

CITY OF ROSENBERG, TEXAS

ORDINANCE NO. 2012-27

AN ORDINANCE OF THE CITY OF ROSENBERG, TEXAS, PROVIDING FOR THE EXTENSION OF ROSENBERG, TEXAS CITY LIMITS BY THE ANNEXATION OF ADJACENT TRACTS OF LAND DESCRIBED IN THE FIELD NOTES OF THE METES AND BOUNDS SURVEY IN EXHIBIT "A", AND GENERALLY LOCATED ON THE WEST SIDE OF FM 2218, AND ON THE NORTH AND SOUTH SIDES OF J. MEYER ROAD; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING THAT SUCH AREAS SHALL BECOME A PART OF THE CITY AND THAT THE OWNERS AND INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND TO BE HEREAFTER ADOPTED; FURTHER PROVIDING FOR AMENDING THE OFFICIAL BOUNDARIES OF THE CITY AS HERETOFORE ADOPTED; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR SAID ORDINANCE TO TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE.

WHEREAS, Texas Local Government Code Section 43.021 authorizes the City of Rosenberg, as a home-rule municipality, to extend its City limit boundaries through the annexation of area adjacent to those boundaries; and

WHEREAS, Article 1, Section 1.03 of the City Charter of the City of Rosenberg provides that the City Council has authority by ordinance to fix the City limit boundaries, provide for the alteration and extension of said boundaries, and annex additional territory lying adjacent to said boundaries in any manner provided by law; and

WHEREAS, the area to be annexed lies within the extraterritorial jurisdiction of the City of Rosenberg, Texas, and lies adjacent to the City of Rosenberg, Texas; and

WHEREAS, Texas Local Government Code Section 43.052(h)(1) provides that an area proposed for annexation containing fewer than one hundred (100) separate tracts of land on which one or more residential dwellings are located on each tract is exempted from the state law requirement that an area proposed for annexation first be identified in an annexation plan; and

WHEREAS, the areas described herein contain fewer than one hundred (100) separate tracts of land on which one or more residential dwellings are located on each tract and are, therefore, exempted from the above-described annexation plan requirement; and

WHEREAS, Texas Local Government Code Section 43.035(a)(2) stipulates that a municipality may not annex an area appraised for ad valorem tax purposes as land for agricultural use under Subchapter C or D, Chapter 23, Tax Code and Texas Local Government Code Section 43.035(b)(1) provides that a municipality must offer to make a development agreement with landowners eligible under Texas Local Government Code 43.035(a)(2) to guarantee the continuation of the extraterritorial status of the area; and

WHEREAS, the City of Rosenberg executed non-annexation Development Agreements for eligible properties, which said properties are particularly described in the attached Exhibit "B", and said non-annexation Development Agreements were approved by City Council; and

WHEREAS, pursuant to Texas Local Government Code Section 43.035(c) an area adjacent or contiguous to an area that is the subject of a development agreement under Texas Local Government Code Section 43.035(b)(1) is considered adjacent or contiguous to the municipality; and

WHEREAS, two separate public hearings were conducted on the proposed annexation in accordance with Chapter 43 of the Texas Local Government Code, the first being held on August 01, 2012, at the City Hall Council Chamber, 2110 4th Street, Rosenberg, Texas 77471, and the second public hearing being held on August 07, 2012, at the City Hall Council Chamber, 2110 4th Street, Rosenberg, Texas 77471; and

WHEREAS, the public hearings were conducted and held not more than forty (40) days nor less than twenty (20) days prior to the institution of annexation proceedings and such public hearings gave all interested persons the right to appear and be heard on the proposed annexation of such land; and

WHEREAS, all required written notices were timely sent to all property owners and others entitled to written notice before the 30th day before the first public hearing; and

WHEREAS, notice of the public hearings was published in a newspaper of general circulation in the City and in the area proposed to be annexed by publication at least once in said newspaper not more than twenty (20) days nor less than ten (10) days prior to each public hearing; and

WHEREAS, notice of the public hearings was posted on the City's Internet website on or after the twentieth (20th) day but before the tenth (10th) day before the date of each public hearing and remained posted until the date of the hearings; and

WHEREAS, all required statutory notices pursuant to the Chapter 43 of the Texas Local Government Code and of the Charter of the City of Rosenberg, Texas, have been accomplished; and

WHEREAS, the proposed service plan was made available for public inspection and explained to the inhabitants of the area at the public hearings held.

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

SECTION 1

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

SECTION 2

The land and territory lying outside of, but adjacent to and contiguous to the City of Rosenberg, Texas, more particularly described in Exhibit "A" and depicted in a map in Exhibit "A.1" attached hereto and incorporated herein for all purposes, is hereby added and annexed to the City of Rosenberg, Texas, and said territory, as described, shall hereafter be included within the boundary limits of said City, and the present boundary limits of said City, at the various points contiguous to the area described in Exhibit "A", are altered and amended so as to include said areas within the corporate limits of the City of Rosenberg, Texas.

SECTION 3

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

SECTION 4

A service plan outlining the provisions of necessary municipal services to the properties is hereby approved and the implementation of said plan is hereby authorized. Such plan is attached hereto and incorporated herein as Exhibit "C".

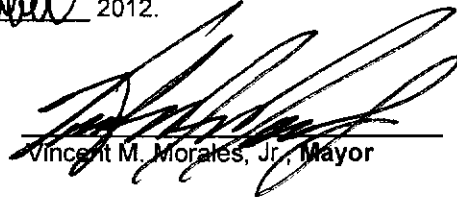
SECTION 5

If any section, subsection, sentence, paragraph, phrase, word, or provision be found to be illegal, invalid, unconstitutional or if any portion of said properties is incapable of being annexed by the City of Rosenberg, Texas, for any reason whatsoever, the adjudication shall not affect another section, sentence, phrase, word, paragraph or provision of this Ordinance or the application of any other section, sentence, phrase, word, paragraph or provision to any other person or portion of said properties, situation or circumstance, nor shall the adjudication affect any other section, sentence, phrase, word, paragraph or provision of any other ordinance of the City of Rosenberg, Texas. The City Council declares that it would have adopted the valid portions and applications of the Ordinance and would have annexed the valid properties without the invalid part and invalid properties and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6

This ordinance shall be effective from and after September 04, 2012.

PASSED, APPROVED AND ADOPTED by a vote of 6 "ayes" in favor and 1 "noes" against on this the first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on the 4th day of September 2012.

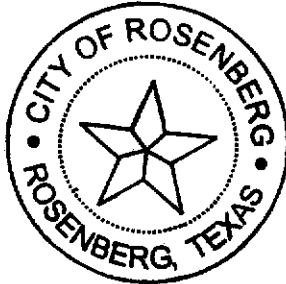


Vincent M. Morales, Jr., Mayor

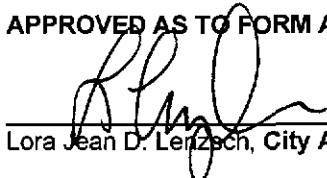
ATTEST:



Linda Cernosek, City Secretary



APPROVED AS TO FORM AND LEGALITY:



Lora Jean D. Lenzsch, City Attorney

CHARLIE KALKOMEY SURVEYING, INC.

A JONES & CARTER COMPANY

6415 READING ROAD
ROSENBERG, TEXAS 77471
281 342-2033

J. MEYER ROAD TRACT

FIELD NOTES FOR A 283.3 ACRE TRACT OF LAND IN THE G. M. STONE LEAGUE, ABSTRACT 312, AND THE J. D. VERMILLION SURVEY, ABSTRACT 340, FORT BEND COUNTY, TEXAS, WITH ALL BEARINGS BASED UPON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83, BASED UPON GPS OBSERVATIONS OF CITY OF ROSENBERG CONTROL MONUMENT RS01.

BEGINNING at a 1-¼ inch iron pipe found in the northwest right-of-way line of F. M. Highway 2218 for the northeast corner of a called 2 acre tract recorded under County Clerk's File Number 2005140690, Official Public Records, Fort Bend County, Texas, same being the southeast corner of an adjoining called 6.001 acre tract recorded in Volume 2600, Page 2135, Official Records, Fort Bend County, Texas, for the northeast corner and **Place of Beginning** of the herein described tract, said point also being a southeast corner of the existing City of Rosenberg City Limits (Annexation Number 38, Ordinance 94-11);

THENCE South 18 degrees 09 minutes 37 seconds West along the southeasterly line of the herein described tract, same being the northwesterly right-of-way line of F. M. Highway 2218, 3,990.04 feet to a point at the beginning of a curve to the right;

THENCE along said curve to the right, continuing along said line, with a central angle of 11 degrees 03 minutes 00 seconds, a radius of 1,856.35 feet, an arc length of 358.01 feet, and a chord bearing South 23 degrees 39 minutes 28 seconds West, 357.46 feet to a point at the end of said curve;

THENCE South 29 degrees 10 minutes 58 seconds West continuing along said line, 239.60 feet to a point at the beginning of a curve to the left;

THENCE along said curve to the left, continuing along said line, with a central angle of 31 degrees 48 minutes 01 second, a radius of 1,004.86 feet, an arc length of 557.71 feet, and a chord bearing South 13 degrees 16 minutes 58 seconds West, 550.58 feet to a point at the end of said curve;

THENCE South 02 degrees 37 minutes 02 seconds East continuing along said line, 273.82 feet to a 1-¼ inch iron pipe found for the southeast corner of the herein described tract, said point being the southeast corner of the residue of that certain called 2.33 acre tract recorded in Volume 349, Page 99, Deed Records, Fort Bend County, Texas, same being the northeast corner of an adjoining called 105.216 acre tract recorded under County Clerk's File Number 2006036611, Official Public Records, Fort Bend County, Texas, said point also being in the north line of the adjoining Village of Pleak Extraterritorial Jurisdiction;

THENCE South 86 degrees 47 minutes 45 seconds West along the south line of the herein described tract, the south line of said called 2.33 acre tract, and the south line of that certain called 119.636 acre tract recorded under County Clerk's File Number 2008116310, Official Public Records, Fort Bend County, Texas, same being the north line of said adjoining called 105.216 acre tract, and the north line of said adjoining Village of Pleak Extraterritorial Jurisdiction, 1,471.37 feet to a point in the centerline of Seabourne Creek for the southwest corner of the herein described tract, said point also being the southeast corner of the existing City of Rosenberg City Limits (Annexation Number 58, Tract 2, Ordinance 98-31);

THENCE along the centerline of Seabourne Creek, being the westerly line of the herein described tract, same being the easterly line of said existing City of Rosenberg City Limits, with the following meanders:

- North 22 degrees 18 minutes 13 seconds East, 127.80 feet;
- North 18 degrees 25 minutes 12 seconds East, 132.10 feet;
- North 04 degrees 09 minutes 41 seconds East, 608.76 feet;
- North 09 degrees 03 minutes 27 seconds East, 188.24 feet to the beginning point of a curve to the

right;

THENCE along said curve to the right, continuing along said line, having a radius of 900.00 feet, a central angle of 19 degrees 54 minutes 28 seconds, an arc length of 312.71 feet, and a chord bearing North 19 degrees 00 minutes 42 seconds East, 311.14 feet;

THENCE continuing along said line with the following meanders;

- North 28 degrees 57 minutes 56 seconds East, 299.29 feet;
- North 32 degrees 11 minutes 59 seconds East, 102.41 feet;
- North 25 degrees 32 minutes 27 seconds East, 112.86 feet;
- North 24 degrees 31 minutes 23 seconds East, 40.21 feet to a point in the centerline of J. Meyer

Road;

- North 12 degrees 34 minutes 50 seconds West, 188.72 feet;
- North 09 degrees 26 minutes 50 seconds West, 117.25 feet;
- North 36 degrees 00 minutes 29 seconds West, 169.69 feet;
- North 52 degrees 27 minutes 26 seconds West, 267.49 feet;
- North 40 degrees 31 minutes 11 seconds West, 370.94 feet;
- North 29 degrees 40 minutes 57 seconds West, 226.82 feet;
- North 19 degrees 35 minutes 17 seconds West, 488.91 feet;
- North 24 degrees 34 minutes 16 seconds West, 155.35 feet;
- North 42 degrees 17 minutes 48 seconds West, 249.69 feet;
- North 28 degrees 29 minutes 09 seconds West, 235.90 feet;
- North 23 degrees 27 minutes 16 seconds West, 438.91 feet;
- North 26 degrees 19 minutes 17 seconds West, 204.71 feet;
- North 76 degrees 14 minutes 53 seconds West, 310.27 feet;
- North 43 degrees 31 minutes 14 seconds West, 244.52 feet;
- North 38 degrees 49 minutes 48 seconds West, 125.79 feet;

North 28 degrees 13 minutes 38 seconds West, 114.45 feet to a point for the lower northwest corner of the herein described tract, said point being the northeast corner of said existing City of Rosenberg City Limits (Annexation Number 58), and being in the north line of a called 59.61 acre tract

recorded in Volume 625, Page 86, Deed Records, Fort Bend County, Texas, same being the south line of an adjoining called 368.4616 acre tract recorded in Volume 2527, Page 2489, Official Records, Fort Bend County, Texas, and being in the south line of the aforementioned existing City of Rosenberg City Limits (Annexation Number 38), from which point a ½ inch iron rod with cap marked "Clark" found in the east right-of-way line of State Highway 36 for the southwest corner of said adjoining called 368.4616 acre tract bears South 86 degrees 33 minutes 35 seconds West, 1,923.02 feet;

THENCE North 86 degrees 33 minutes 35 seconds East along the common line of the herein described tract and said existing City of Rosenberg City Limits, being the north line of said called 59.61 acre tract, same being the south line of said adjoining called 368.4616 acre tract, 3,151.23 feet to a ½ inch iron rod with cap marked "Clark" found for a reentry corner to the herein described tract, being the lower southeast corner of said existing City of Rosenberg City Limits and the lower southeast corner of said called 368.4616 acre tract, same being the northeast corner of said called 59.61 acre tract, said point also being in the east line of said G. M. Stone League, Abstract 312, same being the west line of said J. D. Vermillion Survey, Abstract 340, and the west line of a called 47.637 acre tract recorded under County Clerk's File Number 2003169577, Official Public Records, Fort Bend County, Texas;

THENCE North 02 degrees 04 minutes 05 seconds West continuing along said common line, same being the common line of said called 47.637 acre tract and said adjoining called 368.4616 acre tract, 160.51 feet to a 1-inch iron pipe found for the upper northwest corner of the herein described tract and the northwest corner of said called 47.637 acre tract, same being a reentry corner to said adjoining called 368.4616 acre tract, and a reentry corner to said existing City of Rosenberg City Limits;

THENCE South 87 degrees 51 minutes 35 seconds East continuing along said common line, 1,520.77 feet to the **Place of Beginning** and containing 283.3 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

July 9, 2012

Job Number R0001-120-00

Charlie Kalkomey Surveying, Inc.
6415 Reading Road
Rosenberg, TX 77471-5655
(281) 342-2033

Acting By/Through Chris D. Kalkomey
Registered Professional Land Surveyor
No. 5869
CDKalkomey@jonescarter.com

Owner: Zed Partners Ltd
c/o Edward P DeZevallos 9219 Katy FWY STE 120
Houston, TX 77024-1513

Fort Bend Central Appraisal District Tax Account Number: 0312-00-000-0056-901

Legal Description: 0312 G M STONE, TRACT 5(pt), ACRES 1.49, (NOT IN CITY OF ROSENBERG)

Owner: Zed Partners Ltd
c/o Edward P DeZevallos 9219 Katy FWY STE 120
Houston, TX 77024-1513

Fort Bend Central Appraisal District Tax Account Number: 0312-00-000-0160-901

Legal Description: 0312 G M STONE, TRACT 16 (PT), ACRES 20.68, (PT) NOT IN CITY OF ROSENBERG

Owner: Arrington Ethel
1300 Elizabeth AVE
Rosenberg, TX 77471-5806

Fort Bend Central Appraisal District Tax Account Number: 0312-00-000-0322-901

Legal Description: 0312 G M STONE, TRACT 32 (PT), ACRES 15.7054

Owner: Zed Partners Ltd
c/o Edward P DeZevallos 9219 Katy FWY STE 120
Houston, TX 77024-1513

Fort Bend Central Appraisal District Tax Account Number: 0312-00-000-0491-901

Legal Description: 0312 G M STONE, TRACT V (PT), ACRES 81.941, (PT) NOT IN CITY OF ROSENBERG

Owner: Shum Samuel
9515 Bellaire Blvd.
Houston, TX 77036

Fort Bend Central Appraisal District Tax Account Number: 0340-00-000-0061-901

Legal Description: 0340 J D VERMILLION, TRACT 6, ACRES 47.637

**2012 ANNEXATION
City of Rosenberg, Texas
Municipal Service Plan for J. Meyer Road Tracts**

Description of the area: annexation of adjacent tracts of land described in the field notes of the metes and bounds survey in Exhibit "A" to Ordinance No. 2012-27, generally located on the west side of FM 2218, and on the north and south sides of J. Meyer Road.

Upon annexation of the area identified above, the City of Rosenberg will provide City services utilizing methods by which it extends services to any other equivalent area in the City.

Services provided by the effective date of annexation:

1. POLICE PROTECTION

Upon annexation, the City of Rosenberg will provide police protection to the newly annexed area in the same or similar level of service now being provided to other areas of the City with like topography, land use and population density as those found within the newly annexed area. The Police Department will have the responsibility to respond to all dispatched calls for service or assistance within the newly annexed area.

2. FIRE PROTECTION

Upon annexation, the City of Rosenberg will continue to provide fire protection services to the newly annexed area in the same or similar level of service now being provided to other areas of the City with like topography, land use and population density as those found within the newly annexed area.

3. EMERGENCY MEDICAL SERVICES

The City of Rosenberg does not currently provide any emergency medical services.

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

The City of Rosenberg is not aware of the existence of any publicly owned water and wastewater facilities in the newly annexed area. All of the newly annexed properties have existing water wells and septic systems which shall continue to be maintained in accordance with the City's Code of Ordinances.

5. SOLID WASTE SERVICE

The City of Rosenberg contracts for the collection of solid waste and refuse within the corporate limits of the City. Solid waste collection will be provided, within ninety (90) days after the effective date of annexation, to citizens in the newly annexed area at the same or similar level of service now being provided to other areas of the City with like topography, land use and density as those found within the newly annexed area. The City may negotiate with the annexed area to allow continued services with an existing solid waste management provider. After the second anniversary of the annexation date, the City will impose fees and provide the service.

If areas with private roads and/or gates are arranged so that garbage may be collected without creating a safety hazard, the City, at its discretion, may collect the garbage provided proper indemnification is received from the homeowners association or individual property owners. The City will then impose fees and provide the service. In the event the City does not collect garbage within the areas with private roads and/or gates, residents of these areas will not be billed for service after the two-year date.

6. ROADS AND STREETS/ STREET LIGHTING

Any and all public roads, streets, alleyways or street lighting shall be maintained to the same degree and extent that other public roads, streets, alleyways, and street lighting are maintained in areas of the City with like topography, land use and density as those found within the newly annexed area. Private roads will remain under the ownership of the homeowners association and as such maintained by the association. Roads that are not part of a homeowners association and are privately owned will remain under private ownership and as such maintained by the individual owner(s).

7. MAINTENANCE OF PARKS, PLAYGROUNDS, AND SWIMMING POOLS

The City of Rosenberg is not aware of the existence of any publicly owned parks, playgrounds or swimming pools now located in the proposed annexed area. In the event any such parks, playgrounds, or swimming pools do exist and are public facilities, the City will maintain such areas and facilities to the extent and degree and to the same or similar level of service now being provided to the other such areas and facilities within the corporate limits of the City with like topography, land use and density as those found within the newly annexed area. Private facilities will remain under the ownership of the homeowners association and as such maintained by the association. Private facilities that are not part of a homeowners association and are privately owned will remain under private ownership and as such maintained by the individual owner(s).

8. MAINTENANCE OF ANY PUBLICLY OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City of Rosenberg is not aware of the existence of any publicly owned facility, building or other municipal service now located in the proposed area of annexation. In the event any publicly owned facility, building, or other municipal service does exist and are public facilities, the City will maintain such areas and facilities to the extent and degree and to the same or similar level of service now being provided to other such areas and facilities within the corporate limits of the City with like topography, land use and density as those found within the newly annexed areas.

9. OTHER SERVICES

The City of Rosenberg finds and determines that such services as planning, code enforcement, animal control, parks and recreation, court and general administration will be made available after the effective date of annexation at the same or similar level of service now being provided to other areas of the City with similar topography, land use and density as those found within the newly annexed area.

CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS TO BE COMPLETED WITHIN 2 ½ YEARS.

1. POLICE AND FIRE PROTECTION AND SOLID WASTE COLLECTION

The City of Rosenberg finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of annexation of the particular annexed area for the purpose of providing police protection, fire protection, or solid waste collection. The City finds and determines that it has at the present time adequate facilities and other resources to provide the same type, kind and level of service and protection which is presently being administered to other areas already incorporated in the City of Rosenberg with like topography, land use and population density as those found with the newly annexed areas.

2. WATER AND WASTEWATER FACILITIES

For the next 2 ½ years, the City of Rosenberg finds and determines that existing homes and businesses will remain on water wells and septic systems. Thereafter, construction of any capital improvements for water and wastewater services to the newly annexed area will be developed pursuant to the City's capital improvement plan, the City's infrastructure extension policies, and in accordance with the City's Code of Ordinances.

Requests from property owners and developers for municipal water and wastewater services will be considered by the City. This service plan does not contain a commitment by the City to provide to the annexed area free extensions of water lines, free extensions of sewer lines, free fire hydrant installation or services. Property owners and developers will be required to pay applicable connection fees and impact fees in addition to any participation costs involved in the infrastructure extension pursuant to applicable City ordinances, policies and capital improvement plan.

3. ROADS AND STREETS

The City of Rosenberg finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed area. Thereafter, construction of any roads and streets will be developed pursuant to the City's capital improvement plan and in accordance with the City's Code of Ordinances.

4. MAINTENANCE OF PARKS, PLAYGROUNDS, AND SWIMMING POOLS AND ANY OTHER PUBLICLY OWNED FACILITY, BUILDING OR SERVICE.

The City of Rosenberg finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed area for the purpose of parks maintenance, playgrounds, swimming pools and other publicly owned facility, building or service.

SPECIFIC FINDINGS

The City of Rosenberg finds and determines that this proposed service plan will not provide any fewer services and will not provide a lower level of service in the area being considered for annexation that were in existence in the proposed areas at the time immediately preceding the annexation process. Given the proposed annexation areas' topography, land utilization and population density, the service levels to be provided in the newly annexed area will be equivalent to those provided to other areas of the City with similar characteristics.

TERMS

This plan shall be valid for a term of ten (10) years. Renewal of the Service Plan is at the discretion of the City of Rosenberg.

LEVEL OF SERVICE

Nothing in this plan shall require the City to provide a uniform level of full municipal services to each area of the City including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

AMENDMENTS

The plan shall not be amended unless public hearings are held in accordance with Chapter 43 of the Texas Local Government Code.