.

(22) In addition to any other notice requirements applicable to the MUD, the MUD must post an agenda of the meetings of its board of directors at all primary entrances to the MUD and at the location designated for notices at city hall not less than seventy-two (72) hours prior to any meeting. An agenda shall also be provided to the city manager of the city prior to any meeting of the board of directors.

(23) The official office for recordkeeping of the MUD must be accessible to the district residents and shall not require a long distance phone call for a district resident to contact the official office for recordkeeping.

(24) The MUD shall comply with all applicable requirements of the Texas Commission on Environmental Quality regarding the display of signage at entrances into the MUD.

(Ord. No. 2003-02, § 1, 2-4-03; Ord. No. 2003-19, § 2, 4-30-03)

**AMENDMENT TO
WATER SUPPLY AND WASTEWATER SERVICES CONTRACT
BETWEEN THE CITY OF ROSENBERG, TEXAS AND
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150**

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

THIS AMENDMENT TO WATER SUPPLY AND WASTEWATER SERVICES CONTRACT BETWEEN THE CITY OF ROSENBERG, TEXAS AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150 (the "Amendment") is entered into as of the date set forth herein, by and between THE CITY OF ROSENBERG, TEXAS (the "City"), a municipal corporation and home-rule city situated in Fort Bend County and Fort Bend County Municipal Utility District No. 150 ("the District").

RECITALS

WHEREAS, the City and 2218 Rosenberg, L.P. entered into that certain Water Supply and Wastewater Service Contract dated April 20, 2004, (the "Contract"), as assigned from 2218 Rosenberg, L.P. to the District, by that certain Assignment dated December 14, 2004 (the "Assignment") (the Contract and Assignment being collectively referred to as the "Utility Development Agreement" or "UDA");

WHEREAS, the City is a home-rule city and municipal corporation that provides a full-range of governmental services to its citizens; and

WHEREAS, Rosenberg FM 2218, Ltd. has purchased a tract of approximately 15.07 acres of land which is within the City's corporate limits as described in Exhibit "A" attached hereto and incorporated herein (the "Annexation Tract"); and

WHEREAS, Rosenberg FM 2218, Ltd. has submitted to the District a Petition for Annexation of Land for the Annexation Tract to be annexed into the boundaries of the District; and

WHEREAS, the parties hereto wish to amend the Utility Development Agreement to subject the Tract to the rights and obligations of the Utility Development Agreement, reserve additional water supply and wastewater treatment capacity to serve the Annexation Tract and provide for the consent by the City to the annexation of the Annexation Tract. NOW, THEREFORE;

AGREEMENT

For and in consideration of the mutual promises, obligations, and benefits contained herein, the City and the District agree as follows:

Section 1. Section 1.1 of the Contract shall be amended as follows:

Developer means “2218 Rosenberg, L.P.”, a Texas limited partnership, its successors and assigns and Rosenberg FM 2218, Ltd., a Texas limited partnership, its successors and assigns.

Annexation Tract means that certain tract of approximately 15.07 acres of land described on Exhibit “A” attached hereto and incorporated herein.

Tract means the 170.8 acres of land described in Exhibit A-1 of the Utility Contract and the Annexation Tract to be developed by the Developer.

Section 2. Section 2.4 of the UDA shall be amended to read as follows:

2.4. Maximum Number of Connections.

The City agrees to provide up to 848 ESFCs to serve the District. 693 ESFCs shall serve the Wind Meadows subdivision and 155 ESFCs shall serve the Annexation Tract.

Section 3. A new Section 3.4 shall be added to the UDA to read as follows:

3.4. Developer Obligations.

The obligations set forth in Sections 3.1 and 3.2 of this Article III shall be applicable only to 2218 Rosenberg, L.P., its successors, and assigns. The obligations set forth in Section 3.3 of this Article III shall apply to 2218 Rosenberg L.P., Rosenberg FM 2218, Ltd., and their successors and assigns.

Section 4. All other terms and conditions of the UDA shall remain in full force and effect.

[EXECUTION PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in multiple copies, each of equal dignity, on this 1st day of NOV., 2005.

CITY OF ROSENBERG, TEXAS



By: [Signature]
Name: David E. Neeley
Title: City Manager
Date: _____

ATTEST:

APPROVED:

[Signature]
CITY SECRETARY

[Signature]
CITY ATTORNEY

FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 150

By: [Signature]
Michael Wilde, President

ATTEST:

By: [Signature]
Christopher Lee de Zevallos, Secretary

ROSENBERG FM 2218, LTD.,
a Texas limited partnership

By: [Signature]
Todd McCombs, General Partner

EXHIBIT "A" - Page 2 of 2 pages

THENCE; South 42° 02' 52" West - 1,161.17 feet with the northwesterly right-of-way line of State Farm-Market Road 2218 (100 feet wide) and with the southeasterly line of said 19.641 acre tract to a 5/8-inch iron rod found for the southerly corner of this tract;

THENCE; North 09° 26' 25" West - 1,019.63 feet with the easterly line of Lot 16 of said Danziger - Reese Subdivision conveyed to Rhoda Leah Danziger Saka, as recorded under Fort Bend County Clerk's File No. 9339888, with the easterly line of said Lot 1 and with the westerly line of said 19.641 acre tract to a 5/8-inch iron rod with cap set for the most westerly northwesterly corner of this tract;

THENCE; North 80° 33' 35" East - 37.24 feet to a 5/8-inch iron rod with cap set for an interior corner of this tract;

THENCE; North 09° 26' 25" West - 75.81 feet to the POINT OF BEGINNING and containing 15.0069 acres (653,699 square feet) of land.

COMPILED BY:

TEXAS ENGINEERING AND MAPPING
Civil Engineers - Land Surveyors
Stafford, Texas
Job No. 656-1
W:656-1.wpd





Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776



November 9, 2005

Mr. Josh J. Kahn
Coats/Rose/Yale/Ryman/Lee
3 Greenway Plaza, Suite 2000
Houston, TX 77046

Re: Amendment to Water Supply and Wastewater Services Contract
City of Rosenberg/Fort Bend MUD No. 150

Dear Mr. Kahn:

Enclosed are four (4) duplicate originals of the Amendment to Water Supply and Wastewater Services Contract between the City of Rosenberg, Texas, and Fort Bend County Municipal Utility District No. 150. This agreement was approved by the City Council of the City of Rosenberg on November 1, 2005.

If you have any questions, please do not hesitate to contact me.

Sincerely,

CITY OF ROSENBERG

A handwritten signature in cursive script that reads "Lyn Adolphus".

Lyn Adolphus, TRMC
City Secretary

cc: David E. Neeley, City Manager
Charles Kalkomey, City Engineer
Vault

7 PDF'd
11-9-05/la

in city secretary transmittals/contracts/Amendment to Fort Bend County MUD 150 Contract

OFFICE OF THE CITY SECRETARY
2110 Fourth Street*P.O. Box 32*Rosenberg, TX 77471-0032*832/595-3340*FAX 832/595-3333

ASSIGNMENT OF
WATER SUPPLY AND WASTEWATER SERVICES CONTRACT BETWEEN THE CITY
OF ROSENBERG, TEXAS AND 2218 ROSENBERG, L.P.

THIS ASSIGNMENT OF WATER SUPPLY AND WASTEWATER SERVICES CONTRACT (this "Assignment") is made effective as of the ~~14th~~ day of DECEMBER, 2004, by 2218 Rosenberg, L.P. (hereinafter called "Assignor") and Fort Bend County Municipal Utility District No. 150 (hereinafter called "Assignee").

RECITALS:

A. Assignor entered into that certain Water and Wastewater Services Contract, dated April 20, 2004, as amended, (the "Agreement") with the City of Rosenberg, Texas (the "City") regarding the development and financing of water and wastewater facilities to serve the proposed Fort Bend County Municipal Utility District No. 150 (the "District").

B. The Agreement provides that the parties assume that the Agreement will be assigned to the District after the creation of the District.

C. The District has been created by the Texas Commission on Environmental Quality by that certain order Creating Fort Bend County Municipal Utility District No. 150 dated October 27, 2004.

D. The District will hold an election on February 5, 2005 to confirm the creation of the District.

E. Assignor has agreed to assign to Assignee all of Assignor's right, title and interest in, to and under the Agreement, except for the obligations provided in Article III of the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor hereby agree as follows:

1. Assignment. Assignor does hereby unconditionally grant, transfer, bargain, assign, convey and set over to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the Agreement, except for the obligations provided in Article III of the Agreement. By its execution hereof, Assignee agrees to assume in full and in perpetuity each of the duties and obligations of Assignor under the Agreement without exception or qualification. This assignment and assumption is made by Assignor and Assignee with the approval and acknowledgement of the City as indicated by its execution of this Assignment.

2. Assignor's Representations. Assignor represents, warrants, covenants and agrees: (a) that Assignor has the right and authority to make this Assignment; (b) that, to the best of Assignor's knowledge, there is no default under the Agreement now existing and no event has occurred and is continuing which, with the lapse of time or the giving of notice or both, would constitute an event of default under the Agreement; and (c) that Assignor will, upon the request

of Assignee, execute and deliver to Assignee such other documents or take such further actions as Assignee may deem reasonably necessary or appropriate to make effective this Assignment and the various covenants of Assignor herein.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first above written.

ASSIGNOR:

2218 ROSENBERG, L.P.,
a Texas limited partnership

By: Tyee Management, LLC,
a Texas limited liability company

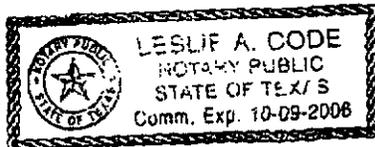
By: *Michael P. Ross*
Name: Michael P. Ross
Its: Vice President

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

This instrument was acknowledged before me on November 19, 2004 by Michael P. Ross, Vice President of Tyee Management, LLC, a Texas limited liability company, authorized as Vice President to sign this Assignment on behalf of 2218 ROSENBERG, L.P., a Texas limited partnership.

(SEAL)

Leslie A. Code
Notary Public in and for the
State of TEXAS



ASSIGNEE:

FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 150

By: Michael L. Wilde
President, Board of Directors

Attest:

[Signature]
Secretary, Board of Directors

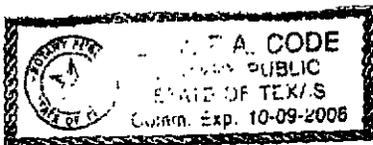
THE STATE OF TEXAS §

COUNTY OF FORT BEND §

This instrument was acknowledged before me on the 19th day of November 2004, by Michael Wilde, President, Board of Directors, Fort Bend County Municipal Utility District No. 150, a political subdivision, on behalf of said political subdivision.

(SEAL)

Reseia Cole
Notary Public in and for the
State of Texas



The City of Rosenberg hereby executes this Assignment solely for the purpose of granting its consent to the assignment contained herein.

CITY OF ROSENBERG



ATTEST

Lyn Adolphus
CITY SECRETARY

By: *Joe M. Gurecky*
Name: Joe M. Gurecky
Title: Mayor
Date: December 14, 2004

APPROVED:

Kevin Z. Weathered
CITY ATTORNEY

APPROVAL OF THE WATER SUPPLY AND WASTEWATER SERVICES AGREEMENT BETWEEN THE CITY OF ROSENBERG, AND 2218 ROSENBERG, L.P., MUD #150, AND TYEE MANAGEMENT, LLC; AND, APPROVAL OF AUTHORIZATION FOR MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, SAID WATER SUPPLY AND WASTEWATER SERVICES AGREEMENT.

Mr. Neeley advised that the proposed utility agreement would establish the criteria to provide utility services to the 2218 Rosenberg, L.P., MUD#150, and Tyee Management, LLC, development project; known as Wind Meadows Subdivision. He recommended approval of the proposed agreement, with the understanding that the staff will continue to work on the outstanding issues and bring those forward in a separate development agreement.

Councilor Hopkins made a motion, seconded by Councilor Becerra, to approve the Water Supply and Wastewater Services Agreement between the City of Rosenberg, and 2218 Rosenberg, L.P., MUD #150, and Tyee Management, LLC; and, approval of authorization for the Mayor to execute, for and on behalf of the City of Rosenberg, said Water Supply and Wastewater Services Agreement. The motion carried by a unanimous vote.

RECESS REGULAR SESSION, RECONVENE SESSION

Mayor Gurecky recessed the Regular Session at 8:01 p.m. and reconvened the Session at 8:16 p.m.

APPROVAL OF AUTHORIZATION FOR MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, ADDENDUM "B" TO THE WATER SUPPLY AND WASTEWATER SERVICES CONTRACT BETWEEN THE CITY OF ROSENBERG, TEXAS, BROOKLINE DEVELOPMENT COMPANY, AND ELAN DEVELOPMENT, L.P., TO ADD OBRA HOMES, INC., AS AN ADDITIONAL DEVELOPER.

Steve Weathered, City Attorney, advised that the Addendum "B" to the water supply and wastewater service contract with Brookline Development Company and Elan Development, L.P., would add Obra Homes, Inc. as an additional developer for Municipal Utility District 147. He noted that this addition would include Obra Homes, Inc. in all the developer obligations contained in the original Utility Agreement.

Councilor Naylor made a motion, seconded by Councilor Grigar, to approve authorization for the Mayor to execute, for and on behalf of the City of Rosenberg, Addendum "B" to the Water Supply and Wastewater Services contract between the City of Rosenberg, Texas, Brookline Development Company, and Elan Development, L.P., to add Obra Homes, Inc., as an additional developer. The motion carried by a unanimous vote.

APPROVAL OF AUTHORIZATION FOR MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, AN ASSIGNMENT OF THE WATER SUPPLY AND WASTEWATER SERVICES CONTRACT BETWEEN THE CITY OF ROSENBERG, TEXAS, AND TERRAMARK HOLDINGS L.C, TO CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP.

Mr. Weathered advised that the proposed assignment of all rights and obligations under Terramark Holdings L.C.'s Utility Contract relating to Municipal Utility District 148 would be transferred to Centex, if the assignment is approved. Steve Robinson, of Allen Boone and Humphries, L.L.P., provided information on Centex Homes and its decision to buy all the lots in the project so it could essentially assume the role of developer in the subdivision. Mr. Robinson introduced Brian Smith, of Centex Homes, who was present to answer any questions from Council.

Councilor Hopkins made a motion, seconded by Councilor Becerra, to approve authorization for the Mayor to execute, for and on behalf of the City of Rosenberg, an Assignment of the Water Supply and Wastewater Services contract between the City of Rosenberg, Texas, and Terramark Holdings L.C, to Centex Homes, a Nevada general partnership. The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON ORDINANCE 2004-29, TO CONSENT TO THE CREATION OF MUNICIPAL UTILITY DISTRICT #158 BY VENTANA DEVELOPMENT READING, LTD., WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF ROSENBERG.

Mr. Kalkomey advised that approval of this ordinance would provide for the creation of Municipal Utility District #158; provided information on the location of the development; and reported that the necessary documentation was submitted and reviewed.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Warstler, to approve the first and final reading of Ordinance 2004-29, caption as follows: *“An ordinance providing for approval of the creation of Municipal Utility District No. 158 of Fort Bend County, Texas, within the extraterritorial jurisdiction of the City of Rosenberg, Texas as further provided for herein, making certain findings of fact and other conclusions as herein set out.”* The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON AGREEMENT CONCERNING DEVELOPMENT OF LAND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND 2218 ROSENBERG, L.P. (MUD #150).

Mr. Kalkomey advised that approval of this annexation agreement would allow the developer to provide a second point of access to the Wind Meadows subdivision. He reported that the Planning and Zoning Commission approved the Land Plan. Members of Council confirmed that there were provisions to notify individual property owners about the proximity of the subdivision to the airport and that impact fees could be imposed in the area.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Becerra, to approve an Agreement Concerning Development of Land between the City of Rosenberg, Texas, and 2218 Rosenberg, L.P. (MUD #150). The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON ORDINANCE 2004-30, TO CONSENT TO THE ADDITION OF LAND TO A MUNICIPAL UTILITY DISTRICT BY FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT #150 AND WESTFIELD FOREST, L.P., (14.5366 ACRES) WITHIN THE CORPORATE LIMITS OF THE CITY OF ROSENBERG.

Mr. Kalkomey advised that approval of Ordinance 2004-30 would provide for Municipal Utility District #150 to add property to its district into the City of Rosenberg.

ACTION: Councilor Hopkins made a motion, seconded by Councilor Grigar, to approve the first and final reading of Ordinance 2004-30, caption as follows: *“An ordinance providing for approval of an expansion to the territory of MUD No. 150 of Fort Bend County, Texas, to include that area, within the corporate limits of the City of Rosenberg, Texas, as further provided for herein, making certain findings of fact and other conclusions as herein set out.”* The motion carried by a unanimous vote.

CONSIDERATION OF AND ACTION ON ASSIGNMENT OF WATER SUPPLY AND WASTEWATER SERVICE CONTRACT BETWEEN THE CITY OF ROSENBERG, TEXAS, AND 2218 ROSENBERG, L.P.

Steve Weathered, City Attorney, advised that the City of Rosenberg entered into a utility agreement with 2218 Rosenberg, L.P. on April 20, 2004, and that approval of this agreement would assign this area to Municipal Utility District #150.

ACTION: Councilor Grigar made a motion, seconded by Councilor Talasek, to approve the assignment of the Water Supply and Wastewater Service Contract between the City of Rosenberg, Texas, and 2218 Rosenberg, L.P. The motion carried by a unanimous vote.

REVIEW AND DISCUSS PROPOSED WATER SUPPLY AND WASTEWATER SERVICES AGREEMENT BETWEEN THE CITY OF ROSENBERG, FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT #144, AND SUMMER CREEK DEVELOPMENT, LTD., (SERVICE TO 35.46 ACRES).

David E. Neeley, City Manager, advised that this development, Summer Creek Development, Ltd., included in the original water supply/wastewater contract a provision that anticipated the service of a 35-acre tract across FM762 that is currently not in either the City of Richmond or the City of Rosenberg's extraterritorial jurisdiction (ETJ); although the balance of the tract is wholly within the City of Rosenberg's ETJ.

Mr. Neeley reported as follows:

- ◆ The City agreed to allow the district to service that tract through the municipal utility district (MUD).
- ◆ The City staff concluded that both water and wastewater service lines should be constructed under FM762, and that the City would assess them an impact fee, just as if they were in the City's ETJ.



CITY COUNCIL COMMUNICATION

September 15, 2015

ITEM #	ITEM TITLE
D	Resolution No. R- 2036 – Assignment and Assumption of Utility Commitment Letter

ITEM/MOTION

Consideration of and action on Resolution No. R-2036, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Assignment and Assumption of Utility Commitment Letter by and between the Fort Bend County Municipal Utility District No. 150 (Wind Meadows) and the City of Rosenberg.

FINANCIAL SUMMARY

ELECTION DISTRICT

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds: N/A

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

SUPPORTING DOCUMENTS:

1. Resolution No. R-2036
2. MUD No. 150 - Certificate for Order Dissolving the District - 12-05-13 (See Item No. B)

MUD #: 150 (Wind Meadows)

APPROVALS

Submitted by:

Randall Malik
Economic Development
Director

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney - JM/rm
- City Engineer
- Exec. Dir. of Community Development TLT

Approved for Submittal to City Council:

Robert Gracia
City Manager

EXECUTIVE SUMMARY

Fort Bend County Municipal Utility District No. 150 (MUD No. 150) has previously allocated detention volume of 13.28 acre feet to Vincent and Regina Morales. Prior to dissolution, MUD No. 150 assigned this detention capacity reservation to the City so that the City would be advised of and acknowledge this reservation. The Assignment and Assumption of the Utility Commitment Letter is necessary due to the dissolution of MUD No. 150.

Staff recommends approval of Resolution No. R-2036 as presented.

RESOLUTION NO. R-2036

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 ASSIGNMENT AND ASSUMPTION OF UTILITY COMMITMENT LETTER BY AND BETWEEN THE FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150 AND THE CITY OF ROSENBERG.

* * * * *

WHEREAS, On September 19, 2006, Fort Bend County Municipal Utility District No. 150 (MUD No. 150) allocated and committed 13.28 acre feet of detention capacity to Vincent and Regina Morales; and,

WHEREAS, the Board of Directors of Fort Bend County Municipal Utility District No. 150, approved an order dissolving MUD No. 150 on December 5, 2013; and,

WHEREAS, MUD No. 150 has requested the Assignment and Assumption of Utility Commitment Letter (Utility Commitment Letter) between Fort Bend County Municipal Utility District No. 150 and Vincent and Regina Morales; now, therefore,

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

Section 1. The City Manager is hereby authorized to execute an Assignment and Assumption of Utility Commitment Letter by and between the Fort Bend County Municipal Utility District No. 150 and the City of Rosenberg.

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

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

ATTEST:

APPROVED:

Linda Cernosek, **CITY SECRETARY**

Amanda J. Barta, **MAYOR PRO TEM**

ASSIGNMENT AND ASSUMPTION OF
UTILITY COMMITMENT LETTER

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This Assignment and Assumption of Utility Commitment Letter is executed effective as of the 5th day of December, 2013, by and between **FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150**, a political subdivision of the State of Texas (the “Assignor”) and the **CITY OF ROSENBERG**, a municipal corporation and home rule city situated in Fort Bend County, Texas (the “Assignee”).

WHEREAS, Assignor and Vincent and Regina Morales exchanged a Utility Commitment Letter, dated September 19, 2006 (the “Utility Commitment Letter”), a copy of which is attached hereto as Exhibit “A”;

WHEREAS, Assignor desires to assign all of its rights and obligations under the Utility Commitment Letter to Assignee; and,

WHEREAS, Assignee desires to assume all right and obligations of Assignor under the Utility Commitment Letter.

NOW, THEREFORE, for good and valuable consideration paid to Assignor by Assignee, the receipt and adequacy of which is hereby acknowledged, (i) Assignor hereby grants, sells, assigns and conveys to Assignee all of the Assignor’s rights and obligations under the Utility Commitment Letter, and (ii) Assignee hereby assumes all of the rights and obligations of Assignor under the Utility Commitment Letter.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Agreement as of the date and year first written above.

“ASSIGNOR”:

**FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 150**

By: 
President, Board of Directors

ATTEST:

By: 
Secretary, Board of Directors

DISTRICT SEAL

“ASSIGNEE”

CITY OF ROSENBERG

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
City Secretary

APPROVED:

By: _____
City Attorney

CITY SEAL

ACKNOWLEDGMENT

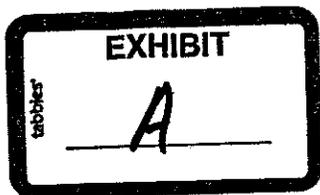
THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

Vincent and Regina Morales hereby acknowledges receipt of the foregoing Assignment and Assumption of Utility Commitment Letter.

EXECUTED this _____ day of _____, 2015.

Vincent Morales

Regina Morales



FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150
OF
FORT BEND COUNTY, TEXAS
c/o Coats, Rose, Yale, Ryman & Lee, P.C.
3 Greenway Plaza, Suite 2000
Houston, Texas 77046

September 19, 2006

Vincent and Regina Morales
c/o Fulbright & Jaworski, LLP
Fulbright Tower
1301 McKinney, Suite 5100
Houston, Texas 77010
ATTN: Adam MacLuckie

Re: Request for Detention Capacity to Serve a Maximum of 13.28 Acre Feet of
Detention Volume

Dear Mr. and Ms. Morales:

The Board of Directors of Fort Bend County Municipal Utility District No. 150 (the "District") has considered your request, pursuant to Article Three (1) of the Drainage Easement recorded under File Number 2006065910 of the Official Public Records of Fort Bend County, Texas (the "Drainage Easement"), for a commitment of detention capacity to serve a maximum of 13.28 acre feet of detention volume for that certain tract of real property more particularly described in Exhibit "A" attached hereto (the "Property") in that certain Drainage Ditch and detention pond described in said Drainage Easement.

In accordance with your request, this is to certify and commit that the District has capacity available and hereby allocates and commits detention volume to the Property in an amount sufficient to serve a maximum of 13.28 acre feet, as discussed above.

Plans and specifications for drainage facilities required to provide service to the Property shall be prepared in accordance with applicable City of Rosenberg, Fort Bend County Drainage District, and Texas Commission on Environment Quality standards, shall be prepared by a licensed professional engineer, shall be approved by all applicable regulatory authorities, and shall be approved by the District's Engineer prior to beginning construction of such facilities. Two (2) copies of plans and the approved final plat shall be provided to the District Engineer's office at least four (4) weeks prior to beginning construction.

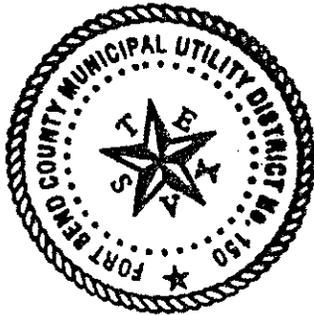
Construction of all drainage facilities may be inspected by the District's Engineer to ensure to the District that such facilities have been constructed in accordance with the approved plans and specifications. Owner or his Contractor shall provide a minimum of 48 hours notice to request inspection.

The District hereby specifically reserves the right at any time after completion of development of the Tract to reallocate surplus detention capacity not required by such development to other customers of the District.

This commitment is specifically restricted to the Property as hereinabove described. Pursuant to Article III (4) of the Drainage Easement, you are responsible for the construction, maintenance, rebuilding, restoration, renovation and repair of facilities, improvements and appurtenances necessary to facilitate drainage from the Property to said Drainage Ditch.

Very truly yours,

FORT BEND MUNICIPAL UTILITY DISTRICT
NO. 150



By: *Michael C. White*



CITY COUNCIL COMMUNICATION

September 15, 2015

ITEM #	ITEM TITLE
E	Resolution No. R-2034 - Assignment of Sanitary Sewer Easement

ITEM/MOTION

Consideration of and action on Resolution No. R-2034, a Resolution authorizing the City Manager to execute, for and on behalf of the City, the Assignment of Public Infrastructure, 10' Sanitary Sewer Easement, dated December 5, 2013, which assigns to the City the Easement Agreement (10' Sanitary Sewer Easement) dated February 1, 2006, from WM Commercial, L.P., a Texas limited partnership to Fort Bend County Municipal Utility District No. 150 recorded under Document No. 2006012967 of the Official Public Records of Fort Bend County, Texas, for the sum of \$10.00.

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 #: 150 (Wind Meadows)

1. Resolution No. R-2034
2. MUD No. 150 - Certificate for Order Dissolving the District- 12-05-13 (See Item No. B)

APPROVALS

Submitted by:

Randall Malik
Economic Development
Director

Reviewed by:

- Exec. Dir. of Administrative Services
- Asst. City Manager of Public Services
- City Attorney - **JM/rm**
- City Engineer
- Other

Approved for Submittal to City Council:

Robert Gracia
City Manager

EXECUTIVE SUMMARY

This item serves to accept assignment of a 10' Sanitary Sewer Easement from Fort Bend County Municipal Utility District No. 150 (MUD No. 150). MUD No. 150 was granted the easement from WM Commercial L.P., on February 1, 2006. The easement provided the MUD No. 150 with the ability to construct and operate sanitary sewer lines to the proposed Wind Meadows development. However, the proposed Wind Meadows development did not materialize and the City reached an agreement in 2013 for the property to be developed as the Rosenberg Business Park. This Resolution services to assign the Sanitary Sewer Easement from the MUD No.150 to the City.

Staff recommends approval of Resolution No. R -2034 as presented.

RESOLUTION NO. R-2034

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, THE ASSIGNMENT OF PUBLIC INFRASTRUCTURE, 10' SANITARY SEWER EASEMENT, DATED DECEMBER 5, 2013, WHICH ASSIGNS TO THE CITY THE EASEMENT AGREEMENT (10' SANITARY SEWER EASEMENT) DATED FEBRUARY 1, 2006, FROM WM COMMERCIAL, L.P., A TEXAS LIMITED PARTNERSHIP TO FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150 RECORDED UNDER DOCUMENT NO. 2006012967 OF THE OFFICIAL PUBLIC RECORDS OF FORT BEND COUNTY, TEXAS, FOR THE SUM OF \$10.00.

* * * * *

WHEREAS, The Fort Bend Municipal Utility District No. 150 (MUD No. 150) entered into an easement agreement (10' Sanitary Sewer Easement) with WM Commercial L.P., on February 01, 2006, for the purposes of constructing, repairing, maintaining, re-constructing, and operating sanitary sewer lines and related appurtenances and facilities; and,

WHEREAS, MUD No. 150 was dissolved on December 05, 2013; now therefore,

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

Section 1. The City Manager is hereby authorized to execute the Assignment of Public Infrastructure, 10' Sanitary Sewer Easement, accepting assignment of a public utility easement more particularly described as 4,200 square feet of land, out of the 11.37 acre tract described in the deed from Windmeadows Investors, LTD., and Westfield Forest, L.P., to WM Commercial, L.P., recorded under File Nos. 2005-095387 and 2005-095388, in the Official Public Records of Fort Bend County, Texas.

Section 2. A copy of said 10' Sanitary Sewer Easement [4,200 square feet] is attached hereto as Exhibit "A" and made a part hereof for all purposes.

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

ATTEST:

APPROVED:

Linda Cernosek, **CITY SECRETARY**

Amanda J. Barta, **MAYOR PRO TEM**

IN WITNESS WHEREOF, this instrument is executed in multiple counterpart originals on the dates set forth below the names set forth below but to be effective the on the 5th day of December, 2013

"GRANTOR"

FORT BEND COUNTY MUNICIPAL
IMPROVEMENT DISTRICT NO. 150

By: *M. B. Edwards*
Name: BRANDT EDWARDS
Title: PRESIDENT
Date: 12/5/13

STATE OF TEXAS

§
§
§

COUNTY OF HARRIS

This instrument was acknowledged before me on this 5th day of December, 2013, by Brandt Edwards, President of Fort Bend County Municipal Utility District No. 150, on behalf of said municipal utility district.

(SEAL)

Mary B. Drews
Notary Public in and for the State of Texas



(Stamped Printed Name of Notary)
Commission Expires: _____

"GRANTEE"

CITY OF ROSENBERG, TEXAS

By: _____

Name: _____

Title: _____

Date: _____

STATE OF TEXAS

§

COUNTY OF FORT BEND

§

§

This instrument was acknowledged before me on ____ of _____, 2015,
by _____, _____ City of Rosenberg, Texas, on
behalf of said municipal corporation.

(SEAL)

Notary Public in and for the State of Texas

(Stamped Printed Name of Notary)

Commission Expires: _____

After recording please return to:
Mary B. Drews
Sanford Kuhl Hagan Kugle Parker Kahn LLP
1980 Post Oak Boulevard, Suite 1380
Houston, Texas 77056

5/28



10' SANITARY SEWER EASEMENT
[4200 Square Feet]

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF FORT BEND §

THAT, WM COMMERCIAL, L.P., a Texas limited partnership (herein referred to as "Grantor"), for TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to it in hand paid by FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 150, a political subdivision of the State of Texas having an address of c/o Coats, Rose, Yale, Ryman & Lee, P.C., 3 Greenway Plaza, Suite 2000, Houston, Texas 77046 (herein referred to as "Grantee"), the receipt and sufficiency of which is hereby acknowledged and confessed by Grantor, does hereby grant, give, dedicate and convey unto Grantee, its successors and assigns, an easement upon, across, over, under and through the property situated in Fort Bend County, Texas, described on Exhibit "A" attached hereto (which is hereinafter referred to as the "Easement Tract").

The easement herein granted shall be used solely for the purposes of constructing, repairing, maintaining, re-constructing and operating sanitary sewer lines and related appurtenances and facilities. Subject to the further provisions hereof, Grantee, its agents, employees, workmen and representatives, shall have the right and privilege of ingress and egress across the Easement Tract as may be necessary to construct, repair, maintain, re-construct and operate such sanitary sewer lines and facilities. The right of ingress and egress to and from the Easement Tract shall be limited to public roads unless otherwise consented to by Grantor or its successors or assigns.

It is expressly understood and agreed by and between the parties that this Sanitary Sewer Easement shall be subject to and governed by the following provisions:

(1) The easement, rights and privileges herein granted shall be perpetual or for so long as the Sanitary Sewer Easement is utilized for the purposes intended. The easement, rights and privileges granted herein shall terminate when, or at such time, as the purposes hereof cease to exist, are abandoned by the public, or become impossible of performance.

(2) The easement, rights and privileges herein granted shall be subject to all valid and subsisting encumbrances, conditions, covenants, restrictions, reservations, exceptions, rights-of-way and easements of record, including all laws, regulations, and restrictions by municipal or other governmental authority applicable to and enforceable against the Easement Tract.

(3) Grantor's warranty under this conveyance is limited to claims, conveyances and encumbrances by, through or under Grantor, but not otherwise.

TO HAVE AND TO HOLD the above described easement for the said purposes, together with all and singular, the rights, privileges, and appurtenances thereto as described above, subject to the limitations, conditions and restrictions set forth hereinabove.

IN WITNESS WHEREOF, this instrument is executed this 1st day of Feb. 2006 2006.

“GRANTOR”

WM COMMERCIAL, L.P.,
a Texas limited partnership

By: Tyee Management, LLC,
a Texas limited liability company,
Its: Sole General Partner

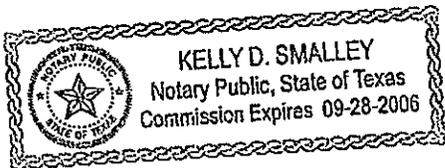
By: [Signature]
Tyler D. Todd, President

THE STATE OF TEXAS

§
§
§

COUNTY OF FORT BEND

This instrument was acknowledged before me on the 1st day of February 2006, Tyler D. Todd, President of Tyee Management, LLC, a Texas limited liability company, general partner of WM Commercial, L.P., in the capacity therein stated, on behalf of said limited partnership.

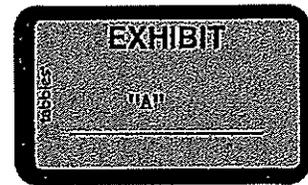


[Signature]
NOTARY PUBLIC in and for
the State of TEXAS
[Signature]
Printed Name of Notary Public
My Commission Expires: 9/28/06

After Recording, Please Return To:
Julianne B. Kugle, Esq.
Coats, Rose, Yale, Ryman & Lee, P.C.
3 Greenway Plaza, Suite 2000
Houston, Texas 77046

10' SANITARY SEWER EASEMENT

METES AND BOUNDS DESCRIPTION
OF 4200 SQUARE FEET OF LAND
IN THE S.B. PENTECOST SURVEY, A-378
FORT BEND COUNTY, TEXAS



AS PER ORIGINAL

All that certain 4200 square feet of land, out of the 11.37 acre tract described in the deed from Windmeadows Investors, LTD. and Westfield Forest, L.P. to WM Commercial, L.P. recorded under File Nos. 2005-095387 and 2005-095388, in the Official Public Records of Fort Bend County, Texas, in the S.B. Pentecost Survey, A-378, Fort Bend County, Texas, and more particularly described by metes and bounds as follows: (All bearing based on the record bearings of the 82.699 acre tract described in the deed from Colletta Lake Marshall to Colletta Ray McMillian, et al., recorded under Volume 1971, Pg. 1741, in the Deed Records of Fort Bend County, Texas)

COMMENCING at a 3/4" iron rod found for the north corner of said 11.37 acre tract, in the southeast right-of-way line of F.M. Highway 2218 (100' R.O.W.); **THENCE** South 44° 43' 46" West - 417.63', along said southeast right-of-way line to the north corner and **POINT OF BEGINNING** of the herein described easement;

THENCE South 45° 27' 32" East - 10.00' to the east corner of the herein described easement;

THENCE South 44° 43' 46" West - 349.54' to the Point of Curvature of a curve to the left, having a central angle of 89° 47' 10", and a radius of 40.00';

THENCE along said curve to the left, in a southerly direction, an arc distance of 62.68', to the end of curve;

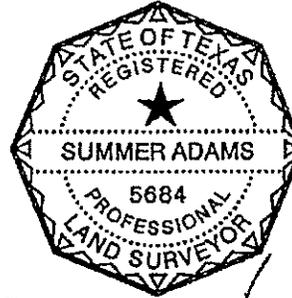
THENCE South 44° 56' 37" West - 10.00' to the south corner of the herein described easement, common to a point on a curve to the right, having a central angle of 89° 47' 10", a radius of 50.00', and from which point the center of the circle of said curve bears North 44° 56' 37" East;

THENCE along said curve to the right, in a northerly direction, an arc distance of 78.35', to the end of curve, in the southeast right-of-way line of aforesaid F.M. Highway 2218, from which a 3/4" iron rod found for the west corner of aforesaid 11.37 acre tract bears South 44° 43' 46" West - 764.96';

Page 2 - 10' Sanitary Sewer Easement

THENCE North 44° 43' 46" East - 349.50', along said southeast right-of-way line to the POINT OF BEGINNING of the herein described easement and containing 4200 square feet of land.

Prepared by:
PATE SURVEYORS
a division of
Pate Engineers, Inc.
Job No. 1279-006-00-561




Certification Date
August 12, 2005

THIS LEGAL DESCRIPTION IS ISSUED FOR THE PURPOSE OF ATTACHMENT TO EASEMENT DEDICATION DOCUMENTS. IT SHOULD NOT BE USED FOR TITLE TRANSFER.

F.M. HIGHWAY 2218 (100' R.O.W.)

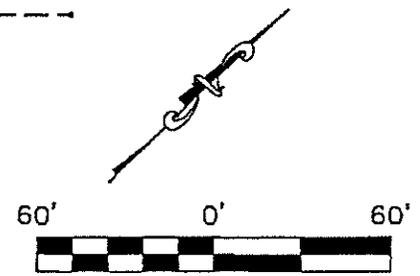
(PROPOSED)
WIND MEADOWS DR. (100' R.O.W.)

S.B. PENTECOST SURVEY, A-378

4200 SQ. FT.
10' SANITARY
SEWER EASEMENT

1226 SQ. FT.
5' WATER
LINE EASEMENT

400 SQ. FT.
20' X 20' SANITARY
SEWER EASEMENT



11.37 ACRES
WINDMEADOWS INVESTORS, LTD.
AND
WESTFIELD FOREST, L.P.
TO
WM COMMERCIAL, L.P.
FILE NOS. 2005095387, AND
2005095388, O.P.R.F.B.C.

82.699 ACRES
COLLETTA LAKE MARSHALL
TO
COLLETTA RAY McMILLIAN, ET AL
VOL. 1971, PG. 1741,
F.B.C.D.R.

PATE SURVEYORS

A DIVISION OF PATE ENGINEERS, INC.

13333 HW Freeway, Ste 300-Houston, TX 77040-Ph713-462-3178-Fax713-462-3015-www.pateeng.com

EXHIBIT

**10' SANITARY SEWER ESMT.
5' WATER LINE EASEMENT
20' X 20' SANITARY SEWER ESMT.**

S.B. PENTECOST SURVEY, A-378
FORT BEND COUNTY, TEXAS

DRAWN: CN

ORIGINAL

ORIGINAL

ISSUE DATE: OCTOBER 7, 2005

SCALE 1" = 60'

APPROVED FOR ISSUE:

JOB NO.: 1279-008-00-561

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

D. Dianne Wilson

2006 Feb 02 10:09 AM

2006012967

CDC \$25.00

Dianne Wilson, Ph.D. COUNTY CLERK

FT BEND COUNTY TEXAS



CITY COUNCIL COMMUNICATION

September 15, 2015

ITEM #	ITEM TITLE
F	Ordinance No. 2015-28 – MUD No. 155 Disannexation
ITEM/MOTION	
Consideration of and action on Ordinance No. 2015-28, an Ordinance providing for the disannexation from the corporate boundaries of the City of Rosenberg, Texas, of 1.393 acres (60,689 square feet) located in the Wiley Martin League, A-56, Fort Bend County, Texas (Fort Bend County Municipal Utility District No. 155 – Bonbrook Plantation), pursuant to the petition for disannexation; adjusting the boundaries of Council District No. 4 to exclude the tract disannexed hereby; containing certain findings; providing for non-severability; and establishing an effective date.	
FINANCIAL SUMMARY	ELECTION DISTRICT

Annualized Dollars:

- One-time
- Recurring
- N/A

Budgeted:

- Yes No N/A

Source of Funds: N/A

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

SUPPORTING DOCUMENTS:

1. Ordinance No. 2015-28
2. Vicinity Map
3. Local Government Code Excerpt – Chapter 43, Subchapter G
4. City Charter Excerpt – Article I, Section 1.04
5. City Council Meeting Draft Minute Excerpt – 09-01-15

MUD #: 155 (Bonbrook Plantation)

APPROVALS**Submitted by:***Travis Tanner*

Travis Tanner, AICP
Executive Director of
Community Development

Reviewed by:

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

Approved for Submittal to City Council:*Robert Gracia*

Robert Gracia
City Manager

EXECUTIVE SUMMARY

As discussed at the September 1, 2015 City Council meeting, staff received a request from Beazer Homes and current property owners/residents regarding the disannexation of approximately 1.393 acres from the City of Rosenberg City Limits and in Fort Bend County MUD No. 155 (Bonbrook Plantation). The tract was originally annexed by the City in 1990 and happens to intersect with a small portion of what is now MUD No. 155, or Bonbrook Plantation. The property in question was platted in 2014 as part of Bonbrook Plantation North Section Nine. In many cases, lots were subsequently built on and sold, resulting in homeowners or residents being part in and part out of the City.

As discussed, while the City did not develop the property or necessarily create the situation, having lots in multiple jurisdictions is not a situation that staff recommends continuing. Further, the estimated fiscal impact or loss of ad valorem tax revenue is only approximately \$900 annually based on 2014 City taxes levied.

Per state law (Local Government Code, Ch. 43) and City Charter (Sec. 1.04), if property is occupied, disannexation requires a petition from the majority of voters residing in the area and additional notification requirements to be completed by petitioner/s. It appears at this time all registered voters (7 out of 7) have

signed the petition. This has been verified by the Fort Bend County Elections Administrator's office. The City Attorney has reviewed the petition and attached exhibits and found them to be in conformance with the requirements of the City Charter and the Local Government Code and has also found that any publishing, posting, voting and timing requirements have been met. Additionally, the petition specifically waives the right for petitioner/s to recover any City property taxes paid to date, so there should not be a negative fiscal impact from that standpoint.

On September 1, 2015, City Council directed staff to move forward with preparing an Ordinance for this Agenda item. Staff recommends approval of Ordinance No. 2015-28, thereby disannexing 1.393 acres of land in MUD No. 155 pursuant to the petition.

ORDINANCE NO. 2015-28

AN ORDINANCE PROVIDING FOR THE DISANNEXATION FROM THE CORPORATE BOUNDARIES OF THE CITY OF ROSENBERG, TEXAS, OF 1.393 ACRES (60,689 SQUARE FEET) LOCATED IN THE WILEY MARTIN LEAGUE, A-56, FORT BEND COUNTY, TEXAS (FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 155), PURSUANT TO THE PETITION FOR DISANNEXATION; ADJUSTING THE BOUNDARIES OF COUNCIL DISTRICT NO. 4 TO EXCLUDE THE TRACT DISANNEXED HEREBY; CONTAINING CERTAIN FINDINGS; PROVIDING FOR NON-SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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

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

WHEREAS, the City Council of the City of Rosenberg, Texas, has received a Petition for Disannexation (the "Petition") regarding 1.393 acres (60,689 square feet) located in the Wiley Martin League, A-56, Fort Bend County, Texas (Fort Bend County Municipal Utility District No. 155 – Bonbrook Plantation), from a majority of the qualified voters residing in such territory; and,

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

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

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

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

WHEREAS, the petitioner acknowledges, and City Council finds, that the territory to be dis-annexed does not include the dis-annexation of a road or highway except for a minimal portion of the Lockridge Hill and Conchola Lane right-of-way; and,

WHEREAS, the City Council hereby further finds and determines that the dis-annexation of the 1.393 acres is necessary and appropriate and in the best interests of the City; now, therefore,

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

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

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

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

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

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

Section 6. This Ordinance is not severable.

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

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

ATTEST:

APPROVED:

Linda Cernosek, **City Secretary**

Amanda J. Barta, **Mayor Pro Tem**

APPROVED AS TO FORM:

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

PETITION FOR DISANNEXATION FROM
THE CITY OF ROSENBERG

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF ROSENBERG,
TEXAS:

The undersigned, property owners of Bonbrook Subdivision (collectively, the "Petitioners"), acting pursuant to the provisions of Chapter 43, Texas Local Government Code, particularly Section 43.142 of that Code, together with all amendments and additions thereto, and pursuant to Article I, Section 1.04 of the Code of Ordinances of the City of Rosenberg, Texas, respectfully petition the City Council of the City of Rosenberg, Texas (the "City"), for the disannexation of the tract of land described by metes and bounds and illustrated by plat drawing in Exhibit "A" (the "Land"). In support of this petition, the undersigned would show the following:

I.

The Petitioners hold fee simple title to the Land.

II.

Petitioners desire that the Land be disannexed in accordance with Section 43.142 of the Texas Local Government Code and not for failure to provide services as that process is set forth in Section 43.141, Texas Local Government Code.

III.

Petitioners acknowledge that the amount of property taxes and fees collected by the City during the time the Land has been located within the City is less than or equal to the amount of money that the City has spent for the direct benefit of the Land during that same period.

IV.

Petitioners waive any remedies or rights as set forth in law or equity pertaining to recovery of property taxes and fees collected by the City relative to the Land.

EXECUTED this 10 day of August, 2015.

Bonbrook Subdivision Property Owners of:

**Bonbrook Section 9 Block 2 Lot 5
202 Lockridge Hill Lane**

**Bonbrook Section 9 Block 2 Lot 6
103 Conchola Lane**

**Bonbrook Section 9 Block 2 Lot 12
127 Conchola Lane**

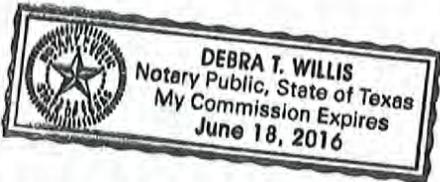
By: Beazer Homes Texas, L.P.
By Beazer Homes Texas Holdings, Inc.
Its sole General Partner

By: *Greg Coleman*
Greg Coleman,
Land Development Director

Voting District: N/A
Voter Registration Number: N/A

THE STATE OF TEXAS §
 §
COUNTY OF Fort Bend §

This instrument was acknowledged before me on the 10 day of August 2015, by Greg Coleman, Land Development Director of Beazer Homes Texas Holdings, Inc., sole General Partner of Beazer Homes Texas, L.P., on behalf of said corporation.



(NOTARY SEAL)

Debra T. Willis
Notary Public, State of Texas

EXECUTED this 21 day of July, 2015.

Bonbrook Subdivision Property Owners of:

**Bonbrook Section 9 Block 2 Lot 11
123 Conchola Lane
Rosenberg, TX 77469**

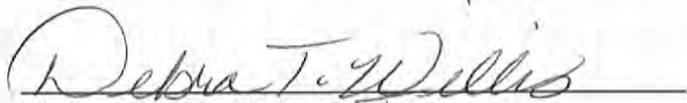
By: 
Jeane Marie Govan

Voting District: 1007-08
Voter Registration Number: 701854
VUID: 1201737138

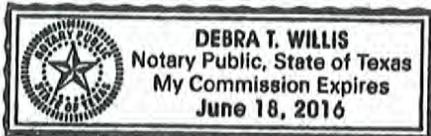
THE STATE OF Texas §

COUNTY OF Fort Bend §

This instrument was acknowledged before me on the 21 day of July, 2015, by Jeane Marie Govan.


Notary Public, State of Texas

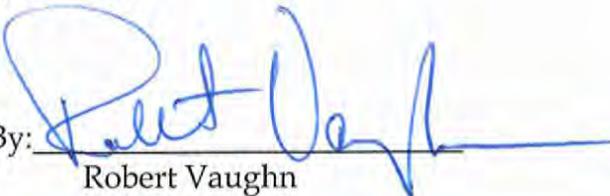
(NOTARY SEAL)



EXECUTED this 27 day of July, 2015.

Bonbrook Subdivision Property Owners of:

**Bonbrook Section 9 Block 2 Lot 10
119 Conchola Lane
Rosenberg, TX 77469**

By: 
Robert Vaughn

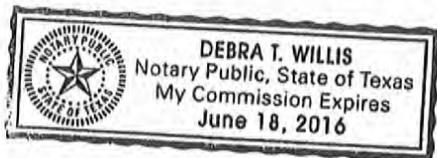
Voting District: _____
Voter Registration Number: _____
VUID: _____

THE STATE OF Texas §
COUNTY OF Fort Bend §

This instrument was acknowledged before me on the 27 day of July, 2015, by Robert Vaughn.


Notary Public, State of Texas

(NOTARY SEAL)



EXECUTED this 27 day of July, 2015.

Bonbrook Subdivision Property Owners of:

**Bonbrook Section 9 Block 2 Lot 10
119 Conchola Lane
Rosenberg, TX 77469**

By: Vera Vaughn
Vera Vaughn

Voting District: _____
Voter Registration Number: 596072
VUID: _____

THE STATE OF Texas §
COUNTY OF Fort Bend §

This instrument was acknowledged before me on the 27 day of July, 2015, by Vera Vaughn.

Debra T. Willis
Notary Public, State of Texas

(NOTARY SEAL)

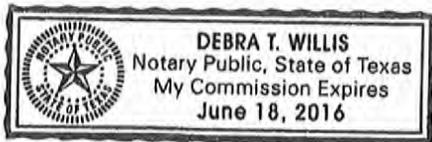


Exhibit A

January 28, 2015
Job No. 1032-1550

DESCRIPTION OF
1.393 ACRES
(60,689 SQAURE FEET)

Being 1.393 acres of land located in the Wiley Martin League, Abstract 56, Fort Bend County, Texas, more particularly being a portion of Lots 4 thru 15, Block 2 of Bonbrook Plantation North Section Nine, a subdivision of record on Plat Number 20140026, of the Plat Records of said Fort Bend County (F.B.C.P.R.), said 1.393 acres being more particularly described by metes and bounds as follows, all bearings referenced to the Texas Coordinate System, South Central Zone (NAD 83);

BEGINNING at a 5/8-inch iron rod with plastic cap stamped "RPLS 4722" found for the north corner of Lot 5, Block 2 of said Bonbrook Plantation Section Nine subdivision, on the common survey line of said Wiley Martin League and the Joseph Kuykendall League, Abstract 49, Fort Bend County, Texas, same being the most northerly southwest corner of Bridlewood Estates Section Four, a subdivision of record in Slide Numbers 1799B thru 1801A, F.B.C.P.R., same being on the easterly line of Benton Park, a subdivision of record in Slide Numbers 1985B thru 1986B, F.B.C.P.R.;

Thence, South $68^{\circ} 12' 41''$ East, along the northerly line of said Lots 5 thru 15 and the southerly line of said Bridlewood Estates Section Four, 672.31 feet to a point for corner, from which the northeast corner of said Bonbrook Plantation Section Nine subdivision bears South $68^{\circ} 12' 41''$ East, 702.36 feet;

Thence, North $83^{\circ} 12' 00''$ West, departing said northerly and southerly lines, 698.07 feet to a point for corner on the west line of said Bonbrook Plantation Section Nine subdivision and the west line of the aforesaid Benton Park Subdivision;

1.393 Acres

January 28, 2015
Job No. 1032-1550

Thence, North 22° 25' 36" East, 180.55 feet to the POINT OF BEGINNING and containing 1.393 acres of land.

"This document, prepared under 22 TAC§663.21, does not reflect the results of an on the ground survey and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

LJA Engineering, Inc.

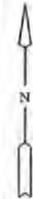


Heather L. Sides, RPLS, CFedS
Registered Professional Land Surveyor
Texas Registration No. 5997



NOTES:

1. All bearings referenced to the Texas Coordinate System, South Central Zone (NAD83)
2. *This document, prepared under 22 TAC § 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.*



Scale: 1" = 200'

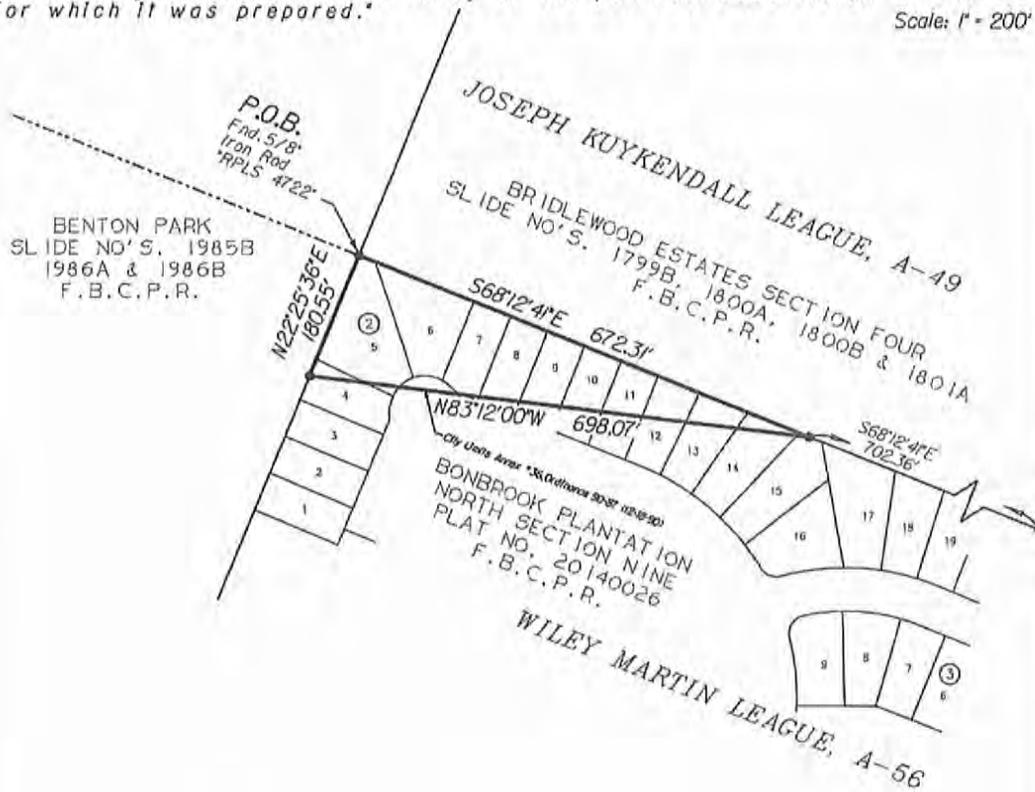
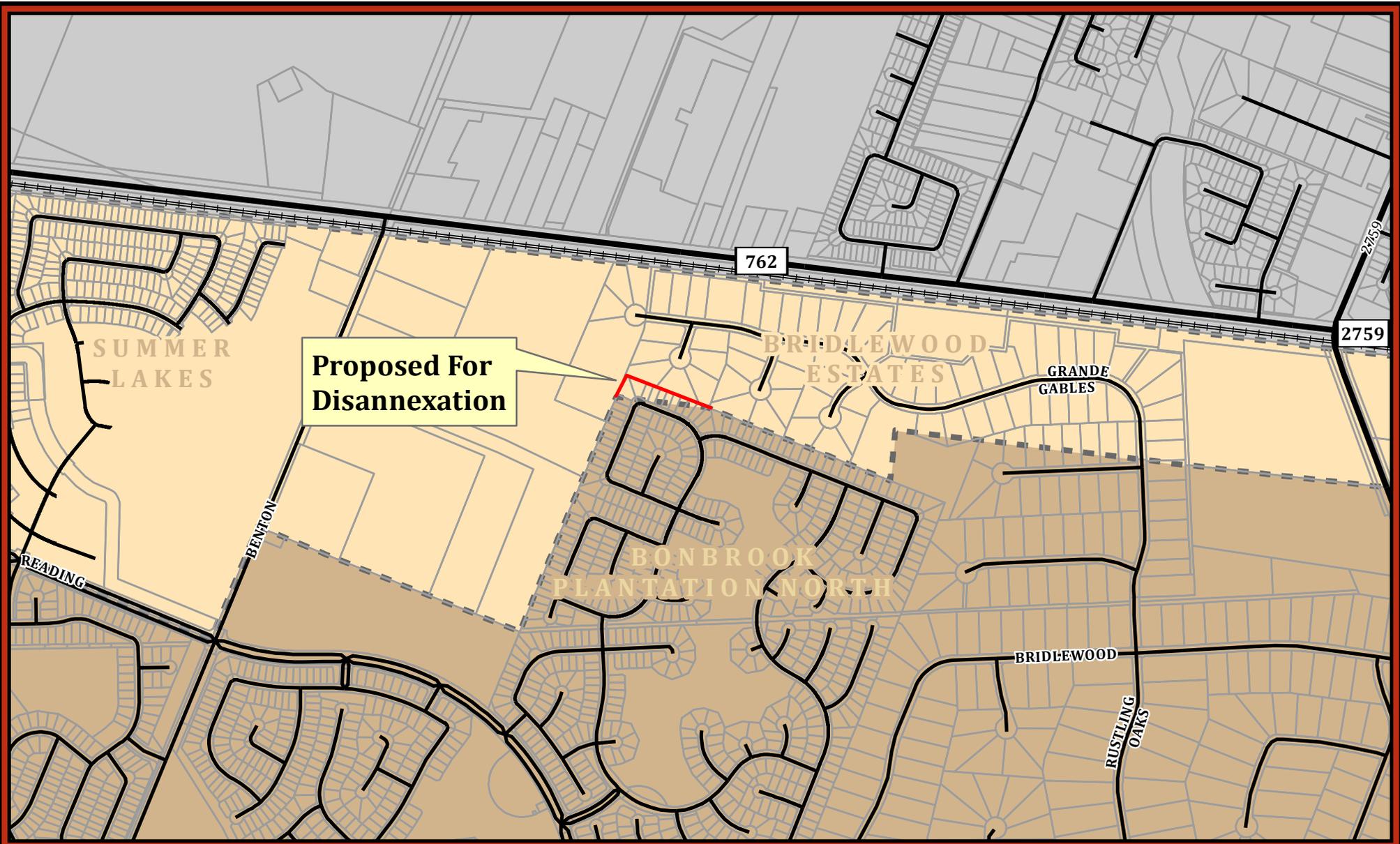


EXHIBIT OF
1.393 ACRES
(60,689 SQUARE FEET)
LOCATED IN THE
WILEY MARTIN LEAGUE, A-56
FORT BEND COUNTY, TEXAS
JANUARY 2015 JOB NO. 1032-1550

LJA Engineering, Inc.
2929 Briarpark Drive
Suite 600
Houston, Texas 77042
Phone 713.953.5200
Fax 713.953.5026



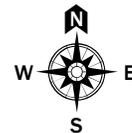
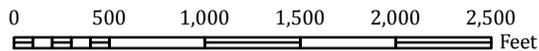
Proposed For Disannexation

- Interstate
- US Highway
- State Highway
- Public Road
- Private Road
- Railroad
- Brazos River
- FBCAD 2015 Parcels (2nd Quarter)
- Rosenberg City Limits
- Rosenberg ETJ
- Other Jurisdictions

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

**Proposed Disannexation
Bonbrook Plantation
City of Rosenberg, Texas**

Scale:
1:12,000
or
1 inch = 1,000 feet



Created by: City of Rosenberg GIS - Cory Vardaman
Date Created: August 19, 2015
Original Size: 8.5" x 11"
K:\GIS\MAPS\Planning\2015\Bonbrook_Disannex_8_5x11.mxd

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



SUBCHAPTER G. DISANNEXATION

Sec. 43.141. DISANNEXATION FOR FAILURE TO PROVIDE SERVICES. (a) A majority of the qualified voters of an annexed area may petition the governing body of the municipality to disannex the area if the municipality fails or refuses to provide services or to cause services to be provided to the area within the period specified by Section 43.056 or by the service plan prepared for the area under that section.

(b) If the governing body fails or refuses to disannex the area within 60 days after the date of the receipt of the petition, any one or more of the signers of the petition may bring a cause of action in a district court of the county in which the area is principally located to request that the area be disannexed. On the filing of an answer by the governing body, and on application of either party, the case shall be advanced and heard without further delay in accordance with the Texas Rules of Civil Procedure. The district court shall enter an order disannexing the area if the court finds that a valid petition was filed with the municipality and that the municipality failed to perform its obligations in accordance with the service plan or failed to perform in good faith.

(c) If the area is disannexed under this section, it may not be annexed again within 10 years after the date of the disannexation.

(d) The petition for disannexation must:

- (1) be written;
- (2) request the disannexation;
- (3) be signed in ink or indelible pencil by the appropriate voters;
- (4) be signed by each voter as that person's name appears on the most recent official list of registered voters;
- (5) contain a note made by each voter stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;
- (6) describe the area to be disannexed and have a plat or other likeness of the area attached; and
- (7) be presented to the secretary of the municipality.

(e) The signatures to the petition need not be appended to one paper.

(f) Before the petition is circulated among the voters, notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the annexed area and by publishing a copy of the petition once in a newspaper of general circulation serving the area before the 15th day before the date the petition is first circulated. Proof of the posting and publication must be made by attaching to the petition presented to the secretary:

(1) the sworn affidavit of any voter who signed the petition, stating the places and dates of the posting; and

(2) the sworn affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1167, Sec. 14, eff. Sept. 1, 1999.

Sec. 43.142. DISANNEXATION ACCORDING TO MUNICIPAL CHARTER IN HOME-RULE MUNICIPALITY. A home-rule municipality may disannex an area in the municipality according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Rosenberg Code of Ordinances

Part I: The Charter

Article I. - Form of Government and Boundaries

Sec. 1.04. - Contraction of boundaries.

Whenever there exists within the corporate limits of the City of Rosenberg any territory not suitable or necessary for city purposes, the city council may upon a petition signed by a majority of the qualified voters residing in such territory if the same be inhabited, or without any such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory as a part of said city; said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the city and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed the same shall be entered upon the minutes and records of said city, and from and after the entry of such ordinance said territory shall cease to be a part of said city, but said territory shall still be liable for its pro rata share of any debts incurred while said area was a part of said city, and the city shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the city as though the same had not been excluded from the boundaries of the city.

State Law reference— Disannexation, V.T.C.A., Local Government Code § 43.141.

existence should not be promoted in the future).

(2) The granting of the variance will not be detrimental to the public safety or welfare, or injurious to other property in the area;

Staff cannot identify any safety concerns or specific negative impacts associated with this request (based in part on many of the nearby properties also having carports without any apparent issues). The applicant claims it will be structurally sound; additionally, it will be required to comply with applicable international codes and would be inspected by the City.

(3) The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this chapter; and

The granting of the variance should not prevent orderly subdivisions in the area. New subdivisions are required to have building lines in accordance with City codes and in that way are not the same as older subdivisions with lesser or nonexistent building lines. Applicant claims no existing carports in the neighborhood are close to meeting the required setback, which is an accurate statement. They (carports) appear to range from zero (0) to five (5) feet from the street right-of-way.

(4) A more appropriate design solution exists which is not currently allowed in this chapter.

The proposed design solution does not appear to be inappropriate for the particular area. It has apparently not been deemed inappropriate for the area in the past (pre-2005).

Staff has no objection to the proposed variance with the condition of a minimum five (5) foot setback from the right-of-way. Lack of objection is based on the surrounding residential character and not being inconsistent with the four (4) criteria as outlined in the Code. The condition of having a five (5) foot setback is recommended to comply with international code requirements. With the latter condition in place, staff sees no further issues.

The Planning Commission recommended approval to City Council of the variance on August 19, 2015. Per the Code, City Council has the ultimate authority to grant variances if it finds that a hardship exists.

Key Discussion Points: Travis Tanner, Executive Director of Community Development, read the Executive Summary and gave a presentation on the proposed carport. The consensus of Council was supportive of the variance, and staff was instructed to review the current Ordinances to accommodate some of the older neighborhoods.

Action: Councilor Barta made a motion, seconded by Councilor Wallingford, to approve Variance Decision and Order No. V2015-01, a Variance Request by Victor Macha to the requirements of Section 25-68 of the Code of Ordinances relating to the building lines for single-family residential lots, allowing for a proposed carport addition to the property located at 1509 George Street (Allendale Manor, Block 12, Lot 3). The motion carried by a unanimous vote.

9. **REVIEW AND DISCUSS A PETITION FOR DISANNEXATION OF 1.393 ACRES (60,689 SQUARE FEET) LOCATED IN THE WILEY MARTIN LEAGUE, A-56, FORT BEND COUNTY, TEXAS (FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 155), AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: City staff has received a request from Beazer Homes and current property owners/residents regarding the disannexation of approximately 1.393 acres from the City of Rosenberg City Limits and in Fort Bend County MUD No. 155 (Bonbrook Plantation). It should also be noted that the petition suggests making said disannexation retroactive prior to January 01, 2015. However, staff has consulted with the City Attorney and we do not believe the latter can be done legally.

As discussed, the petition involves a 1.393-acre tract of land. The tract was originally annexed by the City in 1990 and happens to intersect with a small portion of what is now MUD No. 155, or Bonbrook Plantation. The property in question was platted in 2014 as part of Bonbrook Plantation North

Section Nine. In many cases, lots were subsequently built on and sold, resulting in homeowners or residents being part in and part out of the City.

While the City did not develop the property or necessarily create the situation, having lots in multiple jurisdictions is not a situation that staff recommends continuing. Further, the estimated fiscal impact or loss of ad valorem tax revenue is only approximately \$900 annually based on 2014 City taxes levied.

While staff does not object to releasing the property from the City's jurisdiction based on the circumstances, it is a more rigorous process than if the land was unoccupied. If unoccupied, such a disannexation can be initiated simply by a petition from the property owner. If occupied, however, per state law (Local Government Code, Ch. 43) and City Charter (Sec. 1.04), it requires a petition from the majority of voters residing in the area and additional notification requirements to be completed by petitioner/s.

It appears at this time all registered voters (7 out of 7) have signed the petition. This has been verified by Fort Bend County as of August 24, 2015. Additionally, the petition specifically waives the right for petitioner/s to recover any City property taxes paid to date, so there should not be a negative fiscal impact from that standpoint.

This request was initially submitted in May 2015, with the City Attorney commenting that the disannexation needed to follow publication, posting, voting and timing requirements per state law. According to a letter received from Beazer Homes, dated August 13, 2015, the publishing, posting, voting and timing requirements have been fulfilled. The City Attorney has reviewed the resubmitted petition and attached exhibits and found them to be in conformance with the requirements of the City Charter and the Local Government Code.

Staff believed it was important to first bring this item to City Council for discussion purposes since it will set a precedent for how the City deals with future potential disannexation of occupied property. Therefore it is important to review the requirements per state law.

Key Discussion Points: Travis Tanner gave an overview and presentation of the item. Scott Tschirhart, City Attorney, explained that the petition has been reviewed and is binding, but the ultimate decision of whether to disannex this property is at the discretion of Council. After discussion, Council directed staff to move forward with the disannexation of the property. This item will be brought before Council in the form of an Ordinance at a future meeting.

10. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2031, A RESOLUTION WITHDRAWING CONSENT TO THE ESTABLISHMENT OF ANY DEVELOPMENT STANDARDS OR GUIDELINES OF THE WEST FORT BEND MANAGEMENT DISTRICT AND REPEALING ALL PRIOR DEVELOPMENT STANDARDS AND GUIDELINES ADOPTED BY THE WEST FORT BEND MANAGEMENT DISTRICT.**

Executive Summary: This item has been added to the Agenda to provide City Council with an opportunity to consider Resolution No. R-2031 (Resolution). Standard and guideline adoption by the West Fort Bend Management District (District) must be approved by the cities of Rosenberg and Richmond. This Resolution will withdraw consent by the City of Rosenberg from all previously adopted development standards and guidelines so that no such development standards and guidelines will be enforceable within the District.

Resolution No. R-2031 was attached in the agenda packet for review and consideration.

Key Discussion Points: Mayor McConathy gave an overview of the item. Scott Tschirhart explained his concern that we would not want to leave a space where there are no development standards whatsoever. He recommended delaying the effective date of the Resolution, and providing interim standards before reaching a final solution during a workshop meeting. After discussion, Council requested that an amendment be made to Section 2 to include the following language: "This Resolution shall be effective sixty (60) days from passage."

Action: Councilor Pena made a motion, seconded by Councilor Moses, to approve Resolution