ORDINANCE NO. 09-985

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF FULSHEAR, TEXAS, GENERAL BUDGET FOR THE FISCAL YEAR 2008-2009; MAKING APPROPRIATIONS FOR THE CITY FOR SUCH YEAR AS REFLECTED IN SAID BUDGET; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, within the time and in the manner required by law, the Mayor presented to the City Council a proposed general budget of expenditures of the City of Fulshear for the 2008-2009 fiscal year; and

WHEREAS, pursuant to a motion of the City Council and after notice required by law, a public hearing on such general budget was held at the regular meeting place of the City Council at the Town Hall of the City of Fulshear, 30603 F.M. 1093, on the 18th day December,2008 at which hearing all citizens and taxpayers of the City had the right to be present and to be heard and those who requested to be heard were heard; and

WHEREAS, the City Council has considered the proposed general budget and has made such changes therein as in its judgment were warranted by law and were in the best interest of the citizens and taxpayers of the City; and

WHEREAS, a copy of such general budget has been filed with the City Secretary and the City Council now desires to approve and adopt the same; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The City Council hereby approves and adopts the general budget described in the preamble of this Ordinance, a copy of which is attached hereto and made a part of this Ordinance for all purposes and a copy of which is on file with the City Secretary. The City Secretary is hereby directed to place on said budget an endorsement, which shall be signed by the City Secretary, which shall read as follows:

"The Original General Budget of the City of Fulshear, Texas, for the Fiscal Year 2008-2009."

Such budget, as thus endorsed, shall be kept on file in the office of the City Secretary as a public record.

Section 3. In support of said budget and by virtue of the adoption thereof, including any and all changes adopted thereto, the several amounts specified for the various purposes named in said budget are hereby appropriated to and for such purposes.

PASSED, APPROVED, AND ADOPTED this 20th day of January, 2009.

James (Jamie) W. Roberts
Mayor

ATTEST:

D. (Diana) Gordon Offord
City Secretary

Aldermen voting:
Archer-absent
Clack-yes
Collins-yes
Einkauf-yes
Patterson- yes

Resolution No. 09-151

RESOLUTION IN SUPPORT
OF THE BRAZOS RIVER PADDLING TRAIL

WHEREAS, the City of Fulshear is located within Fort Bend County,

WHEREAS, Fort Bend County is the fastest growing county in the region and will likely exceed 1 million in population within the next 20 years,

WHEREAS, Fort Bend County recently completed an update of its Parks, Recreation and Open Space Master Plan,

WHEREAS, parks facilities as measured per 1,000 of population indicate that both the County and the Region operate at a deficit to the national standard,

WHEREAS, the Parks, Recreation and Open Space Master Plan indicates that the creation and expansion of trails throughout the County are among the top priorities established in the plan,

WHERAS, the Brazos River is a natural resource within the public domain that provides over 64 river miles that could be used for the enjoyment of the public,

WHEREAS, a robust effort by the community to make available access to the Brazos River through the establishment of a regional Texas Parks and Wildlife designated Paddling Trail and the establishment of canoe launches that provide accessibility to the River will allow residents and tourists to experience one of the natural wonders within Fort Bend County,

WHEREAS, Fort Bend Green, a non-profit corporation established by the leadership of Fort Bend County Judge Robert Hebert, is leading the effort to designate and implement the Brazos River Paddling Trail through Fort Bend County by coordinating local governments throughout the County,

WHEREAS, Houston Wilderness is facilitating the creation of the Sam Houston Trail and Wilderness Preserve, a 650+ mile greenbelt encircling the greater Houston metropolitan region, with the Brazos River Paddling Trail serving as the western segment through the Columbia Bottomlands,

BE IT RESOLVED BY THE CITY COMMISION OF THE CITY OF FULSHEAR THAT the City of Fulshear, Texas supports the efforts of Fort Bend Green to designate the Brazos River Paddling Trail and build and maintain canoe launches along the River throughout Fort Bend County.

PASSED AND APPROVED this 27 day of January 2009

Mayor
City of Fulshear, Texas

ATTEST:

City Secretary
City of Fulshear, Texas

(SEAL)

Fort Bend Green

January 11, 2009

The Honorable James Roberts
Mayor
City of Fulshear
P.O. Box 279
Fulshear, TX 77441-0279

Re: Request to Adopt Resolution Supporting Brazos River Paddling Trail

Dear Mayor,

On behalf of Fort Bend Green, I am writing to request that your city consider and adopt the attached draft resolution in support of our effort to facilitate the development of the Brazos River Paddling Trail, which could be a part of Houston Wilderness' efforts to build paddling trails in rivers and streams in the greater Houston area. The Commissioners Court of Fort Bend County approved a similar resolution on December 16, 2008 which is included as background material.

Fort Bend Green will work as a facilitator to bring together the cities and other entities in Fort Bend County along the Brazos River to work toward the development of canoe launching sites along the Brazos River throughout Fort Bend County, and would like for your city to be a part of this effort. We are also contacting all of the other affected cities with a similar request.

We thank you for your consideration of our request. Please notify me if you would like additional information or if you need us to attend the meeting where the resolution will be under consideration for approval.

If you should have any questions, please contact me at (713) 782-0042 or Jeff Wiley at (281) 340-1902.

Yours truly,

John Van De Wiele

John Van De Wiele
President. Board of Directors

cc: The Honorable Robert C. Hebert, Fort Bend County Judge
Lynne B. Humphries, Allen Boone Humphries Robinson

Enclosures: as indicated

One Fluor Daniel Drive, Sugar Land TX 77478
281-242-0000

CITY OF FULSHEAR

RESOLUTION NO. 2009-09-152

A RESOLUTION OF THE FULSHEAR CITY COUNCIL AFFIRMING THE CITY OF FULSHEAR'S SUPPORT OF AND PARTNERSHIP WITH THE 2010 CENSUS.

WHEREAS, the U.S. Census Bureau is required by the Constitution of the United States of America to conduct a count of the population and provides a historic opportunity for the City of Fulshear, Texas, to help shape the foundation of our society and play an active role in American democracy; and

WHEREAS, the City of Fulshear, Texas, is committed to ensuring every resident is counted; and

WHEREAS, more than $300 billion per year in federal and state funding is allocated to communities, and decisions are made on matters of national and local importance based on census data, including healthcare, community development, housing, education, transportation, social services, employment, and much more; and

WHEREAS, census data determine how many seats each state will have in the U.S. House of Representatives as well as the redistricting of state legislatures, county and city councils, and voting districts; and

WHEREAS, the 2010 Census creates hundreds of thousands of jobs across the nation; and

WHEREAS, every Census Bureau worker takes a lifetime oath to protect confidentiality and ensure that data identifying respondents or their household not be released or shared for 72 years; and

WHEREAS, a united voice from businesses, government, community-based and faith-based organizations, educators, media and others will allow the 2010 Census message to reach a broader audience, providing trusted advocates who can spark positive conversations about the 2010 Census;

Now, therefore, **BE IT RESOLVED** that the City of Fulshear, Texas:

1. Supports the goals and ideals for the 2010 Census and will disseminate 2010 Census information to encourage participation.
2. Asks its affiliates and membership to partner together to achieve an accurate and complete count.
3. Encourage people in the City of Fulshear, Texas, to participate in events and initiatives that will raise overall awareness of the 2010 Census and increase participation among all populations.

Passed, Approved, and Adopted this 21st of April, 2009.

CITY OF FULSHEAR, TEXAS

By: _____

JAMES W. ROBERTS, Mayor

ATTEST:

_____

D. (DIANA) GORDON OFFORD, City Secretary

RESOLUTION NO. 09-153

A RESOLUTION OPPOSING OVER OVERVALUED AND/OR EXCESSIVE PROPERTY VALUES IN THE CITY OF FULSHEAR AND SURROUNDING AREAS.

Whereas, the Fort Bend County Central Appraisal District is charged with the responsibility of annually setting an appraised value for the properties in Fort Bend County; and,

Whereas, such appraised value bears directly on the amount of property taxes to be paid; and,

Whereas, many of Fulshear's citizens consider the most recent appraised values of their properties to be over market value, unreasonable, excessive and not reflective of current real estate market conditions; and,

Whereas, State law provides citizens the right to protest the appraised value of their properties; and,

Whereas, many of Fulshear's citizens are exercising, or plan to exercise, their right to protest the appraised values of their properties; and,

Whereas, the City of Fulshear is in agreement that the appraised values of many of Fulshear's properties are excessive, over market value; and the methodology used to determine market value is flawed, and not reflective of current market conditions.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF FULSHEAR:

THAT, the City of Fulshear does resolve its support of Fulshear citizens who have, or are planning to protest the appraised market value of their properties.

THAT the District change and re-calculate the market values of property in the City of Fulshear; and

THAT the District should extend the time for filing property tax protests and time for rendering taxable property; the District should accurately determine the market values of property in Fulshear; and

THAT the Mayor and City Council of the City of Fulshear support residents protesting over market property values; and,

THAT the Mayor and City Council of the City of Fulshear support residents efforts to self educate themselves on the appraisal process; and,

THAT the Mayor and City Council of the City of Fulshear encourages the Central Appraisal District to change its methodology for computing property values and to properly reflect values; and,

THAT the City of Fulshear has an interest in developing and attracting new businesses as well as providing for its residents' economic good health and well being.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF JUNE, 2009.

CITY OF FULSHEAR, TEXAS

James W. Roberts, Mayor

ATTEST:

D. (Diana) Gordon Offord
City Secretary

Aldermen Vote:
Dennis Clack- yes
J. B. Collins- yes
Stephen Gill- absent
Derek Einkauf- yes
Laverne Patterson- yes

ORDINANCE NO. 09-985

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF FULSHEAR, TEXAS, GENERAL BUDGET FOR THE FISCAL YEAR 2008-2009; MAKING APPROPRIATIONS FOR THE CITY FOR SUCH YEAR AS REFLECTED IN SAID BUDGET; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, within the time and in the manner required by law, the Mayor presented to the City Council a proposed general budget of expenditures of the City of Fulshear for the 2008-2009 fiscal year; and

WHEREAS, pursuant to a motion of the City Council and after notice required by law, a public hearing on such general budget was held at the regular meeting place of the City Council at the Town Hall of the City of Fulshear, 30603 F.M. 1093, on the 18th day December,2008 at which hearing all citizens and taxpayers of the City had the right to be present and to be heard and those who requested to be heard were heard; and

WHEREAS, the City Council has considered the proposed general budget and has made such changes therein as in its judgment were warranted by law and were in the best interest of the citizens and taxpayers of the City; and

WHEREAS, a copy of such general budget has been filed with the City Secretary and the City Council now desires to approve and adopt the same; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The City Council hereby approves and adopts the general budget described in the preamble of this Ordinance, a copy of which is attached hereto and made a part of this Ordinance for all purposes and a copy of which is on file with the City Secretary. The City Secretary is hereby directed to place on said budget an endorsement, which shall be signed by the City Secretary, which shall read as follows:

"The Original General Budget of the City of Fulshear, Texas, for the Fiscal Year 2008-2009."

Such budget, as thus endorsed, shall be kept on file in the office of the City Secretary as a public record.

Section 3. In support of said budget and by virtue of the adoption thereof, including any and all changes adopted thereto, the several amounts specified for the various purposes named in said budget are hereby appropriated to and for such purposes.

PASSED, APPROVED, AND ADOPTED this 20th day of January, 2009.

James (Jamie) W. Roberts
Mayor

ATTEST:

D. (Diana) Gordon Offord
City Secretary

Aldermen voting:
Archer-absent
Clack-yes
Collins-yes
Einkauf-yes
Patterson- yes

ORDINANCE NO. 09-986

AN ORDINANCE OF THE CITY OF FULSHEAR, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION ON MAY 9, 2009, FOR THE PURPOSE OF ELECTING (2) ALDERMEN; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. In accordance with the general laws and Constitution of the State of Texas, a General Municipal Election is hereby called and ordered for the second Saturday in May 2009, the same being the 9th day of said month, at which election all qualified voters of the City may vote for the purpose of electing two (2) Aldermen.

Section 2. No person's name shall be placed upon the official ballot as a candidate for Alderman unless such person shall have filed his or her sworn application, as provided by Section 141.031 of the TEXAS ELECTION CODE, with the City Secretary of the City at the City Offices, located at 30603 F.M. 1093, Fulshear, Texas 77441, not later than five o'clock (5:00) p.m. on the sixty-second (62nd) day before the date of such election. The City Secretary shall note of the face of each such application the date and time of its filing.

Section 3. The present boundaries of the City constituting one election precinct, the polls shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling place, and the following are hereby appointed officers to conduct the election at said polling place:

POLLING PLACE

City Hall

City of Fulshear

30603 F.M. 1093

Fulshear, Texas 77441

ELECTION OFFICERS

As appointed by the County Commissioners of Fort Bend County, Texas

The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to each judge as written notice of the appointment, as required by Section 32.009 of the TEXAS ELECTION CODE.

The Presiding Judge shall appoint no more than three (3) clerks to assist in the holding of said election. Said election officers shall also serve as the early voting ballot board for such election; and the Presiding Judge of the election precinct shall also serve as the presiding officer of such board. The hourly rate of pay shall be $9.00 and each election officer shall not exceed fourteen (14) hours.

Section 4. Mrs. Diana Gordon Offord, City Secretary, is hereby appointed clerk for early voting; the appointment of a deputy clerk or clerks for such voting by the City Secretary shall be in accordance with Sections 83.031 et seq. Of the TEXAS ELECTION CODE.

The City Hall

City of Fulshear

30603 F.M. 1093

Fulshear, Texas 77441

is hereby designated as the place for early voting for said election. Said clerks shall keep said office open for at least eight (8) hours, that is, from nine o'clock (8:00) a.m. until five o'clock (5:00) p.m., on each day for early voting which is not a Saturday, a Sunday, or an official state holiday, beginning on the seventeenth (17th) day and continuing through the fourth (4th) day preceding the date of said election. Said clerks shall not permit anyone to vote early by personal appearance on any day which is not a regular working day for the clerk's office, and under no circumstances shall they permit anyone to vote by personal appearance at any time when such office is not open to the public. The above-described place for early voting is also the clerk's mailing address to which ballot applications and ballots voted by mail may be sent. The early voting clerk, in accordance with the provisions of the TEXAS ELECTIONS CODE, shall maintain a roster listing each person who votes by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 5. Electronic voting machines shall be used for early voting and for voting on Election Day, in accordance with the TEXAS ELECTION CODE. All expenditures necessary for the conduct of the election, purchase of materials, and the employment of all election officials are hereby authorized in accordance with the TEXAS ELECTION CODE.

Section 6. The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 7. The order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing by the City Secretary, as provided by Section 52.094 of the TEXAS ELECTION CODE. The City Secretary shall post a notice in her office, at least seventy-two (72) hours prior to the date on which the drawing is to be held, of the time and place of the drawing, and shall also give personal notice to any candidate who makes written request for such notice and furnishes to the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing, or a representative designated by such candidate, shall have a right to be present and observe the drawing.

Section 8. The two (2) candidates receiving the highest number of votes for Alderman shall be declared elected.

Section 9. Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE and returns of such notice shall be made as provided for in said Code. The City Secretary, in compliance with Section 23.023c of the Texas Local Government Code, shall post notice of said election for at least twenty (20) days preceding the date of the election in at least three (3) public places within the municipal limits. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

Section 10. Said election shall be held in accordance with the TEXAS ELECTION CODE and the Federal Voting Rights Act of 1965, as amended.

PASSED, APPROVED, AND ADOPTED the 27 day of January, 2009.

James (Jamie) W. Roberts
Mayor

ATTEST:

D. (Diana) Gordon Offord
City Secretary

Aldermen Voting:
Archer- yes
Clack- absent
Collins- yes
Einkauf- yes
Patterson- yes

CITY OF FULSHEAR, TEXAS

ORDINANCE NO. 09-987

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS PROVIDING FOR AN EXEMPTION OF 14% / $5000.00 WHICHEVER IS GREATER OF THE APPRAISED VALUE OF THE RESIDENCE HOMESTEAD AND/OR $15,000.00 FOR DISABLED OR SENIOR CITIZENS 65 YEARS OF AGE AND OLDER , PROVIDING FOR DEFINITION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS.

Section 1. That the City Council of the City of Fulshear, Texas hereby provides for and adopts an exemption from taxation of 14% / $5000.00 whichever is greater of the appraised value of the residence homestead and/or $15,000.00 for disabled or senior citizens 65 years of age and older, in accordance with Article 11.13 of the Texas Property Tax Code.

Section 2. "Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old Age, Survivors and Disability Insurance.

Section 3. That this Ordinance shall become effective from and after its adoption and it is so ordained

PASSED AND APPROVED BY THE City Council of the City of Fulshear, Texas this 21st Day of April, 2009.

James W. Roberts, Mayor

ATTEST:

D. (Diana) Gordon Offord, City Secretary

ORDINANCE No. 09-988

AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE GENERAL ELECTION HELD ON MAY 9, 2009, FOR THE PURPOSE OF ELECTING TWO (2) ALDERMEN TO THE CTY COUNCIL OF THE CITY OF FULSHEAR.

* * * * * * * * * * * *

WHEREAS, a general election was held in the City of Fulshear, Texas, on May 9, 2009, for the purpose of electing two (2) Aldermen; and

WHEREAS, said election was duly and legally held in conformity with the election laws of the State of Texas, and the results of said election have been verified and returned by the proper judges and clerks; and

WHEREAS, it appears that a total of 233 votes were cast in such election; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The official canvass of the returns of the general election held on May 9, 2009, reflects that the following named persons received the number of votes set opposite their name:

Candidate Name	Votes
J. B. Collins, Jr.	159
Stephen Gill	161
Carl G. Utley	85

Section 3. In accordance with the official canvass of the returns of the general election held on May 9, 2009, the following persons are duly elected:

Stephen Gill

J. B. Collins, Jr.

PASSED, APPROVED AND ADOPTED this 19th day of May, 2009.

James (Jamie) W. Roberts
Mayor

ATTEST:

D. (Diana) Gordon Offord
City Secretary

ORDINANCE NO. 09-989

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, ADOPTING A PUBLIC FUNDS INVESTMENT POLICY FOR THE CITY; REPEALING ORDINANCE NO. 00-860, PASSED, APPROVED, AND ADOPTED THE 7TH DAY OF SEPTEMBER,2000, 85-719 AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR,TEXAS:

Section 1. Pursuant to the provisions of TEXAS GOVERNMENT CODE, Chapter 2256, the Public Funds Investment Act (the "Act"), the City Council of the City of Fulshear, Texas, hereby adopts a Public Funds Investment Policy for the City. A copy of such Policy is attached hereto as Exhibit "A" and made a part hereof for all purposes.

Section 2. Ordinance No. 00-860, passed and approved the 7th day of September, 2000, and all other ordinances or parts or ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 21st day of April, 2009.

James W. Roberts
Mayor

Voting Aldermen:
Bill Archer- yes
Dennis Clack- yes
J. B. Collins, Jr. – yes
Derek Einkauf –yes
Laverne Patterson – yes

ATTEST:

D. (Diana) Gordon Offord - City Secretary

990

ORDINANCE NO. 09-~~XXX~~

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS AMENDING ORDINANCE NO. 06-946 ESTABLISHING AN ADVISORY MEMBER OF THE PLANNING COMMISSION; AND PROVIDING FOR SEVERABILITY.

* * * * * * * * * * *

WHEREAS the City Council of the City of Fulshear has passed Ordinance No. 01-865 establishing the membership, qualifications, appointment, and term of office for the Planning Commission of the City; and

WHEREAS the City Council desires to establish an advisory position on the Planning Commission for the purpose of reporting to the City Council; **NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:**

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Section 4A of Ordinance 06-946 is hereby deleted in its entirety and a new Section 4A shall be inserted in its place which shall read as follows:

Section 4. Membership, Appointment, Term of Office, Meetings.

A. Membership. The Planning Commission shall be composed of seven (7) voting members and one (1) advisory member, each of voting members whom shall be, at the time of appointment and at all other times while serving as a member of such commission, resident citizens of and owners of real property within the City of Fulshear, Texas, or its extraterritorial jurisdiction. The advisory member whom shall be, at the time of appointment and at all other times while serving as a member of such commission, owner of real property within the City of Fulshear, Texas or the City of Fulshear, Texas' Extra Terratorial Jurisdiction. The advisory member shall not be entitled to vote, and shall not be considered a member of the Planning Commission for purposes of determining if a quorum of members exists at any particular meeting. The advisory

member shall be experienced in land use and development and provide advice to the Planning Commission regarding issues before the Planning Commission.

Section 3. Section 5A of Ordinance 06-496 is hereby deleted in its entirety and a new Section 5A shall be inserted in its place which shall read as follows:

Section 5. Procedures.

A. Quorum and Vote. Each Planning Commission member in attendance at a duly called and noticed meeting, except for the advisory member, may vote. All matters to be heard by the Planning Commission shall be considered by a minimum of three (3) members, excluding the advisory member, which shall be the quorum necessary for conducting a meeting. The concurring vote of a majority of the members in attendance, excluding the advisory member, shall be necessary for the passage of any motion.

Section 4. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this the 16th day of June 2009.

James W. Roberts
Mayor

ATTEST:

Diana Offord
City Secretary

ORDINANCE NO. 09-991

ORDINANCE NUMBER 04-913 BEING ~~REVISED~~ AMENDED TO REFLECT STREET LIGHT REQUIREMENT AND OPERATING COST FOR SUBDIVISIONS WITHIN THE CITY LIMITS OF FULSHEAR, AND ADDING SECTION N1, N2, AND EFFECTIVE DATE.

N1. Street lights shall be installed at all street intersections, cul-de-sacs, and other locations as determined by the Planning Commission, within the subdivision. Street lights shall be ordered through the City and, if ornamental poles with underground service are requested, Houston Lighting and Power Company will provide the engineering and installation at the time the other electrical service is installed.

N2. The developer shall pay monthly operating costs of these lights until seventy-five percent (75%) of the lots are occupied and on the city tax rolls.

DULY PASSED, APPROVED, AND ADOPTED this 15th day of September. 2009

Mayor, James W. Roberts

Aldermen:

Clack-yes
Collins-yes
Gill-yes
Einkauf-absent
Patterson-absent

ATTEST:

City Secretary- D. (Diana) Gordon Offord

ORDINANCE NO. 09-992

AN ORDINANCE PROVIDING FOR THE ASSESSMENT, LEVY, AND COLLECTION OF AD VALOREM TAXES OF THE CITY OF FULSHEAR, TEXAS, FOR THE YEAR 2009 AND FOR EACH YEAR THEREAFTER UNTIL OTHERWISE PROVIDED; PROVIDING THE DATE ON WHICH SUCH TAXES SHALL BE DUE AND PAYABLE; PROVIDING FOR PENALTY AND INTEREST ON ALL TAXES NOT TIMELY PAID; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

* * * * *

WHEREAS, pursuant to Section 26.05 of the Texas Property Tax Code, the governing body of each taxing unit shall adopt a tax rate for the current tax year; and

WHEREAS, all notices and hearings required by law as a prerequisite to the passage, approval, and adoption of said tax rate ordinance have been timely and properly given and held; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. All property subject to ad valorem taxation by the City of Fulshear, Texas, shall be equally and uniformly assessed for such purposes at One Hundred Percent (100%) of the fair market value of such property.

Section 3. There is hereby levied for general purposes and use by the City of Fulshear, Texas, for the year 2009, and for each year thereafter until otherwise provided, an ad valorem tax at the rate of Twenty and 05921/1000 Cents ($.205921) on each One Hundred Dollars ($100) of assessed valuation on all property, real, personal, and mixed, within the corporate limits upon which an ad valorem tax is authorized by law to be levied by the City of

Fulshear, Texas. The proceeds from such tax shall be applied to the payment of the general and current expenses of the government of the City. All such taxes shall be assessed and collected in current money of the United States of America.

Section 4. All ad valorem taxes levied hereby, as reflected by Section 3 hereof, shall be due and payable on or before January 31, 2010. All ad valorem taxes due the City of Fulshear, Texas, and not paid on or before January 31 following the year for which they were levied shall bear penalty and interest as prescribed in the Property Tax Code of the State of Texas.

Section 5. All ordinances and parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

PASSED, APPROVED, AND ADOPTED this 22nd day of September 2009.

James (Jamie) W. Roberts
Mayor

ATTEST:

D. (Diana) Gordon Offord
City Secretary

Aldermen Voting:
Dennis Clack-yes
Derek Einkauf-yes
Stephen Gill-yes
Laverne Patterson-yes
J. B. Collins, Jr- absent

ORDINANCE NO. 09-993

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF FULSHEAR, TEXAS, GENERAL BUDGET FOR THE FISCAL YEAR 2009/ 2010; MAKING APPROPRIATIONS FOR THE CITY FOR SUCH YEAR AS REFLECTED IN SAID BUDGET; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, within the time and in the manner required by law, the Mayor presented to the City Council a proposed general budget of expenditures of the City of Fulshear for the 2009-2010 fiscal year; and

WHEREAS, pursuant to a motion of the City Council and after notice required by law, a public hearing on such general budget was held at the regular meeting place of the City Council at the Town Hall of the City of Fulshear, 30603 F.M. 1093, on the _13th day October_ 2009, at which hearing all citizens and taxpayers of the City had the right to be present and to be heard and those who requested to be heard were heard; and

WHEREAS, the City Council has considered the proposed general budget and has made such changes therein as in its judgment were warranted by law and were in the best interest of the citizens and taxpayers of the City; and

WHEREAS, a copy of such general budget has been filed with the City Secretary and the City Council now desires to approve and adopt the same; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The City Council hereby approves and adopts the general budget described in the preamble of this Ordinance, a copy of which is attached hereto and made a part of this Ordinance for all purposes and a copy of which is on file with the City Secretary. The City Secretary is hereby directed to place on said budget an endorsement, which shall be signed by the City Secretary, which shall read as follows:

"The Original General Budget of the City of Fulshear, Texas, for the Fiscal Year 2009-2010"

such budget, as thus endorsed, shall be kept on file in the office of the City Secretary as a public record.

Section 3. In support of said budget and by virtue of the adoption thereof, including any and all changes adopted thereto, the several amounts specified for the various purposes named in said budget are hereby appropriated to and for such purposes.

PASSED, APPROVED, AND ADOPTED this 13th day of October 2009.

James (Jamie) W. Roberts
Mayor

ATTEST:

D. (Diana) Gordon Offord
City Secretary

ORDINANCE NO. 09-994

WHEREAS, the undersigned Employer is an Employer Member of the TML Intergovernmental Employee Benefits Pool (hereinafter referred to as the "Pool");

WHEREAS, the undersigned Employer sponsors an employee benefit plan;

WHEREAS, the undersigned Employer is responsible for the administration of its employee benefit plan as the Plan Administrator; and

WHEREAS, the undersigned Employer wants the TML Intergovernmental Employee Benefits Pool to assist the Employer in complying with the requirements of Continuation of Coverage as required by Federal law.

NOW THEREFORE, in consideration of the promises, mutual covenants and agreements contained herein, the undersigned Employer and the Pool agree as follows:

I. Effective Date

As of the first day of *November*, 20 0 9 the Pool will commence Continuation of Coverage administration for the undersigned Employer for all qualifying events occurring thereafter and during the term of this agreement.

II. Employer Duties

L The undersigned Employer will notify the Pool's Billing/Eligibility Representative assigned to the Employer via FAX or Telephone (with a written follow up) within one (1) business day of a qualifying event, as defined by the Continuation of Coverage statute and its amendments, of a Covered Employee for which the Employer has knowledge. Examples of this include termination; lump sum or severance settlement; resignation; death; retirement if the employee does not enroll for retiree coverage when offered under the Employer's benefit plan; reduction in hours (including reduction to zero hours), call to duty for military service and absence from work for an injury or illness after all earned sick leave, vacation leave and FMLA has been exhausted.

2. The undersigned Employer wilt distribute Attachment A, which advises each Covered Individual of their rights and responsibilities under Continuation of Coverage. The Employer will certify through a letter to the Pool that the Attachment A was distributed to all Covered Individuals as of the date the Pool commenced Continuation of Coverage Administration.

3. The undersigned Employer will distribute Attachment A to all employees who become covered by the Employer's benefit plan after the date the Pool commenced Continuation of Coverage administration and include verification of the distribution with the enrollment card when it is submitted to the Pool.

4. The undersigned Employer will notify the Pool via FAX or Telephone (with a written follow-up) within one (1) business day of gaining knowledge that a Covered Individual has legally separated, divorced or is no longer eligible for coverage e.g. a child, over age 19, who is no longer a full-time student as defined by the Employer's health benefit plan or the Covered employee or dependent is voluntarily dropped from coverage.

5. The undersigned Employer will notify the Pool at least ten (10) business days prior to any open enrollment period. The notice to the Pool will include the dates of the open enrollment.

6. The undersigned Employer will immediately notify the Pool of any suspected claim, demand or suit arising from the administration of Continuation of Coverage.

7. To the extent allowed by law, the undersigned Employer will indemnify and hold harmless the Pool and its officers, agents, employees and representatives from all suits, actions, losses, damages (including punitive damages), claims or liability of any type, including without limiting the generality of the foregoing all expenses of litigation, court costs, and attorney's fees, resulting from the failure of the undersigned Employer to give any notice required by this Agreement. The undersigned Employer will fund this obligation **out** of current revenues in the year the obligation is determined or will levy a tax to fund the obligation if current revenues are insufficient.

III. Pool Duties

I. The Pool staff will monitor changes in Continuation of Coverage and the case law which develops interpreting Continuation of Coverage.

2. The Pool will provide election notices within 14 days of the receipt of notices of qualifying events sent by the Employer.

3. The Pool will provide the appropriate notification letters to the employee or their dependent(s) as required by Continuation of Coverage statutes.
These letters may include any or all of the following:
a) benefit availability - initial notice, enrollment card and cost;
b) confirmation of enrollment and payment coupons
c) notice of termination letters
1. Failure to reply
2. Failure to make initial payment 3. Failure to make regular payment
4. End of eligibility (no longer qualified) 5. End of eligibility period
open enrollment
d) contribution change and revised payment coupons
e) conversion to an individual policy Medicare
f) eligibility
g) verification of full-time student status
h) verification of incapacitated child status
i)

4. The Pool will provide the Continuation of Coverage participants with ID cards, a benefit booklet, and other materials as the need may arise.

5. The Pool will maintain records that all required notifications were sent and copies are available to the Member upon request.

6. The Pool will collect the required contributions at the maximum amount allowed by law. Upon notice for the Employer under 11.1., the Pool has fourteen (14) days to send the Continuation of Coverage notice. Once the election notice is mailed the qualifying beneficiary has sixty (60) days to elect Continuation of Coverage. If the qualified beneficiary elects Continuation of Coverage the qualified benefit has forty-five (45) days from election to make the first payment. If insignificant partial payments are made TML IEBP contacts the qualified beneficiary for full payment. The qualified beneficiary has thirty (30) days from deficiency notification to make payment. Insignificant payment deficiency is $50 or 10% of amount due.

7. The Pool will periodically provide the Employer, for their review, with the text of the letter and notices to be used in administering this Agreement. The Pool maintains final authority over the text of these letters and notices. The Pool reserves unto itself the right to modify the letters and notices as may be required pursuant to the Continuation of Coverage statute, any applicable case law and to promote the efficient administration of the Agreement.

8. As allowed by law, the Pool will indemnify, defend, reimburse, and hold harmless the Employer and its employees from any and all liabilities, claims, demands, or suits arising from or related to the provision of Continuation of Coverage administrative services unless those liabilities, claims, demands, or suits arise out of the Employer's failure to give any notice as required in II, 1, 2, 3, 4, 5 and 6 of this Agreement. The foregoing reimbursement obligation shall specifically include any medical claim costs incurred by the Pool because of the failure of the Employer to give any notice of an employee termination or other qualifying event. This notice is required by the agreement or by law. The Pool, upon notice by the Employer will immediately investigate, handle, respond to and defend any such claims, demands or suits at the Employer's sole expense. If the liability, claim, demand or suit is based on negligence this contract of indemnity shall apply and the negligence of the Employer and the Pool will be on a percentage basis as in a pure comparative negligence situation under the law.

9. The Pool's responsibilities under this contract are for Continuation of Coverage that the Employer is required to provide under Federal law, and does not have any responsibility for other benefits such as group life insurance or disability.

IV. Notice

Any notice to be given under this Agreement, other than those in II, 1, 2, 3, 4 and 5 of this Agreement, shall be deemed given and received on the first to occur of the following: (a) actual receipt by the party to be notified; or (b) five days after deposit of such notice in the US Mail system if sent by Certified Mail, Return Receipt Requested, postage prepaid, and addressed to the party to be notified at the address of such party set forth below or as designated from time to time in writing by giving not less than ten days in advance notice to the other party. The initial addresses for the Pool and Employer shall be as follows:

Address of Pool
Executive Director
TML Intergovernmental Employee Benefits Pool
Texas Municipal Center
1821 Rutherford Lane, Suite 300
Austin, Texas 78754-5151

Address of Employer
City of Fulshear
30603 FM 1093
Fulshear, **Texas 77441**

V. Compensation

1. The Employer will pay the Pool a one-time $50.00 set up fee and a $0.50 Per Participant Per Month fee for each participating participant per month that enrolls in Continuation of Coverage.
2. Other special services which may be requested by the Employer but are not contained in this Agreement, will be billed at a mutually agreeable hourly rate.

VI. Miscellaneous Provisions

1. This Agreement represents the complete understanding of the parties and may not be modified or amended without the written agreement of both parties.

2. The parties agree that venue for any dispute arising under the terms of this Agreement shall be in Austin, Travis County, Texas.

3. The parties agree that venue for any dispute arising out of the performance under their Agreement shall be in Austin, Travis County, Texas.

4. In performing the administrative services under this Agreement, the Pool may rely without qualification on the information provided by the Employer.

5. The Pool agrees to take over the remaining Continuation of Coverage administration for any of the Employer's current Continuation of Coverage participants, without Employer compensation, so long as the Employer furnishes the information necessary to effectuate the transfer.

6. This Agreement is entire as to all of the performance to be rendered under it. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision of this Agreement shall be void and of no force and effect.

7. It is understood that the Pool will charge the Continuation of Coverage participant the administration fee allowed by the Continuation of Coverage statute.

VII. Termination

1. Term of this initial Agreement shall be from its effective date through September 30, 2010, at 12:01 a.m. The Employer member may annually renew the Agreement for the subsequent twelve (12) month period by executing and returning the Pool's rerate notice and benefit selection for each year.

2. Either party may terminate this Agreement at anytime by giving the other party written notice at least thirty (30) days prior to the specified date.

3. This Agreement terminates, without further notice, on the date the undersigned Employer is no longer an Employer Member of the Pool.

4. All records in possession of the Pool relating to Continuation of Coverage administration at termination of the Agreement will be transferred to the Employer within forty-five (45) business days.

5. Should this Agreement terminate for any reason it does not relieve either party of their duties nor obligations during the period when this Agreement was in full force and effect.

This Agreement is entered into for the Employer Member under authorization of THE FULSHEAR CITY COUNCIL at a duly called meeting held on October 13, 2009 by:

Aldermen:
Dennis Clack- absent
J. B. Collins- yes
Derek Einkauf- absent
Stephen Gill- yes
Laverne Patterson- yes

Attest:
City-Secretary D. GORDON OFFORD

City of Fulshear
(Employer Member/Group Name)

10-13-09
(Date)

Mayor - James (Jamie) W. Roberts

This Agreement Entered Into and Accepted By:
INTERGOVERNMENTAL EMPLOYEE BENEFITS POOL
BY:_____at Austin, Texas
TITLE: Executive Director

(Date)

ORDINANCE NO. 09-994a

AN ORDINANCE AUTHORIZING THE OFFERING OF HEALTH BENEFITS COVERAGE TO CITY RETIREES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Fulshear, Texas (City), desires to provide health benefits coverage to its retirees; and,

WHEREAS, Texas Municipal League Group Benefits Risk Pool (TML-GBRP) is a health risk pool established pursuant to Texas Local Government Code Chapter 172, Texas Government Code Chapter 791, and the Texas Trust Code to provide health benefits coverage for employees and retirees and dependents of employees and retirees, of Texas political subdivisions under an Interlocal Agreement; and,

WHEREAS, the City is currently offering health benefits coverage through the TML-GBRP pursuant to an Interlocal Agreement and Chapter 172 of the Texas Local Government Code, both of which allow the extension of benefits to retirees of the City; and,

WHEREAS, the City desires to provide health benefits coverage to its retirees through the TML-GBRP and that the cost for such coverages be paid for by the individual retiree; and,

WHEREAS, the City desires to select a plan of benefits for its retirees to be provided by the TML-GBRP; and,

WHEREAS, providing retiree coverage underage the TML-GBRP Interlocal Agreement is in the best interest of the City, its retirees, and the public generally.

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

SECTION 1: The foregoing recitals are incorporated into this Ordinance as findings of fact.

SECTION 2: The City hereby elects to provide health benefits coverage to its retirees through TML-GBRP under the Pool's Interlocal Agreement.

SECTION 3: The City hereby adopts the following definition of "retiree" for purposes of this Ordinance: ***"Meets the** definition of a **retiree under Texas Municipal Retirement System and is eligible for benefits."***

SECTION 4: The City hereby adopts the following benefits plans to be provided to its retirees through the TML-GBRP: ***The same medical plan (s) offered to active employees and the medical plan adopted for retirees and their dependents.***

SECTION 5: The Interlocal Agreement in effect between the City, and the TML-GBRP provides that the Board of Trustees may adopt rules and regulations. The rules and regulations of the TML-GBRP allow the participating member entity to provide retiree medical coverage at the same contribution as charged to active employees or to select a contribution level which is 150 percent of the active employee contribution. The City elects to have the retiree medical contribution be 150 percent of the active employee for as long as the TML-GBRP offers this rate structure for retiree medical coverage. Other coverages will be established annually by the TML-GBRP Board of Trustees.

SECTION 6: This Ordinance will only apply to individuals retiring after its effective date or to employees which retired under a previous Ordinance. For individuals retiring after the effective date of this Ordinance to qualify they must enroll for this coverage within 30 days of their retirement.

SECTION 7: This Ordinance may be repealed or modified at any time, but will remain in effect for any employee retiring while it is in effect.

SECTION 8: The City Secretary is hereby ordered to enter a copy of this Ordinance in the City Minutes.

SECTION 9: All existing City ordinances in conflict with the provisions of this Ordinance are repealed to the extent of that conflict.

SECTION 10: It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, of the Texas Government Code.

SECTION 11: This Ordinance shall be effective immediately upon its passage. **PASSED**

AND APPROVED this the 13th day of October, 2009.

CITY OF FULSHEAR, TEXAS

MAYOR- JAMES W. ROBERTS

ATTEST:

City Secretary

ORDINANCE NO. 09-996

AN ORDINANCE AMENDING ORDINANCE NO. 09-993 ADOPTING THE CITY OF FULSHEAR 2008-2009 BUDGET BY PROVIDING FOR CHANGES IN THE GENERAL GOVERNMENT AND ENTERPRISE FUND BUDGETS.

WHEREAS, the City Council has heretofore adopted the City of Fulshear 2008-2009 Budget by Ordinance No. 09-993 and is now desirous of making adjustments in the General Government and Enterprise Fund budgets, NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

I.

THAT the City of Fulshear 2008-2009 Budget adopted by Ordinance No. 09-993 is hereby amended by amending the General Government and Enterprise Fund budgets to reflect the changes shown on Exhibit "A" attached hereto and made a part hereof.

II.

EXCEPT as amended, the City of Fulshear 2008-2009 Budget shall remain in full force and effect. The Amendment hereby made shall become effective upon adoption of this Ordinance.

PASSED AND APPROVED this the 10th day of November, 2009.

CITY OF FULSHEAR, TEXAS

James (Jamie) W. Roberts, Mayor

ATTEST:

D. (Diana) Gordon Offord, City Secretary

ORDINANCE NO. 2009 - 997

AN ORDINANCE APPOINTING RANDLE LAW OFFICE LTD., L.L.P. AS CITY ATTORNEY FOR THE CITY OF FULSHEAR, TEXAS, AND PROVIDING FOR COMPENSATION AND PROVIDING THAT SAID APPOINTMENT SHALL CONTINUE FOR ADDITIONAL TIME THEREAFTER UNLESS OTHER APPOINTMENTS SHALL BE MADE BY ORDINANCE DULY ADOPTED BY THE CITY COUNCIL WHICH SHALL BE IN CONFLICT HEREWITH AND PROVIDING FOR THE POWERS, DUTIES AND AUTHORITY OF THE SAID CITY ATTORNEY.

WHEREAS, the firm of Randle Law Office Ltd., L.L.P. is competent in the area of municipal law and can effectively represent the interests of the City of Fulshear, Texas in accordance with usual and customary duties of a City Attorney; and

WHEREAS, the City and Randle Law Office Ltd., L.L.P. endeavor to enter into a contractual relationship and contract for services of the City Attorney as provided in the Local Government Code, to be appointed as an officer of the City and not as an employee of the City; and

WHEREAS, the City Council of the City of Fulshear finds and determines that the appointment of a City Attorney is a matter of public necessity and as such, this Ordinance shall be deemed effective as of November 4, 2009;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. That Randle Law Office Ltd., L.L.P. is appointed City Attorney for the City of Fulshear, Texas, with J. Grady Randle designated as chief responsible counsel, and the appointed City Attorney shall bill the City $185.00 per hour for attorneys and $70.00 per hour for paralegals for services rendered for such service on a monthly basis which shall include the hourly charges plus all expenses reasonably incurred which

shall be paid in accordance with established custom and practice and that the City of Fulshear, Texas will not withhold taxes from the payment it makes to Randle Law Office Ltd., L.L.P. These rates will remain the same until November, 2011. No other compensation or benefits including health insurance, life insurance, club membership or convention fees are to be paid to Randle Law Office Ltd., L.L.P.

Section 2. That the City Attorney herein appointed shall be deemed the chief legal officer of the City and shall represent the City in all matters pending in any forum without further specific authorization of the City Council of the City and shall in addition perform such other services as shall be required and provided for under the Charter and Code of Ordinances of the City. The City Attorney, or other such attorneys selected by it, shall represent the City in all litigation. The City Attorney herein designated, or other such attorneys selected by it, shall appear in front of all official bodies, boards and commissions of the City as may be required by the matters pending before such bodies. As required, the City Attorney shall render opinions and memorandums of law that shall be maintained by the City Secretary and open for public inspection as is the case of all official records of the City. The City Attorney shall be designated the chief legal officer of the City.

Section 3. This appointment shall continue unless this ordinance of appointment is repealed.

Section 4. That in consideration for the appointment made herein, the City Attorney herein appointed shall perform all services required in a professional manner in accordance with all applicable rules and laws relating to legal services. This Ordinance shall constitute the entire agreement between the attorney herein appointed and the

City of Fulshear and shall constitute the contract between such parties; no further contract or agreement shall be required. It is the intent of the City of Fulshear, Texas and Randle Law Office Ltd., L.L.P. that Randle Law Office Ltd., L.L.P. is an independent contractor and is not an employee of the City.

PASSED and **APPROVED** this, the 17th day of November, 2009.

MAYOR

ATTEST:

City Secretary

ACCEPTED AND APPROVED:

RANDLE LAW OFFICE LTD., L.L.P.

By: J. Grady Randle, P.C.,
Its General Partner

By:
J. Grady Randle, President

Ordinance No. 09-998

Joint Airport Safety Board Hazard Zoning Regulations

Regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of Houston Executive Airport, Fort Bend County, Waller County, Cities of Katy, Brookshire and Fulshear Texas, by creating the appropriate zones and establishing the boundaries thereof; providing for restrictions of such zones and the enforcement of such restrictions; defining certain terms used herein; referring to Houston Executive Airport Hazard Zoning Map prepared by Garver Engineers, dated May 2008, which is incorporated in and made a part of these regulations; providing for a board of adjustment; and imposing penalties.

Whereas, these regulations are adopted pursuant to the authority conferred by the Airport Zoning Act, Texas Local Government Code, §§241.001 et seq.

Whereas, the Legislature of the State of Texas finds that:

1, an airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;

2. an airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, tending to destroy or impair the utility of the airport and the public investment in the airport;

3. the creation of an airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;

4. it is necessary in the interest of the public health, public safety, and general welfare to prevent the creation of an airport hazard;

5. the creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation; and

6. the prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, or the marking and lighting of an airport hazard are public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land.

Accordingly, it is declared that area benefits from the use of Houston Executive Airport, which by deed restriction filed pursuant to Texas Tax Code 23.91, et. seq., permits Houston Executive Airport to be used by the public to an extent that the airport fulfills an essential community purpose; therefore, Houston Executive Airport is used in the interest of the public.

Therefore, be it ordered by the Joint Airport Safety Board, established by the

Commissioners Court of Fort Bend and Waller County, cities of Katy, Brookshire, and Fulshear, Texas:

Section 1. Short Title

These regulations shall be known and may be cited as the "Joint Airport Hazard Zoning Regulations."

Section 2. **Definitions**

As used in these regulations, unless the context otherwise requires:

A. Administrative Agency - The appropriate person or office of a political subdivision which is responsible for the administration and enforcement of the regulations prescribed herein. The administrative agency is set forth in Section 3 of these regulations.

B. Airport - Houston Executive Airport, located in Waller County, Texas; including the ultimate development of that facility.

C. Airport Elevation - The established elevation of the highest point on the runway, either existing or planned, at the airport measured in feet above mean sea level (MSL). The airport elevation of Houston Executive Airport is 168 feet above mean sea level (MSL).

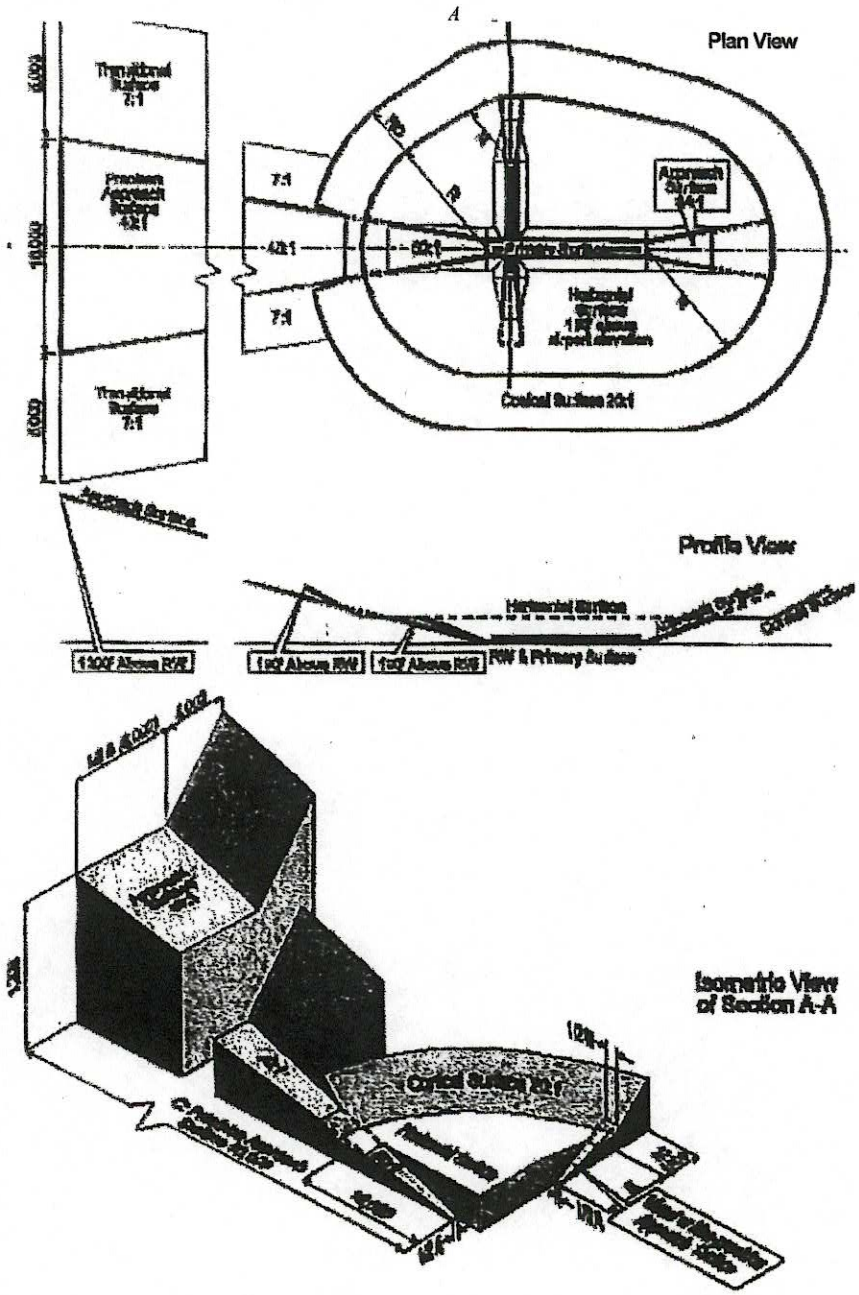
D. Airport Hazard - Any structure, tree, or use of land which obstructs the airspace required for the flight of aircraft or obstructs or interferes with the control, tracking, and/or data acquisition in the landing, takeoff, or flight at an airport or any installation or facility relating to flight, tracking, and/or data acquisition of the flight craft; is hazardous to, interferes with, or obstructs such landing, takeoff, or flight of aircraft; or is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

E. Approach Surface - A surface longitudinally centered on the extended runway centerline, extending outward and upward from each end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 5 of these regulations. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

F. Approach, Conical, Horizontal, and Transitional Zones - These zones are set forth in Section 4 of these regulations and are depicted in Figure 1, below:

Figure I

Flgure 2-2r Typical Imaginary Surface Naight Llmitatlons, FAA Part 27



Depiction 3b ws an other-than{rtiL1ky airport with Instrument approach procedures to each runway orxf, em! each promdcre *having* one-rmTemfnimum hs1U1ityminimums.

G. Board of Adjustment - A board so designated by these regulations as provided in Texas Local Government Code, §241.032. Provisions for the board of adjustment are set forth in Section 9 of these regulations.

H. Conical Surface - A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally for each one (1) foot vertically for a horizontal distance of four-thousand (4,000) feet.

I. Hazard to Air Navigation --- An obstruction or use of land determined to have a substantial adverse effect on the safe and efficient utilization of navigable airspace.

J. Height - For the purpose of determining the height limits in all zones set forth in these regulations and shown on the hazard zoning map, the datum shall be height above mean sea level (MSL) elevation as measured in feet.

K. Horizontal Surface -- A horizontal plane one-hundred fifty (150) feet above the established airport elevation which in plan coincides with the perimeter of the horizontal zone.

L. Nonconforming Use, Structure, or Tree - Any structure, tree, or use of land which is inconsistent with the provisions of these regulations and which is :existing as of the effective date of these regulations.

M. Nonprecision Instrument Runway - A runway having an existing instrument approach procedure utilizing air navigation facilities or other equipment that provides only horizontal guidance or area type navigation equipment. This also includes a runway for which a nonprecision instrument approach procedure has been approved or planned. Planned Runway 18R/36L is considered a nonprecision instrument runway.

N. Obstruction - Any structure, tree, or other object, including a mobile object, which exceeds a limiting height set forth in Section 5 of these regulations or is an airport hazard.

O. Other than Utility Runway - A runway designed for and intended to be used by propeller driven aircraft of more than twelve-thousand five-hundred (12,500) pounds maximum gross weight and jet powered aircraft. Runway 18/36 at Houston Executive Airport is considered an other than utility runway.

P. Person - An individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

Q. Precision Instrument Runway _ A runway having an existing instrument approach procedure utilizing air navigation facilities or other equipment which provide both horizontal and vertical guidance. This also includes a runway for which a precision instrument approach procedure has been approved or planned. Runway 18/36 at Houston Executive Airport is considered a precision instrument runway.

R. Primary Surface - A 7,400 foot wide surface longitudinally centered on the runway extending the full length of the ultimate runway configuration plus two hundred (200) feet beyond each ultimate end of the runway. The elevation of any point on the primary surface is the same as the nearest point on the existing or ultimate runway centerline.

S. Runway --- A defined area on the airport prepared for the landing and taking off of aircraft along its length. The current length of Runway 18/36 at Houston Executive Airport is 6,610 feet. The length of the ultimate runway configuration of Runway 18/36 at Houston Executive Airport is 7,780 feet. The length of the ultimate parallel 18R/36L is 7,000 feet.

T. Structure --- An object, including a mobile object, constructed or installed by man including, but not limited to, buildings, towers, cranes, smokestacks, poles, earth formations, overhead power lines, and traverse ways. Traverse ways are considered to be the heights set forth in 14 C.F.R. Part 77.23.

U. Transitional Surfaces - Surfaces extending perpendicular to the runway centerline and the extended runway centerline outward from the edges of the primary surface and the approach surfaces at a slope of seven (7) feet horizontally for each one (1) foot vertically to where they intersect the horizontal surface. Transitional surfaces for those portions of the precision approach surface which extend through and beyond the limits of the conical surface extend at a slope of seven (7) feet horizontally for each one (1) foot vertically for a distance of five-thousand (5,000) feet measured horizontally from either edge of the approach surface and perpendicular to the extended runway centerline.

V. Tree - Any type of flora and an object of natural growth. **Section 3. Administrative Agency**

It shall be the duty of the appropriate person or office of each of the joined political subdivision which is responsible for the administration and enforcement of the regulations prescribed herein.

Section 4. Zones

In order to carry out the provisions of these regulations, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, conical surface, horizontal surface, and transitional surfaces as they apply to the airport. Such surfaces are shown on the Houston Executive Airport Hazard Zoning Map prepared by Garver Engineers, dated May 2008, which is incorporated in and made a part of these regulations. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows;

A, Approach Zones --- Approach zones are hereby established beneath the approach surfaces at each end of Runway 18/36 at the airport for an other than utility runway. The approach surface shall have an inner edge width of 550 feet, which coincides with the width of the primary surface, at a distance of two-hundred (200) feet beyond each runway end, widening thereafter uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet beyond the end of the primary surface. The centerline of the approach surface is the continuation of the centerline of the runway.

B. Conical Zone - A conical zone is hereby established beneath the conical surface at the airport which extends outward from the periphery of the horizontal surface for a horizontal distance of four-thousand (4,000) feet.

C. Horizontal Zone - A horizontal zone is hereby established beneath the horizontal surface at the airport which is a plane one-hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of ten-thousand (10,000) feet radii from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.

D. Transitional Zones - Transitional zones are hereby established beneath the transitional surfaces at the airport. Transitional surfaces, symmetrically located on either side of the runway, have variable widths as shown on the Houston Executive Airport Hazard Zoning Map prepared by Garver Engineers, dated May 2008, which is incorporated in and made a part of these regulations. Transitional surfaces extend outward perpendicular to the runway centerline and the extended runway centerline from the periphery of the primary surface and the approach surfaces to where they intersect the horizontal surface. Where the precision instrument runway approach surface projects through and beyond the conical surface, there are hereby established transitional zones beginning at the sides of and at the same elevation as the approach surface and extending for a horizontal distance of five-thousand (5,000) feet as measured perpendicular to the extended runway centerline.

Section **5. Height Limitations**

Except as otherwise provided in Section 8 of these regulations, no structure shall be erected, altered, or replaced and no tree shall be allowed to grow in any zone created by these regulations to a height in excess of the applicable height limitations herein established for such zone except as provided in Paragraph E of this Section. Such applicable height limitations are hereby established for each of the zones in question as follows:

A. Approach Zones - Slope one (1) foot in height for each 40 feet in horizontal distance beginning at the end of and at the same elevation as the primary surface and extending to a point 50,000 feet beyond the end of the primary surface.

B. Conical Zone -- Slopes one (1) foot in height for each twenty (20) feet in horizontal distance beginning at the periphery of the horizontal zone and at one-hundred fifty (150) feet above the airport elevation and extending to a height of three- hundred fifty (350) feet above the airport elevation, or to a height of 518 feet above mean sea level.

C. Horizontal Zone -- Established at one-hundred fifty (150) feet above the airport elevation, or at a height of 318 feet above mean sea level.

D. Transitional Zones - Slope one (1) foot in height for each seven (7) feet in horizontal distance beginning at the sides of and at the same elevations as the primary surface and the approach surfaces.

E. Excepted Height Limitation -Nothing contained in these regulations shall be construed as prohibiting the growth, construction, or maintenance of any structure or tree to a height of up to fifty (50) feet above the surface of the land at its location.

Section 6. Land Use Restrictions

Except as provided in Section 7 of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create potential bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport.

Section 7. **Nonconforming Uses, Structures, and *Trees***

A. Nonconforming Uses -Nothing contained in these regulations shall be construed as requiring changes in or interference with the continuance of any nonconforming use of land.

B. Nonconforming Structures - Nothing contained in these regulations shall be construed as to require the removal, lowering, or other change to any existing nonconforming structure including all phases or elements of a multiphase structure the construction of which was begun prior to the effective date of these regulations and is diligently prosecuted.

C. Nonconforming Trees -- Nothing in these regulations shall be construed as to require the removal, lowering, or other change to any nonconforming tree. However, any nonconforming tree which grows to a greater height than it was as of the effective date of these regulations is subject to the provisions of these regulations as described in Section 5 herein above.

Section 8. Permits and Variances

A. Permits -- Any person who desires to replace, rebuild, substantially change, or repair a nonconforming structure or replace or replant a nonconforming tree must apply for and receive a permit, and the permit shall be granted. However, no permit shall be granted which would allow the establishment of an airport hazard or allow a nonconforming structure or tree to exceed its original height or become a greater hazard to air navigation than it was at the time of the adoption of these regulations. Applications for permit shall be applied to and issued *by the* administrative agency.

B. Variances - Any person who desires to erect, substantially change, or increase the height of any structure or establish or allow the growth of any tree which would exceed the height limitations set forth in Section 5 of these regulations or change the use of property in such a way as to create a hazardous condition as described in Section 6 of these regulations must apply to the board of adjustment and receive a variance. The application for variance must be accompanied by a determination from the Federal Aviation Administration under 14 C.F.R. Part 77 as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in practical difficulty or unnecessary hardship and the granting of relief would result in substantial justice, not be contrary to the public interest, and be in accordance with the spirit of these regulations.

C. Requirements and Reasonable Conditions

(1) Any permit granted may, at the discretion of the administrative agency, may impose a requirement to allow the installation and maintenance of any markers or lights as may be necessary to indicate to flyers the presence of an airport hazard.

(2) Any variance granted may, at the discretion of the board of adjustment, impose any reasonable conditions as may be necessary to accomplish the purpose of these regulations.

Section **9. Board of Adjustment**

A. The Joint Airport Board of Adjustments is hereby designated as the board of adjustment for the purposes of these regulations and shall have and exercise the following powers:

(1) to hear and decide appeals from any order, requirement, decision, or determination made by the Administrative Agency in the administration or enforcement of these regulations;

(2) to hear and decide special exceptions to the terms of these regulations when the board is required to do so; and

(3) to hear and decide specific variances,

B. The board of adjustment shall be comprised of five (5) members and shall adopt rules for its governance and procedure in harmony with the provisions of these regulations. Meetings of the board of adjustment shall be held at the call of the chairman and at such times as the board of adjustment may determine. The chairman, or in his/her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or if any member is absent or fails to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board of adjustment or in the office of administrative agency. All such records shall be public records.

C. The board of adjustment shall make written findings of fact and conclusions of law stating the facts upon which it relied when making its legal conclusions in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of these regulations.

D. The concurring vote of four (4) members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the administrative agency, to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variance to these regulations.

Section 14. Appeals

A. Any person aggrieved or any taxpayer affected by a decision of the administrative agency made in the administration of these regulations may appeal to the board of adjustment if that person or taxpayer is of the opinion that a decision of the administrative agency is an improper application of these regulations. This same right of appeal is extended to each administrative agency.

B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment by filing a notice of appeal with the board of adjustment and the administrative agency specifying the grounds for the appeal. The administrative agency shall forthwith transmit to the board of adjustment all papers constituting the record upon which the action appealed was taken.

C. An appeal shall stay all proceedings in furtherance of the action appealed unless the administrative agency certifies in writing to the board of adjustment that by reason of the facts stated in the certificate, a stay would, in the opinion of the administrative agency, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of adjustment on notice to the administrative agency and on due cause shown.

D. The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, and/or by attorney.

E. The board of adjustment may reverse or affirm, in whole or in part, or modify the administrative agency's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for this purpose the board of adjustment has the same authority as the administrative agency.

Section **11. Judicial Review**

Any person aggrieved or any taxpayer affected by a decision of the board of adjustment may present to a court of record a petition stating that the decision of the board of adjustment is illegal and specifying the grounds of the illegality as provided by and in accordance with the provisions of Texas Local Government Code, §241.041. This same right of appeal is extended to each administrative agency.

Section 12. Enforcement and **Remedies**

The Joint Airport Safety Board and each jurisdictional entity may institute in a court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of these regulations or of any order or ruling made in connection with their administration or enforcement including, but not limited to, an action for injunctive relief.

Section 13. Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed herein and any other regulation applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall control.

Section 14. Severability

If any of the provisions of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application and to this end, the, provisions of these regulations are declared to-be severable.

Section 15. Adherence with State Laws

Any actions brought forth by any person or taxpayer as a result of the administration, enforcement, or the contesting these regulations will be in accordance with the provisions of Texas Local Government Code, § §241.001 et seq and other applicable State laws.

Section 16. Effective Date

Whereas, the immediate operation of the provisions of these regulations is necessary for the preservation of the public health, safety, and general welfare, an emergency is hereby declared to exist and these regulations shall be in full force and effect from and after their adoption by the Joint Airport Safety Board.

PASSED, APPROVED, AND ADOPTED BY CITY COUNCIL THIS 15TH DAY OF DECEMBER, 2009.

Mayor- James W. Roberts

Aldermen Voting:
Clack- yes
Collins- yes
Einkauf- yes
Gill- yes
Patterson- yes

ATTEST:

City Secretary- D. Gordon Offord

ORDINANCE NO.09-999

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING FOR A CHANGE OF THE STATUS OF THE CITY FROM A TYPE "B" GENERAL LAW CITY TO A TYPE A GENERAL LAW CITY.

WHEREAS, Chapter 6, Subchapter B, of the Texas Local Government Code authorizes a general law city that is incorporated in any manner other than a Type A general law city and that has more than six hundred (600) inhabitants or contains one or more manufacturing establishments within its corporate limits to change to a Type A general law city; and

WHEREAS, as of December 15, 2009 the City Council of the City of Fulshear has determined that the City of Fulshear has six hundred (600) or more inhabitants; and/or contains one or more manufacturing establishments within its corporate limits; and

WHEREAS, the City of Fulshear was originally incorporated on May 16, 1977, under Village of Fulshear, Texas; and

WHEREAS, at least two-thirds of the governing body of the City of Fulshear at a regular meeting have voted this day to change to a Type A general law city.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, that:

1. on December 15, 2009, in accordance with applicable statutory guidelines, the City of Fulshear is granted all the powers and duties of a type A general law city operating under the aldermanic form of government governed by Chapter 22 of the Texas Local Government Code; and
2. in accordance with Chapter 6, Subchapter B, of the Texas Local Government Code, the City has this day became a Type A general law city.

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, that:

1. the aforementioned two-thirds vote be recorded in the journal of the governing body's proceedings;
2. a copy of this resolution and the record of this day's proceedings be signed by the mayor;
3. a copy of this resolution and the record of this day's proceedings be attested by city secretary under the corporate seal; and
4. a copy of this resolution and the record of this day's proceedings be filed and recorded in the office of the County Clerk of Fort Bend County, Texas.

PASSED AND APPROVED this 15th day of December, 2009

James W. Roberts

Mayor

ATTEST:

Debra Ofland

City Secretary/Clerk