

# *City of Kingsville, Texas*

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## **AGENDA CITY COMMISSION**

**MONDAY, APRIL 14, 2014  
REGULAR MEETING**

**HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS  
CITY HALL/200 EAST KLEBERG AVENUE  
6:00 P.M.**

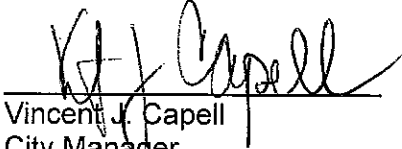
### **I. Preliminary Proceedings.**

#### **OPEN MEETING**

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**  
Regular Meeting – March 10, 2014

APPROVED BY:

  
\_\_\_\_\_  
Vincent J. Capell  
City Manager

### **II. Public Hearing - (Required by Law).<sup>1</sup>**

1. NONE.

### **III. Reports from Commission & Staff.<sup>2</sup> (City Manager's Staff Report Attached).**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor,. No formal action can be taken on these items at this time."*

### **IV. Public Comment on Agenda Items<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

**V.**

**Consent Agenda**

**Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

**CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

1. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 8, Traffic Control Devices, providing for the installation of a stop sign at the Naval Air Station Kingsville Gate. (City Engineer/Public Works Director).
2. Motion to approve final passage of an ordinance amending the fiscal year 2013-2014 budget for Community Appearance to purchase five (5) benches and seventeen (17) litter/recycling receptacles for the downtown area. (Director of Finance).

**REGULAR AGENDA**

**CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

**VI. Items for consideration by Commissioners.<sup>4</sup>**

3. Consider a resolution authorizing the City Manager and Chief of Police to participate in the Texas 1033 Surplus Property Program on behalf of the Kingsville Police Department. (Police Chief).
4. Consider authorizing LNV, Inc. to negotiate the acquisition of a 15 foot utility easement for the Lift Station/Force Main Sanitary Sewer Improvements project. (City Engineer/Public Works Director).
5. Consider a resolution authorizing the City Manager to enter into a governmental Lease/Purchase Agreement (M 14-02A) between Capital City Leasing, Inc. and the City of Kingsville for road improvement equipment. (Director of Purchasing & Technology).
6. Consider awarding bid (#14-12) for oil distributor for the Street Department to Closner Equipment, as per staff recommendation. (Director of Purchasing & Technology).
7. Consider introduction of an ordinance amending the Fiscal year 2013-2014 budget for the General Fund Street Department to lease/purchase a 2013 Roadtec asphalt paver and Maudlin distributor on an International Truck chassis. (Director of Finance).

8. Consider introduction of an ordinance amending the Fiscal year 2013-2014 budget for the General Fund Landfill Department to pay for equipment repair costs and engineering services. (Director of Finance).
9. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 6, by amending Sections 55-61-Planned Unit Development District regulations. (Director of Planning & Development Services).
10. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 6, by adopting Sections 194-203-Wind Energy Conversion Systems regulations. (Director of Planning & Development Services).
11. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 6, by adopting Sections 174-187-Solar Energy Systems regulations. (Director of Planning & Development Services).
12. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 1, by amending Section 6-Schedule of Permit Fees to add fence construction permit fee and clarify the existing plan review fee. (Director of Planning & Development Services).
13. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 6, by amending Section 21-Definitions to add construction fence, home occupation, kennel, planned unit development, sight-obscuring fence and sight-visibility triangle. (Director of Planning & Development Services).
14. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 6, by amending Appendix A-Land Use Categories of Section 1-Land Use Chart to add land usage guidance for home occupation, planned unit development, solar energy systems and wind energy systems (Director of Planning & Development Services).
15. Consider introduction of an ordinance Chapter XV, Land Use, Article 6, by adopting Section 28-Fence regulations. (Director of Planning & Development Services).
16. Consider introduction of an ordinance by amending Chapter XV, Land Use, Article 6, Section 27, providing for accessory uses and structures. (Director of Planning & Development Services).

## **VII. Adjournment.**

1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.
3. Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
4. Items being considered by the Commission for action except citizens comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

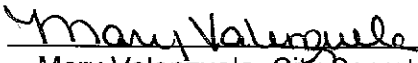
### **NOTICE**

This City of Kingsville and Commission Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive

services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail mvalenzuela@cityofkingsville.com for further information. Braille Is Not Available. The City Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551-071 (Consultation with Attorney), 551-072 (Deliberations about Real Property), 551-073 Deliberations about Gifts and Donations), 551-074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551-086 (Certain Public Power Utilities: Competitive Matters), and 551-087 (Economic Development).

I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board in the City Hall, 200 East Kleberg, of the City of Kingsville, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

April 9, 2014 at 11:00 A.M. and remained so posted continuously for at least 72 hours proceeding the schedule time of said meeting.

  
Mary Valenzuela, City Secretary  
City of Kingsville, Texas

This public notice was removed from the official posting board at the Kingsville City Hall on the following date and time: \_\_\_\_\_

By: \_\_\_\_\_  
City Secretary's Office  
City of Kingsville, Texas

# **MINUTES OF PREVIOUS MEETING(S)**

**MARCH 10, 2014**

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MARCH 10, 2014 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 4:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam Fugate, Mayor  
Dianne Leubert, Commissioner  
Al Garcia, Commissioner  
Noel Pena, Commissioner  
Arturo Pecos, Commissioner

**CITY STAFF PRESENT:**

Vincent J. Capell, City Manager  
Mary Valenzuela, City Secretary  
Courtney Alvarez, City Attorney  
Deborah Balli, Finance Director  
Emilio Garcia, Health Director  
Charlie Cardenas, Public Works Director/City Engineer  
Bob Trescott, Tourism Director  
Robert Isassi, Director of Planning & Development Services  
Diana Gonzales, Human Resources Director  
David Mason, Purchasing/IT Director  
Tony Verdin, Information Systems Technician  
Willie Vera, Task Force Commander  
Rose Morrow, Municipal Court Manager  
Ricardo Torres, Chief of Police

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the Robert H. Alcorn Commission Chamber at 4:00 p.m. and announced quorum with four Commission members present. Commissioner Pecos arriving late.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

Waived

4:08 p.m. Commissioner Pecos arrives to meeting.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

Special Meeting – February 13, 2014

Regular Meeting – February 24, 2014

Mayor Fugate asked for a motion from the Commission to approve the minutes as presented. **Commissioner Garcia made a motion to approve the minutes as presented, seconded by Commissioner Leubert and Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, and Fugate voting: “FOR”.**

**WORKSHOP- Discussion on technology issues & mid-year budget update/financial overview.**

## Update Historic H.M. King School.

Vince Capell, City Manager began the meeting by giving the City Commission and update on the Historic H.M. King School.

Robert Isassi, Director of Planning & Development Services, reported that the first contract was for the installation of a new roof and structural repair to the interior of the building. This has been completed 100% as of last week. An invoice has been submitted by the contractor for final payment. There is a 50% completion on the plans for the project on the mechanical, plumbing, electrical and architectural. Design plans have been submitted to the architect back in February. The plans include partial demolition of a one story building located back of main building, which is not part of the historic building. As part of the demolition contract, the brick will be salvaged and used elsewhere. Final plans will be submitted to the City by April for review by the Plan Review Committee. Mr. Isassi further discussed the approved donations received for the reconstruction of the Historic H.M. King School.

Commissioner Leubert asked for the estimated timeframe for completion of this project. Mr. Isassi stated that it would be a one turnaround from the date plans are approved.

Commissioner Garcia asked if carbon fiber will be placed on the interior of the building. Mr. Isassi responded it will be in the interior concrete column with reinforcement which gives it stability.

Mayor Fugate asked for copies of the layout plans be provided to the City Commission for their review.

Mr. Capell continued the discussion regarding funding of the reconstruction of the Historic H.M. King High. Capell reported that the total estimated cost of the reconstruction is \$7,000,000 with the City's portion being \$3,547,552. This excludes costs for renovation of the Cottage Building, Larking Building and Gymnasium. Also excludes costs for proposed new telephone, video surveillance, audio visual systems or other furniture and fixtures that may be required and/or desired for full building utilization and occupancy. Exact cost will not be known until engineering design is completed and bids are received by the Foundation. These project cost estimates are provided by the Foundation's Project Consultant AGCM. This excludes any additional fundraising appeals not yet awarded as of March 10, 2014. Capell further stated that recommendation is to take possession of these buildings from KISD and hold them while developing a funding plan for their renovation and or use by other entities. Discussions to date have focused on the Utility Billing function moving to the Cottage Building and the Municipal Court moving into the Larkin Building. Capell further stated that no serious discussions have been held concerning the future use of the Gymnasium. Costs of renovation and associated funding sources for these buildings are presently under review by staff. It is anticipated that the City's utilities, maintenance and other recurring operating costs for the H.M. King School will exceed that of the existing City Administration Building located on E. Kleberg. Also, until such time as there is other suitable space for occupancy by the Municipal Court and Utility Billing Departments, these functions will likely remain at the current City Administration Building causing the City to temporarily incur additional maintenance and utilities expenditures. These additional operating expenditures will be planned for and incorporated into the Proposed Annual Budget for the first and subsequent years of occupancy beginning in FY2015.

Discussion continued on technology issues and updates.

Mr. Isassi stated that the last time the website was updated was two years ago. Additional improvements are needed to the existing website. Staff is looking into hiring a new company to make these updates to the City website. Isassi introduced Mr. Jonathan Swindle of Hi-Res Creative. Mr. Swindle made a PowerPoint presentation to the City Commission on the improvements that need to be implemented on the City website. Mr. Swindle met earlier in the week with city staff to hear their wants and needs on the city website.

Mayor Fugate recessed the meeting for a five minute break at 5:55 p.m.

Mayor Fugate called the meeting back to order at 6:03 p.m.

## **II. Public Hearing - (Required by Law).<sup>1</sup>**

1. Public hearing on amending the zoning ordinance by changing the zoning map in reference to Lots 17-26, (Mobile Home Park), Block 7, Hoffman Subdivision known as 210 E. Miller from R1-Single Family Residential District to C4-Commercial Business District, applicant Bill Cumberland. (Director of Planning & Economic Development).

Mayor Fugate announced and opened this public hearing at 6:04 p.m.

Mr. Isassi reported that this is a request for a change in zoning of Lots 17-26, Block 7 of the Hoffman subdivision addressed as 210 E. Miller from R-1 to C-4 to expand the car lot located on the corner of E. Miller & 6<sup>th</sup> street. The Planning & Zoning Commission unanimously approved the request by a 5-0 vote.

Mayor Fugate asked if there were any complaints opposing the rezone from surrounding neighbors. Mr. Isassi stated that no complaints or oppositions were received.

Mayor Fugate closed this public hearing at 6:06 p.m.

## **III. Reports from Commission & Staff.<sup>2</sup> (City Manager's Staff Report Attached).**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development , Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor,. No formal action can be taken on these items at this time."*

Courtney Alvarez, City Attorney reported that there will be a special workshop meeting on Thursday, March 20, 2014 to discuss additional planning ordinance revisions.

## **IV. Public Comment on Agenda Items<sup>-3</sup>**

1. Comments on all agenda and non-agenda items.

## **V.**

### **Consent Agenda**

### **Notice to the Public**



*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

Mayor Fugate asked for a motion to approve the consent agenda as presented.

**Motion made by Commissioner Pena to approve the consent agenda items as presented, seconded by Commissioner Leubert and Commissioner Pecos. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".**

**CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

1. Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 Budget for Fund 001 the General Fund to assist with the renovation of the T45 Jet in Dick Kleberg Park in partnership with Kleberg County. (Finance Director).
2. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter IX, General Regulations, Article 7, Sections 9-7-1 through 9-7-6, providing for adoption of the International Property Maintenance Code, additions and amendments to said code, prohibited acts, and administrative fees. (Director of Planning and Development Services).
3. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Land Use, Article 3, Section 57, providing for street trees. (Director of Planning and Development Services).
4. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Land Use, Article 6, adopting Section 26-Home Occupations. (Director of Planning and Development Services).
5. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Land Use, Article 6, Section 92, changing rear yard regulations for accessory buildings. (Director of Planning and Development Services).
6. Motion to approve final passage of an ordinance authorizing the acceptance of three deeds from the Kingsville Independent School District for land near the Old High School building and authorizing the City Manager to execute any documents necessary for this transaction. (City Attorney).
7. Motion to approve final passage of an ordinance amending the Code of Ordinances of the City of Kingsville, Texas, Chapter VII ("Traffic Code"), to add new Article 9-Wireless Telecommunication Devices that would create restrictions on the use of wireless telecommunication devices while driving; creating an offense. (City Attorney).
8. Motion to approve a resolution authorizing the City Manager to execute a training and development agreement with Del Mar College for the City of Kingsville Specialized Crimes and Narcotics Task Force. (Task Force Commander).

**REGULAR AGENDA**

**CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

## **VI. Items for consideration by Commissioners.<sup>4</sup>**

9. Consider authorizing City's participation in the 2014 Wings Over South Texas Airshow to be held March 29 & 30, 2014 at Naval Air Station-Kingsville. (Director of Tourism).

Bob Trescott, Tourism Director reported on events that will be happening during the weekend of March 28<sup>th</sup>. Meet the Blues will take place on Friday, March 28<sup>th</sup> at the Henrietta Memorial Center. He further reported that the NAS Kingsville has offered the City of Kingsville Tourism Department a canopy at the airshow to market tourism. Trescott further reported that the Police Department has been requested to provide security support on/near the base that will result in \$7,705.39 of overtime. The Task Force will provide security support on/near the base that will result in \$3,747.08 of overtime. Fire Department will provide emergency services support on/near the base that will result in \$2,000 in overtime.

**Motion made by Commissioner Garcia to authorize the City's participation in the 2014 Wings Over South Texas Airshow, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".**

Mayor Fugate asked if there were no objections from the City Commission, he would like to take agenda item #13 before discussing agenda item #10. No objections made.

10. Consider a resolution authorizing the City Manager to enter into an Advance Funding Agreement with the Texas Department of Transportation for construction of drainage upgrades, sidewalks and landscaping on General Cavazos (FM1356) from 6<sup>th</sup> Street to 14<sup>th</sup> Street. (City Engineer/Public Works Director).

Charlie Cardenas, City Engineer/Public Works Director, reported that this item authorizes staff to enter into an Advanced Funding Agreement between Texas Department of Transportation (TXDOT) and the City of Kingsville. This will be for drainage upgrades, sidewalks on the north side of General Cavazos from 6<sup>th</sup> Street to 14<sup>th</sup> Street and install landscaping on the north side of General Cavazos from 6<sup>th</sup> Street to 14<sup>th</sup> Street. Mr. Cardenas further stated that in 2011 the City Commission approved a similar agreement with TXDOT relating to drainage improvements on Caesar Street during the US 77 Caesar overpass construction. He further stated that the design and construction work for these improvements will cost the City \$110,000. Funding of \$70,000 will come from 2014 budget item 068 CO Fund Capital Projects, \$40,000 of the funding will come from budget item 001 General Fund.

**Motion made by Commissioner Garcia to approve this resolution, seconded Commissioner Pecos. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".**

11. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to Lots 17-26, (Mobile Home Park), Block 7, Hoffman Subdivision known as 210 E. Miller from R1-Single Family Residential District to C4-Commercial Business District, applicant Bill Cumberland. (Director of Planning & Economic Development).

Introduction item.

12. Consider request to waive interest on weed liens for redevelopment of four properties at the request of George Hernandez. (Director of Planning & Economic Development).

Mr. Isassi reported that this is a request to waive interest on weed liens. An interesting party is considering purchasing this property if the City can forgive these liens. After discussing the issue with the requestor, City staff has agreed to request that Commission consider waiving only the interest accrued as a result of the liens. The requestor has agreed with City staff's recommendation. The proposed buyer has stated that he would maintain the property after purchase and that he would like to infill these lots with new housing. The request is for the waiver of \$2,625.35.

**Motion made by Commissioner Leubert to waive interest, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Pecos, Pena, Leubert, Garcia, Fugate voting "FOR".**

13. Consider a resolution authorizing the City Manager to enter into a Temporary Commercial Wi-Fi Site Lease Agreement between the City of Kingsville and Riviera Telecommunications. (Director of Purchasing & IT).

David Mason, Purchasing/IT Director reported that staff has met with representative from Riviera Communications regarding their request to secure a lease of space on a water tower for Wi-Fi equipment.

Commissioner Pecos asked if this was a staff recommendation. Mr. Mason stated that staff recommends the approval of this resolution.

**Motion made by Commissioner Pena to approve this resolution, seconded by Commissioner Leubert. Motion was passed and approved by the following vote: Pena, Garcia, Leubert, Pecos, Fugate voting "FOR".**

Mayor Fugate asked if there were no objections from the City Commission, he would like to take agenda item #16 before discussing agenda item #10. No objections made.

14. Consider authorizing staff to proceed with the acquisition of lease funds necessary to complete the leasing of equipment. (Director of Purchasing & IT).

Mr. Mason reported that this item allows City staff to proceed with the acquisition of lease funds necessary to complete the leasing of equipment. The City has budgeted \$85,000 for FY14 to begin a seven year lease for asphalt lay machine and an oil distributor. The approximate cost of the two machines is \$540,000. It is recommended we are authorized to proceed with a lease agreement with Capital City Leasing, of Austin, TX who has the lowest rate and require no fees. Isassi further stated that upon final agreement this lease will expend no more than \$85,000 per year for the seven year length of the lease.

**Motion made by Commissioner Pecos to approve this item, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Pena, Garcia, Leubert, Pecos, Fugate voting "FOR".**

15. Consider authorizing out-of-state travel for a member of the Commission to attend meetings with Congressional Officials in Washington, D.C. on March 23-26, 2014. (City Manager).

Mayor Fugate stated that the Coastal Bend Coalition will be traveling to Washington, DC to promote our military bases in Kingsville and Corpus Christi. He further stated that he would like to recommend Commissioner Leubert to travel to Washington, DC.

**Motion made by Mayor Fugate to authorize this out-of-state travel for Commission Leubert, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting "FOR".**

16. Consider accepting a donation from ExxonMobile to the Kingsville Fire Department for participation in recent refinery fire. (Fire Chief).

Mr. John Joiner, representative of ExxonMobile, presented a donation check to the Kingsville Fire Department for their assistance in recent fire that occurred on November 18, 2013.

**Motion made by Commissioner Garcia to accept donation from ExxonMobile, seconded by Commissioner Leubert and Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting "FOR".**

17. Consider introduction of an ordinance amending the Fiscal Year 2013-2014 General Fund Budget for the City of Kingsville to accept a donation made from ExxonMobile to the Kingsville Fire Department. (Director of Finance).

Introduction item.

18. Consider introduction of an ordinance amending the Fiscal Year 2013-2014 Fund 017 PD Grant Border Star (LBSP) for the City of Kingsville to accept a grant award from the Texas Department of Public Safety to the Kingsville Police Department. (Director of Finance).

Mrs. Balli stated that this is an introduction to accept a grant in the amount of \$66,125 which will be used for overtime and operational cost for the Kingsville Police Department.

Introduction item.

19. Consider introduction of an ordinance amending the Fiscal Year 2013-2014 budget for the General Fund to finance professional service fees for the Planning Department to make improvements to the City website. (Director of Finance).

Mrs. Balli stated that this is for updates to the City website in which a proposal was submitted in the amount of \$16,166.

Introduction item.

20. Consider introduction of an ordinance amending the Fiscal Year 2013-2014 Budget for the General Fund to finance the contracting costs of removing a nuisance, abandoned sign structure. (Director of Finance).

Mrs. Balli stated that this is for the removal of an abandoned sign located at 201 US77 which has been declared a nuisance and is in violation of City ordinance Section 15-6-131.

Introduction item.

21. Consider a resolution authorizing the City Manager to execute a consent to modify existing equipment request pursuant to the Communications Facilities License Agreement with T-Mobile. (City Attorney).

Mrs. Alvarez reported that in 2004, the City entered into a communication facility license agreement with T-Mobile West. The last two years, they have asked for consent to sublease to what was essentially called Crown Castle. She further stated that they would like to use the same footprint that they currently have at our sites, but switch out some equipment. Alvarez further stated that before they can go onto our property to switch out equipment, they need the City's consent in writing.

**Motion made by Commissioner Pena to approve this resolution, seconded by Commissioner Pecos. The motion was passed and approve by the following vote; Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".**

22. Executive Session: Pursuant to Section 551.074, of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the evaluation & duties of the City Attorney. (Commissioner Leubert).

Mayor Fugate announced and convened the Executive Session at 6:40 p.m.

Mayor Fugate reconvened the meeting into open session at 6:58 p.m.

## **VII. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:58 P.M.

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Sam R. Fugate, Mayor

ATTEST:

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Mary Valenzuela, City Secretary

# **PUBLIC HEARING(S)**

# **CONSENT AGENDA**

# **AGENDA ITEM #1**



ORDINANCE NO. 2014-\_\_\_\_\_

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER VII, ARTICLE 8, TRAFFIC CONTROL DEVICES; PROVIDING FOR THE INSTALLATION OF A STOP SIGN ON GENERAL CAVAZOS BLVD. AT THE NAVAL AIR STATION KINGSVILLE GATE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

I.

**THAT** Section 7-8-3 of Article 8: Traffic Control Devices of Chapter VII, Traffic Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 7-8-3 TRAFFIC CONTROL AREAS.**

...

(B)

...

AREA O		
Intersection	Direction	Device
...		
44. <u>General Cavazos Blvd. at Naval Air Station Kingsville Gate</u>	<u>Eastbound</u>	<u>Install stop sign</u>

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it

is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 20th day of March, 2014.

**PASSED AND APPROVED** on this the \_\_\_\_th day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Sam Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney



## ***Engineering Department***

361-595-8005  
361-595-8035 Fax

DATE: March 12, 2014  
TO: City Commission through City Manager  
FROM: Charlie Cardenas, P.E., City Engineer/Director of Public Works  
SUBJECT: Placement of a stop sign on General Cavazos at Naval Air Station – Kingsville gate.

### **SUMMARY**

This item authorizes the city to place a permanent stop sign on General Cavazos at the Naval Air Station – Kingsville (NAS-K) guard station inside the city limits.

### **BACKGROUND**

The Engineering Department received a request on March 7, 2014 from a NAS-K to place a permanent stop sign on General Cavazos at the guard station. Currently, there is a temporary stop sign that has been set up by NAS-K. The temporary stop sign has exceeded its limitations as per the Manual of Uniform Traffic Control Devices (MUTCD) and is not as visible as a permanent approved stop sign. The location for the stop sign is within the city limits. The permanent stop sign will make current traffic control conditions safer.

### **RECOMMENDATION**

Staff recommends that a permanent stop sign be placed on General Cavazos at the NAS-K gate.

### **FINANCIAL IMPACT**

No financial impact to the City of Kingsville. Changing this condition is in accordance with state and federal guidelines and the Manual of Uniformed Traffic Control Devices (MUTCD).

Approved

---

Vincent Capell, City Manager

## **AGENDA ITEM #2**

**ORDINANCE NO. 2014-**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2013-2014 BUDGET FOR COMMUNITY APPEARANCE TO PURCHASE FIVE (5) BENCHES AND SEVENTEEN (17) LITTER/RECYCLING RECEPTACLES FOR THE DOWNTOWN AREA.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2013-2014 budget be amended as follows:

**CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT**

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
<b>Fund 001</b>	<b>General Fund</b>				
<u>Capital</u>					
2		Fund Balance	610.00		<u>\$14,775</u>
					<u>\$14,775</u>
<u>Expenses</u>					
5-690.0		Fund Exp/Trsfrs Fund 091	394.93	<u>\$14,775</u>	
				<u>\$14,775</u>	
<b>Fund 091</b>	<b>General Fund Capital Projects Fund</b>				
<u>Revenues</u>					
4-000.0		Transfer from Fund 001	750.13	<u>\$14,775</u>	
				<u>\$14,775</u>	
<u>Expenses</u>					
5-160.3	Community Appearance	Equipment	712.00	<u>\$14,775</u>	
				<u>\$14,775</u>	

[The total proposal is \$21,175 of which \$6,400 is being contributed for the purchase of 5 benches. The request is for the City to contribute the remaining \$14,775. The purchase will have an immediate impact on the downtown by beautifying the streetscape and reducing the amount of trash blowing around the area. This amendment was previously approved in the prior year's budget but due to various issues the purchase and billing did not occur until the current year.]

---

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 20th day of March, 2014.

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

EFFECTIVE DATE: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Date: March 12, 2014

To: Deborah Balli; James Bryson

From: Cynthia Martin, Downtown Manager

CC: Vince Capell; David Mason; Robert Isassi; Robert R. Trescott

Re: Budget Amendment for the Purchase of Benches and Litter/Recycling Receptacles for the Downtown Area

In July of 2013, the Tourism Department proposed the purchase of new benches and litter receptacles for the downtown area to beautify the streetscape and reduce the amount of windblown trash. Keep Kingsville Beautiful stepped forward and offered to donate money for the purchase of five benches for the Downtown area. It was proposed that the City of Kingsville purchase fifteen litter/recycling receptacles.

On August 12, 2013, the City Commission approved an ordinance amending the Fiscal Year 2013-2014 General Fund Budget for Community Appearance to purchase benches and litter/recycling receptacles for the downtown area. The total proposal was for \$21,175 of which \$6,500 was being contributed for the purchase of five benches. The request was for the City to contribute the remaining \$14,775.

The benches and trash/recycling receptacles were ordered in September of 2013 but were not received and invoiced until after the end of the 2013-2013 Fiscal Year necessitating a budget amendment for the Fiscal Year 2013-2014 General Fund Budget for this purchase.



Kingsville, TX

# Budget Report

## Account Summary

For Fiscal: Current Period Ending: 03/31/2014

		Original	Current	Period	Fiscal	Variance	Percent
		Total Budget	Total Budget	Activity	Activity	Favorable (Unfavorable)	Remaining
<b>Fund: 091 - GF CAPITAL PROJECTS</b>							
<b>Expense</b>							
<u>091-5-1030-31430</u>	PrfServ-KC Golf Course	35,000.00	35,000.00	0.00	4,714.13	30,285.87	86.53%
<u>091-5-1030-71300</u>	Building	2,700,000.00	2,700,000.00	0.00	0.00 ✓	2,700,000.00	100.00%
<u>091-5-1601-31400</u>	Professional Services	35,000.00	35,000.00	0.00	23,904.50	11,095.50	31.70%
<u>091-5-1602-71100</u>	Vehicle	25,000.00	25,000.00	0.00	22,199.00	2,801.00	11.20%
<u>091-5-1603-21700</u>	Minor Eq/Furniture	0.00	0.00	0.00	14,775.00 ✓	-14,775.00	0.00%
<u>091-5-1603-34500</u>	Community Appearance City/KWO	190,000.00	190,000.00	0.00	650.00	189,350.00	99.66%
<u>091-5-1701-59100</u>	Grounds & Perm Fixtures	20,000.00	20,000.00	0.00	0.00	20,000.00	100.00%
<u>091-5-1702-71100</u>	Vehicle	231,000.00	231,000.00	0.00	86,349.00	144,651.00	62.62%
<u>091-5-1803-71200</u>	Furniture/Equipment	6,100.00	6,100.00	0.00	6,006.52	93.48	1.53%
<u>091-5-1902-72602</u>	Computers & Associated Eqp.	67,614.00	67,614.00	0.00	43,870.41	23,743.59	35.12%
<u>091-5-2200-71200</u>	Furniture/Equipment	44,850.00	44,850.00	0.00	0.00	44,850.00	100.00%
<u>091-5-2200-71300</u>	Building	124,210.00	124,210.00	0.00	1,763.88	122,446.12	98.58%
<u>091-5-3010-31461</u>	PrfSvcs-TAMUK-Kleberg Ave	35,000.00	35,000.00	0.00	-2,442.72	37,442.72	106.98%
<u>091-5-3010-71200</u>	Furniture/Equipment	10,000.00	10,000.00	0.00	0.00	10,000.00	100.00%
<u>091-5-3020-71300</u>	Building	0.00	9,101.00	0.00	9,100.00	1.00	0.01%
<u>091-5-3050-52126</u>	Street & Bridge-Wildwood	300,000.00	300,000.00	0.00	0.00	300,000.00	100.00%
<b>Total Expense:</b>		<b>3,823,774.00</b>	<b>3,832,875.00</b>	<b>0.00</b>	<b>210,889.72</b>	<b>3,621,985.28</b>	<b>94.50 %</b>
<b>Total Fund: 091 - GF CAPITAL PROJECTS:</b>		<b>3,823,774.00</b>	<b>3,832,875.00</b>	<b>0.00</b>	<b>210,889.72</b>	<b>3,621,985.28</b>	<b>94.50 %</b>
<b>Report Total:</b>		<b>3,823,774.00</b>	<b>3,832,875.00</b>	<b>0.00</b>	<b>210,889.72</b>	<b>3,621,985.28</b>	<b>94.50 %</b>





## PURCHASE ORDER

City of Kingsville  
PO Box 1458  
Kingsville, TX 78364  
(361) 595-6025

P.O. NO. 132346

5/5/81 2026

## SHIP TO:

Main Street Tourist  
1501 N. Hwy 77  
Kingsville, TX 78362  
Bob Treascoe

Keystone Ridge  
01-4522  
670 Merden Road  
Butler, PA 16001-1981

132346

NO BACK ORDERS WILL BE ACCEPTED. \*PREPAID FREIGHT ON ALL SHIPMENTS REQUIRED

0.00	Bananas & Receiptables	001-5-160.3-217.00	0.00	14,775.00
0.00	Bananas & Receiptables	001-5-160.3-244.00	0.00	6,450.00
5-	Hamplighter Bananas			
5-	Customized Metal Cast Bronze Plaques Trays			
1-	Cast Metal Plate Banner For Lamp Banan			
15-	ENG-CRYS PENN OR GALLON Litter Receiptables			
5-	Plaques			

21,225.00

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

NOTE: THE CITY OF KINGSVILLE WILL NOT BE RESPONSIBLE FOR ANY GOODS  
DELIVERED WITHOUT A P.O. #. ALL CORRESPONDENCE, INVOICES, SHIPPING  
TAGS, SHIPMENTS, AND PACKAGES MUST BEAR THE ABOVE P.O. #.

ORDERED BY: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

## INSTRUCTIONS:

All charges MUST be covered by a Purchase Order. Render one copy of invoice at time of delivery. Submit itemized monthly statement accompanied by duplicate copy of each invoice covering charges for prepaid or express charges. Indicate on invoice Discount for monthly or ten day payment. Ship cheapest way unless otherwise specified. Purchase Order number MUST be shown on all invoices.

PURCHASING DEPT. COPY



670 Mercer Road • Butler, PA 16001-1840  
 Toll-free: 1-800-284-8208 • Phone: 724-284-1213 • Fax: 724-284-1253  
 www.keystoneridgedesigns.com

DATE:	9/4/2013	ATTN:	DAVID MASON
QUOTATION #:	027775-03	EMAIL:	dmason@cityofkingsville.com
PROJECT NAME:	KINGSVILLE, TX	CUSTOMER #:	013265
QUOTE VALID TO:	12/31/2013	SELL TO:	CITY OF KINGSVILLE
PAYMENT TERMS:	NET 30		PO BOX 1458
EST. LEAD TIME:	10 - 12 WEEKS		
FAX NUMBER:	(361) 595-8035		KINGSVILLE, TX 78364-1458
SALES REP:	Justin Maskal	SHIP TO:	Public Works Bldg
EMAIL:	JustinM@keystoneridgedesigns.com		1300 E Corral
EXTENSION:	243		KINGSVILLE, TX 78363

Please confirm the ship to location listed on the top portion of this quote and complete the following when placing your order.

#### 24 Hour Advance Shipment Notification

To: \_\_\_\_\_

Phone: \_\_\_\_\_

#### QUOTE SUMMARY:

Total Quotation Amount:	\$21,175.00
Payment Required to Activate Order:	\$0.00
Remaining Balance Due Net 30	\$21,175.00

#### SPECIAL CONSIDERATIONS:

Terms of Sale: Net 30

- \* Terms and discounts under TXMAS-12-78010 have been included.
- \* Cast nameplate to read: KINGSVILLE, TEXAS
- \* Plaque to include logo and read: This bench donated by Keep Kingsville Beautiful 2013

#### LINE ITEMS:

Line	Part #	Description	Qty	Unit Price	Extended Price
1	OLL02-4000000-0000	L24 - LAMPLIGHTER BENCH 4' WITH BACK - PLEASE ADVISE COLOR	5	\$1,230.00	\$6,150.00
2	CEPLQ-5X50001-0000	CUSTOMIZED ETCHED ZINC PLAQUE AND PLAQUE TRAY HOLDER, 5" X 5", LOGO TO BE: KEEP KINGSVILLE BEAUTIFUL. LOGO TO BE IN 2 COLORS.	5	\$220.00	\$1,100.00
3	ALCST-0000000-0000	CAST NAME PLATE ADD-ON FOR LAMPLIGHTER BENCH LEGS. UP TO 21 CHARACTERS (INCLUDING SPACES), CUSTOMIZED TO CLIENT'S SPECIFICATIONS. NAMEPLATE AFFIXED TO EACH END CASTING ON LAMPLIGHTER BENCH. (THIS IS A ONE-TIME CHARGE.)	1	\$350.00	\$350.00
4	OPN03-3E11RTS-0000	PN3-32RTS - PENN 32 GALLON LITTER RECEPTACLE WITH ELEVATED LEGS AND DUAL RECYCLE/TRASH FLAT LID, LID TO HAVE (1) 5" ROUND RECYCLE HOLE FOR RECYCLABLES AND (1) HALF MOON HOLE FOR TRASH, 2 HALF LINERS IN LITTER TO SEPARATE RECYCLABLES AND TRASH, DECAL ON LID TO DESIGNATE RECYCLE WITH LOGOS AND TRASH - PLEASE ADVISE COLOR	15	\$905.00	\$13,575.00

Total Material Costs:	\$21,175.00
Freight & Packaging:	\$0.00
<b>Quotation Total:</b>	<b>\$21,175.00</b>

accept all of Keystone Ridge Designs' Terms and Conditions as outlined on this page and all proceeding and subsequent pages of the quotation. See following page for complete terms and conditions.



Authorized Signature

#### STANDARD PAYMENT TERMS

Products and quantities needed are the responsibility of the customer. All products are produced to individual customer specification and unless otherwise stated, require a 50% down payment before manufacturing along with a sign off on this quotation. Balance of materials, freight and packaging and sales tax (if applicable) is due before products ship. This payment method is an effective and efficient system to ensure timely production and scheduling, ultimately providing greater cost savings to the client. MasterCard®, Visa®, American Express® and Discover® are accepted payment methods.

- A 50% down payment of total costs is required to activate an order with an approved credit card, check or money order. Check or money order payment orders will be activated upon receipt. Credit card orders will be immediately activated. Client may pay balance C.O.D. with a cashiers check. C.O.D. also requires an additional fee to the trucking company, payable with a second cashiers check. Please note that full truck shipments cannot be sent C.O.D.
- The remaining 50% of total costs is due before the products will ship from the factory. Upon notification from Client Services, the remaining balance is payable by approved credit card, check or money order.

- If payment in full is received along with order activation, a 2% discount will be applied. Credit card purchases are excluded.

- On the day your products ship, Client Services will contact you with pertinent shipping information.

#### FREIGHT & PACKAGING

Freight and packaging charges to stated shipping address are based on quantities listed on quotation. If the scope of project changes, freight and packaging will be revised accordingly.

Unless otherwise indicated, freight charges do not include unloading and placement. If you require lift gate service (lowering the products to ground level if there is no loading dock), please call for pricing before placing an order.

24-hour advance notification is including with your freight quote. You will receive a call from the shipping company prior to delivery.

#### DISCOUNTS

Discounts are applied based on a tiered sales volume structure. If products or quantities change, discount will be revised accordingly.

#### TAX

Sales tax will be assessed only to products shipping to or picked up within Pennsylvania and will be listed as a line item on the quotation.

#### CANCELLATIONS & RETURNS

A 25% restocking fee will be assessed on returned orders and orders cancelled more than two weeks after placement.

#### STORAGE

Storage fees will begin to accrue after one month from the date that the client is notified that the products are ready to ship, or one month after the estimated delivery date (whichever is later).

#### LEAD TIME

Delivery dates are estimated dates only and vary, but are usually estimated for 8-12 weeks. Final ship date notification will be coordinated through our Client Services.

#### HARDWARE

Keystone Ridge Designs utilizes high-quality stainless steel assembly hardware where applicable. Anchoring hardware, due to specialization required for each installation, is not supplied. Stainless steel hardware is recommended.

#### DELIVERY

The bill of lading is considered the client receipt and should be compared to each delivery for discrepancy. Products should be carefully examined for damage incurred during shipment. Keystone Ridge Designs, Inc.® is not responsible for product damage or shortage once the bill of lading is signed by the client. Inconsistency between order and shipment quantities, as well as product damage, must be indicated on the bill of lading upon delivery and before the freight company leaves the delivery site in order to file a damage claim with Keystone Ridge Designs, Inc. If damage is found or if there are any concerns regarding delivery, immediately notify Client Services at 1-800-284-8208.

#### WARRANTY

Keystone Ridge Designs, Inc.® is committed to product quality as well as client satisfaction. Therefore, all products are covered against material and workmanship defects for THREE YEARS from the date of purchase. "Material" is defined by all metal substrates that create the structure of the site furniture and the powder coat finish that coats the product. "Workmanship" refers to the welding, material bending and finishing. Any defect to our product that is a failure of the product within the normal wear and tear of product usage is covered under the warranty. Product damaged by abnormal use, vandalism or acts of nature are not eligible for this factory warranty.

To apply for the three-year warranty, products must be installed according to the manufacturer's recommendations. Products are recommended to be bolted to the surface to avoid theft, damage or movement. Umbrellas must be anchored in an 80 lb. or heavier base to apply for the three-year warranty. For questions concerning proper installation of our products, please call Client Services. Keystone Ridge Designs, Inc.® will repair or replace any part found defective upon written notification and inspection by Client Services.

Wood table/seat tops, fiberglass planters, gypsum planters and other products, as noted, are guaranteed for indoor use only.

#### PROPRIETARY STATEMENT

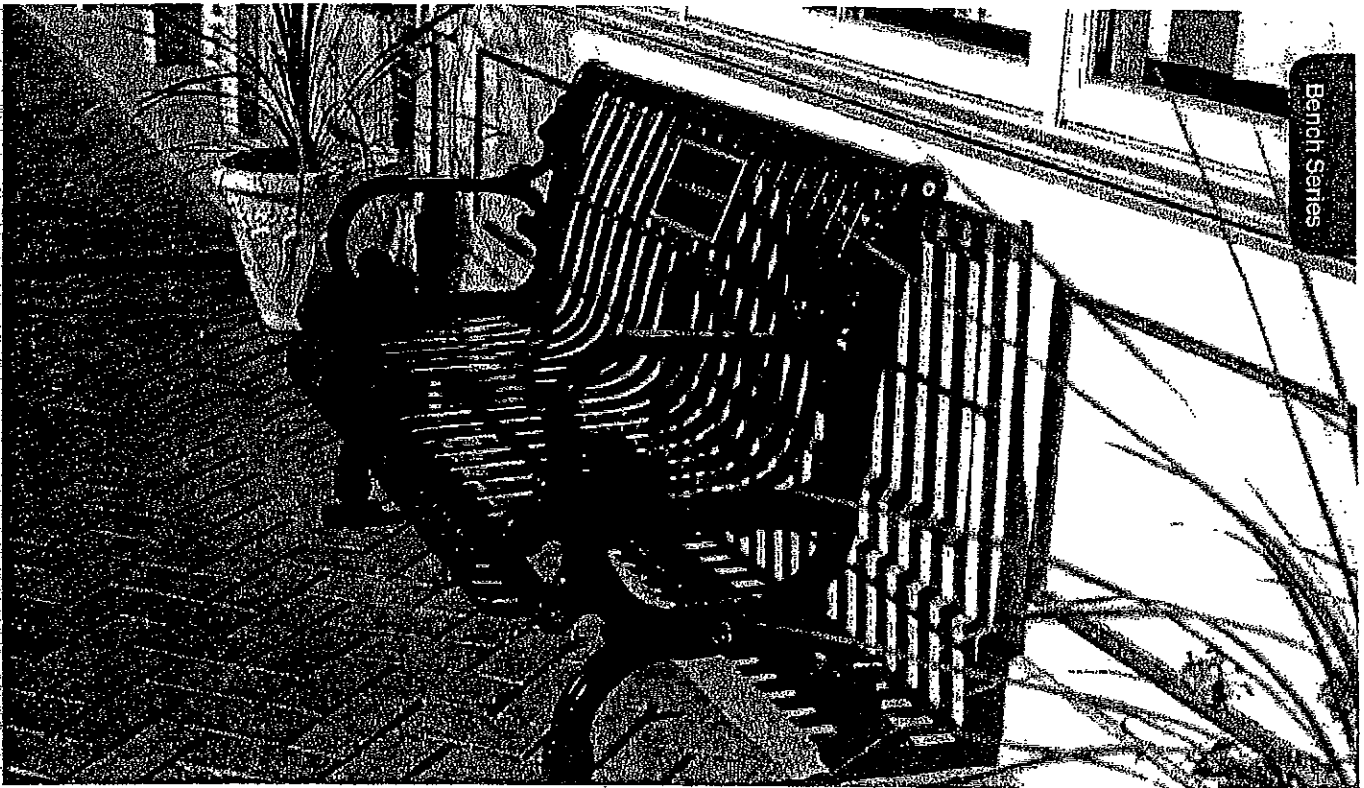
Keystone Ridge Designs, Inc.® is proud to offer the design community exceptional site amenities. Due to the time and resources invested in designing, manufacturing and marketing Keystone Ridge Designs™ products and services, we pursue design patents, copyrights, trademarks and service marks whenever possible. Any unlawful duplication or misrepresentation of Keystone Ridge Designs™ products or promotional materials will be rigorously protected.

Keystone Ridge Designs reserves the right to alter pricing, product design, materials or construction without notice.

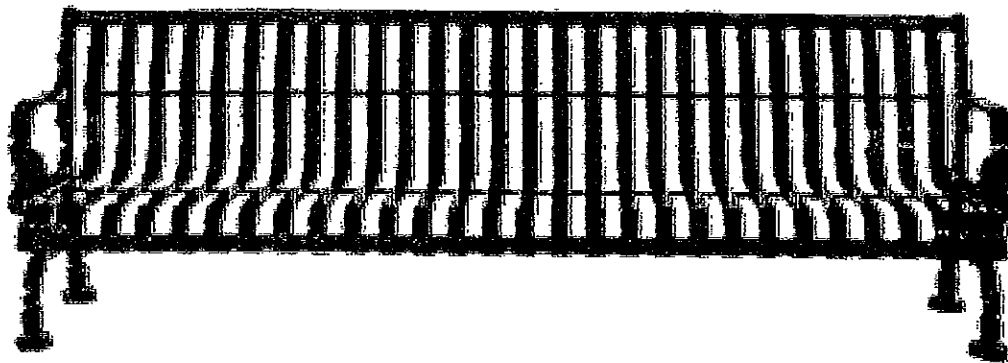
Keystone Ridge Designs' products are covered by one or more of the following patent numbers: United States Des. 372,133; 376,270; 380,313; 406,700; 406,701; 413,449; 413,738; 414,952; 418,652; 420,814; 421,515; 421,824; 423,166; 423,239; 424,769; 440,060; 446,399; 449,745; 454,674; 456,579; 457,334; 457,701; 457,738; 457,741; 457,742; 458,044; 459,563; 461,336; 465,679; 465,936; 465,952; 466,318; 466,729; 467,104; 471,368; 474,618; 474,619; 481,890; 506,339; 510,216; 515,856; patents pending or Exclusive By Design™.

Keystone Ridge Designs, Inc. designs, manufactures and markets an original and exclusive line of site furniture. In accordance with the United States patent process, our products are officially marked with the designated descriptive numbers and required labeling. We strictly prohibit any other labeling which interferes, mutilates or restricts the legal requirements of product identification.

**City of Kingsville  
Street Furnishings – Phase 1**



## Downtown



4' benches @ \$1,230 ea  
One time set up fee for cast name plate on benches @ \$350  
32 gal litter/recycling receptacles @ \$905 ea  
Optional 10" x 5" plaque holder @ \$ 30 ea

City of Kingsville  
Proposed/Possible Expenditure of Additional FY 2012 Budget Savings  
7/22/13

Additional Budget Savings from FY2012	\$600,000
(1) Agenda Items No. 15 & 16 at 2/25/13 Commission Meeting– Equipment for Community Appearance Division of the Planning and Development Services Dept. (Approved)	<u>(42,480)</u>
Amount Remaining 2/25/13	\$557,520
(2) Agenda Items No. 9 & 10 at 3/25/13 Commission Meeting – Trees on West Santa Gertrudis Median (Pending)	(40,623)
(3) Agenda Items No. 12 & 13 at 3/25/13 Commission Meeting – Dumpster Enclosures	<u>(70,124)</u>
Amount Remaining 3/25/13	\$446,773
(4) Agenda Item No. 2 at 6/10/13 Commission Meeting – Economic Development (Cash Portion) Incentive to Zarsky Development Company, LLC for Wildwood Trails Subdivision	<u>(300,000)</u>
Amount Remaining 6/10/13	\$146,773
(5) Agenda Item No. 3 at 7/22/13 Commission Meeting (Adoption) – G.I.S. Server Hosting Services	(14,980)
(6) Agenda Item No. 12 at 7/22/13 Commission Meeting (Introduction) - Amend Interlocal Agreement with TAMUK School of Engineering for additional design services on Kleberg Street	(6,000)
(7) Agenda Item No. 23 at 7/22/13 Commission Meeting (Introduction) – Additional demolition activity by Community Appearance Office	(35,830)
(8) Agenda Item No. 26 at 7/22/13 Commission Meeting (Introduction) – Purchase of Downtown Streetscape Furniture in partnership with Keep Kingsville Beautiful (KKB)	<u>(14,775)</u>
Amount Remaining 7/22/13	<u>\$75,188</u>

091-5-1603-71200

## Fiscal

10/01/2012 - 09/30/2013

**Balance:**

45 693 32

## Furniture/Equipment

**Pending:**

0.00

## General

Number

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

### Description

### Adjustment

## Budget

## Segmentation

## Report Groups

## Notes

**Budget**

## Summary

### Detail

Period Distributi

## Adjustments

## Budget Notes

## History

### Detail

### Period Activity

## Fiscals

### Journal Entries

### Encumbrances

## Documents

General Ledger Account Manager: 091-5-1603-21700

Save and Close

Save and New

Delete Item

Print Screen

091-5-1603-21700

Fiscal

10/01/2012 - 09/30/2013

Balance: 0.00

Minor Eq/Furniture

Pending: 0.00

General

Segmentation

Report Groups

Notes

Budget

Summary

Detail

Period Distributi

Adjustments

Budget Notes

History

Detail

Period Activity

Fiscals

Journal Entries

Encumbrances

Documents

Number	Date	Description	Adjustment	Budget
		Original Budget		0.00
1821-00000	09/30/2013		14,775.00	14,775.00



*Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor,. No formal action can be taken on these items at this time."*

#### **IV. Public Comment on Agenda Items<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

#### **V.**

##### **Consent Agenda**

##### **Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

##### **CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

1. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 budget of the General Fund for the City of Kingsville for the First Amendment to the Interlocal Agreement with Texas A&M University-Kingsville for engineering design work for Kleberg Avenue. (Director of Finance).
2. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 budget of the General Fund for City Secretary Certification and City Manager Travel and Training. (Director of Finance).
3. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 budget of the General Fund for City Commission Travel and Training. (Director of Finance).
4. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 Certificate of Obligation 2013 & 2011 Fund Budgets and Storm Water Utility Fund Budget for Street and Drainage Projects. (Director of Finance).
5. Motion to approve final passage of an ordinance amending the fiscal year 2012-2013 General Fund Budget for the City of Kingsville to accept a grant from the Union Pacific Foundation for Keep Kingsville Beautiful Program in conjunction with the Community Appearance Department. (Director of Finance).
6. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 General Fund Budget for Community Appearance to fund demolition projects through the remaining fiscal year. (Director of Finance).
7. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 Budget for the General Fund to assist with repair costs to the Equipment Barn at the L.E. Ramey/County Golf Course. (Director of Finance).
8. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 General Fund budget for Community Appearance to purchase benches and litter/recycling receptacles for the downtown area. (Director of Finance).

# AGENDA ITEM #8

ORDINANCE NO. 2013-

**AN ORDINANCE AMENDING THE FISCAL YEAR 2012-2013 GENERAL FUND BUDGET FOR COMMUNITY APPEARANCE TO PURCHASE BENCHES AND LITTER/RECYCLING RECEPTACLES FOR THE DOWNTOWN AREA.**

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2012-2013 budget be amended as follows:

CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
<b>Fund 001</b>	<b>General Fund</b>				
<u>Capital</u>					
2		Fund Balance	610.00		<u>\$14,775</u>
					<u>\$14,775</u>
<u>Expenses</u>					
5-690.0		Fund Exp/Trsfrs Fund 091	394.93	<u>\$14,775</u>	
				<u>\$14,775</u>	
<b>Fund 091</b>	<b>General Fund Capital Projects Fund</b>				
<u>Revenues</u>					
4-000.0		Transfer from Fund 001	750.13	<u>\$14,775</u>	
				<u>\$14,775</u>	
<u>Expenses</u>					
5-160.3	Community Appearance	Equipment	712.00	<u>\$14,775</u>	
				<u>\$14,775</u>	

[The total proposal is \$21,175 of which \$6,400 is being contributed for the purchase of 5 benches. The request is for the City to contribute the remaining \$14,775 for the purchase of 17 litter/recycling receptacles. The purchases will have an immediate impact on the downtown area by beautifying the streetscape and reducing the amount of windblown trash.]

• THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 22nd day of July, 2013.

PASSED AND APPROVED on this the \_\_\_ day of \_\_\_\_\_, 2013.

EFFECTIVE DATE: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

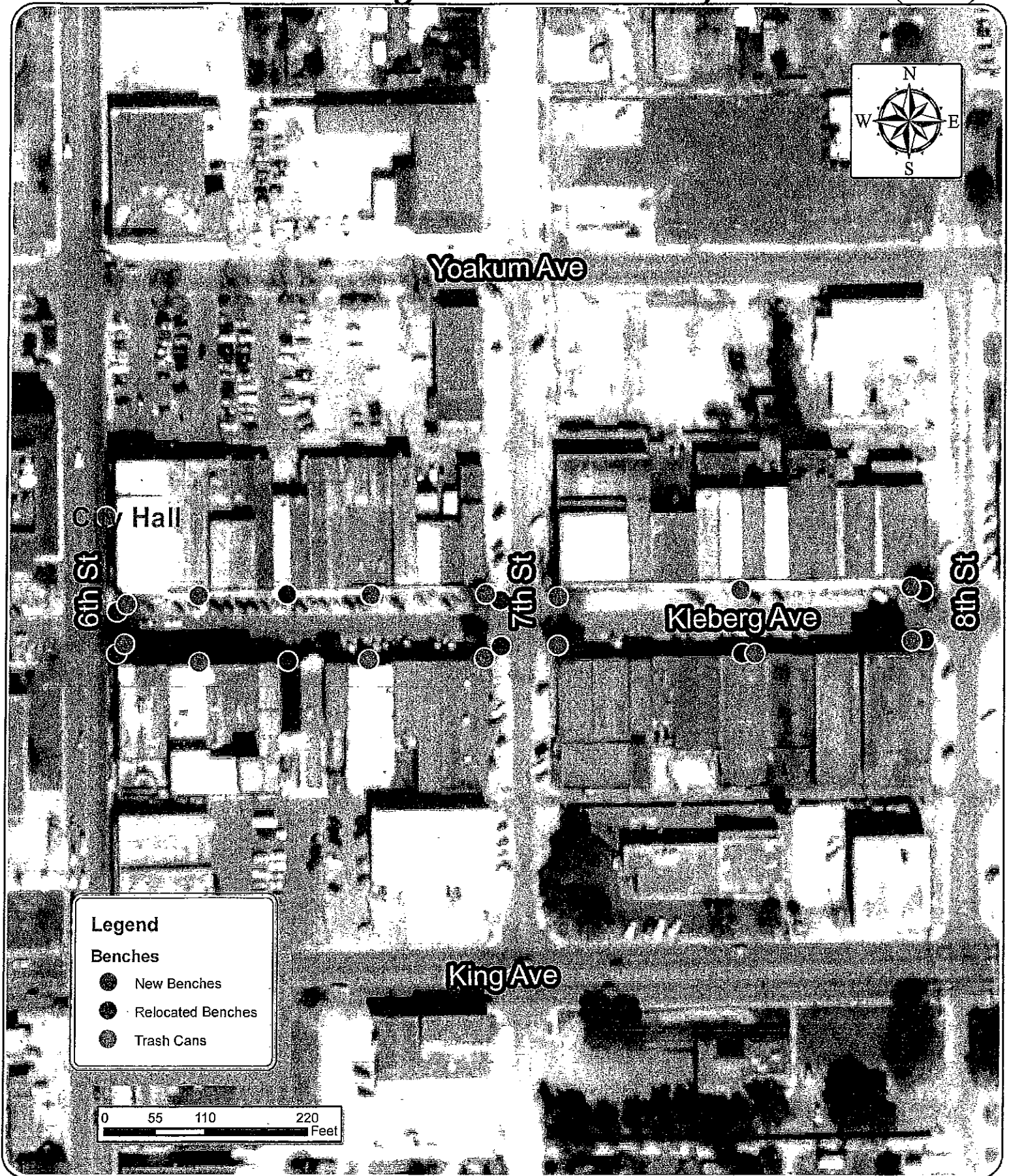
\_\_\_\_\_  
Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# Kleberg Street Bench Project

(1D)



Document Path: N:\GIS Techs\MAPSWAP\_DOCUMENTS\Mini\_Projects\Bench\_Project.mxd

Page 1 / 1	Drawn By: Engineering
	Last Update: 2/4/2014
	Note:

DISCLAIMER  
THIS MAP IS FOR VISUAL PURPOSES ONLY.  
THE INFORMATION ON THIS SHEET MAY  
CONTAIN INACCURACIES OR ERRORS.  
THE CITY OF KINGSVILLE IS NOT  
RESPONSIBLE IF THE INFORMATION CONTAINED  
HEREIN IS USED FOR ANY DESIGN,  
CONSTRUCTION, PLANNING, BUILDING,  
OR ANY OTHER PURPOSE.



**CITY OF KINGSVILLE**  
**ENGINEERING DEPARTMENT**  
200 East Kleberg  
Kingsville, Texas 78363  
Office: 361-595-8005  
Fax: 361-595-8035

# **REGULAR AGENDA**

# **AGENDA ITEM #3**

**RESOLUTION #2014-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER AND CHIEF OF POLICE TO APPLY FOR AND PARTICIPATE IN THE TEXAS 1033 SURPLUS PROPERTY PROGRAM ON BEHALF OF THE KINGVILLE POLICE DEPARTMENT; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Kingsville Police Department ("KPD") has use for surplus property from the Department of Defense that can be transferred to law enforcement agencies, like KPD, via the Texas 1033 Surplus Property Program;

**WHEREAS**, the KPD would like to apply to the Texas Department of Public Safety to participate in the Texas 1033 Surplus Property Program for 2014;

**WHEREAS**, the KPD had read through the information provided and has designated individuals to request authorization for screening and receiving surplus property;

**BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**I.**

**THAT** the City Manager and Chief of Police are authorized and directed as an act of the City of Kingsville, Texas to apply for and enter into the Texas 1033 Surplus Property Program in accordance with Exhibit A hereto attached and made a part hereof.

**II.**

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

**III.**

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 14th day of April, 2014.

---

Sam R. Fugate, Mayor



**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

## **TEXAS 1033 SURPLUS PROPERTY PROGRAM APPLICATION LETTER**

TO: Texas Department of Public Safety  
ATTN: Texas 1033 Program  
5805 N. Lamar Blvd.  
BLDG G  
Austin, TX 78752

AGENCY: Kingsville Police Department

SUBJECT: Request Authorization for Screening and Receiving Surplus Property

1. Our Agency request that the personnel listed on the attached Law Enforcement Agency (LEA) Data Sheet be granted authorization to screen for and receive excess federal property as defined in the Defense Authorization Act, 1997, Public Law 104-181 Section 1033, Transfer of Excess Personal Property.
2. We, the undersigned, understand and agree that failure to comply with the terms of this application is in direct conflict with the intent of this program, and failure on our agency's part to abide by the terms and conditions of the Texas 1033 Program may result in termination from the program and other sanctions including civil or criminal prosecution.
3. We understand and agree that we are responsible for all transportation costs incident to the redistribution or collection of any transferred property. Transferred property must be removed from the Defense Reutilization and Marketing Offices (DRMO) within fourteen (14) days or sooner if so directed by the DRMO. Failure to claim and remove property may result in the redistribution of the property to another agency.
4. We understand and agree that this property is transferred from the Department of Defense (DoD). Transferred property must have a direct application to the LEA's street law enforcement, arrest and apprehension mission. Transferred property may not be disposed of, bartered or transferred without prior notification, written authorization and instructions from the Texas 1033 Program, including instances in which property is no longer serviceable for law enforcement use.
5. We understand and acknowledge that at no time can transferred aircraft or weapons be sold. Additionally, assigned aircraft or weapons cannot be disposed of, bartered or transferred without written consent from the Texas 1033 Program. Failure to comply will result in eternal termination from the program and possible civil or criminal prosecution.
6. We have read and understand, in its entirety, the Texas Military Surplus Property and Procurement Program booklet. We understand and agree to comply with the terms and conditions of the Texas 1033 Program and have signed the Release of Liability Statement.
7. We understand that the Federal Freedom of Information Act and the Texas Open Records Act apply to all property received under the Texas 1033 Program.

8. We understand and agree that our authorization to screen and receive property expires one year from the Law Enforcement Support Office (LESO) authorization letter date. We also understand that it is our responsibility to submit a new Texas 1033 Program application packet each year prior to the one year anniversary of our Authorization Letter and/or when there are administration changes and a new LEA Data Sheet when there are any personnel changes. Failure to comply may result in suspension from the program and possible termination.

9. We understand that the inventory form (TX 1033 Form A6) will be completed and maintained for all transferred property. Additionally, we acknowledge that the inventory form must be submitted annually with the application packet to maintain compliance with program policies. Failure to comply may result in suspension of the program and possible termination.

10. We understand that if a vehicle is obtained through the Texas 1033 Program, the LEA will forward photocopies of both (1) the United States Government Certificate to Obtain Title to a Vehicle (SF 97); and (2) the Texas Certificate of Title (Form 30-C) to the Texas 1033 Program Office within thirty (30) days of receipt.

Ricardo Torres

\_\_\_\_\_  
AGENCY CHIEF EXECUTIVE OFFICIAL<sup>1</sup>:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Apr 2, 2014

\_\_\_\_\_  
Date

Ricardo Torres, Chief of Police

\_\_\_\_\_  
Name / Title

AUTHORIZED OFFICIAL<sup>2</sup>:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Apr 2, 2014

\_\_\_\_\_  
Date

Vincent J. Capell/City Manager

\_\_\_\_\_  
Name / Title

Agency Chief Executive Official — Chief of Police or County Sheriff

<sup>2</sup>  
Authorized Official — County Judge, Mayor, or City Manager/Administrator,  
University/College President or Director.

## **TEXAS 1033 SURPLUS PROPERTY PROGRAM RELEASE OF LIABILITY**

AGENCY: Kingsville Police Department, Texas  
City / County

The Texas Law Enforcement Agency (LEA) designated above acknowledges receipt of excess property from the Department of Defense pursuant to Section 1033 of the National Defense Authorization Act for Federal Fiscal Year 1997 (the "Act"). Such excess property transferred pursuant to the Act may include small arms and ammunition (hereinafter referred collectively as the "Transferred Property").

The LEA acknowledges that the Transferred Property is considered excess to the needs of the Department of Defense and that the Transferred Property may be in any condition from new to unserviceable. The LEA acknowledges that there may be hazards associated with the use of the Transferred Property, which could cause damage to property and serious injury or death. The term "use" with respect to the Transferred Property is acknowledged to include, but is not limited to, active deployment, passive transportation, and mere possession. The LEA agrees to provide appropriate or adequate training to any person who may use the property. The LEA agrees that it IS NOT the responsibility of the Department of Defense, the State of Texas, or the Texas Department of Public Safety to provide appropriate or adequate training to any person using the Transferred Property.

The Department of Defense, the State of Texas nor the Texas Department of Public Safety assumes any liability for damages or injuries to any person or property arising from the use the Transferred Property. By signing this agreement, the LEA agrees, subject to the appropriation of sufficient funds, to be solely responsible for any and all suits, actions, demands or claims of any nature arising from its use of the Transferred Property. The LEA agrees to maintain, at its expense, adequate liability and property damage insurance and workman's compensation insurance to cover any such claims.

The LEA accepts Transferred Property "as is" with no warranty of any kind. The Department of Defense, the State of Texas nor the Texas Department of Public Safety make any claims or warranties, expressed or implied, concerning the Transferred Property, including but not limited to warranty of fitness for a particular purpose.

The LEA acknowledges that any item of the Transferred Property meeting the definition of "machine gun" found in 26 U.S. C. 584(b)\* must be registered with the Bureau of Alcohol, Tobacco, and Firearms (BATF) with an ATF Form-10 (Application for Registration of Firearm Acquired by Certain Governmental Entities). Upon receipt of a properly executed Form-10, ATF will accept the registration of the machine gun and notify the LEA. Any machine gun registered in this manner is restricted for law enforcement use only. The LEA agrees to provide the State Coordinator's Office a copy of an approved Form-10 for each machine gun that is part of any Transferred Property received. The LEA must execute a separate transfer agreement with the United States Army, through the 1033 Program, for any small arms/weapons.

The LEA acknowledges that it is solely responsible for any and all costs associated with the transferred Property, including but not limited to, packing, crating, handling, transportation, repossession, and disposal.



**LAW ENFORCEMENT AGENCY (LEA)  
APPLICATION FOR PARTICIPATION**

\*This application must be updated and resubmitted within 30 days of any changes or on an annual basis

NEW ☒

UPDATE ☐

SCREENER ID (Update Only): \_\_\_\_\_

AGENCY: Kingsville Police Department

PHYSICAL ADDRESS (No P.O. Box): 1700 E. King Ave.

MAILING ADDRESS (If different than above): P.O. Box 1458

CITY: Kingsville STATE: Texas

ZIP: 78363 EMAIL: chief@kingsvillepd.us

PHONE: (361) 592-4311 Opt. #5 FAX: (361) 593-1714

**NUMBER OF COMPENSATED OFFICERS WITH ARREST AND APPREHENSION AUTHORITY**

FULL-TIME: 50 PART-TIME: 0 RESERVE: 5

**SCREENER(S) POC: MUST HAVE AT LEAST ONE**

**\*MAIN POC: Designated POC for calls and emails on 1033 Program requests and property pickup**

SCREENER/MAIN POC: Ricardo Torres

SCREENER/POC #2: Julian Cavazos

SCREENER/POC #3: Bradley Life

SCREENER/POC #4: Mark Frost

WEAPON POC (Optional): Ricardo Salinas

AIRCRAFT POC (Optional): \_\_\_\_\_

**INVENTORY CHECK**

Does the Agency currently have any equipment from the 1208/1033 Program? YES ☒ NO ☐

WEAPONS: YES ☐ NO ☐ AIRCRAFT: YES ☐ NO ☐ WATERCRAFT: YES ☐ NO ☐

TACTICAL: YES ☐ NO ☐ OTHER CONTROLLED: YES ☒ NO ☐ DEMIL A: YES ☐ NO ☐  
VEHICLES PROPERTY (LESS THAN A YEAR OLD)

**\*By signing this application, the Chief Executive Official/Head of Agency (Local Field Office) is aware of 1208/1033 Property currently in the possession of their department.**

**\*Upon acceptance into the 1033 Program, I understand that I have 30 days to familiarize myself with the State Plan of Operation and all 1033 Program guidance that is provided by the State Coordinator and that by signing, I certify that all information contained above is valid and accurate.**

**CHIEF EXECUTIVE OFFICIAL/  
HEAD OF LOCAL AGENCY**

Ricardo Torres

DATE: Apr 2, 2014

PRINTED NAME

SIGNATURE

**STATE COORDINATOR:  
(NOT REQUIRED FOR FEDERAL)**

Skylor Hearn

DATE: \_\_\_\_\_

PRINTED NAME

SIGNATURE



## TEXAS 1033 SURPLUS PROPERTY PROGRAM SUPPLEMENTAL DATA SHEET

Date: Apr 2, 2014

Agency: Kingsville Police Department

Phone: (361) 592-4311 Alternate Phone: (361) 675-18

Fax: (361) 593-1714

Website (if applicable): www.kingsvillepd.us

Screeners #1: Chief Ricardo Torres, chief@kingsvillepd.us  
RANK / NAME / E-MAIL ADDRESS

Screeners #2: Lt. Julian Cavazos, juliancavazos@kingsvillepd.us  
RANK / NAME / E-MAIL ADDRESS

Screeners #3: Lt. Bradley Lile, bradleylile@kingsvillepd.us  
RANK / NAME / E-MAIL ADDRESS

Screeners #4: Sgt. Mark Frost, mark@kingsvillepd.us  
RANK / NAME / E-MAIL ADDRESS

Weapons Officer: Sr. Ptlm. Ricardo Salinas, rick@kingsvillepd.us  
RANK / NAME / E-MAIL ADDRESS

### AGENCY CHIEF EXECUTIVE OFFICIAL<sup>1</sup>

Signature: \_\_\_\_\_

Name: Ricardo Torres

Title: Chief of Police

Email: chief@kingsvillepd.us

### AUTHORIZED OFFICIAL<sup>2</sup>

Signature: \_\_\_\_\_

Name: Vincent J. Capell

Title: City Manager

Email: vcapell@cityofkingsville.com

<sup>1</sup> Agency Chief Executive Official – Chief of Police or County Sheriff.

<sup>2</sup> Authorized Official – County Judge, Mayor, or City Manager/Administrator, University/College President or Director.

Clear

## **STATE OF TEXAS 1033 PROGRAM PLANS, POLICIES AND PROCEDURES**

### **PURPOSE:**

The purpose of this document is to set forth the terms and conditions which will be binding on the parties with respect to excess Department of Defense (DOD) personal property which is transferred pursuant to 10 U.S.C. §2576a and to promote the efficient and expeditious transfer of the property.

### **AUTHORITY:**

The Secretary of Defense is authorized by 10 U.S.C. §2576a to transfer to Federal and State Agencies, personal property that is excess to the needs of the DOD and that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with emphasis on counterdrug/counterterrorism activities, under such terms prescribed by the Secretary. The authorities granted to the Secretary of Defense have been delegated to the Defense Logistics Agency (DLA).

### **STAFFING AND FACILITIES:**

By authority of the State Governor, the Assistant Director over the Law Enforcement Support Division of the Texas Department of Public Safety is the Texas 1033 Program State Coordinator. The State Coordinator appoints the State Points of Contact (SPOCs) to administer the daily operation of the 1033 Program.

### **TERMS AND CONDITIONS:**

- **Law Enforcement Agency (LEA) Eligibility Criteria:** Must be a “law enforcement activity” whose primary function is enforcement of applicable Federal, State and local laws as defined by the DLA regulation (this is referring to DLA Directive (DLAD) 4160.10 which will be superseded by the One Book) and whose compensated officers have powers of arrest and apprehension.
- **How to Enroll in the State 1033 Program:** LEA must request enrollment via their State Coordinator. LEAs must provide a completed application packet to their State Coordinator. NOTE: Upon request of the Law Enforcement Support Office (LESO), a mission statement will need to be provided along with the datasheet. If the enrollment request is approved by the State Coordinator, it will be forwarded to the LESO. If approved by LESO, the State Coordinator will be contacted and provided with a LEA screener’s authorization memo (Authorization Letter for Property Screening and Receiving). Once enrolled, the LEA must acknowledge receipt of the memorandum of understanding (MOU) with the State Coordinator agreeing to the terms and conditions of the 1033 Program. As soon as an agency is properly enrolled, automations screening may be conducted through the Defense Reutilization and Marketing Office (DRMO) website. The State Coordinator’s office must provide the LEA with their login identification number for this application.
- **LEA Screener Criteria:** Must be full-time and/or part-time, sworn and/or non-sworn officers assigned to the LEA performing this duty. LEAs are allowed a maximum of four (4) screeners



per agency. A maximum of two (2) of the authorized screeners may physically screen at any DRMO at one time.

- **Identification/Acquisition/Transportation of Property:** LEAs find needed property electronically through the Defense Reutilization and Marketing Service (DRMS) website: [www.drms.dla.mil](http://www.drms.dla.mil) or by physically visiting the nearest DRMO. Once property has been identified, LEAs submit a manual or electronic DRMS Form 103 to the State Coordinator. The State Coordinator approves/disapproves the request. If approved, it is sent to the LESO. If approved it goes to Military Standard Requisitioning and Issue Procedures (MILSTRIP) or a manual DD Form 1348 is sent to the State Coordinator. It is the responsibility of the State/LEA to transport requested property from the DRMOs to their location. DLA will not fund the transportation cost.
- **Storage of Property:** Unless the State is authorized as a distribution center, it will be the gaining LEA responsibility to store property received through the 1033 Program. Distribution centers should only hold property for their specific customers not more than 90 days. After that date, disposition should be requested, in writing, from the LESO, via their State Coordinator.
- **Distribution of Property:** LESO will approve property request in the following priority: counterdrug/counterterrorism and then any other law enforcement activities.
- **Security of Property:** It is the responsibility of the gaining State/LEA to safeguard all property received through the 1033 Program. Should any property become lost due to theft, destruction or unauthorized sale/disposal, this information must be forwarded to the State Coordinator within seven (7) working days after the incident. The State Coordinator will contact the LESO for additional guidance.
- **Accountability of Property:** Each LEA and the State must maintain records for all property acquired through the 1033 Program. These records must provide an "audit trail" for individual items of property from receipt to distribution. These documents include but are not limited to the following: DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved Bureau of Alcohol, Tobacco and Firearms (ATF) Form 10s, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1), and any pertinent paperwork through the LESO. The records maintained must also satisfy any and all pertinent requirements under its applicable State statutes and regulations for the program and this property.
- **Establish Inactive File:** As of October 1, 2003, the LESO will institute a five (5) year file retention policy. This policy will state that LESO will maintain active files for two (2) years and inactive files for three (3) years. After five years, the files are destroyed with the exception of DEMIL code B through Q, sensitive items and \$20,000 or more high dollar items.
- **Utilization of Property:** Property received through the 1033 Program must be placed into use within one (1) year of receipt and utilized for a minimum of one (1) year, unless the condition renders it unusable. If property is not placed in use within one (1) year of receipt, it must be

transferred to another authorized agency, or returned to a DRMO. Property returns/turn-ins must be coordinated through the applicable State Coordinator and LESO.

- **State Compliance Reviews:** The State Points of Contact will inspect *at a minimum* 10% of the active agencies to ensure property accountability and proper use of equipment. All law enforcement agencies maintaining sensitive property will submit a written accountability statement detailing property type and serial numbers on the anniversary date of their Authorization Letter for the program.
- **Transfer of Property:** LEAs must coordinate, in writing, transfer of 1033 property through their State Coordinator. The State Coordinator will request final approval from the LESO. Property may be transferred within the State or between States as long as it is properly coordinated with the State Coordinator and LESO. If approved a “LESO transfer approval memo” will be sent to the State Coordinator. For more information regarding these items, view the following links:

Defense Demilitarization and Trade Security Controls (TSC) Program  
[www.demil.osd.mil](http://www.demil.osd.mil)

Military Critical Technologies List  
[www.dtic.mil/mctl](http://www.dtic.mil/mctl)

Critical Federal Supply Class (FSC) and Buzz words  
[www.drms.dla.mil/drms/internal/demil/CriticalBuzzKeyPt.pdf](http://www.drms.dla.mil/drms/internal/demil/CriticalBuzzKeyPt.pdf)

Flight Safety Critical Aircraft Parts (FSCAP)  
[www.drms.dla.mil/drms/internal/demil/FSCAP.pdf](http://www.drms.dla.mil/drms/internal/demil/FSCAP.pdf)

- **Disposal of Property:** LEAs must request approval, in writing, from their State Coordinator before any 1033 property is disposed. The State Coordinator will request final approval from the LESO. If approved a “LESO disposal approval memo” will be sent to the State Coordinator. Only DEMIL codes A, B and Q may be approved for disposal. Items with DEMIL codes of C, D, E, F, G and P must be transferred to an authorized agency or must be returned to a DRMO when no longer needed. Costs incurred for transfers, disposals or turn-ins will be borne by the State/LEA.
  - **DEMIL code A:** does not require demilitarization and may be disposed after obtaining State Coordinator and LESO approval.
  - **DEMIL code B:** does not require demilitarization and may be disposed or returned to a DRMO. If disposed, it must be in accordance with TSC (see DOD 4160.21-M, Defense Material Disposition Manual; DOD 4160.21-M-1, Defense Demilitarization Manual; DRMS-I 4160.14, Volume VII).
  - **DEMIL code Q:** does not require demilitarization and may be disposed or returned to a DRMO. If disposed, it must be in accordance with Commerce Control List Items (CCLI) disposition requirements (see DOD 4160.21-M, Defense Material Disposition

Manual; DOD 4160.21-M-1, Defense Demilitarization Manual; DRMS-I 4160.14, Volume VII).

- Specific Requirements for disposal of Munitions Lists Items (MLI)/CCLI (DEMIL codes B and Q) excerpt from DOD 4160.21-M:
  - Before disposing of MLI/CCLI property, Federal and State agencies must consider the export control requirements as promulgated by the Department of State, Department of Commerce and the Treasury Department, as applicable. Disposal methods shall ensure that appropriate safeguard requirements are in place prior to disposal. These will include, but are not limited to:
    - Notification of export control requirements to the end-user;
    - Exclusion of individuals, entities or countries who are excluded from Federal programs by the General Services Administration (GSA);
    - Exclusion if delinquent on obligations to the U.S. Government or are debarred or suspended from DOD contracts;
    - Exclusion if currently suspended for TSC violations;
    - Exclusion if subject to denial, debarment or other sanctions under public law.
- **DEMIL codes C, D, E, F, G and P:** require demilitarization and must be returned to a DRMO. The State Coordinator must obtain the LESOs approval for equipment returns.
  - LESO will provide turn-in documentation (DD Form 1348-1A). With few exceptions, the State/LEA will be asked to coordinate the turn-in with a local DRMO. The State/LEA informs LESO which DRMO has agreed to accept the turn-in. LESO will then provide turn-in documentation to the accepting DRMO. Upon receipt of the turn-in documentation, the LEA must return the property to the specified DRMO. The DRMO personnel receiving the materials will sign the turn-in document and give the LEA a copy of the signed receipt paperwork. This receipt paperwork must be maintained in the LEA's files and a copy of the receipt must be forwarded to the State Coordinator for their files. (see DOD 4160.21-M, Defense Material Disposition Manual; DOD 4160.21-M-1, Defense Demilitarization Manual; DRMS-I 4160.14, Volume VII for DEMIL rules).

- **Training:** The State Coordinator, State Points of Contact and LEAs should be trained/familiar with guidance on the following websites:

**ABCs of DEMIL**

[www.hr.dla.mil/dtc/coursecatalog/PD/abcdmil.htm](http://www.hr.dla.mil/dtc/coursecatalog/PD/abcdmil.htm) (knowledge of demilitarization codes)

**DLA Operations**

[www.dla.mil](http://www.dla.mil) (DLA handbook)

**LESO Operations**

[www.dla.mil/j-3/leso](http://www.dla.mil/j-3/leso) (1033 Program/Automation training guides)

**DRMS Operations**

[www.drms.dla.mil](http://www.drms.dla.mil) (automation requisitioning process/procedures)

## **THE STATE WILL:**

- a. Receive applications for participation in this program from its law enforcement activities and validate with signature, their law enforcement mission prior to forwarding to LESO for approval as an authorized LEA. Once the approval process is completed and the agency is loaded in the DRMS automated requisitioning system, provide enrolled LEAs with their LEA ID number so they may request materials on-line.
- b. Forward requests to LESO for excess property that is necessary to meet requirements for LEA efforts. Assure the recipient LEA is identified on all requisitions.
- c. Be responsible for the transfer and/or allocation of property to qualified LEAs.
- d. Assure the LEAs agree to maintain, at no expense to the U.S. Government, adequate liability and property damage insurance coverage and workmen's compensation insurance to cover any claims.
- e. Control and maintain accurate records on all property obtained under this plan. These records must provide an "audit trail" for individual items of property from receipt to distribution. These documents include but are not limited to the following: DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved ATF Form 10s, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1) and any pertinent paperwork through the LESO. The records maintained must also satisfy any and all pertinent requirements under its applicable State statutes and regulations for the program and this property.
- f. Enter into agreements with LEAs to assure they fully comply with the terms, conditions and limitations applicable to property transferred pursuant to this plan/program.

- g. Allow a maximum of four (4) screeners, full-time and/or part-time, sworn and/or non-sworn officers, per LEA performing this duty. The screeners must be named in a "letter of authorization/datasheet" provided to the LESO, to be updated as changes occur, or whenever LESO requests an update. A weapons point of contact (POC) fulltime officer must be included on the "letter of authorization/datasheet" for any LEAs that have received or are requesting weapons. NOTE: A maximum of two (2) of the authorized screeners may physically screen at any DRMO at one time.
- h. Assure that all environmentally regulated property is handled, stored and disposed of in accordance with applicable Federal, State and local environmental laws and regulations.
- i. Assure that the following weapons are registered with the U.S. Treasury Department's ATF: M14, M16, M21 and M79. The State and each LEA must comply with all applicable firearm laws and regulations. Report all stolen or unaccounted for weapons to DLA, LESO not later than seven (7) working days after it is discovered. The State Coordinator must provide a weapon POC on all LEA data sheets. All weapon transfers between LEAs must be approved by the LESO before it is completed. Maintain an approved copy of the ATF Form 10 for all M14, M16, M21 and M79 rifles issued to State/LEA.
- j. Identify to LESO each request that will be used in counterdrug/counterterrorism activities.
- k. Ensure LEAs are aware of their responsibilities in accordance with the Single Audit Act of 1984, as amended (31 U.S.C. 7501-7). Assist LEAs by providing information, as required, for audit submission. Assist LEAs by identifying which property oversight agency the audit information must be submitted to.
- l. Review and update State Plan of Operation annually (calendar year) or when the Governor-appointed State Coordinator changes or Governor changes. If there are no changes to the State Plan of Operation send a signed letter/email to the LESO indicating that the plan has been reviewed and no changes were necessary.
- m. Ensure all LEAs enrolled in the State 1033 Program maintain a current copy of the State Plan of Operation or MOU.
- n. Conduct periodic reviews of each LEA enrolled in the program, to include physical inventory/spot checks, of property received and any related records. Additionally, ensure LEAs are in compliance with applicable Memorandum of Agreement (MOA)/MOU and/or the State Plan of Operation. These reviews must be documented and maintained by the State Coordinator for future LESO compliance reviews.
- o. Obtain reconciliation reports from the LESO website and conduct monthly reconciliations on all items received and annual reconciliations for high dollar items (items valued over \$20,000) and Demil B-Q items between the State/LEA and LESO.

- p. Ensure serial/tail numbers are provided to LESO on items such as peacekeepers/armored personnel carriers (APCs), aircraft, night vision goggles (NVGs)/sights and weapons.
- q. Validate and certify LEA inventory reconciliation results electronically and forward them to LESO within 10 working days of the monthly or annual reconciliation process. Maintain a signed copy of all property reconciliation documentation received through the 1033 Program.
- r. Submit requests for property returns (turn-ins to a DRMO) to LESO. Note: Costs of shipping or repossession of the property by the U.S. Government will be borne by the LEA.
- s. Submit disposal, transfer and inventory adjustment requests to LESO.
- t. Contact the LESO in writing not later than 30 calendar days prior, to a State Coordinator change.
- u. All property transfers will cease if no current Governor's letter is on file; the State has not signed the MOA with DLA; the State Coordinator or POC does not validate all property requests and there is no State Plan of Operation on file.

#### **THE LAW ENFORCEMENT AGENCY WILL:**

- a. Submit applications for participation in this program to the State Coordinator for approval. Upon request from the State Coordinator or LESO provide a mission statement.
- b. Submit requests for property (electronically). Provide justification for all requisitions to the State Coordinator.
- c. Agrees to maintain, at no expense to the U.S. Government, adequate liability and property damage insurance coverage and workmen's compensation insurance to cover any claims.
- d. Control and maintain accurate records on all property obtained under this plan. These records must provide an "audit trail" for individual items of property from receipt to distribution. These documents include but are not limited to the following: DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved ATF Form 10s, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1) and any pertinent paperwork through the LESO. The records maintained must also satisfy any and all pertinent requirements under its applicable State statutes and regulations for the program and this property.
- e. Comply with the terms, conditions and limitations applicable to property transferred pursuant to this plan/program.

- f. Allow a maximum of four (4) screeners, full-time and/or part-time, sworn and/or non-sworn officers, per LEA performing this duty. The screeners must be named in a "letter of authorization/datasheet" provided to the LESO, to be updated as changes occur, or whenever LESO requests an update. A weapons POC fulltime officer must be included on the "letter of authorization/datasheet" for any LEAs that have received or are requesting weapons. NOTE: A maximum of two (2) of the authorized screeners may physically screen at any DRMO at one time. Appoint a Property Accountable Officer responsible for approving/disapproving all property requests and maintaining all records for property received that are accountable.
- g. Assure that all environmentally regulated property handled, stored and disposed of in accordance with applicable Federal, State and local environmental laws and regulations.
- h. Assure that the following weapons are registered with the U.S. Treasury Department's ATF: M14, M16, M21 and M79. Recipients must comply with all applicable firearm laws and regulations. Report all stolen or unaccounted for weapons to LESO through the State Coordinator not later than seven (7) working days after the incident has occurred. The LEA must provide a weapon POC on all data sheets. All weapon transfers between LEAs must be approved by the LESO before it is completed. LEA must maintain an approved copy of the ATF Form 10 for all M14, M16, M21 and M79 rifles received.
- i. Identify to LESO each request that will be used in counterdrug/counterterrorism activities.
- j. LEAs enrolled in the State 1033 Program must maintain a copy of the State Plan of Operation or MOU.
- k. LEAs must be aware of their responsibilities under the Single Audit Act of 1984, as amended (31 U.S.C. 7501-7).
- l. Conduct periodic reviews to include physical inventory/spot checks of actual property and related records. Ensure compliance with applicable MOA/MOU and/or the State Plan of Operation.
- m. Obtain reconciliation reports from the State Coordinator and conduct monthly and annual reconciliations. Provide reconciliation results to the State Coordinator.
- n. Ensure serial/tail numbers are provided to the State Coordinator on items such as peacekeepers/APCs, aircraft, NVGs/sights and weapons.
- o. Conduct inventory reconciliations and provide inventory reconciliation results electronically to the State Coordinator within 10 working days of the monthly or annual reconciliation process. Maintain a signed copy of all property reconciliation documentation received through the 1033 Program.

**LAW ENFORCEMENT AGENCY (LEA)  
ARMORED TACTICAL VEHICLE REQUEST**

SCREENER ID: \_\_\_\_\_ AGENCY NAME: Kingsville Police Department  
POC: Chief Ricardo Torres  
ADDRESS (No P.O. Box): 1700 E. King Ave.  
CITY: Kingsville STATE: TX  
ZIP: 78363 EMAIL: chief@kingsvillepd.us  
PHONE: (361) 592-4311 Opt. #5 FAX: (361) 593-1714

1. Type of Armored Tactical Vehicle Requested (if a specific type is required):  
MRAP/Caiman 6 wheel or MaxPro 4 wheel, whatever is available.
2. Number of Armored Vehicles Requested: 1
3. Geographic Responsibility (Square Miles Covered): \_\_\_\_\_
4. Is the LEA in a High Intensity Drug Trafficking Area (HIDTA): Yes ☒ No ☐  
Verify at: <http://www.whitehousedrugpolicy.gov/hidta>
5. Is the LEA willing to accept an Armored Tactical Vehicle that is: Tracked ☐ Wheeled ☒ Either ☐
6. Number/Type of 1208/1033 Armored Tactical Vehicles Currently on Inventory:  
None
7. Special Considerations:

KPD is the only SWAT Unit in the Texas that has received a "Unit Citation" from the Texas Tactical Officers Police Association. Our SWAT unit is primary entry team for all drug search warrants.

Due to many of our adjacent cities having smaller departments we have been called upon to respond to tactical incidents regionally as well as locally. Our tactical unit is comprised of a SWAT Commander,

two (5) man entry elements, (2) sniper/spotter teams as well as 4 tactical medics. This vehicle would be used to assist in communities in the area that do not have the resources our department is able to provide.

The Chief Executive Official/Head of Agency (Local Field Office), by signing, certifies that the requesting agency listed above has the appropriate funds, personnel, and equipment to operate and maintain the requested vehicle. It is also understood that this agency will not sell, trade, or cannibalize for parts, armored vehicles acquired through the 1033 Program. They certify that all information contained above is accurate and the request for an armored tactical vehicle is warranted and has been approved

CHIEF EXECUTIVE OFFICIAL/: Ricardo Torres DATE: 04/02/2014  
HEAD OF LOCAL AGENCY PRINTED NAME

SIGNATURE

STATE COORDINATOR: \_\_\_\_\_ DATE: \_\_\_\_\_  
(NOT REQUIRED FOR FEDERAL) PRINTED NAME

SIGNATURE

**LESO USE ONLY**

LESO OFFICIAL: \_\_\_\_\_  
PRINTED NAME

SIGNATURE

DATE LEA WAS ADDED TO THE NATIONAL PRIORITY LIST: \_\_\_\_\_

LESO NOTES: \_\_\_\_\_

DISAPPROVED BY LESO: ☐ REASON: \_\_\_\_\_



# **AGENDA ITEM #4**



## ***Engineering Department***

361-595-8007  
361-595-8035 Fax

DATE: Monday, April 7, 2014  
TO: City Commission through City Manager  
FROM: Juan Carlos Cardenas, Director of Public Works/City Engineer *JCC*  
SUBJECT: Easement for Sanitary Sewer Force Main Improvement Project

### **SUMMARY**

This item authorizes the engineer of record, LNV, Inc., to negotiate the acquisition of a 15 foot utility easement for the Sanitary Sewer Force Main Improvement Project within the city limits.

### **BACKGROUND**

The City would like to move forward with the Lift Station/Sanitary Sewer Force Main improvement project. The engineer of record for the project, LNV, Inc., has been working on surveying the area needed for the project. Approximately 1,500 feet of a 15-foot utility easement is proposed for the project. Staff would like Commission approval for LNV to negotiate with the property owner(s) for acquisition of the easement.

### **RECOMMENDATION**

Staff recommends authorizing LNV, Inc. to negotiate the acquisition of a utility easement for the sanitary sewer force main improvement project in an amount not to exceed \$4,000.00.

### **FINANCIAL IMPACT**

There is funding for land available from Fund 054, Utility Fund Capital Projects, Utility Plant 054-5-700.3-543.00.

Approved

---

Vincent Capell, City Manager

## **AGENDA ITEM #5**

**RESOLUTION #2014-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GOVERNMENTAL LEASE/PURCHASE AGREEMENT (M 14-02A) BETWEEN CAPITAL CITY LEASING, INC. AND THE CITY OF KINGSVILLE FOR ROAD IMPROVEMENT EQUIPMENT; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on March 10, 2014 the City Commission of the City of Kingsville, Texas ("Lessee") authorized staff to proceed with negotiating a capital lease with Capital City Leasing, Inc. ("Lessor") for financing for road improvement equipment;

**WHEREAS**, the Lessee is entering into a Governmental Lease/Purchase Agreement ("Lease") dated \_\_\_\_\_, 2014, with Capital City Leasing, Inc.;

**WHEREAS**, Lessee has carefully reviewed its financing requirements for the current calendar year and reasonably expects that it will not issue more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the calendar year;

**WHEREAS**, the source of funds in the current fiscal year's budget is \$80,000.00 for lease/purchase payments and \$70,427.35 will be due for lease/purchase payments this year under the Lease/Purchase Agreement. We expect and anticipate adequate funds to be available for all future lease/purchase payments after the current fiscal year for the following reasons: the City is fiscally stable, has not defaulted on any prior debt obligations, and desires to keep the road improvement equipment to be acquired through this Lease for its capital improvement projects.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**THAT**, the City Manager is hereby authorized to enter in the Lease/Purchase Agreement with Capital City Leasing, Inc. for a period of 7 years, with annual payments not to exceed \$70,427.35.

**THAT**, an official of the Lessee be, and hereby is, authorized, empowered and directed to sign on its behalf the Lease and any addenda, schedules, notes, UCC financing statements or other instruments issued under the provision of the Lease and any other instrument or document which may be necessary or expedient in connection with agreement upon or fulfillment of the provisions of the Lease.

**THAT**, pursuant to Section 265(b) (3) of the Internal Revenue Code of 1986, as amended, this Lease be and hereby is designated as a "qualified tax-exempt obligation" includable within the TEN MILLION DOLLARS (\$10,000,000) of the aggregate issues designated as "qualified tax-exempt obligations" for the calendar year within which this Lease is entered into.

**THAT**, Lessee shall not designate more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the current calendar year as qualified tax-exempt obligations and Lessee, together with its subordinate entities, does not reasonably expect to issue more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the current calendar year.

**THAT**, the equipment as described in Exhibit "A: of such agreement is essential to the function of the undersigned or to the service we provide to our citizens. Further, we have an immediate need for, and expect to make immediate use of, substantially all of the equipment, which need is not temporary or expected to diminish in the foreseeable future. The equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, the equipment was selected by us to be used as follows: Road Improvement.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

**THAT** this Resolution shall be and become effective on and after adoption.

**THAT** this resolution was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 14th day of April, 2014.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney



## Purchasing/IT Department

361-595-8025  
361-595-8035 Fax

DATE: April 4, 2014  
TO: City Commission through City Manager  
FROM: David Mason, Purchasing/IT Director  
SUBJECT: Lease Documents

### **SUMMARY**

This item authorizes the approval and execution of lease documents with Capital City Leasing, 13170 G Pond Springs Road, Austin, TX 78729.

### **BACKGROUND**

On March 10, 2014, the City Commission granted staff authorization to proceed with a seven year lease through Capital City Leasing for the acquisition of two pieces of paving equipment with a total estimated purchase price of \$ 458,300.00. The equipment has been selected, resulting in a capital lease with payments of \$70,427.35 per year for seven (7) years for a total expenditure of \$492,991.45.

### **RECOMMENDATION**

It is recommended that Commission approve the lease documents and that the final lease documents be executed.

### **FINANCIAL IMPACT**

Leasing funds are available as \$80,000 is budgeted for this item for FY 14 in account## 001-5-305.0-641.00.



*Capital City Leasing, Inc.*

April 3, 2014

City of Kingsville  
Attn: David Mason  
200 E. Kleberg  
Kingsville, Texas 78363

Re: Lease-Purchase M 14-02A

We have redone all of the Lease/Purchase documents and will forward them for execution.

The lease documents surrounding the equipment for the City Included are the following: 1) Lease-purchase agreement; 2) Exhibits "A","B","C","D","E";\*F\* 3) Insurance information form and 4) IRS Form 8038G.

Because we have not received your election for an "advanced" or an "arrear" payment we have enclosed both schedules.

PPlease review the enclosed forms that follow. After execution return the documents to this office

We thank you for your attention to these matters. If you have any questions, please don't hesitate to call.

Sincerely,



Charles H. Seldeman



*Capital City Leasing, Inc.*

Lease # M 14-02A



## Document Checklist

Please complete and return the following items to Capital City Leasing as soon as possible:

- ☐ Lease-Purchase Agreement
- ☐ Exhibit A - Equipment Description  
(Note: Please provide the address of the location where the equipment will be kept.)  
  
**Exhibit B - Delivery and Acceptance Certificate (Hold this document until the equipment is received in satisfactory condition. The date on this document determines the start date of the Amortization Schedule or the funding date if an Escrow account is used.)**
- ☐ Exhibit C - Payment Schedule The dates on the attached Amortization will change to reflect Exhibit B (above)
- ☐ Exhibit D - Certificate of Resolutions
- ☐ Exhibit E – Legal Opinion  
(Note: This document must be prepared on the letterhead of lessee or outside counsel and include an original signature.)
- ☐ Insurance Information Form
- ☐ IRS 8038-G Form. Please Check the tax ID number in block 2 and sign . We will file the form for you.
- ☐ Copy of Equipment Invoices

*If you have any questions, please don't hesitate to call Capital City Leasing at 512/346-9393.*





GOVERNMENTAL  
LEASE/PURCHASE AGREEMENT (INSTALLMENT SALE AGREEMENT)

DEFINITIONS:

- (a) Lease purchase agreement means installment sales agreement. (b) Lessor means secured party.  
(c) Lessee means debtor. (d) Lease means installment sales agreement.

This Governmental Lease/Purchase Agreement (the "Lease") is made and entered into on this date by and between Capital City Leasing, Inc., with offices at 13170G Pond Springs Road, Austin, Texas 78729 (herein called the "Lessor"), and City of Kingsville with its principal address at PO Box 1458, Kingsville, Texas, 78364-1458 (herein called the "Lessee"), wherein it is agreed as follows:

1. **LEASE OF EQUIPMENT.** Subject to the terms and conditions hereof, Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the equipment described in Exhibit A, a copy of which is attached hereto and incorporated herein, together with all replacement parts, repairs, additions and accessories incorporated therein or affixed thereto (herein collectively called the "Equipment").

2. **DELIVERY AND ACCEPTANCE.** At the request of Lessee, Lessor agrees to order the Equipment from the supplier of such Equipment, but shall not be liable for specific performance of this Lease or for damages if for any reason the supplier delays or fails to supply the Equipment. The Equipment to be delivered at the location specified in Exhibit A ("Equipment Location"). Lessee shall pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Any delay in such delivery shall not affect the validity of this Lease. Lessee shall accept the Equipment as soon as it has been delivered and is operational, or as soon as any manufacturer or vendor pre-acceptance test period has expired. Unless Lessee notifies Lessor of a problem with the Equipment, Lessee's acceptance shall be deemed effective no later than thirty (30) days following delivery of the Equipment. Lessee shall evidence its acceptance of the Equipment by executing and returning to Lessor a delivery and acceptance certificate in the form of Exhibit B attached hereto and made a part hereof (the "Acceptance Certificate"); notwithstanding the foregoing, in no event shall Lessee's failure to evidence its acceptance affect the validity of this Lease. Lessee hereby authorizes Lessor to add to this Lease and to any other description of the Equipment the serial number of each item of Equipment when available.

3. **TERM.** This Lease shall become effective upon the execution hereof by Lessee and Lessor. The initial term of this Lease shall commence on the date Lessee executes the Acceptance Certificate (the "Start Date") through the end of Lessee's fiscal year containing the Start Date and, unless earlier terminated as expressly provided for in this Lease, shall be automatically renewed on a year-to-year basis for the number of annual fiscal periods necessary to comprise the lease term as set forth in Exhibit C attached hereto and made a part hereof (the "Lease Term").

4. **PAYMENTS.** Lessee agrees to pay to Lessor or any Assignee (as defined in Section 22 below) the payments for the Equipment as set forth in Exhibit C (the "Payments"). A portion of each Payment is paid as and represents the payment of interest as set forth in Exhibit C. **The Payments shall be payable, without notice or demand, at the office of Lessor (or such other place as Lessor or any Assignee may designate in writing, from time to time) and shall commence on the Start Date or as otherwise set forth in Exhibit C, and the remaining Payments shall be payable on the same date of each consecutive month or quarter or semiannual or annual period thereafter (as designated in Exhibit C) for the duration of the Lease Term.** Any notice, invoicing, purchase orders, quotations or forms or procedures required by Lessee as a condition precedent to payment shall be fully explained and provided to Lessor or any Assignee sufficiently in advance of the payment due date for the completion thereof by Lessor or any Assignee prior to such payment date. **To the extent permitted by applicable law, whenever any portion of a Payment is received by Lessor or its Assignee more than ten (10) days from the due date, Lessee shall pay to Lessor or its Assignee, on demand, the greater of twenty-five dollars (\$25.00) or five percent (5%) of such overdue amount (as a service and handling fee).** EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 8 HEREOF, THE PAYMENTS SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND WILL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.

5. **AUTHORITY AND AUTHORIZATION.** Lessee represents, warrants and covenants that, subject to the good faith and fair dealing provisions of Paragraph 27, (a) it shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence, and (ii) the Lease; (b) it has complied with all bidding and budgeting requirements where necessary and by due notification has presented this Lease for approval and adoption as a valid obligation on its part and that all requirements have been met and procedures have been followed to ensure the enforceability of the Lease; (c) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period; (d) no event has occurred and no condition exists which, upon the execution of this Lease or with notice or the passage of time or both, would constitute a default under any debt, revenue or purchase obligation which it has issued or to which it is a party (the "Obligation") nor has it been in default under any Obligation at any time during the past five (5) years, and (e) no lease, rental agreement or contract for purchase, to which Lessee has been a party, at any time during the past five (5) years, has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal period.

6. **LESSEE CERTIFICATION.** Lessee warrants and covenants that (i) it is a governmental entity, agency, or political subdivision thereof, within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and the related regulations and rulings thereunder, (ii) Lessee's obligation under this Lease constitutes an enforceable obligation issued by or on behalf of a governmental entity, agency, or political subdivision thereof, such that any interest income derived under this Lease and due Lessor or its Assignee, including, but not limited to, those amounts designated as interest in Exhibit C, shall not be includable in the gross income of Lessor, its Assignee or any participants with such for the purposes of federal income taxation; (iii) this Lease represents a valid deferred payment obligation of Lessee for the amount herein set forth; (iv) Lessee has the legal capacity to enter into this Lease and is not in contravention of any state, county, district, city or town statute, rule, regulation or other governmental provision; (v) during the Lease Term, the Equipment shall not be used in a trade or business of any other person or entity; and (vi) Lessee shall complete and file on a timely basis, Internal Revenue Service form 8038g or 8038gc, as appropriate, in the manner set forth in Section 149(e) of the Code.

7. **APPROPRIATIONS AND ESSENTIAL USE.** Lessee reasonably believes that sufficient funds will be available to make all Payments during the Lease Term. Lessee intends to make the Payments for the full Lease Term if funds are legally available therefore and in that regard Lessee represents that: (a) the use of the Equipment is essential to its proper, efficient and economic functioning or to the services that it provides to its citizens; (b) Lessee has an immediate need for and expects to make immediate use of substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future; and (c) the Equipment shall be used by the Lessee only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of its authority. Lessee has considered that this agreement contemplates a term of several fiscal periods and that newer improved equipment for Lessee's purpose may become available for purchase, lease, or use.

8. NON APPROPRIATION OF FUNDS. In the event sufficient funds are not appropriated, budgeted or otherwise available for the lease of the Equipment for any subsequent fiscal period in which the Payments for the Equipment are due under this Lease, then Lessee shall, not less than sixty (60) days prior to the end of such applicable fiscal period, in writing, notify Lessor and any Assignee of such occurrence. This Lease shall thereafter terminate and be rendered null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to the Lessee of any kind, except as to (i) the portions of the payments therein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available and (ii) Lessee's other obligations and liabilities under this Lease relating to, accruing or arising prior to such termination. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the date of such termination, packed for shipment in accordance with manufacturer's specifications and eligible for manufacturer's maintenance, and freight prepaid and insured to any location in the continental United States designated by Lessor, all at Lessee's expense. Lessor or its Assignee may exercise all available legal and equitable rights and remedies in taking possession of the Equipment. Lessee understands and agrees that Lessee's termination of this Lease shall not release Lessee of any obligation, representation or covenant arising or made prior to the termination date. In the event it is determined that the provisions of this paragraph conflict or contradict any other provision of the Lease such that the meaning or intent is unclear or ambiguous, then, in that event, the provisions of this paragraph will control over the provisions of any other paragraph herein.

9. LIMITATION ON WARRANTIES. LESSEE HAS SELECTED BOTH THE EQUIPMENT AND THE VENDOR(S) FROM WHOM LESSOR IS TO PURCHASE THE EQUIPMENT IN RELIANCE HEREON. LESSEE ACKNOWLEDGES AND AGREES THAT THE EQUIPMENT IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY LESSEE, THAT LESSOR IS NOT A MANUFACTURER, VENDOR OR DISTRIBUTOR OF SUCH EQUIPMENT, AND THAT LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS OR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO AND LESSOR SHALL NOT BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE USE, PERFORMANCE OR MAINTENANCE OF THE EQUIPMENT. Lessor hereby assigns to Lessee during the Lease Term, to the extent permitted by law, all manufacturer's warranties, if any, that it may have, express or implied, with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessor authorizes Lessee, to the extent permitted by law, to enforce in its own name any warranty, representation or other claim enforceable against the manufacturer. Lessor assumes no responsibility for shipment, delivery, installation or maintenance, and all claims of Lessee with respect thereto, whether for delay, damage or otherwise, shall be made against the manufacturer. Lessor at its option, may provide in its purchase order that any of such claims may be made by Lessee directly against the manufacturer. The obligation of Lessee to pay the Rental Payments as defined in Section 4 shall not be abated, impaired or reduced by reason of any claims of Lessee with respect to the equipment, including but not limited to its condition, quality, workmanship, delivery, shipment, installation, defects or otherwise.

10. TITLE; SECURITY AGREEMENT. Title to the Equipment is deemed to be with the Lessee so long as no Event of Default pursuant to Section 19 below has occurred and/or this Lease has not been terminated pursuant to the provisions of Section 8 above. Upon the earlier of (i) termination of this Lease in accordance with Section 8 above or (ii) the occurrence of an Event of Default by Lessee pursuant to Section 19 below, title shall revert immediately in and shall revert to Lessor free of any right, title or interest of Lessee unless Lessor elects otherwise. In order to secure all of its obligations hereunder, Lessee hereby (a) grants to Lessor a first and prior security interest in any and all rights, title and interest of Lessee in the Lease, the Equipment and in all additions, attachments, accessions, accessories, replacements, improvements and substitutions thereto, now or thereafter acquired, together with all rents, issues, income, profits and proceeds thereof, including insurance proceeds; (b) agrees that this Lease may be filed as a financing statement evidencing such security interest; and (c) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence and perfect such security interest. Lessee further agrees that the Uniform Commercial Code shall apply as between the parties hereto and any Assignee of Lessor.

11. PERSONAL PROPERTY. The Equipment is and shall remain, personal property and shall not be deemed to be affixed or attached to real property or any building thereon. If requested by Lessor, Lessee shall, at its expense, furnish to Lessor a landlord or mortgagee waiver with respect to the Equipment.

12. USE; REPAIRS. Lessee shall use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies and regulations relating to, and shall pay all costs, claims, damages, fees and charges arising out of its possession, use or maintenance. Lessee, at its sole cost and expense, shall maintain the Equipment according to the manufacturer's recommended guidelines or the equivalent and meet any and all recertification requirements and shall furnish proof of such maintenance, if requested by Lessor and shall furnish all needed servicing and parts, which parts shall become part of the Equipment. If the Equipment is such as is customarily covered by a maintenance agreement, Lessee shall furnish Lessor with a maintenance agreement with a party satisfactory to Lessor.

13. ALTERATIONS. Lessee shall not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent, and any permitted alteration or attachment which cannot be readily removed without damaging the Equipment's originally intended function or value shall become part of the Equipment.

14. LOCATION; INSPECTION. The Equipment shall not be removed from, or if the equipment consists of rolling stock, its permanent base shall not be changed from the Equipment Location without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

15. LIENS AND TAXES. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (federal, state and local) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but not the obligation, to pay said charges and taxes and seek reimbursement from Lessee, on demand therefor.

16. RISK OF LOSS; DAMAGE; DESTRUCTION. Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment shall relieve Lessee of the obligation to make the Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee shall immediately place the same in good repair (the proceeds of any insurance recovery shall be applied to the cost of such repair). If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessor, shall: (a) replace the same with like equipment in good repair; or (b) include with the next Payment (i) all amounts owed by lessee under this Lease, and (ii) an amount not less than the balance of the Payments then remaining unpaid hereunder. In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor shall provide Lessee with the pro rata amount of the Payment and the balance of the Payments then remaining unpaid hereunder, as applicable, to be made by Lessee with respect to the Equipment which has suffered the event of loss.

17. **INSURANCE.** Lessee shall, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as shall be satisfactory to Lessor. In no event shall the insurance limits be less than an amount equal to the balance of the Payments then remaining for the Lease Term. Each insurance policy shall name Lessee as an insured and Lessor or its assigns as additional insured and loss payee, as appropriate, and shall contain a clause requiring the insurer to give Lessor or its assignee at least thirty (30) days prior written notice of any alteration in the terms of such policy of the cancellation thereof. The proceeds of any such policies shall be payable to Lessee and Lessor or its assigns, as their interests may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee shall deliver to Lessor a certificate of evidence of such insurance. In the event of any loss, damage, injury or accident involving the Equipment, Lessee shall promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto. Notwithstanding the foregoing, with Lessor's prior written consent, Lessee may self-insure against any and all risks for which insurance is required.

18. **INDEMNIFICATION.** In the event that Lessee is not a state or political subdivision thereof, within the meaning of Section 103 of the Code, or if Lessee, whether by its use of the Equipment or by its actions or omissions or by any means whatsoever, causes any interest payment as set forth in Exhibit C to be included in Lessor's gross income, Lessee agrees to pay to Lessor, its Assignees and any participants with such, an additional amount which, together with the amount of interest to be paid by Lessee under this Lease, puts Lessor, its Assignees and any participants with such, in the same after-tax position they would have been in had such payments been excluded from the gross income of Lessor, its assignees and any participants with such under Section 103 of the Code. In addition, to the extent permitted by state law, Lessee agrees to indemnify Lessor against, and hold Lessor, its Assignee, or any participants with such, harmless from, any and all claims, actions, proceedings, expenses, damages, liabilities of losses (including, but not limited to, attorneys' fees and court costs) arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation or return and the recovery of claims under insurance policies thereon.

19. **EVENTS OF DEFAULT.** The term "Event of Default", as used in this Lease, means the occurrence of any one or more of the following events: (a) Lessee fails to make any Payment (or any other payment) as it becomes due in accordance with the terms of this Lease, and any such failure continues for five (5) days after the due date thereof; (b) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured within ten (10) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation or warranty made by Lessee in this Lease or in any document ever delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (d) Lessee becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, a petition for relief is filed by Lessee under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar laws is filed against Lessee and is not dismissed within thirty (30) days thereafter; (e) Lessee shall be in default under any other agreement executed at any time with Lessor, its affiliates or Lessor's Assignee or under any other agreement or instrument by which it is bound.

20. **REMEDIES.** Upon the occurrence of an Event of Default, lessor may, at its option, exercise any one or more of the following remedies: (a) by written notice to lessee, declare an amount equal to all amounts then due under this Lease and all remaining Payments which shall become due during the Lease Term to be immediately due and payable, whereupon the same shall become immediately due and payable; (b) by written notice to Lessee, request Lessee to (and Lessee agrees that it shall), at Lessee's expense, promptly return the Equipment to Lessor in the manner set forth in Section 8 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same without liability to Lessor or its agents for such entry or for damage to property or otherwise; (c) sell or lease the Equipment of sublease it for the account of Lessee, holding Lessee liable for (i) all Payments (and other amounts) due to the effective date of such selling, leasing or subleasing, and (ii) for the difference between the purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the remaining amounts payable by the lessee hereunder; and (d) exercise any other right, remedy or privilege which may be available to it under applicable law, including the right to (i) proceed by appropriate court action to enforce the terms of this Lease, (ii) recover damages for the breach of this Lease, and (iii) rescind this Lease as to any or all of the Equipment. In addition, Lessee shall remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

21. **EARLY PURCHASE OPTION.** Lessee may, upon sixty (60) days prior written notice to Lessor, and provided Lessee shall have fully paid and performed all other obligations hereunder and provided no Event of Default has occurred and is continuing, pay to Lessor the applicable amount set forth on Exhibit C attached hereto, whereupon title to the Equipment shall become unconditionally vested in Lessee and Lessor shall transfer any and all of its right, title and interest in the Equipment to Lessee as is, where is, without warranty, express or implied, except that lessor shall warrant to Lessee that the Equipment is free and clear of any liens created by Lessor.

22. **ASSIGNMENT.** Without Lessor's prior written consent, Lessee shall not: (a) assign, transfer, pledge, hypothecate or grant any security interest in, or otherwise dispose of, this Lease or the Equipment or any interest in this Lease or the Equipment or (b) sublet or lend the Equipment or permit the Equipment to be used by anyone other than Lessee or Lessee's agents or employees. Lessor, without the consent of Lessee, may assign all or any portion or portions of its right, title and interest in and to this Lease, the Equipment, and any other documents executed with respect to this Lease, and/or grant or assign all or any portion or portions of its security interest in this Lease and the Equipment, in whole or in part, to various assignees, their agents or trustees (each and any one hereinafter referred to as an "Assignee"). Any such assignment to an Assignee may provide that Lessor or the Assignee shall act as a collection and paying agent for holders of certificates of participation in this Lease, or may provide that a third-party trustee or agent shall act as collection and paying agent for any Assignee, provided Lessee receives written notification of the name and address of the trustee or the agent and a copy of the pooling and fractionalization agency or trustee agreement, if any. Any such Assignee shall have all of the assigned rights of Lessor under this Lease. Subject to the foregoing, this Lease shall inure to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. Any assignment or reassignment of any of Lessor's right, title or interest in this Lease or the Equipment shall be effective upon receipt by Lessee of a duplicate original of the counterpart document by which the assignment or reassignment is made, disclosing the name and address of each such assignee and, where applicable, to whom further payments hereunder should be made. During the Lease Term, Lessee covenants that it shall keep a complete and accurate record of all assignments in a form necessary to comply with Section 149(a) of the Code and the regulations, proposed or existing, from time to time promulgated thereunder. Lessee agrees to acknowledge, in writing, any assignments if so requested. LESSEE AGREES THAT, UPON NOTICE OF ASSIGNMENT, IF SO INSTRUCTED IT SHALL PAY DIRECTLY TO THE ASSIGNEE, OR ITS TRUSTEE OR AGENT WITHOUT ABATEMENT, DEDUCTION OR SETOFF ALL AMOUNTS WHICH BECOME DUE HEREUNDER. LESSEE FURTHER AGREES THAT IT SHALL NOT ASSERT AGAINST ANY ASSIGNEE, TRUSTEE OR AGENT ANY DEFENSE, CLAIM, COUNTERCLAIM OR SETOFF ON ACCOUNT OF ANY REASON WHATSOEVER WITH RESPECT TO ANY PAYMENTS OR OTHER AMOUNTS DUE HEREUNDER OR WITH RESPECT TO ANY ACTION BROUGHT TO OBTAIN POSSESSION OF THE EQUIPMENT PURSUANT TO THIS LEASE

23. NATURE OF AGREEMENT. Lessor and Lessee agree that it is their intention that, for federal income tax purposes, the interest of Lessor in the Equipment is as a secured party and the interest of Lessee is as a debtor, and that Lessor neither has nor shall have any equity in the Equipment. It is the agreement of Lessor and Lessee that the aggregate payments provided for hereunder constitute the purchase price of the Equipment together with interest on the unamortized amount thereof over the term of this Lease, that each installment constitutes principal and interest, in accordance with the schedule of payments set forth in Exhibit C of this Lease, which fully amortizes the purchase price of the Equipment, together with interest, over the term of this Lease, and that upon the due and punctual payment and performance of the installments of Payments and other amounts and obligations under this Lease, title to the Equipment shall vest permanently in Lessee, free and clear of any lien or security of Lessor therein.

24. AMENDMENTS. This Lease may be amended or any of its terms modified for the purpose of adding Equipment, with the written consent of the parties hereto. In such event, additions to or additional exhibits attached hereto shall be executed by Lessee. All other amendments or modifications of the terms of this Lease (except for the addition of serial numbers for the Equipment as set forth in the Acceptance Certificate) must be accomplished by written consent of Lessee and Lessor, or its Assignee, if any; provided, however, that no amendment of this Lease shall operate to reduce or delay any Payments to be made hereunder without the consent of Lessor, or its Assignee.

25. NOTICES. All notices to be given under this Lease shall be made in writing and mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five (5) days subsequent to mailing.

26. SECTION HEADINGS. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

27. GOVERNING LAW. This Lease is to be performed in Travis County, Texas, and shall be governed by the provisions hereof and by the laws of the State of Texas. Each party agrees to deal fairly with the other party and to act in good faith regarding the representation and provision contained herein and in the performance of this Lease.

28. FURTHER ASSURANCES. Lessee shall deliver to Lessor: (i) an opinion of counsel in substantially the form of Exhibit D attached hereto or as Lessor may otherwise request; and (ii) if applicable, a certificate of a duly authorized official as to designation as a qualified tax-exempt obligation. Moreover, Lessee shall execute or provide, as requested by Lessor, any documents and information that are reasonably necessary with respect to the transaction contemplated by this Lease. Lessee hereby authorizes Lessor to execute and file on behalf of Lessee and as Lessee's attorney-in-fact such UCC financing and continuation statements as Lessor deems necessary to secure its and/or its Assign's interest in the Equipment or this agreement.

29. ENTIRE AGREEMENT. This Lease, together with the exhibits attached hereto and made a part hereof and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease shall not be modified, amended, altered or changed except with the written consent of Lessee and Lessor.

30. SEVERABILITY. This Lease is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations of the State of Texas. If any provision of this Lease, or the application thereto to any person or circumstance, shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Lease and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

31. WAIVER. The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as waiver of any subsequent breach hereof.

32. DESIGNATION. In compliance with Section 149(a) of the Code, Lessee hereby designates Lessor to be its agent for the purposes of maintaining a book entry system identifying the ownership or interest in and to this Lease and Lessor hereby accepts its duties as agent, hereunder.

LESSOR: Capital City Leasing, Inc.

LESSEE: City of Kingsville

BY: \_\_\_\_\_  
Signature



BY: \_\_\_\_\_  
Signature.

Charles H. Seideman, President  
Name and Title

\_\_\_\_\_  
Name and Title

Date \_\_\_\_\_

Date \_\_\_\_\_

Lease # M 14-02A

Page 4 of 4

**EXHIBIT A to Lease M 14-02A**

**GOVERNMENTAL LEASE/PURCHASE AGREEMENT**

**DESCRIPTION OF EQUIPMENT**

Quantity and Description of Leased Equipment (Make, Model No., Serial No., Any Other Pertinent Identification)

1- 2013 Roadtec RP-170-8 Rubber Tire Asphalt Paver, S/N 177

1- Mauldin MPS distributor on International Truck Chassis VIN:

**LOCATION OF EQUIPMENT**

ADDRESS: Street Dept 1300 E. Corral

CITY: Kingsville

STATE: Texas ZIP 78363

**CERTIFICATION**

Lessee hereby certifies that the description of the property set forth above and any additional addendum constitutes an accurate account of the Equipment as referred to in the Lease. The estimated useful life of such equipment based upon manufacturer's representations and our projected need is 7 years.

Lessee: CITY OF KINGSVILLE

By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Printed Name and Title)

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

**CAPITAL CITY LEASING, INC.**

**Lease # M 14-02A  
EXHIBIT B to  
GOVERNMENTAL LEASE/PURCHASE AGREEMENT**

**DELIVERY AND ACCEPTANCE CERTIFICATE**

To: Capital City Leasing, Inc.

Reference is made to the State and Municipal Lease/Purchase Agreement between the undersigned ("Lessee"), and Capital City Leasing, Inc. ("Lessor"), and to the Equipment as such term is defined therein. In connection therewith we are pleased to confirm to you the following:

- 1. All of the equipment has been delivered to and received by the undersigned; that all installation or other work necessary prior to the use thereof has been completed; that said equipment has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and that said Equipment has been accepted by the undersigned and complies with all terms of the Lease. Consequently, you are hereby authorized to pay for the equipment in accordance with the terms of any purchase orders for the same.
- 2. In the future, in the event the Equipment fails to perform as expected or represented we will continue to honor the Lease in all respects and continue to make our rental and other payments thereunder in the normal course of business and we will look solely to the vendor, distributor or manufacturer for recourse.
- 3. We acknowledge that Lessor is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment.
- 4. The serial number for each item of Equipment that is set forth on Exhibit A to the Lease is correct.

This certificate shall not be considered to alter, construe, or amend the terms of the Lease.

Lessee: City of Kingsville  
(Municipal Entity)



By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Printed Name and Title)

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

**EXHIBIT C****LESSEE: CITY OF KINGSVILLE  
LEASE M 14-02A****PAYMENT SCHEDULE  
MULTI-YEAR ADJUSTABLE PERIOD**

Page 1 of 1

INTEREST RATE:	2.500002%	EQUIPMENT COST:	\$458,350.00
DOWN PAYMENT:		PAYMENT PERIODS:	7
DAYS UNTIL REGULAR PAYMENT:	0	PAYMENTS/YEAR:	1
REGULAR PAYMENT AMOUNT:	\$70,427.35	FUNDING DATE:	00/00/00

PMT NR	PAYMENT DATE	PAYMENT AMOUNT	INTEREST PAID	PRINCIPAL PAID	OPTION TO PURCHASE
1	4/30/2014	\$70,427.35	\$0.00	\$70,427.35	\$393,298.53
2	4/30/2015	\$70,427.35	\$9,698.07	\$60,729.28	\$331,091.12
3	4/30/2016	\$70,427.35	\$8,179.84	\$62,247.51	\$267,583.57
4	4/30/2017	\$70,427.35	\$6,623.65	\$63,803.70	\$202,748.72
5	4/30/2018	\$70,427.35	\$5,028.56	\$65,398.79	\$136,558.82
6	4/30/2019	\$70,427.35	\$3,393.59	\$67,033.76	\$68,985.55
7	4/30/2020	\$70,427.35	\$1,717.74	\$68,709.61	(\$0.00)
		\$492,991.45	\$34,641.45	\$458,350.00	

First payment due at delivery and acceptance of equipment or finding into Escrow

INITIALS:  
LESSEE \_\_\_\_\_

LESSOR \_\_\_\_\_

THE DATE  
ENTERED ON THESE  
SCHEDULES IS FOR  
ILLUSTRATION.  
DATES WILL REFLECT  
ACTUAL FUNDING

**EXHIBIT C**

**LESSEE: CITY OF KINGSVILLE**  
**LEASE M 14-02A**

**PAYMENT SCHEDULE**  
**MULTI-YEAR ADJUSTABLE PERIOD**

Page 1 of 1

INTEREST RATE:	2.500000%	EQUIPMENT COST:	\$458,350.00
DOWN PAYMENT:		PAYMENT PERIODS:	7
DAYS UNTIL REGULAR PAYMENT:	365	PAYMENTS/YEAR:	1
REGULAR PAYMENT AMOUNT:	\$72,188.03	FUNDING DATE:	00/00/00

PMT NR	PAYMENT DATE	PAYMENT AMOUNT	INTEREST PAID	PRINCIPAL PAID	OPTION TO PURCHASE
1	4/30/2015	\$72,188.03	\$11,458.75	\$60,729.28	\$403,130.98
2	4/30/2016	\$72,188.03	\$9,940.52	\$62,247.51	\$339,368.38
3	4/30/2017	\$72,188.03	\$8,384.33	\$63,803.70	\$274,273.15
4	4/30/2018	\$72,188.03	\$6,789.24	\$65,398.79	\$207,817.43
5	4/30/2019	\$72,188.03	\$5,154.27	\$67,033.76	\$139,972.78
6	4/30/2020	\$72,188.03	\$3,478.42	\$68,709.61	\$70,710.19
7	4/30/2021	\$72,188.03	\$1,760.68	\$70,427.35	(\$0.00)
		\$505,316.21	\$46,966.21	\$458,350.00	

First payment due 365 days after delivery and acceptance of equipment or funding into Escrow

INITIALS:

LESSEE \_\_\_\_\_

LESSOR \_\_\_\_\_



**EXHIBIT D to  
GOVERNMENTAL LEASE/PURCHASE AGREEMENT # M 14-02A**

**CERTIFICATE OF RESOLUTIONS**

I, \_\_\_\_\_, do hereby certify that I am the duly elected, or appointed and acting Secretary/Clerk of the City of Kingsville, an agency/subdivision duly organized and existing under the laws of the State of Texas (the "Lessee"), and that the following resolutions have been presented to and duly adopted by the \_\_\_\_\_ at a meeting duly and regularly held and convened in accordance with applicable law on the \_\_\_\_\_ day of \_\_\_\_\_, 2014

**WHEREAS**, the Lessee is entering a Governmental Lease/Purchase Agreement ("Lease"), with Capital City Leasing, Inc.;

**WHEREAS**, Lessee has carefully reviewed its financing requirements for the current calendar year and reasonably expects that it will not issue more than ten million dollars (\$10,000,000) of tax-exempt obligations during the calendar year;

**WHEREAS**, the source of funds in the current fiscal year's budget is \_\_\_\_\_ for lease/purchase payments due under the Agreement. We expect and anticipate adequate funds to be available for all future lease/purchase payments after the current fiscal year for the following reasons: \_\_\_\_\_

**NOW, THEREFORE, be it RESOLVED**, that the Lessee be, and hereby is, authorized to enter into the Lease with Capital City Leasing, Inc. for a period of 7 years, and be it further

**RESOLVED**, that an official of the Lessee be, and hereby is, authorized, empowered and directed to sign on its behalf the Lease and any addenda, schedules, notes, UCC financing statements or other instruments issued under the provision of the Lease and any other instrument or document which may be necessary or expedient in connection with agreement upon or fulfillment of the provisions of the Lease.

**RESOLVED**, that pursuant to Section 265(b) (3) of the Internal Revenue Code of 1986, as amended, this Lease be and hereby is designated a "qualified tax-exempt obligation" includable within the ten million dollars (\$10,000,000) of the aggregate issues designated as "qualified tax-exempt obligations" for the calendar year within which this Lease is entered into.

**RESOLVED**, that Lessee shall not designate more than ten million dollars (\$10,000,000) of tax-exempt obligations during the current calendar year as qualified tax-exempt obligations and Lessee, together with its subordinate entities, does not reasonably expect to issue more than ten million dollars (\$10,000,000) of tax-exempt obligations during the current calendar year.

**RESOLVED**, the equipment as described in Exhibit "A" of such agreement is essential to the function of the undersigned or to the service we provide to our citizens. Further, we have an immediate need for, and expect to make immediate use of, substantially all of the equipment, which need is not temporary or expected to diminish in the foreseeable future. The equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, the equipment was selected by us to be used as follows: Road Improvement

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal hereto this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Lessee: City of Kingsville  
(Municipal Entity)

(Seal)



By: \_\_\_\_\_  
(Signature of Secretary/Clerk)

\_\_\_\_\_  
(Printed Name)

## EXHIBIT E to M 14-02A

### GOVERNMENTAL LEASE/PURCHASE AGREEMENT

#### OPINION OF COUNSEL

**Re:** Governmental Lease/Purchase Agreement M 14-02A ("Lease") between Capital City Leasing, Inc. ("Lessor") and the City of Kingsville ("Lessee").

Ladies and Gentlemen:

As counsel for Lessee, I have examined duly executed originals of the Lease and the proceedings taken by the Lessee to authorize and execute said Lease. Based upon such examination, as I have deemed necessary and appropriate, I am of the opinion that:

1. Lessee is a duly created and validly existing state or fully constituted political subdivision or agency of the State of Texas ("State") and has the power and authority to enter into the Lease and carry out the terms thereof.
2. The interest component of the Rental Payments as set forth in Exhibit C to the Lease qualifies for exemption from federal income taxes by Lessor under Section 103 of the Internal Revenue Code of 1986, as amended and the related regulations and rulings thereunder.
3. The execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee. All applicable bidding and budgeting requirements have been complied with. I have attached to my opinion copies of any resolutions adopted by the Lessee relating to the Lease.
4. The Lease is a governmental purpose obligation and constitutes a legal, valid and binding deferred payment obligation of the Lessee, enforceable in accordance with its terms and does not constitute a debt of Lessee under the laws of the State of Texas. In the event Lessor obtains judgment against Lessee for money damages in connection with the Lease, Lessee will be obligated to pay such judgment.
5. The Lease is in accordance with and does not violate the usury statutes of the State.
6. The equipment (as defined in the Lease) constitutes personal property and when subjected to use by Lessee will not become fixtures under applicable law.
7. No litigation is pending or to the best of my knowledge threatened in any court or other tribunal, state or federal, relating to the validity of the Lease.
8. Lessor or its assigns may rely on this legal opinion.
9. The signature of the official of Lessee that appears on the Lease and the attached documents is true and genuine; I know him/her to hold the office set forth below his/her name. Such official is duly authorized to execute the Lease and the attached documents. I have attached hereto a copy of such authorization.
10. The current fiscal period of Lessee ends on September 30, 2014; the next succeeding fiscal period of Lessee ends on September 30, 2015.

\_\_\_\_\_  
Counsel for Lessee

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

**EXHIBIT F - VEHICLE ADDENDUM to Lease # M 14-02A**

**BETWEEN CAPITAL CITY LEASING, INC. (LESSOR) AND CITY OF KINGSVILLE**

**Title** - During the term of this Lease, and so long as Lessee is not in default, legal title to each Vehicle and any and all repairs, replacements, substitutions and modifications to it shall be in Lessee. In the event of termination, full and unencumbered legal title to the Vehicle(s) with respect to which Lessee's obligation is terminated shall pass to Lessor, and Lessee shall have no further interest therein. Upon termination of the Lease for any reason specified, full and unencumbered legal title to all Vehicles then subject to this Lease shall pass to Lessor. In such event Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence passage of legal title to each Vehicle to Lessor and the termination of Lessee's interest therein, and upon request by Lessor shall deliver possession of each Vehicle to Lessor.

**Security Interest** - Lessor shall have and retain a security interest in each Vehicle subject to this Lease, the proceeds thereof, and all repairs, replacements, substitutions and modifications thereto or thereof, in order to secure Lessee's payment of all Payments due during the Term of the Lease with respect thereto, and the performance of all other obligations required to be performed by Lessee.

Lessor shall have authority, upon filing of the Manufacturer's Certificate of Origin for each Vehicle with the State Department of Motor Vehicles, to require the department to note Lessor's security interest on its records and the Certificate of Title for the Vehicle, Lessee will join with Lessor in executing such financing statements and other documents and will perform such acts as Lessor may request to establish and maintain a valid security interest in the Vehicle. If requested by Lessor, Lessee shall conspicuously mark each Vehicle with appropriate lettering, labels or tags, and maintain such markings during the Term of this Lease with respect thereto, so as to clearly disclose Lessor's security interest in the Vehicle.

Upon full payments of all amounts due hereunder, Lessor or its assigns shall deliver to Lessee all documents necessary to release any and all security interests and liens of any nature caused by Lessor or at its direction.

**Use of Vehicle(s)** - Lessee agrees to use the Vehicle(s) in an appropriate manner and agrees to comply with all applicable laws, ordinances and regulations relating to the use or possession of the Vehicle(s).

**Maintenance and Repairs** - Lessee shall effect and bear the expense of all routine and major maintenance, repair and replacement.

**Insurance** - See Insurance Information form.

**Return of Property** - If for any reason (including but not limited to, Lessee's default, or Lessee's termination) Lessor is entitled to possession of the Vehicle(s). Lessee shall deliver the Vehicle(s) to Lessor, at Lessee's expense, in at least as good condition and repair as when delivered to Lessee, ordinary wear and tear excepted. Lessee shall be liable for and continue to make periodic payments for the use of the Vehicle(s) during the period between the event giving rise to Lessor's right of possession and the delivery.

**Drivers** - Lessee shall furnish and permit only qualified, trained, safe, licensed drivers whom it duly authorizes to operate the Vehicle(s), all such drivers being the agents of Lessee and not the agents, employees, or representatives of Lessor.

**Fuel** - Lessee shall provide and pay for all fuel necessary to operate the Vehicle(s).

**Licensing** - Lessee shall cause the Vehicle(s) to be duly licensed as required by any state in which it is operated and further, it shall cause the Vehicle(s) to be duly certified for operation including but not limited to any emission and/or registration requirement.

**Inspection** - Lessee shall cause each Vehicle to be inspected as required by law in any state in which the Vehicle is operated.

**Interpretation** - Regardless of any terminology used herein, this Agreement is for the sole purpose of enabling Lessee to acquire the Vehicle(s) provided for hereunder. Lessor is providing funds for said acquisition and is not a manufacturer, seller or distributor of any Vehicle(s) provided for hereunder.

Lessee: CITY OF KINGSVILLE

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2014

**Information Return for Tax-Exempt Governmental Obligations**

► Under Internal Revenue Code section 149(e)

► See separate instructions.

Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

**Part I Reporting Authority**

If Amended Return, check here ☐

1 Issuer's name <b>City of Kingsville</b>		2 Issuer's employer identification number (EIN) :
3 Number and street (or P.O. box if mail is not delivered to street address) <b>PO Box 1458</b>	Room/suite	4 Report number (For IRS Use Only) <b>3</b>
5 City, town, or post office, state, and ZIP code <b>Kingsville, Texas 78364-1458</b>		6 Date of issue
7 Name of issue <b>M 14-02A</b>		8 CUSIP number
9 Name and title of officer of the issuer or other person whom the IRS may call for more information <b>Charles H. Seideman</b>		10 Telephone number of officer or other person <b>( 512 ) 34693936</b>

**Part II Type of Issue (enter the issue price) See instructions and attach schedule**

11 Education . . . . .	11		
12 Health and hospital . . . . .	12		
13 Transportation . . . . .	13	<b>458350</b>	<b>00</b>
14 Public safety . . . . .	14		
15 Environment (including sewage bonds). . . . .	15		
16 Housing . . . . .	16		
17 Utilities . . . . .	17		
18 Other. Describe ►	18		
19 If obligations are TANs or RANs, check only box 19a . . . . . <input type="checkbox"/>			
If obligations are BANs, check only box 19b . . . . . <input type="checkbox"/>			
20 If obligations are in the form of a lease or installment sale, check box . . . . . <input checked="" type="checkbox"/>			

**Part III Description of Obligations. Complete for the entire issue for which this form is being filed.**

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	<b>May 30, 2021</b>	<b>\$ 458350.00</b>	<b>\$</b>	<b>7</b> years	<b>2.5000 %</b>

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

22 Proceeds used for accrued interest . . . . .	22	<b>N/A</b>	
23 Issue price of entire issue (enter amount from line 21, column (b)) . . . . .	23		
24 Proceeds used for bond issuance costs (including underwriters' discount) . . . . .	24		
25 Proceeds used for credit enhancement . . . . .	25		
26 Proceeds allocated to reasonably required reserve or replacement fund . . . . .	26		
27 Proceeds used to currently refund prior issues . . . . .	27		
28 Proceeds used to advance refund prior issues . . . . .	28		
29 Total (add lines 24 through 28) . . . . .	29		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) . . . . .	30		

**Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)**

31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . . .	<b>N/A</b>	<b>years</b>
32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . . .		<b>years</b>
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) . . . . .		
34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)		

**Part VI Miscellaneous**

- |            |     |  |
|------------|-----|--|
| <b>35</b>  | N/A |  |
| <b>36a</b> |     |  |
| <b>37a</b> |     |  |
- 35** Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . .
- 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . .
- b** Enter the final maturity date of the GIC ▶ \_\_\_\_\_
- 37** Pooled financings: **a** Proceeds of this issue that are to be used to make loans to other governmental units . . .
- b** If this issue is a loan made from the proceeds of another tax-exempt issue, check box ☐ and enter the name of the issuer ▶ \_\_\_\_\_ and the date of the issue ▶ \_\_\_\_\_
- 38** If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . ☒
- 39** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . ☐
- 40** If the issuer has identified a hedge, check box . . . ☐

**Signature and Consent**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.



Signature of issuer's authorized representative

Date

Type or print name and title

**Paid Preparer's Use Only**

Preparer's signature

Date

Check if self-employed ☐

Preparer's SSN or PTIN

Firm's name (or yours if self-employed), address, and ZIP code

EIN

Phone no. ( )

## INSURANCE REQUIREMENTS

LESSEE: CITY OF KINGSVILLE

LEASE/PURCHASE NUMBER M14-02A

Pursuant to Article 17 of the Lease/Purchase Agreement, you have agreed to provide us evidence of insurance covering the property in the Agreement. A Certificate of Insurance naming all insured parties and coverage's must be returned to us as soon as possible, but no later than the date on which delivery of equipment occurs.

*In the case of self-insurance, the amounts of liability and physical damage coverage are to be listed on your form of certificate. Additionally, information regarding the nature of your self-insurance program should also be forwarded to us as soon as possible.*

### INSURANCE REQUIREMENTS OF CAPITAL CITY LEASING, INC.

#### 1. Liability

*Minimum of \$1,000,000.00 combined single-limit on bodily injury and property damage.*

*Capital City Leasing, Inc. and/or Its Assigns MUST be listed as additional insured and loss payee.*

#### 2. Physical Damage

*All risk coverage to guarantee proceeds sufficient to pay applicable Option to Purchase Price as set forth in Exhibit C of the Agreement. Capital City Leasing, Inc. and/or Its Assigns MUST be listed as additional insured and loss payee.*

*The deductible amounts on the insurance policy should not exceed \$2,000.00.*

#### 3. Endorsement

*Lessor will receive at least thirty (30) days written notice from Insurer prior to alteration, cancellation or reduction of insurance coverage.*

---

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PLEASE FAX THE CERTIFICATE TO US AS SOON AS POSSIBLE TO (512) 346-5527 AND MAIL THE ORIGINAL TO: CAPITAL CITY LEASING, INC. AND/OR ITS ASSIGNS, 13170G POND SPRINGS ROAD, AUSTIN, TX 78729

YOUR ASSISTANCE IS GREATLY APPRECIATED. IF YOU HAVE ANY QUESTIONS, PLEASE CALL US AT (512) 346-9393.

LESSEE: CITY OF KINGSVILLE

Insurance Company: \_\_\_\_\_

Agents Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

EQUIPMENT:

2013 Roadtec Asphalt Paver

Mauldin MPS Oil Distributor

## **AGENDA ITEM #6**



# Purchasing/IT Department

361-595-8025  
361-595-8035 Fax

DATE: April 4, 2014  
TO: City Commission through City Manager  
FROM: David Mason, Purchasing/IT Director  
SUBJECT: Oil Distributor

## SUMMARY

This item authorizes the purchase of one Mauldin 2000 gal Oil Distributor for the Street Department.

## BACKGROUND

This approval relates to the Notice to Proceed with leasing funds available from Capital City Leasing. The City advertised for sealed bids on March 19, 2014 and March 26, 2014. There were two respondents to the Bid 14-12 opened on April 3, 2014 at 3:00 p.m.

Vendor	Closner Equipment	Cooper Equipment
Price	\$ 157,800.00	\$ 172,200.00
Delivery	3-5 days, Stock in Schertz, TX	90 days
Brand	Mauldin MPS 2000	Etnyre Black-Topper Centennial

## RECOMMENDATION

We believe the best value for the City is a Mauldin MPS 2000 at \$157,000.00. This unit is in stock and available for immediate delivery. It is on an International 7300 Chassis with automatic transmission. As required by Texas law the vehicle must be purchased from a vehicle dealer for titling purpose, so the actual Purchase Order will be issued to Yancey Truck Center, Albany GA.

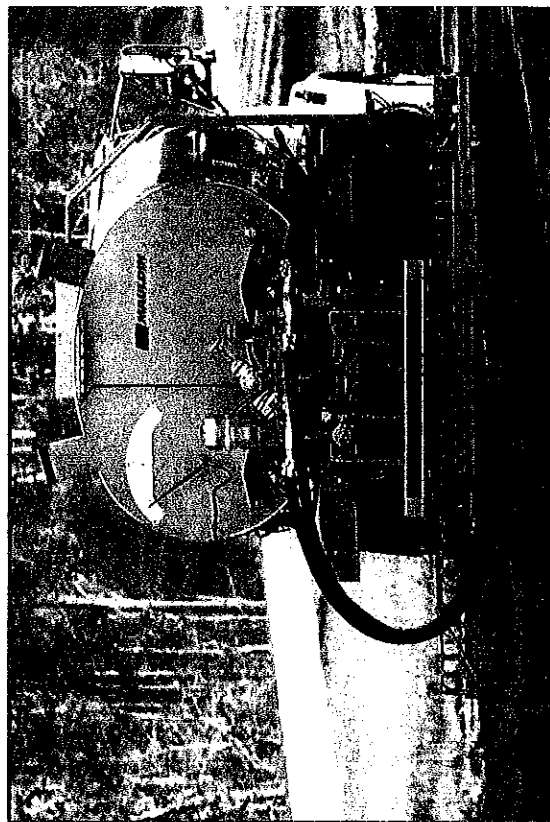
## FINANCIAL IMPACT

Leasing funds are available as \$80,000 is budgeted for FY 14, 001-5-305.0-641.00.



# PRECISION SPRAY ASPHALT DISTRIBUTOR

- Automatic, Heated Clean-Out System
- Heated Asphalt Pump and Heated Solvent Tank
- 8-16 ft. Telescoping Spray Bar, Vertical Extensions to 24 ft.
- Internal Poppet Spray Valves
- Dual, Diesel Fired Burners with Auto-Thermostat Control
- 1000 - 3500 Gallon Truck Mounted Tanks
- Truck Mounted, Roll-On/Roll-Off, Trailer Mounted and Slip-in Units Available



# MAULDIN

## PRECISION SPRAY ASPHALT DISTRIBUTOR

### TANK CONSTRUCTION - meets all applicable Federal Cargo Tank Regulations 49 CFR 173.247

Tank Shell	10 gauge Steel, Oval in Shape
Heads	7 gauge Steel, Dished and Flanged
Surge Plate(s)	10 gauge Steel, Reinforced, Staggered Crawl Holes
Manhole	20" Diameter with Curbside Ladder Access and Spill Collar
Tank Insulation	2" Mineral Wool on Front Head and Sides 4" Mineral Wool on Rear Head
Tank Skin	0.050" Aluminum Jacket
Overflow	3" Internal
Contents Gauges	Front and Rear, Float Type, 100 gallon Increments
Sampling Valve	Located on Front Head
Capacities	1000, 2000 & 3500 gallon Truck Mounted or Roll-On/Roll-Off

### ASPHALT PUMP

Type	Positive Displacement Rotary Gear Type
Flow	400 GPM
Heat	Fully Heat Jacketed Asphalt Pump
Location	Pump Centerline Below Bottom Level of Tank Sump
Strainer System	Single Location, Auto-Cleaning, Quick-Change All Function Protection

### HEATING SYSTEM

Flues	Two Flue Tubes with Stainless Steel Liners
Burners	Two, Diesel Fired with 25 gallon Tank
Temperature Control	Automatic, Thermostatically Controlled 4" Dial and Pencil Thermometers
Safety	Continuous Ignition with Low Level Ignite Protection
Controls	Blowers and Fuel on Separate Switches
Exhaust Stacks	Two, Rear Mounted, Insulated 14 gauge Stainless Construction

### SPRAYBAR

Type	8' to 16' Full Circulating, Telescopic, Straight-Line Start & Stop
Extensions (Optional)	1', 2' and 4' Available, Vertically Folding
Breakaway	Center, Mechanical Breakaway System
Spray Valves	Air Operated, Internal Poppet, No Leak Design on 4" Centers
Cross Section	12 cubic inch High Volume
Spray Width Control	Electric/Hydraulic with 4" Control
Spray Height Control	Electric/Hydraulic with Safety Chains

### FLUSH/CLEAN-OUT SYSTEM

Type	Fully Automatic with Push Button Start Self Contained, Environmentally Friendly
Solvent Tank	25+ gallon, Heated
Components Cleaned	Asphalt Pump, Strainer Box, All Plumbing, Entire Spraybar, All Valves
Pre-Soak/Washdown	Air Operated, 15' Hose, Atomizes Solvent

### CONTROLS

Master Controls	Located Rear Curbside, Pump Speed, Pump Direction, Load, Unload, Transfer, Tank Circulate, Hand Spray, Clean-Out, Burners On/Off, Cab Controls On/Off
Cab Controls	Spray On/Off, Application Rate, Spray Width, Spray Distance, Pump Calibration, Travel Calibration, Application Rate Presets

### OTHER STANDARD EQUIPMENT

Single Nozzle Hand Spray Attachment with 25' Hose, LED Lights, Redundant Wire Harness between Master and Cab Controls, 8' Spray Curtain, Diamond Plate Fenders
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### OPTIONAL EQUIPMENT

Process Heat, Auxiliary Power Pack, Wet Box, Tool Box, Metric Gauges
--

1/2x11

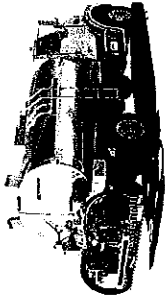
Calder Brothers Corporation reserves the right to make changes in engineering, design and specifications; add improvements; or discontinue manufacture at any time without notice or obligation.

Sold &amp; Serviced by:



Calder Brothers Corporation  
250 E. Warehouse Ct.  
Taylors, SC 29687  
Phone (864) 244-4800  
Fax (864) 244-5007  
www.CalderBrothers.com

# Precision Spray - Fully Automatic Asphalt Distributor



**MAULDIN**  
PAVING PRODUCTS

**Masters of the Mat**



The Precision Spray is leading the way in asphalt distributor innovation and technology. Companies nation wide are seeking a machine that is simple and easy to run and maybe more importantly, simple and easy to maintain.

## Telescoping Spraybar

Standard 8-16 ft. telescoping bar is the preferred bar by many material specialists. Production and ease of operation are at the core of its qualities.

## Asphalt Pump

High quality, high volume, heated 400 GPM asphalt pumps are found on every Precision Spray distributor. The pump center-line is located at the sump level of the tank for maximum performance.

## Double Flue Design

CBC engineering has incorporated a standard double flue design technology. This design is located very low in the tank to permit minimum start-up times, even at low tank levels. Maximum tube heating area and standard diesel burners yield short heating cycles.

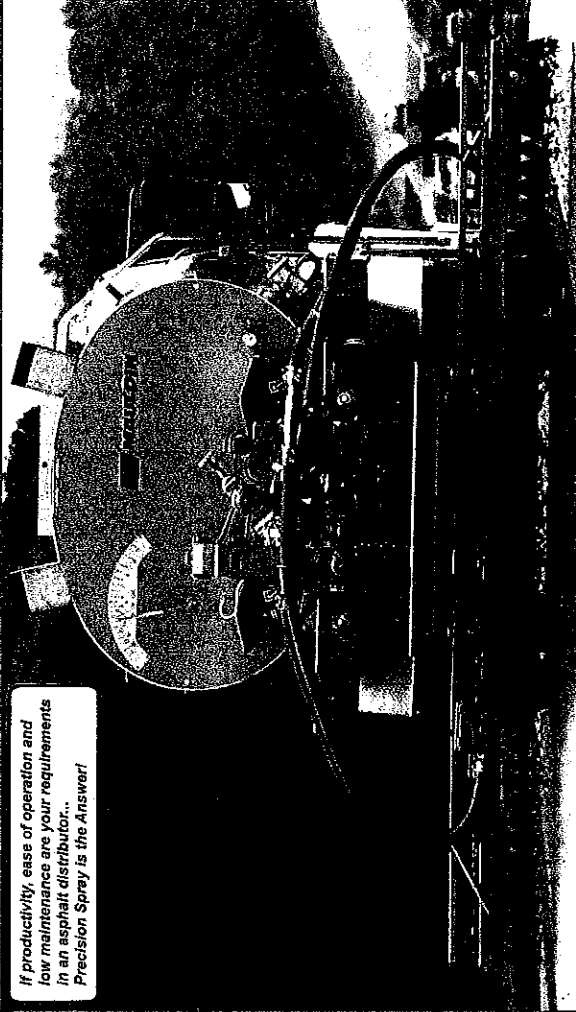
## Automatic Clean-Out Cycle

Leading the way in design technology is the Precision Spray's exclusive heated, automatic clean-out cycle. Never has clean-up been so easy and simple. Clean-out that is done 100% of the time, accurately and without question. Simply turn master control to "Clean-Out" and press "Start."

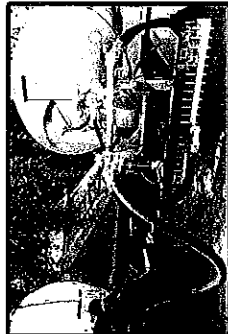
## Master and Cab Controls

Safety first. This can be illustrated in the fact that whenever the master control is active, the cab control is completely inactive. No accidents by cab operator while performing various operations at the master control. Redundant cab control wiring harness and easy computer programmability translates into uptime.

If productivity, ease of operation and low maintenance are your requirements in an asphalt distributor... Precision Spray is the Answer!



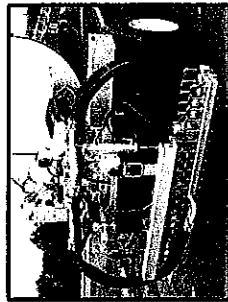
"I've owned all the different makes of asphalt distributors... when it comes to coverage, rate application control and material management, none are better than the Mauldin Precision Spray. These items along with the fully automated clean out system make these the most complete trucks I've owned." - Frank Polino, A. Polino Construction Inc., Oakmont PA



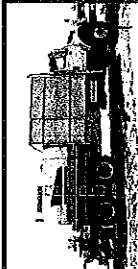
Load material using the Precision Spray 400 GPM asphalt pump. All pump functions pass through a single, self-cleaning strainer.



Precision Spray's exclusive center break-away system allows the bar to move if hit by an object.



Easy access to the heated asphalt pump & control valves make the Precision Spray very service friendly.



PS2000 roll-on/roll-off. Maximize fleet operations by using a single chassis for multiple applications. MAULDIN specializes in truck mounted, roll-on/roll-off, slip-in and trailer mounted asphalt distributors to meet your specific needs.

Calder Brothers Corporation is a leading manufacturer in asphalt related products including commercial pavers, asphalt rollers, tack-coat sprayers, maintainers, motor graders, water trucks and asphalt distributors. Building a quality product based on sound engineering practices and using field tested, time proven components is our focus. CBC demands performance and reliability out of each machine we manufacture. These same demands are expected from our partners as well, helping us insure quality product with unmatched service and support.

## **AGENDA ITEM #7**

**ORDINANCE NO. 2013- 2014**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2013-2014 BUDGET FOR THE GENERAL FUND STREET DEPARTMENT TO LEASE/PURCHASE A 2013 ROADTEC ASPHALT PAVER AND MAUDLIN DISTRIBUTOR ON AN INTERNATIONAL TRUCK CHASSIS.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2013-2014 budget be amended as follows:

**CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT**

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
<b>Fund 001</b>	<b>General Fund</b>				
	<u>Expense</u>				
5-3050	Street Department	Capital Outlay Equipment	712.00		<u>\$458,350</u>
					<u>\$458,350</u>
	<u>Revenue</u>				
000-Non	Departmental	Other Income-LF Lease Purchase	599.44	<u>\$458,350</u>	
				<u>\$458,350</u>	

[For accounting purposes- to record the purchase of one (1) 2013 ROADTEC ASPHALT PAVER AND MAUDLIN DISTRIBUTOR ON AN INTERNATIONAL TRUCK CHASSIS. The first annual payment was already budgeted for the current year.]

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified and become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the \_\_\_\_ day of \_\_\_\_\_, 2014.

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

EFFECTIVE DATE: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #8**

**ORDINANCE NO. 2014-**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2013-2014 BUDGET FOR THE GENERAL FUND LANDFILL DEPARTMENT TO PAY FOR EQUIPMENT REPAIR COSTS AND ENGINEERING SERVICES.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2013-2014 budget be amended as follows:

**CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT**

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
<b>Fund 001</b>	<b>General Fund</b>				
<u>Capital</u>					
2		Fund Balance	610.00		<u>\$94,000</u>
					<u>\$94,000</u>
<u>Expenses</u>					
5-170.3 Landfill		Professional Services	314.00	\$17,000	
		Machinery Maintenance	411.00	<u>\$77,000</u>	
				<u>\$94,000</u>	

[The General Fund's Landfill Department is in need of additional funding to pay for repairs and maintenance for the dozer and scraper, as well as funding to pay for engineering services for ground water, methane, and rate study monitoring and for Tier 5 air permitting.]

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the \_\_\_\_ day of April 2014.

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

**EFFECTIVE DATE:**\_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney





## ***Engineering Department***

361-595-8007  
361-595-8035 Fax

DATE: April 4, 2014  
TO: City Commission through City Manager-  
FROM: Juan Carlos Cardenas, Director of Public Works/City Engineer  
SUBJECT: FY2014 General Fund Budget Amendment (Fund 001)-Landfill

### **SUMMARY**

This item authorizes a budget amendment to the FY14 General Fund (001) for the City's Landfill for Equipment repairs and Engineering Services.

### **BACKGROUND**

The under carriage repairs to the 2009 CAT D6T Dozer were budgeted in FY13 and repairs were completed before October 1, 2013. Although unsuccessful, staff tried to get this covered under warranty work as the undercarriage had excessive wear prematurely. The 2008 CAT Scraper required unforeseen repairs to the engine and hydraulics.

Engineering services were required to complete FY13 ground water, methane and rate study monitoring and to do FY14 Tier 5 air permitting, which occurs every five years.

#### **Fund (001) – General Fund:**

Original Adopted Budget: (170.3-411.00) \$30,000.00  
Requested Budget Amend Increase: \$76,265.00  
New Budget FY14: (170.3-411.00) \$106,265.00

#### **Fund (001) – General Fund:**

Original Adopted Budget: (170.3-314.00) \$70,000.00  
Requested Budget Amend Increase: \$17,054.00  
New Budget FY14: (170.3-314.00) \$87,054.00

### **RECOMMENDATION**

Staff recommends proceeding with approval of the proposed budget amendment to reduce the General Fund fund balance in order to cover the necessary Landfill expenses.

### **FINANCIAL IMPACT**

This action will reduce the General Fund's fund balance by \$93,319.00.

Approved

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Vincent Capell, City Manager

## **AGENDA ITEM #9**



## Planning & Development Services Department

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TO: Vincent Capell, City Manager & City Commission

FROM: Robert G. Isassi, P.E., Director of Planning & Development Services

SUBJECT: **City Ordinance Amendments**

DATE: April 4<sup>th</sup>, 2012.

---

Reference is made to direction given to City planning staff to evaluate and provide a comprehensive review of the City's current zoning and subdivision regulations. As previously relayed to your office, with the assistance of a consultant, the review revealed a number of existing codes that necessitate additional clarification by adding new code language and update existing codes.

This evaluation has resulted in twelve (12) proposed code changes and/or new sections. Due to the complexity and volume of this proposed ordinance modification that the Planning & Zoning Commission as well as the City Commission has been undertaking, it was prudent to separate the dozen proposed changes into two groups. This memo contains the second and final set, attached for City Commission introduction.

To update the commission, a Planning & Zoning Commission (P&Z) workshop was held on March 11<sup>th</sup>, 2014 to thoroughly discuss the proposed ordinances, after some suggested changes, P&Z unanimously approved all of the eight (8) items on March 19<sup>th</sup> then forwarded to City Commission for review. On March 20<sup>th</sup>, City Commission held a workshop to also discuss the proposed ordinance changes. After the workshop, the City's suggested changes were performed. These eight are now being introduced at the April 14<sup>th</sup> City Commission. They are as follows:

1. Fence Code

The Planning Department researched and created a new fence code regulation (Sec. 15-6-28) to ensure the language speaks to the current environment. The new language includes provisions pertaining to review and permitting prior to fence construction, expansion of the required maintenance of the fence, and allowable materials to be used. This code was discussed in two P&Z and City Commission workshops and extensively studied to ensure that the code was properly written as well as enforceable by City Community Appearance Division.

2. Accessory Use/Structure Code

Researched and drafted new code language (Sec. 15-6-26) to regulate accessory structures as well as accessory uses as subordinate uses to the primary use. Currently no code language exists, however accessory uses are defined in the existing code. A general listing of permitted accessory uses and structures have been drafted to clearly delineate the types of permitted and prohibited uses. This language also includes accessory structure provisions regulating building material types, location, etc.

### 3. Planned Unit Development (PUD) Code

A comprehensive review and update the existing Office Planned Unit Development (OPUD) code (Section 15-6-55) was performed to provide additional options for developments, utilizing flexible zoning that encourages comprehensive site development and open space preservation. Language was designed to encourage architectural elements that promote unique design and enhanced aesthetics, while also providing the City an opportunity to review these development plans as part of the zoning process.

### 4. Solar Energy System (SES) Code

A new code section (Sec. 15-6-168) was created to regulate solar energy system (SES), a technology that is beginning to become more readily affordable. The creation of this code, in cooperation with NAS-K, provides citizens guidance on solar energy technology and its use within the City. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs. Language was drafted to create a new code section within Chapter 15 while also incorporating the use of SES within the proposed Accessory Use/Structure Code. This new language will address potential glare issues onto neighboring properties, providing permitted uses, permit requirements, setbacks/dimensions, screening, etc.

### 5. Wind Energy Conversion System Regulations

A new code section (Sec. 15-6-169) was created to regulate Wind Energy Conversion Systems (WECS) and its use as a "subordinate use", as well as creating regulations to regulate and/or prohibit the use of standalone WECS as a principle use or in a group wherein a "wind farm" is created. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs and greater availability of roof attached WECS'. New language was drafted to create a new code section within Chapter 15 to address potential impacts to neighboring properties and the Naval Air Station while also providing definitions, approval processes permitted uses, permit requirements, setbacks/dimensions, etc.

### 6. Definitions

As part of the changes within the ordinance rewrites, additional definitions were added and updated. "Home Occupation", "Planned Unit Development", "Sight Visibility Triangle", and "Sight-Obscuring Fence" were added to this Section. The definition of "Kennel" was also updated to match the animal control ordinance.

### 7. Schedule of Permit Fees

This amendment adds a fee for new fence construction referenced in the proposed fence code. A fence permit fee of \$35 will be charged to compensate the building official or inspector for the plan review of the proposed work. This amendment also renames an item currently defined as a “Plan-Checking Fee” to a “Plan-review Fee”, a term more commonly used to detail the work being done when plans are submitted.

#### 8. Land Use Chart

This amendment adds guidance to the existing Land Use Chart to support the proposed changes in new ordinances for solar and wind energy system ordinances, planned unit developments, and home occupations. The chart refers readers to the sections to be read for more information.

ORDINANCE NO.2014-\_\_\_\_\_

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, LAND USE, ARTICLE 6, BY AMENDING SECTIONS 55-61-PLANNED UNIT DEVELOPMENT DISTRICT REGULATIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

**THAT** Sections 55-61-Planned Unit Development District Regulations of Article 6: Zoning of Chapter XV, Land Usage Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**Planned Unit Developments (PUD)**

**Sec. 15-6-55. Planned Unit Development Districts.**

(A) Statement of intent - Each of the zoning districts set forth and permitted in the Land Use Chart shall have a separate and distinct counterpart known and herein referred to as a "planned district". A "planned district" shall be for the purpose of permitting and regulating the uses permitted in the "equivalent district" and further provide for and encourage latitude and flexibility in the location of buildings, structures, roads, drives, variations in yards, open spaces, etc., which are subsequent to approval by local officials. The result is to allow development of tracts of land to their fullest extent and at the same time observe the general intent and spirit of these regulations. The purpose of this district is to also provide for and encourage the appropriate grouping of buildings to reduce vehicle trips, maximize open space, and for the beautification of the district. In general, (1) the height and bulk of buildings, (2) the amount of open space, (3) the concentration of people and traffic, and (4) the parking and loading requirements shall be equal to those in the corresponding district. The uses permitted shall be the same as in the "equivalent district".

Variations and departures from normal requirements may, however, be permitted. Each building face need not face a public street and more than one main building may be located on a lot. Buildings may be constructed on platted tracts which are smaller than the minimum lot size requirements where other adjacent permanent open space is provided. Buildings may be grouped in clusters or around courts and may be served by private drives in lieu of public streets. Buildings may be located closer to lot lines than otherwise permitted provided such buildings are architecturally suitable for such a relationship to adjoining buildings or property. The Planned Unit Development Districts shall be as follows:

<u>Planned District</u>	<u>Equivalent District</u>
RP-1	R-1
RP-2	R-2
RP-3	R-3
RP-4	R-4
CP-1	C-1
CP-2	C-2
CP-3	C-3
CP-4	C-4
IP-1	I-1
IP-2	I-2

**~~Sec. 15-6-55. Permitted uses and buildings; when OPUD status encouraged.~~**

~~Planned unit development shall be an optional use in the districts specified in the Use Chart in Appendix A. The uses and buildings permitted shall include any authorized use as a permitted or special use for the district within which the planned unit development is proposed. Permitted uses shall be designed so as to encourage efficient site use and maintenance. Planned unit development status is encouraged for sites posing environmental difficulties and constraints.~~

*(1962 Code, § 11-2D-1)*

**15-6-56. Procedure for Rezoning Property to a Planned Unit Development.**

(A) A tract of land may be zoned to a Planned Unit Development by the City as provided in Section 15-6-4, or upon application by the owner or his/her agent with approval of a Conceptual Development Plan for the tract. A City-initiated Planned Unit Development zone need not be accompanied by a Conceptual Development Plan. The applicants, other than the City, for a Planned Unit Development zone change, or a developer intending to build on a tract of land zoned as a Planned Unit Development shall prepare and submit to the Planning and Zoning Commission a Conceptual Development Plan containing the following elements:

- (1) The boundaries of the tract to be zoned and the area adjacent for a distance of not less than 500 feet.
- (2) The existing and proposed topography. Contours shall not exceed ten foot intervals and shall be on a plan at a scale of one inch equals 100 feet or larger. The proposed topography shall be clearly delineated on the plan.
- (3) The proposed location and arrangements of buildings, structures, lots, parking areas, open space, recreational space, existing and proposed streets, drives and other public ways, public property, drainage, landscaping and other features of the proposed development.
- (4) Sufficient approximate dimensions to indicate the relationship between buildings, streets, drives and property lines.
- (5) A draft of conditions, covenants and restrictions (CC&R's), easements, associations, and maintenance agreements as well as specifications for

ingress/egress to the property and any other legal requirements which will run with the property.

- (6) Preliminary elevation and plan drawings of proposed buildings which sufficiently depict the architectural theme of the development.
- (7) Preliminary sign program for nonresidential developments identifying common materials, sizes, heights and locations to be used on signs within the development. The materials used shall be consistent with the architectural theme of the buildings.
- (8) Other design elements and/or development standards consistent with current trends and regulations as determined by the Director of Planning and Development Services.

**~~Sec. 15-6-56. Site plan required; necessary information.~~**

~~(A) (1) No permit shall be issued for construction in a planned unit development area unless there has been a site plan approved by the City Planning and Zoning Commission and a subdivision plat thereof recorded in the county plat records. Four prints of a preferred site plan shall be submitted for review.~~

~~(2) The requirement for a new site plan may be waived when:~~

- ~~(a) The site has been platted for record after receiving the zoning classification which will be utilized for planned unit development; and~~
- ~~(b) The proposed development is in full compliance with all other planned unit development requirements.~~

~~(B)(1) The name of the record owner and the engineer, surveyor, architect or land planner responsible for preparation of the site plan. The name of the subdivision; the names of adjacent subdivisions, the designation of adjacent unsubdivided property with property owners shown; the names and location with widths of adjacent streets; and numbers of all existing and proposed lots, blocks and tracts.~~

~~(2) The subdivision plat, in addition to a subdivision name, if any, shall be clearly labeled "Planned Unit Development Site Plan."~~

~~(a) The following information shall be required on preliminary plan:~~

- ~~1. The location of all building setback lines, utility easements, and emergency access easements.~~
- ~~2. Certificates of approval to be completed by the Commission.~~
- ~~3. North point, scale and date.~~
- ~~4. Topographic map with contour intervals as required by the Commission, spot elevations may be required. Wooded areas shall be outlined.~~
- ~~5. Approximate outlines of the perimeter walls of buildings with their distances from property lines and each other building.~~
- ~~6. Identification of open space, recreation space, car parking areas, driveways and other access features.~~



~~7. A table showing the approximate net land area and the planned amounts of floor area, open space, recreation space and car parking spaces with their ratios to the net land area.~~

~~(b) The following information shall be required on a final plat:~~

~~1. An accurate boundary survey of the property with correct bearings and distances, referenced to survey lines and adjacent subdivisions, and showing the lines of all adjacent lands and the lines of adjacent streets and alleys, with their widths and names.~~

~~2. The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions and with all other information necessary to reproduce the plat on the ground.~~

~~3. A certificate of dedication of public areas and improvements on the plat and a copy of any restrictive covenants to be filed with the plat.~~

*(1962 Code, § 11-2D-3)*

#### **Sec. 15-6-57. Site Plan Approval Required Prior to Permitting.**

~~(A) No permit shall be issued for construction in a Planned Unit Development area unless there has been a site plan approved by the City Commission and a subdivision plat thereof recorded in the county plat records. Three (3) 24 x 36 and fifteen (15) 11 x 17 prints of the site plan shall be submitted for review by the Director of Planning and Development Services.~~

~~(B) The requirement for a new site plan may be waived when:~~

- ~~(1) The site has been platted for record after receiving the zoning classification which will be utilized for Planned Unit Development; and~~
- ~~(2) The proposed development is in full compliance with all other Planned Unit Development requirements.~~

*(1962 Code, § 11-2D-2)*

#### **Sec. 15-6-57. Submission, hearing and approval.**

~~(A) Submission, hearing and consideration and approval of a planned unit development site plan shall be in accordance with the rules of procedure of the City Planning and Zoning Commission. The Commission may deny, modify, approve, or approve with conditions.~~

~~(B) The City Planning and Zoning Commission may authorize and direct the Executive Secretary to execute its certificate of approval on planned unit development site plans which are in strict compliance with the criteria and guidelines which the Commission shall develop and promulgate for that purpose. When the City~~

~~Planning and Zoning Commission finds that detailed plans for proposed construction were substantially completed on the effective date of this subarticle, and were diligently pursued for implementation within a period of six months after the effective date of this article, the Planning and Zoning Commission may, at its discretion, waive, modify or alter these requirements to the end that the spirit of the requirements shall be generally observed by substantial justice done to the applicant.~~

~~(1962 Code, § 11-2D-4)~~

**Sec. 15-6-58. Submission, Hearing and Approval.**

(A) The City Planning and Zoning Commission shall hold a public hearing on the Conceptual Development Plan and after such public hearing, the Commission shall either approve, approve with conditions, or disapprove the Conceptual Development Plan. At such time as the Conceptual Development Plan is approved, approved with conditions or disapproved by the City Planning and Zoning Commission, the same plan shall be duly endorsed and forwarded to the City Commission for final action. The procedures for noticing and holding a public hearing for a Conceptual Development Plan shall be the same as specified in Section 15-6-4 of this code. The Conceptual Development Plan is in addition to, not in substitution of, the required statutory rezoning process.

(B) In reviewing Conceptual Development Plans for a Planned Unit Development district, the City Planning and Zoning Commission shall consider the following:

- (1) Topography; to ensure the site is suitable for development, and buildings are located and arranged in appropriate areas.
- (2) Parking; to ensure the proposed development contains an adequate amount of parking and is located in an appropriate area. Generally, the parking should conform to the required number of parking appropriate to the development type as contained in Section 15-6-106 and 15-6-107. The City Planning and Zoning Commission may allow a deviation from these parking requirements should the applicant show an adequate amount of parking exists.
- (3) Setbacks; to ensure buildings provide for adequate light, air, and privacy protection by providing appropriate proportion between buildings, and adequate separation between buildings and adjoining properties.
- (4) Architecture; to ensure the architectural theme is compatible and consistent throughout the project and is reasonably compatible with surrounding developments.
- (5) Landscaping; to ensure the development provides adequate landscaping to provide a pleasant environment, to enhance the building's appearance and to ensure existing significant trees are adequately protected.
- (6) Site plan; to ensure the location and arrangement of buildings, signs and other structures are appropriate for the site, existing and proposed streets, drives and public ways are arranged appropriately and to ensure site drainage has been adequately addressed.
- (7) Any other feature or issue associated with the state zoning and planning enabling legislation or the comprehensive/master plan for the City of Kingsville for which the City Planning and Zoning Commission feels is appropriate and relevant to the development of the site to ensure appropriate and attractive development of the proposed site.

(C) Prior to approving a Conceptual Development Plan for the purposes of this section, the City Commission shall make the following findings:

- (1) that the Planning and Zoning Commission and the City Commission have reviewed the Conceptual Development Plan with consideration of the issues contained in Subsection (B) of this section; and
- (2) that the Conceptual Development Plan is in conformance with the Master Plan and other plans adopted by the city and/or appropriate sections of the Code of Ordinances; and
- (3) that the Conceptual Development Plan provides for an organized and unified system of land use intensities which are compatible with the surrounding areas; and
- (4) that the proposed development adequately protects the health, safety and general welfare of future and existing residents and property owners in and around the development.

(D) Upon final approval of the Conceptual Development Plan and the zoning (or rezoning) of the tract by the City Commission, as required by law, building permits may be issued. Conformance with the approved Conceptual Development Plan and all supporting documentation is mandatory. Substantial deviation from the Plan shall require resubmittal to the City Planning and Zoning Commission and City Commission in the same manner as the original zoning procedure.

#### **Sec. 15-6-58. General requirements in all districts.**

~~(A) Height regulations.~~ The maximum permitted height for a building or structure in any planned unit development shall be limited to three stories in Districts R1 and R2, four stories in Districts R3, R4, C1 and C2 and eight stories in all other districts.

~~(B) Front yard.~~ There shall be a front yard of not less than 20 feet on any portion of the site which has frontage on a public street (This does not apply to public access easements). The required front yard cannot be paved except for necessary driveways and must remain as open space.

~~(C) Side yard.~~ There shall be a side yard of at least 10 feet adjacent to any lot not a part of the planned unit development and which is zoned R1, R2, AG or MH, provided any wall less than five feet from any property line is rated as a four hour fire wall by the Building Code; then no side yard shall be required. Paved driveways are permissible in side yards.

~~(D) Rear yard.~~

- ~~(1) There shall be a rear yard of at least 10 feet when adjacent to any lot not a part of the planned unit development and which is zoned R1, R2, AG or MH, provided any wall less than five feet from any property line is rated as a four hour fire wall by the Building Code; then no rear yard shall be required. Paved driveways are permissible rear yards.~~

~~(2) When outside entrances to individual dwelling units are provided, no such dwelling unit need front upon a dedicated street.~~

~~(E) Emergency provisions. Emergency provisions and access shall be provided to each principal building by:~~

~~(1) A street or public alley; or by~~

~~(2) (a) A private way, alley or paved place, delineated on an approved subdivision plat conforming to the requirements of Tex. Loc. Gov't Code, §§ 212.001 et seq. Access may also be provided by an emergency access easement approved by the City Planning and Zoning Commission and recorded in the Kleberg County Deed Records, provided that where access is not available by a street, alley, place or recorded easement; and recorded easement access is planned, construction permits may be issued and construction may proceed but certificate of occupancy shall not be issued until the required emergency access easements are approved by the City Planning and Zoning Commission and filed for record in the Kleberg County Deed Records. Emergency access easements shall be not less than 50 feet in width, the boundaries shall be distinctly and permanently marked on the ground and the entrances shall be permanently marked by signs not less than two square feet nor more than four square feet in face area.~~

~~(b) The paved width of any emergency access easement may be reduced to, but not below, 30 feet provided that curbs shall not exceed five inches in height and further provided that there shall be no obstructions which will interfere with the use of the full 50 foot width of the easement by emergency vehicles and their appurtenances. Turnarounds with a radius of 50 feet and paved diameter of at least 60 feet shall be provided on all dead ends.~~

~~(c) Fire hydrants will be provided and placed to city specifications.~~

*(1962 Code, § 11-2D-5)*

*Cross reference— Penalty, see § 15-6-999.*

#### **Sec. 15-6-59. Coordination of Planned Unit Development Application with Subdivision Approval.**

(A) In order to fully implement flexible zoning techniques such as Planned Unit Development and cluster zoning, applicants shall be required to submit applications for subdivision review simultaneously with applications for zoning approval. Depending upon the size and location of the proposed development, such applications shall conform to either the administrative or major subdivision application requirements of the subdivision regulations (Section 15-3-1 through 15-3-109).

(B) Where the zoning ordinance authorizes Planned Unit Developments, which:

- (1) permits the use of land and density of structures to differ from that allowed as of right, and;
- (2) involves the subdivision of land, whether residential or non-residential;

such development shall obtain subdivision approval by the City Planning and Zoning Commission and City Commission in addition to all other procedures and approvals required by the zoning ordinance. Regardless of whether applicable zoning procedures also require City Planning and Zoning Commission and City Commission approval, review or recommendation.

(C) Procedure.

(1) When a Planned Unit Development application is submitted that also involves the subdivision of land, the application shall first be submitted to the Director of Planning and Development Services or his/her designee.

(2) The application for subdivision approval shall be made in the form of a sketch plat, containing, in addition to all of the requirements of the zoning ordinance, the following information:

- a. Legal description of the property proposed to be subdivided;
- b. Name of the proposed subdivision and shall be clearly labeled "Planned Unit Development Site Plan.";
- c. Date, scale, North arrow;
- d. Property owner's name and address;
- e. Description of all existing covenants, liens and encumbrances;
- f. Name, address and seal or registration number of licensed engineer, architect or surveyor who has prepared the sketch plat;
- g. Location of property lines;
- h. Existing or platted easements, rights-of-way, streets or other public ways;
- i. Masses of trees or individual trees of eight inches or more in diameter, measured four feet above ground level;
- j. Names of adjoining landowners within 200 feet of any perimeter boundary of the proposed subdivision;
- k. Location, sizes, elevations and slopes of existing sewers, water mains, culverts and other underground structures within the boundaries of the proposed subdivision and immediately adjacent thereto;
- l. Existing permanent buildings;
- m. Utility poles and utility rights-of-way on or immediately adjacent to the property proposed to be subdivided;
- n. Approximate topography, at the same scale as required for a preliminary plat;
- o. Approximate location and width of all proposed streets within and abutting the proposed subdivision;
- p. Preliminary proposals for connections with existing water supply and sanitary sewerage systems and preliminary proposals for collecting and discharging surface water drainage;
- q. Approximate location, dimensions and area of all proposed or existing lots;

r. Approximate location, dimensions and area of all parcels of land proposed to be set aside for park or playground use or other public use;

s. Vicinity map showing all streets and the general development pattern and land uses of the surrounding area at a scale of 1" = 100';

t. Zoning district boundaries of all property 200 feet of the proposed subdivision;

u. If the sketch plat covers only a part of the applicant's contiguous holdings, the applicant shall submit, at a scale of no more than 1" = 200', a sketch in pen or pencil of the proposed subdivision area, together with its proposed street systems and an indication of the probable future street, drainage and utility system for the remaining portion of the tract.

(3) The Planning and Development Services Director shall refer the application and sketch plat to the City Planning and Zoning Commission for preliminary review and approval. The City Planning and Zoning Commission shall review all aspects of the application as are required by these regulations and the zoning ordinance.

(4) The City Planning and Zoning Commission shall forward its recommendation on the application to the City Commission. Action shall first be taken on the zoning application. If the zoning request is granted, the applicant shall prepare a preliminary plat as described in Section 15-3-16 of the subdivision regulations and shall then follow the remaining subdivision procedures described therein, including review by the City Planning and Zoning Commission and the City Commission.

#### **Sec. 15-6-59. Floor area ratio, open space, recreation space.**

The maximum floor area, the minimum open space, the minimum recreation space shall be as tabulated below for the district in which the planned unit development is located:

District	Maximum F.A.R. <sup>1</sup>	Minimum O.S.R. <sup>2</sup>	Minimum R.S.R. <sup>3</sup>	Minimum Parking
R-1	30%	170%	15%	— <sup>4</sup>
R-2	40%	120%	14%	— <sup>4</sup>
R-3	45%	100%	13%	— <sup>4</sup>

R-4	55%	58%	9%	— <sup>4</sup>
<sup>4</sup> F.A.R. is ratio of floor area (all stories) to land area. <sup>2</sup> O.S.R. is ratio of open space to total floor area. <sup>3</sup> R.S.R. is ratio of recreation space to total floor area (exclusive of O.S.R.). <sup>4</sup> The minimum number of parking spaces for residential uses shall be two spaces per dwelling unit. For federally assisted housing for the elderly, the total number of car parking spaces shall be not less than 1.0 per dwelling unit. Any units exceeding 750 square feet shall meet the normal parking ratio. Nonresidential uses shall comply with the parking requirements for the type of use.				
Note: Planned unit development is not permitted in Districts AG and MH. In no case shall the number of dwelling units exceed 25% of that which is allowed for the district in which the planned unit development exists. Service areas and streets shall not be used for calculating the allowable density.				

(1962 Code, § 11-2D-6)

*Cross reference— Penalty, see § 15-6-999.*

#### **Sec. 15-6-60. Emergency provisions within Planned Unit Development Districts.**

(A) Emergency provisions and access shall be provided to each principal building by:

(1) A street or public alley; or

(2) A private way, alley or paved place, delineated on an approved subdivision plat conforming to the requirements of Tex. Loc. Gov't Code, §§ 212.001 et seq. Access may also be provided by an emergency access easement approved by the City Planning and Zoning Commission and recorded in the Kleberg County Deed Records, provided that where access is not available by a street, alley, place or recorded easement; and recorded easement access is planned, construction permits may be issued and construction may proceed but certificate of occupancy shall not be issued until the required emergency access easements are approved by the City Planning and Zoning Commission and filed for record in the Kleberg County Deed Records. Emergency access easements shall be not less than 50 feet in width, the boundaries shall be distinctly and permanently marked on the ground and the entrances shall be permanently marked by signs not less than two square feet nor more than four square feet in face area.

(B) The paved width of any emergency access easement may be reduced to, but not below, 30 feet provided that curbs shall not exceed five inches in height and

further provided that there shall be no obstructions which will interfere with the use of the full 50 foot width of the easement by emergency vehicles and their appurtenances. Turnarounds with a radius of 50 feet and paved diameter of at least 60 feet shall be provided on all dead-ends.

(C) Fire hydrants shall be provided and placed to city specifications.

(1962 Code, § 11-2D-5)

**Cross reference—** *Penalty, see § 15-6-999.*

**Sec. 15-6-60. Adjacent open space bonus for planned unit development.**

~~(A) Subject to City Planning and Zoning Commission approval, adjacent and abutting beneficial open space which has a reasonable expectance of perpetuity (such as a river or a public park) may be considered as a bonus not land area for computation of the number of dwelling units permitted on a site.~~

~~(B) Limitations:~~

~~(1) Not more than 100 feet of the depth of the abutting open space shall be counted; and~~

~~(2) The increase in the total floor area allowable by bonus open space shall not exceed 20%.~~

~~(1962 Code, § 11-2D-7)~~

~~**Cross reference—** *Penalty, see § 15-6-999.*~~

**Sec. 15-6-61. Requests not scheduled for hearing.**

Requests for Planned Unit Development status that fail to supply the site plan information required (§ 15-6-56(A)) shall not be scheduled for a hearing.

**Sec. 15-6-61. Requests not scheduled for hearing.**

~~Requests for planned unit development status that fail to supply the site plan information required (§ 15-6-56(B)) shall not be scheduled for a hearing.~~

~~(1962 Code, § 11-2D-8; Ord. 84009, passed 6-18-84)~~

~~Secs. 15-6-62—15-6-69. Reserved.~~

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.



III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** this Ordinance was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**INTRODUCED** on this the 14th day of April, 2014.

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

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Effective Date: \_\_\_\_\_, 2014

## **AGENDA ITEM #10**



## Planning & Development Services Department

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TO: Vincent Capell, City Manager & City Commission

FROM: Robert G. Isassi, P.E., Director of Planning & Development Services

SUBJECT: **City Ordinance Amendments**

DATE: April 4<sup>th</sup>, 2012.

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Reference is made to direction given to City planning staff to evaluate and provide a comprehensive review of the City's current zoning and subdivision regulations. As previously relayed to your office, with the assistance of a consultant, the review revealed a number of existing codes that necessitate additional clarification by adding new code language and update existing codes.

This evaluation has resulted in twelve (12) proposed code changes and/or new sections. Due to the complexity and volume of this proposed ordinance modification that the Planning & Zoning Commission as well as the City Commission has been undertaking, it was prudent to separate the dozen proposed changes into two groups. This memo contains the second and final set, attached for City Commission introduction.

To update the commission, a Planning & Zoning Commission (P&Z) workshop was held on March 11<sup>th</sup>, 2014 to thoroughly discuss the proposed ordinances, after some suggested changes, P&Z unanimously approved all of the eight (8) items on March 19<sup>th</sup> then forwarded to City Commission for review. On March 20<sup>th</sup>, City Commission held a workshop to also discuss the proposed ordinance changes. After the workshop, the City's suggested changes were performed. These eight are now being introduced at the April 14<sup>th</sup> City Commission. They are as follows:

1. Fence Code

The Planning Department researched and created a new fence code regulation (Sec. 15-6-28) to ensure the language speaks to the current environment. The new language includes provisions pertaining to review and permitting prior to fence construction, expansion of the required maintenance of the fence, and allowable materials to be used. This code was discussed in two P&Z and City Commission workshops and extensively studied to ensure that the code was properly written as well as enforceable by City Community Appearance Division.

2. Accessory Use/Structure Code

Researched and drafted new code language (Sec. 15-6-26) to regulate accessory structures as well as accessory uses as subordinate uses to the primary use. Currently no code language exists, however accessory uses are defined in the existing code. A general listing of permitted accessory uses and structures have been drafted to clearly delineate the types of permitted and prohibited uses. This language also includes accessory structure provisions regulating building material types, location, etc.

### 3. Planned Unit Development (PUD) Code

A comprehensive review and update the existing Office Planned Unit Development (OPUD) code (Section 15-6-55) was performed to provide additional options for developments, utilizing flexible zoning that encourages comprehensive site development and open space preservation. Language was designed to encourage architectural elements that promote unique design and enhanced aesthetics, while also providing the City an opportunity to review these development plans as part of the zoning process.

### 4. Solar Energy System (SES) Code

A new code section (Sec. 15-6-168) was created to regulate solar energy system (SES), a technology that is beginning to become more readily affordable. The creation of this code, in cooperation with NAS-K, provides citizens guidance on solar energy technology and its use within the City. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs. Language was drafted to create a new code section within Chapter 15 while also incorporating the use of SES within the proposed Accessory Use/Structure Code. This new language will address potential glare issues onto neighboring properties, providing permitted uses, permit requirements, setbacks/dimensions, screening, etc.

### 5. Wind Energy Conversion System Regulations

A new code section (Sec. 15-6-169) was created to regulate Wind Energy Conversion Systems (WECS) and its use as a "subordinate use", as well as creating regulations to regulate and/or prohibit the use of standalone WECS as a principle use or in a group wherein a "wind farm" is created. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs and greater availability of roof attached WECS'. New language was drafted to create a new code section within Chapter 15 to address potential impacts to neighboring properties and the Naval Air Station while also providing definitions, approval processes permitted uses, permit requirements, setbacks/dimensions, etc.

### 6. Definitions

As part of the changes within the ordinance rewrites, additional definitions were added and updated. "Home Occupation", "Planned Unit Development", "Sight Visibility Triangle", and "Sight-Obscuring Fence" were added to this Section. The definition of "Kennel" was also updated to match the animal control ordinance.

### 7. Schedule of Permit Fees

This amendment adds a fee for new fence construction referenced in the proposed fence code. A fence permit fee of \$35 will be charged to compensate the building official or inspector for the plan review of the proposed work. This amendment also renames an item currently defined as a “Plan-Checking Fee” to a “Plan-review Fee”, a term more commonly used to detail the work being done when plans are submitted.

#### 8. Land Use Chart

This amendment adds guidance to the existing Land Use Chart to support the proposed changes in new ordinances for solar and wind energy system ordinances, planned unit developments, and home occupations. The chart refers readers to the sections to be read for more information.

ORDINANCE NO.2014-\_\_\_\_\_

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, LAND USE, ARTICLE 6, BY ADOPTING SECTIONS 194-203-WIND ENERGY CONVERSION SYSTEMS REGULATIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Sections 194-203-Wind Energy Conversion Systems Regulations of Article 6: Zoning of Chapter XV, Land Usage Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be adopted to read as follows:

**Wind Energy Conversion Systems (WECS)**

**Section 15-6-194. Purpose.**

(A) The purpose of this Section is to regulate the placement, construction and modification of Wind Energy Facilities in order to:

- (1)promote the safe, effective, and efficient use of wind energy systems in order to reduce potential environmental and potentially negative economic impacts while providing alternatives to producing electricity;
- (2)protect the health, safety and welfare of the public by reducing and minimizing the potential adverse impacts of wind energy systems;
- (3)protect the public by ensuring the design, construction, maintenance and removal of wind energy systems is undertaken in a manner that protects neighboring properties, the City and the public as a whole; and
- (4)provide for a procedure to review, approve, deny or condition proposed wind energy systems uses.

**Section 15-6-195. Definitions.**

(A) As used in this Section, the following terms shall have the meanings and usages indicated:

- (1) AGL: Above ground level. Ground level shall be determined by the average elevation of the natural ground level within a radius of 50 feet from the center location of measurement.
- (2) Director. The Director of Planning and Development Services of the City of Kingsville or his/her designee.

- (3) FAA: The Federal Aviation Administration.
- (4) Height: For purposes of this Section, the vertical distance measured from the average grade of the base of the structure above ground level to its highest point of any Wind Energy Facility, which shall be calculated at the tip of the rotor blade at its highest point, or any higher portion of the structure that may exist.
- (5) Accessory Use: Any use authorized herein that exists in addition to the principal use of the property.
- (6) Net Metering: Using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period and as so defined pursuant to the State of Texas Utilities Code Chapter 39, section 39.916 (2011)
- (7) Modification: Any change to a structure requiring a building permit or other governmental approval.
- (8) Large Wind Energy Facilities: Wind Energy Facilities that are larger than 100 KW output, consist of a grouping of two or more non-exempt Wind Energy Facilities, or otherwise do not meet the requirements for facilities authorized by permitted use or administrative approval.
- (9) Small Wind Energy Facilities: Wind Energy Facilities, other than facilities authorized as a Permitted Use, having a capacity of 100 KW output or less and that fully comply with the General Standards for Wind Energy Facilities and satisfy all other requirements of this code applicable to Small Wind Energy Facilities.
- (10) Wind Energy Facilities: Facilities including turbines, accessory equipment and related components designed to create electrical or other energy by use of wind. Wind Energy Facilities include Exempt Facilities, and other facilities, whether connected to the electrical grid of the local utility or independently operating.
- (11) Exempt Facilities: Wind Energy Facilities:
  - (a)having a rotor arc of one meter (or 39.37 inches) or less in diameter, and other type of turbine having a rotation device with no dimension greater than 1 meter (or 39.37 inches), and
  - (b)mounted on an existing structure having a primary authorized use other than as a support structure for a Wind Energy Facility, and
  - (c)having a setback from property lines at least twenty (20) feet plus the principal building setback in addition to other setback requirements herein, and
  - (d)with no portion more than ten (10) feet above the highest part of the existing structure and no exposed moving part having less than fifteen (15) feet of clearance to the ground or other point of pedestrian access.
  - (e)No more than three (3) exempt facilities may exist on any one parcel.

**Section 15-6-196. Permitted Uses.**

(A) The placement of Wind Energy Facilities shall be an accessory use in any zoning district within the City only as follows:

(1) *Municipal Property.* Wind Energy Facilities may be placed on City-owned or leased land where authorized by the approval of an executed mutual agreement with the City Commission, subject to such conditions and requirements as deemed necessary by the City to meet the purposes of this Article and to protect the public interests.

(2) *Exempt Facilities.* Exempt facilities may be placed in any zoning district as a permitted accessory use subject to the General Standards within this Code as provided in the definition of exempt facilities, and such other specifically applicable provisions.

#### **Section 15-6-197. Administrative Permit - Small Wind Energy Facilities.**

(A) The placement of Small Wind Energy Facilities shall be permitted by Administrative Permit approved by the Director within any zoning district, subject to General Standards and other requirements of this Section and further limited as follows:

(A) *Application Procedures.* Applications for Administrative Permits shall be made on the appropriate forms to the Director and accompanied by payment of the non-refundable fee of \$100.00 to cover the labor and associated costs of processing of the application.

(1) Detailed structure plans and a detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted clearly outlining all existing and proposed improvements including buildings, drives, walkway, parking areas and other structures, public right-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, water features, and the coordinates and height AGL of the existing or proposed tower.

(2) The application shall be reviewed by the Director to determine compliance with the above standards, after which the application shall be transmitted for review and comment by other departments and public agencies that may be affected by the proposed facility.

(3) The Director shall issue a decision on the permit within forty-five (45) days of the date of application or the application shall be deemed denied or the time period for review and action is extended by written order of the Director. The Director may deny the application or approve the application as submitted or approve with such modifications as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens, consistent with the purposes of this section. The Director shall consider the purposes of this section and the factors established herein for granting a Special Use Permit as well as any other considerations consistent with this section. A decision to approve, approve with modifications or disapprove an application shall be made in writing. If the decision is for approval with modifications or disapproval, the specific reasons for the modification or disapproval must be included.

(4) *Minor variations:* When an application does not fully comply with the requirements for administrative approval, but a minor variation to the requirements would, in the opinion of the Director, be consistent with the spirit



and intent of this code, the Director shall be authorized to refer the application to the Planning & Zoning Commission, which shall be authorized to approve, disapprove or condition such variation as may be appropriate to meet the purposes of this code, provided that the basis for the variation or disapproval is unique to the property or otherwise not typical to all applications.

(5) Appeals: Appeals from the decision of the Director or the Planning & Zoning Commission shall be made in the same manner as otherwise provided in Sec. 15-6-157(c) of this code for the appeal of administrative decisions.

(C) Requirements. No application for a Small Wind Energy Facility may be approved unless it fully complies with the requirements in this subsection and the General Standards for Wind Energy Facilities.

### **Section 15-6-198. Special Use Permit - Large Wind Energy Facilities.**

(A) All proposals to install, build or modify a Large Wind Energy Facility as an accessory use or principal use, including Wind Energy Facilities that do not fully meet the requirements for approval as a permitted use or administrative approval in this Section, may be constructed, operated and approved only as a specially permitted use requiring public hearing before the Planning and Zoning Commission with a recommendation being forwarded to the City Commission for consideration and determination and also subject to the following additional limitations:

(1) Underlying Eligible Districts. A Large Wind Energy Facility as an accessory use or principal use may only be approved in the following underlying districts: I1 light industrial district, I2 heavy industrial district.

(2) Minimum Requirements. In addition to the criteria otherwise applicable to special use permit approvals:

(a) No special use permit may be issued unless the applicant has clearly demonstrated that the approval under permitted or administrative approvals under this code is not technologically or economically feasible and that the proposed Wind Energy Facility (1) complies with the requirements for administrative approval to the extent practicable and (2) meets the purposes of this Code. In addition to other standards established for approval of special uses, the governing body may consider current or emerging industry standards and practices, net energy benefits, and impact on neighboring properties and uses, among other information, in determining feasibility and compliance with the intent of this Code. At the expense of the applicant, the City may require additional studies or the hiring of an external consultant to review exhibits and/or other requirements in accordance with this section.

(b) The General Standards for Wind Energy Facilities shall apply to all facilities proposed for special use permit approval, except to the minimum extent a modification or variance is determined to be necessary to meet the purposes of this section. Any modification or variance to any such General Requirements sought by a special use permit approval shall be expressly stated in the application for the special use permit.

(3) Additional Height Limitations. A special use permit shall adhere to the height requirements in Appendix B: "Space Requirements", Section 2, provided that no

Wind Energy Facility shall be approved for a height of greater than one hundred (100) feet.

### **Section 15-6-199. General Standards for Wind Energy Facilities**

(A) Except as noted, the requirements set forth in this Section shall be applicable to all Wind Energy Facilities installed, built or modified after the effective date of this Section to the full extent permitted by law.

(1) Accessory Use. A Wind Energy Facility shall only be permitted as an accessory use, subject to any applicable district requirement relating to yard area or setback, provided that no more than one Small Wind Energy Facility shall be located on a parcel and no more than three Exempt Facilities shall be permitted per parcel.

(2) Building Codes, Safety Standards, and Zoning Compliance. Wind Energy Facilities shall be constructed and maintained in compliance with all standards contained in applicable state and local building codes. In addition to any other approvals required by this section, no Wind Energy Facility shall be erected prior to receipt of an approved zoning review and the issuance of a building permit.

(3) Regulatory Compliance. All Wind Generation Facilities shall meet or exceed current standards and regulations of any state or federal agency with the authority to regulate applicable Wind Generation Facilities. Should such standards or regulations be amended, then the owner shall bring such devices and structure into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction or modification of any Wind Energy Facility permitted by this section shall be granted for any applicant having an uncured violation of this section or any other governmental regulatory requirement related to the subject property.

(4) Security. All Wind Energy Facilities shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any administrative application. Additional measures may be required as a condition of the issuance of a Building Permit or Administrative Permit as deemed necessary by the Director.

(5) Lighting. Wind Energy Facilities shall not be lighted unless required by a state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build or modify the facility. Equipment cabinets and shelters, if permitted, may have lighting only as approved by the Director on the approved Site Development Plan. The requirement by any state or federal agency for lighting of any proposed structure may be considered as a reasonable basis for denial of an application in any residential area or otherwise where incompatible with the surrounding uses.

(6) Advertising. The placement of advertising on structures regulated by this section is prohibited, provided that a manufacturer or specification notice of less than one square foot in size shall be permitted.

(7) Design.

(a) All visible portions of the Wind Energy Facility shall be painted a non-reflective gray or other approved neutral color consistent with the natural

or built environment of the site. Unpainted galvanized exposed material is prohibited.

(b) No equipment shelters or other accessory structures shall be permitted in conjunction with a Wind Energy Facility except where underground, contained within an existing building, or otherwise appropriately concealed.

(c) All utilities serving the Facility shall be underground.

(d) Design elements shall be of a type consistent with the zoning district and accessory uses of the property and adjoining area.

(8) *Height.* A Wind Energy Facility shall be subject to building height restrictions consistent with the applicable zoning district but shall not exceed a height which is the lesser of:

(a) Ten(10) feet above the principal building height permitted within the zoning district, or

(b) The limitation set by any airport overlay zone as may be adopted by the City, FAA limitation, or other height restrictions established by the City, or

(c) A maximum of forty-five (45) feet, except in zoning districts I1 and I2 where heights can be increased but only as part of an approved special use permit as provided in 15-6-198.

(9) *Noise Limitations.* Noise emanating from the operation of a Wind Energy Facility shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a property used or zoned for residential use or used for a school, hospital, or place of worship. Noise emanating from the operation of a Wind Energy Facility shall in no event exceed, at any time, 45 dBa measured at the property line.

(10) *Safety Requirements.* All Wind Energy Facilities shall:

(a) Comply with the requirements of the State of Texas Utilities Code Chapter 39, section 39.916 (2011), to the extent such facility is connected to the retail electric supplier for net metering;

(b) Comply with the regulations and standards set forth in Title 14 of the Code of Federal Regulations (CFR), specifically Part 77 pertaining to the Obstruction Evaluations/Airport Airspace Analysis as administered by the FAA.

(c) Comply with the Imaginary Surface Area as defined per the CFR Part 77 as administered by the FAA.

(d) Comply with the Air Installation Zoning Regulations (a.k.a AICUZ) ordinance as set forth in section 15-6-35 through 15-6-41 of this Article. Specific importance shall be made with respect to AICUZ instruction 11010.36C.

(e) Be analyzed fully for land use and airport compatibility issues on a case-by-case basis that considers both the proposal and any potential safety hazard, most notably those associated with the Naval Air Station-Kingsville.

(f) Include power outage protection so as to automatically terminate power generation during any power outage in any electrical utility system being served. Certification or documentation of such design shall be included with any permit approval.

**Section 15-6-200. Wind Energy Conversion System (WECS) Located in Designated Local Historic Districts.**

(A) Any WECS which is located within a designated local historic district or any overlay district area shall, in addition to compliance with all other zoning and building code regulations, comply with the requirements of the respective local historic district or applicable overlay district plan. The determination of visibility from street right-of-way shall be the responsibility of the historic preservation officer within the historic districts or otherwise the Director of Planning & Development Services and/or designee.

**Section 15-6-201. Operation of Unlawful Wind Generation Facility**

(A) Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect or operate any Wind Generation Facility in violation of any provision of this Section, regardless of whether such structure is located on land owned by a governmental entity.

**Sec. 15-6-202. Discontinuance**

(A) *Notice of Discontinuance:*

(1) In the event that all legally approved use of a wind energy conversion system supporting structure or wind energy related equipment has been discontinued for a period of 180 days, the Director may make a preliminary determination of discontinuance. In making such a determination, the Director may request documentation and/or affidavits from the property owner regarding the structure's usage, including evidence that use of the structure is imminent. Failure on the part of a property owner to provide updated contact information for the owner of the wind energy conversion system supporting structure or wind energy related equipment for four consecutive years will be presumptive evidence of discontinuance. At such time as the Director reasonably determines that a wind energy conversion system supporting structure or wind energy related equipment has been discontinued, the Director will provide the property owner with a written notice of discontinuance by certified mail.

(B) *Declaration of discontinuance:*

(1) Failure on the part of the property owner to respond to the notice of discontinuance within 90 days, or to adequately demonstrate that the structure is not discontinued, will be evidence of discontinuance. Based on the foregoing, or

on any other relevant evidence before the Director, the Director may make a final determination of discontinuance, whereupon a declaration of discontinuance will be issued to the property owner by certified mail.

(C) Removal of facility:

(1) Within 120 days of a declaration of discontinuance, the property owner must either:

(a) Reactivate the use of the structure as a wind energy conversion system supporting structure or wind energy related equipment or transfer ownership of structure to another owner who will make such use of the facility; or

(b) Dismantle and remove the facility. If the facility remains discontinued upon the expiration of 120 days, the property is declared a nuisance and the City of Kingsville may enter upon the property and remove the facility, with all costs to be borne by the property owner.

**Section 15-6-203. Penalty**

(A) Any person violating the regulations set forth in this Article shall be subject to the penalty as prescribed in section 15-6-999. Each day the violation continues shall constitute a separate offense.

Secs. 15-6-203—15-6-998. Reserved.

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** this Ordinance was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**INTRODUCED** on this the 14th day of April, 2014.

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

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Effective Date: \_\_\_\_\_, 2014

# **AGENDA ITEM #11**



## Planning & Development Services Department

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TO: Vincent Capell, City Manager & City Commission

FROM: Robert G. Isassi, P.E., Director of Planning & Development Services

SUBJECT: **City Ordinance Amendments**

DATE: April 4<sup>th</sup>, 2012.

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Reference is made to direction given to City planning staff to evaluate and provide a comprehensive review of the City's current zoning and subdivision regulations. As previously relayed to your office, with the assistance of a consultant, the review revealed a number of existing codes that necessitate additional clarification by adding new code language and update existing codes.

This evaluation has resulted in twelve (12) proposed code changes and/or new sections. Due to the complexity and volume of this proposed ordinance modification that the Planning & Zoning Commission as well as the City Commission has been undertaking, it was prudent to separate the dozen proposed changes into two groups. This memo contains the second and final set, attached for City Commission introduction.

To update the commission, a Planning & Zoning Commission (P&Z) workshop was held on March 11<sup>th</sup>, 2014 to thoroughly discuss the proposed ordinances, after some suggested changes, P&Z unanimously approved all of the eight (8) items on March 19<sup>th</sup> then forwarded to City Commission for review. On March 20<sup>th</sup>, City Commission held a workshop to also discuss the proposed ordinance changes. After the workshop, the City's suggested changes were performed. These eight are now being introduced at the April 14<sup>th</sup> City Commission. They are as follows:

1. Fence Code

The Planning Department researched and created a new fence code regulation (Sec. 15-6-28) to ensure the language speaks to the current environment. The new language includes provisions pertaining to review and permitting prior to fence construction, expansion of the required maintenance of the fence, and allowable materials to be used. This code was discussed in two P&Z and City Commission workshops and extensively studied to ensure that the code was properly written as well as enforceable by City Community Appearance Division.

2. Accessory Use/Structure Code



Researched and drafted new code language (Sec. 15-6-26) to regulate accessory structures as well as accessory uses as subordinate uses to the primary use. Currently no code language exists, however accessory uses are defined in the existing code. A general listing of permitted accessory uses and structures have been drafted to clearly delineate the types of permitted and prohibited uses. This language also includes accessory structure provisions regulating building material types, location, etc.

### 3. Planned Unit Development (PUD) Code

A comprehensive review and update the existing Office Planned Unit Development (OPUD) code (Section 15-6-55) was performed to provide additional options for developments, utilizing flexible zoning that encourages comprehensive site development and open space preservation. Language was designed to encourage architectural elements that promote unique design and enhanced aesthetics, while also providing the City an opportunity to review these development plans as part of the zoning process.

### 4. Solar Energy System (SES) Code

A new code section (Sec. 15-6-168) was created to regulate solar energy system (SES), a technology that is beginning to become more readily affordable. The creation of this code, in cooperation with NAS-K, provides citizens guidance on solar energy technology and its use within the City. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs. Language was drafted to create a new code section within Chapter 15 while also incorporating the use of SES within the proposed Accessory Use/Structure Code. This new language will address potential glare issues onto neighboring properties, providing permitted uses, permit requirements, setbacks/dimensions, screening, etc.

### 5. Wind Energy Conversion System Regulations

A new code section (Sec. 15-6-169) was created to regulate Wind Energy Conversion Systems (WECS) and its use as a "subordinate use", as well as creating regulations to regulate and/or prohibit the use of standalone WECS as a principle use or in a group wherein a "wind farm" is created. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs and greater availability of roof attached WECS'. New language was drafted to create a new code section within Chapter 15 to address potential impacts to neighboring properties and the Naval Air Station while also providing definitions, approval processes permitted uses, permit requirements, setbacks/dimensions, etc.

### 6. Definitions

As part of the changes within the ordinance rewrites, additional definitions were added and updated. "Home Occupation", "Planned Unit Development", "Sight Visibility Triangle", and "Sight-Obscuring Fence" were added to this Section. The definition of "Kennel" was also updated to match the animal control ordinance.

### 7. Schedule of Permit Fees

This amendment adds a fee for new fence construction referenced in the proposed fence code. A fence permit fee of \$35 will be charged to compensate the building official or inspector for the plan review of the proposed work. This amendment also renames an item currently defined as a "Plan-Checking Fee" to a "Plan-review Fee", a term more commonly used to detail the work being done when plans are submitted.

#### 8. Land Use Chart

This amendment adds guidance to the existing Land Use Chart to support the proposed changes in new ordinances for solar and wind energy system ordinances, planned unit developments, and home occupations. The chart refers readers to the sections to be read for more information.

ORDINANCE NO.2014-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, LAND USE, ARTICLE 6, BY ADOPTING SECTIONS 174-187-SOLAR ENERGY SYSTEMS REGULATIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

**THAT** Sections 174-187-Solar Energy Systems Regulations of Article 6: Zoning of Chapter XV, Land Usage Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be adopted to read as follows:

Secs. 15-6-168—15-6-173. Reserved.

**Solar Energy Systems (SES)**

**Sec. 15-6-174. Purpose.**

(A) To set forth standards that will assist industry providers and property owners in the determination of the proper installation and placement of solar related equipment with the understanding that solar capabilities may not be possible or feasible on all properties within the City of Kingsville.

**Sec. 15-6-175. Definitions.**

(A) For purposes of this division the following words and terms as used herein are defined to mean the following:

(1) Accessory Solar Energy System (ASES) shall mean an area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one or more free-standing ground or roof-mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

(2) Glare shall mean the effect produced by light with an intensity sufficient to cause loss in visual performance and visibility.

(3) Principal Solar Energy System (PSES) shall mean an area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one or more free-standing ground, or roof mounted solar collector devices, solar related equipment and

other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

(4)Solar easement shall mean a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

(5)Solar energy shall mean radiant energy (direct, diffuse and/or reflective) received from the sun.

(6)Solar panel shall mean that part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

(7)Solar related equipment shall mean items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy, such as:

a.Solar array shall mean a grouping of multiple solar modules with purpose of harvesting solar energy.

b.Solar cell shall mean the smallest basic solar electric device which generates electricity when exposed to sunlight.

c.Solar module shall mean a grouping of solar cells with the purpose of harvesting solar energy.

#### **Sec 15-6-176. Accessory Solar Energy Systems (ASES)**

(A) The following regulations are applicable to all accessory solar energy systems:

(1) ASES shall be permitted as a use by right in all zoning districts.

(2)Exemptions:

a.ASES constructed prior to the effective date of this section shall not be required to meet the terms and conditions of this ordinance, but must still adhere to and all regulations that were in place at the time they were constructed. Any physical modification to an existing ASES whether or not existing prior to the effective date of this section that materially alters the ASES shall require approval under this ordinance. Routine maintenance or like-kind replacements do not require a permit.

(3)All on-site utility feeder lines associated with SES from the array to the final utility connection shall be placed underground.

(4)The owner of an ASES shall provide the City written confirmation that the public utility company, to which the ASES will be connected, has been informed of the

customer's intent to install a grid connected system and approved by the utility company of such connection. Off-grid systems shall be exempt from this requirement.

(5)The display of advertising is prohibited except for reasonable identification of the manufacturer of the system. The City shall be the sole determiner of what is reasonable.

#### **Sec. 15-6-177. Solar Easements.**

(A)Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements.

(B)Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to:

(1)A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed.

(2)Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement.

(3)Enumerate terms and conditions, if any, under which the easement may be revised or terminated.

(4)Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(5)If required, an ASES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

(C)In lieu of an easement submitted pursuant to the previous section, prior to the issuance of a zoning/building permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in any other property owner, its, his, her or their successors and assigns in title or, create in the property itself:

(1)The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or

(2) The right to prohibit the development on or growth of any trees or vegetation on any other property, unless a solar easement is established according to the provisions of these regulations.

**Sec. 15-6-178. Screening.**

(A) The support structure for any ground mounted ASES shall be screened from all adjacent rights-of-way and property that is residentially zoned or used for residential purposes. Screening may consist of skirting, landscaping, privacy fence or other type of fence that meets the requirements of the zoning regulations. In the case that landscaping is used for screening of the support structure, evergreen trees that meet the size requirements of the city's landscaping regulations shall be placed at intervals of no more than six feet on center.

**Sec. 15-6-179. Accessory Solar Energy System Located In Designated Local Historic Districts.**

(A) Any ASES that is located within a designated local historic district or any overlay district area shall, in addition to compliance with all other zoning and building code regulations, comply with the requirements of the respective local historic district or applicable overlay district plan. The determination of visibility from street right-of-way shall be the responsibility of the historic preservation officer within the historic districts or otherwise the Director of Planning & Development Services and/or designee.

**Sec. 15-6-180. Solar Readiness.**

(A) No homeowners' agreement, covenant, common interest community, or other contract between multiple property owners within a subdivision shall restrict or limit solar energy systems to a greater extent than these regulations.

(B) In the event that renewable energy systems are not being implemented in a project, the city will encourage that the building design is "solar ready" such that solar electric, solar thermal systems, or both can be easily installed at a later date. Therefore the developer and architect should anticipate the future introduction of solar technologies in the preliminary orientation and siting of the building. Development proposals should also incorporate MEC conduit/chases; structural loads and anchoring needed to provide solar electric and solar thermal renewable energy systems in the future.

(C) The term "solar readiness" is not intended to apply to the orientation of streets or any other aspect of a construction project or subdivision other than the preparation of the structure(s) and the components thereof to facilitate the future conversion to solar energy use.

**Sec. 15-6-181. Use For Advertising.**

(A) No part of a solar energy system shall be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags,

banners or similar materials.

**Sec. 15-6-182. Permit Requirements.**

(A) Building permits shall be required for all solar energy systems in the City of Kingsville.

(B) Zoning/building permit applications shall document compliance with these regulations and shall be accompanied by drawings showing the location of the system on the building or property, including property lines.

(C) The zoning/building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this division.

**Sec. 15-6-183. Roof Mounted And Wall Mounted Accessory Solar Energy Systems.**

(A) A roof mounted or wall mounted ASES may be located on a principal or accessory building.

(B) Roof mounted ASES may exceed the maximum building height specified for principal or accessory buildings within the applicable zoning district by no more than three feet.

(C) No part of the solar array or the supporting structure shall extend beyond any portion of the roof edge.

(D) Roof mounted solar panels on residential structures that are located on roof surfaces visible from the right-of-way of any street contiguous to the property shall be installed parallel to the respective roof surface.

(E) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the adopted building code of the City of Kingsville and that the roof or wall is capable of holding the load imposed on the structure.

(F) Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.

**Sec. 15-6-184. Ground Mounted Accessory Solar Energy Systems.**

(A) Generally, ground mounted ASES will be required to adhere to the requirements of Section 15-6-27 "Accessory Uses & Structures" of these regulations.

(B) Setbacks.

(1) The minimum yard setbacks from side and rear property lines shall be equivalent to the accessory structure setback in the zoning district.

(2) A ground mounted ASES shall not be located in any front yard. (See Section 15-6-185 pertaining to solar energy systems permitted as principal uses.)

(C)Height.

(1) Freestanding ground mounted ASES shall not exceed the maximum accessory structure height in the underlying zoning district.

(D)Coverage.

(1) The area beneath the ground mounted ASES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable zoning district.

(a)Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

(b)All mechanical equipment of the system including any structure for batteries or storage cells.

(E)Ground-mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed or natural storm water conveyance system.

**Sec. 15-6-185. Solar Energy Systems As Principal Uses.**

(A) Ground mounted solar energy systems are permitted as principal uses by right in the I-1 and I-2 zoning districts, subject to the following:

(1) Properties containing solar energy systems as principal uses shall contain a minimum of one acre.

(2) All SES permitted as principal uses shall comply with the side-yard and rear yard setbacks for accessory structures within the applicable zoning district. The front yard setback for principal use SES shall be twenty feet.

(3) No residential use or structure shall exist on the property.

(4) The solar energy system must provide energy to off-site locations and to other than the owner of the property containing the solar array.

(5) Solar energy systems permitted as principal uses shall comply with all other applicable regulations within this section and other sections of the code that apply to accessory solar energy systems.

**Sec. 15-6-186. Safety Requirements.**



(A) All Solar Energy Systems shall:

(1) Comply with the requirements of the State of Texas Utilities Code Chapter 39, section 39.916 (2011), to the extent such facility is interconnected to the retail electric supplier for net metering;

(2) Include power outage protection so as to automatically terminate power generation during any power outage in any electrical utility system being served. Certification or documentation of such design shall be included with any permit approval.

(3) Shall be of a type which provides a low glare or anti-reflective layer applied to the solar panel to reduce the reflection or glare of the system.

(4) Shall be analyzed fully for land use and airport compatibility issues on a case-by-case basis that considers both the proposal and any potential safety hazard, most notably those associated with the Naval Air Station-Kingsville. Specific importance shall be made with respect to AICUZ instruction 11010.36C.

**Sec. 15-6-187. Discontinuance.**

(A) Notice of Discontinuance:

(1) In the event that all legally approved use of a solar energy system supporting structure or solar energy related equipment has been discontinued for a period of 180 days, the Director of Planning & Development Services and/or designee may make a preliminary determination of discontinuance. In making such a determination, the Director of Planning & Development Services and/or designee may request documentation and/or affidavits from the property owner regarding the structure's usage, including evidence that use of the structure is imminent. Failure on the part of a property owner to provide updated contact information for the owner of the solar energy system supporting structure or solar energy related equipment for four consecutive years will be presumptive evidence of discontinuance. At such time as the Director of Planning & Development Services and/or designee reasonably determines that a solar energy system supporting structure or solar energy related equipment has been discontinued, the Director of Planning & Development Services and/or designee will provide the property owner with a written notice of discontinuance by certified mail.

(B) Declaration of discontinuance:

(1) Failure on the part of the property owner to respond to the notice of discontinuance within 90 days, or to adequately demonstrate that the structure is not discontinued, will be evidence of discontinuance. Based on the foregoing, or on any other relevant evidence before the Director of Planning & Development Services and/or designee, the Director of Planning & Development Services and/or designee may make a final determination of discontinuance, whereupon a declaration of discontinuance will be issued to the property owner by certified mail.

(C) Removal of facility.

(1) Within 120 days of a declaration of discontinuance, the property owner must either:

(a) Reactivate the use of the structure as a solar energy system supporting structure or solar energy related equipment or transfer ownership of structure to another owner who will make such use of the facility; or

(b) Dismantle and remove the facility. If the facility remains discontinued upon the expiration of 120 days, the property is declared a nuisance and the City of Kingsville may enter upon the property and remove the facility, with all costs to be borne by the property owner.

Secs. 15-6-188—15-6-193. Reserved.

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** this Ordinance was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**INTRODUCED** on this the 14th day of April, 2014.

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

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Effective Date: \_\_\_\_\_, 2014

## **AGENDA ITEM #12**



## Planning & Development Services Department

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TO: Vincent Capell, City Manager & City Commission

FROM: Robert G. Isassi, P.E., Director of Planning & Development Services

SUBJECT: **City Ordinance Amendments**

DATE: April 4<sup>th</sup>, 2012.

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Reference is made to direction given to City planning staff to evaluate and provide a comprehensive review of the City's current zoning and subdivision regulations. As previously relayed to your office, with the assistance of a consultant, the review revealed a number of existing codes that necessitate additional clarification by adding new code language and update existing codes.

This evaluation has resulted in twelve (12) proposed code changes and/or new sections. Due to the complexity and volume of this proposed ordinance modification that the Planning & Zoning Commission as well as the City Commission has been undertaking, it was prudent to separate the dozen proposed changes into two groups. This memo contains the second and final set, attached for City Commission introduction.

To update the commission, a Planning & Zoning Commission (P&Z) workshop was held on March 11<sup>th</sup>, 2014 to thoroughly discuss the proposed ordinances, after some suggested changes, P&Z unanimously approved all of the eight (8) items on March 19<sup>th</sup> then forwarded to City Commission for review. On March 20<sup>th</sup>, City Commission held a workshop to also discuss the proposed ordinance changes. After the workshop, the City's suggested changes were performed. These eight are now being introduced at the April 14<sup>th</sup> City Commission. They are as follows:

1. Fence Code

The Planning Department researched and created a new fence code regulation (Sec. 15-6-28) to ensure the language speaks to the current environment. The new language includes provisions pertaining to review and permitting prior to fence construction, expansion of the required maintenance of the fence, and allowable materials to be used. This code was discussed in two P&Z and City Commission workshops and extensively studied to ensure that the code was properly written as well as enforceable by City Community Appearance Division.

2. Accessory Use/Structure Code

Researched and drafted new code language (Sec. 15-6-26) to regulate accessory structures as well as accessory uses as subordinate uses to the primary use. Currently no code language exists, however accessory uses are defined in the existing code. A general listing of permitted accessory uses and structures have been drafted to clearly delineate the types of permitted and prohibited uses. This language also includes accessory structure provisions regulating building material types, location, etc.

### 3. Planned Unit Development (PUD) Code

A comprehensive review and update the existing Office Planned Unit Development (OPUD) code (Section 15-6-55) was performed to provide additional options for developments, utilizing flexible zoning that encourages comprehensive site development and open space preservation. Language was designed to encourage architectural elements that promote unique design and enhanced aesthetics, while also providing the City an opportunity to review these development plans as part of the zoning process.

### 4. Solar Energy System (SES) Code

A new code section (Sec. 15-6-168) was created to regulate solar energy system (SES), a technology that is beginning to become more readily affordable. The creation of this code, in cooperation with NAS-K, provides citizens guidance on solar energy technology and its use within the City. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs. Language was drafted to create a new code section within Chapter 15 while also incorporating the use of SES within the proposed Accessory Use/Structure Code. This new language will address potential glare issues onto neighboring properties, providing permitted uses, permit requirements, setbacks/dimensions, screening, etc.

### 5. Wind Energy Conversion System Regulations

A new code section (Sec. 15-6-169) was created to regulate Wind Energy Conversion Systems (WECS) and its use as a "subordinate use", as well as creating regulations to regulate and/or prohibit the use of standalone WECS as a principle use or in a group wherein a "wind farm" is created. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs and greater availability of roof attached WECS'. New language was drafted to create a new code section within Chapter 15 to address potential impacts to neighboring properties and the Naval Air Station while also providing definitions, approval processes permitted uses, permit requirements, setbacks/dimensions, etc.

### 6. Definitions

As part of the changes within the ordinance rewrites, additional definitions were added and updated. "Home Occupation", "Planned Unit Development", "Sight Visibility Triangle", and "Sight-Obscuring Fence" were added to this Section. The definition of "Kennel" was also updated to match the animal control ordinance.

### 7. Schedule of Permit Fees

This amendment adds a fee for new fence construction referenced in the proposed fence code. A fence permit fee of \$35 will be charged to compensate the building official or inspector for the plan review of the proposed work. This amendment also renames an item currently defined as a “Plan-Checking Fee” to a “Plan-review Fee”, a term more commonly used to detail the work being done when plans are submitted.

#### 8. Land Use Chart

This amendment adds guidance to the existing Land Use Chart to support the proposed changes in new ordinances for solar and wind energy system ordinances, planned unit developments, and home occupations. The chart refers readers to the sections to be read for more information.

**ORDINANCE NO.2014-\_\_\_\_\_**

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, LAND USE, ARTICLE 1, BY AMENDING SECTION 6-SCHEDULE OF PERMIT FEES TO ADD FENCE CONSTRUCTION PERMIT FEE AND CLARIFY THE EXISTING PLAN REVIEW FEE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

I.

**THAT** Section 15-1-6-Schedule of Permit Fees of Article 1: Building Regulations of Chapter XV, Land Usage Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**Sec. 15-1-6. Schedule of Permit Fees.**

(A) On all repairs or alterations to existing buildings or on construction of other than buildings, fees based upon valuation as set forth in Chapter 1 (108) of the *International Building Code*, 2009 Edition, and as restated in subdivision (B)(1) hereof shall apply.

(B) The permit fee for all new buildings or additions to existing buildings where the floor area is increased, shall be as follows:

(1)(a) Permit fees for remodeling, repair, or alterations to existing buildings costing in excess of \$100.00 shall be charged a permit fee as noted below. Duplexes, apartments, hotels, and motels shall be charged an additional fee of \$10.00 per unit. Permit fees for roof repairs costing in excess of \$100.00 shall be charged a permit fee of \$0.03 per square foot.

Total Valuation	Fee
\$1,000.00 and less	No fee unless inspection required, in which case a \$20.00 fee for each inspection shall be charged.
\$1,001.00 to \$50,000.00	\$20.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$265.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$465.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00
\$500,001.00 and up	\$1,665.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

(b) Permit fees; new buildings and additions.

1. All buildings shall be charged a permit fee of \$0.16 per square foot. The minimum fee shall be \$10.00. Duplexes,



apartments, hotels, and motels shall be charged an additional fee of \$10.00 per unit. A Construction Site Office shall be charged a permit fee of \$30.00.

2. In applying paragraph 1. of this subdivision (b), square footage shall be determined by including each floor level including basements and cellars, mechanical rooms, storage areas, lofts, balconies, porches, sun decks, covered patios, breezeways, carports, garages, sheds and other similar areas.

3. Moved buildings or structures. A fee of \$0.10 per square foot shall be charged for the issuance of any permit for a moved building or structure.

(2) *Moving buildings or structures.* A fee of \$110.00 shall be charged for the issuance of any permit for the moving of a building or structure.

(3) *Demolition of building or structure.* A fee of \$75.00 shall be charged for issuing a permit for the demolition of any building or structure.

(4) *New fence construction.* A fee of \$35.00 shall be charged for the plan review and issuance of a fence permit for any new fence construction or significant re-attachment of over 50% of the existing fence.

(5)(4) *Plan review fee. Plan-checking fee.* A plan review plan-checking fee shall be paid at the time of submitting plans and specifications for review of commercial projects. The plan review plan-checking fee shall be equal to one-half of the building permit fee as set forth in § 107.3 of the *International Building Code*. Such plan-checking fee is in addition to the building permit fee. A Plan Update or Revision fee shall be charged equal to 50% of the original Plan Review fee and shall be payable upon submission of update or revision.

(6)(5) *Starting work without permit.* Where work for which a permit is required by this code is started or proceeded with prior to obtaining the permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

(7)(6) *Investigation fee.* The fee for any investigation required for building construction is equal to the cost of the building.

(8)(7) *After hours inspection fee.* The cost of performing and inspection after regular business hours is equal to \$25.00 per hour with a two-hour minimum charge.

(9)(8) *Reinspection fee.* When the work performed does not meet the code requirements and a reinspection is required, a fee of \$25.00 will be charged for each reinspection.

(10)(9) *Refunds on permits.* No refund will be granted on individual permit fees assessed at the minimum fee amount for a specific type of permit.

Refunds of permit fees greater than minimum fee amounts may be made at a rate not to exceed 75% of that portion of the fee in excess of the minimum fee amount provided: (a) no work has commenced, (b) no inspections have been made, and the refund claim is submitted within 180 days after the issuance of the permit. Refund claims must be submitted in writing with a copy of the permit receipt.

*(1962 Code, § 4-1-7; Ord. 99018, passed 3-22-99; Ord. 200022, passed 11-20-00; Ord. 2001-10, passed 2-26-01; Ord. 2001-32, passed 12-17-01; Ord. 2010-27, passed 9-7-2010, eff. 9-25-2010)*

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** this Ordinance was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**INTRODUCED** on this the 14th day of April, 2014.

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

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Effective Date: \_\_\_\_\_, 2014

## **AGENDA ITEM #13**



## Planning & Development Services Department

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TO: Vincent Capell, City Manager & City Commission

FROM: Robert G. Isassi, P.E., Director of Planning & Development Services

SUBJECT: **City Ordinance Amendments**

DATE: April 4<sup>th</sup>, 2012.

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Reference is made to direction given to City planning staff to evaluate and provide a comprehensive review of the City's current zoning and subdivision regulations. As previously relayed to your office, with the assistance of a consultant, the review revealed a number of existing codes that necessitate additional clarification by adding new code language and update existing codes.

This evaluation has resulted in twelve (12) proposed code changes and/or new sections. Due to the complexity and volume of this proposed ordinance modification that the Planning & Zoning Commission as well as the City Commission has been undertaking, it was prudent to separate the dozen proposed changes into two groups. This memo contains the second and final set, attached for City Commission introduction.

To update the commission, a Planning & Zoning Commission (P&Z) workshop was held on March 11<sup>th</sup>, 2014 to thoroughly discuss the proposed ordinances, after some suggested changes, P&Z unanimously approved all of the eight (8) items on March 19<sup>th</sup> then forwarded to City Commission for review. On March 20<sup>th</sup>, City Commission held a workshop to also discuss the proposed ordinance changes. After the workshop, the City's suggested changes were performed. These eight are now being introduced at the April 14<sup>th</sup> City Commission. They are as follows:

1. Fence Code

The Planning Department researched and created a new fence code regulation (Sec. 15-6-28) to ensure the language speaks to the current environment. The new language includes provisions pertaining to review and permitting prior to fence construction, expansion of the required maintenance of the fence, and allowable materials to be used. This code was discussed in two P&Z and City Commission workshops and extensively studied to ensure that the code was properly written as well as enforceable by City Community Appearance Division.

2. Accessory Use/Structure Code

Researched and drafted new code language (Sec. 15-6-26) to regulate accessory structures as well as accessory uses as subordinate uses to the primary use. Currently no code language exists, however accessory uses are defined in the existing code. A general listing of permitted accessory uses and structures have been drafted to clearly delineate the types of permitted and prohibited uses. This language also includes accessory structure provisions regulating building material types, location, etc.

### 3. Planned Unit Development (PUD) Code

A comprehensive review and update the existing Office Planned Unit Development (OPUD) code (Section 15-6-55) was performed to provide additional options for developments, utilizing flexible zoning that encourages comprehensive site development and open space preservation. Language was designed to encourage architectural elements that promote unique design and enhanced aesthetics, while also providing the City an opportunity to review these development plans as part of the zoning process.

### 4. Solar Energy System (SES) Code

A new code section (Sec. 15-6-168) was created to regulate solar energy system (SES), a technology that is beginning to become more readily affordable. The creation of this code, in cooperation with NAS-K, provides citizens guidance on solar energy technology and its use within the City. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs. Language was drafted to create a new code section within Chapter 15 while also incorporating the use of SES within the proposed Accessory Use/Structure Code. This new language will address potential glare issues onto neighboring properties, providing permitted uses, permit requirements, setbacks/dimensions, screening, etc.

### 5. Wind Energy Conversion System Regulations

A new code section (Sec. 15-6-169) was created to regulate Wind Energy Conversion Systems (WECS) and its use as a "subordinate use", as well as creating regulations to regulate and/or prohibit the use of standalone WECS as a principle use or in a group wherein a "wind farm" is created. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs and greater availability of roof attached WECS'. New language was drafted to create a new code section within Chapter 15 to address potential impacts to neighboring properties and the Naval Air Station while also providing definitions, approval processes permitted uses, permit requirements, setbacks/dimensions, etc.

### 6. Definitions

As part of the changes within the ordinance rewrites, additional definitions were added and updated. "Home Occupation", "Planned Unit Development", "Sight Visibility Triangle", and "Sight-Obscuring Fence" were added to this Section. The definition of "Kennel" was also updated to match the animal control ordinance.

### 7. Schedule of Permit Fees

This amendment adds a fee for new fence construction referenced in the proposed fence code. A fence permit fee of \$35 will be charged to compensate the building official or inspector for the plan review of the proposed work. This amendment also renames an item currently defined as a “Plan-Checking Fee” to a “Plan-review Fee”, a term more commonly used to detail the work being done when plans are submitted.

#### 8. Land Use Chart

This amendment adds guidance to the existing Land Use Chart to support the proposed changes in new ordinances for solar and wind energy system ordinances, planned unit developments, and home occupations. The chart refers readers to the sections to be read for more information.

ORDINANCE NO.2014-\_\_\_\_\_

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, LAND USE, ARTICLE 6, BY AMENDING SECTION 21-DEFINITIONS TO ADD CONSTRUCTION FENCE, HOME OCCUPATION, KENNEL, PLANNED UNIT DEVELOPMENT, SIGHT-OBSCURING FENCE AND SIGHT-VISIBILITY TRIANGLE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

**THAT** Section 15-6-21-Definitions of Article 6: Zoning of Chapter XV, Land Usage Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**Sec. 15-6-21. Definitions.**

For the purpose of this subarticle, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Accessory building/use.* A subordinate building on the same lot with a principal building for exclusive use for accessory uses as defined. A use which is clearly incidental and subordinate to the use of the main use of the property; and commonly associated with the principal use, including semi-public and auxiliary parking when approved.

*Alternative mounting structure.* A manmade tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, designed to support and camouflage or conceal the presence of telecommunications antennas.

*Amusement, commercial (indoor).* Any amusement enterprise offering entertainment or games of skill, not elsewhere listed, wholly enclosed in a building including a bowling alley, billiard or pool hall, pinball parlor, electronic games, or similar activities.

*Amusement, commercial (outdoor).* Any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, not elsewhere listed, wherein any portion of the activity takes place in the open, including a golf driving range, amusement park, miniature golf, or similar activities.



*Antenna.* A structure or device used to collect or radiate electromagnetic waves, including directional antennas, such as panels, wireless cable and satellite dishes, and omnidirectional antennas, such as whips, but not including satellite earth stations.

*Antenna, amateur radio.* An antenna used by an amateur radio operator that is less than 50 feet (15 meters) in height, and whip antennas less than four inches in diameter and less than ten feet (three meters) in height.

*Antenna array.* An arrangement of antennas and their supporting structure.

*Antenna, dish.* A parabolic or bowl-shaped device that receives and/or transmits signals in a specific directional pattern.

*Antenna, panel.* An antenna that receives and/or transmits signals in a directional pattern.

*Antenna, radio and television broadcast.* An antenna used to broadcast commercial radio and television signals, including digital broadcasts and other digital transmissions by a licensed radio or television broadcast station.

*Antenna, stealth.* A telecommunications antenna that is effectively camouflaged or concealed from view.

*Antenna, telecommunications.* An antenna used to provide a telecommunications service. This excludes lightning rods, private mobile radio systems, amateur radio antennas less than 50 feet (15 meters) in height, whip antennas less than four inches in diameter and less than ten feet (three meters) in height, and radio and television broadcast antennas.

*Antenna, whip.* An omnidirectional dipole antenna of cylindrical shape that is no more than six inches (15 centimeters) in diameter.

*Appliance service or repair.* This term includes major and small appliances as well as radio and television.

*Bakery or confectionery shop, ~~retail~~ retail.* A place for preparing, baking, or selling all products on the premises where prepared (no deliveries to buyers, wholesaler, or other retail outlets).

*Basement.* A story below the first story as hereinafter defined.

*Boarding or rooming house.* A building other than a hotel, where lodging is permitted or meals are served for compensation.

*Cargo containers.* A metal structure specifically constructed for shipment of goods by ship, rail, or truck that is later used as a place to store goods and materials.

*Cleaning or laundry self service shop.* Self service shop with customer operated machines.

*Cleaning shop or laundry, limited area.* A custom cleaning shop not exceeding 5,000 square feet of floor area.

*Club (private).* An organization, group or association supported by the members thereof, the sole purpose of which is to render a service customarily rendered for members and the guests, the chief activity of which is customarily carried on as a business and does not include labor union organizations or similar labor or business organizations.

*Co-location.* A single telecommunications tower and/or site used by more than one telecommunications service provider.

*Community center (private).* A central social and recreational building as part of a housing development.

*Construction Fence.* A fence that is temporary in nature, but serves as a barrier to prevent unwanted entry into a site where construction is underway. Fencing materials may include but are limited to orange plastic fence secured to metal posts and interlocking chain link fencing.

*Country club (private).* A private recreational club with restricted membership, which provides a golf course, clubhouse, swimming pool, tennis court or similar facilities, none of which are available to the general public.

*Day nursery or kindergarten.* An establishment possessing all necessary licenses where five or more children are left for care or training, not admitting or taking children above the age of eight.

*Dormitories.* Any building arranged or designed for two or more dwelling units and with two or more sleeping positions per room for students.

*Dwelling, multiple-family.* Any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or

apartments which is occupied as a home or place of residence by three or more families living in independent dwelling units.

*Dwelling, one-family attached.* A dwelling joined to another dwelling at one or more points by a party wall or abutting separate walls, which is erected upon a separate lot of record and is designed for occupancy by one family.

*Dwelling, one-family detached.* A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract, and having no physical connection to a building located on any other lot or tract.

*Dwelling, two-family.* A single structure designed and constructed with two living units under a single roof for occupancy by two families.

*Dwelling unit.* A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters and includes sanitary, sleeping and food preparation facilities.

*Family.* Defined for purposes of R1, R2 and MH Zones: Any number of individuals living together in a dwelling unit which are related by blood, marriage, or adoption, or up to and including three unrelated individuals. Defined for purposes of R3 and R4 Zones: Any number of individuals living together in a dwelling unit which are related by blood, marriage, or adoption, or up to and including four unrelated individuals.

*Family food production.* Raising of crops for family use.

*Farm accessory building.* A structure other than a dwelling on a farm for the shelter, protection or storage of the usual farm equipment, animals or crops.

*Farm, ranch or orchard.* An area of ten or more acres which is used for the commercial production of crops or the keeping of the usual farm poultry and animals and normal accessory uses for these purposes.

*Fraternity or sorority house.* A building designed as group living quarters for members only and offering social and recreational activities.

*Gasoline sales.* An automobile service station which excludes the repairing, painting, or upholstering of motor vehicles.

*Hobby.* An accessory use carried on by the occupant of the premises in a shop, studio or other workroom, purely for personal enjoyment, amusement or

recreation; provided that the articles produced or constructed in the shop, studio or workroom are not sold either on or off the premises, and provided such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.

**Home occupation.** An accessory use carried out by the occupants for congregate use in a residential dwelling unit. Any occupation which is organically incidental to the main use of the premises as a dwelling place, and is conducted by a member of a family residing in the dwelling, and in connection with which there is kept no stock, in whole or in part, to be sold or prepared upon the premises, provided that no person is employed other than a member of the immediate family residing on the premises; provided further that no mechanical equipment shall be used which will be obnoxious or offensive by reason of vibrations, noise, odor, dust, smoke or fumes; the operation of beauty culture schools, beauty parlors, barber shops, dancing schools, and food product preparation shall not be considered home occupation.

**Hospital (acute care).** An institution where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas.

**Hotel or motel.** Any building which is designed to cater to transient occupancy, offering temporary abiding space to individuals and families. To be classified as a hotel or motel an establishment shall contain individual guest rooms and furnish services such as linens, maids and furnishings.

**Institutions of religious or philanthropic nature.** An institution sponsored or operated by organizations established for religious or philanthropic purposes.

**Kennel.** The keeping of three or more dogs or other animals at least four months old. Any premises in which four or more dogs three months of age or older are kept, or where the business of buying, selling, breeding, grooming, training or boarding of dogs is conducted, does not include veterinary hospitals or humane societies.

**Light manufacturing processes.** Manufacturing processing which do not emit detectable dust, odor, smoke, gas, or fumes beyond the property lines of the lot or tract upon which the use is located and which do not generate noises or vibrations above the ambient level of noise.

**Lot.** a parcel of land platted in a subdivision occupied or to be occupied by a main building, or group of buildings (main and accessory), together with such yards, open spaces, lot width and lot area as are required by this article and having frontage

upon or access to a street. Except for group dwellings, not more than one dwelling structure shall occupy any one lot.

*Manufactured housing or manufactured home.* A HUD-code manufactured home or a mobile home and collectively means and refers to both. The definition of mobile home, HUD-code manufactured home, and manufactured home as set forth in this section are binding on all persons and agencies in this state and under the jurisdiction of the city. For the purposes of this article, a mobile home is not a HUD-code manufactured home and a HUD-code manufactured home is not a mobile home. Recreational vehicles, however, may be located and used only in approved recreational vehicle parks or approved manufactured home parks.

*Mixed use.* A zoning district where mixed retail/residential developments are allowed on the same property or in the same building. Retail stores, retail services, personal services, and banks and savings and loans are allowed on the first floor levels of buildings. Multi-residential housing consisting of studio, one bedroom, two bedroom, and three bedroom living units are allowed on the upper floors of buildings. Offices, medical/dental offices, and other commercial uses that do not generate sales tax revenue are not allowed in the Mixed Use Zoning District.

*Mobile home.* Structure that was constructed before June 15, 1976, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems.

*Nursing home.* An institution licensed by the State of Texas where those persons suffering from illness, injury, deformity, deficiency or age are given care or treatment on a prolonged or permanent basis.

*Parcel.* Any contiguous land under common ownership which does not satisfy the definition of a lot.

*Planned Unit Development.* An area to be planned, developed, and maintained with a common architectural and landscaped theme.

*Private school, private college or private university.* An institution established for educational purposes and offering a curriculum similar to the public schools or an accredited college or university.

*Public school.* A school under the sponsorship of a school district established under Texas law.

*Railroad track and right-of-way.* This does not include railroad stations, team tracks, yards, or maintenance areas.

*Residence home for the aged.* A home where elderly people are provided with lodging and meals with or without nursing care.

*Secondary residential structure.* A subordinate dwelling unit (detached), other than a mobile home.

*Servant or caretaker quarters.* A subordinate dwelling unit, used solely as living quarters by a person(s) or family(ies) employed at least 20 hours per week on the premises.

*Sight-obscuring fence.* Any fence over three (3) feet in height and where more than 50% of the fence fabric is designed to obstruct the view of the area beyond the fence.

*Sight visibility triangle.* A triangular area at an intersection of two streets formed by extending the street center lines to form an intersection, then measuring 45 feet for street intersections and 20 feet for driveway/alley intersections in each direction from the intersecting point and connecting the two (2) end points located on said lines to define a zone necessary for the clear view by the driver of a motor vehicle or a bicyclist of oncoming cross street traffic.

*Sexually oriented business.* Any sexual encounter center, adult cabaret, adult theater, escort agency, nude modeling studio, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers. All terms defined in Title XV, Article 7 shall be given the same meaning for purposes of interpreting the definition of a sexually oriented business under the zoning ordinance.

*Stealth.* The design of a tower or tower structure that blends into the surrounding environment and is visually unobtrusive. Examples of a stealth design or tower are: architecturally screened, roof-mounted antenna/array/equipment; building-mounted antenna/array/equipment that is painted and treated as an architectural element to blend with the existing building; designs that conceal the

antenna/array/equipment, such as manmade trees, clock towers, bell towers, steeples, light poles, and similar alternative-design mounting structures.

*Storage of autos.* A tract of land devoted to storing operative and/or inoperative automobiles and/or other vehicles that is enclosed by a fence of at least eight feet in height, and which accommodates, on a continuing basis, the storage of such automobiles and/or vehicles. In no instance shall wrecking and/or salvage operations be affiliated with the use of the land, or the stored autos be partially disassembled or dismantled.

*Structure.* Anything, other than a fence, constructed or erected, requiring location on the ground or attachment to something located on the ground. This includes, but is not limited to: advertising signs, billboards, poster boards, buildings, poles, water towers, cranes, smokestacks, earth formations and overhead transmission lines.

*Tavern.* Any enterprise which has as its principle business the selling of alcoholic beverages for consumption on the premises.

*Telecommunications.* The transmission, between or among points specified by the user, of audio and/or visual information of the user's choosing, without change in the form or content of the information as sent and received.

*Telecommunications facility.* A telecommunication tower, antennas, and related equipment buildings, but the term also includes antennas and related equipment installed on roof tops.

*Telecommunications service.* The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

*Tennis or swim club, private.* A private recreational club with restricted membership, usually smaller in area than a country club, but including a clubhouse, swimming pool, tennis courts, handball courts, or similar facilities, none of which are available to the general public.

*TIA/EIA-222.* Telecommunications Industry Association/Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures."

*Tower, electric transmission.* A self-supporting structure over 50 feet (15 meters) in height, designed to support high-voltage electric lines. This does not

include local utility or distribution poles (with or without transformers) designed to provide electric service to individual customers.

*Tower, guyed.* Any telecommunications tower supported, in whole or in part, by cables anchored to the ground.

*Tower, height.* The distance measured from grade to the highest point of any and all components of the structure, which includes antennas, hazard lighting and other appurtenances, but excludes lightning rods.

*Tower, monopole.* A self-supporting telecommunications tower that consists of a single vertical pole fixed into the ground and/or attached to a foundation.

*Tower, self-supporting lattice.* A telecommunications tower that consists of an open network of metal braces forming a tower, which is usually triangular or square in cross-section.

*Tower, telecommunications.* A self-supporting lattice, monopole, or guyed structure more than 20 feet (six meters) in height, built primarily to support one or more telecommunications antennas.

*Trade or commercial school.* A school, operated for profit, teaching vocational skills.

*Utility, others not listed.* Any utility facility franchised or approved by the city.

*Utility shops or storage yards and buildings.* An area or building used by utilities for the repair and/or storage of equipment, vehicles or supplies.

*Wrecking or salvage yard for autos or parts.* A tract of land devoted to wrecking, dismantling, or salvage operations where automobiles, other vehicles and/or machinery are subject to being dismantled, compacted, or similarly processed. All such operations, inclusive of storage of vehicles, shall be completely enclosed by a wall at least eight feet in height, except for a maximum of two gates no more than 20 feet wide.

(1962 Code, § 11-2-7; Ord. 99036, passed 10-25-99; Ord. 2001-15, passed 8-13-01; Ord. 2003-11, passed 5-12-03; Ord. No. 2009-20, § 1, passed 8-10-09; Ord. 2010-12, passed 5-17-2010)



**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** this Ordinance was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**INTRODUCED** on this the 14th day of April, 2014.

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

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Effective Date: \_\_\_\_\_, 2014

## **AGENDA ITEM #14**



## Planning & Development Services Department

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TO: Vincent Capell, City Manager & City Commission

FROM: Robert G. Isassi, P.E., Director of Planning & Development Services

SUBJECT: **City Ordinance Amendments**

DATE: April 4<sup>th</sup>, 2012.

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Reference is made to direction given to City planning staff to evaluate and provide a comprehensive review of the City's current zoning and subdivision regulations. As previously relayed to your office, with the assistance of a consultant, the review revealed a number of existing codes that necessitate additional clarification by adding new code language and update existing codes.

This evaluation has resulted in twelve (12) proposed code changes and/or new sections. Due to the complexity and volume of this proposed ordinance modification that the Planning & Zoning Commission as well as the City Commission has been undertaking, it was prudent to separate the dozen proposed changes into two groups. This memo contains the second and final set, attached for City Commission introduction.

To update the commission, a Planning & Zoning Commission (P&Z) workshop was held on March 11<sup>th</sup>, 2014 to thoroughly discuss the proposed ordinances, after some suggested changes, P&Z unanimously approved all of the eight (8) items on March 19<sup>th</sup> then forwarded to City Commission for review. On March 20<sup>th</sup>, City Commission held a workshop to also discuss the proposed ordinance changes. After the workshop, the City's suggested changes were performed. These eight are now being introduced at the April 14<sup>th</sup> City Commission. They are as follows:

1. Fence Code

The Planning Department researched and created a new fence code regulation (Sec. 15-6-28) to ensure the language speaks to the current environment. The new language includes provisions pertaining to review and permitting prior to fence construction, expansion of the required maintenance of the fence, and allowable materials to be used. This code was discussed in two P&Z and City Commission workshops and extensively studied to ensure that the code was properly written as well as enforceable by City Community Appearance Division.

2. Accessory Use/Structure Code

Researched and drafted new code language (Sec. 15-6-26) to regulate accessory structures as well as accessory uses as subordinate uses to the primary use. Currently no code language exists, however accessory uses are defined in the existing code. A general listing of permitted accessory uses and structures have been drafted to clearly delineate the types of permitted and prohibited uses. This language also includes accessory structure provisions regulating building material types, location, etc.

### 3. Planned Unit Development (PUD) Code

A comprehensive review and update the existing Office Planned Unit Development (OPUD) code (Section 15-6-55) was performed to provide additional options for developments, utilizing flexible zoning that encourages comprehensive site development and open space preservation. Language was designed to encourage architectural elements that promote unique design and enhanced aesthetics, while also providing the City an opportunity to review these development plans as part of the zoning process.

### 4. Solar Energy System (SES) Code

A new code section (Sec. 15-6-168) was created to regulate solar energy system (SES), a technology that is beginning to become more readily affordable. The creation of this code, in cooperation with NAS-K, provides citizens guidance on solar energy technology and its use within the City. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs. Language was drafted to create a new code section within Chapter 15 while also incorporating the use of SES within the proposed Accessory Use/Structure Code. This new language will address potential glare issues onto neighboring properties, providing permitted uses, permit requirements, setbacks/dimensions, screening, etc.

### 5. Wind Energy Conversion System Regulations

A new code section (Sec. 15-6-169) was created to regulate Wind Energy Conversion Systems (WECS) and its use as a "subordinate use", as well as creating regulations to regulate and/or prohibit the use of standalone WECS as a principle use or in a group wherein a "wind farm" is created. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs and greater availability of roof attached WECS'. New language was drafted to create a new code section within Chapter 15 to address potential impacts to neighboring properties and the Naval Air Station while also providing definitions, approval processes permitted uses, permit requirements, setbacks/dimensions, etc.

### 6. Definitions

As part of the changes within the ordinance rewrites, additional definitions were added and updated. "Home Occupation", "Planned Unit Development", "Sight Visibility Triangle", and "Sight-Obscuring Fence" were added to this Section. The definition of "Kennel" was also updated to match the animal control ordinance.

### 7. Schedule of Permit Fees

This amendment adds a fee for new fence construction referenced in the proposed fence code. A fence permit fee of \$35 will be charged to compensate the building official or inspector for the plan review of the proposed work. This amendment also renames an item currently defined as a “Plan-Checking Fee” to a “Plan-review Fee”, a term more commonly used to detail the work being done when plans are submitted.

#### 8. Land Use Chart

This amendment adds guidance to the existing Land Use Chart to support the proposed changes in new ordinances for solar and wind energy system ordinances, planned unit developments, and home occupations. The chart refers readers to the sections to be read for more information.

**ORDINANCE NO.2014-\_\_\_\_\_**

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, LAND USE, ARTICLE 6, BY AMENDING APPENDIX A-LAND USE CATEGORIES OF SECTION 1-LAND USE CHART TO ADD LAND USAGE GUIDANCE FOR HOME OCCUPATION, PLANNED UNIT DEVELOPMENT, SOLAR ENERGY SYSTEMS AND WIND ENERGY SYSTEMS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

I.

**THAT** Section 1-Land Use Chart of Appendix A-Land Use Categories of Article 6: Zoning of Chapter XV, Land Usage Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**Appendix A. Land Use Categories**

**Sec. 1. Land use chart.**

The following chart shall set out the land uses within the city:

P = Permitted

S = Special use permit required

X = Special review required

= Not permitted (absence of any symbol)

[Land Use Chart on the following pages]

Land Use Chart												
Land Use Description	R1	R2	R3	R4	MH	C1	C2	C3	C4	I1	I2	Ag
Dwelling, one family det.	P	P	P	P	P	P	P	P				P

Dwelling, one family att.		P	P	P		S	P					P
Dwelling, two family		P	P	P		S	P					
Dwelling, multi-family			P	P		P	P	P				
Boarding or rooming house				P			S	P	P			
Hotel or motel				P			S	P	P			
Dormitory				P								
Fraternity, sorority				P								
Mobile home/manufactured home park or mobile home/manufactured home on lot	S1	S1	S1	S1	P					S	S	S
Recreational vehicle park					P		S		S			
Secondary res. structure				P	P		S	S		S	S	S
Other residential accessory and incidental uses	S	S	S	S	S					S	S	
Accessory building	P	P	P	P	P	P	P	P	P	P	P	P
Community center (private)	S	S	S	S	S	P	P	P				
Accessory farm building				P	P	P	P	P	P	P	P	P

Off-street parking incidental to main use	P	P	P	P	P	P	P	P	P	P	P	P
Private swimming pool	P	P	P	P	P	P	P	P	P	P	P	P
Home Office	P	P	P	P	P							P
Apartment or secondary residence for servants or family members	S	P	P	P	P	P	S	P				P
<i>Institutional and Special Service</i>												
Airport, heliport		S	S	S	S	S	S	S	S	S	S	S
Cemetery, mausoleum	S	S	S	S			S					S
Church, rectory	P	P	P	P	P	P	P	P				P
Convent, monastery or other dwelling for pursuit of group religious ideals	S	S	S	P	S	S	P	P				P
Private country club	S	S	P	P	P	P	P					P
Day nursery or kinder	S	S	S	P	P	P	P	P	P	P		P
Farm, ranch, or orchard												P
Lodge or club			S		P	P	S					P
Home, halfway house, or other group dwelling for alcoholic, narcotic, psychiatric patients or felons and		S	S	S		P	S					S



delinquents												
Hospital (acute care)				S			P	P				
Nursing home				P			P	P				
Institutions of religious or philanthropic nature		S	S	S	S		P	P				
Library, art gallery, museum				S	S		P	P				
Park, playground, fairground	P	P	P	P	P	P	P	P	P	P	P	P
Public administration office		S	S	S	P	P	P	P	P	P	P	P
Home for the aged		P	P				P	P				
Private school, college or university	S	S	S	S			P	P				
Schools, public	P	P	P	P	P	P	P	P				P
Tennis, swim or other athletic club (private)	S	S	S	S	S	P	P	P	P			
<i>Utility and Related Service Uses</i>												
Electrical substation	P	P	P	P	P	P	P	P	P	P	P	P
Electrical power plant							S	S	S	P	P	S

Fire station	P	P	P	P	P	P	P	P	P	P	P	P
Gas metering and transmission station	S	S	S	S	P	P	P	P	P	P	P	P
Local utility distribution lines	P	P	P	P	P	P	P	P	P	P	P	P
Radio, television or microwave towers (without telecommunications facility)	P	P	P	P	P	P	P	P	P			
Telecommunications facility	As per Appendix C: Telecommunications of the Zoning Ordinance											
Commercial radio or television transmitting	S	S	S	S	S	S	P	P	P	P	P	P
Sewage or water pumping and control stations	P	P	P	P	P	P	P	P	P	P	P	P
Railroad tracks and right-of-way	P	P	P	P	P	P	P	P	P	P	P	P
Telephone business office	Exempt, see Tex. Loc. Gov't Code, §§ 51.001 and 54.001											
Telephone switching, relay, and transmitting equipment	S	S	S	S	P	P	P	P	P	P	P	P
Water and irrigation canals, and pipes, and controls	P	P	P	P	P	P	P	P	P	P	P	P
Utilities, public or private other than listed	S	S	S	S	S	S	P	P	P	P	P	S
Utility shops, storage yards, and							S	S	P	P	P	

buildings												
Water treatment plant	S	S	S	S	S	S	S	S	P	P	P	S
Water well, reservoir, or storage tank	P	P	P	P	P	P	P	P	P	P	P	P
Wind Energy Conversion Systems Article 15.6-19	As per 15.6-19 through 15.6-203: Wind Energy Conversion Systems of the Zoning Ordinance											
Solar Energy Systems Article 15.6-17	As per 15.6-17 through 15.6-187: Solar Energy Systems of the Zoning Ordinance											
<i>Recreational Uses</i>												
Amusement, commercial outdoor							S	P	P			
Amusement, commercial indoor							S	P	P			
Carnival									S	P	P	P
Temporary carnival (14 days - 200 ft. setback from residential property)							S	P	P			
Provisioning and recreational sporting goods sales including boats and vehicles							S	P	P			
Shooting galleries and pistol ranges (indoor)							S	P	P			
Souvenir, curio							S	P				

<i>Automobile Related Uses</i>													
Car wash						P	S	P	P	P			
Auto sales, repairs including motorcycles							S	P	P	P			
Auto paint and body shop							S	P	P	P			
Drag strip, race track										S	S		
Gasoline service station							P	P	P	P			
Gasoline sales						S	P	P	P	P			
Commercial parking structure auto only							S	P	P	P			
Truck storage							S	S	P	P	P		
Used auto parts, sales, indoors							S	P	P	P	P		
New or reconditioned auto parts, indoors							S	P	P	P			
Seat cover or muffler installation shop							S	P	P	P			
Tire recapping and retreading shop									S	P	P		
Wrecking or salvage yards for auto or parts									S	S			

Storage of autos						S	S	P	S	P	
<i>Retail or Related Uses</i>											
Antique or collectable shop						S	S	P	P		
Art supply store						S	P	P	P		
Animal clinic or pet hospital, no outdoor pens							P	S	P	P	
Animal clinic or pet hospital with outdoor pens							S		S	P	P
Bank or savings and loan						S	P	P	P		
Book or stationary store						S	P	P			
Barber or beauty shop						S	P	P	P		
Bakery or confectionery shop, retail sales (less than 2,500 square feet)						P	P	P	P		
Cafeteria or restaurant						S	P	P	P	P	P
Camera shop						S	P	P	P		
Laundry or self-service laundry shop (limited area)						S	P	P	P		
Clinic, medical, dental, chiropractor, optometrist or other office of licensed						S	P	P	P	P	
















Mortuary						S	P	P	P	S		S
Music store						S	P	P	P			
Office, professional, or general business						S	P	P	P	S		
Optical shop or laboratory						S	P	P	P			
Package liquor store						S	S	P	P			
Pawn shop						S	S	P	P			
Pet shop for small animals birds, fish						P	P	P	P			
Personal custom services such as tailor, milliner, and the like						P	P	P	P			
Repair of appliances, T.V., radio, and similar equipment						P	P	P	P			
Shoe, boot, saddle, or other leather goods sale and repair						S	P	P	P	P	P	
Studio, photographer, artist, music, dance, drama						S	P	P	P			
Studio, health, exercise, reducing or similar service						S	P	P	P			
Studio, decorator and display						S	P	P	P			

Tavern						S	S	P	P			
Bakery, wholesale								S	P	P		
Building materials sales							S	P	P	S		
Cabinet or furniture upholstery shop							P	P	P	P		
Clothing or similar light manufacturing processes							S	P	P	P		
Cleaning, laundry, or dyeing plant							S	P	P	P		
Contractor storage of equipment yard									P	S	P	
Dance hall or night club							S	P	P	P		
Heavy machinery storage, sales or repair									P	S	P	
Open storage and sale of appliance and machinery									S	S	P	
Lithographer or print shop							P	P	P	P	P	
Lumber yard							S	P	P	S	P	
Dairy or ice cream plant									S	P	P	P
Maintenance or repair service for buildings									P	P	P	



Laboratory, scientific or research							S	S	S	P	P	S
Paint shop							S	P	P	P	P	
Plumbing shop							S	S	P	P	P	
Railroad or bus passenger							S	P	P	P		
Railroad team tracks, freight depot or docks									P	P	P	P
Storage warehouse									S	S	S	
Trade, vocational or commercial schools							S	P	P	S	S	
Trailer and mobile home sales							S		P	P	P	
Transfer storage terminal									P	P	P	
Welding or machine shop									P	P	P	
Wholesale office, storage, sales not elsewhere listed									P	P	P	
Milk depot							S	S	P	P	P	
<i>Industrial and Related Uses</i>												
Light manufacturing processes which do not emit detectable dust, odor, fumes, or gas beyond the boundary of the property or noises above the ambient level and are not classified as									S	S	P	P

hazardous													
Storage of sand, gravel, stone, minerals, gas, petroleum or other substances									P	S	P		
Extraction of soil, sand, gravel, stone, minerals, gas, petroleum or other substances										S	S	S	
Animal poultry slaughtering										S	S	S	
Industrial activities not elsewhere listed and not satisfying the criteria of light manufacturing processes											S		
<i>Area Developments</i>													
<b>Planned land development</b>													
<i>Agriculture and Related Uses</i>													
Home crop production	P	P	P	P	P	P	P	P	P	P	P	P	P
Breeding or raising of animals for food or sale (except as noted in health regulations)													P
Dairy													P
Ranch													P
Beekeeping, commercial													P

Crop production for sale													P
Orchard for home use	P	P	P	P	P	P	P	P	P	P	P	P	P
Orchard, commercial	S	S	S	S									P
Keeping animals or fowl commonly used for food fiber production or as beasts of burden													P
Keeping dogs, cats, fish, or exotic caged birds (kennel excluded)	P	P	P	P	P	P	S	P	P	P	P	P	P
Farmers market, vegetable (fresh) stand, produce sales							S	P	P				P
Domestic animal racetrack exhibit area, training ground, and the like													P
<sup>1</sup> Hardship must be demonstrated due to age, infirmity, or death of a family member. Permit is limited to one year. Permit may be renewed by demonstrating continued hardship. The mobile home or travel trailer must be removed within 90 days of the expiration of the permit. This special use permit does not include or allow for a manufactured home for use as a sales office or any type of commercial use.;xhg; <sup>2</sup> Area developments allowed in zones, where noted.													

(Ord. 84009, passed 6-18-84; Ord. 87009, passed 4-27-87; Ord. 89048, passed 11-27-89; Ord. 2001-15, passed 8-13-01; Ord. 2003-11, passed 5-12-03; Ord. 2006-33, passed 7-10-06; Ord. 2009-12, § 1, passed 5-18-09; Ord. 2010-34, passed 9-27-2010; Ord. 2011-07, passed 2-28-2011, eff. 3-16-2011)

## II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

## III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** this Ordinance was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**INTRODUCED** on this the 14th day of April, 2014.

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

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Effective Date: \_\_\_\_\_, 2014

## **AGENDA ITEM #15**



## Planning & Development Services Department

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TO: Vincent Capell, City Manager & City Commission

FROM: Robert G. Isassi, P.E., Director of Planning & Development Services

SUBJECT: **City Ordinance Amendments**

DATE: April 4<sup>th</sup>, 2012.

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Reference is made to direction given to City planning staff to evaluate and provide a comprehensive review of the City's current zoning and subdivision regulations. As previously relayed to your office, with the assistance of a consultant, the review revealed a number of existing codes that necessitate additional clarification by adding new code language and update existing codes.

This evaluation has resulted in twelve (12) proposed code changes and/or new sections. Due to the complexity and volume of this proposed ordinance modification that the Planning & Zoning Commission as well as the City Commission has been undertaking, it was prudent to separate the dozen proposed changes into two groups. This memo contains the second and final set, attached for City Commission introduction.

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1. Fence Code

The Planning Department researched and created a new fence code regulation (Sec. 15-6-28) to ensure the language speaks to the current environment. The new language includes provisions pertaining to review and permitting prior to fence construction, expansion of the required maintenance of the fence, and allowable materials to be used. This code was discussed in two P&Z and City Commission workshops and extensively studied to ensure that the code was properly written as well as enforceable by City Community Appearance Division.

2. Accessory Use/Structure Code

Researched and drafted new code language (Sec. 15-6-26) to regulate accessory structures as well as accessory uses as subordinate uses to the primary use. Currently no code language exists, however accessory uses are defined in the existing code. A general listing of permitted accessory uses and structures have been drafted to clearly delineate the types of permitted and prohibited uses. This language also includes accessory structure provisions regulating building material types, location, etc.

### 3. Planned Unit Development (PUD) Code

A comprehensive review and update the existing Office Planned Unit Development (OPUD) code (Section 15-6-55) was performed to provide additional options for developments, utilizing flexible zoning that encourages comprehensive site development and open space preservation. Language was designed to encourage architectural elements that promote unique design and enhanced aesthetics, while also providing the City an opportunity to review these development plans as part of the zoning process.

### 4. Solar Energy System (SES) Code

A new code section (Sec. 15-6-168) was created to regulate solar energy system (SES), a technology that is beginning to become more readily affordable. The creation of this code, in cooperation with NAS-K, provides citizens guidance on solar energy technology and its use within the City. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs. Language was drafted to create a new code section within Chapter 15 while also incorporating the use of SES within the proposed Accessory Use/Structure Code. This new language will address potential glare issues onto neighboring properties, providing permitted uses, permit requirements, setbacks/dimensions, screening, etc.

### 5. Wind Energy Conversion System Regulations

A new code section (Sec. 15-6-169) was created to regulate Wind Energy Conversion Systems (WECS) and its use as a "subordinate use", as well as creating regulations to regulate and/or prohibit the use of standalone WECS as a principle use or in a group wherein a "wind farm" is created. Currently no code language exists to regulate the use of SES, and this is an emerging issue amongst municipalities due to rising energy costs and greater availability of roof attached WECS'. New language was drafted to create a new code section within Chapter 15 to address potential impacts to neighboring properties and the Naval Air Station while also providing definitions, approval processes permitted uses, permit requirements, setbacks/dimensions, etc.

### 6. Definitions

As part of the changes within the ordinance rewrites, additional definitions were added and updated. "Home Occupation", "Planned Unit Development", "Sight Visibility Triangle", and "Sight-Obscuring Fence" were added to this Section. The definition of "Kennel" was also updated to match the animal control ordinance.

### 7. Schedule of Permit Fees

This amendment adds a fee for new fence construction referenced in the proposed fence code. A fence permit fee of \$35 will be charged to compensate the building official or inspector for the plan review of the proposed work. This amendment also renames an item currently defined as a "Plan-Checking Fee" to a "Plan-review Fee", a term more commonly used to detail the work being done when plans are submitted.

#### 8. Land Use Chart

This amendment adds guidance to the existing Land Use Chart to support the proposed changes in new ordinances for solar and wind energy system ordinances, planned unit developments, and home occupations. The chart refers readers to the sections to be read for more information.



ORDINANCE NO.2014-\_\_\_\_\_

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, LAND USE, ARTICLE 6, BY ADOPTING SECTION 28-FENCE REGULATIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 28-Fence Regulations of Article 6: Zoning of Chapter XV, Land Usage Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be adopted to read as follows:

**15-6-28. Fence Regulations.**

(a) Purpose. The purpose of these regulations is to establish criteria for the location, maintenance and appearance of privacy fences and other visual barriers including landscaped hedges. The intent is to limit the amount of privacy fencing/barriers in order to promote the open, unencumbered characteristics of Kingsville and ensure the safe visibility of pedestrian and vehicular traffic.

(b) Permit required. Except as provided for single strand electrical wires herein, a fence permit shall be obtained and the required fee paid as set out in Section 15-1-6(B)(4) before installation of any fence. A site plan indicating the location of the proposed fence, property lines, setbacks and buildings, and a typical detail of the fence showing the material and general appearance of the fence shall be submitted with the permit request. A boundary survey of the property is not required but may be deemed necessary by the property owner, applicant or City in the case of a boundary line dispute or other reason as deemed necessary by the property owner or applicant. All swimming pool permits are to be accompanied by a fence permit when an existing compliant fence is not present to prevent unwanted entry.

(c) For all property within the City, no person or business shall erect or maintain a sight obscuring fence forward from the front building line, excluding any and all porches, decks, patios or similar appurtenances, except where otherwise authorized by this code.

(d) Fences over three (3) feet in height and with more than 50% sight obscured shall be deemed to be a Sight-Obscuring Fence.

(e) In no case shall a sight-obscuring fence, hedge, tree or other visual barrier be placed or maintained in excess of three feet high within a Street or Driveway Intersection Sight Visibility Triangle as defined in Section 15-6-21 of this code of ordinances. Trees within a Street or Driveway Intersection Sight Visibility Triangle shall be kept trimmed so the tree canopy is no less than ten (10) feet high.

(f) Fences in residential areas shall not exceed four (4) feet in height in any front yard area and six and a half (6.5) feet in height in any side or rear yard area. Nonresidential areas are restricted to a maximum of four (4) feet in the front yard area and a minimum of eight (8) feet in height in any side or rear yard area but shall not exceed ten (10) feet in height.

(g) Commercial or industrial buildings adjacent to residential properties shall install, at a minimum, an eight (8) foot high sight-obscuring fence constructed of a consistent solid material such as wood, brick or block. The fence shall be so constructed so that the finished side is facing the residential properties.

(h) Fences or hedges/landscape materials shall be required to screen storage areas allowed in all commercial and industrial districts and shall be of sufficient height to screen the storage from adjacent public right-of-way and adjacent properties. If screening is required to exceed eight (8) feet in height, then landscaping material shall be utilized to soften the impact and add to the screening. Trees that will grow to a sufficient height to screen storage from adjacent properties shall be utilized where the terrain is such that a screen exceeding ten (10) feet in height is needed.

(i) The height of a fence shall be measured from the highest adjoining finished grade.

(j) No fence shall be constructed within any drainage easement or floodway unless the City Engineer has advised the Building Official that the fence shall, in all probability, not interfere with or impair the natural flow of water across the drainage easement or floodway.

(k) *Perimeter Fence design and maintenance.* All fences shall be designed, erected and maintained in accordance with Section 15-1-17 and also the following:

(1) All fences shall be maintained in good repair and in their original upright position so as to not be a nuisance. Fence remnants shall not remain if a repair or replacement of a fence or a portion of the fence is performed.

(2) No fence shall be maintained with protruding nails, boards, wires or other similar materials.

(3) All fences shall be constructed of an aesthetically compatible material such as chain link, wood, concrete block, brick, stone, vinyl, wrought iron or other like material. The use of chicken wire or other low quality type of fencing is expressly prohibited.

(4) Missing boards, pickets or posts shall be replaced in a timely manner with material of the same type and quality.

(5) All fences shall be constructed with the finished side facing outward from the property or with both sides finished where visible from the public right-of-way. Any and all posts and support beams shall not be visible from the public right-of-way. Fences along interior property lines, not exposed to a public right-of-way, may place the fence with the finished face facing outward or inward depending on preference.

(6) Wood fences shall be constructed of material which is naturally resistant to insects and decay or has been treated to resist insects and decay underground.

(7) All posts used for any type of residential or commercial fencing shall be set in a concrete base. Agricultural field fence posts do not require the use of a concrete base.

(l) Use of barbed wire fence. In addition to and in conjunction with Section 13-1-2, no person shall erect or maintain any barbed wire fence except under the following circumstances:

(1) When the barbed wire fence is erected and maintained as an integral part of the security fence for nonresidential properties only, provided that the barbed wire is not installed within six feet of the ground; or

(2) When the barbed wire fence is erected or maintained around a tract of land used for agricultural purposes as defined by the zoning laws of the City of Kingsville.

(3) In no case shall razor wire be permitted in any zone within City Limits except as used by official governmental agencies.

(4) In all cases barbed wire shall be strung tightly and shall not be suspended in a loose, coiled or concertina manner with the exception of government agencies.

(m) Use of electric fence. No person shall erect or maintain any electrical fence unless in conformance with the following provisions:

(1) All electric fences shall comply with minimum specifications of the Underwriters Laboratories (UL listed) and shall be installed in accordance with the National Electric Code adopted by the City.

(2) Fences which may continuously conduct electric current may be allowed only on agricultural land to be used to raise livestock.

(3) Single-strand wires designed to conduct electricity through an approved low voltage regulator shall be allowed only along the interior base line of an otherwise permitted fence. No permit shall be required for the erection and maintenance of such single-strand electric wires.

(n) Swimming Pools. In addition to and in conjunction with Section 15-1-8, any swimming pool area, where the pool depth is two (2) feet or more, shall be entirely enclosed by a protective fence or other permanent structure at least four (4) feet in height, with locked gates or entrances. A permanent fence shall be in place during construction of any pool. Arrangements may be made with the chief Building Official to provide a temporary section of fence during pool construction to allow for ingress and egress. A sight-obscuring or other approved fence constructed on the property lines adjacent to the pool may be considered a protective fence meeting these requirements.

(o) Temporary fences. Permits for temporary fences for the purpose of protecting or securing of construction sites may be granted for a one year renewable period. Such temporary fencing must be removed upon completion of construction.

(p) Penalties.

(1) The provisions of this subsection shall be cumulative of any criminal penalties or civil remedies as prescribed in 15-1-17(G) of Chapter 15 or section 1-1-99 of this Code of Ordinances.

(2) Upon a determination that a fence code violation exists upon a premises, the owner of the premises shall be given notice to abate such violation within 30 days after the receipt of such notice.

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** this Ordinance was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**INTRODUCED** on this the 14th day of April, 2014.

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

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Effective Date: \_\_\_\_\_, 2014

## **AGENDA ITEM #16**



## Planning & Development Services Department

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TO: Vincent Capell, City Manager & City Commission

FROM: Robert G. Isassi, P.E., Director of Planning & Development Services

SUBJECT: **City Ordinance Amendments**

DATE: April 4<sup>th</sup>, 2012.

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ORDINANCE NO.2014-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XV, LAND USE, ARTICLE 6, SECTION 27 PROVIDING FOR ACCESSORY USES AND STRUCTURES; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

**THAT** Section 27 of Article 6: Zoning of Chapter XV, Land Usage Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**Sec. 15-6-27. ACCESSORY USES AND STRUCTURES.**

*(A) Purpose and findings.* This section establishes additional zoning district standards, exceptions to standards or alternative standards (e.g. screening, landscaping, and/or design standards) for particular uses which are subordinate to the principal use. The purpose of this section is to:

- Provide supplemental standards for individual uses in order to protect surrounding property values and uses;
- Protect the public health, safety and general welfare; and
- Implement the Master Plan of the City.

The section provides supplemental regulations for certain uses, structures and facilities. These regulations are in addition to the other applicable standards of this Code. In some cases, the establishment of these standards streamlines the permitting process by permitting the use as of right in certain districts subject to these regulations rather than a case-by-case consideration for a Special Use Permit (SUP). In other instances, the regulations do not streamline the process but address the unique development challenges of certain uses and structures whether permitted as of right or as a special use.

*(B) Compliance Mandatory.* No accessory use may be initiated, established, or maintained unless it complies with the standards set forth for such use in this section and/or article.

*(C) Regulations Supplement Other Code Regulations.* The regulations of this section shall supplement the requirements of the applicable base and overlay zoning district regulations and other applicable standards of this section. These standards are in addition to, and do not replace, the other standards for development set forth in any other sections or articles of the code of ordinances unless otherwise provided. To the extent that there is a conflict between a standard in another section of the code of

ordinances and a standard in this section, the standard in this section governs unless otherwise indicated.

(D) *Applicability.* This section applies to any subordinate use of the building or other structure, or use of land that is:

- (1) Conducted on the same lot as the principal use to which it is related; and
- (2) Clearly incidental to, and customarily and commonly associated with, the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging or unhealthful to adjacent property or the uses thereof and shall be on the premises of the main use.

Where a principal use or structure is permitted, such use shall include accessory uses and structures subject to this section.

(E) *Permit Required.* Every accessory building requires a building permit. Application for such a permit shall be made to the Building Official. The building permit for the accessory building may be included on the permit for the main building or main land use if constructed or established simultaneously, otherwise a separate permit will be required.

(F) The Director of Planning & Development Services, or his/her designee, shall determine whether a proposed accessory use/structure, or in the case of an enforcement action, an existing accessory use/structure is permitted under this ordinance. In reviewing and approving an accessory use/structure, the Director of Planning & Development Services, or his/her designee, shall find that the proposed use meets the following criteria:

- (1) Is not to be constructed or established on a lot until construction of the principal structure is completed or the principal use is established;
- (2) Is not to be established on a vacant lot and/or is located on the same lot as the principal use served;
- (3) Is subordinate to and serves a principal use;
- (4) Is subordinate in area, extent or purpose to the principal use served;
- (5) Contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal use;
- (6) Is not injurious, noxious or offensive to the neighborhood;
- (7) Accessory uses of a storage nature are not located in the front yard area; and
- (8) Accessory buildings shall not be used for dwelling purposes except where permitted in the Land Use Chart (Appendix A, Section 1 Land Use Chart or Article 6 of Chapter 15 of the Code of Ordinances).

In the event the Building Official denies the accessory building, or the Director of Planning and Development Services denies the accessory use, the applicant may appeal to the Board of Adjustment as provided in Section 15-6-157, or seek a special exception as allowed in Subsection 15-6-27(J). Any accessory use to a use requiring a special use permit is prohibited unless specifically allowed by the special use permit.

(G) *General Requirements.* Unless otherwise specified in this section, all attached and detached accessory structures shall conform to the same use, height and area regulations required of the main use or structure and with the following additional limitations:

- (1) Accessory uses shall not include the conduct of trade unless permitted in conjunction with a permitted use.
- (2) Accessory uses shall be located on the same lot as the principal use for which they serve.

(H) *Dimensional and Density Standards.* The location of accessory uses and structures is subject to Appendix B "Space Requirements" Section 1 & 2 of Article 6, Chapter 15 of the Code of Ordinances.

- (1) For residential lots not exceeding one and one-half (1.5) acres, detached accessory structures shall not be located in the front yard. Detached accessory structures may be located in the rear yard area.
- (2) For residential lots exceeding one and one-half (1.5) acres, detached accessory structures may be located in the front yard if it is required due to topographical issues or other impediment that prevents the placement of the structure in the rear yard area.
- (3) Accessory uses and structures shall not exceed 60 percent of the gross floor area (GFA) of the principal use.
- (4) Within nonresidential districts, accessory structures, except for carports, are prohibited within the side and rear yards of lots adjacent to a residential use or district. The total floor area of all accessory structures shall not exceed 2500 square feet.

(I) *Permitted Accessory Uses and Structures.* Accessory uses and structures include, but are not limited to, the following list of examples, provided that each accessory use or building shall comply with all the provisions of this chapter.

- (1) Drop-off boxes, such as mail or donation boxes, at all commercial establishments in C1 through I2 zone districts provided the drop-off box:
  - a. Is located behind the minimum setbacks required in the respective zones;
  - b. Is located so it is not (1) blocking driveways, (2) blocking pass-through traffic in parking aisles, (3) blocking pedestrian traffic, (4) creating any safety issue as determined by the Director of Planning and Development Services; and
  - c. Does not eliminate any required parking spaces or is not located in any parking aisle.
- (2) Employee restaurants and cafeterias when located in a permitted business or manufacturing building. (The size of these accessory uses may be no more than 10% of the gross square footage of the business.)
- (3) Home occupations in accordance with Section 15-6-26.
- (4) Management offices for multi-tenant properties.
- (5) The operation of service facilities and equipment in connection with schools, hospitals and other similar institutions or uses.
- (6) The overnight parking of a truck which is a non-commercially licensed box truck or non-CDL licensed vehicle in working condition in a residential zone district.
- (7) Recreational uses and structures for the use and convenience of occupants, employees or guests of a principal use or facility.

(8) Refreshment and service facilities in parks and playgrounds, and in permitted public or private recreation facilities or schools.

(9) Repair or construction of power boats, large sailing vessels or racing vehicles may be allowed only in zone districts for which repair or construction of vehicles as a commercial business is permitted. Repairs of personal vehicles or recreational boats or vehicles which are legally stored on a lot may be permitted in residential districts provided the vehicles are owned by the occupants of the dwelling and must take place within a private garage.

(10) *Residential accessory buildings.* Garages, carports, parking facilities, tool/storage sheds in residential zoning districts and for residential uses in all other zoning districts, provided:

a. *Attached accessory structures.* Garages, carports, parking facilities or tool/storage sheds attached to the main structure shall conform to the same height, area and setback regulations required for the main use or structure, except:

1. The structure shall not occupy more than 50% of the required rear yard.

b. *Detached accessory structures.* Garages, carports, gazebos, parking facilities or tool/storage sheds detached from the main structure shall:

1. Be in accordance with Appendix B, Section 1 "Space Requirements" Article 6 of Chapter 15 of the Code of Ordinances;

2. Be located only in the side or rear yard area;

3. Occupy an area no greater than 50% of the rear yard area behind the principal structure; and

4. Be at least seven feet from the main dwelling.

c. Detached accessory structures located in any residential zoning district shall meet the following standards as approved by city staff:

1. Galvanized (painted and unpainted) metal is prohibited as an exterior siding material, however roofs may utilize painted galvanized panels;

2. All accessory structures shall have enclosed eaves at a minimum length or depth of twelve inches unless it is a pre-manufactured and/or a preassembled metal or wood storage building and under 250 square feet in gross floor area.

3. Freestanding metal carports that are not certified and sealed by a State of Texas licensed engineer and arched steel structures (aka Quonset huts) are prohibited. Freestanding metal carports accompanied by engineered stamped plans may be approved.

4. Structures larger than 400 square feet in ground floor area shall meet the following additional requirements:

i. Exterior materials shall consist of the same or similar materials as the principal structure.

ii. In order to prevent an institutional or uncharacteristic appearance, any wall or fascia with a square footage greater than 400 sq. ft. shall have at least one window with a minimum measurement of two foot six inches by three feet six inches or a typical thirty six inch wide walk-in door.

5. No visible exterior stairways to a second floor or attic is permitted at the front or side of the building

The requirements of this subsection shall not apply to agricultural operations in residential or agricultural zoning districts.

(11) Solar Energy Systems in accordance with 15-6-174 through 15-6-187.

(12) Storage of one boat, travel trailer, RV or pick-up camper in residential districts, but not in the front yard or the street side yard of a corner lot, and provided they are not used as living quarters.

(13) Telecommunications equipment buildings as provided for in, Section 15-6-47(D) of this article and chapter.

(14) Temporary construction trailers used for offices and/or storage, located on a lot for which building permits have been issued, provided the trailer meets the setbacks for an accessory structure and is limited to the duration of construction, not to exceed one year.

(15) Temporary real estate sales offices, located on a subdivision or property being sold, and limited to the period of sale, but not exceeding two years without a special use permit.

(16) The storage of building materials including, but not limited to, bricks, blocks, cement, concrete, electrical materials, glass, linoleum, lumber, plumbing materials, rocks and tile provided that these materials are to be used for construction on the premises and, if stored for more than 24 consecutive hours in a 30 day period, that they are screened from view of neighboring properties and adjacent streets and alleys, and provided that the storage use is in accordance with the provisions of Subsection (F). In no case shall building materials be stored outside of a building on residentially zoned property for a period of time exceeding 90 days.

(17) Public and private utility lines and structures, including, but not limited to, sanitary sewers, storm sewers, water, natural gas, electric, cable television and telephone.

(18) Wind Energy Conversion Systems (Exempt and Small Wind Energy Facilities) in accordance with Section 15-6-186 through 15-6-194.

(J) *Variances*: A variance may be granted by the Board of Adjustment in accordance with the procedures contained in Section 15-6-157 for the following accessory uses:

(1) The overnight parking of a commercially licensed box truck, CDL licensed vehicle or moving van for more than one night.

(2) The storage of one boat, travel trailer, RV or pick-up camper in the front yard of any residential district.

(K) *Prohibited Accessory Uses*. None of the following shall be permitted as an accessory use:

(1) Equipment, material or vehicles, other than a registered motor vehicle in operable condition, boat, travel trailer, recreational vehicle or pick-up camper as permitted above, for more than 24 hours in a 30 day period in a residential district.

(2) The overnight parking of a semi-tractor trailers, dump trucks, service/delivery van or similar scale of vehicle in residential districts.

(3) Storage of any materials not directly related to the principal use of the property and located outside of a building in a residentially zoned district is specifically prohibited except for building materials as provided in Subsection 15-6-27(l)(15) and materials customarily associated with a residential use such as, but not limited to, above ground swimming pools and associated equipment

buildings, arbors, barbecue pits and grills, firewood neatly stacked, gazebos, operational and licensed vehicles, planters, play structures, toys, trash cans used for normal on-site garbage collection and trellises attached to a building.

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance 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 ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** this Ordinance was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**INTRODUCED** on this the 14th day of April, 2014.

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

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

Effective Date: \_\_\_\_\_, 2014