

# **EXHIBIT D**

**ARTICLE II. POWERS OF THE CITY\***

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\*State law references: Home rule powers, V.T.C.A., Local Government Code § 61.071 et seq.

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**Sec. 2.01. General powers.**

Except as otherwise specifically provided in this Charter, the City shall have all powers possible for a home rule City to have under the Constitution and laws of the State of Texas as fully and completely as though they were expressly enumerated in this Charter.

(Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

**Sec. 2.02. Change of boundaries and annexation of territory.**

The Council shall have the power by ordinance to fix the boundary limits of the City, and to provide by ordinance for the annexation of additional territory lying adjacent to the City with or without the consent of the inhabitants or owners of the territory to be annexed. The Council shall have the power to detach by ordinance any territory with or without the consent of the inhabitants or owners of such area to be detached. Such annexation or detachment of any such territory shall be in accordance with the provisions of Chapter 160, Page 447, Acts of 1963, 68th Legislature, as the same is now or may hereafter be amended, same being Article 970a, Revised Civil Statutes of Texas, [V.T.C.A., Local Government Code §§ 42.001 et seq., 43.001 et seq., 212.003] entitled the Municipal Annexation Act; and upon the final passage of any such ordinance, the corporate limits of the City shall thereafter include the territory so annexed; and when any additional territory has been so annexed, same shall be a part of the City and the property situated therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens, and shall be bound by the acts and ordinances, resolutions and regulations of the City.

In addition to the power to annex all additional property for all purposes, the City shall have the power by ordinance to fix, alter and extend the corporate boundary limits of the City for the limited purposes of planning and zoning and sanitation and health protection.

(Res. No. R3-82, § 1, 3-1-1982)

State law references: Annexation, V.T.C.A., Local Government Code § 43.001 et seq.

**Sec. 2.03. Eminent domain.**

(a) *General power.* Except as limited by Subsections (b) and (c) below, the City shall have the full right, power, and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the Constitution or laws of the State of Texas. The City may also exercise the power of eminent domain in any other manner authorized or permitted by the Constitution and laws of this state, or in the manner and form that shall be provided by ordinance of the City Council of the City. The power of eminent domain hereby conferred shall include the right of the City to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess this power for condemnation for any

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municipal or public purpose, even though not specifically enumerated herein or in this Article.

(b) Notwithstanding Subsection (a) above or any other provision of this Charter to the contrary, neither the City, nor any subdivision or entity created by the City, shall be authorized to use the power of eminent domain for the purpose of taking private property to be used for economic development purposes without the consent of the owner of such private property. Provided further, private property acquired through eminent domain without the consent of the owner shall not be (1) dedicated, sold, leased in substantial part, or otherwise transferred to a private person, partnership, corporation, or any other entity for a period of ten (10) years following the acquisition of the property by the City, except that property may be transferred or leased (a) to private entities that are public utilities or common carriers and (b) to private entities that occupy an incidental area in a public project, or (2) used for any purpose other than as a public use facility. For the purposes of this Subsection, a "public use facility" shall mean a facility designed, constructed and maintained to serve members of the general public including, but not limited to, public streets, drainage ways, utilities, parks, libraries, public safety buildings for police and fire protection, City Halls, and other similar public uses.

(c) For the purposes of this subsection, the term "economic development" shall mean any activity designed to increase tax revenue, tax base, employment, or general economic health, but does not include activities that result in (1) the transfer of land to public ownership for public purposes, such as for roads, hospitals, or water or sanitary sewer facilities or, (2) the transfer of land to a private entity that is a common carrier or public utility.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

**State law references:** Eminent domain, V.T.C.A., Local Government Code § 251.001 et seq.

**Sec. 2.04. Streets and public property.**

The City shall have exclusive dominion, control and jurisdiction in, upon, over and under the public streets, sidewalks, alleys, highways, public squares and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate the use thereof including but not limited to the right to erect traffic signals, lights and signs thereon; and to abate and remove in a summary manner any encroachment thereon. The conveyance or lease or authorization of the conveyance or lease of any lands of the City shall be by ordinance.

**Sec. 2.05. Street development and improvements.**

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets or ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement may be paid partly by assessments levied as a lien against the property abutting thereon and against the owners thereof.

When the City undertakes developing, improving and paving any and all public streets, sidewalks, alleys, highways and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts 1927, 40th

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Legislature, First Call Session, as now or hereafter amended, the same being Vernon's Ann. Civ. St. art. 1105b.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R97-6, § 1, 2-17-1997, election 5-9-1997)

**State law references:** Use of streets and rights-of-way, Vernon's Ann. Civ. St. art. 1085o; street improvements and assessments, Vernon's Ann. Civ. St. art. 1105b.

**Sec. 2.06. Tort liability.**

Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damaging of property under article 1, § 17, constitution of the State of Texas [Tex. Const. art. 1, § 17], the person injured, if living, or his/her representatives, if deceased, or the owner, his/her agent or attorney of the property damaged or destroyed shall give the City Manager or City Secretary notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within 90 days after same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. No action at law for damages shall be brought against the City for such death, injury, damage or destruction prior to the expiration of 90 days after the notice hereinbefore described has been filed with the City Manager or the City Secretary. After the expiration of the 90 days aforementioned, the complainant may then have two years in which to bring an action of law.

(Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

**State law references:** Tort liability, V.T.C.A., Civil Practice and Remedies Code § 101.101 et seq.

**Sec. 2.07. Zoning.**

The Council shall have full power and authority to zone the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority given to cities and legislative bodies thereof by articles 1011a through 1011j of the 1925 Revised Civil Statutes of Texas as amended, being Acts of 1927, 40th Legislature, Chapter 283 [V.T.C.A., Local Government Code § 211.001 et seq.], and all amendments thereto and amendments which may hereafter be made thereto.

**State law references:** Zoning, V.T.C.A., Local Government Code § 211.001 et seq.

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\*State law references: Budgets, V.T.C.A., Local Government Code § 102.001 et seq.; fiscal powers, V.T.C.A., Local Government Code § 101.002.

Sec. 8.01. Fiscal year.

The fiscal year of the City shall begin on the first day of October and end on the last day of September.

State law references: Fiscal year, V.T.C.A., Tax Code § 1.05.

Sec. 8.02. Public record.

Copies of the budget as adopted shall be public records and shall be made available to the public upon request.

State law references: Public records, Vernon's Ann. Civ. St. art. 8252-17a.; budgets, V.T.C.A., Local Government Code § 102.001 et seq.

Sec. 8.03. Annual budget.

(a) Content: The budget shall provide a complete financial plan of all City funds and activities and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the Council may require. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues, with reasons for such changes. It shall also summarize the City's debt position and include such other material as the manager deems desirable. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, the proposed property tax levy, and all proposed expenditures for the ensuing fiscal year, including debt service and an itemized estimate of the expense of conducting each Department of the City. The proposed budget expenditures shall not exceed the total of estimated income. The budget shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year, compared to the estimate for the budgeted year. It shall also include, in separate sections:

- (1) Tax levies, rates, and collections for the preceding five years.
- (2) The amount required for interest on the City's debts, for sinking fund and for maturing serial bonds.
- (3) The total amount of outstanding City debts, with a schedule of maturities on bond issues.
- (4) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or

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operated by the City and the proposed method of its disposition, subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

(5) A capital program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, and shall include the following items which shall be attached as appendices to the budget:

- (a) A summary of proposed programs;
- (b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (c) Cost estimates, method of financing and recommended time schedules for each such improvement; and
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

(6) Such other information as may be required by the Council.

(b) Submission: On or before the first day of August of each year, the City Manager shall submit to the Council a proposed budget and an accompanying message. The Council shall review the proposed budget and revise as deemed appropriate prior to general circulation for public hearing.

(c) Public notice and hearing: The Council shall post in the City Hall and publish in the official newspaper a general summary of their [its] proposed budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public; and
- (2) The time and place, not less than ten nor more than 30 days after such publication, for a public hearing on the budget.

(d) Amendment before adoption: After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.

(e) Adoption: The Council shall adopt its annual budget by ordinance, on one reading, by the 15th day of September or as soon thereafter as practical. If the Council fails to adopt an annual budget before the start of the fiscal year to which it applies, appropriations of the last budget adopted shall be considered as adopted for the current fiscal year on a month to month, pro rata basis, until the annual budget is adopted. Adoption of the budget shall require an affirmative vote of at least a majority of all members of the Council. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002)

**State law references:** Budgets, V.T.C.A., Local Government Code § 102.001 et seq.

#### Sec. 8.04. Amendments after adoption.

(a) *Supplemental appropriations:* If during the fiscal year the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriation for the year up to the amount of such excess.

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(b) *Emergency appropriations:* To meet public emergencies created by natural disasters or manmade calamities that affect life, health, property, or the public peace, the City Council may authorize (i) the re-appropriation of revenues previously budgeted for maintenance and operation expenses, (ii) the appropriation of unanticipated revenues, and/or (iii) the appropriation of restricted reserves. All such appropriations or re-appropriations shall be by emergency ordinance in accordance with the provisions of this Charter. If there are insufficient funds available for appropriation or re-appropriation for such purposes, the City Council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time.

(c) *Reduction of appropriations:* If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her and his/her recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) *Transfer of appropriations:* At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a Department, Division, or Office and, upon written request by the City Manager, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one Department, office or agency to another.

(e) *Limitations:* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof.

(f) *Effective date:* The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption of the ordinance.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

**State law references:** Budgets, V.T.C.A., Local Government Code § 102.001 et seq.

**Sec. 8.05. Borrowing for capital improvements.**

(a) *Borrowing:* The Council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.

(b) *General obligation bonds:* The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas and this Charter, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

(c) *Revenue bonds:* The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas.

(d) *Bonds Incontestable:* All bonds of the City having been issued and sold and having been

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delivered to the purchaser thereof shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall and after said exchange be incontestable.

(e) **Addition of ordinance:** The procedure for adoption of any ordinance relative to borrowing for capital improvements shall be:

(1) A copy of the proposed ordinance shall be furnished to each member of the City Council, the City Attorney and any citizen of the City upon request to the City Secretary, at least three days before the date of the meeting at which the ordinance is to be considered.

(2) Any ordinance relative to borrowing for capital improvements may be adopted and finally passed at the meeting at which it is introduced.

(f) **Elections to authorize debt:** Notwithstanding any other provision contained in this Section 8.05 to the contrary, the Council shall be prohibited from incurring debt not payable from then current revenues unless a proposition therefor has been approved by the voters at a Special Election held for such purpose; provided, however, the Council shall be authorized to incur debt without the necessity of a Special Election if necessary due to an emergency or urgent public necessity, which emergency or urgent public necessity shall be expressed in the ordinance or resolution authorizing such debt.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

**State law references:** Fiscal powers, V.T.C.A., Local Government Code § 101.002; bonds, Vernon's Ann. Civ. St. art. 707 et seq.

**Sec. 8.06. Lapse of appropriations.**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

**Sec. 8.07. Administration of budget.**

(a) **Payments and obligations prohibited:** No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriations and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and he/she shall also be liable to the City for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

(b) **Financial reports:** The City Manager shall submit to the Council each month a report detailing the financial condition of the City by budget amount versus fiscal year to date amount. The financial records of the City shall be maintained in conformity with generally accepted

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accounting principles, as prescribed by the Governmental Accounting Standards Board.

(c) Independent audit: At the close of each fiscal year, and at such times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof in a summary form shall be placed on file in the City Secretary's office as a public record and in the Friendswood Public Library for the public's information.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

**Sec. 8.08. Purchasing.**

All purchases made and contracts executed by the City shall be made in accordance with the requirements of the constitution and statutes of the State of Texas.

**State law references:** Purchases, V.T.C.A., Local Government Code § 252.001 et seq.