

REPAIR AGREEMENT

Whereas, the City is a home rule municipal corporation situated in Smith County, Texas, incorporated and operating under the laws of the State of Texas.

Whereas, Gloria Smith is a person owning property in Smith County, Texas.

Whereas, Gloria Smith owns and controls the structures and the property located at Lot 13, City Block 6 Revere Place I (also known as 123 Smith Avenue), City, Texas (the “Property”).

Whereas, the Property consists of an occupied single-family structure.

Whereas, the condition of Property violates the Land Development Code and the Code of Civil and Criminal Ordinances of the City, including the following:

- a. Use of the Property for a purpose not permitted in R-7.5 zoning in violation of Section 52-10;
- b. Placement of outside storage on the Property in violation of Section 52-56; and
- c. Failure to maintain the Property free from refuse and junk in violation of Sections 33-20 and 33-21.

Whereas, these ordinances relate to:

a. the preservation of public safety, relating to the material or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing fixtures, entrances, or exits;

b. the preservations of public health or to the fire safety of a building or other structure or improvement;

c. dangerously damaged or deteriorated structures or improvements;

d. conditions caused by accumulation of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or

e. zoning that provides for the use of land or classifies a parcel of land according to the city's classification scheme.

Whereas, persons other than Gloria Smith and Property other than that of Gloria Smith's will continue to suffer from adverse impacts and risk substantial danger of injury unless Gloria Smith complies with these ordinances.

Whereas, the Property constitutes a nuisance.

Whereas, without resort to the legal system, the City and Gloria Smith desire to settle their dispute.

1. IT IS THEREFORE AGREED that Gloria Smith shall do the following:
 - a. Remove all refuse and outside storage, including furniture, household items, mattresses, children's toys, boxes, appliances, clothing, tools, trash, junk and plywood, from the Property on or before January 22, 2012;
 - b. Place the items in a licensed landfill on or before January 22, 2012;
 - c. Provide the City with proof of the disposal of these items on or before January 22, 2012;
 - d. Maintain the Property free from outside storage, junk, and refuse;

IT IS FURTHER AGREED that should Gloria Smith fail to remove the outside storage, refuse, and junk from the Property on or before January 22, 2012, that the City thereafter may enter the Property, remove all outside storage, junk, and refuse dispose of the items, and place a lien on the Property for the costs of removal.

IT IS FURTHER AGREED that thereafter, if Gloria Smith fails to maintain the Property free from outside storage, refuse, and junk, the City gives Gloria Smith seven days notice of the violation, and Gloria Smith fails to remove the materials, the City may enter the Property,

remove all outside storage, junk, and refuse dispose of the items, and place a lien on the Property for the costs of removal.

GLORIA SMITH HEREBY EXPRESSLY AGREES THAT IN CONSIDERATION OF THE FOREGOING, NEITHER THE CITY, TEXAS, ITS MAYOR AND CITY COUNCIL, EMPLOYEES, OFFICERS, AGENTS, OR VOLUNTEERS (TOGETHER ALSO THE "CITY") SHALL BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE SAVED AND HELD HARMLESS BY THE UNDERSIGNED FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY OR **DEATH** TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE CITY'S PERFORMANCE UNDER THIS AGREEMENT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF CITY, WITHOUT; HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE CITY UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. IT IS THE EXPRESSED INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE UNDERSIGNED TO INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF CITY'S OWN NEGLIGENCE, WHETHER THAT

NEGLIGENCE IS THE SOLE OR CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. THE UNDERSIGNED FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE, AND ON BEHALF OF CITY AND IN THE NAME OF CITY, ANY CLAIM OR LITIGATION BROUGHT IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR DAMAGE.

City will not file a civil suit pursuant to Chapters 54 and 211 of the Local Government Code against Gloria Smith regarding a condition of the Property (specifically mentioned in this agreement) unless Gloria Smith fails to comply with this agreement. Gloria Smith further agrees that if she fails to comply with any provision of this agreement, the City may file suit and obtain, in addition to the other remedies provided by law, an order commanding Gloria Smith to comply with all provisions of this agreement including the repair and remedy of all items listed in this agreement.

Gloria Smith will make the exterior of the Property, including the backyard, available for inspection by the City at 9 a.m. on January 23, 2012 to determine compliance with this agreement, unless otherwise agreed to in writing by the parties hereto.

The City, through its agents, is authorized to enter the Property and inspect the exterior of the Property at anytime, with or without notice to Gloria Smith.

Gloria Smith warrants that she possesses and has allocated sufficient resources to complete or cause to be completed, within the deadlines in this Agreement.

Gloria Smith agrees to perform or cause to perform all work required by this agreement in a good and workmanlike manner utilizing quality materials and properly trained personnel and with all building permits required by law.

Gloria Smith warrants and acknowledges that nothing said or contained within this agreement is meant to be legal advice; that she understands that Senior Assistant City Attorney Jennifer Richie is not her attorney, and that she has had the opportunity to consult and hire an attorney prior to signing such document.

The City and Gloria Smith further agree to and acknowledge the premises of this agreement as mentioned above. There are no other agreements or conditions between the parties, besides the agreements mentioned in this document.

Gloria Smith further agrees that she will maintain the Property in compliance with all applicable codes and statutes.

Signed this the _____ day of _____, 201____.

Sam Mayor
Mayor, City

Gloria Smith
Owner, 123 Smith Drive, City, Texas
Phone Number: _____
123 Smith Drive
City, Texas 75ZZZ