



## CITY COUNCIL AGENDA

### NOTICE OF WORKSHOP

Tuesday, December 1, 2015

5:00 p.m.

Council Chamber - City Hall

Daniel P. Moore Community Center Complex

1900 Billy G. Webb

Portland, Texas 78374

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This workshop may be recessed before the Regular City Council meeting begins at 7:00 p.m. and reconvened after the Regular City Council meeting ends.

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1. **CALL TO ORDER:** MAYOR KREBS
2. **PROPOSED 2016 BOND ELECTION** – THE CITY COUNCIL WILL HEAR REPORTS AND DISCUSS A MULTITUDE OF ISSUES RELATED TO THE NEED FOR PUBLIC IMPROVEMENT PROJECTS, AND DETAILS OF A POSSIBLE GENERAL OBLIGATION BOND ELECTION IN MAY OF 2016 TO FUND THOSE PROJECTS.
3. **ADJOURNMENT:** MAYOR KREBS

### NOTICE OF ASSISTANCE

If you plan to attend this public meeting and you have a disability that requires special arrangements to be made, please contact City Secretary Annette Hall 361-777-4513 or [annette.hall@portlandtx.com](mailto:annette.hall@portlandtx.com) in advance of the meeting. Reasonable accommodations will be made to facilitate your participation. City Hall is wheelchair accessible and specially marked parking spaces are located in front of its entrance. Special seating will be provided in the Council Chamber during the meeting.

### BRAILLE IS NOT AVAILABLE

Posted: November 27, 2015 by 5 p.m.  
Portland City Hall

By:   
Randy L. Wright  
City Manager



# CITY COUNCIL AGENDA

## NOTICE OF REGULAR MEETING

Tuesday, December 1, 2015

7:00 p.m.

City Hall - Council Chamber

Daniel P. Moore Community Center Complex

1900 Billy G. Webb Drive

Portland, Texas

### A. PROCEDURAL MATTERS, HONORS AND RELATED NON-ACTION ITEMS:

1. CALL TO ORDER: MAYOR KREBS
2. INVOCATION AND PLEDGE: MAYOR KREBS OR DESIGNEE
3. FORMAL ANNOUNCEMENTS, RECOGNITION, PRESENTATIONS AND REPORTS THAT MAY BE DISCUSSED:
  - CHENIERE ENERGY PROJECT UPDATE – CHENIERE REPRESENTATIVE
4. CITY COUNCIL AND STAFF COMMENTS CONCERNING ITEMS OF COMMUNITY INTEREST THAT MAY NOT BE DISCUSSED:

Members of the City Council may present reports regarding items of community interest and/or be presented reports from the Staff regarding items of community interest, provided no action is taken or discussed. Items of community interest include the following:

- Expressions of thanks, congratulations, or condolence
- Information regarding holiday schedules
- Honorary recognition of city officials, employees, or other citizens
- Reminders about upcoming events sponsored by the city or another entity that is scheduled to be attended by a city official or city employee
- Announcements involving imminent threats to the public health and safety of the city

### B. ACTION ITEMS, RESOLUTIONS AND ORDINANCES:

Members of the audience who wish to (1) comment on issues concerning an agenda item, (2) present questions concerning an agenda item, (3) request assistance concerning an agenda

item or (4) propose regulatory changes concerning an agenda item, must comply with the following rules of procedure:

- Persons who wish to speak must fill out and turn in a speaker card before the meeting is convened (The Mayor will notify you when it's your turn to speak and direct you to the podium)
  - Persons who wish to speak must identify themselves and their places of residence
  - All comments, requests and proposals must be presented to or through the Mayor
  - Persons who wish to speak will be given 4 minutes to do so
5. **MINUTES OF PREVIOUS MEETINGS:** THE CITY COUNCIL WILL CONSIDER THE MINUTES OF ITS NOVEMBER 17, 2015 REGULAR MEETING AND NOVEMBER 19, 2015 SPECIAL MEETING - MAYOR KREBS AND CITY SECRETARY
  6. **ORDINANCE NO. 2123 – REZONING REQUEST:** THE CITY COUNCIL WILL CONSIDER THE SECOND (FINAL) READING OF ORDINANCE NO. 2123 TO REZONE 2.35 ACRES LOCATED AT 3529 STARK ROAD (TRACT 5-A AND 5-B OF THE NORTH ½ TRACT 2, NUECES BAY FARM BLOCK A) FROM R-6, SINGLE-FAMILY RESIDENTIAL DISTRICT (TEMPORARY ZONING), TO C-G, GENERAL COMMERCIAL DISTRICT – DIRECTOR OF PUBLIC WORKS AND DEVELOPMENT
  7. **ORDINANCE NO. 2124 – ANNEXATION OF APPROXIMATELY 753 ACRES:** THE CITY COUNCIL WILL CONSIDER THE SECOND (FINAL) READING OF ORDINANCE NO. 2124 ANNEXING APPROXIMATELY 753 ACRES SITUATED WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION – CITY MANAGER
  8. **ORDINANCE NO. 2125 – ANNEXATION OF APPROXIMATELY 55 ACRES:** THE CITY COUNCIL WILL CONSIDER THE SECOND (FINAL) READING OF ORDINANCE NO. 2125 ANNEXING APPROXIMATELY 55 ACRES SITUATED WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION – CITY MANAGER
  9. **ORDINANCE NO. 2126 – WATER CONSERVATION PLAN REVISIONS:** THE CITY COUNCIL WILL CONSIDER THE SECOND (FINAL) READING OF ORDINANCE NO. 2126 THAT REVISES THE CITY OF PORTLAND WATER CONSERVATION PLAN – DIRECTOR OF PUBLIC WORKS AND DEVELOPMENT
  10. **RESOLUTION NO. 708 – CASTING VOTES IN APPRAISAL DISTRICT ELECTION:** THE CITY COUNCIL WILL CONSIDER RESOLUTION NO. 708 WHICH CASTS VOTES FOR CANDIDATES SEEKING ELECTION TO THE SAN PATRICIO COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS – MAYOR
  11. **RESOLUTION NO. 709 – DEVELOPMENT AGREEMENTS IN THE PROPOSED ANNEXATION AREA:** THE CITY COUNCIL WILL CONSIDER RESOLUTION NO. 709 AUTHORIZING THE CITY MANAGER TO EXECUTE DEVELOPMENT AGREEMENTS FOR PROPERTY OWNERS WITH AGRICULTURAL, WILDLIFE MANAGEMENT, OR TIMBER LAND PROPERTY EXEMPTIONS IN THE PROPOSED ANNEXATION AREA – ASSISTANT CITY MANAGER

**12. APPOINTMENT OF AN AD-HOC EXPLORATORY COMMITTEE:** THE CITY COUNCIL WILL CONSIDER AUTHORIZING THE MAYOR TO APPOINT AN AD-HOC EXPLORATORY COMMITTEE TO STUDY AND MAKE RECOMMENDATIONS TO THE CITY COUNCIL REGARDING THE CALLING OF A GENERAL OBLIGATION BOND ELECTION.

**C. CITIZEN COMMENTS, QUESTIONS, REQUESTS AND PROPOSALS NOT APPEARING ON THE AGENDA:**

Members of the audience who wish to (1) comment on issues for which there is no item on this agenda, (2) present questions for which there is no item on this agenda, (3) request assistance for which there is no item on this agenda or (4) propose regulatory changes for which there is no item on this agenda, must comply with the following rules of procedure:

- Persons who wish to speak must fill out and turn in a speaker card before the meeting is convened (The Mayor will notify you when it's your turn to speak and direct you to the podium)
- Persons who wish to speak must identify themselves and their places of residence
- All comments, requests and proposals must be presented to or through the Mayor
- Persons who wish to speak will only be given 4 minutes to do so

Neither the City Council nor the Staff is legally permitted to respond to citizen comments, questions, requests or proposals at the time of the meeting. A member of the City Council or the City Manager may place an item on the agenda of a future City Council workshop or meeting to legally do so. If that is done, the audience member seeking a response will be given advance notice.

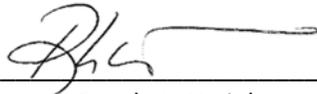
**D. ADJOURNMENT: MAYOR KREBS**

**NOTICE OF ASSISTANCE**

If you plan to attend this public meeting and you have a disability that requires special arrangements to be made, please contact City Secretary Annette Hall (361) 777-4513 or [annette.hall@portlandtx.com](mailto:annette.hall@portlandtx.com)) in advance of the meeting. Reasonable accommodations will be made to facilitate your participation. The City Hall is wheelchair accessible and specially marked parking spaces are located in front of its entrance. Special seating will be provided in the Council Chamber during the meeting.

**BRAILLE IS NOT AVAILABLE**

**Posted:** November 27, 2015 by 5:00 p.m.  
Portland City Hall

**By:**   
Randy L. Wright  
City Manager

**CITY OF PORTLAND  
CITY COUNCIL  
WORKSHOP MEETING  
MINUTES  
NOVEMBER 17, 2015 – 6:30 P.M.**

On this the 17<sup>th</sup> day of October 2015, the Council of the City of Portland convened in a workshop meeting session at 6:30 p.m. in the Council Chambers of City Hall, Daniel P. Moore Community Center Complex and notice of workshop meeting giving the time, place and date and subject having been posted as described by Section 551 of the Government Code.

**MEMBERS PRESENT:**

David Krebs	Mayor
Ron Jorgensen	Mayor Pro Tem
Cathy Skurow	Council Member
Gary Moore, Sr.	Council Member
John Green	Council Member
Nathan Taggart	Council Member

**MEMBER ABSENT:**

Bill T. Wilson II	Council Member
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**STAFF PRESENT:**

Randy Wright	City Manager
Brian DeLatte	Assistant City Manager
Annette Hall	City Secretary
Michel Sorrell	Director of Finance
Mark Cory	Chief of Police
Lyle Lombard	Fire Chief
Jaime Pyle	Director of Public Works
Kristin Connor	Director of Parks and Recreation
Terrell Elliott	IT Manager

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*This workshop may be recessed before the Regular City Council meeting begins at 7:00 p.m. and reconvened after the Regular City Council meeting ends.*

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And with a quorum being present, the following business was transacted:

**1. CALL TO ORDER: MAYOR KREBS**

Mayor Krebs called the workshop to order at 6:30 p.m.

**2. COMMUNITY CENTER RENOVATIONS AND EXPANSION PROJECT: THE CITY COUNCIL WILL DISCUSS THE PROGRESS OF THE COMMUNITY CENTER RENOVATIONS AND EXPANSION PROJECT – CITY MANAGER AND REPRESENTATIVE OF RICHTER ARCHITECTS**

Hector Barrios with Richter Architects presented and reviewed the Schematic Design Plan for the Community Center Renovations and Expansion Project.

The City Council, City Manager, Randy Wright, and Mr. Barrios discussed including the following items to the Schematic Design Plan for further discussions:

- Need for an office near the new rear drop-off area for greeting and security purposes. The kitchen being reduced to accommodate the office space. Review security of exterior entrances at locker rooms.
- Sufficient parking for increased footage.
- Include a rendering or site plan that shows the existing parking lot north of the new drop-off area.
- Show library building from the master plan and parking associated with it.
- Show the occupant loads after increased footage at various configurations (table seating, standing, etc.).
- Remove columns from ballroom.
- Clarify/label what we are doing with the stage.
- Clarify/label what we are doing with doors at loading dock and new rear entry.
- Confirm/label new acoustics and AV for ballroom.
- Break out line item construction costs (i.e. the new rear entry cost; the expanded ballroom costs: locker room rehab costs etc.).

**3. ADJOURNMENT: MAYOR KREBS**

Mayor Krebs adjourned the workshop at 6:58 p.m.

**NOTICE OF ASSISTANCE:**

If you plan to attend this workshop and you have a disability that requires special arrangements to be made, please contact City Secretary Annette Hall (361-777-4513 or [annette.hall@portlandtx.com](mailto:annette.hall@portlandtx.com)) in advance of the meeting. Reasonable accommodations will be made to facilitate your participation. The City Hall is wheelchair accessible and specially

marked parking spaces are located in front of its entrance. Special seating will be provided in the Council Chamber during the workshop.

**BRaille IS NOT AVAILABLE**

**Approved:**

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David Krebs  
Mayor

**Attest:**

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City Secretary

**CITY OF PORTLAND  
CITY COUNCIL  
REGULAR MEETING  
MINUTES  
NOVEMBER 17, 2015 – 7:00 P.M.**

On this the 17th day of November 2015, the Council of the City of Portland convened in a regular meeting session at 7:00 p.m. in the Council Chambers of City Hall, Daniel P. Moore Community Center Complex and notice of regular meeting giving the time, place and date and subject having been posted as described by Section 551 of the Government Code.

**MEMBERS PRESENT:**

David Krebs	Mayor
Ron Jorgensen	Mayor Pro Tem
Cathy Skurow	Council Member
Gary Moore, Sr.	Council Member
John Green	Council Member
Nathan Taggart	Council Member
Bill T. Wilson II	Council Member

**STAFF PRESENT:**

Randy Wright	City Manager
Brian DeLatte	Assistant City Manager
Annette Hall	City Secretary
Michel Sorrell	Director of Finance
Mark Cory	Chief of Police
Lyle Lombard	Fire Chief
Jaime Pyle	Director of Public Works
Kristin Connor	Director of Parks and Recreation
Ginny Moses	Library Director
Fred Busman	IT Technician
Brandon Lemon	Accounting Assistant

And with a quorum being present, the following business was transacted:

**A. PROCEDURAL MATTERS, HONORS, AND RELATED NON-ACTION ITEMS:**

1. **CALL TO ORDER:** MAYOR KREBS

Mayor Krebs called the meeting to order at 7:00 pm.

2. **INVOCATION AND PLEDGE:** MAYOR KREBS OR DESIGNEE

Council Member Taggart gave the invocation and Mayor Krebs led the Pledge of Allegiance.

**3. FORMAL ANNOUNCEMENTS, RECOGNITION, PRESENTATIONS, AND REPORTS THAT MAY BE DISCUSSED:**

- PRESENTATION OF THANKSGIVING HOLIDAY SCHEDULE (FACILITIES AND SERVICES) – LIBRARY DIRECTOR

City Manager, Randy Wright, announced that all City Facilities will be closed Thursday and Friday in observance of the Thanksgiving Day Holiday with the exception of the Police and Fire Department. He added that the Library will be closed on Thursday, Friday, and Saturday

- PRESENTATION OF HOLIDAY EVENTS – DIRECTOR OF PARKS AND RECREATION

Director of Parks and Recreation Kristin Connor, presented the following upcoming Holiday Events Schedule:

Portland Community Center

- Toy Drive New Unwrapped Toys - December 1-14, 2015
- Christmas in Portland - December 3, 2015
- Parade of Lights – December 7, 2015
- Kidz Dayz – December 21, 22, 23, 28, 29 & 30, 2015

Senior Festivities

- Tea Party – December 8, 2015
- Tour of Lights – December 16 & 17, 2015
- Christmas Party – December 23, 2015
- Noon Year’s Eve Party – December 31, 2015

**4. CITY COUNCIL AND STAFF COMMENTS CONCERNING ITEMS OF COMMUNITY INTEREST THAT MAY NOT BE DISCUSSED:**

Members of the City Council may present reports regarding “items of community interest” and/or be presented reports from the Staff regarding “items of community interest,” provided no action is taken or discussed. “Items of community interest” include the following:

- Expressions of thanks, congratulations, or condolence
- Information regarding holiday schedules
- Honorary recognition of city officials, employees, or other citizens
- Reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by a city official or city employee
- Announcements involving imminent threats to the public health and safety of the city

Council Member Skurow wished everyone a safe and Happy Thanksgiving and reminded everyone to practice safety and fire awareness while cooking during the holiday.

Council Member Green wished everyone a Happy Thanksgiving.

Council Member Moore wished everyone a Happy Thanksgiving and announced that Operation Finally Home will be presenting local hero Jeremy Bush with a new home on Thursday, November 19, 2015 at 4:00 p.m. at 1907 Cottonwood Drive in the Bay Landing Subdivision.

Mayor Pro Tem Jorgensen congratulated that the G-P Wildcats football team on a good season this year.

Mayor Krebs wished everyone a Happy Thanksgiving. He then announced that the City Council, City Manager Randy Wright, and Assistant City Manager, Brian DeLatta attend the 2015 Community Survey Breakfast on Thursday, November 12 hosted by the Port Industries of Corpus Christi. A copy of the survey results is posted on the City's website for review.

**B. ACTION ITEMS, RESOLUTIONS, AND ORDINANCES:**

Members of the audience who wish to (1) comment on issues concerning an agenda item, (2) present questions concerning an agenda item, (3) request assistance concerning an agenda item or (4) propose regulatory changes concerning an agenda item, must comply with the following rules of procedure:

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- Persons who wish to speak will be given 4 minutes to do so

There were none.

**5. MINUTES OF PREVIOUS MEETINGS: THE CITY COUNCIL WILL CONSIDER THE MINUTES OF ITS NOVEMBER 3, 2015 REGULAR MEETING - MAYOR KREBS AND CITY SECRETARY**

Council Member Green made the motion to approve the minutes of the November 3, 2015 minutes, seconded by Council Member Wilson.

The motion passed with the following vote:

Aye: 7 - Mayor Krebs, Mayor Pro Tem Jorgensen, Council Member Skurow, Council Member Moore, Council Member Green, Council Member Taggart and Council Member Wilson

Nay: 0

Absent: 0

Abstained: 0

**6. PUBLIC HEARING – REZONING REQUEST: THE CITY COUNCIL WILL CONDUCT A PUBLIC HEARING TO SOLICIT COMMENTS FROM CITIZENS AND OTHER INTERESTED PARTIES CONCERNING A REQUEST FROM THERESA NIX TRUST OF 1994 / J.L. GAINES - TRUSTEE, TO REZONE 2.35 ACRES LOCATED AT 3529 STARK ROAD (TRACT 5-A AND 5-B OF THE NORTH ½ TRACT 2, NUECES BAY FARM BLOCK A) FROM R-6, SINGLE-FAMILY RESIDENTIAL DISTRICT (TEMPORARY ZONING), TO C-G, GENERAL COMMERCIAL DISTRICT – DIRECTOR OF PUBLIC WORKS AND DEVELOPMENT**

Mayor Krebs opened the Public Hearing at 7:15 p.m. to solicit comments from citizens and other interested parties concerning a request from Theresa Nix Trust of 1994/J.L. GAINES – TRUSTEE, to rezone 2.35 acres located at 3529 Stark Road (Tract 5-A and 5-B of the North ½ Tract 2, Nueces Bay Farm Block A) from R-6, Single-Family Residential District (Temporary Zoning), to C-G, General Commercial District.

Director of Public Works and Development, Jaime Pyle, presented the following information:

A zoning application has been submitted by Theresa Nix Trust Of 1994 / J.L. Gaines - Trustee, to rezone approximately 2.35 acres at 3529 Stark Road (Tract 5-A and 5-B of the North ½ Tract 2, Nueces Bay Farm Block A) from R-6, Single-Family Residential District (Temporary Zoning), to C-G, General Commercial District. The property was annexed in December 2014 and has been operating as a legal non-conforming use. If approved, this zoning change would remove the nonconforming status from the property. The zoning change is consistent with state annexation statutes and with City of Portland policies.

Theresa Nix Trust Of 1994 / J.L. Gaines - Trustee owns approximately 2.35 acres at 3529 Stark Road. The property is being used by Gainco Environmental Engineering and Remediation as its home office and storage facility. There are storage and service facilities on site heavy machinery and vehicles, including drilling equipment, remediation equipment, and vacuum trucks. No industrial work is conducted on site, as all work is conducted off premises.

The property was annexed in December 2014. Texas Local Government Code Section 43.002 specifically allows that all legal uses of a property can be continued after an annexation. As such, the existing use of the property is characterized by the City as a legal non-conforming use by UDO Section 802.A. Under this designation, the City cannot at any point require the property owner to discontinue the existing use at the time of annexation of the property.

In its discussions with City Staff, the applicant has indicated a desire to rezone the property so that it is no longer non-conforming. This provides additional assurances that any future changes to state law would not impact their desire to continue the existing use of the property. Removing the nonconforming designation could also increase marketability of the property in the future.

### **REZONING APPROVAL CRITERIA**

Section 318 of the UDO outlines the following criteria for which the Planning and Zoning Commission and City Council shall base approval of zoning requests, although the wisdom of amending the Official Zoning Map is a matter committed to the sound legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt, adopt with modifications or deny the proposed amendment, the City Council shall consider the following factors.

1. **Compatible with Plans and Policies.** Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning and Zoning Commission or City Council.

Staff comment: This rezoning request is consistent with applicable state annexation statutes.

2. **Consistent with this Ordinance.** Whether and the extent to which the proposed amendment would conflict with any portion of this Ordinance.

Staff comment: This rezoning request is specifically contemplated by the Unified Development Ordinance in that annexed properties automatically receive a temporary zoning designation of Single Family Residential to prevent the immediate development of undesirable uses adjacent to existing or future single-family residential subdivisions. It was understood during the annexation process that existing uses could receive the appropriate zoning designation matching their use if desired.

3. **Compatible with Surrounding Area.** Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.

Staff comment: This zoning designation is compatible with surrounding properties (vacant Royal Plumbing facility) and future development.

4. **Changed Conditions.** Whether and the extent to which there are changed conditions that require an amendment.

Staff comment: The City's annexation of the property constitutes a changed condition that validates the rezoning request.

5. **Effect on Natural Environment.** Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.

Staff comment: None.

6. **Community Need.** Whether and the extent to which the proposed amendment addresses a demonstrated community need.

Staff comment: Not applicable for an existing use.

7. **Development Patterns.** Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.

Staff comment: Not applicable for an existing use.

### **STAFF ANALYSIS**

During the annexation process in 2014, property owners were advised by the City Attorney and consulting City Planner that state law specifically allows that all legal uses of a property can be continued after an annexation. Property owners were informed that the properties that were not currently used as single-family residential could continue as legally nonconforming, or that the City would support rezoning requests to match the existing legal uses. This rezoning request is consistent with this concept.

The applicant originally sought an "I" Industrial zoning designation, believing that the industrial nature of the company's off-premises work correlated to an "I" designation. However, during a site inspection on October 8, 2015, it is apparent to City Staff that the property is more fitting of a "CG, General Commercial" designation for several reasons:

- The current use of the property more closely resembles "CG" (Office Warehouse, Contractor's Professional Office, and Vehicle Service) rather than "I" (Light Manufacturing, Heavy Manufacturing, Wholesale Trade, Freight Movement, Adult Entertainment, Gun Range, Pawn Shop, Smoker Shop).

- Through its Comprehensive Plan, the City Council has indicated that it is uninterested in allowing heavy manufacturing (or any of the other “I” uses listed above) in an area surrounded by single-family zoning. If zoned as an “I”, the property could theoretically be developed as a manufacturing facility or a freight yard with no ability for the City to restrict it.
- General planning principles typically recommend that all industrial zoning uses be grouped in geographically adjacent areas. A single “I”-zoned tract on the west side of the City would be a significant distance away from the other industrial zoning area in Portland and could disproportionately devalue surrounding properties.

The applicant subsequently modified the application to seek a “CG” zoning.

The “CG” zoning request is supported by state statute and the Comprehensive Plan. Additionally, this portion of Floerke Road already has a drilling pad and another office/warehouse development. During the next Comprehensive Plan update, the consulting City Planner will likely recommend that this block’s Future Land Use Plan designation becomes “Commercial”, as single-family residential will unlikely develop along this block.

#### **ADJACENT PROPERTY NOTIFICATIONS AND PUBLIC HEARING NOTICES**

There are 8 adjacent properties within 200 feet of the subject lot. Property owners were notified by mail, postmarked October 21, 2015, of Public Hearings at the Planning and Zoning Commission and City Council meetings. Notice was also posted in the Coastal Bend Herald on October 22, 2015, in conformance with UDO Section 302. There has been one phone call from an adjacent property owner (Mike Sullivan) requesting information about the rezoning; the caller was neither in support nor opposition.

#### **PUBLIC HEARING AND RECOMMENDATION BY PLANNING AND ZONING COMMISSION**

In accordance with UDO Section 318, the Planning and Zoning Commission conducted a public hearing on the request for an amendment of the Official Zoning Map. At the public hearing, the Planning and Zoning Commission considered the application, comments and recommendations of City staff, other relevant support materials and public testimony given at the public hearing. The Planning and Zoning Commission recommended 6-0 (1 abstention) that the City Council approve the rezoning request.

Mayor Krebs asked for any additional comment from the public. Hearing and seeing none, the Public Hearing was closed at 7:21 p.m.

7. **ORDINANCE NO. 2123 – REZONING REQUEST:** THE CITY COUNCIL WILL CONSIDER THE FIRST READING OF ORDINANCE NO. 2123 TO REZONE 2.35 ACRES LOCATED AT 3529 STARK ROAD (TRACT 5-A AND 5-B OF THE NORTH ½ TRACT 2, NUECES BAY FARM BLOCK A) FROM R-6, SINGLE-FAMILY RESIDENTIAL DISTRICT (TEMPORARY ZONING), TO C-G, GENERAL COMMERCIAL DISTRICT – DIRECTOR OF PUBLIC WORKS AND DEVELOPMENT

Mayor Pro Tem Jorgensen made the motion to approve the first reading of Ordinance No. 2123 to rezone 2.35 Acres located at 3529 Stark Road (Tract 5-A and 5-B of the North ½ Tract 2, Nueces Bay Farm Block A) from R-6, Single-Family Residential District (Temporary Zoning), to C-G, General Commercial District, seconded by Council Member Moore.

The motion passed with the following vote:

Aye: 7 - Mayor Krebs, Mayor Pro Tem Jorgensen, Council Member Skurow, Council Member Moore, Council Member Green, Council Member Taggart and Council Member Wilson

Nay: 0

Absent: 0

Abstained: 0

Mayor Krebs read the following caption:

**ORDINANCE NO. 2123**

**AN ORDINANCE REZONING APPROXIMATELY 2.35 ACRES LOCATED AT 3529 STARK ROAD (TRACT 5-A AND 5-B OF THE NORTH ½ TRACT 2, NUECES BAY FARM BLOCK A) FROM R-6, SINGLE-FAMILY RESIDENTIAL DISTRICT (TEMPORARY ZONING), TO C-G, GENERAL COMMERCIAL DISTRICT, AT THE REQUEST OF THE OWNER; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF PORTLAND; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY FOR VIOLATIONS AND SPECIFICALLY NEGATING A REQUIREMENT OF A CULPABLE MENTAL STATE; PROVIDING AND ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION**

- 8. BOAT RAMP FEASIBILITY ASSESSMENT:** THE CITY COUNCIL WILL CONSIDER A PROPOSAL FOR ENGINEERING SERVICES FROM HDR ENGINEERING, INC., FOR A BOAT RAMP FEASIBILITY ASSESSMENT – ASSISTANT CITY MANAGER

Assistant City Manager, Brian DeLatte presented the following information:

For many years, Portland residents have requested a boat launching area to access the Corpus Christi Bay. There is no other ramp available within several miles of Portland. The City Council indicated its desire for the project in its Capital Improvement Program

by budgeting \$1,000,000 in FY 2017-18. Due to the long lead time in potential grant application awards, it is prudent to begin preliminary feasibility assessments so that the City is prepared for upcoming grant application calls. HDR Engineering, Inc., has designed several boat ramps in the area and recently completed the breakwater and erosion protection work at Indian Point Pier. Its proposal is broken into Concept Exploration and Feasibility Phases. City Staff recommends authorizing the Concept Exploration Phase for the lump sum fee of \$20,213.

Given the requests for a boat ramp, we must fully explore the concept and outline the project's parameters. Upcoming Texas Parks and Wildlife Boating Access Grant Applications, for example, require the submittal of a project needs statement, location maps, site plans, and a project budget. Current grant programs offer up to 75% grant matching (up to \$500,000).

HDR is experienced in boat ramp designs, and, in particular, with the Sunset Lake and Indian Point Pier area. City Staff recommends splitting HDR's planning efforts into two phases. The initial Concept Exploration Phase will explore the community need for a boat ramp, identify potential site locations, and examine usage fee considerations. HDR will then present its findings to the City Council. If the City Council desires to proceed with a detailed preliminary design of up to three particular locations, HDR can then be further engaged to complete a Feasibility Assessment. This assessment would include preparation of the preliminary cost estimates and site designs that could be used to submit future grant applications.

Phil Blackmar with HDR explained the scope and process of the exploration proposal for the Boat Ramp Feasibility Study.

The City Council and Staff discussed the needs assessment process, possible site location, funding, the terms and conditions of the proposal and the possibility of staff negotiating the terms of Sections 8 and Section 17.

Council Member Wilson made the motion to approve Phase 1 Project Exploration of the Boat Ramp Feasibility Study Assessment for a lump sum amount of \$20,213 with the exception that staff negotiate Section 8. "RE-USE OF DOCUMENTS" and Section 17. "ALLOCATION OF RISK" of the Terms and Conditions for Professional Services, seconded by Council Member Moore.

The motion passed with the following vote:

Aye: 7 - Mayor Krebs, Mayor Pro Tem Jorgensen, Council Member Skurow, Council Member Moore, Council Member Green, Council Member Taggart and Council Member Wilson

Nay: 0

Absent: 0

Abstained: 0

**9. BIDS FOR STREET IMPROVEMENT PROGRAM PHASE 9A (REHAB AND OVERLAYS): THE CITY COUNCIL WILL CONSIDER BIDS FOR THE STREET IMPROVEMENT PROGRAM PHASE 9A (REHAB AND OVERLAYS) THAT WERE RECEIVED, OPENED, AND PUBLICLY READ ON OCTOBER 28, 2015 – ASSISTANT CITY MANAGER**

Assistant City Manager, Brian DeLatte, presented the following information:

Bids were received, opened, and publicly read for the Street Improvement Program Phase 9A (Rehab and Overlays) on October 28, 2015. Two bids were received, with the low bid from Haas-Anderson Construction, Ltd. (HAC). HAC's bid was over the project's budget and City Staff recommends reducing the number of streets included in the program and awarding the contract to HAC for \$3,393,255.70 and a construction contingency of \$240,000.

The City's *Street, Parking Lot, Trail, and Sidewalk Master Plan* comprehensively assessed the conditions of the streets, parking lots, trails, and sidewalks in the City, and developed a long-term plan for maintenance, rehabilitation, and replacement of the existing infrastructure. The Plan recommended a priority list of streets throughout the City that required overlays or rehabilitation; the first set of streets on the priority list was included in the Phase 9A project for a total project amount of \$4,000,000.

As City Staff has reported over the previous 18 months, construction prices in the region and throughout the state have skyrocketed. Asphalt prices have risen approximately 45% over the City's last street project. Concrete prices are approximately 55% higher over that same span. Similar increases were observed when the bids for this Phase 9A project were opened. Because it was anticipated that the bids would be over the engineer's estimate, streets within Phase 9A were prioritized before the bid by: (1) Pavement Condition Index; (2) Grouping of streets in neighborhoods; (3) Observed drainage problems; and (4) consideration of number of residents affected in a positive way. This engineer's prioritized list was utilized to evaluate the bids. Included in the priority list was construction of the dog park parking lot.

Two bids were received and opened on October 28, 2015:

Contractor	Bid
<b>Haas-Anderson Construction, Ltd.</b>	\$3,501,444.00
<b>J. Carroll Weaver, Inc.</b>	\$5,496,256.75

Upon analyzing the bids, the dog park parking lot pricing was not within the expected unit price range. Therefore, City Staff does not recommend award of the contract for the dog park parking lot. Streets Department personnel will make temporary pavement

and striping improvements to the existing pavement around the Public Works fuel station for the dog park patrons.

CRG recommends the following updated program budget utilizing the low bid from HAC:

Item	Cost
<b>Recommended Construction</b>	\$3,393,235.70
<b>Construction Contingency (7.1%)</b>	\$240,000.00
<b>Construction Administration and Testing</b>	\$152,570.00
<b>Total Cost</b>	\$3,785,805.70
<b>Construction Budget Available</b>	\$3,785,805.70

The streets recommended for improvements based on the engineer’s prioritized list is:

Proposed Improvements
Boca Chica Drive (From Matagorda Drive to Falcon Drive)
Bay View Drive (From Cliff Drive to End)
Dolphin Drive East And West Circle (From Memorial Parkway to Akins Drive)
Dolphin Drive East And West Circle (Additional Improvements)
Falcon Drive (From Memorial Parkway to Boca Chica Drive)
Falcon Drive (Additional Improvements)
Amistad Street (From Matagorda Drive to Matagorda Drive)
Matagorda Drive (From Akins Drive to Amistad Street)
Tarpon Street (From Memorial Parkway to Matagorda Drive)
Copano Drive (From Matagorda Drive to Dolphin Drive)
Copano Drive (Additional Improvements)
Austin Street (From Crosby Street to Lang Road)
Austin Street (Additional Improvements)
Crosby Street (From Daniel Moore Avenue to Lang Road)
Crosby Street (Additional Improvements)
Pecos Drive (From US 181 to Alazan)

CRG has reviewed HAC’s qualifications and experience record and recommends awarding the contract to HAC.

It is anticipated that construction will begin in January 2016. The contract allots 270 days for construction. Information will be disseminated to affected residents in several ways, including the publication of an article in *The Breeze*, information posted on the City website, and door hangers to be distributed several days prior to construction on a street.

Donnie Rehmet of CRG, explained the bid process, the proposed street improvements list, and recommended awarding the bid to Haas- Anderson in the amount of \$3,393,235.70.

The City Council, City Manager and Mr. Rehmet discussed the street selection process, the proposed bid, the need to continue street improvements and properly notifying residents affected by the street construction.

Council Member Moore made the motion to approve the bid from Haas-Anderson Construction, Ltd. for the Street Improvement Program Phase 9A (Rehab and Overlays) in the amount of \$3,393,235.70 and authorize the City Manager to execute all necessary contract documents, seconded by Council Member Wilson.

The motion passed with the following vote:

Aye: 6 - Mayor Krebs, Mayor Pro Tem Jorgensen, Council Member Skurow, Council Member Moore, Council Member Green and Council Member Wilson

Nay: 0

Absent: 0

Abstained: 1 - Council Member Taggart

**10. ORDINANCE NO. 2126 – WATER CONSERVATION PLAN REVISIONS: THE CITY COUNCIL WILL CONSIDER THE FIRST READING OF ORDINANCE NO. 2126 THAT REVISES THE CITY OF PORTLAND WATER CONSERVATION PLAN – DIRECTOR OF PUBLIC WORKS AND DEVELOPMENT**

Director of Public Works and Development, Jaime Pyle presented the following information:

The City of Portland’s Water Conservation Plan (WCP) was last revised in March 2009. The WCP must be periodically updated in accordance with Texas Administrative Code and to remain in compliance with ongoing state and federal grants.

The Texas Administrative Code Title 31 Part 10 Chapter 363 Subchapter A Rule §363.15 and Texas Water Codes: 13.146: 17.125(b); and 17.277(b), requires that the City periodically update its WCP. The last plan update occurred in March 2009. Over the last five (5) years, the City has well exceeded its conservation goals by dropping our water usage by 26% from 2009 to 2014. Over the last five years the City has implemented many measures that have attributed to the successful reduction in water uses by 26% from 2009 to 2014. They include:

- Water meter replacement program w/ radio data output
- Improved meter reading software
- Stage 2 Drought Response
- Public Education

This revised plan proposes to maintain the current consumer water usage keeping use below 100 gallons of water per day per capita by continuing to improve metering devices, continuing the meter maintenance program, continuing documentation of operational uses, and enhanced public education.

Council Member Taggart made a motion to approve the first reading of Ordinance No. 2126 that revises the City of Portland Water Conservation Plan, seconded by Mayor Pro Tem Jorgensen.

The motion passed with the following vote:

Aye: 7 - Mayor Krebs, Mayor Pro Tem Jorgensen, Council Member Skurow, Council Member Moore, Council Member Green, Council Member Taggart and Council Member Wilson

Nay: 0

Absent: 0

Abstained: 0

Mayor Krebs read the following caption:

**ORDINANCE NO. 2126**

**AN ORDINANCE REVISING THE CITY OF PORTLAND WATER CONSERVATION PLAN; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY AND SPECIFICALLY NEGATING A REQUIREMENT OF A CULPABLE MENTAL STATE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE**

**C. CITIZEN COMMENTS, QUESTIONS, REQUESTS, AND PROPOSALS NOT APPEARING ON THE AGENDA:**

**Members of the audience who wish to (1) comment on issues for which there is no item on this agenda, (2) present questions for which there is no item on this agenda, (3) request assistance for which there is no item on this agenda or (4) propose regulatory**

**changes for which there is no item on this agenda, must comply with the following rules of procedure:**

- Persons who wish to speak must fill out and turn in a speaker card before the meeting is convened (The Mayor will notify you when it's your turn to speak and direct you to the podium)
- Persons who wish to speak must identify themselves and their places of residence
- All comments, requests and proposals must be presented to or through the Mayor
- Persons who wish to speak will only be given 4 minutes to do so

Neither the City Council nor the Staff is legally permitted to respond to citizen comments, questions, requests, or proposals at the time of the meeting. A member of the City Council or the City Manager may place an item on the agenda of a future City Council workshop or meeting to legally do so. If that is done, the audience member seeking a response will be given advance notice.

There were none.

**D. ADJOURNMENT: MAYOR**

Mayor Krebs adjourned the meeting at 8:08 p.m.

**NOTICE OF ASSISTANCE**

If you plan to attend this public meeting and you have a disability that requires special arrangements to be made, please contact City Secretary Annette Hall (361-777-4513 or [annette.hall@portlandtx.com](mailto:annette.hall@portlandtx.com)) in advance of the meeting. Reasonable accommodations will be made to facilitate your participation. The City Hall is wheelchair accessible and specially marked parking spaces are located in front of its entrance. Special seating will be provided in the Council Chamber during the meeting.

**BRAILLE IS NOT AVAILABLE**

Approved:

---

David Krebs  
Mayor

Attest:

---

City Secretary

**CITY OF PORTLAND  
CITY COUNCIL  
SPECIAL MEETING  
MINUTES  
NOVEMBER 19, 2015 – 7:00 P.M.**

On this the 19th day of November 2015, the Council of the City of Portland convened in a special meeting session at 7:00 p.m. in the Council Chambers of City Hall, Daniel P. Moore Community Center Complex and notice of special meeting giving the time, place and date and subject having been posted as described by Section 551 of the Government Code.

**MEMBERS PRESENT:**

David Krebs	Mayor
Ron Jorgensen	Mayor Pro Tem
Cathy Skurow	Council Member
Gary Moore, Sr.	Council Member
John Green	Council Member
Nathan Taggart	Council Member
Bill T. Wilson II	Council Member

**STAFF PRESENT:**

Randy Wright	City Manager
Brian DeLatte	Assistant City Manager
Annette Hall	City Secretary
Drew Schell	IT Technician
Brandon Lemon	Accounting Assistant

And with a quorum being present, the following business was transacted:

**1. CALL TO ORDER: MAYOR KREBS**

Mayor Krebs called the special meeting to order at 7:00 pm.

**2. ORDINANCE NO. 2124 – ANNEXATION OF APPROXIMATELY 753 ACRES: THE CITY COUNCIL WILL CONSIDER THE FIRST READING OF ORDINANCE NO. 2124 ANNEXING APPROXIMATELY 753 ACRES SITUATED WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION – CITY MANAGER**

City Manager, Randy Wright presented the following information:

This is the first reading of ordinances that would complete the second of two phases of annexation that the City initiated in 2013.

Phase 1 was completed in December of 2014 annexing approximately 1836 acres within the City's extraterritorial jurisdiction. Phase 2 will annex approximately 808 acres. Proper notices were given to the affected property owners and two public hearings have been conducted, as required by law.

On November 13, development agreements were offered to the owners of agricultural exempt property that would allow those owners to forego annexation so long as the property remains agricultural exempt and the owner does not initiate any development on the property. Six property owners encompassing the 510 acres of the total 808 acres, have requested development agreements. Two additional properties, containing 58 acres, are under review to confirm their exempt status.

The development agreements will be considered by City Council during the December 1<sup>st</sup> meeting.

All legal requisites for annexation process under the Texas Local Government Code, Chapter 43 have been met. The City Council is now authorized to enact legislation in the form of Ordinances 2124 and 2125 to finalize the annexation.

Council Member Skurow made the motion to approve the first reading of Ordinance No. 2124 annexing approximately 753 Acres situated within the City's extraterritorial jurisdiction, seconded by Council Member Taggart.

The motion passed with the following vote:

Aye: 7 - Mayor Krebs, Mayor Pro Tem Jorgensen, Council Member Skurow, Council Member Moore, Council Member Green, Council Member Taggart and Council Member Wilson

Nay: 0

Absent: 0

Abstained: 0

Mayor Krebs read the following caption:

**ORDINANCE NO. 2124**

**AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF PORTLAND, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS; GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL OF THE RIGHTS, PRIVILEGES, AND BURDENS OF OTHER CITIZENS AND**

**BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS AND REGULATIONS OF SAID CITY; ADOPTING A SERVICE PLAN; PROVIDING FOR AMENDMENT OF THE OFFICIAL MAPS OF THE CITY OF PORTLAND, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AND ESTABLISHING AN EFFECTIVE DATE**

3. **ORDINANCE NO. 2125 – ANNEXATION OF APPROXIMATELY 55 ACRES:** THE CITY COUNCIL WILL CONSIDER THE FIRST READING OF ORDINANCE NO. 2125 ANNEXING APPROXIMATELY 55 ACRES SITUATED WITHIN THE CITY’S EXTRATERRITORIAL JURISDICTION – CITY MANAGER

Council Member Green made the motion to approve the first reading of Ordinance No. 2125 annexing approximately 55 Acres situated within the City’s extraterritorial jurisdiction, seconded by Council Member Wilson.

The motion passed with the following vote:

Aye: 7 - Mayor Krebs, Mayor Pro Tem Jorgensen, Council Member Skurow, Council Member Moore, Council Member Green, Council Member Taggart and Council Member Wilson

Nay: 0

Absent: 0

Abstained: 0

Mayor Krebs read the following caption:

**ORDINANCE NO. 2125**

**AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF PORTLAND, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS; GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL OF THE RIGHTS, PRIVILEGES, AND BURDENS OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS AND REGULATIONS OF SAID CITY; ADOPTING A SERVICE PLAN; PROVIDING FOR AMENDMENT OF THE OFFICIAL MAPS OF THE CITY OF PORTLAND, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AND ESTABLISHING AN EFFECTIVE DATE**

**4. ADJOURNMENT: MAYOR KREBS**

Mayor Krebs adjourned the meeting at 7:07 p.m.

**NOTICE OF ASSISTANCE**

If you plan to attend this public meeting and you have a disability that requires special arrangements to be made, please contact City Secretary Annette Hall (361-777-4513 or [annette.hall@portlandtx.com](mailto:annette.hall@portlandtx.com)) in advance of the meeting. Reasonable accommodations will be made to facilitate your participation. The City Hall is wheelchair accessible and specially marked parking spaces are located in front of its entrance. Special seating will be provided in the Council Chamber during the meeting.

**BRaille IS NOT AVAILABLE**

Approved:

---

David Krebs  
Mayor

Attest:

---

City Secretary



## CITY COUNCIL ACTION ITEM

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<b>AGENDA TITLE</b>	<b><u>ORDINANCE NO. 2123 - REZONING REQUEST</u></b> THE CITY COUNCIL WILL CONSIDER THE SECOND AND FINAL READING OF ORDINANCE NO. 2123 TO REZONE 2.35 ACRES LOCATED AT 3529 STARK ROAD (TRACT 5-A AND 5-B OF THE NORTH ½ TRACT 2, NUECES BAY FARM BLOCK A) FROM R-6, SINGLE-FAMILY RESIDENTIAL DISTRICT (TEMPORARY ZONING), TO C-G, GENERAL COMMERCIAL DISTRICT – DIRECTOR OF PUBLIC WORKS AND DEVELOPMENT
<b>MEETING DATE</b>	12/1/2015
<b>DEPARTMENT</b>	Building and Development
<b>SUBMITTED BY</b>	Jamie Pyle, P.E., Director of Public Works and Development

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### **EXECUTIVE SUMMARY**

*This is the second and final reading of Ordinance No. 2123. There have been no changes to the ordinance since its first reading on November 17, 2015.*

A zoning application has been submitted by Theresa Nix Trust Of 1994 / J.L. Gaines - Trustee, to rezone approximately 2.35 acres at 3529 Stark Road (Tract 5-A and 5-B of the North ½ Tract 2, Nueces Bay Farm Block A) from R-6, Single-Family Residential District (Temporary Zoning), to C-G, General Commercial District. The property was annexed in December 2014 and has been operating as a legal non-conforming use. If approved, this zoning change would remove the nonconforming status from the property. The zoning change is consistent with state annexation statutes and with City of Portland policies.

### **REZONING REQUEST**

Theresa Nix Trust Of 1994 / J.L. Gaines - Trustee owns approximately 2.35 acres at 3529 Stark Road. The property is being used by Gainco Environmental Engineering and Remediation as its home office and storage facility. There are storage and service facilities on site heavy machinery and vehicles, including drilling equipment, remediation equipment, and vacuum trucks. No industrial work is conducted on site, as all work is conducted off premises.

The property was annexed in December 2014. Texas Local Government Code Section 43.002 specifically allows that all legal uses of a property can be continued after an annexation. As such, the existing use of the property is characterized by the City as a legal non-conforming use by UDO Section 802.A. Under this designation, the City cannot at any point require the property owner to discontinue the existing use at the time of annexation of the property.

In its discussions with City Staff, the applicant has indicated a desire to rezone the property so that it is no longer non-conforming. This provides additional assurances that any future changes to state law would not impact their desire to continue the existing use of the property. Removing the nonconforming designation could also increase marketability of the property in the future.

### **REZONING APPROVAL CRITERIA**

Section 318 of the UDO outlines the following criteria for which the Planning and Zoning Commission and City Council shall base approval of zoning requests, although the wisdom of amending the Official Zoning Map is a matter committed to the sound legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt, adopt with modifications or deny the proposed amendment, the City Council shall consider the following factors.

1. Compatible with Plans and Policies. Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning and Zoning Commission or City Council.

*Staff comment:* This rezoning request is consistent with applicable state annexation statutes.

2. Consistent with this Ordinance. Whether and the extent to which the proposed amendment would conflict with any portion of this Ordinance.

*Staff comment:* This rezoning request is specifically contemplated by the Unified Development Ordinance in that annexed properties automatically receive a temporary zoning designation of Single Family Residential to prevent the immediate development of undesirable uses adjacent to existing or future single-family residential subdivisions. It was understood during the annexation process that existing uses could receive the appropriate zoning designation matching their use if desired.

3. Compatible with Surrounding Area. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.

*Staff comment:* This zoning designation is compatible with surrounding properties (vacant Royal Plumbing facility) and future development.

4. Changed Conditions. Whether and the extent to which there are changed conditions that require an amendment.

*Staff comment:* The City's annexation of the property constitutes a changed condition that validates the rezoning request.

5. Effect on Natural Environment. Whether and the extent to which the proposed

amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.

*Staff comment:* None.

6. Community Need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.

*Staff comment:* Not applicable for an existing use.

7. Development Patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.

*Staff comment:* Not applicable for an existing use.

### **STAFF ANALYSIS**

During the annexation process in 2014, property owners were advised by the City Attorney and consulting City Planner that state law specifically allows that all legal uses of a property can be continued after an annexation. Property owners were informed that the properties that were not currently used as single-family residential could continue as legally nonconforming, or that the City would support rezoning requests to match the existing legal uses. This rezoning request is consistent with this concept.

The applicant originally sought an “I” Industrial zoning designation, believing that the industrial nature of the company’s off-premises work correlated to an “I” designation. However, during a site inspection on October 8, 2015, it is apparent to City Staff that the property is more fitting of a “CG, General Commercial” designation for several reasons:

- The current use of the property more closely resembles “CG” (Office Warehouse, Contractor’s Professional Office, and Vehicle Service) rather than “I” (Light Manufacturing, Heavy Manufacturing, Wholesale Trade, Freight Movement, Adult Entertainment, Gun Range, Pawn Shop, Smoker Shop).
- Through its Comprehensive Plan, the City Council has indicated that it is uninterested in allowing heavy manufacturing (or any of the other “I” uses listed above) in an area surrounded by single-family zoning. If zoned as an “I”, the property could theoretically be developed as a manufacturing facility or a freight yard with no ability for the City to restrict it.
- General planning principles typically recommend that all industrial zoning uses be grouped in geographically adjacent areas. A single “I”-zoned tract on the west side of the City would be a significant distance away from the other industrial zoning area in Portland and could disproportionately devalue surrounding properties.

The applicant subsequently modified the application to seek a “CG” zoning.

The “CG” zoning request is supported by state statute and the Comprehensive Plan. Additionally, this portion of Floerke Road already has a drilling pad and another office/warehouse development. During the next Comprehensive Plan update, the consulting City Planner will likely recommend that this block’s Future Land Use Plan designation becomes “Commercial”, as single-family residential will unlikely develop along this block.

**ADJACENT PROPERTY NOTIFICATIONS AND PUBLIC HEARING NOTICES**

There are 8 adjacent properties within 200 feet of the subject lot. Property owners were notified by mail, postmarked October 21, 2015, of Public Hearings at the Planning and Zoning Commission and City Council meetings. Notice was also posted in the Coastal Bend Herald on October 22, 2015, in conformance with UDO Section 302. There has been one phone call from an adjacent property owner (Mike Sullivan) requesting information about the rezoning; the caller was neither in support nor opposition.

**PUBLIC HEARING AND RECOMMENDATION BY PLANNING AND ZONING COMMISSION**

In accordance with UDO Section 318, the Planning and Zoning Commission conducted a public hearing on the request for an amendment of the Official Zoning Map. At the public hearing, the Planning and Zoning Commission considered the application, comments and recommendations of City staff, other relevant support materials and public testimony given at the public hearing. The Planning and Zoning Commission recommended 6-0 (1 abstention) that the City Council approve the rezoning request.

**ATTACHMENTS**

- Existing Zoning Map Exhibit
- Proposed Ordinance No. 2123

---

**RECOMMENDED ACTION**

Motion to approve the second and final reading of Ordinance No. 2123.

1 **ORDINANCE NO. 2123**

2  
3 **AN ORDINANCE REZONING APPROXIMATELY 2.35 ACRES LOCATED**  
4 **AT 3529 STARK ROAD (TRACT 5-A AND 5-B OF THE NORTH ½ TRACT**  
5 **2, NUECES BAY FARM BLOCK A) FROM R-6, SINGLE-FAMILY**  
6 **RESIDENTIAL DISTRICT (TEMPORARY ZONING), TO C-G, GENERAL**  
7 **COMMERCIAL DISTRICT, AT THE REQUEST OF THE OWNER;**  
8 **AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF PORTLAND;**  
9 **PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT**  
10 **HEREWITH; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A**  
11 **PENALTY FOR VIOLATIONS AND SPECIFICALLY NEGATING A**  
12 **REQUIREMENT OF A CULPABLE MENTAL STATE; PROVIDING AND**  
13 **ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR**  
14 **PUBLICATION**

15  
16 **WHEREAS** Theresa Nix Trust of 1994 / J.L. Gaines - Trustee, the owner of 3529 Stark  
17 Road (approximately 2.35 acres, Tract 5-A and 5-B of the North ½ Tract 2, Nueces Bay Farm  
18 Block A), has requested that its property be rezoned from R-6, Single-Family Residential District  
19 (Temporary Zoning), to C-G, General Commercial District; and

20  
21 **WHEREAS** the Planning and Zoning Commission conducted a Public Hearing on  
22 November 10, 2015, to solicit comments from citizens and other interested parties; and,

23  
24 **WHEREAS** the City Council conducted a Public Hearing on November 17, 2015, to solicit  
25 comments from citizens and other interested parties concerning the request; and,

26  
27 **WHEREAS** no formal written protest was filed by adjacent property owners and a  
28 majority vote is required to approve both readings of this ordinance.

29  
30 **NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,**  
31 **TEXAS:**

32  
33 **SECTION 1:** The request of Theresa Nix Trust of 1994 / J.L. Gaines - Trustee, is hereby  
34 granted. 3529 Stark Road (approximately 2.35 acres, Tract 5-A and 5-B of the North ½ Tract 2,  
35 Nueces Bay Farm Block A), is hereby rezoned to C-G, General Commercial District.

36  
37 **SECTION 2:** The Official Zoning Map of the City of Portland is hereby amended to reflect  
38 that 3529 Stark Road is hereby rezoned from R-6, Single-Family Residential District (Temporary  
39 Zoning), to C-G, General Commercial District.

40  
41 **SECTION 3:** If any provision, section, clause, or phrase of this Ordinance, or the  
42 application of same to any person or set of circumstances is, for any reason held to be  
43 unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall  
44 not be affected thereby, it being the intent of the City Council in adopting this Ordinance that

45 no portion hereof, or provisions or regulations contained herein, shall become inoperative or  
46 fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this  
47 Ordinance are declared severable for that purpose.

48  
49 **SECTION 4:** Any previously adopted ordinance, resolution, rule, regulation, or policy in  
50 conflict with this Ordinance is hereby repealed.

51  
52 **SECTION 5:** Any person who violates this Ordinance shall be guilty of a misdemeanor  
53 and, upon conviction thereof, shall be subject to a fine not exceeding five hundred dollars  
54 (\$500.00). Each and every day that a violation of this Ordinance occurs shall constitute a  
55 separate offense. The culpable mental state required by Chapter 6.02, Texas Penal Code, is  
56 specifically negated and dispensed with and a violation is a strict liability offense.

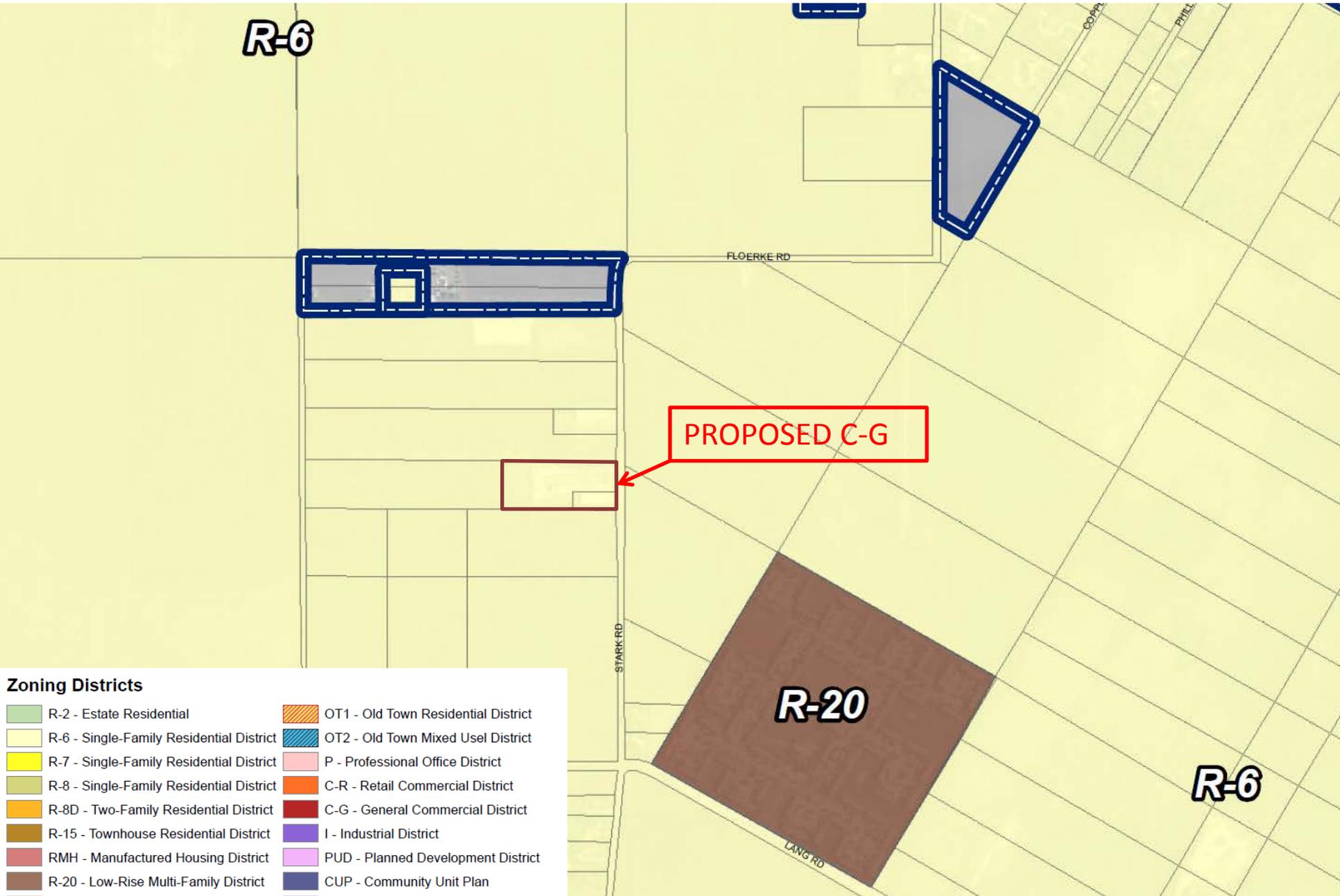
57  
58 **SECTION 6:** This Ordinance shall be published after second reading hereof by publishing  
59 the caption thereof in the official newspaper with a statement the public may view the  
60 Ordinance in the Office of the City Secretary. This Ordinance shall be effective from and after  
61 the publication provided herein.

62  
63 **PASSED and APPROVED** on second reading this \_\_\_ day of \_\_\_\_\_ 2015.

64  
65 **CITY OF PORTLAND**

66  
67  
68 \_\_\_\_\_  
69 **David Krebs**  
70 **Mayor**

71  
72 **ATTEST:**  
73  
74  
75 \_\_\_\_\_  
76 **Annette Hall**  
77 **City Secretary**



**R-6**

FLOERKE RD

**PROPOSED C-G**

STARK RD

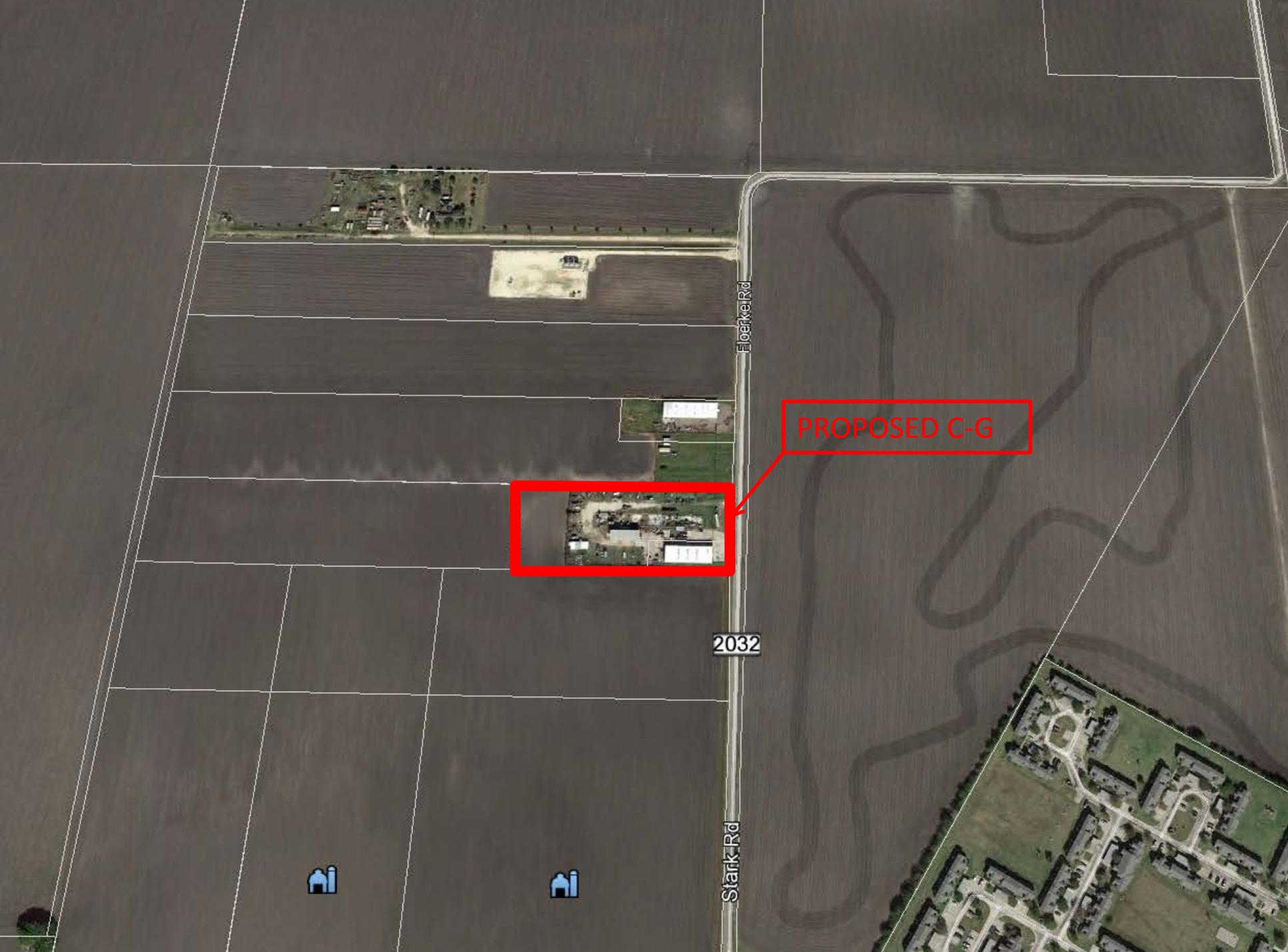
**R-20**

**R-6**

LANG RD

**Zoning Districts**

 R-2 - Estate Residential	 OT1 - Old Town Residential District
 R-6 - Single-Family Residential District	 OT2 - Old Town Mixed Used District
 R-7 - Single-Family Residential District	 P - Professional Office District
 R-8 - Single-Family Residential District	 C-R - Retail Commercial District
 R-8D - Two-Family Residential District	 C-G - General Commercial District
 R-15 - Townhouse Residential District	 I - Industrial District
 RMH - Manufactured Housing District	 PUD - Planned Development District
 R-20 - Low-Rise Multi-Family District	 CUP - Community Unit Plan
 RST - Multi-Family Resort District	 SP - Special Permit
	 City Limits Effective December 16, 2014



PROPOSED C-G

Floerke Rd

2032

Statik Rd





## CITY COUNCIL ACTION ITEM

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**AGENDA TITLE**      **ORDINANCE NO. 2124 – ANNEXATION OF APPROXIMATELY 753 ACRES**  
THE CITY COUNCIL WILL CONSIDER THE SECOND AND FINAL READING OF  
ORDINANCE NO. 2124 ANNEXING APPROXIMATELY 753 ACRES SITUATED  
WITHIN THE CITY’S EXTRATERRITORIAL JURISDICTION

**ORDINANCE NO. 2125 – ANNEXATION OF APPROXIMATELY 55 ACRES**  
THE CITY COUNCIL WILL CONSIDER THE SECOND AND FINAL READING OF  
ORDINANCE NO. 2125 ANNEXING APPROXIMATELY 55 ACRES SITUATED  
WITHIN THE CITY’S EXTRATERRITORIAL JURISDICTION

**MEETING DATE**      11/19/2015

**DEPARTMENT**      Administration

**SUBMITTED BY**      Randy Wright, City Manager

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### **EXECUTIVE SUMMARY**

*This is the second and final readings of Ordinance Nos. 2124 and 2125. There have been no changes to the ordinances since their first readings on November 19, 2015.*

In 2013, the City began a process that identified several areas within the extraterritorial jurisdiction (ETJ) of the City recommended for annexation. An annexation plan for the areas was divided into two phases. The City implemented Phase 1 of the plan annexing approximately 1,863 acres in 2014. This action, Phase 2, includes approximately 808 acres. The City Council has conducted two public hearings and has complied with all provisions of Chapter 43 of the Texas Local Government Code and the Portland City Charter necessary to formally annex the proposed area. Development Agreements that have been offered to property owners with agricultural exempt property in the proposed area will be considered at the December 1, 2015, City Council meeting.

### **PRIOR ACTIONS OR REVIEWS**

- September 3, 2013 – City Council engaged Freese and Nichols to perform a Growth Management Study.
- August 4, 2015 – The City Council engaged Freese and Nichols to assist staff in conducting an annexation of the area within the City’s ETJ
- September 1, 2015 – The City Council passed Resolution Nos. 703 and 704 that set the annexation public hearings

- October 6, 2015 – The City Council received and discussed a presentation from Freese and Nichols concerning the annexation process prescribed by TLGC.
- October 22, 2015 – The City Council conducted a Public Hearing to receive comments on the proposed annexation
- October 28, 2015 – The City Council conducted a Public Hearing to receive comments on the proposed annexation

### **DETAILS / STAFF ANALYSIS**

Chapter 43 of the Texas Local Government Code provides that cities of less than 100,000 population can grow into their extraterritorial jurisdiction (ETJ), which is an area generally extending one mile beyond the city limits.

In 2012, faced with impending industrial growth, the City began evaluating both the opportunities and the likely consequences for the community and how economic and industrial growth would affect areas around Portland, particularly within our ETJ where the City has little control over how and what is developed.

Recognizing that Portland is blocked on three sides and that all future growth is limited to the west and northwest, it became apparent that in order to keep Portland viable and insure orderly growth in the coming decades, the City must gain control of development within its existing ETJ. In 2013, The City Council ordered the development of a Growth Management Plan to better understand how the City should respond to industrial growth and changing economic conditions in the area. The report identified two phases of annexation to be completed in 2014 and 2015. After receipt of that report in July of 2014, the City annexed an area of approximately 1,863 acres lying within the ETJ to the west and northwest of the existing city limits.

Phase 2 of the Growth Management Plan recommended the annexation of approximately 753 acres located generally southwest of the City, including the Doyle Addition, Nueces Bay Subdivision, and Hunt Airport; and 55 acres generally located northeast of Bay Ridge Subdivision. The proposed areas are largely undeveloped with approximately 95 occupied parcels. Existing land uses consist primarily of farming and ranching. Upon annexation, the properties will be initially considered single-family residential.

The City Council has conducted two public hearings and presented a proposed Municipal Service Plan as required by statute. Staff has maintained a webpage with pertinent information about the annexation process and has answered countless questions from interested parties.

On November 13, 2015, development agreements were mailed to six owners of agricultural exempt property who have requested agreements. An additional two properties are under review to confirm their exemption status. In total, the requested development agreements represent approximately 510 acres of the 808 acres proposed for annexation, with another 58 acres under review.

The City has completed all legal requisites for annexation. Under the Texas Local Government Code, Chapter 43, the City Council is authorized to enact legislation to finalize the annexation.

**ALTERNATIVES CONSIDERED**

1. Owners of agricultural exempt land can opt out of annexation by executing a development agreement with the City. The agreement allows for the continuation of existing uses on the property provided the owner does not initiate development of the property, and that the property remains agricultural exempt. The agreement allows the City to extend its land use controls (zoning, building, development, etc.) to the subject properties so long as they do not materially interfere with the use of the property for agriculture, wildlife management or timber.

**FINANCIAL IMPACT**

Not applicable.

**ATTACHMENTS**

Proposed Ordinance No. 2124 and Ordinance No. 2125

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**RECOMMENDED ACTION**

Motion to approve the second and final reading of Ordinance No. 2124 annexing approximately 753 acres situated with the City's Extraterritorial Jurisdiction.

Motion to approve the second and final reading of Ordinance No. 2125 annexing approximately 55 acres situated with the City's Extraterritorial Jurisdiction.

1 **ORDINANCE NO. 2124**

2  
3 **AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED**  
4 **TERRITORY TO THE CITY OF PORTLAND, TEXAS, AND EXTENDING**  
5 **THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID**  
6 **HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS;**  
7 **GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL OF**  
8 **THE RIGHTS, PRIVILEGES, AND BURDENS OF OTHER CITIZENS**  
9 **AND BINDING SAID INHABITANTS BY ALL OF THE ACTS,**  
10 **ORDINANCES, RESOLUTIONS AND REGULATIONS OF SAID CITY;**  
11 **ADOPTING A SERVICE PLAN; PROVIDING FOR AMENDMENT OF**  
12 **THE OFFICIAL MAPS OF THE CITY OF PORTLAND, TEXAS;**  
13 **PROVIDING A SEVERABILITY CLAUSE; PROVIDING AND**  
14 **ESTABLISHING AN EFFECTIVE DATE**

15  
16 **WHEREAS**, Chapter 43 of the Texas Local Government Code and the City Charter of the  
17 City of Portland, Texas, a home rule city under the laws of the State of Texas, authorizes the  
18 annexation of territory; and

19  
20 **WHEREAS**, public hearings were held by the City Council at the City of Portland City Hall,  
21 1900 Billy G. Webb, Portland, Texas, on October 22, 2015, and on October 28, 2015; and

22  
23 **WHEREAS**, the above public hearings were held following publication of notice of the  
24 hearings in the official public newspaper of the City, a newspaper of general circulation in the  
25 City of Portland, for the consideration of annexation proceedings and the service plan for the  
26 defined lands and territory, during which public hearings all persons interested in the  
27 annexations were allowed to appear and be heard; and

28  
29 **WHEREAS**, the service plan for the area proposed to be annexed was made available for  
30 public inspection, including on the City’s website, at the above mentioned public hearings and  
31 in the above mentioned publication; and

32  
33 **WHEREAS**, it has been determined, and the City Council so finds, that the territory now  
34 proposed to be annexed, and described herein, abuts and is contiguous and adjacent to the City  
35 of Portland; and

36  
37 **WHEREAS**, it has been determined, and the City Council so finds, that the territory now  
38 proposed to be annexed, and described herein, constitutes lands and territories subject to  
39 annexation as provided by the City Charter of the City of Portland and the laws of the State of  
40 Texas; and

41  
42 **WHEREAS**, this annexation will leave out property where the property owner has signed  
43 a Development Agreement with the City of Portland pursuant to Chapter 43, Local Government  
44 Code; and

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**WHEREAS**, it has been determined, and the City Council so finds, that this annexation meets all the procedural requirements of the City Charter of the City of Portland and the laws of the State of Texas; and

**WHEREAS**, it has been determined, and the City Council so finds, that it would be advantageous to the City and to its citizens, and it is in the public interest in furtherance of the general welfare, safety and health of its citizens, to annex the lands and territory hereinafter described.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, TEXAS:**

**SECTION 1:** That the 753 acre tracts of land, more or less, that is described by metes and bounds in Exhibit "A" and depicted graphically in Exhibit "B", attached hereto and incorporated herein by this reference, is hereby annexed to the City of Portland, Texas, and that the boundary limits of the City of Portland, Texas, are hereby extended to include the above described territory within the city limits of the City of Portland, Texas, and the same shall hereafter be included within the territorial limits of said City, and the inhabitants thereof shall hereafter be entitled to all the rights, privileges and burdens of other citizens of the City of Portland, Texas, and they shall be bound by the acts, ordinances, resolutions and regulations of said City.

**SECTION 2:** That this annexation will not annex certain properties where the property owner has signed a Development Agreement with the City of Portland pursuant to Chapter 43, Local Government Code.

**SECTION 3.** That the Service Plan attached hereto as Exhibit "C", and incorporated herein by this reference, is hereby approved and adopted. This Service Plan provides for the same number of services and levels of service for the annexed area and to the same extent that such services are in existence in the area annexed immediately preceding the date of annexation or that are otherwise available in other parts of the City with land uses and population densities similar to those contemplated or projected in the area annexed.

**SECTION 4.** That the owners and inhabitants of the tracts or parcels of land annexed by this Ordinance are entitled to all the rights, privileges and burdens of other citizens and property owners of the City of Portland, Texas, and are subject to and bound by the City Charter of the City of Portland, Texas, and the ordinances, resolutions, motions, laws, rules and regulations of the City of Portland, Texas and to all intents and purposes as the present owners and inhabitants of the City of Portland, Texas are subject.

**SECTION 5.** That the official map and boundaries of the City and its extraterritorial jurisdiction, previously adopted and amended, are amended to include the territories described in the Ordinance as part of the City of Portland, Texas.

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**SECTION 6.** That the City Manager, or his designee, is authorized and directed to perform or cause to perform all acts necessary to correct the official map of the City and its extraterritorial jurisdiction and to take all such other action as is necessary to add the territory annexed and as required by law. A certified copy of this Ordinance and any Development Agreements shall be filed in the office of the County Clerk of San Patricio County, Texas and forwarded to relevant governmental agencies.

**SECTION 7.** If any provision, section, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void , or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provision of this Ordinance are declared severable for that purpose.

**SECTION 8.** This Ordinance shall be effective upon the passage of the second reading.

**PASSED** and **APPROVED** on second reading this \_\_\_ day of \_\_\_\_\_ 2015.

**CITY OF PORTLAND**

\_\_\_\_\_  
**David Krebs**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**Annette Hall**  
**City Secretary**

**ORDINANCE NO. 2124**

**EXHIBIT "A"**

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FIELD NOTES FOR 753 ACRES OF LAND, MORE OR LESS, LOCATED IN SAN PATRICIO COUNTY, TEXAS; SAID 753 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a point on the south line of F.M. 893 (variable width right-of-way) and on the east line of County Road 3567, extended, said point also being the southwest corner of the existing City limits of Portland, Texas as described in Ordinance No. 2100 (December 2, 2014);

**THENCE**, in a northeasterly direction continuing along the existing Portland City Limits line and the south line of F.M. 893, a distance of 3,777 feet, more or less, to a point for corner where F.M. 893 turns east;

**THENCE**, in an easterly direction, continuing along the existing Portland City Limits line and the south line of F.M. 893, a distance of 1,677 feet, more or less, to a point for corner where F.M. 893 turns southeast;

**THENCE**, in a southeasterly direction continuing along the existing Portland City Limits line and the south line of F.M. 893, a distance of 817 feet, more or less, to a point in the centerline of Allen Drive;

**THENCE**, turning in a southerly direction and following the existing Portland City Limits line, and the centerline of Allen Drive, a distance of 1,007 feet, more or less, to a point for corner in the centerlines of Allen Drive and Marriott Drive;

**THENCE**, in an easterly direction, along the existing Portland City Limits line and the centerline of Marriott Drive, a distance of 24 feet, more or less, to a point for corner;

**THENCE**, turning in a southerly direction with the existing Portland City Limits line, a distance of 1,500 feet, more or less, to a point, said point being in the Mean High Water line (MHW) at Nueces Bay, said point also being where the Portland City Limits line turns westerly along the MHW line of Nueces Bay;

**THENCE**, in a westerly direction along the existing Portland City Limits<sup>1</sup>, and along the existing MHW line of Nueces Bay, a distance of 4,700 feet, more or less, to a point where the City of Portland City Limits turns south, said point is also a shared corner in the City Limits of Portland and Corpus Christi<sup>2</sup>, thus leaving the Portland City Limits line and continuing with the meanders along the existing MHW line of Nueces Bay to match with the City Limits line of Corpus Christi, in all a distance of 12,200 feet, more or less, to the southern extension of the west line of Parcel #2139-0116-000-010, to a point for corner;

166 **THENCE**, turning in a northerly direction and leaving the MHW line of Nueces Bay and the  
167 existing City Limits line of Corpus Christi, a distance of 400 feet, more or less to a point in the  
168 southwest corner of parcel #2139-0116-0000-010, passing and continuing along the west line of  
169 said parcel a distance in all of 4,080 feet, more or less, to the south line of F.M. 893 to a point  
170 for corner;

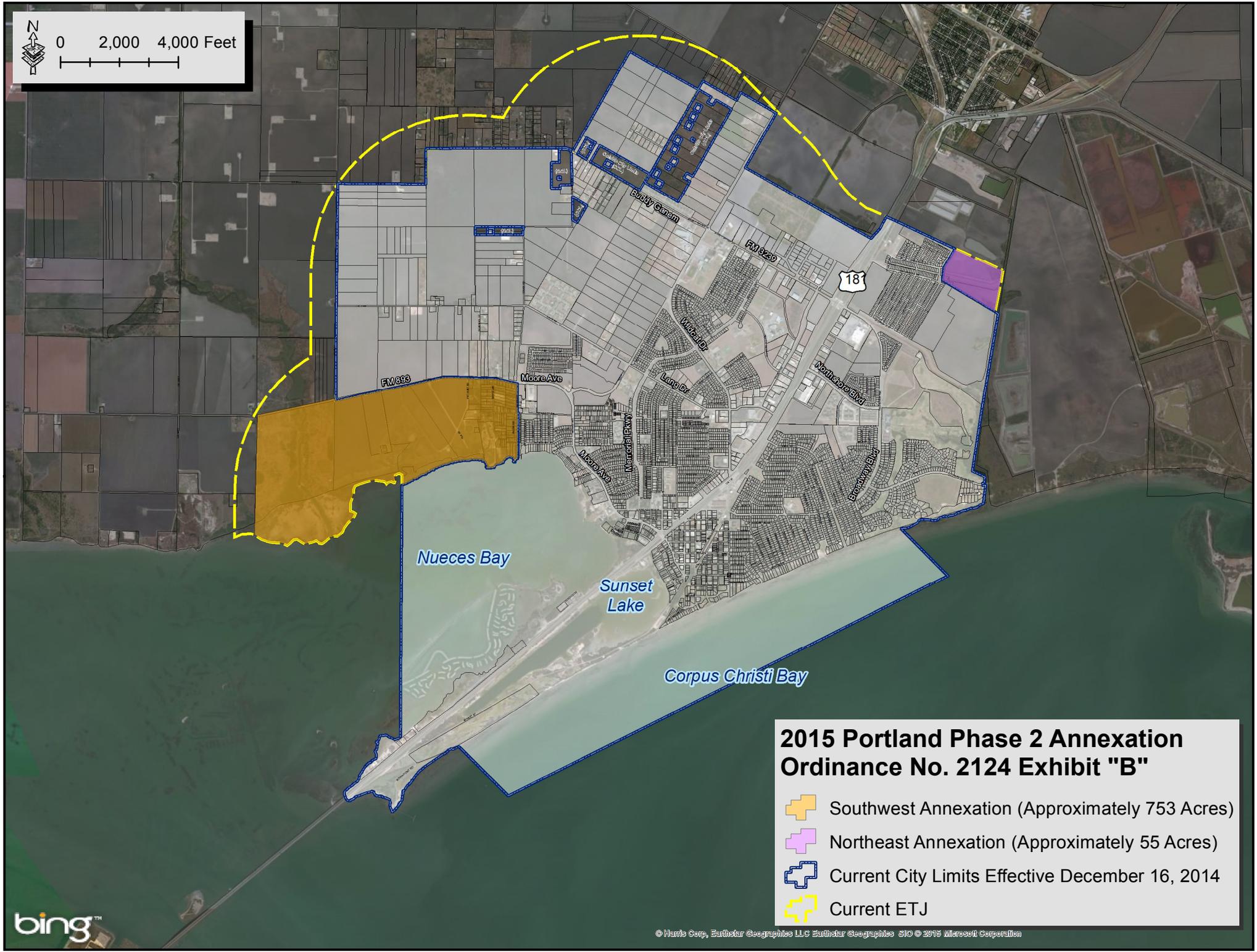
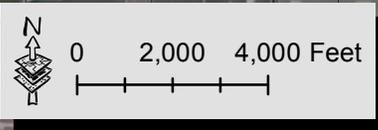
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172 **THENCE**, continuing in a northerly direction, a distance of 65 feet, more or less, to a point for  
173 corner in the north line of F.M. 893;

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175 **THENCE**, in a northeasterly direction along the north line of F.M. 893, a distance of 2,720 feet,  
176 more or less, to a point for corner on the east line of CR 3567, said point also being on the  
177 existing Portland City Limits line;

178  
179 **THENCE**, in a southerly direction along the existing Portland City Limits line and the east line of  
180 CR 3567, a distance of 82 feet, more or less, to the **POINT OF BEGINNING** of the herein  
181 described tract, containing 753 acres of land, more or less.

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

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188 <sup>1</sup> See Portland City Ordinance No. 291 dated March 19, 1968  
189 <sup>2</sup> See Corpus Christi City Ordinance No. 6636 dated September 18, 1962



**2015 Portland Phase 2 Annexation Ordinance No. 2124 Exhibit "B"**

-  Southwest Annexation (Approximately 753 Acres)
-  Northeast Annexation (Approximately 55 Acres)
-  Current City Limits Effective December 16, 2014
-  Current ETJ

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**ORDINANCE NO. 2124**  
**EXHIBIT "C"**  
**SERVICE PLAN FOR ANNEXATION AREA**

Municipal services to the Annexation Area will be furnished by or on behalf of the City of Portland, Texas at the following levels and in accordance with the following service plan programs:

1. Program For Services To Be Provided On The Effective Date Of Annexation  
The City will provide the following services in the Annexation Area on the effective date of the annexation, unless otherwise noted.

As used in this plan, the term "providing services" includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances.

A. Police Protection

The Portland Police Department will provide all law enforcement services to the Annexation Area. Police services, including all routine services, will begin on the effective date of the annexation using existing personnel and equipment.

B. Fire Protection and Emergency Medical Services

Fire protection, including emergency response calls, will begin immediately in the Annexation Area upon the effective date of annexation, using existing personnel and equipment. All services currently provided by the Portland Fire Department will be available to this area. As a semi-rural development, these areas can be served with existing resources and do not require additional equipment or service lines for provision of adequate service.

C. Solid Waste Collection

The City of Portland contracts with an exclusive solid waste collection contractor to pick up residential and small business garbage once each week. This service will be extended into the Annexation Area on the effective date of the annexation at the applicable rate for all City residents.

D. Operation and Maintenance of Water and Wastewater Facilities

Existing occupied homes that are using water well and on-site sewer facilities (and therefore have service) may continue to use the existing water well and on-site sewer facilities until such time that household connections are provided by the United States Department of Agriculture, the City of Portland, or as required by ordinance. If the existing property owner would like to connect to the City water and sewer system, then the property owner may request connection consistent with the Texas Local Government Code. All lots that are being served by the existing Portland

234 water system will continue to be operated by Portland after annexation.

235

236 E. Operation and Maintenance of Roadways

237 On the effective date of the annexation, the City will provide for ongoing operation  
238 and maintenance of public roads and streets, consistent with City policy and  
239 procedure throughout the City.

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241 As new development occurs within the annexed area, the developers of property  
242 will be required to construct streets in accordance with the City's subdivision policies  
243 in place at the time of development. Upon completion and dedication of new  
244 facilities to the City, the City shall provide on-going operation and maintenance for  
245 those facilities.

246

247 F. Operation and Maintenance of Community Facilities

248 Residents of this property may utilize all existing parks, libraries, and community  
249 service facilities throughout the City, beginning with the effective date of the  
250 annexation. Existing parks, playgrounds, swimming pools and other recreational and  
251 community facilities within the Annexation Area that are private facilities will be  
252 unaffected by the annexation.

253

254 Existing parks, playgrounds, swimming pools and other recreational and community  
255 facilities within this property shall, upon deeding to and acceptance by the City and  
256 appropriations for maintenance and operations, be operated by the City of Portland,  
257 but not otherwise.

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259 G. Operation and Maintenance of Any Other Publicly-Owned Facility, Building, or  
260 Service

261 In the event the City acquires any other facilities, buildings or services necessary for  
262 municipal services located in the Annexation Area, the appropriate City department  
263 will provide maintenance services.

264

265 2. Program for Providing Full Municipal Services within 2 ½ Years

266 In addition to the services listed above, the City will provide full municipal services to  
267 the Annexation Area commensurate with the levels of services provided in other parts  
268 of the City except if differences in topography, land use, and population density  
269 constitute a sufficient basis for providing different levels of service, no later than two  
270 and one-half (2 ½) years after the effective date of the annexation. If full municipal  
271 services cannot be reasonably provided within the aforementioned time period, the City  
272 will propose a schedule for providing said services within a period of four and one-half  
273 (4 ½) years after the effective date of the annexation, and/or upon commencement of  
274 development of a subdivision within this property, whichever occurs later.

275

276 "Full municipal services" are services provided by the annexing municipality within its  
277 full-purpose boundaries, excluding gas or electrical service. The City shall provide the

278 services by any of the methods by which it extends the services to any other area of the  
279 City.

280

281 3. Non-Annexation or Development Agreements

282 The City is offering non-annexation development agreements to eligible property  
283 owners located in this area for a specified term of fifteen (15) years. Eligible property  
284 owners are those individuals who currently receive an agricultural, timber, or wildlife  
285 management property tax exemption on their property. Specific terms and conditions  
286 will be provided in individual non-annexation development agreements.

287

288 4. Uniform Level of Service Not Required

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

293

294 5. Term

295 This service plan shall be valid for a term of ten (10) years. Renewal of the service plan  
296 shall be at the discretion of the City Council.

297

298 6. Amendments

299 The service plan may be amended if the City Council determines at a public hearing that  
300 changed conditions or subsequent occurrences make this service plan unworkable or  
301 obsolete. The City Council may amend the service plan to conform to the changed  
302 conditions or subsequent occurrences pursuant to the Texas Local Government Code,  
303 Section 43.056.

1 **ORDINANCE NO. 2125**

2  
3 **AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED**  
4 **TERRITORY TO THE CITY OF PORTLAND, TEXAS, AND EXTENDING**  
5 **THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID**  
6 **HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS;**  
7 **GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL OF**  
8 **THE RIGHTS, PRIVILEGES, AND BURDENS OF OTHER CITIZENS**  
9 **AND BINDING SAID INHABITANTS BY ALL OF THE ACTS,**  
10 **ORDINANCES, RESOLUTIONS AND REGULATIONS OF SAID CITY;**  
11 **ADOPTING A SERVICE PLAN; PROVIDING FOR AMENDMENT OF**  
12 **THE OFFICIAL MAPS OF THE CITY OF PORTLAND, TEXAS;**  
13 **PROVIDING A SEVERABILITY CLAUSE; PROVIDING AND**  
14 **ESTABLISHING AN EFFECTIVE DATE**

15  
16 **WHEREAS**, Chapter 43 of the Texas Local Government Code and the City Charter of the  
17 City of Portland, Texas, a home rule city under the laws of the State of Texas, authorizes the  
18 annexation of territory; and

19  
20 **WHEREAS**, public hearings were held by the City Council at the City of Portland City Hall,  
21 1900 Billy G. Webb, Portland, Texas, on October 22, 2015, and on October 28, 2015; and

22  
23 **WHEREAS**, the above public hearings were held following publication of notice of the  
24 hearings in the official public newspaper of the City, a newspaper of general circulation in the  
25 City of Portland, for the consideration of annexation proceedings and the service plan for the  
26 defined lands and territory, during which public hearings all persons interested in the  
27 annexations were allowed to appear and be heard; and

28  
29 **WHEREAS**, the service plan for the area proposed to be annexed was made available for  
30 public inspection, including on the City’s website, at the above mentioned public hearings and  
31 in the above mentioned publication; and

32  
33 **WHEREAS**, it has been determined, and the City Council so finds, that the territory now  
34 proposed to be annexed, and described herein, abuts and is contiguous and adjacent to the City  
35 of Portland; and

36  
37 **WHEREAS**, it has been determined, and the City Council so finds, that the territory now  
38 proposed to be annexed, and described herein, constitutes lands and territories subject to  
39 annexation as provided by the City Charter of the City of Portland and the laws of the State of  
40 Texas; and

41  
42 **WHEREAS**, this annexation will leave out property where the property owner has signed  
43 a Development Agreement with the City of Portland pursuant to Chapter 43, Local Government  
44 Code; and

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**WHEREAS**, it has been determined, and the City Council so finds, that this annexation meets all the procedural requirements of the City Charter of the City of Portland and the laws of the State of Texas; and

**WHEREAS**, it has been determined, and the City Council so finds, that it would be advantageous to the City and to its citizens, and it is in the public interest in furtherance of the general welfare, safety and health of its citizens, to annex the lands and territory hereinafter described.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, TEXAS:**

**SECTION 1:** That the 55 acre tracts of land, more or less, that is described by metes and bounds in Exhibit "A" and depicted graphically in Exhibit "B", attached hereto and incorporated herein by this reference, is hereby annexed to the City of Portland, Texas, and that the boundary limits of the City of Portland, Texas, are hereby extended to include the above described territory within the city limits of the City of Portland, Texas, and the same shall hereafter be included within the territorial limits of said City, and the inhabitants thereof shall hereafter be entitled to all the rights, privileges and burdens of other citizens of the City of Portland, Texas, and they shall be bound by the acts, ordinances, resolutions and regulations of said City.

**SECTION 2:** That this annexation will not annex certain properties where the property owner has signed a Development Agreement with the City of Portland pursuant to Chapter 43, Local Government Code.

**SECTION 3.** That the Service Plan attached hereto as Exhibit "C", and incorporated herein by this reference, is hereby approved and adopted. This Service Plan provides for the same number of services and levels of service for the annexed area and to the same extent that such services are in existence in the area annexed immediately preceding the date of annexation or that are otherwise available in other parts of the City with land uses and population densities similar to those contemplated or projected in the area annexed.

**SECTION 4.** That the owners and inhabitants of the tracts or parcels of land annexed by this Ordinance are entitled to all the rights, privileges and burdens of other citizens and property owners of the City of Portland, Texas, and are subject to and bound by the City Charter of the City of Portland, Texas, and the ordinances, resolutions, motions, laws, rules and regulations of the City of Portland, Texas and to all intents and purposes as the present owners and inhabitants of the City of Portland, Texas are subject.

**SECTION 5.** That the official map and boundaries of the City and its extraterritorial jurisdiction, previously adopted and amended, are amended to include the territories described in the Ordinance as part of the City of Portland, Texas.

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**SECTION 6.** That the City Manager, or his designee, is authorized and directed to perform or cause to perform all acts necessary to correct the official map of the City and its extraterritorial jurisdiction and to take all such other action as is necessary to add the territory annexed and as required by law. A certified copy of this Ordinance and any Development Agreements shall be filed in the office of the County Clerk of San Patricio County, Texas and forwarded to relevant governmental agencies.

**SECTION 7.** If any provision, section, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void , or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provision of this Ordinance are declared severable for that purpose.

**SECTION 8.** This Ordinance shall be effective upon the passage of the second reading.

**PASSED** and **APPROVED** on second reading this \_\_\_ day of \_\_\_\_\_ 2015.

**CITY OF PORTLAND**

\_\_\_\_\_  
**David Krebs**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**Annette Hall**  
**City Secretary**

**ORDINANCE NO. 2125**  
**EXHIBIT "A"**

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BEING A 55.204 ACRE TRACT OF LAND OUT OF CERTIFICATE 40, ABSTRACT 287, OF THE T.T. WILLIAMSON SURVEY, SAN PATRICIO COUNTY, TEXAS, THIS TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a point for the upper northeast corner of the existing City Limits and the northwest corner of this tract;

THENCE, South 66° 12' 28" East, a distance of 1,816.53 feet, to a point for the northeast corner of this tract;

THENCE, South 09° 02' 38" West, a distance of 1,332.24 feet, to a point for the lower northeast corner of the existing City Limits and the southeast corner of this tract;

THENCE, North 60° 59' 02" West, along the existing City Limits, at 432.90 feet pass a 5/8 inch iron rod, in all a distance of 2,205.83 feet to a point for an inside corner of the existing City Limits and the southwest corner of this tract;

THENCE, North 02° 24' 23" East, along the existing City Limits, a distance of 280.53 to the point of curvature of a curve to the right whose radius point bears North 79°33'37" East and which has a radius of 15.00 feet, a central angle of 92°37'41", an arc length of 24.25 feet and a tangent length of 15.70 feet;

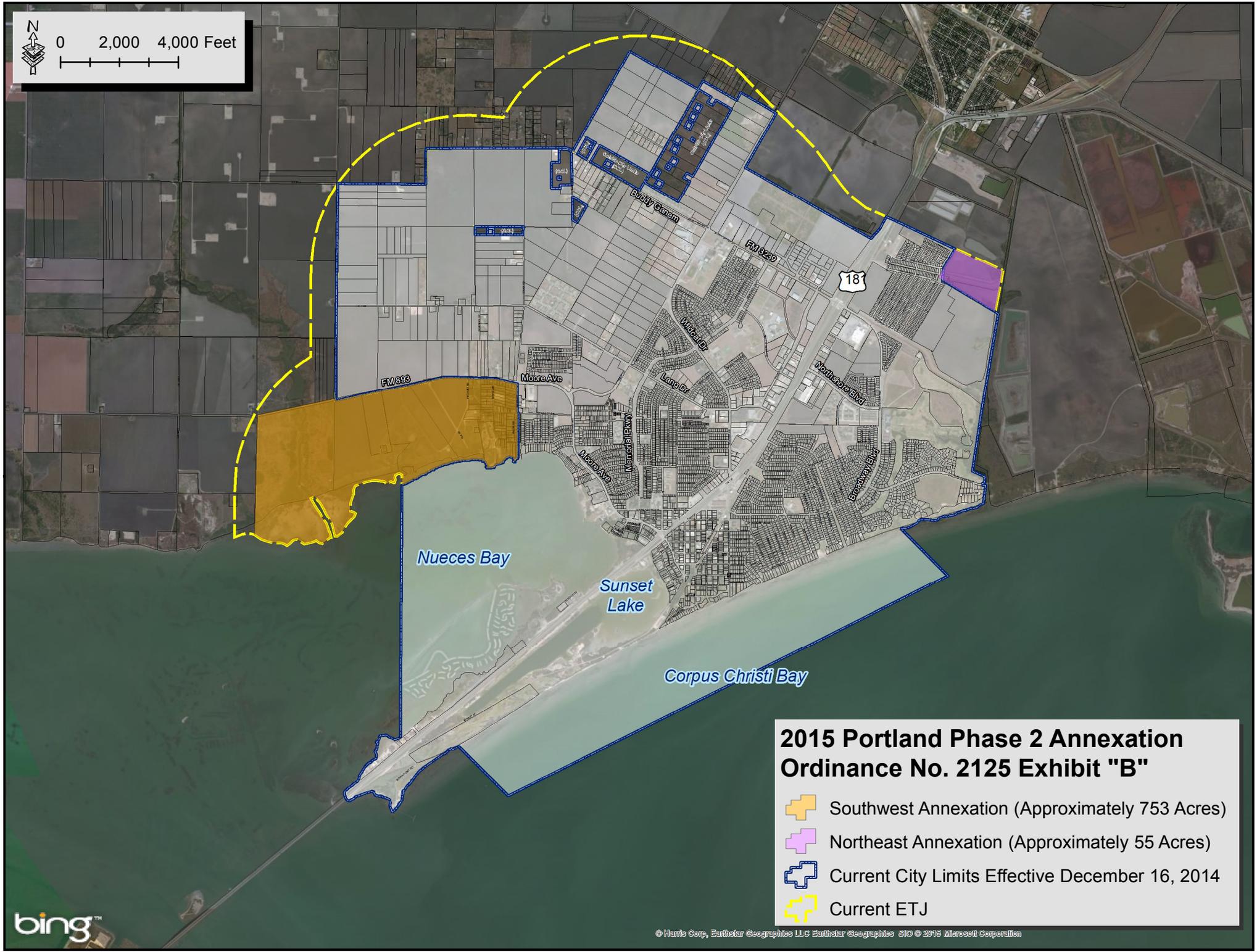
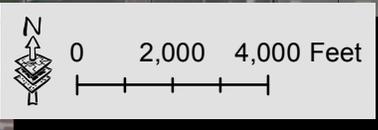
THENCE, continuing along the existing City Limits with said curve to the right, an arc length of 24.25 feet, to a point of curvature of a reverse curve to the left whose radius point bears North 05°03'07" East and which has a radius of 424.02 feet, a central angle of 09°47'33", an arc length of 72.47 feet and a tangent length of 36.32 feet;

THENCE, continuing along the existing City Limits with said curve to the left, an arc length of 72.47 feet to a point for a corner of the existing City Limits and a corner of this tract;

THENCE, North 29°07'28" East, continuing along the existing City Limits, a distance of 779.44 feet to the PLACE OF BEGINNING and containing 55.204 acres (2,404,670 square feet) of land.

Bearings are based on the plat of North Shore Unit 3 recorded in Envelope 46 and 47, File Number 343755 of the San Patricio County Map Records.

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.



**2015 Portland Phase 2 Annexation Ordinance No. 2125 Exhibit "B"**

-  Southwest Annexation (Approximately 753 Acres)
-  Northeast Annexation (Approximately 55 Acres)
-  Current City Limits Effective December 16, 2014
-  Current ETJ

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**ORDINANCE NO. 2125**  
**EXHIBIT "C"**  
**SERVICE PLAN FOR ANNEXATION AREA**

Municipal services to the Annexation Area will be furnished by or on behalf of the City of Portland, Texas at the following levels and in accordance with the following service plan programs:

1. Program For Services To Be Provided On The Effective Date Of Annexation  
The City will provide the following services in the Annexation Area on the effective date of the annexation, unless otherwise noted.

As used in this plan, the term "providing services" includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances.

A. Police Protection

The Portland Police Department will provide all law enforcement services to the Annexation Area. Police services, including all routine services, will begin on the effective date of the annexation using existing personnel and equipment.

B. Fire Protection and Emergency Medical Services

Fire protection, including emergency response calls, will begin immediately in the Annexation Area upon the effective date of annexation, using existing personnel and equipment. All services currently provided by the Portland Fire Department will be available to this area. As a semi-rural development, these areas can be served with existing resources and do not require additional equipment or service lines for provision of adequate service.

C. Solid Waste Collection

The City of Portland contracts with an exclusive solid waste collection contractor to pick up residential and small business garbage once each week. This service will be extended into the Annexation Area on the effective date of the annexation at the applicable rate for all City residents.

D. Operation and Maintenance of Water and Wastewater Facilities

Existing occupied homes that are using water well and on-site sewer facilities (and therefore have service) may continue to use the existing water well and on-site sewer facilities. If the existing property owner would like to connect to the City water and sewer system, then the property owner may request connection consistent with the Texas Local Government Code. All lots that are being served by the existing Portland water system will continue to be operated by Portland after annexation.

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E. Operation and Maintenance of Roadways  
On the effective date of the annexation, the City will provide for ongoing operation and maintenance of public roads and streets, consistent with City policy and procedure throughout the City.

As new development occurs within the annexed area, the developers of property will be required to construct streets in accordance with the City's subdivision policies in place at the time of development. Upon completion and dedication of new facilities to the City, the City shall provide on-going operation and maintenance for those facilities.

F. Operation and Maintenance of Community Facilities  
Residents of this property may utilize all existing parks, libraries, and community service facilities throughout the City, beginning with the effective date of the annexation. Existing parks, playgrounds, swimming pools and other recreational and community facilities within the Annexation Area that are private facilities will be unaffected by the annexation.

Existing parks, playgrounds, swimming pools and other recreational and community facilities within this property shall, upon deeding to and acceptance by the City and appropriations for maintenance and operations, be operated by the City of Portland, but not otherwise.

G. Operation and Maintenance of Any Other Publicly-Owned Facility, Building, or Service

In the event the City acquires any other facilities, buildings or services necessary for municipal services located in the Annexation Area, the appropriate City department will provide maintenance services.

2. Program for Providing Full Municipal Services within 2 ½ Years

In addition to the services listed above, the City will provide full municipal services to the Annexation Area commensurate with the levels of services provided in other parts of the City except if differences in topography, land use, and population density constitute a sufficient basis for providing different levels of service, no later than two and one-half (2 ½) years after the effective date of the annexation. If full municipal services cannot be reasonably provided within the aforementioned time period, the City will propose a schedule for providing said services within a period of four and one-half (4 ½) years after the effective date of the annexation, and/or upon commencement of development of a subdivision within this property, whichever occurs later.

“Full municipal services” are services provided by the annexing municipality within its full-purpose boundaries, excluding gas or electrical service. The City shall provide the services by any of the methods by which it extends the services to any other area of the City.

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- 3. Non-Annexation or Development Agreements  
The City is offering non-annexation development agreements to eligible property owners located in this area for a specified term of fifteen (15) years. Eligible property owners are those individuals who currently receive an agricultural, timber, or wildlife management property tax exemption on their property. Specific terms and conditions will be provided in individual non-annexation development agreements.
  
- 4. Uniform Level of Service Not Required  
Nothing in this plan shall require the City of Portland to provide a uniform level of full municipal services to each area of the City, including the annexed area, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.
  
- 5. Term  
This service plan shall be valid for a term of ten (10) years. Renewal of the service plan shall be at the discretion of the City Council.
  
- 6. Amendments  
The service plan may be amended if the City Council determines at a public hearing that changed conditions or subsequent occurrences make this service plan unworkable or obsolete. The City Council may amend the service plan to conform to the changed conditions or subsequent occurrences pursuant to the Texas Local Government Code, Section 43.056.

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<b>AGENDA TITLE</b>	<b><u>ORDINANCE NO. 2126 – WATER CONSERVATION PLAN REVISIONS</u></b> THE CITY COUNCIL WILL CONSIDER THE SECOND AND FINAL READING OF ORDINANCE NO. 2126 THAT REVISES THE CITY OF PORTLAND WATER CONSERVATION PLAN
<b>MEETING DATE</b>	12/1/2015
<b>DEPARTMENT</b>	Public Works
<b>SUBMITTED BY</b>	Jamie Pyle, P.E., Director of Public Works and Development

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### **EXECUTIVE SUMMARY**

*This is the second and final reading of Ordinance No. 2126. There have been no changes to the ordinance since its first reading on November 17, 2015.*

The City of Portland's Water Conservation Plan (WCP) was last revised in March 2009. The WCP must be periodically updated in accordance with Texas Administrative Code and to remain in compliance with ongoing state and federal grants.

### **PRIOR ACTIONS OR REVIEWS**

- November 1984 – The City Council passed Ordinance No. 701 establishing the City's water conservation plan.
- January 1995 – The City Council passed Ordinance No. 896 amending the City's water conservation plan.
- March 2009 – The City Council passed Resolution No. 579 amending the City's water conservation plan.

### **DETAILS / STAFF ANALYSIS**

The Texas Administrative Code Title 31 Part 10 Chapter 363 Subchapter A Rule §363.15 and Texas Water Codes: 13.146: 17.125(b); and 17.277(b), requires that the City periodically update its WCP. The last plan update occurred in March 2009. Over the last five (5) years, the City has well exceeded its conservation goals by dropping our water usage by 26% from 2009 to 2014. Over the last five years the City has implemented many measures that have attributed to the successful reduction in water uses by 26% from 2009 to 2014. They include:

- Water meter replacement program w/ radio data output
- Improved meter reading software
- Stage 2 Drought Response
- Public Education

This revised plan proposes to maintain the current consumer water usage keeping use below 100 gallons of water per day per capita by continuing to improve metering devices, continuing the meter maintenance program, continuing documentation of operational uses, and enhanced public education.

**ALTERNATIVES CONSIDERED**

None.

**FINANCIAL IMPACT**

None

**ATTACHMENTS**

- Ordinance No. 2126

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**RECOMMENDED ACTION**

Motion to approve the second and final reading of Ordinance No. 2126.

1 **ORDINANCE NO. 2126**

2  
3 **AN ORDINANCE REVISING THE CITY OF PORTLAND**  
4 **WATER CONSERVATION PLAN; PROVIDING FOR THE**  
5 **REPEAL OF ORDINANCES IN CONFLICT HEREWITH;**  
6 **PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A**  
7 **PENALTY AND SPECIFICALLY NEGATING A**  
8 **REQUIREMENT OF A CULPABLE MENTAL STATE; AND**  
9 **PROVIDING FOR PUBLICATION AND AN EFFECTIVE**  
10 **DATE**

11  
12 **WHEREAS** Section 13.145; 17.125(b); 17.277(b) of the Texas Water Code  
13 requires all public water supply systems in Texas with 3,300 connections or greater to  
14 prepare a water conservation plan; and,

15  
16 **WHEREAS** the City of Portland previously revised its Water Conservation Plan  
17 (WCP) on March 17, 2009, and the City Council has determined it is necessary to make  
18 revisions to the WCP; and,

19  
20 **WHEREAS** the City Council has determined that the revisions to the Plan are  
21 necessary for the orderly and efficient management of limited water supplies by  
22 reducing the volume of water withdrawn from the water supply source, reducing the  
23 loss or waste of water, maintaining or improving the efficiency in the use of water and  
24 increasing the recycling and reuse of water.

25  
26 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF**  
27 **PORTLAND, TEXAS:**

28  
29 **SECTION 1. CITY OF PORTLAND WATER CONSERVATION PLAN ADOPTION**

30  
31 The City of Portland Code of Ordinances Chapter 23, Article III, Division 1, Section 23-  
32 111, is hereby repealed and replaced with The City of Portland Water Conservation Plan  
33 attached hereto and made a part hereof by this reference.

34  
35 **SECTION 2. REPEALER**

36  
37 All previously adopted rules, regulations, policies and ordinances in conflict with this  
38 Ordinance are hereby repealed.

39  
40 **SECTION 3. SEVERABILITY**

41  
42 If any provision, section, clause or phrase of this Ordinance, or the application of same  
43 to any person or set of circumstances is, for any reason held to be unconstitutional, void

44 or invalid, the validity of the remaining portions of this Ordinance shall not be affected  
45 thereby, it being the intent of the City Council in adopting this Ordinance that no portion  
46 hereof, or provisions or regulations contained herein, shall become inoperative or fail by  
47 reason of any unconstitutionality of any other portion hereof, and all provisions of this  
48 Ordinance are declared severable for that purpose.

49

50 **SECTION 4. PENALTY**

51

52 Any person who violates this Ordinance shall be guilty of a misdemeanor and, upon  
53 conviction thereof, shall be subject to a fine not exceeding one thousand dollars  
54 (\$1,000.00). Each and every day that a violation of this Ordinance occurs shall  
55 constitute a separate offense. The culpable mental state required by Chapter 6.02,  
56 Texas Penal Code, is specifically negated and dispensed with and a violation is a strict  
57 liability offense.

58

59 **SECTION 5. PUBLICATION AND EFFECTIVE DATE**

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61 This Ordinance shall be published after second reading hereof by publishing the caption  
62 thereof in the official newspaper with a statement the public may view the Ordinance in  
63 the Office of the City Secretary. This Ordinance shall take effect upon its publication.

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65 **PASSED** and **APPROVED** on second reading this \_\_\_\_\_ of \_\_\_\_\_, 2015.

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**CITY OF PORTLAND**

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**David Krebs**

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**Mayor**

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75 **ATTEST:**

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\_\_\_\_\_  
78 **Annette Hall**  
79 **City Secretary**



## **City of Portland Water Conservation Plan**

### **Section 1. Introduction**

This document is the Water Conservation Plan (WCP) for the City of Portland (City). This WCP was created for the City's retail treated water utility system to effectively manage public water resources. The WCP has been prepared in accordance with Texas Administrative Code Title 31 Part 10 Chapter 363 Subchapter A Rule §363.15 for Municipal Uses by Public Water Suppliers, and the Texas Water Codes; 13.146; 17.125(b); and 17.277(b).

This plan applies to all City of Portland water customers and will be updated at least every five (5) years to account for changes in water usage due to growth in the customer base.

### **Section 2. Declaration of Policy and Reason**

In order to conserve the available water supply, to protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection, to protect and preserve public health, welfare, and safety, and to minimize the adverse impacts of water supply shortage or other water-supply emergency conditions, the City hereby adopts the following goals and plans.

### **Section 3. Utility Profile**

- a. Portland contains 8,772 acres of land, located in San Patricio County on the South Texas coastal plain, fronting on Corpus Christi Bay and Nueces Bay. The Portland City limit is contiguous to Corpus Christi, Texas. The City is joined with other major cities in the state by two major highways: U.S. Highway 181 and Texas State Highway 35. It is the gateway city into Corpus Christi and other points south.
- b. The service area of the City of Portland is located within the Coastal Bend Regional Water Planning Area (Region N) and the City has provided a copy of this WCP to Region N in care of the Nueces River Authority. The City of Portland shall review and update, as appropriate, the WCP at least every five years based on new or updated information.
- c. Water System Description
  - i. The San Patricio Municipal Water District (SPMWD) supplies all of the water used in Portland.
  - ii. SPMWD can supply the City with treated water either purchased from the City of Corpus Christi or directly from the SPMWD water treatment plant located approximately three miles from Portland on Texas State Highway 361. SPMWD can supply a total of 3,150 gallons per minute to Portland's receiving points.
  - iii. Portland has two separate receiving points, the County Road 72 Pump Station, and the Wildcat Drive Pump Station. Each of these pump stations consists of a one

million gallon ground storage tank and service pumps. The pumping capacity for County Road 72 Pump Station is 2,500 gallons per minute and the pumping capacity for the Wildcat Drive Pump Station is 3,500 gallons per minute. These two stations pump into the distribution system. This system consists of two one-half million gallon elevated storage tanks which float on the system, 2" through 16" water mains, fire hydrants, and water meters. All services are metered for a total of 8,022 meters read and billed each month.

- d. Baseline Evaluation of Water and Wastewater Utility System and Customer Use:
  - i. Population and Service Area: The City of Portland's most current population count is 19,400. Projections show that the City's population will continue to grow, with the population estimated to be at 23,000 by the 2020. The population of Portland is projected to increase at a steady pace of 2.5% per year up to the year 2040. The current water service area is found in Appendix A.
  - ii. Water Utility System and Water Usage: As of December 2014, the City of Portland served 8,022 connections. Residential customers comprise nearly 97% of the total connections and nearly 86% of the total yearly consumption. More detailed water and wastewater utility data is found in Appendix B. (Water and Wastewater Utility Data Profile)

#### **Section 4. Five Year and Ten Year Goals**

- a. Water Conservation Goals: The City's prior conservation goal was to reduce water use by 5% by 2015 and 10% by 2020. Over the past 5 years the City has exceeded those goals, reducing the water usage by 26% from 2009 to 2014. The reduction is due to conservation measures such as public education, water line rehabilitation projects, improved development ordinance requiring drought tolerant landscaping, meter upgrades, and a mandatory Stage 2 Drought Management Plan, found in Appendix C. These percentages translate to daily use from 2.3 million gallons in 2009 to 1.9 million gallons by 2014. On a per person basis the City estimates that the current user consumes an average of 99.0 gallons of water per day which is significantly below the State average of 170 gallons per day per capita as determined by the Texas Water Development Board Water Usage Statistics for 2008 (Corpus Christi water usage was 154 gallons per day per capita, Austin water usage was 171 gallons per day per capita and Dallas water usage was 213 gallons per day per capita).
- b. The City's goal for 2015 thru 2025 is to continue to remain at a water use of under 100 gallons of water per day per person. The City will continue to improve metering devices, implement a meter maintenance program, improve documentation of operational uses, increase public education, and expand reuse programs to maintain this goal.

#### **Section 5. Implementation**

The City has exceeded our Water Conservation Goals over the last five years. Our plan to hold that momentum will be based on:

- Improved metering devices
- Meter maintenance program
- Improved documentation of operational uses
- Continued public education and information
- Updating non-promotional water rate structure as necessary
- Expanding our water recycling and reuse program

The City Manager, or his/her designee, of the City of Portland is hereby authorized and directed to implement the applicable provisions of this plan. The City Manager, or his/her designee, will act as Administrator of the Water Conservation Program. He/she will oversee the execution and implementation of the program and will be responsible for keeping adequate records for program verification.

The Amended Plan will be enforced by the following methods:

- a. City Council adopting a resolution supporting this Amended Plan and its goals;
- b. The water rate structure will be enforced; water service will be discontinued for any customer not paying the monthly bill; and
- c. The building inspector will not certify new construction unless it meets adopted plumbing codes.

Implementation Plan Details are:

- a. Metering Program: Measures to determine and control unaccounted-for uses of water and for universal metering of customer and public uses of water.

The City is using INCODE Utility Billing software from Tyler Technologies in conjunction with software from Mueller Systems, LLC, called EZ Reader. Our Automated Meter Reading (AMR) meters and hardware are from Mueller Systems, LLC. Monthly readings are done via a laptop application called EZ Mobile by Mueller Systems. The Mueller Systems software has a reporting mechanism that indicates leaks, abnormal usage, and zero consumption when a meter is identified as active. City Staff follows up with inspections when water uses and readings look abnormal.

- b. Universal Metering and Meter Repair and Replacement: The city is following a scheduled maintenance program for meter repair and replacement.

All utility customers will be metered. A regularly scheduled maintenance program of meter repair and replacement will be performed in accordance with the following schedule:

- Production (master) meters: Test once a year ; larger than 1 inch: Test once a year
- Meters 1 inch or smaller: Test or replace once every ten (10) years

- Zero consumption accounts will be checked to see if water is actually being used but not recorded. In addition, the meters will be checked for proper sizing.
- c. Improved documentation of operational uses: City personnel are required to document and report water consumed for operational purposes such as:
- Fire Fighting
  - Flushing
  - Street Sweeping
  - Sewer Jet Machine
  - Estimating water loss through water main breaks

The city is well informed of water main breaks and leaks. City employees and residents are encouraged to report any possible leaks, whether on private water service lines or public mains. There are very few water lines in untraveled or non-populous areas. The city has 24 hour standby crews to respond to any reported water main break.

Additional requirements for larger leak detection and repair: The overall design of the water distribution system is functional, providing the pressures and flows required by the Texas Commission on Environmental Quality.

- d. Continuing Public Education and Information:
- i. The City of Portland will continue promoting water conservation through handouts with new customers through pamphlets that can be ordered from the Water Development Board.
    - Water Conservation Services for Municipal, Institutional, Commercial and Industrial Water Users.
    - Conservation - Home Owners Guide to Water Use and Conservation.
    - Toilet Tank Leak Detectors.
    - Summer Lawn Watering Guide.
    - Conservation-Saving Water Inside the Home.
    - Conservation-Forty Nine Water Saving Tips.
    - Conservation-Saving Water Outside the Home.
    - Water Conservation Activity Book.
    - Xeriscape Principles. Benefits.
  - ii. The public education program includes the distribution of pamphlets concerning water conservation outside the home. The pamphlets are available at City Hall and the city's Community Center in order to assist home owners with proper plant selection, irrigation, and watering rates and intervals. All public parks and open spaces will be metered and monitored. Public parks and open spaces will implement these procedures. Local nurseries will be asked to assist with the program through plant and planting recommendations to the local citizens.

- e. Non-promotional water rate structure: The City of Portland enacted Ordinance No. 2101 (Appendix D) on January 6, 2015 that established water rates that are related to conservation. For example, the current residential rate for the is \$14.55 plus an additional charge of \$3.20 per thousand gallons for the first 13,000 gallons, \$3.26 per thousand for the next 12,000 gallons and \$3.46 per thousand for the next 15,000 gallons. The rates then escalate to \$3.72 per thousand gallons for usage above 40,000 gallons. There is a differentiation for the commercial base water charge dependent on the meter size with no differentiation of the usage rates.
- f. Water Recycling and Reuse program
  - i. In addition, the city provides recycled wastewater to the City's Wastewater Treatment Plant. The City's WWTP uses treated effluent for wash down purposes and since May of 2008 for the injection of chlorination and de-chlorination chemicals instead of potable water. The City's annual consumption of potable water at WWTP was averaging 15.8 M.G. per year and was lowered to 3.8 M.G. per year in 2008.
  - ii. The City of Portland also transports Class B sludge to the Alcoa lagoons and operated by the Sherwin Plant to be used by the Sherwin Plant. The COP transported 22,295,700 gallons of Class B sludge which is approximately 99.9 percent water from August 2008 to July 2014. This water is used to irrigate the sand-like byproduct of the Sherwin Plant process. The sand-like product would otherwise be windblown, causing additional smog (air pollution) in the area around the Sherwin Plant including Gregory, Portland and Ingleside. The Class B sludge that is applied allows vegetation to grow covering the sand-like byproduct. Then the water that filters through these lagoons ends up in storage ponds to use as process water for the Reynolds Plant.

## **Section 6. Adoption**

The original Water Conservation Plan was adopted in November 1992 (last amended May 2009) in conjunction with the City of Portland Code of Ordinances, Article III, Division 1, Section 23-111. In compliance with Texas Commission on Environmental Quality (TCEQ), this amended plan now titled "Water Conservation Plan" was adopted on December 1, 2015.

## **Section 7. Reporting Requirement**

The updates to the annual report on the utility profile form TWDB-1965 shall be the responsibility of the Director of Public Works and Development.

- Appendix A – Current Water Service Area
- Appendix B – Water and Wastewater Utility Data Profile
- Appendix C – Adopted Drought Contingency Plan
- Appendix D – Ordinance No. 2101



# Texas Commission On Environmental Quality

By These Presents Be It Known To All That  
City of Portland

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

## Certificate of Convenience and Necessity No. 10541

to provide continuous and adequate water utility service to that service area or those service areas in San Patricio County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 36722-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Portland to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this **April 26, 2011**

  
For the Commission



# Texas Commission On Environmental Quality

By These Presents Be It Known To All That

City of Portland

having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

## Certificate of Convenience and Necessity No. 20216

to provide continuous and adequate sewer utility service to that service area or those service areas in San Patricio County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 36723-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of City of Portland to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this **April 26, 2011**

  
For the Commission

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



APPLICATION NOS. 36722-C and 36723-C

IN THE MATTER OF THE  
APPLICATION OF THE CITY OF  
PORTLAND TO AMEND CERTIFICATE  
OF CONVENIENCE AND NECESSITY  
NOS. 10541 AND 20216 IN SAN  
PATRICIO COUNTY, TEXAS

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

On **April 26, 2011**, the Executive Director of the Texas Commission on Environmental Quality pursuant to Chapters 5 and 13 of the Texas Water Code considered the applications of the City of Portland to amend Certificate of Convenience and Necessity Nos. 10541 and 20216 in San Patricio County, Texas.

A protest was received from Rincon Water Supply (RWSC). The protest was withdrawn by letter dated February 2, 2011.

Notice of the application was given to all affected and interested parties;

The criteria set forth in *Texas Water Code* Sections 13.246(c) has been considered; and

The certificate amendments requested in these applications are necessary for the service, accommodation, convenience, and safety of the public.

Now, therefore, be it ordered by the Texas Commission on Environmental Quality that the applications are granted and Certificate of Convenience and Necessity Nos. 10541 and 20216 be amended in accordance with the terms and conditions set forth herein and in the certificates.

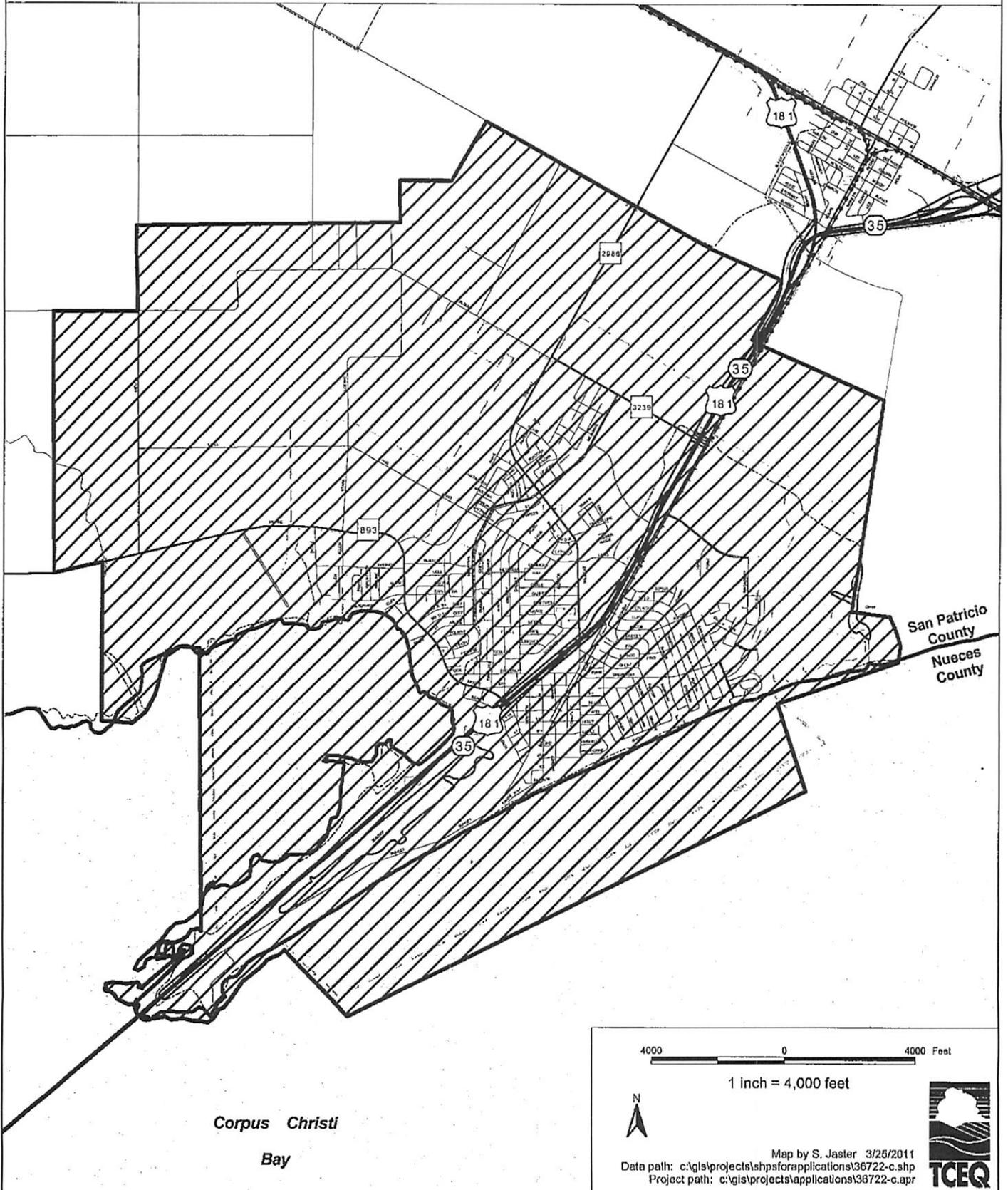
IT IS FURTHER ORDERED that the City of Portland shall serve every customer and applicant for service within the area certified under Certificate of Convenience and Necessity Nos. 10541 and 20216 and that such service shall be continuous and adequate.

Texas Commission on Environmental Quality

Issued date: **April 26, 2011**

  
For the Commission

City of Portland  
Water and Sewer Service Area  
CCN Nos. 10541 and 20216  
Application Nos. 36722-C and 36723-C  
San Patricio and Nueces Counties





## Texas Commission on Environmental Quality

### UTILITY PROFILE AND WATER CONSERVATION PLAN REQUIREMENTS FOR MUNICIPAL WATER USE BY RETAIL PUBLIC WATER SUPPLIERS

This form is provided to assist retail public water suppliers in water conservation plan development. If you need assistance in completing this form or in developing your plan, please contact the conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4691.

Name: City of Portland

Address: 1101 Moore Avenue, Portland, Texas 78374

Telephone Number: (361) 777-4605 Fax: ( )

Water Right No.(s): NA

Regional Water Planning Group: N

Form Completed by: Jamie Pyle, P.E.

Title: Director of Public Works and Development

Person responsible for implementing conservation program: Jamie Pyle, P.E. Phone: (361) 777-4605

Signature: *Jamie Pyle* Date: 7/31/2015

**NOTE: If the plan does not provide information for each requirement, include an explanation of why the requirement is not applicable.**

## UTILITY PROFILE

### I. POPULATION AND CUSTOMER DATA

#### A. Population and Service Area Data

1. Attach a copy of your service-area map and, if applicable, a copy of your Certificate of Convenience and Necessity (CCN).
2. Service area size (in square miles): 10.55 square miles  
(Please attach a copy of service-area map)
3. Current population of service area: 19,400
4. Current population served for:
  - a. Water 19,400
  - b. Wastewater 19,200

5. Population served for previous five years:

<i>Year</i>	<i>Population</i>
2013	18,000
2012	15,199
2011	17,500
2010	17,500
2009	17,900

6. Projected population for service area in the following decades:

<i>Year</i>	<i>Population</i>
2020	22,000
2030	28,000
2040	36,000
2050	39,000
2060	40,000

7. List source or method for the calculation of current and projected population size.  
Future population is based on proration of growth based on growth over the past two years and the industrial growth occurring now and over the next 20 years.

#### B. Customers Data

Senate Bill 181 requires that uniform consistent methodologies for calculating water use and conservation be developed and available to retail water providers and certain other water use sectors as a guide for preparation of water use reports, water conservation plans, and reports on water conservation efforts. A water system must provide the most detailed level of customer and water use data available to it, however, any new billing system purchased must be capable of reporting data for each of the sectors listed below. [http://www.tceq.texas.gov/assets/public/permitting/watersupply/water\\_rights/sb181\\_guidance.pdf](http://www.tceq.texas.gov/assets/public/permitting/watersupply/water_rights/sb181_guidance.pdf)

1. Current number of active connections. Check whether multi-family service is counted as  Residential or  Commercial?

<i>Treated Water Users</i>	<i>Metered</i>	<i>Non-Metered</i>	<b>Totals</b>
Residential			
Single-Family	5217	0	5217
Multi-Family	51	0	51
Commercial	272	0	272
Industrial/Mining	0	0	0
Institutional	104	0	104
Agriculture	163	0	163
Other/Wholesale	0	0	0

2. List the number of new connections per year for most recent three years.

<i>Year</i>	2013	2012	2011
<i>Treated Water Users</i>			
Residential	-30	-2143	125
Single-Family	-29	161	107
Multi-Family	-1	-2304	18
Commercial	63	-48	16
Industrial/Mining	0	0	0
Institutional	0	0	0
Agriculture	0	0	0
Other/Wholesale	0	0	0

3. List of annual water use for the five highest volume customers.

<i>Customer</i>	<i>Use (1,000 gal/year)</i>	<i>Treated or Raw Water</i>
1. Bridge Point Landing	152,800	Treated
2. Lands End Apartments	86,951	Treated
3. GPISD High School	76,703	Treated
4. Westbury Apartments	65,853	Treated
5. Portland MHP	60,696	Treated

## II. WATER USE DATA FOR SERVICE AREA

### A. Water Accounting Data

1. List the amount of water use for the previous five years (in 1,000 gallons). Indicate whether this is  diverted or  treated water.

<i>Year</i>	2010	2011	2012	2013	2014
<i>Month</i>					
January	44,009	44,352	56,703	49,906	50,165
February	36,964	44,786	44,261	47,092	48,730
March	46,484	56,129	52,868	62,668	53,304
April	53,015	67,949	56,421	64,507	62,766
May	67,068	71,384	63,529	61,373	66,548
June	68,180	85,260	75,695	69,975	76,506
July	50,441	104,101	73,780	71,480	72,451
August	74,468	105,561	97,926	74,777	70,208
September	54,655	80,775	76,492	56,327	50,203
October	60,406	72,993	64,871	55,233	53,533
November	51,215	65,702	55,118	51,624	48,230
December	49,898	52,652	53,447	50,676	48,259
<b>Totals</b>	<b>656,803</b>	<b>851,644</b>	<b>771,111</b>	<b>715,598</b>	<b>700,903</b>

Describe how the above figures were determine (e.g, from a master meter located at the point of a diversion from the source, or located at a point where raw water enters the treatment plant, or from water sales).

Readings were taken daily from two master meters, County Road 2004 and Gregory.

2. Amount of water (in 1,000 gallons) delivered/sold as recorded by the following account types for the past five years.

<i>Year</i>	2010	2011	2012	2013	2014
<i>Account Types</i>					
Residential	490,215	650,703	579,354	561,651	510,717
Single-Family	427,934	573,173	475,408	464,674	436,782
Multi-Family	62,281	77,530	103,946	96,977	73,935
Commercial	36,935	47,695	53,713	45,989	64,497
Industrial/Mining	0	0	0	0	0
Institutional	21,262	27,457	30,898	26,474	37,119
Agriculture	26,645	34,407	47,688	33,176	46,526
Other/Wholesale	0	0	0	0	0

3. List the previous records for water loss for the past five years (the difference between water diverted or treated and water delivered or sold).

<i>Year</i>	<i>Amount (gallons)</i>	<i>Percent %</i>
2010	55,336,100	8.65
2011	70,865,250	6.85
2012	64,403,668	6.64
2013	27,725,710	4.58
2014	25,750,128	4.40

*B. Projected Water Demands*

If applicable, attach or cite projected water supply demands from the applicable Regional Water Planning Group for the next ten years using information such as population trends, historical water use, and economic growth in the service area over the next ten years and any additional water supply requirements from such growth.

2025 Projected water use = 916,968,700 gallons

**III. WATER SUPPLY SYSTEM DATA**

*A. Water Supply Sources*

List all current water supply sources and the amounts authorized (in acre feet) with each.

<i>Water Type</i>	<i>Source</i>	<i>Amount Authorized</i>
Surface Water	_____	_____
Groundwater	_____	_____
Contracts	San Patricio Municipal Water District	as demand requires
Other	_____	_____

*B. Treatment and Distribution System*

1. Design daily capacity of system (MGD): 8.6 MGD
2. Storage capacity (MGD):
  - a. Elevated 1 MG
  - b. Ground 2 MG
3. If surface water, do you recycle filter backwash to the head of the plant?
 

Yes       No      If yes, approximate amount (MGD):



## V. ADDITIONAL REQUIRED INFORMATION

*In addition to the utility profile, please attach the following as required by Title 30, Texas Administrative Code, §288.2. Note: If the water conservation plan does not provide information for each requirement, an explanation must be included as to why the requirement is not applicable.*

### A. *Specific, Quantified 5 & 10-Year Targets*

The water conservation plan must include specific, quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use in gallons per capita per day. Note that the goals established by a public water supplier under this subparagraph are not enforceable

### B. *Metering Devices*

The water conservation plan must include a statement about the water suppliers metering device(s), within an accuracy of plus or minus 5.0% in order to measure and account for the amount of water diverted from the source of supply.

### C. *Universal Metering*

The water conservation plan must include and a program for universal metering of both customer and public uses of water, for meter testing and repair, and for periodic meter replacement.

### D. *Unaccounted- For Water Use*

The water conservation plan must include measures to determine and control unaccounted-for uses of water (for example, periodic visual inspections along distribution lines; annual or monthly audit of the water system to determine illegal connections; abandoned services; etc.).

### E. *Continuing Public Education & Information*

The water conservation plan must include a description of the program of continuing public education and information regarding water conservation by the water supplier.

### F. *Non-Promotional Water Rate Structure*

The water supplier must have a water rate structure which is not “promotional,” i.e., a rate structure which is cost-based and which does not encourage the excessive use of water. This rate structure must be listed in the water conservation plan.

### G. *Reservoir Systems Operations Plan*

The water conservation plan must include a reservoir systems operations plan, if applicable, providing for the coordinated operation of reservoirs owned by the applicant within a common watershed or river basin. The reservoir systems operations plan shall include optimization of water supplies as one of the significant goals of the plan.

### H. *Enforcement Procedure and Plan Adoption*

The water conservation plan must include a means for implementation and enforcement, which shall be evidenced by a copy of the ordinance, rule, resolution, or tariff, indicating official adoption of the water conservation plan by the water supplier; and a description of the authority by which the water supplier will implement and enforce the conservation plan.

*I. Coordination with the Regional Water Planning Group(s)*

The water conservation plan must include documentation of coordination with the regional water planning groups for the service area of the wholesale water supplier in order to ensure consistency with the appropriate approved regional water plans.

*J. Plan Review and Update*

A public water supplier for municipal use shall review and update its water conservation plan, as appropriate, based on an assessment of previous five-year and ten-year targets and any other new or updated information. The public water supplier for municipal use shall review and update the next revision of its water conservation plan not later than May 1, 2009, and every five years after that date to coincide with the regional water planning group. The revised plan must also include an implementation report.

**VI. ADDITIONAL REQUIREMENTS FOR LARGE SUPPLIERS**

*Required of suppliers serving population of 5,000 or more or a projected population of 5,000 or more within ten years*

*A. Leak Detection and Repair*

The plan must include a description of the program of leak detection, repair, and water loss accounting for the water transmission, delivery, and distribution system in order to control unaccounted for uses of water.

*B. Contract Requirements*

A requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff), and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter. If the customer intends to resell the water, the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with the provisions of this chapter.

**VII. ADDITIONAL CONSERVATION STRATEGIES**

*A. Conservation Strategies*

Any combination of the following strategies shall be selected by the water supplier, in addition to the minimum requirements of this chapter, if they are necessary in order to achieve the stated water conservation goals of the plan. The commission may require by commission order that any of the following strategies be implemented by the water supplier if the commission determines that the strategies are necessary in order for the conservation plan to be achieved:

1. Conservation-oriented water rates and water rate structures such as uniform or increasing block rate schedules, and/or seasonal rates, but not flat rate or decreasing block rates;

2. Adoption of ordinances, plumbing codes, and/or rules requiring water conserving plumbing fixtures to be installed in new structures and existing structures undergoing substantial modification or addition;
3. A program for the replacement or retrofit of water-conserving plumbing fixtures in existing structures;
4. A program for reuse and/or recycling of wastewater and/or graywater;
5. A program for pressure control and/or reduction in the distribution system and/or for customer connections;
6. A program and/or ordinance(s) for landscape water management;
7. A method for monitoring the effectiveness and efficiency of the water conservation plan; and
8. Any other water conservation practice, method, or technique which the water supplier shows to be appropriate for achieving the stated goal or goals of the water conservation plan.

### ***Best Management Practices***

*The Texas Water Developmental Board's (TWDB) Report 362 is the Water Conservation Best Management Practices (BMP) guide. The BMP Guide is a voluntary list of management practices that water users may implement in addition to the required components of Title 30, Texas Administrative Code, Chapter 288. The Best Management Practices Guide broken out by sector, including Agriculture, Commercial, and Institutional, Industrial, Municipal and Wholesale along with any new or revised BMP's can be found at the following link on the Texas Water Developments Board's website: <http://www.twdb.state.tx.us/conservation/bmps/index.asp>*

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact 512-239-3282.



## **City of Portland Drought Contingency Plan**

### **Section 1. Introduction**

This document is the Drought Contingency Plan (DCP) for the City of Portland (City). This DCP was created so that the City can reduce demand when supplies are low so the residents have enough water to make it through a drought. This DCP clearly explains the triggers initiated by a drought and the steps to be taken during each stage of a drought. There is also information in this DCP which explains the steps to be taken in a water emergency, such as when supplies are cut off or contaminated. The DCP has been prepared in accordance with Texas Administrative Code Title 30 Chapter 288 Subchapter B Rule §288.20 for Municipal Uses by Public Water Suppliers.

### **Section 2. Declaration of Policy and Reason**

In order to conserve the available water supply, to protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection, to protect and preserve public health, welfare, and safety, and to minimize the adverse impacts of water supply shortage or other water-supply emergency conditions, the City hereby adopts the following regulations and restrictions on the delivery and consumptions of water.

Water uses regulated or prohibited under this DCP are considered to be non-essential, and continuation of such uses during times of water shortage or other emergency water-supply conditions are deemed to constitute a waste of water, which subjects the offender(s) to penalties as defined in this ordinance.

Currently, the City's water supply is delivered by the San Patricio Municipal Water District and is comprised of three reservoirs: Lake Corpus Christi, Choke Canyon Reservoir and Lake Texana. However, the criteria to trigger drought response stages are based on the combined capacity of Lake Corpus Christi and Choke Canyon Reservoir. Since Choke Canyon Reservoir filled in June 1987, the combined storage of Choke Canyon Reservoir and Lake Corpus Christi has exceeded 60% capacity only about 62% of the time. The water storage levels in Choke Canyon Reservoir and Lake Corpus Christi have generally been 2-4% higher since Lake Texana supplies were added in October 1998.

Even with three reservoirs, the City still faces drought conditions (<50% storage levels) 16% of the time. It is because of this frequency that the following DCP has been developed. This DCP adopts measures that will dramatically cut water consumption in order to conserve water

supplies.

### **Section 3. Public Education**

Public meetings to receive comments on the DCP were held on June 4, 2013 and June 18, 2013. The City will periodically provide the public with information about the DCP, including information about the conditions under which each stage of the DCP is to be initiated or terminated, and the drought response measures to be implemented in each stage. This information will be provided by utility bill inserts, notices in the *Coastal Bend Herald* and/or *Corpus Christi Caller-Times*, and notice on the City's website ([www.portlandtx.com](http://www.portlandtx.com)). Notification to the public about when drought stages go into effect or when restrictions are lifted is explained in more detail in Section 5.

### **Section 4. Coordination with Regional Water Planning Groups**

The service area of the City of Portland is located within the Coastal Bend Regional Water Planning Area (Region N) and the City has provided a copy of this DCP to Region N in care of the Nueces River Authority. The City of Portland shall review and update, as appropriate, the DCP at least every five years based on new or updated information, such as the adoption or revision of the regional water plan.

### **Section 5. Drought Stages Response Notification**

The City Manager, or designee, shall monitor water supply and/or demand conditions on a weekly basis and, in accordance with the triggering criteria set forth in Section 6 of this Chapter, shall determine that a mild, moderate, severe, critical, or emergency water shortage condition exists and shall implement the following notification procedures.

Notification of the Public:

The City Manager, or designee, shall notify the public for every change in drought stage status by any or all of the following:

- City's website ([www.portlandtx.com](http://www.portlandtx.com))
- Publication in the *Corpus Christi Caller-Times*
- Notice on the monthly billing
- Public Service Announcements
- Signs posted in public places

Additional Notification:

The City Manager, or designee shall, at a minimum, notify directly, or cause to be notified directly, the following individuals and entities for every change in drought stage status:

- Mayor and members of the City Council
- Fire Chief
- City and/or County Emergency Management Coordinator
- County Judge and Commissioner(s)
- Major water users (such as industries)
- Critical water users (such as hospitals)
- Parks/street superintendents and public facilities managers
- Texas Commission on Environmental Quality (TCEQ) – note TCEQ executive director must be informed within five (5) business days of mandatory water use restrictions being imposed

**Section 6. Drought Best Management Practices Per Stage**

A summary of water use reduction targets for each drought stage response is presented in the following table. Further discussion on best management practices and implementation practices associated with each stage of response is included below.

<b>Drought Stage Response</b>	<b>CCR/LCC Combined Reservoir Storage Level</b>	<b>Target Demand Reduction Levels</b>
Stage 1- Mild	<50% or if Lake Texana is <40%	5%
Stage 2- Moderate	<40%	10%
Stage 3- Severe	<30%	15%
Stage 4- Critical	<20%	30%
Stage 5- Emergency	Not Applicable	50%

**Sec. 23-121. - Prohibition and regulation of uses.**

For the purposes of this division, the following provisions shall apply:

- (1) No person shall knowingly, recklessly, or with criminal negligence, make, cause, use or permit the use of water from the city system for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this section, or in an amount in excess of that use permitted by the conservation stage in effect pursuant to action taken by the city manager, or his designee, in accordance with the provisions of this section. The provisions of this section shall apply to all uses of water from the city water supply system wherever situated. As used in this division, "person" includes individuals, corporations, partnerships, associations, and all other legal entities.
- (2) The city manager shall promulgate guidelines which shall set forth the

criteria for determining when a particular conservation stage is to be implemented and terminated. Such guidelines shall be updated when, in the opinion of the city manager, the conditions of the water system have changed so as to necessitate such update, such guidelines to be published and filed in the office of the city.

- (3) The use or withdrawal of water from the water supply system of the city for the following purposes or uses is hereby regulated during any period of water shortage commencing with the promulgation of water conservation guidelines and implementation of same by the City Manager and continuing until such water conservation measures are no longer deemed necessary by the city manager in accordance with such guidelines:
  - a. Stage 1 Response - MILD Water Shortage Conditions - Target: Achieve a 5% reduction in daily water demand with the following water use restrictions:
    1. Best Management Practices for Supply Management: The City will enact voluntary measures to reduce or discontinue the flushing of water mains if practicable and utilize reclaimed water for non-potable uses to the greatest extent possible.
    2. Water Use Restrictions for Reducing Demand:
      - a. Water customers are requested to voluntarily limit the irrigation of landscaped areas to once per week. The watering schedule will be determined by the City Manager.
      - b. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.
  - b. Stage 2 Response - MODERATE Water Shortage Conditions - Target: Achieve a 10% reduction in daily water demand with the following water use restrictions:
    1. Best Management Practices for Supply Management: In addition to the best management practices for supply management listed under Stage 1, the City will also do the following during Stage 2:
      - a. Use more repair crews if necessary to allow for a quicker response time for water-line leak repair; and
      - b. City crews will monitor customers' compliance with Stage 2 restrictions during the course of their daily rounds.

2. The following water use restrictions shall apply to all persons during Stage 2:
  - a. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to once per week. The watering schedule will be determined by the City Manager. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system. Exceptions for this restriction may be permitted, upon review and approval by the Water Allocation and Review Committee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system must apply for a permit from the City Water Department to be prominently posted on the premises within two (2) feet of the street number located on the premises.
  - b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations upon review of the Water Allocation and Review Committee if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
  - c. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days.
  - d. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life.
  - e. Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Portland.
  - f. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days.

However, if the golf course utilizes a water source other than that provided through City of Portland infrastructure, the facility shall not be subject to these regulations.

- g. The use of water to maintain integrity of building foundations is limited to designated watering days and is only permitted by use of hand-held hose or drip irrigation.
  - h. The following uses of water are defined as non-essential and are prohibited:
    - i. Wash-down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas, except by a commercial power-washing contractor and if it is in the interest of public health and safety.
    - ii. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
    - iii. Use of water for dust control without special permit.
- c. Stage 3 Response - SEVERE Water Shortage Conditions - Target: Achieve a 15% reduction in total daily water demand with the following water use restrictions:
- 1. Best Management Practices for Supply Management: In addition to the best management practices for supply management listed under Stage 2, the City will also do the following:
    - a. Eliminate the flushing of water mains unless required for decontamination and/or public safety; and
    - b. Monitor customers for compliance and notify violators verbally or in writing as the situation dictates.
  - 2. Water Use Restrictions for Demand Reduction: All requirements of Stage 2 shall remain in effect during Stage 3 except:
    - a. Irrigation of landscaped areas shall be limited to once every other week. The watering schedule will be determined by the City Manager or designee. Customers will be made aware of their designated watering day. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon review and approval by the Water Allocation and Review Committee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system

shall still apply for a permit from the City Water Department to be prominently posted on the premises within two (2) feet of the street number located on the premises.

- b. The watering of golf course fairways is prohibited. The watering of greens and tees are limited to once every other week unless the golf course utilizes a water source other than that provided through City of Portland Water Department infrastructure or done by means of hand-held hoses, hand-held buckets, or drip irrigation.
- d. Stage 4 Response - CRITICAL Water Shortage Conditions - Target: Achieve a 30% or greater reduction in daily water demand with the following water use restrictions:
  1. Best Management Practices for Supply Management: In addition to the best management practices for supply management listed under Stage 3, the City will also do the following:
    - a. Upon written notice, disconnect the water meters of willful violators if absolutely necessary to prevent the deliberate wasting of water.
  2. Water Use Restrictions for Demand Reduction: All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:
    - a. Irrigation of landscaped areas shall be prohibited at all times.
    - b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and not in the immediate interest of public health, safety, and welfare is prohibited.
    - c. The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools, and water parks (unless utilizing water from a non-city alternative source) is prohibited.
    - d. The use of water to maintain the integrity of a building foundation is still permitted on the designated Stage 3 watering day.
    - e. During Stage 4, the following measures are optional water use restrictions that may be implemented by the City Manager, with approval of the City Council, as conditions warrant:
      - i. No application for new, additional, expanded, or increased- in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage shall be in effect.

- ii. A drought surcharge of up to and including 100% of the current water rate may be added to the customers' bill to deter discretionary water use.
  - e. Stage 5 Response – EMERGENCY Water Shortage Conditions - Target: Achieve a 50% or greater reduction in daily water demand with the following water use restrictions:
    - 1. Best Management Practices for Supply Management: In addition to the best management practices for supply management listed under Stage 4, the City will also call the ten largest water customers, and if necessary, use runners in key areas to begin spreading the message of a major outage.
    - 2. Water Use Restrictions for Demand Reduction: All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:
      - a. Irrigation of landscaped areas is absolutely prohibited.
      - b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
      - c. Business process water shall be reduced to a basic amount necessary only for the continuance of a business's workday or product production or protection. Associated uses such as equipment washing shall be deferred.
      - d. During Stage 5, the following measures are optional water use restrictions that may be implemented by the City Manager, with approval of the City Council, as conditions warrant:
        - i. No application for new, additional, expanded, or increased- in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage shall be in effect.
        - ii. A drought surcharge of up to and including 100% of the current water rate may be added to the customers' bill to deter discretionary water use.
- (4) The following measures are year-round water conservation best management practices that are in effect at all times, regardless of the reservoir levels or drought contingency levels.
- a. Prohibition on wasting water: Actions leading to wasting of water are prohibited and will be enforced. No person shall:
    - 1. Allow water to run off property into gutters or streets.
    - 2. Permit or maintain defective plumbing in a home, business

establishment or any location where water is used on the premises. Defective plumbing includes out-of-repair water closets, underground leaks, defective or leaking faucets and taps.

3. Allow water to flow constantly through a tap, hydrant, valve, or otherwise by any use of water connected to the City water system.
  4. Use any non-recycling decorative water fountain.
  5. Allow irrigation heads or sprinklers to spray directly on paved surfaces such as driveways, parking lots, and sidewalks in public right-of-ways.
  6. Operate an irrigation system at water pressure higher than recommended, causing heads to mist, or to operate with broken heads.
- b. Time of Irrigation: Irrigation by spray or sprinklers is prohibited between the hours of 10:00 AM and 6:00 PM. It is still permissible to water by hand or by drip irrigation at any time of day, unless the City enters Stage 4 Drought.

**Sec. 23-122. - Allocation and review committee.**

- (a) The allocation and review committee shall be composed of five (5) members appointed to indefinite terms by the city council and serving at its pleasure. The city council shall appoint one (1) of the members to be chairman.
- (b) The committee shall consider requests of water users for special consideration to be given as to their respective particular circumstances and the committee shall hear and decide such requests and is hereby authorized to, in special cases, grant such variance from the terms of this division as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this division will result in unnecessary hardship, and so that the spirit of this division shall be observed and substantial justice done. Should a permit for special exception be granted by such committee, it shall be in effect from the time of granting; provided, that the permit is prominently posted on the premises within two (2) feet of the street number located on the premises. Should protest be received after the granting of any such special permit, the committee shall reconsider the revocation of such permit and shall consider the granting of such permit at a public hearing, notice of which shall have been given at least one

(1) day prior to the holding of such hearing. After the conclusion of such hearing, the committee shall take such action, by way of revocation of such permit, or refusal to revoke the same, or modification of such permit, as the committee may deem proper under the circumstances.

**Sec. 23-123. - Violations, penalty and enforcement.**

- (a) Any person violating any provision of this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine as provided in article IV of this chapter. The commission of a violation of each provision, and each separate violation thereof, shall be deemed a separate offense, and upon conviction thereof shall be fined as hereinabove provided. If any person or a second person in the same household or premises is found guilty of a second violation of this article, the director of public works shall be authorized to discontinue water service to the premises where such violation occurs.
- (b) Any police officer, or other city employee designated by the city manager, may issue a citation to a person he reasonably believes to be in violation of this division. The citation shall be prepared in duplicate and shall contain the name and address of alleged violator, if known, and the offense charged, and shall direct him to appear in the city's municipal court no sooner than ten (10) days and no later than twenty-one (21) days of service of the citation. The alleged violator shall be requested to sign the citation and shall be served with a copy of the citation. Service of the citation shall be complete upon the attempt to give it to the alleged violator, to an agent or employee of a violator, or to a person over fourteen (14) years of age who is a member of the violator's immediate family or is a resident at the violator's residence. The alleged violator shall appear in municipal court to make his plea no sooner than ten (10) days and no later than twenty-one (21) days of service of the citation, and failure to so appear shall be a violation of this division. A police officer may arrest for any offense under this division where permitted by state arrest law. Such cases shall be expedited and given preferential setting in municipal court before all other cases.
- (c) A person in apparent control of the property where the violation occurs or originates shall be presumed to be the violator, and proof of facts showing apparent control by such person of the premises and proof that the violation occurred on the premises shall constitute prima facie evidence that such person committed the violation, but such person shall have the right to show that he did not commit the violation. Any person whose name is on file with the utilities department as the customer on the water account for the property where the violation occurs or

originates shall be presumed to be the violator, and proof that the violation occurred on such premises shall constitute prima facie evidence that the customer committed the violation, but such customer shall have the right to show that he did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children, and proof that a child committed a violation on property within the parent's control shall constitute prima facie evidence that such parent committed the violation, but such parent may be excused if he proves that he previously directed the child not to use the water as it was used in the violation and that the parent could not have reasonably known of the violation.

**Sec. 23-124. - Surcharges for Drought Stages 3, 4, 5 and Service Measures**

(a) General

1. The surcharges established herein are solely intended to regulate and deter the use of water during a period of serious drought in order to achieve necessary water conservation. The City Council expressly finds that the drought poses a serious and immediate threat to the public and economic health and general welfare of this community, and that the surcharges and other measures adopted herein are essential to protect said public health and welfare.
2. This section, and the surcharges and measures adopted herein are an exercise of the City's regulatory and police power, and the surcharges and connection fees are conservation rates intended to meet fixed costs as a result of lost revenue.
3. The City Manager or designee is authorized to determine trigger points and surcharges during Stages 3, 4 and 5 Emergency Water Shortage conditions.
4. In this section, institutional customer means city utility customer which operates as a not-for-profit entity.
5. A customer may appeal an allocation or drought surcharge triggering point established under this Section to the Water Allocation and Review Committee on grounds of unnecessary hardship.

(b) Residential water customers, who are not billed through a master water meter.

1. A monthly water usage trigger point shall be 3,000 gallons for residential customers. This trigger point is the maximum amount of

water that a customer can use in a month before being charged a drought rate surcharge.

2. The drought surcharge can be up to and including 100% of the most current water rate.

(c) Residential customers who are billed from a master water meter.

1. A monthly water usage trigger point shall be 3,000 gallons for each residential unit. This trigger point is the maximum amount of water that a customer can use in a month before being charged a drought rate surcharge.
2. The drought surcharge can be up to and including 100% of the most current water rate.

(d) Commercial or institutional customer

1. A monthly water usage allocation shall be established by the City Manager or designee for each commercial or institutional customer.
2. Method of establishing allocation:
  - a. During Stage 4, the commercial or institutional customer's allocation shall be 90 percent of the customer's usage for the corresponding month's billing period during the previous 12 months prior to the implementation of Stage 2 condition.
  - b. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists.
  - c. Provided, however, a customer, 90 percent of whose monthly usage is less than 6,000 gallons, shall be allocated 6,000 gallons.
  - d. The City Manager shall give best effort to see that notice of each commercial or institutional customer's allocation is mailed to such customer.
  - e. If, however, the customer does not receive such notice, it shall be the customer's responsibility to contact the City' Utilities Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.
  - f. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased by the City Manager,
    1. if one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or

2. if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.
- (e) Commercial, institutional, and industrial customers shall pay the following surcharges:
1. Customers whose allocation is 6,000 gallons through 20,000 gallons per month:
    - a. \$5.00 per 1,000 gallons for the first 1,000 gallons over allocation.
    - b. \$8.00 per 1,000 gallons for the second 1,000 gallons over allocation.
    - c. \$16.00 per 1,000 gallons for the third 1,000 gallons over allocation.
    - d. \$40.00 for each additional 1,000 gallons over allocation.
  2. Customers whose allocation is 21,000 gallons per month or more:
    - a. One times the block rate for each 1,000 gallons in excess of the allocation up through 5 percent above allocation.
    - b. Three times the block rate for each 1,000 gallons from 5 percent through 10 percent above allocation.
    - c. Five times the block rate for each 1,000 gallons from 10 percent through 15 percent above allocation.
    - d. Ten times the block rate for each 1,000 gallons more than 15 percent above allocation.
    - e. The surcharges shall be cumulative.
    - f. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.
- (f) Nonresidential customer is billed from a master meter.
1. When a nonresidential customer is billed from a master meter which jointly measures water to multiple residential dwelling units (for example: apartments, mobile homes), the customer may pass along any surcharges assessed under this plan to the tenants or occupants, provided that:
    - a. The customer notifies each tenant in writing:
      1. That the surcharge will be passed along.
      2. How the surcharge will be apportioned.

3. That the landlord must be notified immediately of any plumbing leaks.
    4. Methods to conserve water (which shall be obtained from the City).
  - b. The customer diligently maintains the plumbing system to prevent leaks.
  - c. The customer installs water saving devices and measures (ideas for which are available from the City) to the extent reasonable and practical under the circumstances.
- (g) Water service to the customer may be terminated under the following conditions:
  1. Monthly residential water usage exceeds allocation by 4,000 gallons or more two or more times (which need not be consecutive months).
  2. Monthly water usage on a master meter which jointly measures water usage to multiple residential dwelling units exceeds allocation by 4,000 gallons times the number of dwelling units or more two or more times (which need not be consecutive months).
  3. Monthly nonresidential water usage for a customer whose allocation is 6,000 gallons through 20,000 gallons exceeds its allocation by 7,000 gallons or more two or more times (which need not be consecutive months).
  4. Monthly nonresidential water usage for a customer whose allocation is 21,000 gallons or more exceeds its allocation by 15 percent or more two or more times (which need not be consecutive months).
  5. For residential customers and nonresidential customers whose allocation does not exceed 20,000 gallons, after the first disconnection water service shall be restored upon request for a fee of \$50.
  6. For such customers, after the second disconnection, water service shall be restored within 24 hours of the request for a fee of \$500.
  7. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 3. For master meter customers, the service restoration fees shall be the same as above times the number of dwelling units.
  8. For nonresidential customers whose allocation is 21,000 gallons per month or more:
    - a. After the first disconnection, water service shall be restored upon request for a fee in the amount of "X" in the following

formula:

$$X = \$ 50 \times \text{Customer's Allocation in gallons} / 20,000 \text{ gallons}$$

- b. After the second disconnection for said customers, water service shall be restored within 24 hours of the request for a fee of 10 times "X".
  - c. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 3.
  - d. The City Manager is directed to institute written guidelines for disconnection of water service under this provision, which will satisfy minimum due process requirements, if any.
- (h) It shall be a defense to imposition of a surcharge hereunder, or to termination of service, that water used over allocation resulted from loss of water through no fault of the customer (for example, a major water line break) for the following conditions:
- 1. The customer shall have the burden to prove such defense by objective evidence (for example, a written certification of the circumstances by a plumber).
  - 2. A sworn statement may be required of the customer.
  - 3. This defense shall not apply if the customer failed to take reasonable steps for upkeep of the plumbing system, failed to reasonably inspect the system and discover the leak, failed to take immediate steps to correct the leak after discovered, or was in any other way negligent in causing or permitting the loss of water.
- (i) When this section refers to allocation or water usage periods as "month," monthly," "billing period," and the like, such references shall mean the period in the City's ordinary billing cycle which commences with the reading of a meter one month and commences with the next reading of that meter which is usually the next month.
- 1. The goal for the length of such period is 30 days, but a variance of five days, more or less, will necessarily exist as to particular meters.
  - 2. If the meter reader system is prevented from timely reading a meter by any obstacle which is attributable to the customer, the original allocation shall apply to the longer period without modification.

ORDINANCE NO. 2101

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES; INCREASING THE RATES CHARGED FOR WATER SERVICE; INCREASING THE RATES CHARGED FOR WASTEWATER SERVICES; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Portland operates a water and wastewater utility system to provide essential services to the residents of Portland and certain areas of our extraterritorial jurisdiction; and

**WHEREAS**, the City of Portland is anticipating community growth and expansion of city boundaries with an estimated capital cost of \$10,255,000 in water and sewer projects over the next five years; and

**WHEREAS**, the debt generated by capital projects, along with the maintenance and operations, must be supported sufficiently by utility rates; and

**WHEREAS**, the San Patricio Municipal Water District has increased rates for water sold to the City of Portland; and

**WHEREAS**, the City Council previously enacted ordinance number 896 which provides that all increases and decreases in the cost for water purchased from San Patricio Municipal Water District shall be passed through to the customers of the City's water system; and

**WHEREAS**, the San Patricio Municipal Water District has notified the City it increased the charge for water sold to the City of Portland effective January 1, 2015; and

**WHEREAS**, both the increase from San Patricio Municipal Water District, and the costs of increased investment in capital projects should be recovered through appropriate utility rate increases to insure financial health and the integrity of the system,

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND:**

**Section 1.** That Chapter 23, Article II, Section 23-41(a)(4) of the Code of Ordinances of the City of Portland is hereby amended to read as follows:

- (4) The minimum fees in Tables 1 and 2 shall be charged whether the customer actually uses the services or not.

**Table 1. Water and Wastewater Minimum Base Charges**

<b>Residential</b>	<u>Water</u>	<u>Wastewater</u>
Meter Size		
0.625 inch to 2.0 inch	\$ <del>13.84</del> <u>14.55</u>	\$ <del>26.59</del> <u>28.15</u>
<b>Commercial</b>	<u>Water</u>	<u>Wastewater</u>
Meter Size		
0.625 inch	\$ <del>16.25</del> <u>17.08</u>	\$ <del>32.32</del> <u>34.11</u>
0.75 inch	\$ <del>16.25</del> <u>17.08</u>	\$ <del>32.32</del> <u>34.11</u>
1.0 inch	\$ <del>21.00</del> <u>22.07</u>	\$ <del>42.84</del> <u>45.35</u>
1.5 inch	\$ <del>32.87</del> <u>34.55</u>	\$ <del>69.37</del> <u>73.44</u>
2.0 inch	\$ <del>47.11</del> <u>49.52</u>	\$ <del>101.21</del> <u>107.14</u>
3.0 inch	\$ <del>80.37</del> <u>84.48</u>	\$ <del>175.51</del> <u>185.80</u>
4.0 inch	\$ <del>127.87</del> <u>134.41</u>	\$ <del>281.67</del> <u>298.18</u>
6.0 inch	\$ <del>246.62</del> <u>259.24</u>	\$ <del>547.03</del> <u>579.09</u>

Raw Water accounts, any meter size, will have a minimum monthly charge of \$140.52.

**Section 2.** That Chapter 23, Article II, Division 2, Section 23-41(b) is hereby amended to read as follows:

(b) New "master meter" systems (where many entities or units are served through one meter) shall only be allowed with prior written approval of the city manager and finance director. All "master meter" systems for apartments, multi-family units and commercial entities shall be charged a monthly minimum rate of ~~twenty four dollars and eighty eight cents~~ twenty six dollars and fifteen cents (~~\$24.88~~ 26.15) for water (plus usage as outlined in Table 3). Apartment complexes (5 units and up) and commercial accounts on master meters will be charged a per-unit charge of ~~eighteen dollars and thirty three cents~~ nineteen dollars and forty cents (~~\$18.33~~ 19.40) for wastewater (plus usage as outlined in Section 23-42). Multi-family units of 2 to 4 units will be charged ~~twenty six dollars and ninety two cents~~ twenty-eight dollars and fifty cents (~~\$26.92~~ 28.50) per unit for wastewater (plus usage as outlined in Section 23-42). There will not be any amount of usage included in the minimum monthly bill. The per-unit charges will not vary based on occupancy of the unit. Minimum solid waste service for master metered units shall be established by the city, based on a projected volume of waste.

**Section 3.** That Chapter 23, Article II, Division 2, Section 23-42(a) is hereby amended to read as follows:

(a) *Water.* Water usage (per metered connection) for each one thousand (1,000) gallons or part thereof shall be billed as stated in Table 3.

**Table 3. Water Usage Charges per Thousand Gallons**

	<u>Potable Water</u>	<u>Raw Water</u>
0 to 13,000	<del>\$3.02</del> <u>3.20</u>	<del>\$3.25</del> <u>3.43</u>
13,001 to 25,000	<del>3.08</del> <u>3.26</u>	<del>\$3.25</del> <u>3.43</u>
25,001 to 40,000	<del>3.28</del> <u>3.46</u>	<del>\$3.25</del> <u>3.43</u>
40,001 and up	<del>3.54</del> <u>3.72</u>	<del>\$3.25</del> <u>3.43</u>

**Section 4.** All previously adopted rules, regulations, policies and ordinances in conflict with this Ordinance are hereby repealed.

**Section 5.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and separable and if any section, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree of an Court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

**Section 6.** This ordinance shall be in full force and effect after passage and publication as required by law.

**Passed and approved after second reading on this the 6th day of January, 2015.**

**City of Portland**

By: David Krebs  
David Krebs, Mayor

Attest: Annette Hall  
Annette Hall, City Secretary



**RESOLUTION NO. 708**

**A RESOLUTION CASTING VOTES FOR THE  
SAN PATRICIO COUNTY APPRAISAL DISTRICT  
BOARD OF DIRECTORS**

**WHEREAS**, the City of Portland and all other San Patricio County entities that levy an ad valorem tax elect members of the San Patricio County Appraisal District Board of Directors; and,

**WHEREAS**, the City of Portland is authorized to cast 243 votes for one or more of the five candidates nominated.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, TEXAS:**

**THAT** the City casts its 243 votes for the following candidates:

<u>Candidate</u>	<u>Number of Votes</u>
Alfaro, Moises	_____
Curlee, John	_____
Matula, Dr. Anne	_____
Sanchez, Dalia	_____
Whiteley, Jan	_____
Wilson, Bill T II	_____

**THAT** the City Secretary is directed to submit a certified copy of this resolution and a completed ballot to the Chief Appraiser before December 15, 2015.

**PASSED** and **APPROVED** this 17<sup>th</sup> day of November 2015.

**EXECUTED:**

**BY:** \_\_\_\_\_  
**David Krebs, Mayor**

**ATTEST:**

**BY:** \_\_\_\_\_  
**Annette Hall, City Secretary**



# San Patricio County Appraisal District

1301 E. Sinton, Ste. B ★ P. O. Box 938 ★ Sinton, Texas 78387-0938  
(361) 364-5402 ★ Fax (361) 364-1198  
[www.spcad-egov.org](http://www.spcad-egov.org)

November 2, 2015

Mailed to Judge Terry Simpson, All Commissioners, All Mayors, All City Managers /  
City Secretaries, All School Board Presidents, and All Superintendents

RE: San Patricio Appraisal District Board of Directors' Elections

Enclosed please find the official voting ballot for the Appraisal District Board of  
Directors' Elections. Votes may be cast as soon as the ballot is received, if not already  
cast. **Remember casting of voting entitlements must be made by resolution and must  
be in our office before December 15<sup>th</sup>.**

Each entity may cast its votes for as many or as few candidates as they wish and in any  
denomination they deem appropriate.

Should you require additional information or verification, please do not hesitate to  
contact us. With this we close and thank you for your attention to this matter.

Sincerely,

Rufino H Lozano, RPA-RTA  
Chief Appraiser  
San Patricio County Appraisal District

Enclosure: Voting Ballot

# San Patricio County, Texas

## Voting Entitlements

Entity	2015 Tax Levy	Voting Entitlement
City Aransas Pass	4,004,973.73	165
City Gregory	500,557.60	21
City Ingleside	3,605,898.76	148
City Ingleside on the Bay	123,261.38	5
City Lakeside	22,049.75	1
City Mathis	1,128,002.92	46
City Odem	685,170.38	28
City Portland	5,909,831.22	243
City Sinton	1,151,368.94	47
City Taft	869,138.37	36
City Taft - Deannexed	85,098.50	4
County San Patricio	27,385,546.01	1,125
ISD Aransas Pass	6,994,348.68	287
ISD Banquete (o)	9,453.60	0
ISD Corpus Christi (o)	306,430.31	13
ISD Gregory-Portland	22,909,487.93	941
ISD Ingleside	19,828,280.28	814
ISD Mathis	4,776,032.68	196
ISD Odem-Edroy	6,122,373.97	251
ISD Sinton	7,467,452.52	307
ISD Skidmore-Tynan (o)	68,212.73	3
ISD Taft	7,774,763.87	319
<b>TOTALS for VE</b>	<b>121,727,734.13</b>	<b>5,000</b>

WITNESS MY HAND AND SEAL OF OFFICE at Sinton, San Patricio County,  
Texas, this 2nd day of November, 2015.

# OFFICIAL BALLOT

## San Patricio County Appraisal District Board of Directors' Election

As Presiding Officer of

\_\_\_\_\_ ,

we cast a total of \_\_\_\_\_ votes as follows:

Alfaro, Moises \_\_\_\_\_ votes

Curlee, John \_\_\_\_\_ votes

Matula, Ann \_\_\_\_\_ votes

Perkins, Peter \_\_\_\_\_ votes

Sanchez, Dalia \_\_\_\_\_ votes

Whiteley, Jan \_\_\_\_\_ votes

Wilson, Bill T II \_\_\_\_\_ votes

\_\_\_\_\_ votes

(The total number of the vote entitlement may be given to one nominee, or it may be divided among any number of nominees.)

BY \_\_\_\_\_

Presiding Officer - \_\_\_\_\_ (print name)

**Return this voting ballot with written resolution to:**

San Patricio County Appraisal District

Rufino H Lozano, Chief Appraiser

PO Box 938

Sinton, TX 78387-0938

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<b>AGENDA TITLE</b>	<b><u>RESOLUTION NO. 709 – DEVELOPMENT AGREEMENTS IN THE PROPOSED ANNEXATION AREA</u></b> THE CITY COUNCIL WILL CONSIDER RESOLUTION NO. 709 AUTHORIZING THE CITY MANAGER TO EXECUTE DEVELOPMENT AGREEMENTS FOR PROPERTY OWNERS WITH AGRICULTURAL, WILDLIFE MANAGEMENT, OR TIMBER LAND PROPERTY EXEMPTIONS IN THE PROPOSED ANNEXATION AREA
<b>MEETING DATE</b>	12/1/2015
<b>DEPARTMENT</b>	Administration
<b>SUBMITTED BY</b>	Brian DeLatte, P.E.

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### **EXECUTIVE SUMMARY**

Chapter 43.035 of the Local Government Code requires a city that has proposed to annex land in its Extraterritorial Jurisdiction to first offer a development agreement to property owners with an agricultural, wildlife management, or timber land property tax exemption. The development agreement contains a guarantee that the City will not annex the land covered by the development agreement provided that the property owner does not attempt to develop the property and continues to maintain the agricultural, wildlife management, or timber land property tax exemption. Under Chapter 43.035 the City is allowed to exercise all planning and land use regulations on property that is covered by a development agreement.

### **PRIOR ACTIONS OR REVIEWS**

- November 19, 2015 – The City Council passed the first reading of Ordinance Nos. 2124 and 2125 annexing approximately 808 acres

### **DETAILS / STAFF ANALYSIS**

The City offered development agreement applications to all of the property owners in the proposed annexation area with an agricultural, wildlife management, or timber land exemption. Applications for the development agreements were submitted for 8 parcels representing approximately 568 acres. Two of the 8 parcels, representing approximately 58 acres, are under review for their agricultural exemption with the County. If the County approves the agricultural exemption on these two parcels, this resolution would authorize the execution of their development agreements.

Entering into a development agreement with the City will not allow the City to levy property taxes on the subject properties. The agreements continue the extraterritorial status of the

properties, require the maintenance of the agricultural exempt status, and prohibit subdivision, development, or change in use unless annexed. The term of the agreement is 15 years, renewable for up to 45 years. The agreements run with the land.

Once the resolution is approved, all signed development agreements will be executed and recorded with the San Patricio County Clerk. The San Patricio County Appraisal District will be notified that these properties will retain their extraterritorial status.

**ALTERNATIVES CONSIDERED**

N/A.

**FINANCIAL IMPACT**

N/A.

**ATTACHMENTS**

- Resolution No. 709

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**RECOMMENDED ACTION**

Motion to approve Resolution No. 709.

**RESOLUTION NO. 709**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO DEVELOPMENT AGREEMENTS FOR PROPERTIES IN THE PROPOSED ANNEXATION AREA, SAID AREA DESCRIBED IN ORDINANCE NOS. 2124 AND 2125, WHERE THE PROPERTY CONTAINS AN AGRICULTURAL, WILDLIFE MANAGEMENT OR TIMBER LAND EXEMPTION ESTABLISHED BY THE SAN PATRICIO COUNTY APPRAISAL DISTRICT AND WHERE THE PROPERTY OWNER HAS REQUESTED THE CITY GRANT A DEVELOPMENT AGREEMENT IN LIEU OF ANNEXATION ON THEIR QUALIFYING PROPERTY; PROVIDING FOR A 15-YEAR TIME LIMIT; PROVIDING THE CITY WILL NOT ANNEX LAND THAT IS THE SUBJECT OF A DEVELOPMENT AGREEMENT; PROVIDING THAT THE CITY MAY ENFORCE ALL REGULATIONS AND PLANNING AUTHORITY THAT DOES NOT INTERFERE WITH THE EXEMPTION USE; PROVIDING THAT THE AREA UNDER THE DEVELOPMENT AGREEMENT IS CONSIDERED ADJACENT OR CONTIGUOUS TO THE CITY; PROVIDING FOR AUTOMATIC TERMINATION UNDER CERTAIN CONDITIONS; PROVIDING THAT THE AGREEMENT(S) WILL BE FILED WITH THE SAN PATRICIO COUNTY CLERK; PROVIDING FOR SEVERANCE AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Portland desires to annex certain land described in Ordinance Nos. 2124 and 2125; and,

**WHEREAS**, Local Government Code, Section 43.035 requires the City to offer each property owner in the annexation area with an agricultural, wildlife management or timber land exemption on their property a Development Agreement to be excluded from the annexation; and,

**WHEREAS**, public hearings were held on the proposed annexation on October 22, 2015 and October 28, 2015; and,

**WHEREAS**, certain property owners have applied for a Development Agreement and have qualified under the above cited statute.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, TEXAS:**

**Section 1.** The City Council approves the form Development Agreement attached hereto as Exhibit A and made a part hereof by this reference, and finds that approving the Development Agreement with property owners having land in the annexation area meets the requirements for exemptions in Local Government Code, Section 43.035 and is in the public interest.

**SECTION 2.** That the City Manager is authorized to execute Development Agreements with the eligible persons and properties described in Exhibit B, which is attached hereto and made a part hereof by this reference. Such Developments Agreements shall be for a period of 15 years providing the property owner does not violate the agreement by filing a subdivision plat or by not maintaining an exemption for agricultural use or wildlife management or timber land with the San Patricio County Appraisal District.

**SECTION 3.** That the owners and inhabitants of the tracts or parcels of land are subject to all regulations and planning authority of the City that does not interfere with the property exemption for agricultural use or wildlife management or timber land.

**SECTION 4.** That the official map and boundaries of the City and its extraterritorial jurisdiction, previously adopted and amended, are amended to include the territories described in this resolution considered adjacent or contiguous to the City of Portland, Texas.

**SECTION 5.** That the City Manager or his designee is directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the City and its extraterritorial jurisdiction to designate the properties herein as covered by a development agreement.

**SECTION 6.** If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of the resolution shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this resolution for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

**SECTION 7.** This Resolution goes into effect from and after its passage.

**PASSED AND APPROVED this 1<sup>st</sup> day of December, 2015.**

**CITY OF PORTLAND, TEXAS**

---

**David Krebs**  
**Mayor**

**ATTEST:**

---

**Annette Hall**  
**City Secretary**

# EXHIBIT A

<Insert Owner Name>  
Tax ID # xxxx-xxxx-xxxx-xxxx

STATE OF TEXAS §

COUNTY OF SAN PATRICIO §

## CITY OF PORTLAND DEVELOPMENT AGREEMENT

This Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code and between the City of Portland, Texas (the "City") and the undersigned property owner(s) (the "Owner"). The term "Owner" includes all owners of the property, including all of the Owner's heirs, successors and assigns.

**WHEREAS**, the Owner's property (the "Property") in San Patricio County, Texas, which is more particularly and separately described in the attached Exhibit "A"; and

**WHEREAS**, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter; and

**WHEREAS**, this Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code, in order to address the desires of the Owner and the procedures of the City; and

**WHEREAS**, the City has begun the process to institute annexation proceedings on all or portions of the Owner's Property and has held public hearings October 22, 2015 and October 28, 2015; and

**WHEREAS**, the Owner desires to have the Property remain in the City's Extraterritorial jurisdiction ("ETJ"), in consideration for which the Owner agrees to enter into this agreement; and

**WHEREAS**, the Owner and the City acknowledge that this Agreement runs with the land and is binding upon the City and the Owner and their responsive successors and assigns for the term of this Agreement; and

**WHEREAS**, this Development Agreement is to be recorded in the Real Property Records of San Patricio County, Texas.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

The Property is described as the property owned by the Owner within the boundaries of the area described in Exhibit "A", attached hereto and incorporated herein by reference.

**1. Continuation of Extraterritorial Status**

The City guarantees the continuation of the extraterritorial status of the Owner's Property, its immunity from annexation by the City, and its immunity from City property taxes, for the term of this Agreement, subject to the provisions of this Agreement. Except as provided in this Agreement, the City agrees not to annex the Property, agrees not to involuntarily institute proceedings to annex the Property, and further agrees not to include the Property in a statutory annexation plan for the Term of this Agreement. However, if the Property is annexed pursuant to the terms of this Agreement, then the City shall provide services to the Property pursuant to Chapter 43 of the Texas Local Government Code.

**2. Use for Agricultural Purposes Only**

The Owner and all of the Owner's heirs, successors and assigns covenant and agree not to use the Property for any use other than for agriculture, wildlife management, and/or timber land consistent with Chapter 23 of the Texas Tax Code, except for existing single-family residential use of the property, without the prior written consent of the City.

The Owner and all of the Owner's heirs, successors and assigns covenant and agree that the Owner will not file any type of subdivision plat or related development document for the Property with San Patricio County or the City until the Property has been annexed into, and zoned by, the City. The Owner covenants and agrees not to construct, or allow to be constructed, any buildings on the Property that would require a building permit if the Property were in the city limits, until the Property has been annexed into, and zoned by, the City. The Owner also covenants and agrees that the City's R-6, Single-Family Residential District zoning requirements apply to the Property, and that the Property shall be used only for R-6, Single-Family Residential District zoning uses that exist on that Property at the time of the execution of this Agreement, unless otherwise provided in this Agreement. However, the Owner may construct one homesteaded single family dwelling and an accessory structure to a single family dwelling in compliance with all applicable City ordinances and codes. If a structure is constructed on the property and the agricultural exemption is removed on that part, the part of the property that loses its exemption is automatically annexed, but not the remainder of the property.

The Owner and all of the Owner's heirs, successors and assigns acknowledge that each and every owner of the Property must sign this Agreement in order for the Agreement to take full effect, and the Owner who signs this Agreement covenants and agrees, jointly and severally, to indemnify, hold harmless, and defend the City against any and all legal claims, by any person claiming an ownership interest in the Property who has not signed the Agreement, arising in any way from the City's reliance on this Agreement.

**3. Annexation upon Subdivision or Change of Use**

The Owner and all of the Owner's heirs, successors and assigns acknowledge that if any plat or related development document is filed in violation of this Agreement, or if the Owner, or others listed above, commence development of the Property in violation of this Agreement, then in addition to the City's other remedies, such act will constitute a petition for voluntary annexation by the Owner, and the Property will be subject to annexation at the discretion of the City Council. The Owner agrees that such annexation shall be voluntary and the Owner hereby consents to such annexation as though a petition for such annexation had been tendered by the Owner.

If annexation proceedings begin pursuant to this Section, the Owner or others listed above acknowledges that this Agreement serves as an exception to Local Government Code Section 43.052, requiring a municipality to use certain statutory procedures under an annexation plan.

Furthermore, the Owner or others listed above hereby waives any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any actions Owner has taken in violation of this agreement.

**4. Enforcement of Regulations**

Pursuant to Sections 43.035(b)(1)(B) of the Texas Local Government Code, the City is authorized to enforce all of the City's regulations and planning authority that do not materially interfere with the use of the Property for agriculture, wildlife management, or timber, in the same manner the regulations are enforced within the City's boundaries. The City states and specifically reserves its authority pursuant to Chapter 251 of the Texas Local Government Code to exercise eminent domain over property that is subject to a Chapter 43 and/or Chapter 212 development agreement.

**5. Term of Agreement**

The term of this Agreement (the "Term") is fifteen (15) years from the date that the City Manager's signature to this Agreement is acknowledged by a public notary.

The Owner, and all of the Owner's heirs, successors and assigns shall be deemed to have filed a petition for voluntary annexation before the end of the Term, for annexation of the Property to be completed on or after the end of the Term. Prior to the end of the Term, the City may commence the voluntary annexation of the Property. In connection with annexation pursuant to this section, the Owners hereby waive any vested rights they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any plat or construction any of the owners may initiate during the time between the expiration of this Agreement and the institution of annexation proceedings by the City.

**6. Agreement Running with the Land**

This Agreement shall be recorded in the Real Property Records of San Patricio County, Texas and shall be a covenant running with the land binding upon all parties having any right, title, or interest in the Property or any part thereof, including their heirs, successors, and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

**7. Sale of the Land**

Any person who sells or conveys any portion of the Property shall, prior to such sale or conveyance, give written notice of this Agreement to the prospective purchaser or grantee, and shall give written notice of the sale or conveyance to the City. Furthermore, the Owner and the Owner's heirs, successor, and assigns shall give the City written notice within 14 days of any change in the agricultural exemption status of the Property. A copy of either notice required by this section shall be forwarded to the City at the following address:

City of Portland  
Attention: City Manager  
1900 Billy G. Webb  
Portland, Texas 78374

**8. Severability**

No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City's ability to annex the properties covered herein pursuant to the terms of this Agreement.

**9. Enforcement**

This Agreement may be enforced by Owner or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

**10. Venue**

Venue for this Agreement shall be in San Patricio County, Texas. In any suit to enforce this Agreement, the City of Portland shall be entitled to collect reasonable attorneys fees if it prevails.

**WITNESS OUR SIGNATURES** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**CITY OF PORTLAND, TEXAS**

**PROPERTY OWNERS:**

By: \_\_\_\_\_  
Randy Wright, City Manager

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Annette Hall, City Secretary

Form Approved: \_\_\_\_\_  
Hal George, City Attorney

**ACKNOWLEDGEMENT**

**STATE OF TEXAS**  
**COUNTY OF SAN PATRICIO**

This instrument was acknowledged before me by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public, State of Texas

**ACKNOWLEDGEMENT**

**STATE OF TEXAS**  
**COUNTY OF SAN PATRICIO**

This instrument was acknowledged before me by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public, State of Texas

<Insert Owner Name>  
Tax ID # xxxx-xxxx-xxxx-xxxx

**CORPORATE ACKNOWLEDGEMENT**

**STATE OF TEXAS  
COUNTY OF SAN PATRICIO**

This instrument was acknowledged before me by Randy Wright, City Manager for the City of Portland, a municipal corporation of the State of Texas, on behalf of said corporation, on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public, State of Texas

After recording return to:

City of Portland  
Attention: City Secretary  
1900 Billy G. Webb Dr.  
Portland, Texas 78374

# EXHIBIT B

Janie L. Hunt Mitchell  
Tax ID # 0178-0000-0000-002

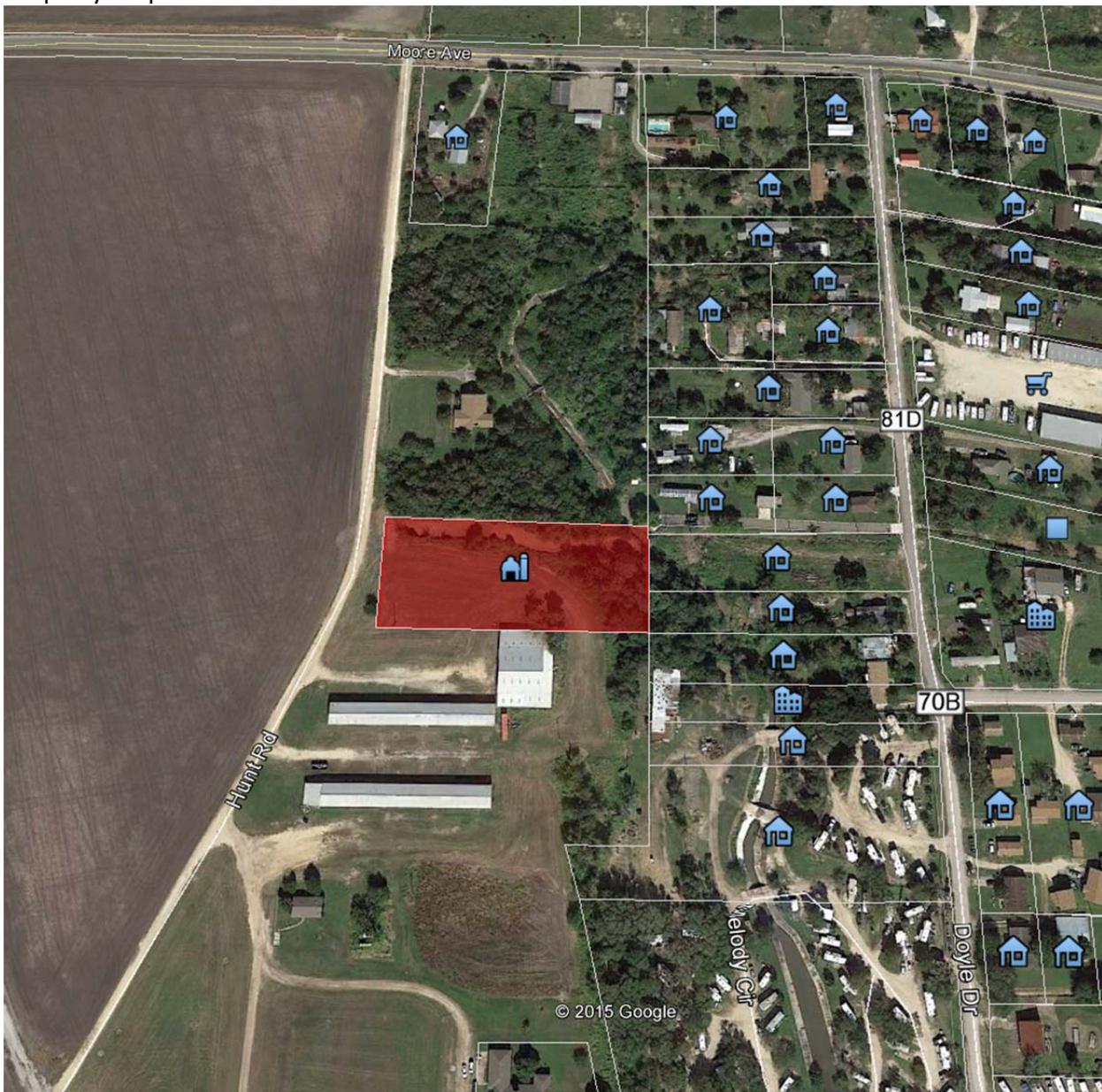
## Exhibit "A"

Owner Information:  
Janie L. Hunt Mitchell

San Patricio Appraisal District Tax ID # 0178-0000-0000-002

Property Legal Description:  
ABST 104 DOYLE ADDN 2 PORTLAND  
1.72 ACRES

Property Map:



**Exhibit "A"**

Owner Information:  
Janie L. Hunt Mitchell

San Patricio Appraisal District Tax ID # 2139-0104-0000-015

Property Legal Description:  
ABST 104 AND PT ABST 116  
JOHN DENNIS  
84.95 ACRES

Property Map:



**Exhibit "A"**

Owner Information:  
Janie L. Hunt Mitchell

San Patricio Appraisal District Tax ID # 2139-0110-0001-005

Property Legal Description:  
PT ABST 116 EGGLESTON SUR. 30.816 ACRES

Property Map:



**Exhibit "A"**

Owner Information:  
JJH Trust  
Janie F. Hunt, Trustee

San Patricio Appraisal District Tax ID # 2139-0116-0000-007

Property Legal Description:  
W PT SE/4 SEC 83 PAUL SUB-CFP  
JOHN DENNIS  
CO 100 ACRES

Property Map:



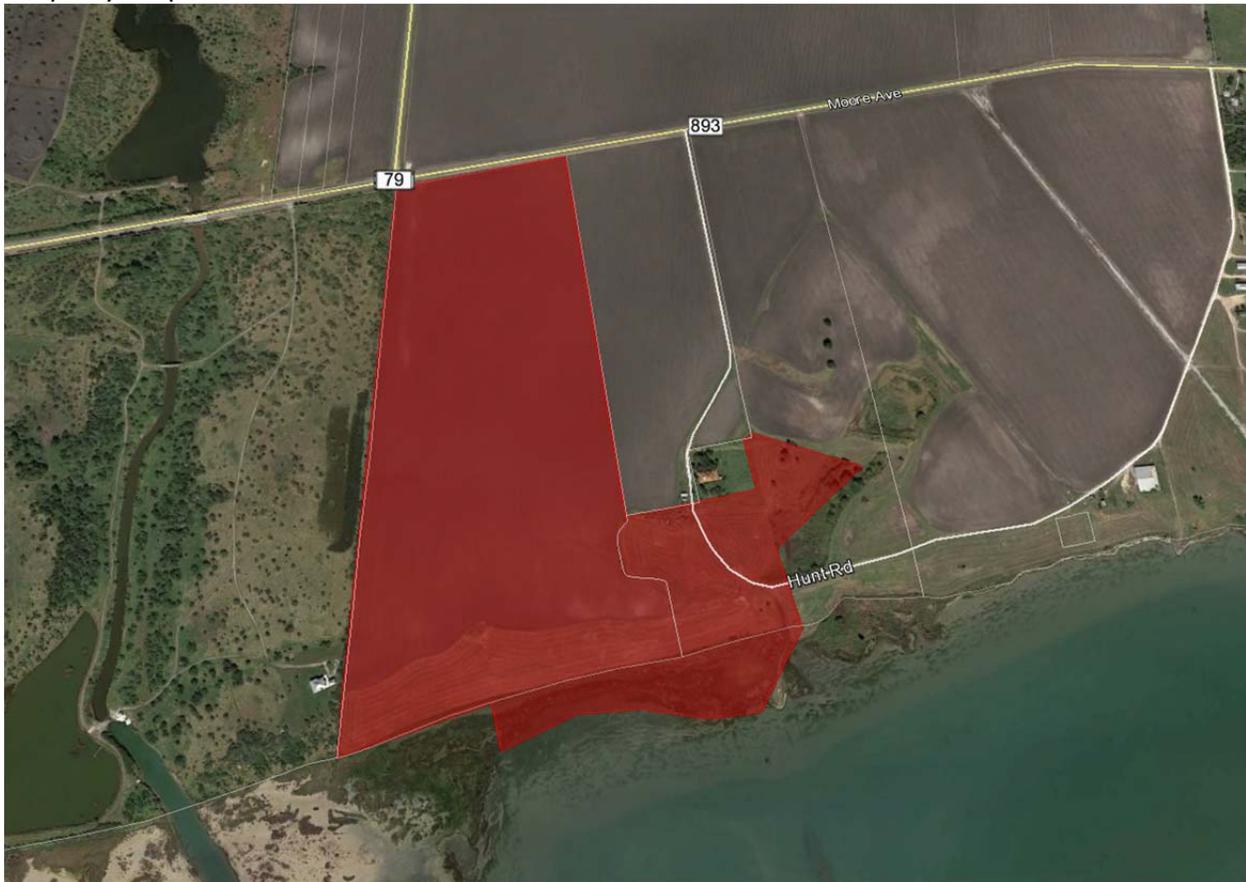
**Exhibit "A"**

Owner Information:  
Kim Elane Hunt, executrix

San Patricio Appraisal District Tax ID # 2139-0116-0000-006  
2139-0116-0000-008

Property Legal Description:  
ABST 116 JOHN DENNIS 84 ACRES  
AB 116 R EGGLESTON SUR 24.85 ACRES

Property Map:



**Exhibit "A"**

Owner Information:

Marvin & Courtenay Berry; Marvin G. Berry

San Patricio Appraisal District Tax ID # 2139-0116-0000-010  
2139-0104-0000-006

Property Legal Description:

ABST 116 R EGGLESTON  
208.95 AC

ABST 104 JOHN DENNIS SUR SUBMERGED LAND  
32.99 ACRES

Property Map:





**STAFF  
WEEKLY  
REPORTS**

# Portland Fire Department

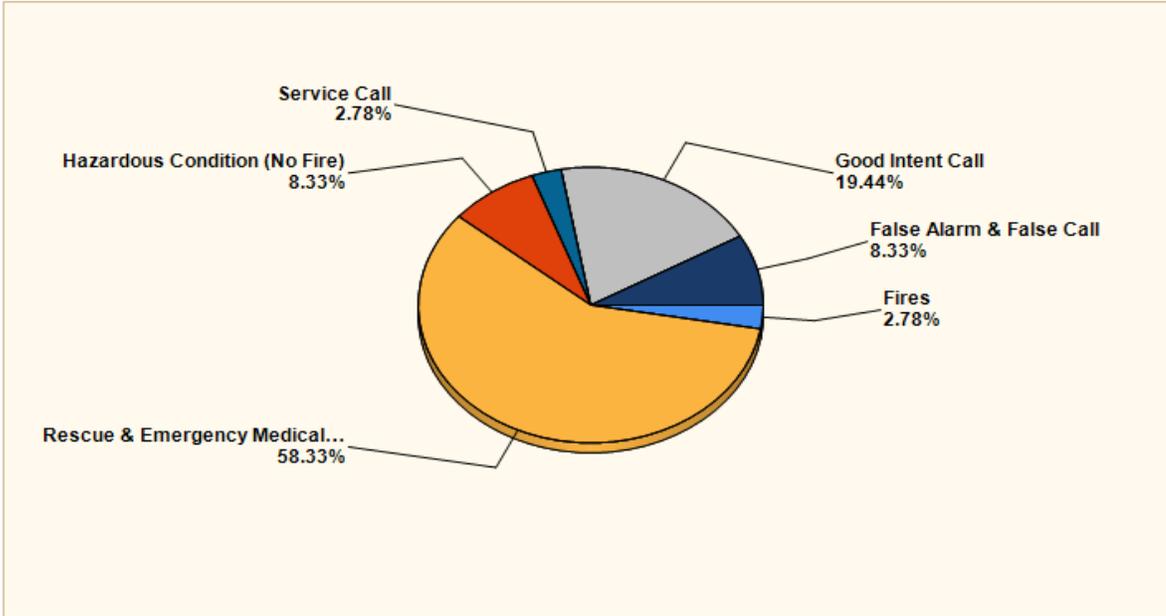
Portland, TX

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## Breakdown by Major Incident Types for Date Range

Zone(s): All Zones | Start Date: 11/09/2015 | End Date: 11/15/2015



MAJOR INCIDENT TYPE	# INCIDENTS	% of TOTAL
Fires	1	2.78%
Rescue & Emergency Medical Service	21	58.33%
Hazardous Condition (No Fire)	3	8.33%
Service Call	1	2.78%
Good Intent Call	7	19.44%
False Alarm & False Call	3	8.33%
<b>TOTAL</b>	<b>36</b>	<b>100.00%</b>

Detailed Breakdown by Incident Type		
INCIDENT TYPE	# INCIDENTS	% of TOTAL
161 - Outside storage fire	1	2.78%
311 - Medical assist, assist EMS crew	10	27.78%
321 - EMS call, excluding vehicle accident with injury	9	25.00%
323 - Motor vehicle/pedestrian accident (MV Ped)	1	2.78%
324 - Motor vehicle accident with no injuries.	1	2.78%
412 - Gas leak (natural gas or LPG)	1	2.78%
441 - Heat from short circuit (wiring), defective/worn	1	2.78%
445 - Arcing, shorted electrical equipment	1	2.78%
510 - Person in distress, other	1	2.78%
600 - Good intent call, other	1	2.78%
611 - Dispatched & cancelled en route	5	13.89%
631 - Authorized controlled burning	1	2.78%
711 - Municipal alarm system, malicious false alarm	1	2.78%
730 - System malfunction, other	1	2.78%
745 - Alarm system activation, no fire - unintentional	1	2.78%
<b>TOTAL INCIDENTS:</b>	<b>36</b>	<b>100.00%</b>

Participated in Celebrity Reading Day at G-P Intermediate School  
 Fire Safety and Prevention Presentation at East Cliff Elementary  
 Attended Wounded Warrior "Ride Texas" Event

Number of times on scene or enroute to a call when a call was dispatched: 0

Engine 2 Average Response Time: 4.36 Min.  
 Squad 2 Average Response Time: 8.52 Min.



Portland Fire Department  
595 Buddy Ganem  
Portland, TX 78374  
361-643-0155  
361-643-0369

## Completed Activities

Page 1 of 1

11/08/2015 through 11/14/2015

Report run on: 11-16-2015

Activity Date	Record Type	Activity	Party	Site Address	Inspector	Status
11/09/2015	ANNUAL INSPECTION	Annual	GAME STOP	02030 US 181 STE H	Nathan Kelley	FAIL
11/11/2015	ANNUAL INSPECTION	Annual	CHRISTIAN SLEEP CENTER	1702 US 181 STE A-10	Nathan Kelley	PASS
11/11/2015	ANNUAL INSPECTION	Annual	GRACE POINT CHURCH	01702 U.S. Highway 181 Suite A-9	Nathan Kelley	PASS
11/11/2015	ANNUAL INSPECTION	Annual	MATTRESS FIRM	01702 US 181 STE A-1	Nathan Kelley	PASS
11/11/2015	ANNUAL INSPECTION	Annual	MARBLE SLAB CREAMARY	02030 US 181 STE A	Nathan Kelley	PASS
11/11/2015	ANNUAL INSPECTION	Annual	SUBWAY	02030 US 181 STE B	Nathan Kelley	FAIL
11/11/2015	ANNUAL INSPECTION	Annual	FRED LOYA INSURANCE	02030 US 181 STE C	Nathan Kelley	PASS
11/12/2015	Foster Care	Periodic	ADAM RODRIGUE	00107 ANN DR	Nathan Kelley	PASS
11/13/2015	ANNUAL INSPECTION	Annual	JUST A CUT	02030 US 181 STE D	Nathan Kelley	FAIL
11/13/2015	FIRE FINAL	Permitting	Q NAILS & SPA	01850 US 181 STE D	Nathan Kelley	PASS
11/13/2015	FIRE FINAL	Permitting	Q NAILS & SPA	1850 US 181 STE D	Nathan Kelley	PASS

**Total Completed Activities: 11**

**Week**  
**Daily Activity**

**November 16 to November 20, 2015**  
**Statistics**

<b>Count of Payments Processed</b>	<b>16-Nov</b>	<b>17-Nov</b>	<b>18-Nov</b>	<b>19-Nov</b>	<b>20-Nov</b>	<b>Weekly Totals By Type</b>
<i>Number of Payments Per Day</i>	748	277	49	47	45	1,166
<i>Number of Deposits Per Day</i>	5	6	2	2	2	17
<i>Number of Web Payments Per Day</i>	170	27	17	18	13	245
<b>Daily Total</b>	<b>923</b>	<b>310</b>	<b>68</b>	<b>67</b>	<b>60</b>	<b>1,428</b>
Payments	\$128,892.00	\$33,995.65	\$5,684.75	\$5,666.57	\$11,268.86	\$185,507.83
Deposits	\$750.00	\$900.00	\$300.00	\$300.00	\$300.00	\$2,550.00
Web Payments	\$17,594.74	\$2,799.66	\$5,306.71	\$9,670.72	\$1,468.71	\$36,840.54
<b>Daily Total</b>	<b>\$147,236.74</b>	<b>\$37,695.31</b>	<b>\$11,291.46</b>	<b>\$15,637.29</b>	<b>\$13,037.57</b>	<b>\$224,898.37</b>

**Billing Activity For July**

Regular Bills Issued	5757	\$802,861.15
Delinquents & Disconnect Notices Issued	671	
Automated Bank Drafts	928	\$110,171.73
Non-Payments	93	
Penalties	849	\$19,755.17

<b>Account Statistics</b>	<b>16-Nov</b>	<b>17-Nov</b>	<b>18-Nov</b>	<b>19-Nov</b>	<b>20-Nov</b>	<b>Weekly Totals By Type</b>
New Accounts	5	3	4	1	0	13
Disconnected Accounts	2	2	0	3	1	8
Transfers	0	1	0	0	0	1
<b>Total Work Orders Processed</b>	<b>7</b>	<b>6</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>22</b>



Portland Fire Department  
595 Buddy Ganem  
Portland, TX 78374  
361-643-0155  
361-643-0369

## Completed Activities

11/15/2015 through 11/21/2015

Page 1 of 1

Report run on: 11-23-2015

Activity Date	Record Type	Activity	Party	Site Address	Inspector	Status
11/15/2015	ANNUAL INSPECTION	Re-Inspection	AMERICAS BEST INN & SUITES	00133 US 181	Nathan Kelley	SCHEDULED
11/19/2015	FIRE FINAL	Permitting	AT&T CELLULAR	01850 US 181, STE G	Nathan Kelley	PASS

**Total Completed Activities: 2**

# Portland Fire Department

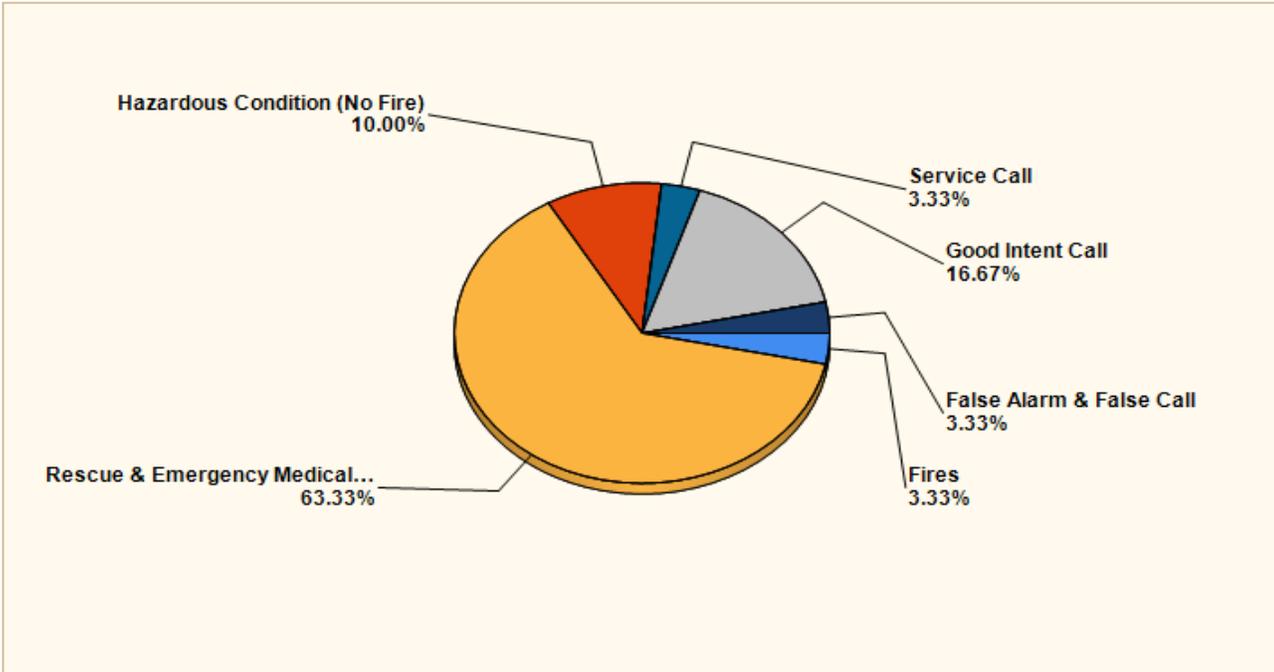
Portland, TX

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## Breakdown by Major Incident Types for Date Range

Zone(s): All Zones | Start Date: 11/16/2015 | End Date: 11/22/2015



MAJOR INCIDENT TYPE	# INCIDENTS	% of TOTAL
Fires	1	3.33%
Rescue & Emergency Medical Service	19	63.33%
Hazardous Condition (No Fire)	3	10.00%
Service Call	1	3.33%
Good Intent Call	5	16.67%
False Alarm & False Call	1	3.33%
<b>TOTAL</b>	<b>30</b>	<b>100.00%</b>

Detailed Breakdown by Incident Type		
INCIDENT TYPE	# INCIDENTS	% of TOTAL
131 - Passenger vehicle fire	1	3.33%
300 - Rescue, EMS incident, other	1	3.33%
311 - Medical assist, assist EMS crew	10	33.33%
321 - EMS call, excluding vehicle accident with injury	6	20.00%
324 - Motor vehicle accident with no injuries.	1	3.33%
353 - Removal of victim(s) from stalled elevator	1	3.33%
413 - Oil or other combustible liquid spill	1	3.33%
440 - Electrical wiring/equipment problem, other	1	3.33%
445 - Arcing, shorted electrical equipment	1	3.33%
510 - Person in distress, other	1	3.33%
611 - Dispatched & cancelled en route	4	13.33%
651 - Smoke scare, odor of smoke	1	3.33%
745 - Alarm system activation, no fire - unintentional	1	3.33%
<b>TOTAL INCIDENTS:</b>	<b>30</b>	<b>100.00%</b>

Leadership Portland Tour of Fire Station 2

Number of times on scene or enroute to a call when a call was dispatched: 2

Engine 2 Average Response Time: 4.51 Min.  
Squad 2 Average Response Time: 3.51 Min.

# MONTHLY VIOLATION ACTIVITY STATISTICS

From 11/14/2015 To 11/20/2015

Information contained here in for YTD is for 10/01/2015 To 11/20/2015  
 Information contained here in for Previous YTD is for 10/01/2014 To 11/20/2014

VIOLATION ISSUED BY:	CURRENT MONTH	YEAR TO DATE	PREVIOUS YTD	VARIATION IN (+/-)
Municipal Police Department	29	329	423	-94
<b>TOTALS</b>	29	329	423	-94
<hr/>				
<b>TOTAL NEW FEES LEVIED:</b>	\$6,207.00	\$73,908.00	\$95,054.90	\$-21,146.90
<hr/>				
<b>FUNDS COLLECTED:</b>				
State Taxes:	\$2,212.70	\$18,792.80	\$18,779.76	\$13.04
Fines:	\$2,100.88	\$14,627.93	\$14,814.45	\$-186.52
LEA Fees:	\$125.90	\$1,102.80	\$1,109.24	-6.44
Multiuse:	\$778.40	\$6,538.80	\$11,226.70	\$-4,687.90
D/L Fees:	\$302.82	\$1,696.47	\$1,851.05	\$-154.58
Warrant Fees:	\$0.00	\$0.00	\$50.00	\$-50.00
Capias Fees:	\$50.00	\$50.00	\$50.00	\$0.00
Pay Plan Fees:	\$0.00	\$175.00	\$432.10	\$-257.10
Collection Fees:	\$0.00	\$0.00	\$0.00	\$0.00
<b>TOTALS</b>	\$5,570.70	\$42,983.80	\$48,313.30	\$-5,329.50
<hr/>				
<b>WARRANT INFORMATION:</b>				
Warrants Issued:	0	0	33	-33
Capias Issued:	0	0	14	-14
<b>TOTALS</b>	0	0	47	-47
<hr/>				
Warrants Closed:	0	0	300	-300
Capias Closed:	0	0	23	-23
<b>TOTALS</b>	0	0	323	-323
<hr/>				
<b>OTHER INFORMATION:</b>				
Citations Closed:	33	283	1036	-753
Failure to Appear:	0	0	0	0

Average current month speeding ticket issued was for 18.0 miles above posted limit.

By: \_\_\_\_\_ Date: \_\_\_\_\_

# MONTHLY VIOLATION ACTIVITY STATISTICS

From 11/21/2015 To 11/25/2015

Information contained here in for YTD is for 10/01/2015 To 11/25/2015  
 Information contained here in for Previous YTD is for 10/01/2014 To 11/25/2014

VIOLATION ISSUED BY:	CURRENT MONTH	YEAR TO DATE	PREVIOUS YTD	VARIATION IN (+/-)
Municipal Police Department	9	355	477	-122
<b>TOTALS</b>	9	355	477	-122
<hr/>				
<b>TOTAL NEW FEES LEVIED:</b>	\$1,874.00	\$80,314.00	\$107,245.90	\$-26,931.90
<hr/>				
<b>FUNDS COLLECTED:</b>				
State Taxes:	\$1,298.20	\$20,401.20	\$20,407.16	\$-5.96
Fines:	\$1,008.30	\$15,892.03	\$15,388.53	\$503.50
LEA Fees:	\$74.80	\$1,197.60	\$1,209.24	-11.64
Multiuse:	\$613.70	\$7,371.40	\$11,998.30	\$-4,626.90
D/L Fees:	\$120.00	\$1,906.47	\$1,861.57	\$44.90
Warrant Fees:	\$0.00	\$0.00	\$50.00	\$-50.00
Capias Fees:	\$0.00	\$50.00	\$50.00	\$0.00
Pay Plan Fees:	\$25.00	\$200.00	\$457.10	\$-257.10
Collection Fees:	\$0.00	\$0.00	\$0.00	\$0.00
<b>TOTALS</b>	\$3,140.00	\$47,018.70	\$51,421.90	\$-4,403.20
<hr/>				
<b>WARRANT INFORMATION:</b>				
Warrants Issued:	0	0	43	-43
Capias Issued:	0	0	14	-14
<b>TOTALS</b>	0	0	57	-57
<hr/>				
Warrants Closed:	0	0	300	-300
Capias Closed:	0	0	23	-23
<b>TOTALS</b>	0	0	323	-323
<hr/>				
<b>OTHER INFORMATION:</b>				
Citations Closed:	25	317	1076	-759
Failure to Appear:	0	0	0	0

Average current month speeding ticket issued was for 10.5 miles above posted limit.

By: \_\_\_\_\_ Date: \_\_\_\_\_