

YOLANDA FORD
Mayor

VASHAUNDRA EDWARDS
Councilmember at Large Position No. 1

CHRIS PRESTON
Mayor Pro Tem
Councilmember at Large Position No. 2



REGINALD PEARSON
Councilmember District A

JEFFREY L. BONEY
Councilmember District B

ANTHONY G. MAROULIS
Councilmember District C

FLOYD EMERY
Councilmember District D

CITY COUNCIL MEETING AGENDA

Notice is hereby given of a meeting of the City Council of Missouri City to be held on **Monday, June 17, 2019, at 7:00 p.m.** at: **City Hall, Council Chamber, 2nd Floor**, 1522 Texas Parkway, Missouri City, Texas, 77489, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. PRESENTATIONS AND RECOGNITIONS

4. PUBLIC COMMENTS

An opportunity for the public to address City Council on agenda items or concerns not on the agenda—those wishing to speak must complete the orange comment card, present the comment card to the City Secretary prior to the beginning of the meeting, and observe a three-minute time limit.

5. STAFF REPORTS

(a) City Manager announcements.

(b) Report on impact fees.

6. CONSENT AGENDA

All consent agenda items listed are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a councilmember so requests; in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public review.

(a) Consider approving the minutes of the special and regular City Council meetings of June 3, 2019.

(b) Consider a request to rezone an approximate 8.7-acre tract of land from LC-2 local retail district to PD Planned Development District No.107; regulating and restricting the development and use of property within such PD Planned Development District; providing for an amendment to the Comprehensive Plan; and consider the related ordinance providing a penalty on the second and final reading. The subject site is located at the southwest corner of Lake Olympia Parkway and Vicksburg Boulevard.

(c) Consider an ordinance amending and continuing Article VII of Chapter 74, Parks and Recreation, of the Missouri City Code; amending and continuing the rules and regulations

pertaining to the standards of care for certain elementary-age recreation programs operated by the City of Missouri City; and consider the ordinance on the second and final reading.

7. PUBLIC HEARINGS AND RELATED ACTIONS

- (a) **Zoning Public Hearings and Ordinances** – *There are no Zoning Public Hearings and Ordinances on this agenda.*
- (b) **Public Hearings and related actions** – *There are no Public Hearings and related actions on this agenda.*

8. APPOINTMENTS

- (a) Consider appointing members to the Census Complete Count committee.

9. AUTHORIZATIONS

- (a) Consider authorizing the execution of a contract with an energy saving project company.
- (b) Consider authorizing the negotiation and execution of an agreement for energy retrofit project financing.
- (c) Consider authorizing a regional wastewater treatment facilities agreement between Missouri City and Sienna Plantation Municipal Utility District No. 1.
- (d) Consider authorizing the purchase and installation of datacenter edge switches.
- (e) Consider ratifying a contract with a tennis professional for the Parks and Recreation Department.
- (f) Consider authorizing the City Manager to negotiate and execute an interlocal agreement with Fort Bend County for a City-managed mobility project for Sienna Parkway intersection improvements.
- (g) Consider authorizing an abbreviated contract with K3 Resources, LP, for sludge hauling services.
- (h) Consider suspending Section 2-81 of the City Code of Missouri City and immediately reconsider authorizing the city manager to negotiate and execute a contract for the provision of external auditing services.

10. ORDINANCES – *There are no Ordinances on this agenda.*

11. RESOLUTIONS

- (a) Consider a resolution adopting rules governing the investment of funds of the City of Missouri City; and designating the assistant City Manager and the Financial Services Department Director to be responsible for the investment of City funds.
- (b) Consider a resolution amending the authorized representatives to the TexPool Local Government Investment Pool.

12. CITY COUNCIL ANNOUNCEMENTS

Discussion, review, and possible action regarding a meeting or activity of one or more of the following entities (each entity refers to a City of Missouri City entity unless otherwise indicated):

Charter Review Commission, Community Development Advisory Committee, Construction Board of Adjustments, Electrical Board, Parks Board, Planning and Zoning Commission, Tax Increment Reinvestment

Zone Boards, Fort Bend Chamber of Commerce, Houston-Galveston Area Council, Fort Bend Regional Council, Texas Municipal League, Fort Bend County, Harris County, Gulf Coast Building and Construction Trades Council, Mayor's Youth Commission, Finances and Services Committee, Fort Bend Leadership Forum, Fort Bend County Drainage District, Economic Development Committee, Missouri City Parks Foundation, Missouri City Police and Fire Auxiliary, Livable Community Committee, Texas Parkway Alliance, High Performance Organization Committee, Missouri City Juneteenth Celebration Foundation, Fort Bend County Mayor and Council Association, METRO, Planning, Development and Infrastructure Committee, Fort Bend Independent School District, Greater Fort Bend Economic Development Coalition, Transportation Policy Council, Community Development Advisory Committee, Veterans Memorial Committee, Missouri City Recreation and Leisure Local Government Corporation, Missouri City Development Authority, and the Greater Houston Partnership and Emergency Management updates.

13. CLOSED EXECUTIVE SESSION

The City Council may go into Executive Session regarding any item posted on the Agenda as authorized by Title 5, Chapter 551 of the Texas Government Code.

14. RECONVENE

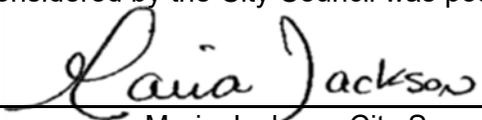
Reconvene into Regular Session and Consider Action, if any, on items discussed in Executive Session.

15. ADJOURN

In compliance with the Americans with Disabilities Act, the City of Missouri City will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 24 hours prior to the meetings. Please contact Maria Jackson, City Secretary, at 281.403.8686.

CERTIFICATION

I certify that a copy of the June 17, 2019, agenda of items to be considered by the City Council was posted on the City Hall bulletin board on June 13, 2019, at 4:00 p.m.



Maria Jackson, City Secretary

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the ____ day of _____, 2019.

Signed: _____

Title: _____



**Council Agenda Item
June 17, 2019**

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. PRESENTATIONS AND RECOGNITIONS**

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5. STAFF REPORTS

- (a) City Manager announcements.
 - (b) Report on impact fees.
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ANTHONY G. MAROULIS
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FLOYD EMERY
Councilmember District D

CITY COUNCIL SPECIAL MEETING MINUTES

The City Council of the City of Missouri City, Texas, met in special session on **Monday, June 3, 2019**, at the City Hall, Council Chamber, 1522 Texas Parkway, Missouri City, Texas, 77489, at **6:30 p.m.** to consider the following:

1. CALL TO ORDER

Mayor Ford called the meeting to order at 6:34 p.m.

Those also present: Mayor Pro Tem Preston, Councilmembers Edwards, Boney, Maroulis, and Emery; Assistant City Manager Atkinson, First Assistant City Attorney Way, Deputy City Secretary Berglund, and Director of Communications Walker. Absent: Councilmember Pearson, City Manager Snipes, City Attorney Iyamu, and City Secretary Jackson.

Councilmember Maroulis moved to relocate the special City Council meeting to the Council Conference Room. Councilmember Edwards seconded. **MOTION PASSED UNANIMOUSLY.**

2. DISCUSSION/POSSIBLE ACTION

(a) Consider the City's board, committee, and commission member appointments and reappointments.

Assistant City Manager Atkinson and Deputy City Secretary Berglund presented on the City's board, committee, and commission member appointments and reappointments.

Councilmember Maroulis moved to appoint Daniel Silva to the Construction Board of Adjustments & Appeals, Position 5. Councilmember Emery seconded. **MOTION PASSED UNANIMOUSLY.**

Councilmember Emery moved to appoint Kevin Mondshine to the Electrical Board, Position 3. Councilmember Maroulis seconded. **MOTION PASSED UNANIMOUSLY.**

Mayor Pro Tem Preston moved to appoint Monica Rasmus to the Planning and Zoning Commission, Position 6. Councilmember Boney seconded. **MOTION PASSED UNANIMOUSLY.**

City Council agreed to have the oath of office ceremony at the July 1, 2019 regular City Council meeting.

(b) Discuss and consider the Census Complete Count committee member appointments.

Assistant City Manager Atkinson presented. Councilmember Maroulis requested additional information to be provided to potential candidates. Atkinson stated he would provide Council with the requested information. Mayor Ford stated they would make appointments to the committee at the upcoming meeting.

3. ADJOURN

The special City Council meeting adjourned at 6:45 p.m.

Maria Jackson, City Secretary

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CITY COUNCIL MEETING MINUTES

The City Council of the City of Missouri City, Texas, met in regular session on **Monday, June 3, 2019**, at the City Hall, Council Chamber, 2nd Floor, 1522 Texas Parkway, Missouri City, Texas, 77489, at **7:00 p.m.** to consider the following:

1. ROLL CALL

Mayor Ford called the meeting to order at 7:00 p.m.

Those also present: Mayor Pro Tem Preston, Councilmembers Edwards, Boney, Maroulis, and Emery; Assistant City Manager Atkinson, First Assistant City Attorney Way, and Deputy City Secretary Berglund. Absent: Councilmember Pearson, City Manager Snipes, City Attorney Iyamu, and City Secretary Jackson.

2. The **PLEDGE OF ALLEGIANCE** was led by Director of Development Services Spriggs.

3. PRESENTATIONS AND RECOGNITIONS

Mayor Ford proclaimed the week of June 16-22, 2019, as "Juneteenth Week" in the City of Missouri City, Texas. Fire Chief Campbell presented on Hurricane Preparedness.

4. PUBLIC COMMENTS

Scott Mosely, 5515 Moss Meadow Court, spoke in support of the Veterans Memorial.

Ruben Amaya, 1214 Catskill Drive, thanked City Council for their support of the Veterans Memorial.

Don Smith, 2023 Hammerwood Drive, thanked City Council for their support of the Veterans Memorial.

Bruce Zaborovski, 7915 Chancel, spoke in regards to concerns in the Fonmeadow subdivision.

5. STAFF REPORTS

Assistant City Manager Atkinson provided updates on heavy rainfalls coming our way. He spoke about the re-grand opening of the Missouri City Library on June 1 and congratulated the 2019 Police and Fire Academy. Atkinson invited everyone to the following upcoming events: Car seat safety check on June 6, 2019; Summer Camp from June 10 – August 2; Senior Field Trip on June 12; beginner archery program June 12; and, a summer fit program on June 12.

6. CONSENT AGENDA

- (a) Consider approving the minutes of the special and regular City Council meetings of May 20, 2019.

Councilmember Boney moved to approve the Consent Agenda pursuant to recommendations by City Staff. Councilmember Edwards seconded. **MOTION PASSED UNANIMOUSLY.**

7. PUBLIC HEARINGS AND RELATED ACTIONS

- (a) **Zoning Public Hearings and Ordinances**

- (1) Public hearing to receive comments for or against a request to rezone an approximate 8.7-acre tract of land from LC-2 local retail district to PD Planned Development District No.107; regulating and restricting the development and use of property within such PD Planned Development District; providing for an amendment to the Comprehensive Plan; providing a penalty; and consider the related ordinance on the first of two readings. The subject site is located at the southwest corner of Lake Olympia Parkway and Vicksburg Boulevard.

Director of Development Services Spriggs presented on a request to rezone an approximate 8.7-acre tract of land from LC-2 local retail district to PD Planned Development District No.107. Spriggs noted the Planning and Zoning Commission forward a positive recommendation.

Councilmember Emery moved to open the public hearing at 7:22 p.m. Councilmember Maroulis seconded.
MOTION PASSED UNANIMOUSLY.

Councilmember Boney noted there was a PD request that would mimic this request and asked for the particulars on the existing PD. Spriggs added the parameters would be similar. Katy Goodrich, LJA Engineering, stated the schedule depends on demand.

Councilmember Boney moved to close the public hearing at 7:35 p.m. Councilmember Emery seconded.
MOTION PASSED UNANIMOUSLY.

Councilmember Boney moved to adopt the ordinance as conceptual. Councilmember Emery seconded.
MOTION PASSED UNANIMOUSLY.

(b) **Public Hearings and related actions**

- (1) Public hearing to receive comments concerning an ordinance amending and continuing Article VII of Chapter 74, Parks and Recreation, of the Missouri City Code; amending and continuing the rules and regulations pertaining to the standards of care for certain elementary-age recreation programs operated by the City of Missouri City; and consider the ordinance on the first of two readings.

Recreation Superintendent Browne presented an ordinance amending and continuing Article VII of Chapter 74, Parks and Recreation, of the Missouri City Code. Browne noted the ordinance would also lower the starting age for two positions.

Councilmember Boney moved to open the public hearing at 7:42 p.m. Councilmember Edwards seconded.
MOTION PASSED UNANIMOUSLY.

Councilmember Edwards moved to close the public hearing at 7:43 p.m. Councilmember Maroulis seconded. **MOTION PASSED UNANIMOUSLY.**

Councilmember Boney moved to adopt the ordinance as recommended. Councilmember Maroulis seconded. **MOTION PASSED UNANIMOUSLY.**

There were no **APPOINTMENTS.**

9. AUTHORIZATIONS

- (a) Consider authorizing the city manager to negotiate and execute a contract for the provision of external auditing services.

Director of Financial Services Portis presented on the request for qualifications and process for external auditing services.

Councilmember Boney asked the Finances and Services Committee for their thoughts and recommendations. Mayor Pro Tem Preston noted the presentation was not presented before the entire Council and he thought it would of benefit to do so. Furthermore, he stated he was in agreement with the firm selected. He added he believed Councilmember Pearson should be present to take action on this agenda item and requested to postpone the item. Councilmember Boney asked if any firms had done business with the City. Portis stated they only had an engagement with McConnell & Jones. Councilmember Maroulis inquired on the concerns if the vote was delayed. Portis stated if there was a vote at the next meeting, they could still negotiate a contract in July; however, if it was further delayed there would be concerns.

Councilmember Emery moved to authorize the city manager to negotiate and execute a contract for the provision of external auditing services with Weaver & Tidwell, LLC. Councilmember Maroulis seconded. **MOTION FAILED.**

Ayes: Councilmembers Boney, Maroulis and Pearson

Nays: Mayor Ford, Mayor Pro Tem Preston and Councilmember Edwards

Councilmember Boney asked if the vote were a tie would the agenda item be postponed for 90 days. First Assistant City Attorney Way stated that was correct. Mayor Pro Tem Preston stated he wanted to be considerate to his colleague. Boney noted Councilmember Pearson received the information to be considered at the meeting and nothing shared at the meeting was different. Councilmember Maroulis noted the committee and staff forward a positive recommendation on the firm and believed action should be taken tonight to move on with the Financial Services Department timeline. Councilmember Emery stated the committee approved Staff's recommendation during their meeting. Mayor Pro Tem Preston stated it was discussed and no vote was taken. Assistant City Manager Atkinson stated there was no vote but there was a positive recommendation.

Mayor Pro Tem Preston moved to delay the agenda item to the June 17, 2019 City Council meeting. Councilmember Edwards seconded. **MOTION FAILED.**

Ayes: Mayor Ford, Mayor Pro Tem Preston and Councilmember Edwards

Nays: Councilmembers Boney, Maroulis and Pearson

10. ORDINANCES

- (a) Consider an ordinance establishing temporary maximum speed limits and designating locations, dates and times for school zones located within the City for summer school; providing a penalty; declaring an emergency; and consider the ordinance on the first and final reading.

Councilmember Maroulis moved to adopt the ordinance. Councilmember Boney seconded. **MOTION PASSED UNANIMOUSLY.**

11. RESOLUTIONS

- (a) Consider a resolution designating authorized signatories for contractual documents and documents for requesting funds pertaining to the Community Development Block Grant-Disaster Recovery Program, Texas General Land Contract No. 19-076-016-B365.

Councilmember Boney moved to approve the resolution. Councilmember Emery seconded. **MOTION PASSED UNANIMOUSLY.**

12. CITY COUNCIL ANNOUNCEMENTS

Councilmember Maroulis attended the Houston United Soccer Camp and added it was a wonderful organization. He also attended the City's Kidfish event and thanked the Parks and Recreation Department

for all their efforts. Councilmember Boney congratulated the Wellcare Senior Center on their grand opening. Councilmember Emery hosted his District D Town meeting, thanked the Communications Department for their collaboration efforts, and noted the meeting we well attended.

13. ADJOURN

The regular City Council meeting adjourned at 8:05 p.m.

Maria Jackson, City Secretary



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

June 17, 2019

To: Mayor and City Council
Agenda Item: 6(b) - Southwest Corner Lake Olympia Parkway & Vicksburg Boulevard
Submitted by: Jennifer Thomas Gomez, AICP, Planning Manager

SYNOPSIS

This is the second and final reading of an ordinance to rezone an approximate 8.68 acre tract of land from LC-2, local retail district to PD, Planned Development District to allow for the development of commercial uses to include a convenience store with gasoline sales and to provide a general development plan; and to the extent such rezoning deviates from the Future Land Use and Character map of the Comprehensive Plan, to provide for an amendment therefrom.

The subject site is located at the southwest corner of Lake Olympia Parkway and Vicksburg Boulevard, north, east and west of the Olympia Estates residential subdivision and south of the Parks Edge residential subdivision.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Grow business investments in Missouri City
- Have quality development through buildout

BACKGROUND

The applicant seeks to rezone this property to a PD, Planned Development District to allow for uses permitted within the LC-2, local retail district and to allow for the location of a convenience store with gasoline sales.

The applicant has submitted a general development plan to allow for uniform development within the subject site.

Staff recommended approval and the Planning and Zoning Commission forwards a positive recommendation.

City Council approved the ordinance on first reading with no changes.

BUDGET ANALYSIS

Funding Source	Account Number	Project Code/Name	FY__ Funds Budgeted	FY__ Funds Available	Amount Requested
N/A					

Purchasing Review: N/A

Financial/Budget Review: N/A

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Ordinance
2. Ortho map
3. Notice of public hearing
4. Rezoning application protest letters analysis
5. Letters of protest from property owners within 200 feet of subject site (LOP 8.5, LP – Joel Scott)
6. Letters of protest from property owners outside of 200 feet of subject site (S. Gregg)

STAFF'S RECOMMENDATION

Staff recommends approval of the ordinance on the final reading.

Director Approval: **Otis T. Spriggs, AICP, Development Services Director**

**Assistant City Manager/
City Manager Approval:** **Bill Atkinson, Assistant City Manager**

ORDINANCE NO. O-19-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, CHANGING THE ZONING CLASSIFICATION OF APPROXIMATELY 8.7 ACRES OF LAND FROM LC-2 LOCAL RETAIL DISTRICT TO PD PLANNED DEVELOPMENT DISTRICT NO. 107; DESCRIBING SAID 8.7 ACRES OF LAND; REGULATING AND RESTRICTING THE DEVELOPMENT AND USE OF PROPERTY WITHIN SUCH PD PLANNED DEVELOPMENT DISTRICT; AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MISSOURI CITY; PROVIDING FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN; PROVIDING FOR REPEAL; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, Equity Trust Company, Custodian for the benefit of John N. Vatistas and Custodian, for the benefit of Francis Madia is the owner of approximately 8.7 acres of land within the corporate limits of the City of Missouri City, Texas (the "Property"); and

WHEREAS, the Property presently has a zoning classification of LC-2 local retail district under Ordinance No. O-01-47, adopted on September 17, 2001; and

WHEREAS, the owner's agent, Katy Goodrich of LJA Engineering has made an application to the City of Missouri City to change the zoning classification of the Property from LC-2 local retail district to PD Planned Development District No.107; and

WHEREAS, pursuant to Section 8.2 of the City of Missouri City Zoning Ordinance, said application was submitted to the City of Missouri City with proof of unified ownership or control of all of the Property; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Missouri City have each conducted, in the time and manner and after the notice required by state law and the City of Missouri City Zoning Ordinance, a public hearing on such proposed change in zoning classification; and

WHEREAS, the City of Missouri City Planning and Zoning Commission has issued its final report and the City Council of the City of Missouri City now deems it appropriate to grant such requested change in zoning classification; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. As required by law, the City Council of the City of Missouri City conducted the public hearing on the request for zoning reclassification and closed the public hearing prior to the final adoption of this Ordinance.

Section 3. The zoning classification of the Property is hereby changed from LC-2 local retail district to PD Planned Development District No. 107 (“PD No.107”). The Property is more fully described in the legal description in Exhibit “A,” attached hereto and made a part hereof for all purposes, and is depicted in Exhibit “A-1,” attached hereto and made a part hereof for all purposes. Exhibit “A-1” shall be for reference purposes only. In the event that Exhibit “A-1” conflicts with Exhibit “A,” Exhibit “A” shall prevail.

Section 4. The designation of PD No.107 shall be and is conditioned upon compliance with the following regulations and restrictions:

- A. Purpose.** The zoning regulations of PD Planned Development District No.107 herein are established in accordance with the Comprehensive Plan for the purpose of promoting the health, safety and general welfare of the City of Missouri City, Texas, and its inhabitants. Each regulation is designated to lessen congestion on the streets; to secure safety from fire, panic and other dangers; to facilitate adequate provisions for transportation; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; or to facilitate adequate provisions of water. PD Planned Development District No.107 will consist of commercial development with improvements designed to enhance suburban character of the surrounding area.
- B. Site Plan.** The planned development district shall be developed in accordance with the site plan, Exhibit “B,” attached hereto and made a part hereof for all purposes.
- C. District regulations.** Unless otherwise stated in this Ordinance, Appendix A, of the City Code of Missouri City, Texas (“City of Missouri City Zoning Ordinance”) shall apply and the LC-2 local retail district regulations contained in Subsection 7.11, LC-2 local retail district, of the City of Missouri City Zoning Ordinance shall apply to this planned development district. The City of Missouri City Zoning Ordinance and this Ordinance are intended to be read together. In the event that there is a conflict between the text of this Ordinance and the City of Missouri City Zoning Ordinance, the text of this Ordinance shall prevail. In PD Planned Development District No.107, no building, structure, or land shall be used and no building or structure shall be hereafter erected, reconstructed, altered or enlarged unless otherwise provided in this Ordinance.
- D. Use regulations.** The following uses shall be allowed:

 - 1. All uses permitted within LC-2 local retail district.
 - 2. Convenience store with the sale of gasoline use.
 - 3. All uses accessory to all permitted uses.
- E. Architectural standards.** Except as set forth herein, all buildings and structures constructed in the planned development district shall be constructed in accordance with Section 7A, Architectural Design Standards, of the City of Missouri City Zoning Ordinance.

1. Buildings shall be designed to incorporate architectural details that create shade and cast shadows.
 - a. Horizontal and vertical building planes shall transition through offsets, varied building materials, and varied colors and textures.
 - b. Facades that are greater than 100-foot in length shall incorporate offsets with a minimum of 5-foot depth and extend a minimum of 20 percent of total facade.
 - c. Facades fronting a public right-of-way are limited to a maximum of 100-foot length.

2. Materials. Notwithstanding any other part of this Ordinance or the Missouri City Code of Zoning Ordinance, exteriors of buildings' envelopes shall diverse in building materials. A minimum of 20 percent of exteriors of buildings' envelopes shall differ in materials.
 - a. Any portion of a building visible from the right-of-way must be a minimum of 50 percent brick or stone.
 - b. Only the following building materials are permitted:
 - i. kiln-fired clay brick,
 - ii. glass and aluminum framed glazing systems, such as curtain wall and storefront systems,
 - iii. natural stones in regular or random patterns, and
 - iv. a maximum of 50 percent of the aggregate area of a building's envelope may be stucco or plaster or a combination of stucco and plaster.
 - c. Unless it is demonstrated by the Property owner and the building official determines that concrete masonry unit (CMU) and concrete materials are architecturally significant, a maximum of 25 percent of the aggregated area of the exterior of a building's envelope may be constructed with CMU, concrete materials or a combination of CMU and concrete materials.
 - d. The following materials are prohibited from use within the project:
 - i. sun-dried or other unit masonry product, clay or otherwise, which is not kiln-dried,
 - ii. except for accent bands, lintels, cap stones, wall caps, moldings or other profiles used in conjunction with a natural field stone cultured or simulated stone; and
 - iii. exterior insulation finish systems (EIFS).
 - e. Only earth tone color materials and paint are permitted.

F. Landscaping regulations. Except as set forth herein, the landscaping regulations contained in Section 11, Landscaping, of the City of Missouri City Zoning Ordinance shall apply.

1. Buffer yards. For the purposes of this section, the measurement of buffer yards may include vehicular driveways and internal access easements, and pedestrian walkways.

- a. A minimum 20-foot-wide buffer yard shall be maintained continuously along property lines adjacent to public right-of-ways on the Property.
- b. A minimum 10-foot-wide buffer yard shall be maintained continuously along property lines adjacent to any access easement on the Property.
- c. Except as provided for in Section 4 F.1.a and b. of this Ordinance, a minimum 15-foot wide buffer yard shall be maintained continuously along of property lines within PD No.107.

2. Canopy trees.

- a. Canopy trees shall be planted and maintained at a minimum 4-inch caliper and a minimum 10-foot height, measured from the ground.
- b. Canopy trees may be planted in clusters or spaced linearly.
- c. A row of canopy trees shall be planted and maintained adjacent to the western property line of the Property as existing at the time of the effective date of this Ordinance, with 30- foot of space between each tree.

3. Shrubs.

- a. Shrubs shall be planted and maintained at a minimum of 36-inch in height and a maximum of 60-inch in height.
- b. A continuous screen of shrubs shall be planted and maintained between all parking areas and all right-of-ways and all easements.

G. Parking regulations. Except as set forth herein, the parking regulations contained in Section 12, Parking Regulations, of the City of Missouri City Zoning Ordinance shall apply.

1. Parking areas. All designated off-street vehicle parking areas and vehicle use areas shall be paved with concrete.
2. Driveway and access easements. Driveways and access easements shall be paved with a concrete surface or interlocking pavers, supported by a 6-inch reinforced tray and subgrade, which shall comply with City of Missouri City Public Infrastructure Design Manual.
3. Bicycles. Off-street parking areas for bicycles shall be provided within 50 feet of primary building entrances and shall include racks or other structures intended for parking bicycles.
4. Pedestrian. Pedestrian paths shall be provided to connect the primary building entrances to a minimum of one public sidewalk.

Section 5. The Zoning District Map of the City of Missouri City shall be revised and amended to show the zoning classification of said approximately 8.7-acre tract of land with

the appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of these changes.

Section 6. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Missouri City, save and except the changes in zoning classification described in Section 3 hereof and the imposition of the findings, regulations, restrictions and conditions contained herein.

Section 7. *Comprehensive plan deviation.* To the extent this Ordinance represents any deviation from the Future Land Use and Character map of the City of Missouri City Comprehensive Plan, such map is hereby amended to conform with this Ordinance.

Section 8. *Repeal.* Ordinance Number O-01-47, adopted by the City Council of the City of Missouri City on September 17, 2001, is hereby repealed only to the extent of conflict with this Ordinance. Any ordinance or any other part of any other ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

Section 9. *Penalty.* Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any provision of this zoning ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this zoning ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

Section 10. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 3rd day of June, 2019.

PASSED, APPROVED and ADOPTED on second and final reading this 17th day of June, 2018.

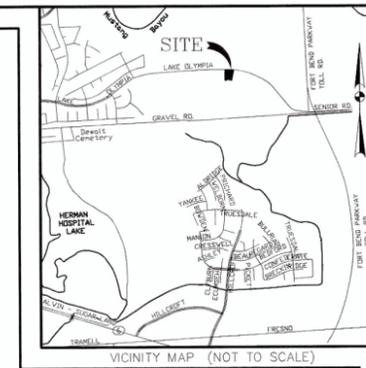
Yolanda Ford, Mayor

ATTEST:

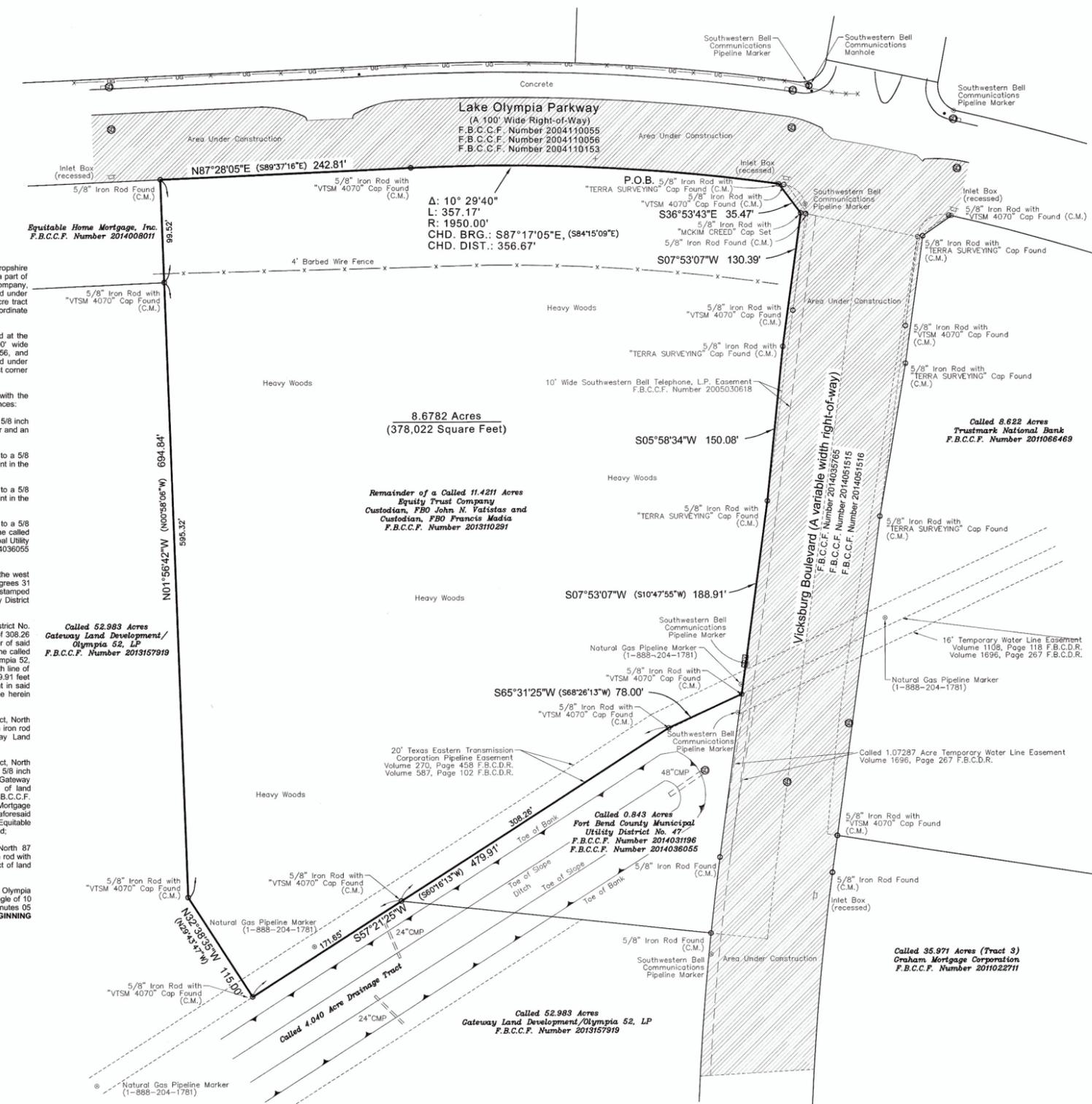
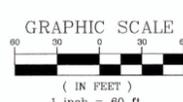
APPROVED AS TO FORM:

Maria Jackson, City Secretary

Jamilah Way, First Assistant City Attorney for
E. Joyce Iyamu, City Attorney



HICKS SHROPSHIRE SURVEY, ABSTRACT NUMBER 313



- Notes:**
- The survey shown hereon has been prepared as the result of an on-the-ground survey completed on May 29, 2015.
 - The bearings shown hereon are referenced to the Texas Coordinate System of 1983, South Central Zone. Harris County Flood Control District (TSARP) Reference Mark 010230 and City of Missouri City Survey Control Monument Numbers (#) 863, PCM-003, PCM-007, and PCM-008 were held fixed using their published horizontal and vertical values. All surface values shown may be converted to grid by applying by a combined scale factor of 0.999867579777.
 - The found monuments shown hereon indicated (C.M.) are controlling monuments on which this survey is referenced.
 - The recorded easements, setbacks and encumbrances shown hereon are from Schedule B of the commitment for title insurance issued by Fidelity National Title Insurance Company, GF No. 6712000951, effective date May 18, 2015, issue date June 2, 2015. The Surveyor has relied upon the accuracy and completeness of the information described above and has made no independent investigation or search for this information.
 - The above referenced title commitment lists the following restrictive covenants, mineral or other rights, or other encumbrances in connection with the property surveyed:
 - Waiver of Special Appraisal for the Benefit of Fort Bend County Municipal Utility District No. 48 as set out in instrument filed under Fort Bend County Clerk's File No(s). 2014015747.
 - Rights of parties in possession.
 - The following exception will appear in any policy issued (other than the T-1 R Residential Owner Policy of Title Insurance and the T-2R Short-Form Residential Mortgage Policy) if the Company is not provided a survey of the Land, acceptable to the Company, for review at or prior to closing.

Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the Land.

Note: Upon receipt of a survey acceptable to the Title Company, this exception will be deleted. The Company reserves the right to except additional items and/or make additional requirements after reviewing said survey.
 - Visible or apparent easement (s) and/or rights of way on, over, under or across the Land.
 - Any portion of the Land located within the boundaries of any roadway or highway.
 - Rights of tenants in possession, as tenants only, under unrecorded lease agreements.
 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Texas Eastern Transmission Corporation
Purpose: pipeline right-of-way easement
Recording No: Volume 270, Page 458, and amended in Volume 587, Page 102, both of the Deed Records of Fort Bend County, Texas.
 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

In Favor of: American Canal Company of Texas
Purpose: canal right-of-way easement
Recording No: Volume 746, Page 787 and Volume 746, page 807, both of the Deed Records of Fort Bend County, Texas.
 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Lexington Development Company
Purpose: Temporary Water Line Easement
Recording No: Volume 1108, Page 118 of the Deed Records of Fort Bend County, Texas.
 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Fort Bend County Municipal Utility District No. 47 and Fort Bend County Municipal Utility District No. 48
Purpose: Temporary Access Easement
Recording No: Volume 1696, Page 257 of the Official Records of Fort Bend County, Texas.
 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Southwestern Bell Telephone, L.P.
Purpose: easement for underground telecommunications facilities
Recording No: Clerk's File No. 2005030618 of the Official Public Records of Fort Bend County, Texas.
 - Interest in and to all coal, lignite, oil, gas and other minerals; and all rights incident thereto, contained in instrument recorded at Volume 71, Page 247, Volume 889, Page 57, Volume 889, Page 60, Volume 889, Page 63, and Volume 889, Page 309, all of the Deed Records of Fort Bend County, Texas, which instrument contains the following language "Mineral Deeds". Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).

- Notes Continued:**
- Lease for coal, lignite, oil, gas and other minerals, together with rights incident thereto, dated September 10, 1952, recorded at Volume 304, Page 334 of the Deed Records of Fort Bend County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
 - Lease for coal, lignite, oil, gas and other minerals, together with rights incident thereto, dated May 31, 1978, recorded at Volume 801, Page 841 of the Deed Records of Fort Bend County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
 - All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.
 - Memorandum of Contract executed by and between Lexington Development Company, a Texas limited partnership and Hermann Hospital Estate, a charitable trust created under the will of George H. Hermann.
- Recording No: Volume 1207, Page 156 of the Official Records of Fort Bend County, Texas.
- Terms, conditions and stipulations contained in that certain Ordinance No. 0-14-14, by the City of Missouri City, Texas as set out in instrument filed under Clerk's File No. 2014035766 of the Official Public Records of Fort Bend County, Texas.
 - If any portion of the proposed loan and/or the Owner's Title Policy coverage amount includes funds for immediately contemplated improvements, the following exceptions will appear in Schedule B of any policy issued as indicated:

Owner and Loan Policy (ies): Any and all liens arising by reason of unpaid bills or claims for work performed or materials furnished in connection with improvements placed or to be placed, upon the subject land. However, the Company does insure the insured against loss, if any, sustained by the Insured under this policy if such liens have been filed with the County Clerk of County, Texas, prior to the date hereof.

Loan Policy (ies) Only: Liability hereunder at the date hereof is limited to \$ 0.00. Liability shall increase as contemplated improvements are made, so that any loss payable hereunder shall be limited to said sum plus the amount actually expended by the insured in improvements at the time the loss occurs. Any expenditure made for improvements, subsequent to the date of this policy, will be deemed made as of the date of this policy. In no event shall the liability of the Company hereunder exceed the face amount of this policy. Nothing contained in this paragraph shall be construed as limiting any or any provision of this policy.

Legal Description

BEING a 8.6782 acre (378,022 square feet) tract of land situated in the Hicks Shropshire Survey, Abstract Number 313 in Fort Bend County, Texas, and being out and a part of the called 11.4211 acre tract of land described in deed to Equity Trust Company, Custodian, FBO John N. Valistas and Custodian, FBO Francis Media as recorded under Fort Bend County Clerk's File (F.B.C.C.F.) Number 2013110291, said 8.6782 acre tract being more particularly described as follows with bearings based on the Texas Coordinate System of 1983, South Central Zone:

BEGINNING a 5/8 inch iron rod with cap stamped "TERRA SURVEYING" found at the north cut-back corner at the intersection of Lake Olympia Parkway (a 100' wide right-of-way) as recorded under F.B.C.C.F. Numbers 2004110055, 2004110056, and 2004110153 and Vicksburg Boulevard (a variable width right-of-way) as recorded under F.B.C.C.F. Numbers 2014035765, 2014051515, and 2014051516 for the northeast corner of the herein described tract of land;

THENCE departing the south right-of-way line of said Lake Olympia Parkway with the west right-of-way line of said Vicksburg Boulevard the following courses and distances:

South 36 degrees 53 minutes 43 seconds East, a distance of 35.47 feet to a 5/8 inch iron rod with cap stamped "MCKIM CREED" set for the south cut-back corner and an angle point in the herein described tract of land;

South 07 degrees 53 minutes 07 seconds West, a distance of 130.39 feet to a 5/8 inch iron rod with cap stamped "TERRA SURVEYING" found for an angle point in the herein described tract of land;

South 05 degrees 58 minutes 34 seconds West, a distance of 150.08 feet to a 5/8 inch iron rod with cap stamped "TERRA SURVEYING" found for an angle point in the herein described tract of land;

South 07 degrees 53 minutes 07 seconds West, a distance of 188.91 feet to a 5/8 inch iron rod with cap stamped "VTSM 4070" found at the north corner of the called 0.843 of an acre tract of land described in deed to Fort Bend County Municipal Utility District No. 47 as recorded under F.B.C.C.F. Numbers 2014031196 and 2014036055 for the southeast corner of the herein described tract of land;

THENCE departing the west right-of-way line of said Vicksburg Boulevard with the west line of said Fort Bend County Municipal Utility District No. 47 tract, South 65 degrees 31 minutes 25 seconds West, a distance of 78.00 feet to a 5/8 inch iron rod with cap stamped "VTSM 4070" found for an angle point in said Fort Bend County Municipal Utility District No. 47 tract and the herein described tract of land;

THENCE continuing the west line of said Fort Bend County Municipal Utility District No. 47 tract, South 57 degrees 21 minutes 25 seconds West, passing at a distance of 308.26 feet a 5/8 inch iron rod with cap stamped "VTSM 4070" found at the west corner of said Fort Bend County Municipal Utility District No. 47 tract and an interior corner of the called 52.983 acre tract of land described in deed to Gateway Land Development/ Olympia 52, LP as recorded under F.B.C.C.F. Numbers 2013157919, continuing with the north line of said Gateway Land Development/ Olympia 52 tract, in all, a total distance of 479.91 feet to a 5/8 inch iron rod with cap stamped "VTSM 4070" found for an angle point in said Gateway Land Development/ Olympia 52 tract and the herein described tract of land;

THENCE with the east line of said Gateway Land Development/ Olympia 52 tract, North 32 degrees 38 minutes 35 seconds West, a distance of 115.00 feet to a 5/8 inch iron rod with cap stamped "VTSM 4070" found for an angle point in said Gateway Land Development/ Olympia 52 tract and the herein described tract of land;

THENCE with the east line of said Gateway Land Development/ Olympia 52 tract, North 01 degree 56 minutes 42 seconds West, passing at a distance of 595.32 feet a 5/8 inch iron rod with cap stamped "VTSM 4070" found at the northeast corner of said Gateway Land Development/ Olympia 52 tract and the southeast corner of the tract of land described in deed to Equitable Home Mortgage, Inc. as recorded under F.B.C.C.F. Numbers 2014008011, continuing with the east line of said Equitable Home Mortgage tract, in all, a total distance of 684.84 feet to a 5/8 inch iron rod with cap stamped "VTSM 4070" found for an angle point in said Equitable Home Mortgage tract and the northeast corner of the herein described tract of land;

THENCE with the south right-of-way line of said Lake Olympia Parkway, North 87 degrees 28 minutes 05 seconds East, a distance of 242.81 feet to a 5/8 inch iron rod with cap stamped "VTSM 4070" found for an angle point in the herein described tract of land and being the beginning of a curve to the right;

THENCE southeasterly, continuing with the south right-of-way line of said Lake Olympia Parkway and said curve to the right, having a radius of 1,950.00 feet, a central angle of 10 degrees 29 minutes 40 seconds, a chord which bears South 87 degrees 17 minutes 05 seconds East, 356.67 feet and an arc distance of 357.17 to the POINT OF BEGINNING and containing 8.6782 acres (378,022 square feet) of land.

Called 52.983 Acres
Gateway Land Development/
Olympia 52, LP
F.B.C.C.F. Number 2013157919

Remainder of a Called 11.4211 Acres
Equity Trust Company
Custodian, FBO John N. Valistas and
Custodian, FBO Francis Media
F.B.C.C.F. Number 2013110291

Called 8.622 Acres
Trustmark National Bank
F.B.C.C.F. Number 2011066469

Called 0.843 Acres
Fort Bend County Municipal
Utility District No. 47
F.B.C.C.F. Number 2014031196
F.B.C.C.F. Number 2014036055

Called 35.971 Acres (Tract 3)
Graham Mortgage Corporation
F.B.C.C.F. Number 2011022711

Surveyor's Certificate

To: Equity Trust Company and Fidelity National Title Insurance Company.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 5, 6, 9, 11(a), 13, 14 and 16 of Table A thereof. The field work was completed on May 29, 2015.

Date of Plat or Map: July 13, 2015

Jibrail K. Ahmad
Registered Professional Land Surveyor
Texas Registration Number 6183



- LEGEND:**
- ELECTRIC METER
 - FIRE HYDRANT
 - SANITARY SEWER CLEAN OUT
 - CLY WIRE
 - FAUCET
 - POWER POLE
 - SANITARY SEWER MANHOLE
 - STORM MANHOLE
 - SIGN
 - GAS METER
 - TEMPORARY BENCHMARK
 - WATER METER
 - WATER VALVE
 - TELEPHONE PEDESTAL
 - GAS VALVE
 - LIGHT POLE
 - IRRIGATION CONTROL VALVE
 - AT&T PULL BOX
 - GRATE INLET
 - PIPELINE MARKER
 - ELECTRICAL SERVICE LINE
 - BARB WIRE FENCE
 - WOOD FENCE
 - UNDERGROUND GAS LINE
 - REINFORCED CONCRETE PIPE
 - CORRUGATED PLASTIC PIPE

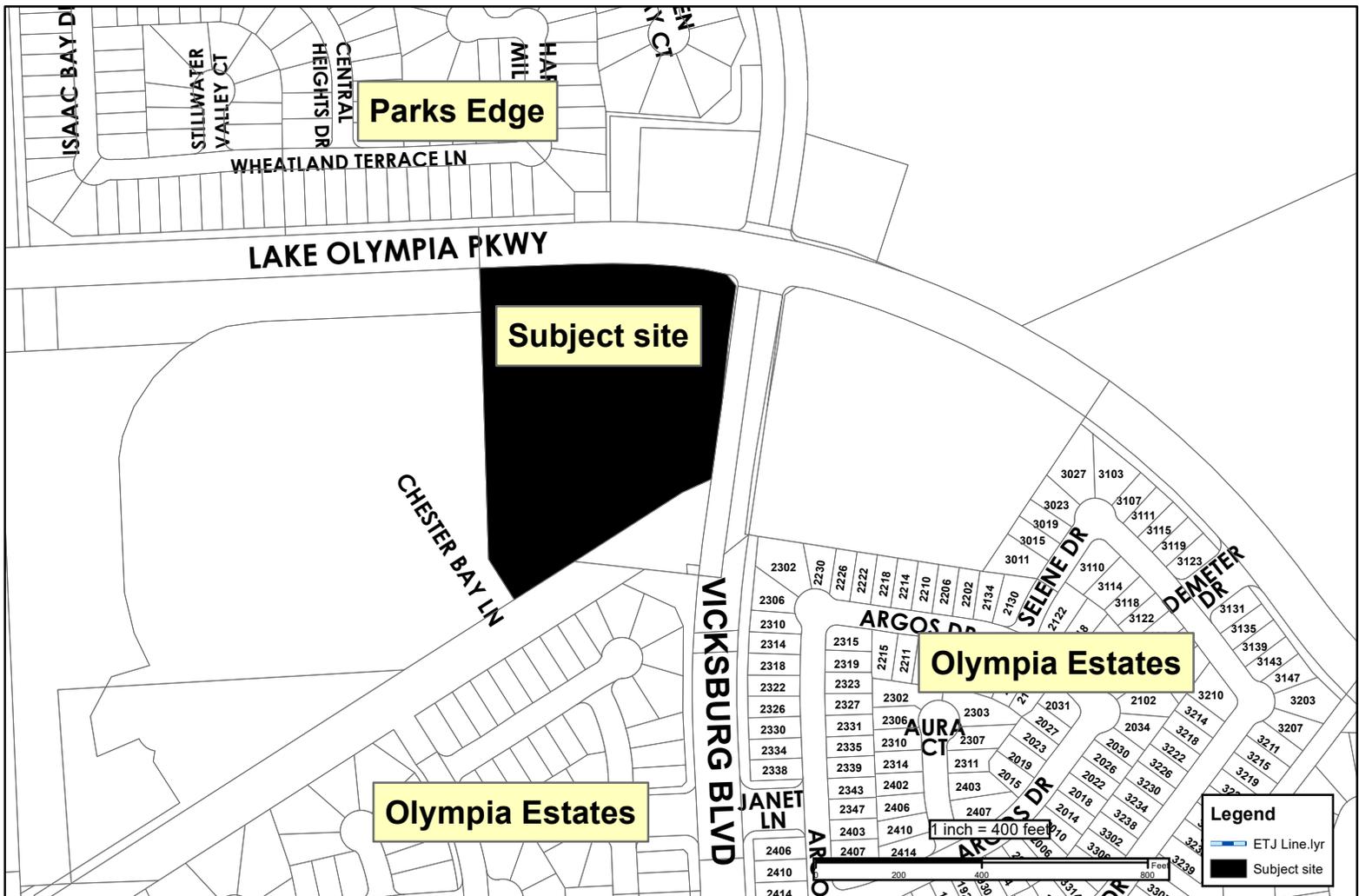
DATE	REVISION	INITIAL

MCKIM & CREED
ENGINEERS, SURVEYORS, PLANNERS
9960 West Sam Houston Parkway South, Suite 200
Houston, TX 77099
713.659.0021
www.mckimcreed.com
TBPIS Firm Registration No. 101776-00

The seal appearing on this document was authorized by Jibrail K. Ahmad, RPLS # 6183 on July 13, 2015. Alterations of a sealed document without proper notification to the responsible surveyor are an offense under the Texas Professional Land Surveying Practices Act. The record copy of this drawing is on file at the office of Mckim & Creed, Inc., 9960 West Sam Houston Parkway South, Suite 200, Houston, Texas 77099, TBPIS Firm Registration Number 101776-00.

ALTA/ACSM LAND TITLE SURVEY
OF 8.6782 ACRE TRACT,
IN THE HICKS SHROPSHIRE SURVEY,
ABSTRACT NUMBER 313
FORT BEND COUNTY, TEXAS

PROJECT #: 06920-001
PROJ. SVYR.: JIB AHMAD
DRAWN BY: J.K.A./G.A.H.
FIELD BK.: HOU 1169
COMP. FILE: SV-SURV-06920001
SHEET #: 1 OF 1
DATE: JULY 13, 2015
SCALE: 1" = 60'
DWG #: BNDRY-VICKSBURG
-06920001.dwg





The boundary lines for each COM designation are conceptual except for any proposed gas station which should be buffered from adjacent residential uses by LC-2, retail district uses.

Prepared For:
MARHABA PARTNERS
Reference Date: 01.10.19



Planning & Landscape Architecture
Land & Master Planning
Land Use/Feasibility Studies
Sustainable Design
Urban Design
Landscape Architecture

LJA Engineering, Inc.
2929 Briarpark Drive, Suite 600
Houston, Texas 77042-3703
713.953.5200
1070 Evergreen Circle, Suite 107
The Woodlands, Texas 77380
281.210.1750

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This exhibit is an illustrative representation for presentation purposes only and should not be used for computation or construction purposes. The information provided within should be considered a graphic representation to aid in determining plan components and relationships and is subject to change without notice. All property boundaries, easements, road alignments, drainage, flood plains, environmental issues and other information shown is approximate and should not be relied upon for any purpose. No warranties, express or implied, concerning the actual design, accuracy, location, and character of the facilities shown on this exhibit are intended.

Concept Plan Study for
LAKE OLYMPIA DRIVE TRACT
±8.7 Acres of Land
Missouri City, Texas
Project #: 1733-11001

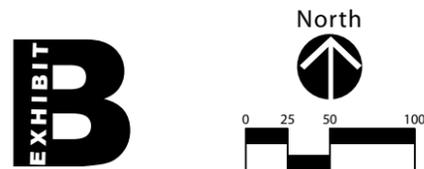


EXHIBIT B



Parks Edge

Subject site

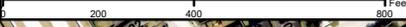
Olympia Estates

Olympia Estates

Legend

- ETJ Line.lyr
- Subject site

1 inch = 400 feet





City of Missouri City

NOTICE OF PUBLIC HEARING

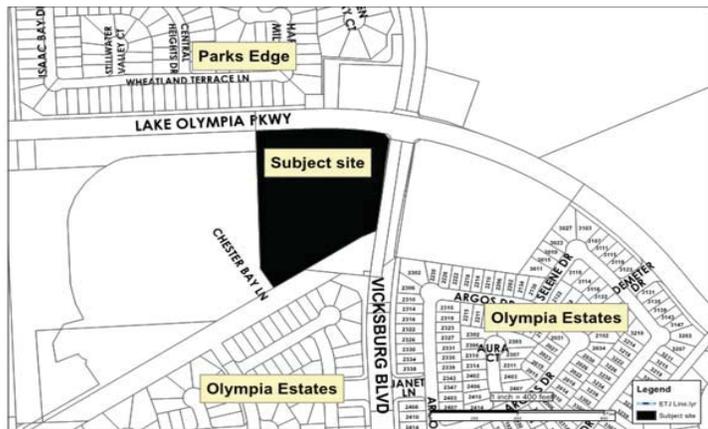
LOCATION/DATE: The City Council of the City of Missouri City will hold a public hearing on Monday, June 3, 2019, at the City Council Chambers – 2nd Floor, City Hall Building, 1522 Texas Parkway (FM-2234), Missouri City, Texas at 7:00 p.m.

PURPOSE: To receive comments for or against a request by Katy Goodrich, LJA Engineering to rezone an approximate 8.68 acre tract of land from LC-2, local retail district to PD, Planned Development District to allow for the development of commercial uses to include a convenience store with gasoline sales and to provide a general development plan; and to the extent such rezoning deviates from the Future Land Use and Character map of the Comprehensive Plan, to provide for an amendment therefrom.

SITE LOCATION: The subject site is located at the southwest corner of Lake Olympia Parkway and Vicksburg Boulevard, north, east and west of the Olympia Estates residential subdivision and south of the Parks Edge residential subdivision.

SITE LEGAL DESCRIPTION: The subject site can be described as being an approximate 8.6782 acre tract of land situated in the Hicks Shropshire Survey, A-313 in Fort Bend County, Texas, and being out of and part of the called 11.4211 acre tract of land described in deed to Equity Trust Company, Custodian, FBO John N. Vatisas and Custodian, FBO Francis Madia as recorded under Fort Bend County Clerk's File (F.B.C.C.F.) Number 2013110291.

FOR MORE INFORMATION: Additional information and a map of the subject site are available for review at City Hall, Missouri City, Texas on Monday through Friday from 8:00 a.m. to 4:00 p.m. You may call 281-403-8600 or email the Development Services Department-Planning Division at planning@missouricitytx.gov for further information.



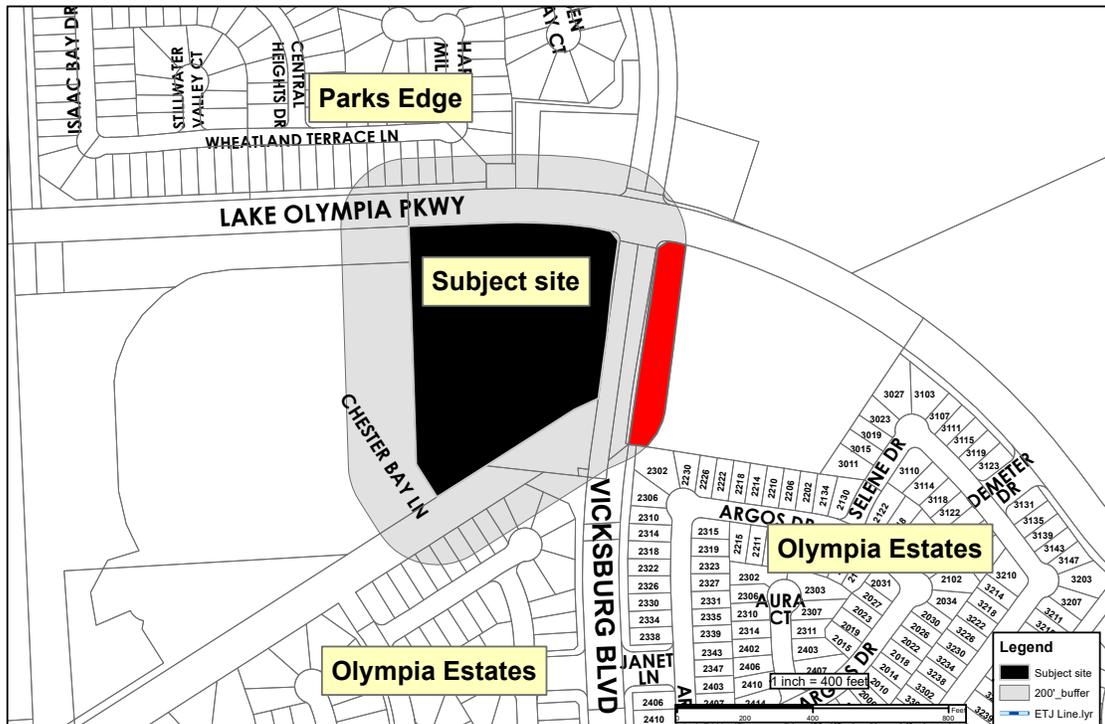
City of Missouri City, Texas
Development Services Department – Planning Division
Rezoning Application Protest Letters Analysis

Application: SWC Lake Olympia Pkwy & Vicksburg Blvd
City Council First Reading: June 3, 2019

Protest Letters Received

Name	Property Address OR Fort Bend County Account Number	Land Area (Square Feet) Within 200 Feet
LOP 8.5 LP (Joel R. Scott, Manager)	0313-00-000-0134-907	50,983.91
Total Area Represented by Protest(s):		50,983.91
Total Land Area <i>Including</i> Subject Site:		998,695.90
Subject Site <i>Only</i> Land Area:		378,100.80
Total Land Area <i>Only Within 200 Feet</i> of Subject Site:		620,595.10
Protest(s) Percentage of Land Area Within 200 Feet:		8%

Note: A total of 0 letters of support and 2 letters of protest have been received for the application request as of May 29, 2019.





DEVELOPMENT SERVICES – PLANNING DIVISION

1522 TEXAS PARKWAY

MISSOURI CITY, TEXAS 77489

April 26, 2019

CITY OF MISSOURI CITY, TEXAS
Planning and Zoning Commission

The Planning and Zoning Commission of the City of Missouri City will hold a public hearing:

Wednesday, May 8, 2019
City Council Chambers
2nd Floor, City Hall Building
1522 Texas Parkway (FM 2234); 7:00 PM

To receive comments for or against a request by Katy Goodrich, LJA Engineering to rezone an approximate 8.68 acre tract of land from LC-2, local retail district to PD, Planned Development District to allow for the development of commercial uses to include a convenience store with gasoline sales and to provide a general development plan; and to the extent such rezoning deviates from the Future Land Use and Character map of the Comprehensive Plan, to provide for an amendment therefrom.

This letter is being sent to property owners within 200' of the subject property as required by law. It is also sent to others on request.

Dear City Representatives:

I/We protest this proposed rezoning because having two (2) convenience stores right next to each other (on the same side of the street), would not be consistent with, and would be detrimental to the character of the neighborhood.

I/We support this proposed rezoning because

Sincerely,

Handwritten signature: Joel R. Scott LOP 8.5, LP by: Joel R. Scott, Manager

Signature

Print Name

Handwritten address: Southeast corner of Lake Olympia Parkway and Vicksburg Blvd.

Street Address

Subdivision

Phone Number

Return to:

Development Services Department
1522 Texas Parkway
Missouri City, TX 77489
FAX (281) 208-5551

The Texas Public Information Act provides the right of the public to access information that governmental bodies produce and how governmental bodies should respond. By submitting this letter to the City, the personal information included can be accessed by the public subject to this Act. Please print and sign your name below if you do not consent to the release of your personal information to the public.

Handwritten print name: Joel R. Scott

Print Name

Handwritten signature: Joel R. Scott

Signature

City of Missouri City, TX

Received

MAY 08 2019

Planning Division



DEVELOPMENT SERVICES – PLANNING DIVISION

1522 TEXAS PARKWAY

MISSOURI CITY, TEXAS 77489

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This letter is being sent to property owners within 200' of the subject property as required by law. It is also sent to others on request.

Dear City Representatives:

I/We protest this proposed rezoning because we do not believe that a "convenience store with gasoline sales" specifically, is consistent with the Future Land Use Plan, particularly given there is already a proposed C-Store located on the SE corner.
I/We support this proposed rezoning because

Sincerely, WIHA I, LLC
Joel R. Scott by: Joel R. Scott, Managing Member
Signature Print Name
Northwest corner of Lake Olympia Parkway and Parks Edge Blvd.
Street Address Subdivision
Return to: Development Services Department
City of Missouri City, TX
1522 Texas Parkway
Missouri City, TX 77489
Phone Number FAX (281) 208-5551
Received
MAY 08 2019
Planning Division

The Texas Public Information Act provides the right of the public to access information that governmental bodies produce and how governmental bodies should respond. By submitting this letter to the City, the personal information included can be accessed by the public subject to this Act. Please print and sign your name below if you do not consent to the release of your personal information to the public.

Joel R. Scott
Print Name Signature

* From a purely City Planning perspective, the appropriate corner for an additional convenience store with gasoline sales would be the Northwest corner of the same intersection.



DEVELOPMENT SERVICES – PLANNING DIVISION

1522 TEXAS PARKWAY

MISSOURI CITY, TEXAS 77489

April 26, 2019

CITY OF MISSOURI CITY, TEXAS
Planning and Zoning Commission

The Planning and Zoning Commission of the City of Missouri City will hold a public hearing:

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This letter is being sent to property owners within 200' of the subject property as required by law. It is also sent to others on request.

Dear City Representatives:

X I/We protest this proposed rezoning because Ground Level ozone caused by the gasoline fumes and CO from the car exhausts can extend up to 300 feet. Convenience stores can attract crime and undesirables. The lights from the stadium can be a nuisance at night when trying to rest.

I/We support this proposed rezoning because

Sincerely,

Handwritten signature of Sheari Gregg

Print Name: Sheari Gregg

Signature

Print Name

2306 Argos Drive

Olympia Estates

Street Address

Subdivision

Phone Number

Return to:

Development Services Department
1522 Texas Parkway
Missouri City, TX 77489
FAX (281) 208-5551

The Texas Public Information Act provides the right of the public to access information that governmental bodies produce and how governmental bodies should respond. By submitting this letter to the City, the personal information included can be accessed by the public subject to this Act. Please print and sign your name below if you do not consent to the release of your personal information to the public.

Print Name: Sheari Gregg

Signature: Handwritten signature of Sheari Gregg

City of Missouri City, TX

Received

MAY 08 2019

Planning Division



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 6(c) Ordinance amending and continuing the standards of care for certain City-operated recreation programs
Submitted by: Kevin Browne, Recreation Superintendent

SYNOPSIS

This is the second and final reading of a proposed ordinance amends and continues the standards of care previously adopted for elementary-age recreation programs operated by the City of Missouri City (the "City").

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live

BACKGROUND

This is the second and final reading of an ordinance required by State law for programs that operate at least two hours a day and three or more days a week for children aged five to thirteen to be licensed by the State. However, state law provides an exemption for programs operated by a municipality, provided the municipality annually adopts standards of care for such programs after a public hearing on the subject. The City has adopted an ordinance continuing or amending the City's standards of care for such programs since 2010. The standards were amended as recently as 2013 to specifically require program staff to be trained by the Director of Parks & Recreation and to specifically state that an annual inspection of each program site will be performed by the City's Department of Fire and Rescue Services.

Staff has asked that the existing ordinance be continued with an amendment lowering the minimum age for a program leader or coordinator from twenty-one to eighteen, and lowering the minimum age for program staff and volunteers from eighteen to sixteen. Accordingly, the existing standards with the proposed amendment are presented to City Council and the public for hearing and consideration.

SUPPORTING MATERIALS

1. Ordinance
2. Article VII, Chapter 74, Parks & Recreation, of the Missouri City Code with proposed changes

STAFF'S RECOMMENDATION

Staff recommends approval of the ordinance as amended.

Director Approval: Jason S. Mangum, Parks & Recreation Director

Assistant City Manager Approval: Bill Atkinson, Assistant City Manager

ORDINANCE NO. O-19-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING AND CONTINUING ARTICLE VII OF CHAPTER 74 OF THE MISSOURI CITY CODE; AMENDING AND CONTINUING THE RULES AND REGULATIONS PERTAINING TO THE STANDARDS OF CARE FOR CERTAIN ELEMENTARY-AGE RECREATION PROGRAMS OPERATED BY THE CITY OF MISSOURI CITY; PROVIDING FOR REPEAL; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, Section 42.041 of the Texas Human Resources Code exempts an elementary-age recreation program operated by a municipality from licensing by the Texas Department of Family and Protective Services, provided that such municipality annually adopts standards of care for such programs by ordinance after a public hearing; and

WHEREAS, Article VII of Chapter 74 of the Missouri City Code (“Article VII”) establishes rules and regulations pertaining to the standards of care for certain elementary-age recreation programs operated by the City of Missouri City (the “City”); and

WHEREAS, the standards of care set forth in Article VII are intended to be the minimum standards by which the City Department of Parks and Recreation will operate certain elementary-age recreation programs; and

WHEREAS, the City affirms its commitment to providing quality programs and activities to the residents of the City and determines that enacting this Ordinance is necessary for the protection of public health, public safety, public property and public peace; and

WHEREAS, a public hearing was conducted where all persons interested in speaking about amending said ordinance were afforded the opportunity to do so; and

WHEREAS, based upon the comments made during such public hearings and based upon the review conducted by City staff, the City Council now determines it to be in the best interest of the general public to amend the rules and regulations providing standards of care for certain elementary-age recreation programs operated by the City; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. That the facts and recitations set forth in the preamble of this Ordinance are hereby declared true and correct.

Section 2. The City Council of the City of Missouri City conducted a public hearing on continuing the rules and regulations providing standards of care for elementary-age recreation programs and closed the public hearing prior to the final adoption of this Ordinance.

Section 3. The Missouri City Code is hereby amended by deleting Section 74-222 of Division 3 of Article VII of Chapter 74 thereof and substituting therefor a new Section 74-222 of Article VII of Chapter 74 to provide as follows:

“CHAPTER 74 – PARKS AND RECREATION

ARTICLE VII. - ELEMENTARY-AGE RECREATION PROGRAMS

. . . .

DIVISION 3. - STAFF QUALIFICATIONS

. . . .

Sec. 74-222. - Minimum staff qualifications.

- (a) *Program coordinator.* A program coordinator may serve as a program leader. A program coordinator shall:
 - (1) Be at least 18 years of age; and
 - (2) Possess one of the following levels of experience and training:
 - a. Three years of community center service or recreational programming experience; or
 - b. A bachelor's degree from an accredited college or university with major course work in sports management, physical education, recreation, or a related field.
- (b) *Program leader.* A program leader may serve as a program coordinator. A program leader may be a city employee, contract worker, or volunteer of the department. The program leader is responsible for recommending, hiring, supervising and evaluating program staff. Each program site shall have at least one program leader who is 18 years of age or older present at all times.
- (c) *Program staff.* Except for volunteers, program staff shall be 16 years of age or older and trained by the director.
- (d) *Volunteers.* A volunteer shall be 16 years of age or older.”

Section 4. The City Council of the City of Missouri City herein determines that Article VII of Chapter 74 of the Missouri City Code as amended by this ordinance is continued and shall remain in full force and effect for one year, unless the City Council

of the City of Missouri City holds a public hearing and takes action to continue it for another year. Nothing herein shall affect the rights and duties that may mature or proceedings that may begin before the readoption of such ordinance.

Section 5. Repeal. All ordinances or parts of ordinances in conflict herewith, if any, shall be and are hereby repealed only to the extent of such conflict.

Section 6. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof, other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 3rd day of June, 2019.

PASSED, APPROVED and ADOPTED on second and final reading this 17th day of June, 2019.

Yolanda Ford, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

James Santangelo, Assistant City Attorney
for E. Joyce Iyamu, City Attorney

ARTICLE VII. - ELEMENTARY-AGE RECREATION PROGRAMS

DIVISION 1. - GENERALLY

Sec. 74-197. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them:

Elementary-age recreation program means a recreation program, including, but not limited to, a summer camp or an after-school activity that is offered by the city at least two hours a day and three or more days a week for a person five years of age to 13 years of age.

Parent means a parent or guardian who has legal custody and authority to enroll a person five years of age to 13 years of age in an elementary-age recreation program.

Participant means a person who is eligible to participate in an elementary-age recreation program and who has completed all required registration procedures to participate in such program.

Program coordinator means a city employee, contract worker, or volunteer of the department who has been assigned the responsibility of administering an elementary-age recreation program.

Program leader means a city employee, contract worker, or volunteer of the department who has been assigned the responsibility of implementing an elementary-age recreation program under this article.

Program manual means a document consisting of policies, procedures, required forms, and organizational and programming information relevant to city recreation programs.

Program site means an area or facility at which an elementary-age recreation program is operated.

Program staff means a person, including the program coordinator and the program leader, who has been hired or contracted, or a person who has volunteered, to work for the city who has been assigned responsibility for managing, administering, or implementing some or all portions of an elementary-age recreation program.

Standards of care means the standards of care for elementary-age participants set forth in division 4 of this article.

Secs. 74-198—74-211. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 74-212. - Implementation.

- (a) The director and program staff shall implement an elementary-age recreation program in compliance with the standards of care set forth in division 4 of this article.

- (b) A current copy of the standards of care and the program manual shall be available for the public and program staff at each program site. Program staff shall provide parents of participants a current copy of the standards of care during the elementary-age recreation program registration process.
- (c) The city shall not advertise an elementary-age recreation program under this chapter as a child-care facility. Program staff shall inform parents that an elementary-age recreation program offered by the city is not licensed by the state.

Sec. 74-213. - Inspection, monitoring, and enforcement of the standards of care.

The director shall establish deadlines and criteria for compliance with the standards of care. Criteria for compliance shall include the following requirements:

- (1) The program coordinator of each elementary-age recreation program shall:
 - a. Visually inspect each elementary-age recreation program site at least twice during the course of the program and provide the director with a written report detailing such inspection; and
 - b. Receive, record, and resolve complaints, and record the resolution of such complaints, regarding the enforcement of the standards of care.
- (2) The department shall retain each written report described by subsection (1) of this section for at least three years.
- (3) Program staff shall report suspected child abuse in accordance with the Texas Family Code.

Sec. 74-214. - Registration.

- (a) A parent of a potential elementary-age recreation program participant must register with the city by completing a registration application. The applicant shall supply the following:
 - (1) The participant's name, address, home telephone number, and date of birth;
 - (2) The name, address, telephone number during program hours of the participant's parent and a copy of photographic identification for that person;
 - (3) Emergency contact names and telephone numbers;
 - (4) The name, telephone number, and date of birth of each person to whom the participant may be released;
 - (5) A statement regarding the participant's special problems or needs;
 - (6) The participant's emergency medical authorization information, including the name and telephone number of the participant's doctor, and the participant's insurance information;
 - (7) A use of image release;
 - (8) A liability waiver;

- (9) A signed acknowledgement by the parent that the participant and the participant's parent have received and agreed to the program code of conduct; and
 - (10) A signed acknowledgment by the parent that the elementary-age recreation program is not licensed by the state as a child-care facility.
- (b) Each registration application must be accompanied by a copy of the potential participant's birth certificate.

Secs. 74-215—74-220. - Reserved.

DIVISION 3. - STAFF QUALIFICATIONS

Sec. 74-221. - Criminal background checks.

The city shall conduct a criminal background check on all elementary-age recreation program staff and on all prospective program staff members. Additionally, the city shall conduct a check of the state department of public safety database for the state sex offender registration program to determine whether each prospective program staff member is a registered sex offender. The city shall not employ or contract with an individual who poses, or who could potentially pose, a risk to the safety or health of elementary-age recreation program participants.

Sec. 74-222. - Minimum staff qualifications.

- (a) *Program coordinator.* A program coordinator may serve as a program leader. A program coordinator shall:
- (1) Be at least ~~21~~18 years of age; and
 - (2) Possess one of the following levels of experience and training:
 - a. Three years of community center service or recreational programming experience; or
 - b. A bachelor's degree from an accredited college or university with major course work in sports management, physical education, recreation, or a related field.
- (b) *Program leader.* A program leader may serve as a program coordinator. A program leader may be a city employee, contract worker, or volunteer of the department. The program leader is responsible for recommending, hiring, supervising and evaluating program staff. Each program site shall have at least one program leader who is ~~21~~18 years of age or older present at all times.
- (c) *Program staff.* Except for volunteers, program staff shall be ~~18~~16 years of age or older and trained by the director.
- (d) *Volunteers.* A volunteer shall be 16 years of age or older.

Sec. 74-223. - Training and orientation.

- (a) Program staff shall be familiar with the standards of care for elementary-age recreation programs as adopted by city council.
- (b) Each program leader shall train program staff with whom the program leader works in various areas, including the appropriate procedures to handle emergencies; city, department, and recreation program policies and procedures; safety procedures; elementary-age recreation program organization; and other areas as required by the director.

Secs. 74-224—74-230. - Reserved.

DIVISION 4. - STANDARDS OF CARE

Sec. 74-231. - Staff-participant ratio.

- (a) In an elementary-age recreation program, the ratio shall be a minimum of one staff person to 15 participants, based on average daily attendance.
- (b) At least one program leader shall be assigned to each program.

Sec. 74-232. - Discipline.

Program staff shall execute discipline and guidance as specified in the program manual and in a consistent manner based on the best interests of elementary-age recreation program participants.

Sec. 74-233. - Emergency communication.

- (a) Each program site shall have access to a telephone for use in contacting program staff or making emergency telephone calls. At each program site, the program coordinator shall post telephone numbers for the following parties near a telephone that is accessible to all program staff:
 - (1) Ambulance or emergency medical services;
 - (2) City police department;
 - (3) City fire department;
 - (4) Telephone number and address for said program site; and
 - (5) The Texas Poison Center Network.
- (b) The emergency contact names and telephone numbers for each participant shall be available to program staff.

Sec. 74-234. - Transportation safety standards.

All recreation program vehicles that transport participants shall be equipped with first aid supplies and a first aid and emergency guide. If such vehicles include seatbelts, participants shall wear seatbelts.

Sec. 74-235. - Program site facility standards.

- (a) Program staff shall inspect each program site weekly to check for sanitation and safety violations of the standards of care that might affect the health and safety of participants. If the results of such inspection indicate a violation that could impact the health or safety of a participant or program staff, program staff shall file a report detailing the violation and subsequent resolution of the violation with the program coordinator. The program coordinator shall coordinate the repair of the violation. Such report shall be kept on file with the program coordinator for at least three years.
- (b) The city shall inspect, clean, repair, and maintain the program site buildings and grounds to protect the health of participants.
- (c) The program leader shall inspect, clean, repair, and maintain the program site supplies and equipment to protect the health of participants.
- (d) Program staff shall make first aid supplies available at each program site at a designated location, while transporting participants, and for the duration of any off-site activity.

Sec. 74-236. - Fire safety standards.

- (a) It shall be the first priority of program staff to evacuate participants to a pre-designated safe area if a fire, the danger of fire, an explosion or some other fire emergency occurs.
- (b) The program coordinator shall:
 - (1) Coordinate an annual fire inspection performed by a city fire and rescue services department official of each program site and such official shall prepare a report detailing any safety concerns observed during such inspection and a timeline for compliance;
 - (2) Provide that each program site has at least one fire extinguisher readily available to all program staff;
 - (3) Coordinate the inspection of each fire extinguisher quarterly; and
 - (4) Initiate a fire drill at each program site at least once during each elementary-age recreation program.

Sec. 74-237. - Health standards.

- (a) *Illness or injury.* Program staff shall address illnesses and injuries in a manner that will protect the health of all participants and program staff members. Program staff will follow emergency procedures for injured participants or for participants with symptoms of an acute illness as specified by the program manual. Program staff will follow the recommendations of the state department of health services concerning the admission or readmission of any participant who has been diagnosed with a communicable disease. A doctor's note shall be required to allow a participant who has been diagnosed with a communicable disease to be readmitted to the program. Should program staff suspect that a participant may have a communicable disease, including, but not limited to, pink eye, lice, ring worm, strep throat, or a fever, the program staff shall ask the participant's parent to pick up the participant immediately.

CHANGES MARKED

- (b) *Administration of medication.* Program staff shall administer medication provided that:
- (1) A parent has completed and signed a medication dispensing release that provides authorization for program staff to dispense medication and details the quantity and time requirements for dosages. Such release shall include a hold harmless clause.
 - (2) Prescription medications are in the original containers labeled with the participant's name, a date, directions and the prescribing physician's name. Program staff shall administer the medication only as stated on the label.
 - (3) Non-prescription medications are labeled with the participant's name and the date the medication was brought to the elementary-age recreation program. Non-prescription medication must be in the original container. The program staff will administer medication only according to label directions and with written parental permission.
 - (4) Medications dispensed will be limited to those not requiring special knowledge or skills on the part of the program staff.
 - (5) Program staff shall not administer medication after the expiration date.
 - (6) Program staff will ensure medications are inaccessible to participants. If necessary, medications will be kept in a refrigerator.
- (c) *Toilet facilities.* Toilet facilities shall be located at each program site and equipped in a manner that allows a participant to use such facilities independently.
- (d) *Sanitation.*
- (1) An indoor program site shall have adequate light, ventilation, air conditioning and heat. Each program site shall have an adequate supply of water meeting the state department of health services' standards for drinking water. Water shall be supplied to participants in a safe and sanitary manner.
 - (2) Program staff shall remove garbage from each program site daily.
- (e) *Special needs.* The department shall make reasonable accommodations to address special needs participants. For health and safety reasons, a participant who has special problems or needs and who requires personal assistance, including personal assistance to eat, change clothes, or use the restroom, must provide an attendant for the duration of the program. Such attendant will be admitted to the program free of charge.



**Council Agenda Item
June 17, 2019**

7. PUBLIC HEARINGS AND RELATED ACTIONS

(a) **Zoning Public Hearings and Ordinances** – *There are no Zoning Public Hearings and Ordinances on this agenda.*

(b) **Public Hearings and related actions** – *There are no Public Hearings and related actions on this agenda.*



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 8(a) Consider Appointment of members to Census 2020 Complete Count Committee
Submitted by: Bill Atkinson, Assistant City Manager

SYNOPSIS

On March 18, City Council adopted a resolution supporting the United States Census Bureau by Creating a Census 2020 "Complete Count Committee" to provide the city with assistance and advice in obtaining the most accurate and complete population count in the upcoming decennial census.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Maintain a financially sound City
- Have quality development through buildout

BACKGROUND

At the June 3 Special Meeting, City Council discussed these appointments at the last special meeting and requested a single page overview of the committee and role of the members appointed. The one page synopsis was sent to council members on June 5.

In late 2018, the City has met with Ms. Dionne Roberts-Emegha of the 2020 Census to discuss the kick-off of the 2020 Census in Missouri City. The United States Census has been performed every ten years since 1790, with the last census conducted in 2010. It is important that our citizens participate in the Census since the decennial population count affects the amount of federal revenue distributed to the city for roads, schools, and other federal funding opportunities. In addition, an accurate population count within the city better plan and fund needed facilities based on population distribution.

To insure the highest level of participation, it is recommended the City appoint a Census 2020 Complete Count Committee. The appointment of a citizen based Complete Count Committee by the mayor and council will assist in the promotion, outreach, understanding and education regarding the 2020 Census prior to it beginning.

The suggested activities of the group include:

- Develop an action plan that support the taking of the census.
- Create ways to dispel myths and fears about privacy and confidentiality of data taken.
- Encourage corporations and foundations to become sponsors of census activates.
- Implement special events to generate interest and participation in the census.
- Plan a Census Day to promote community response.

Once appointed, the Census Bureau staff would come and train the committee members on their roles and responsibilities. This training would take place before the beginning of the year in order to train and prepare the group to provide information to residents about on-line census participation beginning in March. They suggest the citizen committee is not too large in order to keep it manageable. So, the proposed resolution

has there being fifteen (15) members of the committee. Further, it is recommended that the committee is representative of the demographic, religious, educational and cultural make-up of our community.

BUDGET ANALYSIS

Not applicable

Purchasing Review: N/A

Financial/Budget Review: N/A

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Proposed Resolution in support of creating a Complete Count Committee
2. Background information regarding the Complete Count Committee and Census 2020
3. Proposed Complete Count Committee Recommendations

STAFF'S RECOMMENDATION

Staff recommends appointments be made.

Director Approval: **Bill Atkinson, Assistant City Manager**

RESOLUTION NO. R-19-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, REPEALING AND REPLACING CITY OF MISSOURI CITY RESOLUTION NO. R-18-40, SUPPORTING THE UNITED STATES CENSUS BUREAU BY CREATING A CENSUS 2020 "COMPLETE COUNT COMMITTEE."

* * * * *

WHEREAS, the United States Census has been performed every ten years since 1790, with the last census conducted in 2010; and

WHEREAS, the City of Missouri City (the "City") decennial census population count directly affects the amount of federal revenue distribution within the city for roads, schools, libraries, senior centers, daycare centers, and hospitals; and

WHEREAS, an accurate population count within the City helps the governing body better plan and fund needed facilities based on populations within the City; and

WHEREAS, the City welcomes assistance and advice from community-based organizations, the public school districts, local businesses and the media in counting the entire local population within the City; and

WHEREAS, the more informed that the residents become about the 2020 census operations, the better their understanding of the census process becomes; thus, increasing their willingness to be part of the successful enumeration in 2020; and

WHEREAS, the United States Census Bureau ("Census Bureau") is required by law to protect information provided by particular individuals; and

WHEREAS, the Census Bureau is not permitted to publicly release responses furnished by any particular individual, or on behalf of an individual, or release information to other governmental agencies; and

WHEREAS, per the Federal Cybersecurity Enhancement Act of 2015, census data is protected from cybersecurity risk by screening the systems that transmit this data; and

WHEREAS, City residents may need the goods and services provided by local and state government, paid for in part by federal grants; and

WHEREAS, the City Council of the City of Missouri City desires to repeal and replace Resolution No. R-18-40, adopted on October 15, 2018, with this Resolution to set the "complete count committee" membership at a total of fifteen (15) members; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. A Census 2020 Complete Count Committee is established to serve in an advisory capacity to the City Council of the City of Missouri City.

Section 2. Name. The advisory committee shall be called the Complete Count Committee (Committee).

Section 3. Purpose. The Committee shall advise and assist the City of Missouri City in obtaining the most accurate and complete population count for Census 2020 by increasing the response rate through a focused, structured neighbor-to-neighbor program. The Committee will also utilize the local knowledge, expertise and influence of each Committee member to design and implement a census awareness campaign targeted to the community.

Section 4. Duties and Responsibilities. The Committee shall discuss and formulate strategies and techniques, working with the City of Missouri City staff and Census Bureau officials, to enhance and increase the City's response rate to Census 2020. The Committee shall be charged with the responsibility of planning and conducting local educational initiatives, including distributing posters flyers and handouts for use by the media and others. The Committee will prepare materials for public service announcements on radio, television, and on social media. Committee members may speak at forums and meetings to promote and inform others of the census. The Committee may identify census job candidates or distribute recruiting materials while also prompting the use of Spanish in the materials, and the Committee may identify space for "be counted sites" or questionnaire assistance centers.

Section 5. Membership. The Committee shall consist of a total of fifteen (15) members. The City Council of the City of Missouri City shall appoint the members. The Committee shall elect its own chair person.

Section 6. Time. The Committee shall serve from April 1, 2019, through June 30, 2020, at which time the Committee, having completed its work, shall dissolve. No resolution dissolving or rescinding the Committee is necessary. The members of the Committee shall serve for the duration of the Committee's existence. The City Council shall fill any vacancy on the Committee.

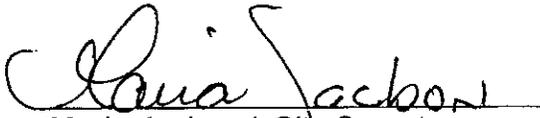
Section 7. Meetings. The Committee shall conduct all meetings in accordance with adopted City policies and procedures. The Committee shall meet at least every three months (quarterly) but may meet more often.

Section 8. Repeal. Resolution No. R-18-40, adopted on October 15, 2018, creating a census 2020 "complete count committee" is hereby repealed and replaced with this Resolution.

Section 9. The officers and employees of the City are hereby authorized and directed to execute such instruments and take such actions as are consistent with the provisions of this resolution.

PASSED AND APPROVED on first and final reading this 18th day of March, 2019.

ATTEST:


Maria Jackson, City Secretary




Yolanda Ford, Mayor

APPROVED AS TO FORM:


E. Joyce Ayamu, City Attorney



Missouri City 2020 Complete Count Census Committee Overview

The Complete Count Committee (CCC) is key to creating Census awareness in Missouri City

The 2020 Census provides an opportunity for everyone to be counted. Local governments like Missouri City, community based organizations, faith-based groups, schools, businesses, local leaders and more all play an important role in developing partners to educate and motivate residents for participation in the Census.

When community members are well informed and aware, they are more likely to respond to the census. Via our collaborative partnerships, the County can reach the shared goal of counting everyone in 2020.

Who is on the Complete Count Committee?

The Missouri City Complete Count Committee (CCC) is a volunteer group established by the City Council made up of community leaders to increase awareness and motivate residents to respond to the 2020 Census. CCC members serve as Census Ambassador and play an integral part in ensuring a complete and accurate count of the community. Success of the census depends on community involvement at every level. The U.S. Census Bureau cannot conduct the 2020 Census alone.

Roles – Serve as 2020 Census Ambassadors by increasing awareness and motivating residents to respond to the 2020 Census. Implement countywide 2020 Census Campaign that ensures a high response rate among all residents in the City.

Responsibilities:

1: Participation

- Actively participate on the Complete Count Committee
- Build knowledge about the importance of 2020 Census for Missouri City
- Work together to ensure that every Missouri City resident is counted
- Recruit and liaison with 2020 Census Partners
- Serve as a 2020 Census Ambassador

2: Subcommittee Leadership

- Organize, lead and/or participate on at least one subcommittee
- Note: there will be multiple subcommittees
- Work with subcommittee to develop an action plan to implement special events and activities.
- Work with subcommittee to develop a communication strategy which will encourage participation and overcome barriers
- Work with sub-committee to identify and focus on areas of the community that may need extra assistance or populations groups that are considered “hard to count.”

3: Build the Count

- Build on Census Bureau themes to build awareness and promote participation in Census 2020
- Participate in presentations, offer informational sessions, and other fun engagement activities with partners and other groups about the importance of the Census and why participation matters
- Work with partners and others to encourage full participation, with special emphasis on hard to count target communities
- Work collectively with the CCC, Partners, and others to ensure that every Missouri City resident is counted
- Encourage residents and households who don’t initially respond to cooperate with census takers

Proposed Complete Count Committee Recommendations

From Councilmember Maroulis

1. J.R. Atkins
2. Babu Thomas



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 9(a) Consider authorizing the negotiation and execution an Energy Savings Performance Contract.
Submitted by: Shashi K. Kumar, P.E., Public Works Director and City Engineer
Bill Atkinson, Assistant City Manager

SYNOPSIS

Consider authorizing the City Manager to execute an Energy Savings Performance Contract (ESPC) with NORESKO, LLC for the implementation of certain Energy Conservation Measures (ECMs) at city owned facilities and retrofitting of all street lights for conversion to LED throughout the City.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a Great Place to Live
- Maintain a Fiscally Sound City Government
- Have quality development through buildout

BACKGROUND

The city has determined it is in its best interest to develop a partnership with NORESKO, LLC in conjunction with Energy Savings Performance Contracting (ESPC). This is a method of financing that allows the city to complete energy-saving improvements within an existing budget by paying for them with money saved through reduced utility expenditures. The City makes no up-front investments and instead finance projects through guaranteed annual energy savings.

The real proof of ESPC success is in the actual performance of the measures. Performance is determined through an approved measurement and verification plan. This is a post-construction annual service contract that reports actual savings against savings guarantees. These services are paid with savings accrued from the project, but the City may amend or cancel these annual contracts depending on the project.

Two companies, NORESKO, LLC and OpTerra Energy Services offer similar services and were evaluated for this ESPC. After meeting with both the firms, city staff felt that NORESKO, LLC offered the most advantageous partnership and potential solutions to the City. NORESKO, LLC will contract with the City to offer assistance with infrastructure upgrade and utility savings to assist the city with off-setting the cost of the upgrade. NORESKO, LLC services are provided through the Interlocal Purchasing System (TIPS), so services from them do not require a competitive solicitation from the City as that requirement has been met through the use of the TIPS Cooperative (Local Government Code 271.102).

Over the past year, City's Public Works staff with oversight over city facilities and street lights has facilitated NORESKO's team to perform an analysis of City facilities and make recommendations as well as provide a Measurement and Verification for consideration. NORESKO performed an extensive analysis of 22 city facilities that included 12 city buildings, 7 park areas and conversion of all street lights to LED throughout the City. The total cost of the projects to be financed, including lighting, HVAC equipment and controls total approximately \$1,267,389. The payment terms will be 12 years with annual payments in arrears. These recommendations and ESPC were further evaluated by City Management with input from finance and legal departments.

In an effort to be very transparent and to ensure the best outcome for the City, the City contracted with a third-party firm to audit and analyze NORESKO's ESPC. This analysis was conducted by Edwards Energy Environmental & Waste Management & McKinstry. They found overall, the energy savings measures, methods of calculation and verification of savings for the improvements presented by NORESKO in the ESPC to be consistent with industry standards.

Below the table depicts NORESKO's estimated savings and costs to the city over the next 20 years for implementing the ECM's. It is anticipated that the savings from implementing this project will exceed the lease payments over the term of the lease, with the City retaining the full value of the savings upon lease completion. Within the Energy Savings Performance Contract, NORESKO, LLC will provide an energy savings guarantee, which will guarantee that the value of the energy savings realized will be such that the savings on an annual basis meet or exceed the program cost including any support services and savings measurement and verification cost over the contract term

Summary:

Total Guaranteed City Savings from Building Projects	\$1,969,543
Total Guaranteed City Savings Street Lights)	\$1,456,062
Total CenterPoint Rebate to City	\$19,000
Total Cost to City of Lease Repayment	(\$1,670,882)
Total Cost to City of Measurement and Verification Services	(\$ 69,080)
Net Cash Flow	\$1,704,644

Year	Guaranteed Savings		Centerpoint Rebate	Repayment of Lease	M&V Service	Total Cost	Net Cash Flow
	Buildings	Streetlights					
1	\$87,499		\$19,000	\$64,914	\$17,921	\$82,836	\$23,664
2	\$87,487			\$70,214	\$12,228	\$82,442	\$5,045
3	\$87,474	\$70,956		\$136,059	\$12,595	\$148,654	\$9,776
4	\$87,461	\$70,956		\$135,695	\$12,973	\$148,668	\$9,749
5	\$88,947	\$72,162		\$137,842	\$13,362	\$151,205	\$9,904
6	\$90,457	\$73,389		\$152,863		\$152,863	\$10,983
7	\$91,994	\$74,636		\$155,461		\$155,461	\$11,169
8	\$93,556	\$75,905		\$158,102		\$158,102	\$11,359
9	\$95,145	\$77,195		\$160,789		\$160,789	\$11,552
10	\$96,761	\$78,508		\$163,520		\$163,520	\$11,748
11	\$98,404	\$79,842		\$166,299		\$166,299	\$11,948
12	\$100,076	\$81,200		\$169,124		\$169,124	\$12,151
Subtotal	\$1,105,262	\$754,748		\$1,670,882	\$69,080	\$1,739,961	\$139,049
13	\$101,775	\$82,580					\$184,355
14	\$103,504	\$83,984					\$187,488
15	\$105,262	\$85,412					\$190,673
16	\$107,050	\$86,864					\$193,913
17	\$108,868	\$88,340					\$197,208
18	\$110,717	\$89,842					\$200,559
19	\$112,597	\$91,369					\$203,966
20	\$114,509	\$92,923					\$207,432
Totals	\$1,969,543	\$1,456,062		\$1,670,882	\$69,080	\$1,739,961	\$1,704,644

Over the next year or so, the City will be able to upgrade interior and exterior lighting through retrofitting and adding upgraded switching mechanisms. Further, by working with Centerpoint Energy, NORESKO has assured the City of LED lighting upgrades across the City. The LED conversion project is expected to commence between 3 to 6 months upon authorization and the entire project is estimated to be completed by spring 2020. In addition to realizing cost savings, these proposed initiatives will ensure a more sustainable environment for

the City.

BUDGET ANALYSIS

Purchasing Review: Shannon Pleasant, CTPM - Procurement & Risk Manager

Financial/Budget Review: N/A

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Energy Efficiency Project - Building Summary
2. Third Party Consultant Review

STAFF'S RECOMMENDATION

Staff recommends authorizing the City Manager to execute an Energy Savings Performance Contract (ESPC) with NORESKO, LLC for the implementation of certain Energy Conservation Measures (ECMs) at city owned facilities and retrofitting of all street lights for conversion to LED throughout the City.

Director Approval:

Shashi K. Kumar, P.E.

**Assistant City Manager/
City Manager Approval:**

Bill Atkinson

MISSOURI CITY
ENERGY EFFICIENCY PROJECT
BUILDING SUMMARY

Building	ECM	Description
City-wide	LED Street Lights	Replace 3,535 existing street lights to LED
City Hall Complex	Interior Lighting	Upgrade 643 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 26 exterior lighting fixtures to LED
	HVAC Controls	Update scheduling and stricter temperature control
	HVAC Unit Replacement	Replace AHU 3 and AHU 5 at Development Services
	VFD Installations	Retrofit Existing AHU-1 and AHU-2 for variable volume operation at the Visitor Center
	Plug Load Controls	Install 15 plug load controllers
Municipal Court	Interior Lighting	Upgrade 453 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 28 exterior lighting fixtures to LED
	HVAC Controls	Update scheduling and stricter temperature control
	Plug Load Controls	Install 4 plug load controllers
Police Department	Interior Lighting	Upgrade 645 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 32 exterior lighting fixtures to LED
	Plug Load Controls	Install 3 plug load controllers
Recreation Center	Interior Lighting	Upgrade 170 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 20 exterior lighting fixtures to LED
	HVAC Controls	Update scheduling and stricter temperature control
	Plug Load Controls	Install 5 plug load controllers
Fire Station #2	Interior Lighting	Upgrade 84 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 15 exterior lighting fixtures to LED
Fire Station #3	Interior Lighting	Upgrade 105 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 21 exterior lighting fixtures to LED
Fire Station #4	Interior Lighting	Upgrade 105 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 21 exterior lighting fixtures to LED
Fire Station #5	Interior Lighting	Upgrade 23 interior lighting fixtures to LED
Animal Control	Interior Lighting	Upgrade 36 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 4 exterior lighting fixtures to LED
Parks & Building Maintenance	Interior Lighting	Upgrade 91 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 7 exterior lighting fixtures to LED
Street Building A	Interior Lighting	Upgrade 68 interior lighting fixtures to LED
Fleet Maintenance Building B	Interior Lighting	Upgrade 55 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 39 exterior lighting fixtures to LED
Signal Shop Building C	Interior Lighting	Upgrade 10 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 3 exterior lighting fixtures to LED
Bicentennial Park	Exterior Lighting	Upgrade 1 exterior lighting fixtures to LED
Buffalo Run Park	Interior Lighting	Upgrade 10 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 72 exterior lighting fixtures to LED
Hunters Glenn Park	Interior Lighting	Upgrade 6 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 42 exterior lighting fixtures to LED
Quail Green West Park	Exterior Lighting	Upgrade 16 exterior lighting fixtures to LED
Roane Park	Interior Lighting	Upgrade 3 interior lighting fixtures to LED
	Exterior Lighting	Upgrade 2 exterior lighting fixtures to LED
Traffic Control	Interior Lighting	Upgrade 26 interior lighting fixtures to LED
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Oyster Creek Bridge	Exterior Lighting	Upgrade 15 exterior lighting fixtures to LED
Park Beautification Area	Exterior Lighting	Upgrade 7 exterior lighting fixtures to LED

CASH FLOW (MAY 2019)



Year	Guaranteed Savings		Centerpoint	Repayment of Lease	M&V Service	Total Cost	Net Cash Flow
	Buildings	Streetlights	Rebate				
1	\$87,499		\$19,000	\$64,914	\$17,921	\$82,836	\$23,664
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4	\$87,461	\$70,956		\$135,695	\$12,973	\$148,668	\$9,749
5	\$88,947	\$72,162		\$137,842	\$13,362	\$151,205	\$9,904
6	\$90,457	\$73,389		\$152,863		\$152,863	\$10,983
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Totals	\$1,969,543	\$1,456,062		\$1,670,882	\$69,080	\$1,739,961	\$1,704,644



May 6, 2019

Attn: Jessica M. Kokes
Public Works Manager
City of Missouri City
1522 Texas Pkwy
Missouri City, TX 77489

Subject: NORESKO Energy Savings Performance Contract, Third (3rd) Party Energy Review

Dear Jessica,

We have completed our Third (3rd) Party Review of the Energy Savings Performance Contract as prepared by NORESKO for the City of Missouri City. The review was performed using the following documents provided by NORESKO:

- Attachment A – Property Description
- Attachment B – Scope of Services
- Attachment F – Guaranty of Energy Cost Savings
- Attachment J – NORESKO Installed Equipment
- Attachment K – Standards of Service
- CenterPoint CNP 8020 – Street Lighting Service

Overall, the energy savings measures, methods of calculation and verification of savings for the improvements presented by NORESKO in the documents provided for our review are consistent with industry standards. For the purpose of maintaining consistency with the naming conventions used in the International Performance Measurement and Verification Protocol (IPMVP) we have recommended changing the name of the M&V methodology for some of the measures. Attached is a Summary of Findings with documented recommendations/questions by Edwards Energy Environmental & Waste Management & McKinstry and subsequent response by NORESKO. Edwards Energy Environmental & Waste Management & McKinstry are satisfied with NORESKO's response. However, it is incumbent upon the City to make sure that the changes, as agreed to by NORESKO in this report, get included in the final revision to the contract.

We appreciate the opportunity to be of service to the City of Missouri City. If there are any questions, please feel free to contact me or Roger at 832.907.4130 or 832.602.7316.

Sincerely,

Sandra Edwards, CEM & Roger Larson P.E.
Edwards Energy Environmental & Waste Management & McKinstry

Cc: Shashi Kris Kumar, P.E., CFM
Will Travers, P.E.
Keith Chase
Matthew Johnson, LEED AP BD+C



Third (3rd) Party Energy Review – Summary of Findings NORESKO Energy Savings Performance Contract

The following questions are based upon Edwards Energy Environmental & Waste Management & McKinstry's review of the documents described in our cover letter; as discussed during a meeting with the City of Missouri City and NORESKO on Thursday April 25, 2019 and subsequent response from NORESKO on April 26, 2019.

ECM 3 – HVAC Replacement

Edwards Energy Environmental & Waste Management & McKinstry

Recommendations/Questions:

- Due to no Key Performance Indicator (KPI) being measured, change the name of the M&V plan from “Option A” to “deemed” or “stipulated”. This method is justifiable based on the anticipated energy savings.
- How did NORESKO estimate the cooling efficiency of the units being replaced?

NORESKO's Response:

- NORESKO concurred with the change in the name of M&V methodology.
- The two units in this measure are 19 years old. To determine their cooling efficiency at the time of installation, NORESKO pulled the original cutsheets based on manufacturer model numbers. Due to the age of these units, the industry standard for cooling efficiency degradation is 10%. To be conservative, NORESKO degraded the cooling efficiency for these units by 5%.

ECM 4 – VFD

Edwards Energy Environmental & Waste Management & McKinstry

Recommendations/Questions:

- Due to no Key Performance Indicator (KPI) being measured, change the name of the M&V plan from “Option A” to “deemed” or “stipulated”. This method is justifiable based on the anticipated energy savings.
- Provide additional description to the savings summary.
- What is existing unit drive horsepower and cfm?
- How is the existing outside air controlled?

NORESKO's Response:

- NORESKO concurred with the change in the name of M&V methodology.
- Savings summary: this ECM consists of the installation of VDSs on the supply fans of AHU-1 and -2 serving the large auditorium (single zone) and the installation of demand-controlled ventilation to reduce outside air when not in use. Additionally, adjusting temperature setpoints and occupied hours within the existing JCI Metasys BAS. The savings will result from reduced fan power, reduced outside air conditioning, tighter scheduling around occupied hours and higher temperature setpoints in the summer and cooler temperature setpoints in the winter. Both AHUs have chilled water and electric duct heaters.
- AHU- 1 is 5hp, 5,700 cfm. AHU-2 is 7.5 hp, 8,700 cfm.



- The outside air is currently controlled by a motorized damper that closes when the units are scheduled off. NORESKO visually observed the outside air damper and it is operational. The damper is controlled via the JCI Metasys BAS.

ECM 5 – Temperature Setpoint modifications for occupied/unoccupied periods

Edwards Energy Environmental & Waste Management & McKinstry

Recommendations/Questions:

- Due to no Key Performance Indicator (KPI) being measured, change the name of the M&V plan from “Option A” to “deemed” or “stipulated”. This method is justifiable based on the anticipated energy savings.
- How were the cooling/heating temperature setpoints established?
- What are the inputs to the energy savings calculations for this measure?

NORESCO’s Response:

- NORESKO concurred with the change in the name of M&V methodology.
- NORESKO worked with the City’s Facilities Superintendent, Bill Cronin, to establish the temperature setpoints. The occupied and unoccupied time periods were validated using a combination of logging data, existing BAS settings and site conditions. Table K-3 provides the final agreed upon schedules and temperature setpoints.
- The input values to the energy savings calculation included, in addition to the new temperature setpoints and occupancy periods:
 - o Heating type (hot water or electric) and associated efficiency
 - o Cooling type (chilled water or dx) and associated efficiency
 - o Fan horsepower
 - o Supply air cfm

ECM 6 – Plug Load Controllers

Edwards Energy Environmental & Waste Management & McKinstry

Recommendations/Questions:

- If BERT can provide a one-week sample measurement, for each appliance, of either usage period or power consumption that is typical of annual usage or power consumption, then Option A is a viable M&V methodology. If not, since no Key Performance Indicator (KPI) is being measured, change the name of the M&V plan from “Option A” to “deemed” or “stipulated”. This method is justifiable based on the anticipated energy savings.

NORESCO’s Response:

- NORESKO has decided to designate these savings as “deemed” due to the low value of the savings (less than 0.8% of total contract savings).

ECM 7 – Streetlights

Edwards Energy Environmental & Waste Management & McKinstry

Recommendations/Questions:

- As part of the incentive program, CenterPoint is stipulating the kwh consumption, both



before and after the lamp replacement. Thus, the only unknown about the energy and cost savings realized by the City of Missouri City as a result of this improvement measure, is the number of lamps and wattage replaced. Since NORESKO is providing a billing analysis to confirm this savings, the more robust M&V methodology, Option C, could be used rather than Option A. However, a statistically significant sample of bills would need to be reviewed. Either Option A or C is acceptable in this case.

NORESKO's Response:

- NORESKO will advise if their billing analysis will provide what is required for Option C.



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 9(b) Consider authorizing the negotiation and execution of an agreement for energy retrofit project financing.
Submitted by: Allena Portis, Director of Financial Services

SYNOPSIS

The City and Noresco will enter into an Energy Savings Performance Contract (ESPC) through which Noresco will develop and implement certain Energy Conservation Measures (ECMs) at facilities, which are owned and operated by the City. Staff is requesting the use of tax-exempt lease purchase financing for this project.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Maintain a financially sound City

BACKGROUND

The approval of an energy savings contract with Noresco, LLC is being requested under a separate cover as agenda item 9 (a). If approved, this contract requires an investment in equipment to generate energy savings. Staff is requesting the use of tax-exempt lease purchase financing for this project. This method of financing will enable equipment acquisition through installment payments with little or no upfront capital required. This arrangement treats the project as capital equipment owned by the financing organization and leased over a fixed term to the City. Upon termination, ownership transfers to the City.

It is anticipated that the savings from implementing this project will exceed the lease payments over the term of the lease, with the City retaining the full value of the savings upon lease completion. Within the Energy Savings Performance Contract, Noresco, LLC will provide an energy savings guarantee, which will guarantee that the value of the energy savings realized will be such that the savings on an annual basis meet or exceed the program cost including any support services and savings measurement and verification cost over the contract term.

The total cost of the project to be financed, including lighting, HVAC equipment and controls total approximately \$1,267,389. The payment terms will be 12 years with annual payments in arrears.

With the assistance of Noresco, LLC, a Request for Information (RFI) soliciting rates for a tax-exempt lease-purchase arrangement was issued to identify potential third party lessors Staff recommends negotiating with the lesser that provides the lowest cost financing to the City.

BUDGET/FISCAL ANALYSIS

The lease is to be structured so that the City will make no payments during the construction period, which is scheduled to end January of 2020. The lease payments and anticipated payments will be reflected in the FY2020 proposed budget.

Purchasing Review: Shannon Pleasant, CTPM - Procurement & Risk Manager

Financial/Budget Review: N/A

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Request for Information
2. Addendum # 1

STAFF'S RECOMMENDATION

Staff recommends approval of the agreement.

Director Approval: Allena Portis, Director of Financial Services

Assistant City Manager Approval: Anthony J. Snipes, City Manager

SECTION 1. DESCRIPTION OF PROJECT

Bids are due no later than: June 11, 2019 at 4:00 PM, Central Standard Time. (email response is acceptable)

Return bids to: Missouri City
1522 Texas Parkway
Missouri City, TX 77489

Attn: Allena Portis
Phone: 281-403-8614
Email: allena.portis@missouricitytx.gov
cc: wtravers@noresco.com

Lessee: Missouri City
Contractor: NORESKO

Type of Financing: Lease Purchase Agreement (Not Bank Qualified)
Amount of Financing: \$1,267,389 (estimated)
Construction Period: 7 months
Term of Payments: 12 Years
Frequency of Payments: Annual, in arrears
Jurisdiction: State of Texas

Description of Project: Contractor and Lessee intend to enter into an Energy Savings Performance Contract (ESPC) through which Contractor will develop and implement certain Energy Conservation Measures (ECMs) at facilities, which are owned and operated by the Lessee. A brief description of ECMs to be installed is included below. Lessee is interested in using tax-exempt lease purchase financing for the ESPC project. Lessee reserves the right to use capital contribution for all or part of the project. This is not a firm commitment that Lessee will enter into a lease purchase finance agreement.

Construction Schedule: It is expected that the ESPC will be executed on or before July 1, 2019. The Construction Period of the ECMs is expected to take approximately 7 months to complete and we estimate project completion in January 2020.

Guarantees: It is expected that Contractor will provide an Energy Savings Guarantee to its client under the ESPC, which will guarantee that the value of the energy savings realized will be such that the savings on an annual basis meet or exceed the program cost including any support services and savings measurement and verification cost over the contract term. Contractor will not guarantee that the Lessee will pay lease payments. Contractor will not indemnify the Lessor (or Assignor, as the case may be) that any lease payments will be made.

Description of Financing: Lessor will enter into a direct third party lease with Lessee. The respondent should assume that the risk of non-appropriations will apply to the Lease. Lessee requests that the respondent provide the ability to make payments to Contractor, Third Party Consultant and Bond Council. Any funds left in the Lease Purchase Agreement may be used at the discretion of Lessee.

Indicate the term your proposal shall be valid for a minimum of _____ days.

<u>ECMs to be Installed:</u>	<u>% of Total Project Cost</u>
Lighting	83%
HVAC Equipment & Controls	16%
Other	1%

SECTION 2. BID REQUIREMENTS & FORM OF BID

The respondent is required to provide the following information in the format prescribed below. Your response should be based on the information provided in Section 1. The lease is to be structured so that the Lessee will make no payments during the Construction Period. The full financing term is to be equal to the repayment term plus the construction period.

Interest Rate for Escrow Financing: For purposes of this section, please assume the following:

- The full value of the Lease proceeds will be funded into an escrow account simultaneous with the execution of the ESPC.
- Lessee will be required to make monthly progress payments to Contractor during the Construction Period, such payment to be made in arrears and to be based on the actual % of construction completed as of each month end.
- Interest earned during the escrow period will accrue to the benefit of the Lessee. Any net interest cost accumulated in the escrow account during the escrow period (Interest Expense Accrued less Interest Earned) will be added to the principal balance of the final take-down from the escrow account.
- Lessee will make no payments during the construction period. Upon receipt of required approvals by Lessee, the appointed Escrow Agent will be required to make monthly progress payments from the proceeds of the lease in the Escrow Account to Contractor during the Construction Period. Such payment to be made in arrears and to be based on the actual % of construction completed as of each month end.

Additionally, please provide index language should the lease not close and the escrow account not fund on or before the validity period.

Index: The Interest Rate quoted above must be based on the U.S. Government Treasury Note Index, as published in the Wall Street Journal or other financial index. You are required to indicate below the methodology that you have used to calculate the actual interest rate. This methodology will be the same methodology used to fix the interest rate at the time the lease is funded. You are required to use the most current Treasury Note Index (or equal) as published in the W.S.J. on June 7, 2019.

Prepayment Penalty: Lessee is very interested in understanding your prepayment penalties. The term of this agreement is 12 years from the completion of the construction. Lessee may elect to pay off this agreement at 5, 7 or 10 years. Please clearly describe your prepayment terms in the event Lessee desires to pay off this agreement at these intervals.

Estimated Construction Draw Schedule:

Month	% Complete	Progress Payment
Jul-19	10%	\$126,739
Aug-19	3%	\$38,022
Sep-19	3%	\$38,022
Oct-19	36%	\$456,260
Nov-19	32%	\$405,564
Dec-19	15%	\$190,108
Jan-20	1%	\$12,674
TOTAL	100%	\$1,267,389

Interest Rate for Escrow Financing:

Lessee is not
Bank-Qualified

Assume Index is
10 year T-Note

T-Note base rate = _____ %
Margin + or - = _____ %

Interest Rate = _____ %

Describe pre-payment terms:

MISSOURI CITY
ENERGY EFFICIENCY PROJECT
BUILDING SUMMARY

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Totals	\$1,969,543	\$1,456,062		\$1,670,882	\$69,080	\$1,739,961	\$1,704,644



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 9(c) Consider an amendment to the regional wastewater treatment facilities agreement between the City and Sienna Plantation MUD No.1
Submitted by: Daniel. McGraw, Utilities Manager

SYNOPSIS

In effort to continue regionalizing wastewater treatment as per the City's Wastewater Master Plan, the City, by agreement, will furnish wastewater treatment services to Sienna Plantation Municipal Utility District No.1 (SPMUD1). District agrees to install a force main, construct a lift station, and design and build the necessary expansion to accommodate future wastewater flows from SPMUD1.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Have quality development through buildout

BACKGROUND

As identified in the City's Wastewater Master Plan, the Regional Steep Bank Flat Bank Creek Wastewater Treatment Plant's (SBFB WWTP) ultimate capacity would be a four phased expansion, totaling 8.5 million gallons per day (MGD) of treatment capacity.

The first phase of this WWTP was constructed in 1999 with 1.5 MGD of wastewater treatment capacity in effort to reduce the number of wastewater plants in the City and provide for a more efficient and safer wastewater operation. Phase I regionalized First Colony MUD No. 9 and Fort Bend MUD No. 42.

In 2011, Phase II WWTP expansion was completed adding an additional 1.5 MGD of wastewater treatment capacity, giving the regional SBFB WWTP a total treatment capacity of 3.0 MGD. The Phase II expansion regionalized the following participants: Fort Bend MUD No. 115, Fort Bend MUD No. 129, Fort Bend MUD No. 149, and Fort Bend MUD No. 46.

In December, 2012 the City entered into an agreement with SPMUD 1 for design and construction of the Regional Force Main and Lift Station from Sienna Plantation North to SBFB WWTP to facilitate the regionalization effort. In December 2013, the City entered into an agreement with SPMUD 1 for the transfer of the 0.902 MGD Sienna North Wastewater Treatment Plant permit and reserved wastewater treatment capacity from SPMUD 1 to the City.

Currently, a design is underway for the Phase III expansion by SPUMUD 1 of SBFB WWTP by adding an additional 1.5 MGD of treatment capacity. With this proposed Phase III expansion, the SBFB WWTP is expected to have a total rated capacity of 4.5 MGD of capacity. This is a major improvement to the existing 3.0 MGD plant by converting the treatment mode from an "Extended Aeration" to a "Complete Mix design", which includes an upgrade in aeration and mixing to the existing 3.0 MGD plant and subsequent reduction in electrical consumption due to proposed upgrades. The expansion is expected to take nine months for design and a twenty-four months for construction.

The cost for proposed expansion from 3.0 MGD to 4.5 MGD is to be entirely funded by SPMUD 1 under the terms of the agreement (attached). All other participants will continue to retain their allocated share of capacity within this WWTP consistent with previous agreement (s). The proposed amendment to the regional wastewater treatment facilities agreement (attached) between the City and Sienna Plantation MUD No.1 outlines the terms and conditions pertaining to this proposed Phase III expansion.

BUDGET/FISCAL ANALYSIS

All costs associated with the proposed Phase III WWTP expansion shall be funded by SPMUD 1 per the terms of this agreement.

Purchasing Review: N/A

Financial/Budget Review: N/A

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Regional Wastewater Treatment Facilities Agreement
2. Exhibit C Service Area (Vicinity Map)
3. Exhibits A – G of the Regional Wastewater Treatment Facilities Agreement

STAFF'S RECOMMENDATION

Staff recommends City Council to consider an amendment to the existing regional wastewater treatment facilities agreement between the City and Sienna Plantation MUD No. 1 to facilitate expansion of the SBF B wastewater treatment plant from its current capacity of 3.0 MGD to 4.5 MGD in order to accept wastewater flows from the Sienna North service area.

Director Approval: Shashi K. Kumar

**Assistant City Manager/
City Manager Approval:** Bill Atkinson

REGIONAL WASTEWATER TREATMENT FACILITIES AGREEMENT

BY AND AMONG

THE CITY OF MISSOURI CITY, TEXAS

AND

SIENNA PLANTATION MUNICIPAL UTILITY DISTRICT NO. 1

THIS AGREEMENT, dated and entered into as of the ____ day of _____, 2019 (the "Effective Date") by and between the City of Missouri City (the "City"), a home-rule municipality of the State of Texas and Sienna Plantation Municipal Utility District No. 1, a conservation and reclamation district created pursuant to Article 16, Section 59, of the Constitution of Texas and operating pursuant to Chapters 49 and 54 of the Texas Water Code (the "District" or "Participant").

**WITNESSETH:
RECITALS**

WHEREAS, it has long been the policy of the Texas Commission on Environmental Quality ("TCEQ") to encourage the development of integrated, area-wide wastewater collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the State, it being an objective of the policy to avoid the economic burden to the people and the impact on the quality of the waters in the State which will result from the construction and operation of numerous small wastewater collection, treatment, and disposal facilities to serve an area when an integrated, area-wide wastewater collection, treatment, and disposal system for the area can reasonably be provided;

WHEREAS, in furtherance of such policy, the City has adopted the City of Missouri City Wastewater Treatment Master Plan for development of integrated, area-wide wastewater collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the City, and particularly the Steep Bank/Flat Bank service area defined therein;

WHEREAS, the City has previously entered into agreements with First Colony Municipal Utility District No. 9, Fort Bend County Municipal Utility District No. 42, Fort Bend County Municipal Utility District No. 149, Fort Bend County Municipal Utility District No. 129, Fort Bend County Municipal Utility District No. 115, Fort Bend County Municipal Utility District No. 46 to finance, construct, and operate the Steep Bank/Flat Bank regional wastewater treatment plant;

WHEREAS, the City is the coordinating entity to provide wastewater treatment services by owning, operating, and maintaining the Steep Bank/Flat Bank regional wastewater treatment plant together with whatever lift stations, trunk sewers, and other wastewater collection, treatment, and disposal facilities may be reasonably necessary to serve the District and other Participants within the specified Service Area;

WHEREAS, the City may enter into agreements similar to this Agreement with other conservation and reclamation districts or other political subdivisions now or hereafter created and operating within the Service Area;

WHEREAS, the District desires to contract with the City to treat wastewater collected by the District's Sanitary Sewage Collection Systems in accordance with the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations, and benefits in this Agreement, including the above recitals, the City and the District agree as follows:

ARTICLE I **DEFINITIONS**

Terms and phrases used in this Agreement, unless the context clearly shows otherwise, have the following meanings:

1. "Addendum" shall mean the Addendum to Regional Wastewater Treatment Facilities Agreement By and Among the City of Missouri City, Texas, and the Participants which had entered into agreements with the City for wastewater treatment services in the Regional Plant prior to the Effective Date.
2. "Agreement" shall mean this Agreement, including any amendments hereto, between the District and the City.

3. "Alternative Wastewater Treatment Services" shall mean the interim provision by the City for wastewater treatment services in emergency situations only in a manner other than as set forth in this Agreement.

4. "Annual Budget" shall mean the budget of anticipated expenditures for the Facilities which is to be prepared each year by the City pursuant to this Agreement.

5. "Bonds" shall mean any or all of the bonds, notes, certificates of obligation, or other obligations, as the case may be, issued by the City or District or other Participant to finance the Initial Phase, Phase II, Improvements, Regulatory Upgrades or Expansions to the Facilities.

6. "Capital Costs" shall mean all costs attributable to the acquisition and construction, replacement, enlargement, modification, or expansion of the Facilities necessary to make available wastewater treatment services to the Participants, including the District, and includes the Regional Plant, the Initial Phase, Phase II, the Phase III Project, Improvements, Regulatory Upgrades or Expansion or any parts thereof, any Oversizing Costs, and without limiting the generality of the foregoing, the term shall include design, permitting, land acquisition costs, costs of planning, obtaining all licenses, purchase of equipment, property, engineering, administrative, auditing, compliance with GASB 34 and GAAP Accounting, fiscal and legal expenses incurred in connection with the planning, development, acquisition and construction, replacement, improvement, enlargement, modification, and expansion of the Facilities or any part thereof, and any and all other costs and expenses relating to the foregoing.

7. "City" shall mean the City of Missouri City, Texas, or its authorized representative.

8. "Commercial Connection" shall mean any connection other than a Residential Connection and shall be computed based on equivalent Residential Connections pursuant to criteria established from time to time by the City and the TCEQ.

9. "Debt Service Requirements" shall mean and include, with respect to Bonds issued by the City or other source of funding provided by the City, the amount of funds sufficient to pay all financing costs, bond issuance expenses, capitalized interest, principal, interest, and redemption price on the Bonds, all sinking fund and/or reserve fund payments, including the costs of establishing such funds, trustees fees and expenses, and all payments required to fulfill the terms of any agreements or covenants made with the holders of any Bonds or negotiable instruments any persons on their behalf, the charges for which, when billed to a Participant, shall always be shown as a separate line item in the Monthly Charges.

10. "Design Engineer" shall mean the City engineer selected by the City or any successor professional civil engineer designated by the City to provide engineering services to the Facilities pursuant to this Agreement.

11. "District" shall mean Sienna Plantation Municipal Utility District No.1.

12. "District Engineer" shall mean Costello, Inc. or any successor engineer designated by the District.

13. "Effective Date" shall have the meaning provided in the preamble of this Agreement.

14. "Equivalent Connections" shall mean a unit of measurement for determination of the volume of Wastewater that is calculated to be discharged from various types of connections to a sanitary sewage collection system, including Residential Connections and Commercial Connections in the amount measured in gallons per day approved by the TCEQ.

15. "Expansion" shall mean any addition to the Facilities to increase capacity in order to meet needs of present or future Participants.

16. "Facilities" shall mean collectively the Initial Phase, Phase II, the Phase III Project, Transportation System, and any Expansions, Improvements or Regulatory Upgrades and all trunks, mains, lift stations, and other appurtenances owned by the City and necessary for the collection,

transportation, treatment, and disposal of Wastewater received from the District and all future Participants.

17. "Fiscal Year" shall mean the fiscal year of the City, currently the 12 month period commencing on October 1 of each year.

18. "Growth Projections" shall mean the estimation by a Participant of the future number and types of connections to the Participant's Sanitary Sewage Collection System based on projections of development to be served by the Participant at a specified time or over a specified period, the estimation of connections then being translated into the volume of Wastewater which the Participant expects to discharge into the Regional Plant by calculating projected total Equivalent Connections.

19. "Improvement" or "Improvements" shall mean any structure, facility or betterment to be added to the Facilities which benefits the Participants, such as an office building or wider access road and any repair, enlargement, extension, modification, or reconstruction of the Facilities to ensure efficient and economical operation.

20. "Industrial and Commercial Wastewater" shall mean the water-born solids, liquids, and/or gaseous wastes, other than Wastewater (as defined herein), resulting from any industrial, manufacturing, trade, business, commercial or food processing operation or process, or from the development of any natural resource, or any mixture of such solids, liquids or wastes with water or domestic sewage, as more particularly defined by the City's Wastewater Treatment and Collection Ordinance, as amended or supplemented from time to time; provided, however, any modification shall never be more restrictive than what is reasonably required for the Regional Plant to meet the Permits.

21. "Initial Participants" means First Colony Municipal Utility District No. 9 and Fort Bend County Municipal Utility District No. 42.

22. "Initial Phase" shall mean the first portion of the Facilities, which means the 1.5 MGD Regional Plant and the Transportation System.

23. "MGD" shall mean 1,000,000 gallons per day average daily flow.

24. "Monthly Charges" shall mean the payments to be made by each Participant, including District, to reimburse the City for all Operation and Maintenance Expenses, to provide for the Operation and Maintenance Reserve, and to pay any Debt Service Requirements, if applicable.

25. "Operation and Maintenance Expenses" shall mean all costs not specifically identified as Capital Costs and includes all fixed and variable costs and expenses incurred, directly or indirectly, in the operation and maintenance of the Facilities consisting of, without limit to, wages and salaries, chemicals, the purchase and carrying of stores, materials and supplies, measuring meters, power, supervision and administrative costs allocable to the operation or maintenance of the Facilities, engineering, testing, audits of the various funds and accounts, waste disposal charges or assessments, claims, insurance for property damage and tortious or contractual liability, and all other items or expenses of a like or different nature reasonably required or desirable for the efficient maintenance and operation of the Facilities in full compliance with all current and future Regulatory Requirements and the performance of the provisions of this Agreement; repairs and replacements of damaged, worn-out, or obsolete equipment and components; the legal liability of the City to pay money to satisfy an arbitration award, administrative decision, settlement agreement, or court decision creating a judgment against the City as a result of a third party claim arising out of or incident to the construction, operation, or maintenance of the Facilities, including reasonable attorneys' fees and costs incurred in defending against same; and costs incurred in enforcing or defending the provisions of this Agreement, including reasonable attorneys' fees.

26. "Operation and Maintenance Reserve" shall mean, in addition to the Annual Budget for Operation and Maintenance Expenses, a reserve amount equal to twenty-five percent (25%) of

the estimated Operation and Maintenance Expenses in the Annual Budget to be funded in accordance with this Agreement.

27. "Oversizing Costs" shall mean all capital costs incurred by the City associated with the Facilities for various components that were required by the City to be oversized for the benefit of the Participants, including the District, and other future Participants and future phases of the Regional Plant, and are beyond what was necessary to meet the capacity requirements for the Initial Participants or the Phase II Participants or beyond what is necessary to meet the capacity requirements for all current Participants at the time such oversized component is constructed.

28. "Participant" or "Participants" shall mean and include the District and any other conservation and reclamation district or other parties within the Service Area which have entered into an agreement with the City for wastewater treatment services in the Regional Plant.

29. "Permits" shall mean any and all necessary permits, licenses, orders, and other governmental approvals from any local, state, federal or other agency that may now or hereafter have jurisdiction to authorize the City to provide Wastewater Treatment Services and to operate the Facilities.

30. "Phase II" means the expansion of the Regional Plant from 1.5 MGD to 3.0 MGD.

31. "Phase II Participants" shall mean Fort Bend County Municipal Utility District No. 115, Fort Bend County Municipal Utility District No. 129, Fort Bend County Municipal Utility District No. 149, and Fort Bend County Municipal Utility District No. 46.

32. "Phase III Project" shall mean the Expansion of the Regional Plant from 3.0 MGD to 4.5 MGD, as described in the Scope of Work shown on Exhibit "G" and more particularly detailed therein.

33. "Points of Delivery" shall mean the point or points at which the District Wastewater passes from its Sanitary Collection System into the Transportation System located at that certain

0.2003 acre tract owned by the District (Fort Bend Central Appraisal District Account No. 0077-00-000-1223-907), as more particularly identified on Exhibit "A" attached hereto.

34. "Regional Plant" shall mean all or any part of the permanent treatment system(s) or treatment facilities located on the Regional Plant Site, whether or not physically interconnected, which are constructed or acquired or provided by the City for treating and disposing of only Wastewater collected from the Service Area except as may be provided otherwise elsewhere in this Agreement, and any interest in real estate, and any Permit rights acquired in connection with such treatment system or facilities; together with such Expansions, Modifications and Regulatory Upgrades as may be required in the future or as may be necessary to comply with any Regulatory Requirements; all or any part of any permanent treatment system or systems whether on the Regional Plant Site or physically connected from which Wastewater Treatment Services are or will be furnished or made available to the District including any appurtenances or facilities used in connection therewith, such as laboratories, water quality monitoring stations and similar equipment and facilities. As used herein the term "Regional Plant" shall mean such facilities in the size and capacity existing at any given point in time. Except as may be expressly provided elsewhere in this Agreement, "Regional Plant" shall not include any sewage treatment plant, lines, lift stations or other facilities that serve land outside the Service Area.

35. "Regional Plant Site" shall mean the 18.4 acres, more or less, located in the Steep Bank/Flat Bank Service Area and as described further in Exhibit "B" attached hereto.

36. "Regulatory Requirements" shall mean all current and future requirements and provisions of any local, state, or federal law, and any Permits, rules, orders, or regulations issued or adopted from time to time by any regulatory authority, state, federal or other governmental entity or agency having jurisdiction over the construction or operation of the Facilities, including the discharge of Wastewater from the Regional Plant.

37. “Regulatory Upgrades” shall mean all improvements, repairs, enlargements, upgrades, additions, extensions, modifications and reconstruction of the Facilities to ensure efficient and economical operation and to comply with the Permits and all Regulatory Requirements.

38. “Reserved Capacity” shall mean the amount of capacity in the Regional Plant allocated to each Participant, including the District, pursuant to this Agreement.

39. “Residential Connection” shall mean a structure designed for residential use which has sanitary conveniences and which is connected to the District’s Sanitary Sewage Collection System. A single structure or part of a structure designed for residential use by a single family shall be deemed to be one residential connection. A duplex consisting of a single structure designed for residential use by two families shall be deemed to be two residential connections. Each unit of an apartment building or other structure of one or more units designed for residential use by a single family shall be deemed to be one residential connection. Each Residential Connection shall equal 320 gallons per day, average daily flow, but shall be subject to revision from time to time by criteria established by the City.

40. “Residential Wastewater” shall mean the combination of the water-carried wastes, exclusive of ground, surface, storm waters, and Industrial and Commercial Wastewater, normally discharging from the sanitary conveniences of dwellings, including apartment houses, hotels, office buildings, and institutions in which the average concentration of 5 day biochemical oxygen demand and total suspended solids does not exceed 220 mg/l. This phrase may be redefined from time to time by the City’s Wastewater Treatment and Collection Ordinance as such Ordinance is hereafter amended or supplemented; provided, however, any modifications shall never be more restrictive than what is reasonably required for the Regional Plant to meet the Permits issued by the TCEQ, the Environmental Protection Agency, or any governmental entity or agency having authority over the Regional Plant.

41. "Sanitary Sewage Collection System" shall mean the sanitary sewage collection system owned or to be constructed or acquired by the District including the sanitary sewers (but excluding storm sewers), manholes, intercepting sewers, pumping works, lift stations and all other plants, works and equipment for the collection and transportation of Wastewater to the Points of Delivery.

42. "Service Area" shall mean the area depicted on Exhibit "C" attached hereto and as may be adjusted from time to time by the City to include additional territory that may be feasibly served by the Facilities.

43. "TCEQ" shall mean the Texas Commission on Environmental Quality or any successor agency exercising any of its duties or functions.

44. "Total Capacity" shall mean the number of gallons per day of Wastewater which can be treated in the Regional Plant at any given point in time.

45. "Transportation System" shall mean the lift station and sanitary sewage force main, as more specifically identified in Exhibit "A" attached hereto, and all other works necessary to transport Wastewater from the Points of Delivery to the Regional Plant.

46. "TWDB" shall mean the Texas Water Development Board or any successor agency exercising any of its duties or functions.

47. "Wastewater" shall mean Residential Wastewater and Industrial Commercial Wastewater collected from the Service Area and transported through the Sanitary Sewage Collection System and/or Transportation System to the Regional Plant for treatment, together with such infiltration water as may be present.

48. "Wastewater Treatment and Collection Ordinance" shall mean the City's Resolution Adopting the City of Missouri City Wastewater Treatment Master Plan and Wastewater Treatment Service Policy, R-95-21, as amended or supplemented from time to time.

49. "Wastewater Treatment Services" shall mean any Wastewater treatment, disposal, or related services offered or furnished by the City to the Participants, including the District, by and through the operation of the Facilities as provided in this Agreement.

ARTICLE 2
CAPACITY

2.1. General Statement. The City has constructed the Initial Phase and Phase II of the Regional Plant and owns, operates, maintains, improves and expands the Facilities pursuant to this and similar agreements to provide an integrated, area-wide wastewater collection, treatment, and disposal system suitable to receive, treat, and dispose of Wastewater from Participants in the Service Area, including the District. The Regional Plant is constructed on a site in the Steep Bank/Flat Bank Service Area as further described in Exhibit "B," attached hereto. As of the date of this Agreement, the Service Area consists of approximately 6,305 acres located in Fort Bend County, Texas, near Highway 6 and FM 1092 and is entirely contained within the corporate and extraterritorial jurisdiction of the City of Missouri City as shown on Exhibit "C" attached hereto. The Regional Plant is being constructed in multiple phases. The objective is to maximize the utilization of the Regional Plant by minimizing unused capacity while meeting the growth and development projections of the Participants until the next planned phase of construction.

2.2. Reserved Capacity. The District and the City hereby agree the District shall have the right to deliver, subject to the terms and conditions of this Agreement, Wastewater at the Points of Delivery in the following average daily volumes:

<u>Participant</u>	<u>Reserved Capacity</u>
<u>District</u>	<u>1.5 MGD</u>

The District currently forecasts that such Reserved Capacity represents its ultimate capacity requirement for ultimate build out in the Service Area.. The Reserved Capacity is contingent upon the completion of the Phase III Project.

2.3. Notice of Need to Use Regional Plant. The District has commenced construction of a lift station and force main to the Regional Plant. The District anticipates that it will complete that project and begin delivery of Wastewater to the Regional Plant for treatment on or about July 1, 2019 (or such other date the District and the City may designate), which date shall be considered the “Delivery Date” as referenced in Section 7.3 herein.

Upon the Delivery Date and one year thereafter, the City agrees to accept at least 0.5 MGD of Wastewater from the District or such greater amount as may be approved by the City Utilities Manager. The District agrees that, until completion of the Phase III Project of the Regional Plant, the City can accept interim capacity in an amount as further described in Section 2.4. The District agrees to deliver such Wastewater from its Sanitary Sewer Collection System, acceptable for treatment under the terms of this Agreement, to the Point of Delivery and further agrees that it shall not, without obtaining prior written approval from the City, perform Wastewater treatment within its boundaries nor contract with a third party to perform Wastewater treatment for any land included within the Service Area. Pursuant to the Interim Capacity provided in Section 2.4, below, the City hereby approves the District providing Wastewater treatment at the Wastewater Treatment Plant No. 3 facility, as depicted in Exhibit “A”, until the completion of the Phase III Project.

2.4. Interim Capacity.

(a) Except as provided by Subsection 2.4(b), if the City determines that there is sufficient unused and available capacity in the Regional Plant to treat all or a portion of the amount of Wastewater proposed to be delivered by the District, the City shall allocate a portion of the unused and available capacity (“Interim Capacity”) in the Regional Plant to the District. The amount of

Interim Capacity will be determined by the City Utilities Manager and shall be delivered by the District in increments that can be treated without resulting in any violations of the permit limitations for the Steep Bank Flat Bank permit set by the Texas Commission on Environmental Quality. Upon commencement of Interim Capacity services, the District shall pay Monthly Charges as calculated pursuant to Article 7. In the event the City determines that all or any portion of the Interim Capacity of the District is required to serve the Initial Participants or the Phase II Participants, such Interim Capacity in the Regional Plant may be decreased or eliminated entirely. In such event, at the City's discretion, Wastewater Treatment Services to the District may be provided by one of the other available alternatives authorized by this Agreement. The District will retain the ability to treat 0.45 MGD of its existing Wastewater Treatment Plant No. 3 facility, as depicted in Exhibit "A", until the Phase III Project is in operation.

(b) The City's obligation to provide Interim Capacity is conditioned upon the District's expansion of the Regional Plant in accordance with Section 2.5 below. If the District fails to commence the Phase III Project or has not completed the construction of the Phase III Project (as defined below) within the timeframe established in Section 2.5, the City may refuse to provide or, if applicable, cease providing Interim Capacity and take further action as provided for below.

2.5. Expansion for District's Reserved Capacity.

(a) The District acknowledges, in order to provide the Reserved Capacity requested by the District herein, an Expansion of the Regional Plant will be required. The District's Wastewater treatment needs will require at least an additional 1.0 MGD of capacity in the Regional Plant at buildout, and the District shall commence design of a 1.5 MGD Expansion (the "Phase III Project") within thirty (30) days of the Effective Date. The Phase III Project shall constitute an Expansion of the Regional Plant from a design capacity of 3.0 MGD to 4.5 MGD. The District shall be the sole

Participant in the costs of Phase III Project. Any sale of unused capacity in the Phase III Project shall be governed by Section 10.7 of this Agreement.

(b) Notwithstanding any other provision of this Agreement, the District shall use all commercially reasonable efforts to complete the design of the Phase III Project within nine (9) months of the Effective Date and complete construction of the Phase III Project within twenty-four (24) months of the Effective Date. The time periods for the development of the Phase III Project will be extended if the project is delayed because of a force majeure event, as described in Section 14.4 of this Agreement. The City shall not unreasonably withhold approval of plans and specifications.

2.6. Site Construction. The City represents that it has the necessary land, easements and rights-of-way to accommodate the on-site requirements for the Phase III Project.

2.7. Permits. The City has acquired or will acquire in its name all Permits necessary to allow the Facilities to be constructed as contemplated in this Agreement. The District must apply for, fund, and obtain an amendment to the City's waste discharge permit for the Phase III Project. The City shall hold and continue to hold the Permits, and the City shall be responsible for obtaining all necessary amendments and renewals thereto, the costs of which shall be considered a part of the Operation and Maintenance Expenses; provided, however, the cost of any amendment necessitated solely because of an Expansion shall be included in the Capital Costs of such Expansion and payable solely by the parties participating in such Expansion. In efforts to mitigate exposure to Permit violations, the District and the District Engineer shall provide written plans that instruct the City Operator and City Utilities Manager on compliance of all Permits during the construction phase (the "Interim Operational Plan," or "IOP"). The City shall be afforded reasonable time to review and comment on the IOP prior to implementation, but the District shall determine the final IOP. Any Permit violations and resulting fines during the time of the Phase III Project shall be borne by the District only if (1) the City Operator and City Utilities Manager acted in accordance with the IOP

submitted by the District and District Engineer and (2) such violations and resulting fines resulted directly from the actions or recommendations of the District, or its contractor.

2.8. Design and Review. The Phase III Project will be designed to meet the then-current regulatory standards and to be consistent, as determined by the City, with the design of the existing Regional Plant and Facilities. The District and the City agree that the Design Engineer for any Expansion, Improvement, Regulatory Upgrade or other Facilities will be selected pursuant to the Professional Services Procurement Act. The District will not authorize an award of a construction contract without the consent of the City, which will participate in the review and selection process for Phase III Project construction contractors. If the District and the City cannot agree on the contractor to which to award the construction contract, the District will rebid the project, and the District's time for performance herein will be extended by the number of days between receipt of the rejected bids and receipt of the next round of bids. All design costs shall be included in the Capital Costs for such Expansion.

2.9. Oversizing. In order to accommodate the anticipated future growth and future development in the Service Area, the City may determine that it is necessary to incorporate certain components in an Expansion, Improvement or Regulatory Upgrade that are larger than necessary to serve the District and then current Participants in order to benefit future phases and future Participants.

Certain components of the Initial Phase and Phase II were oversized to accommodate future Participants, including the District, in future phases. The City agreed to construct the larger components as a part of the Initial Phase and Phase II and to finance such costs subject, however, to the District and any other future Participants that contract with the City for Reserved Capacity in the Regional Plant reimbursing the City their pro rata share of such components. Exhibit "D" attached hereto identifies the particular components affected and sets forth the estimated total cost of each

such component and the aggregate estimated cost thereof, which is reflected under the column designated "Oversizing Costs." The District's share of Oversizing Costs is \$471,202, and the District will pay the City for this capacity within forty-five (45) days of the earlier of (1) the date of receipt of a written invoice from the City for such costs or (2) the Delivery Date.

ARTICLE 3 **FINANCING**

3.1. Financing by the District. The District is solely responsible for financing the Oversizing Costs and the Phase III Project Capital Costs. The District hereby appropriates \$6,654,000.00 from the proceeds of its Series 2018 bonds and any other lawfully available funds for such purpose.

3.2. Financing by the City. If the District has properly requested it, the City shall provide financing to the District in such an amount as necessary to finance all of the District's pro rata share of the Capital Costs (other than the Phase III Project), including Oversizing Costs, after taking into account any capital contributions by the District. In the event the City issues Bonds for such financing, the City shall use its best efforts to sell its Bonds upon the best terms and at the lowest net effective interest rate available within the limits allowed by law, and with the lowest cost of issuance so as to achieve the greatest savings over the life of the Bonds. The District shall furnish the City with such financial information, data, projections and related information as may reasonably be required by the City in the sale of the Bonds to comply with all applicable laws, rules and regulations. Following sale of the Bonds, the City may furnish the District a schedule showing the payments required to pay all interest on, principal of, and contributions to reserves as provided in the Bonds as the same become due and payable.

The City may apply the proceeds of each series of Bonds first to make any required deposits to the interest and sinking funds for the Bonds in an amount sufficient to provide for the payment of debt service on such series of Bonds through the estimated date of completion of the phase of the

Facilities and to make any required deposit to the reserve funds. All remaining proceeds shall be used to pay costs of issuance of the Bonds and to be used to pay the other Capital Costs of the Facilities to which said bonded indebtedness relates. Any amounts remaining after completion of the phase of the Facilities to which such bonded indebtedness pertains shall be applied to pay debt service on the Bonds by calling and redeeming bonds prior to maturity and/or transferring such remaining amounts to the interest and sinking fund for the Bonds.

The City reserves the right to issue refunding bonds payable from the same source as the Bonds to refinance all or any portion of the Bonds outstanding, and no consent of any Participant shall be required so long as the issuance of such refunding bonds does not have the effect of increasing Debt Service Requirements.

3.3. District Payment to City. If the City issues Bonds in order to provide financing to the District for the District's pro rata share of the Capital Costs, Improvements, Regulatory Upgrades, or Expansion, the District shall pay for its pro rata share of the City's Debt Service Requirements as set forth in Article 7. The parties agree that any payments for Debt Service Requirements by the District to the City shall come from the proceeds of special ad valorem taxes legally voted for such purpose, from revenues derived from the operation of its waste works and sanitary sewer systems (as a part of the operation and maintenance cost of such systems), and from other legally available sources.

Unless otherwise specifically agreed to in writing, no Participant, including the District, recognizes any liability, nor will it be liable to pay any deficiencies in such proportionate share to be paid by any other requesting Participant or the City.

The District covenants and agrees that payments under this Section shall be made regardless of the status of construction of any subsequent Improvement, Expansion or Regulatory Upgrade and without setoff or counterclaim and, notwithstanding any other provisions of this Agreement, the

owners of City Bonds shall be entitled to rely upon the foregoing agreement and representation regardless of any other agreement between the City and the District.

It is specifically understood and agreed by the District that the City will be under no obligation to accept Wastewater from the District until the payments, or the District's agreement to pay as required by this Section have been made to the City.

ARTICLE 4 **CONSTRUCTION OF FACILITIES**

4.1. Construction of Phase III Project. Notwithstanding anything set forth in this Agreement to the contrary and inclusion of the Phase III Project within the definition of "Facilities" for all other purposes under this Agreement, the District is solely responsible for the design, construction, and financing of the Phase III Project. The City shall allow the District and its contractors to have access to the Regional Plant Site for all purposes necessary to the design or construction of the Phase III Project. The District shall construct the Phase III Project and any change orders for the Phase III Project in accordance with City standards, including, but not limited to, the City's Infrastructure Design Manual. The City must review the plans and specifications, including plans and specifications for change orders for the Phase III Project. The District shall obtain the City's consent, which shall not be unreasonably withheld, provided that such plans and specifications meet City standards, for such plans and specifications. The City may observe and comment on the construction at any time. The District will provide the City with a copy of any change order for the Phase III Project. The City will have ten (10) days to grant or withhold consent on any change order.

4.2. Construction Accounts. The City shall exercise its best efforts to cause construction of the Facilities, other than the Phase III Project, and of any additional Expansion, Improvement or Regulatory Upgrade to be completed strictly in accordance with plans and specifications relating to such project. Funds from the District may be expended by the City only to pay the cost and expenses

attributable to the Facilities, or any additional Expansion, Improvements or Regulatory Upgrade. The District agrees that upon request it will promptly supply the City with any additional funds which may be necessary to complete the construction; provided, however, that any proposed change orders requiring a capital contribution over \$5,000 from the District shall require prior written approval of the District, which approval will not be unreasonably withheld. Any funds remaining after payment of all such costs and expenses of the Facilities, additional Expansion, Improvements or Regulatory Upgrade shall be repaid to the District in proportion to its Participant share; including refunding of interest earned on investment of deposits, if any. Any provision in this Agreement providing for return of interest shall be subject to the provisions of state law concerning return to contractors of interest on retainage. The City's obligations hereunder to construct, expand, improve or upgrade the Facilities, other than the Phase III Project (which shall be the obligation of the District), shall be subject to its ability or the ability of its contractors to obtain all material, labor and equipment necessary for the construction thereof.

4.3. Engineering Data. The City shall at all times have access to all engineering data, plans, specifications and other engineering matters developed by the District's engineers, relating to the Facilities. During construction, the City shall have free access at all times to the project under construction and shall have available to them during normal business hours all construction records thereof. The District's engineers shall at all times have access to all engineering data, plans, specifications and other engineering matters developed by the City's engineers, including the Design Engineer, relating to the Facilities. During construction, District's engineers shall have free access at all times to the project under construction and shall have available to them during normal business hours all construction records thereof.

4.4. Payments and Contractor. The City shall comply with the laws relating to entering into contracts for the construction of the Facilities and any future Improvements, Expansion or

Regulatory Upgrade. Any monthly or other progress payments to contractors or suppliers shall be approved by the Design Engineer and the City's Director of Public Works and then paid by the City. The City shall make available to the District all records and information pertaining to the amounts paid for engineering services, contractors, and suppliers concerning construction of the Facilities.

ARTICLE 5 **OPERATION OF FACILITIES**

5.1. Standard of Operation. The City shall operate or cause the Facilities to be operated economically and efficiently in accordance with accepted good engineering and management practices. The City covenants that it will at all times maintain the Facilities, or cause the same to be maintained, in good condition and working order. The City agrees to use reasonable diligence and care to continually hold itself ready, willing and able to render Wastewater Treatment Services to the District as provided in this Agreement.

5.2. Independent Contractor. The City shall be responsible for the operation of the Facilities and will be an independent contractor in fulfilling all of its obligations under this Agreement.

5.3. Construction and Maintenance of District's Sanitary Sewage Collection System. The District will, at its sole cost and expense acquire, construct, maintain and operate a Sanitary Sewage Collection System appropriate for collecting Wastewater. Such Sanitary Sewage Collection System shall include necessary manholes, cleanouts, lift stations, and other pertinent facilities adequate to take and gather Wastewater within the boundaries of the District and deliver the same to the designated Points of Delivery. The Sanitary Sewage Collection System shall be designed and constructed in accordance with sound engineering principles and in compliance with all Regulatory Requirements, including the requirements of the City and regulations of the TCEQ. The District will not extend, or permit the extension of, any of its Sanitary Sewage Collection System to serve any land or premises beyond the boundaries of the District without first obtaining written approval for such extension or service from the City. The District shall further operate and maintain its Sanitary Sewage Collection

System in good condition and shall promptly repair any leaks or breaks therein and shall undertake such action as may be required to control the infiltration of ground and storm water into its Sanitary Sewage Collection System. If a break or leak occurs which allows abnormal infiltration or discharge of solid matter or water into the Transportation System or the Regional Plant, and such break or leak is not repaired within thirty (30) days after notice by the City, then the City may, at its option, repair the same and charge the District for which the repair is made the actual cost of repairing the same.

ARTICLE 6
CONDITIONS TO THE CITY'S OBLIGATION TO PROVIDE SERVICE

6.1. Conditions to Construction and Operation of the Wastewater Treatment Plant. Any obligation of the City to purchase or construct an Expansion, Improvement or Regulatory Upgrade to the Facilities or to cause the Expansion, Improvement or Regulatory Upgrade to the Regional Plant to be acquired or constructed shall be subject to (a) the City's ability to obtain or cause to be obtained all Permits and licenses required to construct and operate the Facilities; (b) the City's ability to issue and sell the Bonds necessary to finance the Capital Costs of the Facilities or the receipt of funds from Participants, including the District, pursuant to Article 3 hereof regarding financing of Capital Costs; and (c) payment by the District and other Participants of the Monthly Charges required by this Agreement.

The District agrees to cooperate with the City to make any application or to take such action as may be desirable to obtain compliance with all Regulatory Requirements.

6.2. Ownership of the Facilities. Except as may be expressly provided for elsewhere in this Agreement, it is understood and agreed that the City shall be the sole owner of the Facilities and all Expansions, Improvements, and Regulatory Upgrades which the City constructs or acquires under this Agreement and all appurtenances, sites, rights-of-way, and easements, including all enlargements, extensions or improvements thereto.

6.3. Ownership of Wastewater. Except as may be expressly provided for elsewhere in this Agreement, it is understood and agreed that, the City shall be the owner of any effluent and reuse credits deriving from the Facilities. Pursuant to the Strategic Partnership Agreement Among the City of Missouri City, Texas, Herrin Ranch Development II, Inc., Stafford Interests, Ltd., Fort Bend County Municipal Utility District No. 149, and GBI Group, LLC, entered into on or about November 15, 2007, the City has previously granted the Riverstone Development the right to use 1.5 MGD of such effluent.

6.4. Lift Station. Upon completion of the Phase III Project, the District shall convey the lift station generally located at Sienna Ranch Road and Flat Bank Creek to the City, free and clear of all liens and encumbrances, using the Utility Conveyance Form attached hereto as Exhibit "F", and incorporated herein for all purposes. District shall pay for all costs to prepare surveys and other related documents to convey such lift station to the City.

ARTICLE 7

MONTHLY CHARGES FOR SERVICES RENDERED

7.1. General Statement. The District and the City recognize that because the expenses of the City to operate and maintain the Facilities will vary from time to time, it is neither practicable nor possible to fix a schedule of specific Monthly Charges in this Agreement that will control the Monthly Charges to be paid by the District to the City for services rendered throughout the term of this Agreement. The parties further recognize, however, that the Monthly Charges should be at all times the lowest rates that are consistent with the City's obligations under this Agreement.

The City covenants and agrees that the Monthly Charges will be reasonable and nondiscriminatory and will be reviewed annually. The City further covenants and agrees that the monies received by the City from the District will be accounted for separately, and will be used only for the purposes set out herein.

The District and the City recognize the duty of the City to fix and revise its Monthly Charges for services to be furnished and made available to all Participants so that the gross operating revenues received by the City for the Facilities will at all times be not less than an amount sufficient to:

- (a) pay or provide for the payment of all Operation and Maintenance Expenses based on its total number of active Equivalent Connections as reported monthly by the District and other Participants to the City; and
- (b) pay the Debt Service Requirements on the Bonds or other sources of funding by the City, if any, issued to finance the Capital Costs of the Facilities, including any future Expansion, Improvement or Regulatory Upgrade.

The District recognizes that the City must fix, and from time to time alter and revise, its Monthly Charges so that the revenues actually received by the City will be sufficient as aforesaid on the basis of actual cash requirements, with full allowance being made for delinquencies and costs of collection.

7.2 Payments by the District. The District agrees to pay to the City, at the time and in the manner set forth in this Section so long as this Agreement is in force and effect, the Monthly Charges established as set forth in this Agreement. The District recognizes and agrees that it alone must pay all costs and expenses incurred in the construction, maintenance, and operation of its Sanitary Sewage Collection System, providing reasonable and necessary pretreatment for Wastewater that does not comply with the Wastewater Treatment and Collection Ordinance, and transporting the Wastewater to the Points of Delivery.

7.3 Commencement of Payments by the District. The District's obligation to commence payment of its pro rata share of the Monthly Charges shall be the Delivery Date as set forth in Section 2.3, or upon such other date as may be mutually agreed upon. Notwithstanding the foregoing, the

District will not be obligated to commence payment of Monthly Charges until the City's Regional Plant is ready to accept delivery of District's Wastewater.

7.4. Determination of Monthly Charges.

- (a) On the basis of estimates from its consultants input from all Participants, past operating experience, and related data, the City shall establish, prior to the commencement of Wastewater Treatment Services to the District, a budget for the operation of the Facilities. Each fiscal year budget shall include all Operation and Maintenance Expenses and Debt Service Requirements, if any, reasonably expected to be incurred for the period of time covered by the budget.
- (b) Not later than sixty (60) days prior to commencement of Wastewater Treatment Services to the District, and annually thereafter not later than sixty (60) days prior to the beginning of each budget period, based upon the Growth Projections provided City by the Participants, including the District, the City will furnish to each Participant the City's best estimate of the total quantity of Wastewater the City expects to be discharged into the Facilities during each month of the period covered by such budget and a monthly estimate of Residential Connections and Commercial Connections (expressed in terms of Equivalent Connections) discharging Wastewater for treatment at the Regional Plant during the period covered by such budget.
- (c) On the basis of such information, the City, not later than forty-five (45) days prior to the beginning of each budget period, shall prepare and submit to each Participant a detailed Annual Budget that includes the following:
 - (1) an itemized estimate of all Operation and Maintenance Expenses;

- (2) the total Debt Service Requirements for the budget period, if any and which Participants owe Debt Service Requirements;
 - (3) the Operation and Maintenance Reserve requirements;
 - (4) an itemization of all anticipated revenue; and
 - (5) the projected total cost expressed in terms of the monthly cost per active Equivalent Connection.
- (d) The City shall establish and thereafter maintain an Operation and Maintenance Reserve, equivalent to twenty-five percent (25%) of the estimated Operation and Maintenance Expenses in the Annual Budget. Each Participant shall make payments in the following manner to establish and maintain such Reserve:
- (1) Prior to commencement of services under this Agreement, the City shall bill the Participant, including the District, an amount calculated by multiplying the Participant's estimated Monthly Charges for Operation and Maintenance Expenses, as computed in this Article, by three (3). The Participant may pay such amount prior to the commencement of services or may request the City to bill the Participant monthly at a rate equal to one hundred seventeen percent (117%) of the budgeted Monthly Charges for Operation and Maintenance Expenses until such time as the full amount owed under this Section 7.4(d) has been paid.
 - (2) If the City expends funds out of the Operation and Maintenance Reserve, or if the amount required to be maintained in the Reserve should increase, the City shall include requirements to replenish or fund the Operation and Maintenance Reserve in the next Annual Budget. The Participant may pay the amount required to replenish or fund the Reserve by either method provided in paragraph (1) above.
- (e) The City may, from time to time, make adjustments for the amount of any excess or deficiency in operating funds and shall revise, alter, adjust, increase, or decrease its monthly Equivalent Connection unit cost or Monthly Charges accordingly.
- (f) If a Participant pays more than its respective share of the budget because of a mistake in billing by the City, the City shall refund the overpayment to the

Participant at the end of the fiscal year or credit the Participant for such amount in the next budget year, at the option of the City.

- (g) Notwithstanding anything in this Agreement to the contrary, the City shall have the right to establish the Operation and Maintenance Expense component of the Monthly Charges based on actual use of the Regional Plant (which may be based on the amount of Wastewater discharged into the Regional Plant by the District and which may take into consideration the quality of waste being discharged by the District to the Regional Plant rather than on a unit cost per Equivalent Connection). Without limiting the City's authority in the preceding sentence, the City may structure its Monthly Charges so as to comply with Regulatory Requirements.

7.5. Reports. The City shall provide the District with periodic reports of City disbursements, expenses, and monies received in connection with the operation of the Facilities, of the type and with the frequency it provides such reports to the other Participants.

7.6. Billing. The City will promptly render monthly bills to the Participant. The Monthly Charges and any additional charges shall be itemized. The City shall, until further notice, render such bills on or before the 1st day of each month and such bills shall be due and payable on or before the 1st day of the succeeding month or thirty (30) days after such bill is deposited in the United States mail, properly stamped and addressed to the Participant, whichever is later, and interest shall accrue thereon at the maximum rate allowed by law if not paid within thirty (30) days after such bill is due and payable until paid in full. The City may, however, from time to time, by forty-five (45) days written notice, change the monthly date by which it shall render bills, and all bills shall thereafter be due and payable thirty (30) days after such date or thirty (30) days after deposit in the United States mail, properly stamped and addressed to the Participant, whichever is later.

7.7. Delinquency in Payment. In the event a Participant fails to pay any bills when due and payable, the City may give written notice of such delinquency to the Participant and if all bills due and unpaid, including interest thereon, are not paid within forty-five (45) days after delivery of such notice, then the Participant agrees that the City shall be authorized to institute suit for collection thereof and to collect any amounts due and unpaid, together with interest due thereon and reasonable attorneys' fees.

7.8. Covenant to Maintain Sufficient Income. Each Participant recognizes its duty to, and covenants and agrees that, at all times it will establish and maintain and from time to time adjust the rates, fees, and charges for the services provided by its Sanitary Sewage Collection System and water delivery system, to the end that the revenues therefrom, together with any taxes levied in support thereof, will be sufficient at all times to pay all expenses of operating and maintaining their respective Sanitary Sewage Collection System and water delivery system and at all times to pay the applicable Monthly Charges and all other obligations of the Participant to the City under this Agreement.

ARTICLE 8 **QUANTITY, REPORTS, MEASUREMENT AND POINTS OF DELIVERY**

8.1. Quantity of Wastewater Discharged. While this Agreement is in force and effect, each Participant shall be responsible for discharging its Wastewater at the designated points of delivery. The City shall then be obligated to receive from the Participant all Wastewater within the parameters and meeting the requirements provided in this Agreement; provided, however, such Wastewater shall not be discharged at any rate or rates of flow in excess of that portion of the actual hydraulic capacity of any of the Facilities reserved or used for the Participant and specifically such Wastewater shall not be discharged in excess of that portion of the Total Capacity of the Regional Plant which is reserved for the Participant.

8.2. Reports. To facilitate the calculation of Monthly Charges and properly plan each phase of the Facilities, the Participants, including the District, shall provide to the City annually, ninety (90)

days prior to the end of each budget period, its Growth Projections for the next budget year. The Participants, including the District, shall also provide to the City a monthly report of the number of active Equivalent Connections to its Sanitary Sewer Collection System. In addition to any other reporting requirements herein, in the event the District becomes aware of any significant factor or event that may affect the efficient operation of the Facilities or may result in a violation of any Regulatory Requirements, Permits, or orders, the District shall immediately notify the City of such factor or event.

8.3. Measurement. The City shall determine each Participant's flow of Wastewater into the Transportation System and Regional Plant by metering, periodic monitoring, or by calculating the flow based on a Participant's monthly report of active Equivalent Connections. The District acknowledges that the Facilities are designed to serve all Participants within the Service Area, and that continued utilization by one or more Participants of excess capacity in the Regional Plant may affect the ability of the City to serve other Participants. In the event that the City tests and determines that the actual amount of flow of a Participant exceeds 100% of the Reserved Capacity of such Participant, and such excessive flow is not the result of a unique or abnormal occurrence, the Participant shall, after written notice from the City, immediately prohibit any further connections to its Sanitary Sewer Collection System until additional capacity is made available under the Provisions of Article 10 hereof.

8.4. Points of Delivery. The Point or Points of Delivery of Wastewater to be discharged by the District is identified on the map attached hereto as Exhibit "A." As between the parties hereto, the District shall be in exclusive control of, and solely responsible for, all Wastewater until the same shall pass through the Points of Delivery and, thereafter, the City shall be in exclusive control thereof and shall be responsible therefore, except as otherwise provided herein.

8.5. Inspections. The City shall have the continuous right to make spot inspections of any Participant's sewage collection system to insure compliance with the City's Water Treatment and

Collection Ordinance and any and all other applicable local rules and regulations. Upon failure of compliance with the requirements thereof, notice in writing by the City shall be given to Participant, and such notice shall require correction or compliance within thirty (30) days thereof. Unless the required correction is made, the City shall give further notice to Participant that, unless correction is made as set out in said notice, the Participant shall be charged from the date of default for the additional cost of operating and maintaining the Facilities occasioned by any default with such cost and date of default being determined by the City.

ARTICLE 9
REGULATION OF QUALITY OF WASTEWATER RECEIVED

9.1. Regulation of Quality of Wastewater. In order to permit the City to properly treat and dispose of Wastewater collected by the District's Sanitary Sewage Collection System in compliance with all Regulatory Requirements, and to protect the public health and to permit cooperation with other entities for the protection of the physical, chemical and bacteriological quality of public water and watercourses, and to protect the properties of the Facilities, the District and the City agree that the quality and strength of all Wastewater collected by the District's Sanitary Sewage Collection System must be regulated. The District agrees to regulate the quality and strength of the Wastewater to be discharged into the Points of Delivery to meet the requirements of the City's Wastewater Treatment and Collection Ordinance, the design requirements of the Facilities, and as provided in this Article. The parties further agree that the obligation of the City to receive Wastewater from the District's Sanitary Sewage Collection System shall depend upon compliance by the District with the provisions of the City's Wastewater Treatment and Collection Ordinance, the design requirements of the Facilities, and this Article.

9.2. Admissible Wastewater. Wastewater discharged at the Points of Delivery for transportation to and treatment in the Regional Plant shall consist only of Wastewater which is amenable to biological treatment and conforms at the Points of Delivery to the City's Wastewater

Treatment and Collection Ordinance, together with any amendments thereto after sufficient notice of such amendment has been given to the District, and to the design requirements of the Facilities.

9.3. Industrial and Commercial Wastewater. The City and the District recognize the effect of Industrial and Commercial Wastewater upon sewers, the Transportation System, the Regional Plant, and Wastewater treatment processes is such that careful and special consideration must be made of each Commercial Connection. Enterprises currently discharging Industrial and Commercial Wastewater into the District's Sanitary Sewage Collection System are identified in Exhibit "E." The District agrees that, upon execution of this Agreement, new connections for the discharge of Industrial and Commercial Wastewater into its Sanitary Sewage Collection System may be authorized only after securing approval from the City and subject to the terms and conditions as the City may prescribe from time to time. The District shall require the applicant industry or commercial enterprise to file a statement, a copy of which shall be forwarded to the City, containing the following information:

- (a) Name and address of applicant;
- (b) Type of industry, business activity, or other Wastewater-creating process;
- (c) Quantity of Wastewater to be discharged;
- (d) Typical analysis of the Wastewater;
- (e) Type of pretreatment proposed; and
- (f) Such other information as the City may from time to time request by written notice.

9.4. Testing of Wastewater. The City shall be entitled to collect samples of Wastewater at points within or outside the District before the flow passes through the Points of Delivery and cause the same to be analyzed by various applicable quantitative and qualitative methods to determine if such Wastewater is within the parameters specified above and in the City's Wastewater Treatment and Collection Ordinance. If analysis discloses that the Wastewater is not within the allowable parameters, it will be the obligation of the District, with the assistance of the City, to determine the identity of the

offending originator and to require the offending originator to cease discharging such Wastewater into the District's Sanitary Sewage Collection System or to pre-treat such Wastewater to the satisfaction of the City and the District. The City may also require the District to obtain from each enterprise discharging Industrial and Commercial Wastewater into its Sanitary Sewage Collection System the information set out in Section 9.3 and to furnish such information to the City.

9.5. Liability for Damages, Fines, and Penalties. If a Participant delivers Wastewater through the points of delivery that exceeds the parameters of the City's Wastewater Treatment and Collection Ordinance or the provisions of this Agreement, and such Wastewater is proved to have caused damage to the Regional Plant or any of the Facilities, the Participant shall pay one hundred percent (100%) of all costs and expenses incurred by the City to repair such damage and any extraordinary cost and expense associated with the treatment and disposal of such Wastewater. If a Participant delivers Wastewater through the Points of Delivery from the District's collection system that is proved to have caused damage to the Regional Plant or any of the Facilities, the Participant shall pay one hundred percent (100%) of all costs and expenses incurred by the City to repair such damage and any extraordinary cost and expense associated with the treatment and disposal of such Wastewater. Provided, however, if the damage could have been avoided or reduced by the operator of the Regional Plant exercising ordinary care and skill, the District will only be liable for such costs and expenses on a comparative fault basis. Furthermore, except as provided in Section 2.7, the City shall be entitled to reimbursement from the District and the District will reimburse the City for any penalty, fine, or civil liability, or any part thereof, actually paid by the City to the extent that the District's negligent or intentional act or omission is proved to have caused the assessment or imposition of the penalty, fine, or civil liability. Any damage, penalty, fine, or civil liability not so chargeable to a specific Participant shall be borne by all Participants as a part of the Operation and Maintenance Expenses.

ARTICLE 10
FUTURE USE OF FACILITIES, IMPROVEMENTS, REGULATORY
UPGRADES, AND EXPANSIONS

10.1. General Statement. The City may construct additions to the Regional Plant and construct additional transportation systems in phases to accommodate the growth and development within the Service Area. Accordingly, in order to maintain adequate services at all times for the present and future capacity requirements of the Participants, in order to optimize the utilization of all available capacity, and in order to accommodate the needs of all Participants within the Service Area, the City shall control, subject to the terms of this Agreement, the request for additional Reserved Capacity of current Participants, the admission of new Participants, the utilization of available capacity in the Regional Plant, and the construction and financing of Improvements, Regulatory Upgrades, and Expansions.

10.2. Admission of New Participants. The City shall have the unilateral right to admit new Participants into the Regional Plant, subject to the following conditions:

- (a) each new Participant agrees to pay its pro rata share of the Monthly Charges, including its share of the Debt Service Requirements, if any, issued by the City to finance the Capital Costs of the Facilities or any Expansion, Improvement or Regulatory Upgrade constructed for its Reserved Capacity;
- (b) the new Participant agrees to reimburse the City its portion of Capital Costs as determined by the City; and
- (c) there is no impairment of the District's right to have its Wastewater received and treated in the amount of its Reserved Capacity.

The City may provide the financing by whatever means it deems necessary for the construction of additions to the Regional Plant and construction of other transportation systems to serve new Participants, and shall construct same in whatever manner the City deems reasonable and prudent so

as not to interrupt service to the existing Participants, including the District. The City shall have no obligation to initiate construction of an Expansion to accommodate the capacity requirements of new Participants until there are written agreements in place committing to at least 0.5 MGD of Reserved Capacity. New Participants shall pay Transition Costs, as defined and referenced in the Addendum, and Monthly Charges calculated in as described in Article 7 hereof, including the Debt Service Requirements on Bonds, if any, issued by the City to finance the Capital Costs of the Facilities constructed. The District owes no Transition Costs related to the Phase III Project or the 1.5 MGD of capacity it acquires as a result of that Expansion.

10.3. Interim Use of Available Capacity. Except as provided by Section 2.5 (Phase III Project), in the event the total requests from new Participants for Reserved Capacity is less than the minimum 0.5 MGD, and it is determined, upon consultation with the Participants having Reserved Capacity, that there is sufficient unused and available capacity that will not be used by an existing Participant to which it is assigned prior to the next anticipated Expansion, the City may defer construction needed to accommodate the request of additional Reserved Capacity by either a current or the new Participant provided that such use complies with Section 10.2 so that the District's rights, contingent upon the District compliance with this Agreement, specifically, Section 2.4, to have Wastewater treated in the amounts set forth herein are not in any way impaired or delayed.

10.4. Initiation of Improvements and Regulatory Upgrades. Whenever the City determines that Improvements and/or Regulatory Upgrades are needed, the City shall notify the Participants and set forth in reasonable detail the items or components to be constructed, the required timetable for construction, and the estimated cost of construction. Except as provided by Section 2.5 (Phase III Project), the District agrees to pay its respective share of the cost of the Improvements and/or Regulatory Upgrades in accordance with Article 3.

10.5. Initiation of Expansion. When a Participant's thirty (30) day average daily flow reaches seventy-five percent (75%) of such Participant's Reserved Capacity for three (3) consecutive months, the City shall, by written notice, advise the Participant of the level of utilization of Reserved Capacity and may request the Participant to provide the City with its current Growth Projections for the succeeding five years. The Growth Projections shall be provided to the City within sixty (60) days of the request. Each Participant shall provide the City with such other information as may be reasonably required to determine the facilities or services that are needed to meet the requirements of the Participants, including the District, which shall include the following:

- (a) the existing number and types of connections to the Participant's Sanitary Sewage Collection System;
- (b) the number, type, and location of connections expected to be added in the next five years;
- (c) the nature of land use in the area to be served by the Participant's Sanitary Sewage Collection System;
- (d) the capacity which the Participant estimates will be necessary to meet its requirements, expressed in average and peak daily flow in gallons per day;
- (e) specific information regarding any nonresidential discharges that the Participant anticipates;
- (f) copies of all recorded and preliminary subdivision plats not already furnished;
- (g) a projection as to the rate and type of development within the Participant's boundaries; and
- (h) such other information as the City may reasonably request related to Wastewater capacity and connections.

The City shall have the unilateral right to determine the amount of capacity to be provided by an Expansion (and has determined that the Phase III Project provides 1.5 MGD of capacity). It shall not be obligated to construct any Expansion of less than 0.5 MGD. Except as provided by Section 2.5 (Phase III Project), the District shall be obligated to participate in an Expansion only if its Growth Projections show it will exceed 100% of its Reserved Capacity. If the City determines that an

Expansion of the Regional Plant is required, it shall give all Participants written notice of a proposed Expansion, including the proposed size and extent of the Expansion, the estimated cost thereof, and the estimated date of completion. The City shall notify all Participants of each Participant's share of the capacity to be provided by the Expansion, identify each Participant's adjusted Reserved Capacity, and estimate the Monthly Charges for the remainder of the fiscal year in which the Expansion is projected to become operational. The District agrees to pay its share of the cost of an Expansion in accordance with Article 3 hereof.

10.6. Initiation of Expansion Based on Request of a Participant. Except as provided by Section 2.5 (Phase III Project), whenever the District requires additional Reserved Capacity in the Regional Plant, the District shall make a request for additional capacity to the City in writing and provide the City with the information set out in Section 10.5 above. Upon receipt of a request for additional Reserved Capacity, the City shall give all other Participants written notice of such request so that they shall have an opportunity to request additional capacity. Each Participant shall be given thirty (30) days from the date of the notice to respond, which response shall include the information set out in Section 10.5 above. The City shall then determine, after consulting with the Design Engineer, whether an Expansion of the Regional Plant, other than the Phase III Project, will be built, or whether a temporary package-type plant will be utilized and shall give all Participants written notice of a proposed Expansion, including the proposed size and extent of the Expansion, the estimated cost thereof, and the estimated date of completion. Such temporary package plant may be utilized and maintained for no longer than four (4) years. The City shall notify all Participants of each Participant's share of the capacity to be provided by the Expansion, identify each Participant's adjusted Reserved Capacity, and estimate the Monthly Charges for the remainder of the fiscal year in which the Expansion is projected to become operational. Upon funding in accordance with Article 3, the City

will use its best efforts to meet the request for additional capacity in order to timely meet development demands.

10.7. Request to Sell Reserved Capacity Amounts from Phase III.

(a) As provided in Section 2.2, the Phase III Project, upon its completion, shall represent the District's Reserved Capacity allocation. In the event the District desires to decrease its Reserved Capacity allocation, it shall follow the process for requests to purchase and sell reserved capacity amounts from Phases I and II as described in Section 2 of the Addendum.

(b) The City shall set the price (on a gallon per day basis) to transition the wastewater treatment capacity contemplated under the Capacity Modification Request (the "Transition Cost") as follows. The Transition Cost shall be the "Transition Cost" described in the Addendum.

(c) The entity/entities acquiring wastewater capacity under the Capacity Modification Request shall pay the City the Transition Cost no later than forty-five (45) days after receipt of a written invoice from the City for such Costs. The City shall make the payment of the Transition Cost to the entity/entities providing such wastewater capacity under that Capacity Modification Request no later than forty-five (45) days after receipt of the Transition Cost payment. Approval of a Capacity Modification Request is subject to timely payment of the Transition Cost. Failure to timely pay the Transition Cost shall result in a denial of the Capacity Modification Request.

(d) After issuing the City Notice, if the City does not receive responses from other entities that could enable the City to completely fulfill a Capacity Modification Request, then the City may reject the Capacity Modification Request or propose an alternate strategy, which may not conform to the Capacity Modification Process, to partially address the Capacity Modification Request.

10.8. Construction. Upon the determination by the City that any part of the Facilities or any future Improvements, Regulatory Upgrades and/or an Expansion is needed by some or all of the Participants or upon request by one or more Participants and determination by City that same is

required, the City shall promptly apply for and pursue any new Permits or orders, or appropriate amendments to existing Permits or orders required by any regulatory agency for the proposed Improvements, Regulatory Upgrades, and/or Expansions. The District agrees to cooperate fully with the City in applying for and obtaining such new Permits or orders or such amended Permits or orders. The City shall cause plans and specifications for the proposed Improvements, Regulatory Upgrades, or Expansions to be prepared and approved by all governmental agencies having jurisdiction. The City may acquire additional land, easements, and rights-of-way, if required.

ARTICLE 11 **DISCLOSURE**

11.1. City Right to Inspect. The City shall have the right at any time during reasonable business hours by actual count or inspection by its authorized representatives or by checking or inspecting the books, and accounts of any Participant to determine the number of properties served by the sewage collection system of any Participant and the number of connections thereto. It shall be the duty of the officials of any Participant to cooperate fully with the City in obtaining such information. The books, records, and accounts of the Participant shall be open for inspection at all reasonable business hours by any authorized representative of the City.

11.2. Participant's Right to Inspect. Each Participant shall have the right at any time by actual count or inspection by its authorized representatives or by checking or inspecting the books, records, and accounts of the City to determine the number of properties served by the Regional Plant and the number of connections thereto. It shall be the duty of the officials of the City to cooperate fully with any Participant in obtaining such information. The books, records, and accounts of the City shall be open for inspection at all reasonable business hours by any authorized representative of any Participant.

11.3. Audit. In addition, the books, records, and accounts of the City shall be audited by an independent certified public accountant once each year, the cost of which shall be part of the operation

and maintenance costs of the Facilities and copies of said audit shall be made available to any Participant.

11.4. Monthly Statement. The City agrees to furnish monthly statements to any Participant containing information with respect to the quality and flow of effluent being discharged, the direct cost of operation and maintenance of the Plant, and the individual hydraulic and organic loadings of Participants.

ARTICLE 12 **LIABILITY FOR INDEBTEDNESS**

12.1. It is expressly understood and agreed that nothing in this Agreement shall have the effect of causing the City to assume, guarantee, or become in any way liable for any bonds, warrants, notes, or other indebtedness or obligation of any Participant or to undertake any obligation, either to any Participant, or to or for the benefit of the inhabitants thereof, of any character other than as herein expressly set forth.

ARTICLE 13 **NO LIEN**

13.1. No payment made by the District to the City under this Agreement shall create any legal or equitable lien of any nature against the physical assets, including the Facilities or any future Expansions, Improvement or Regulatory Upgrade, or funds of the City, and the District's rights are intended to be only those expressly contained in this Agreement.

ARTICLE 14 **MISCELLANEOUS PROVISIONS**

14.1 Term. Unless terminated earlier by mutual agreement of the parties, this Agreement shall continue in force and effect for a period of forty (40) years from the Effective Date; provided, however, that the term of this Agreement shall continue until all outstanding Bonds are retired.

14.2. Agreements by the City with Other Parties. The City shall have the right to agree with other parties, whether within or without the Service Area, to render Wastewater Treatment Services

and shall have the further right to provide Wastewater Treatment Services to other parties and, if necessary, expand the Regional Plant for the use and benefit of any other parties. Such agreements with other parties shall not impair the right of the District to receive Wastewater Treatment Services from the City as established under this Agreement. The City shall have the further right to agree with other parties, whether within or without the Service Area, to have such other parties provide Wastewater Treatment Services to the City for the benefit of one or more Participants, including the District. The City shall use its best efforts to secure such agreements on the most favorable terms and at the lowest possible price.

14.3. District's Consent to Sewer Lines. If any sewer mains or lines or appurtenances of the City should be located on any land now or hereafter owned by the District or in any present or future rights-of-way of the District, the District hereby consents thereto and hereby grants or will grant to the City the nonexclusive right, privilege, easement, and right-of-way to use such lands, rights-of-way, or public places for the purpose of maintaining, operating, laying, repairing and removing such sewer mains or lines or appurtenances in order for the City to comply with the provisions of this Agreement, provided such activities by the City do not unduly interfere with the District's own activities.

14.4. Force Majeure. In the event any party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, excluding the obligation to make payments required under this Agreement, then the obligations of such party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for not longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the other parties. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure," as used herein, shall mean

acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority other than a party to this Agreement, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, and any other incapacities of any party, similar to those enumerated, which are not within the control of the party claiming such inability and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

14.5. Remedies Upon Default. This Agreement shall not be considered as specifying an exclusive remedy for any default, but all remedies existing at law or in equity, including specific performance and mandamus, may be availed of by any party and shall be cumulative.

14.6. No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party or parties of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

14.7. Addresses and Notices. The parties contemplate that they will engage in informal communication with respect to the subject matter of this Agreement. However, any formal notices or other communications ("Notice") required to be given by one party to another by this Agreement shall be given in writing addressed to the party to be notified at the address set forth below for such party, (i) by delivering the same in person; (ii) by depositing the same in the United States Mail, certified

or registered, return receipt requested, postage prepaid, addressed to the party to be notified, (iii) by depositing the same with Federal Express or another nationally recognized courier service guaranteeing "next day delivery," addressed to the party to be notified, or (iv) by sending the same by telefax with confirming copy sent by mail. Notice deposited in the United States mail in the manner hereinabove described shall be deemed effective from and after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties, until changed as provided below, shall be as follows:

To the City:

City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

Attn: City Manager

To the District:

Richard L. Muller, Jr.
The Muller Law Group, PLLC
202 Century Square Blvd.
Sugar Land, Texas 77478

The parties shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by giving at least five (5) days written notice to the other party. If any date or any period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the notice shall be extended to the first business day following such Saturday, Sunday or legal holiday.

14.8. Modification. This Agreement shall be subject to change or modification only with the written mutual consent of the governing bodies of the parties hereto.

14.9. Assignability of This Agreement. This Agreement shall not be assignable by the District without prior written approval of the City.

14.10. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the City, the District, and the owners or holders of the Bonds or coupons from time to time and shall not be construed to confer any benefit or right upon any other parties.

14.11. Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall not be affected thereby.

14.12. Representation Regarding Existence of Other Waste Disposal Contracts. The District represents that it has not entered into any contract whereby it may receive wastewater treatment services for wastewater it collects by its Sanitary Sewage Collection System, nor will the District enter into any such contract in the future without the City's written consent.

14.13. Designated Management Authority. The City and the District hereby acknowledge and agree that for the collection of Wastewater within the District boundaries the City is the designated management authority, as that term is defined by the TCEQ, for the treatment of the Wastewater collected by the District and transported to the Points of Delivery.

14.14. Authority. This Agreement has been executed by the City by authority of a resolution adopted by its City Council and has been executed by the District by authority of a Resolution adopted by its Board of Directors.

14.15. Merger. This Agreement together with the exhibits attached hereto constitutes the entire Agreement among the parties relative to the subject matter hereof.

This Agreement is executed as of the ____ day of _____, 2019.

CITY OF MISSOURI CITY, TEXAS

By: _____
Yolanda Ford, Mayor

ATTEST:

Maria Jackson, City Secretary

SIENNA PLANTATION MUNICIPAL
UTILITY DISTRICT NO. 1

By: _____
Carl Bowles
President, Board of Directors

ATTEST:

Dr. James Condrey
Secretary, Board of Directors

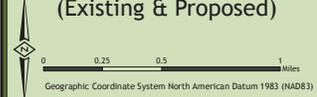
EXHIBITS

- “A” Transportation System, Points of Delivery, and Wastewater Treatment Plant No. 3 Location Depiction
- “B” Regional Plant Site
- “C” Service Area
- “D” Estimate of Costs
- “E” Enterprises Discharging Commercial and Industrial Wastewater
- “F” Utility Conveyance Form
- “G” Phase III Expansion Scope of Work

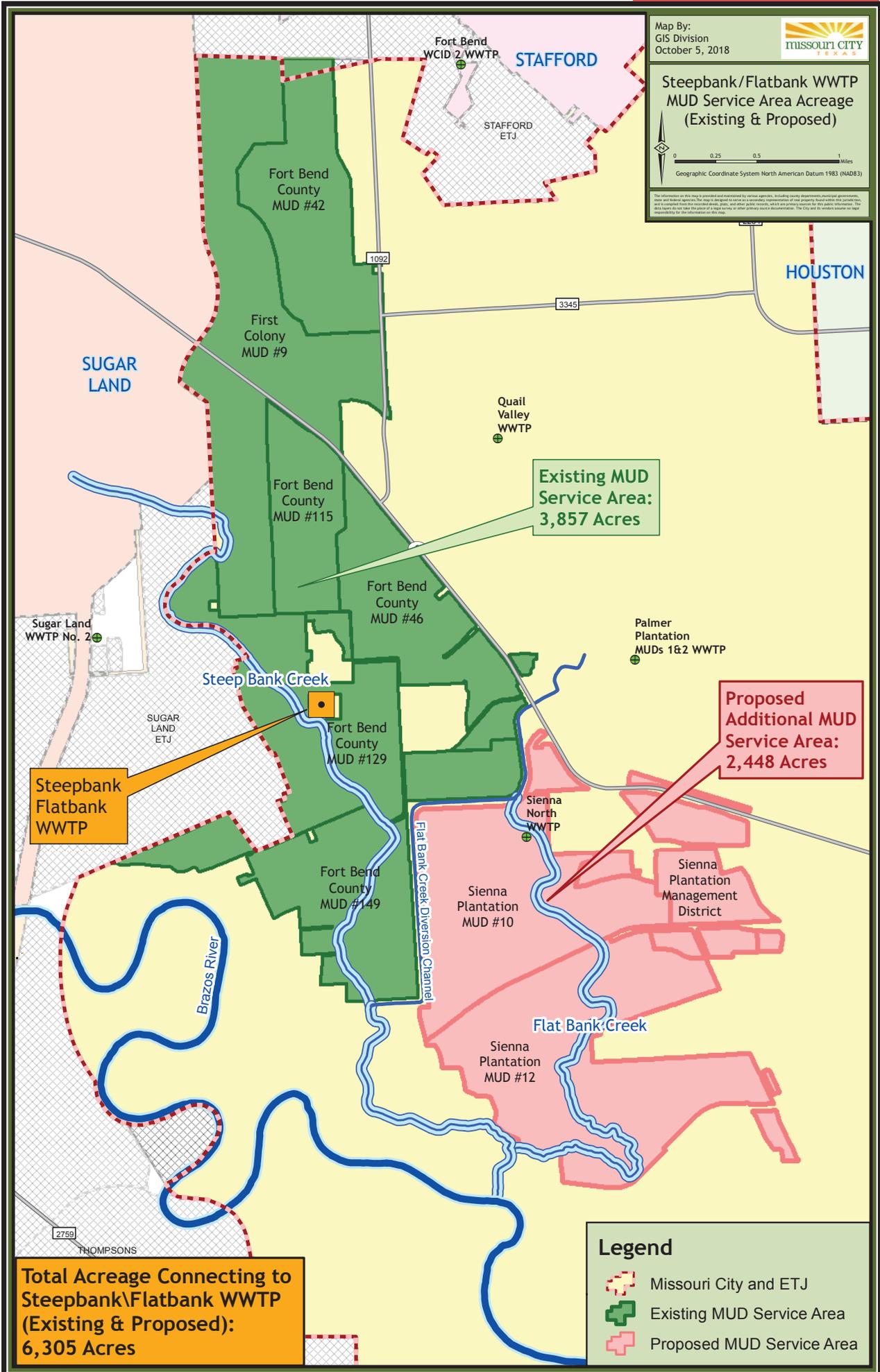
Map By:
GIS Division
October 5, 2018



Steepbank/Flatbank WWTP MUD Service Area Acreage (Existing & Proposed)



The information on this map is provided and maintained by various agencies, including county departments, municipal governments, state and federal agencies. The map is designed to serve as a secondary representation of the property boundary with the jurisdiction, and is compiled from the most current data, plans, and other public records, which are primary sources for this public information. The data herein do not take the place of a legal survey or other primary source of documentation. The City and its vendors assume no legal responsibility for the information on this map.



Existing MUD Service Area:
3,857 Acres

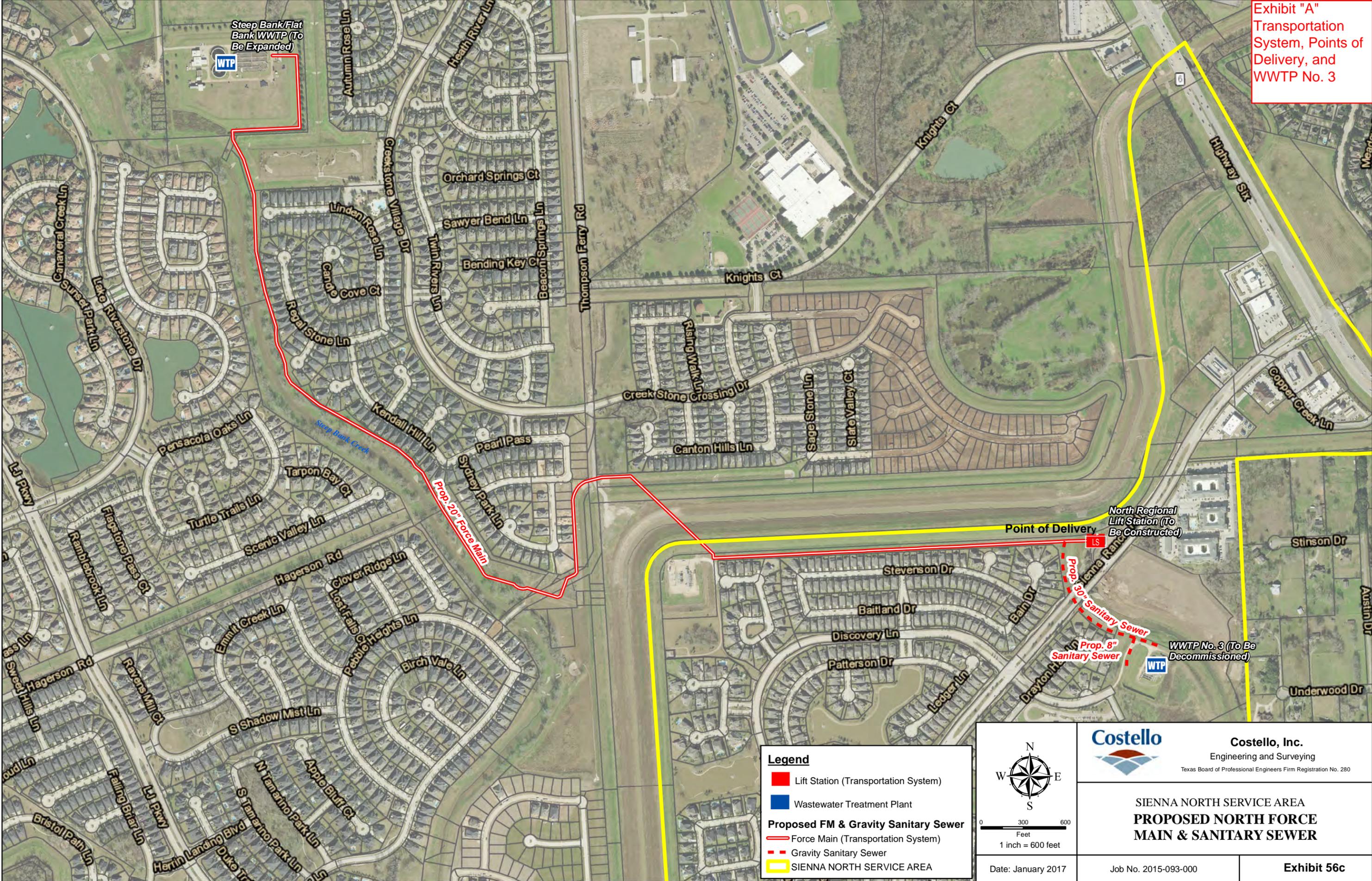
Proposed Additional MUD Service Area:
2,448 Acres

Steepbank Flatbank WWTP

Total Acreage Connecting to Steepbank/Flatbank WWTP (Existing & Proposed):
6,305 Acres

Legend

- Missouri City and ETJ
- Existing MUD Service Area
- Proposed MUD Service Area



Steep Bank/Flat
 Bank WWTP (To
 Be Expanded)
 WTP

Point of Delivery
 North Regional
 Lift Station (To
 Be Constructed)
 LS

Prop. 8"
 Sanitary Sewer

Prop. 30"
 Sanitary Sewer

WWTP No. 3 (To Be
 Decommissioned)
 WTP

Legend

- Lift Station (Transportation System)
- Wastewater Treatment Plant
- Proposed FM & Gravity Sanitary Sewer
- - - Force Main (Transportation System)
- - - Gravity Sanitary Sewer
- SIENNA NORTH SERVICE AREA

N
 W E
 S

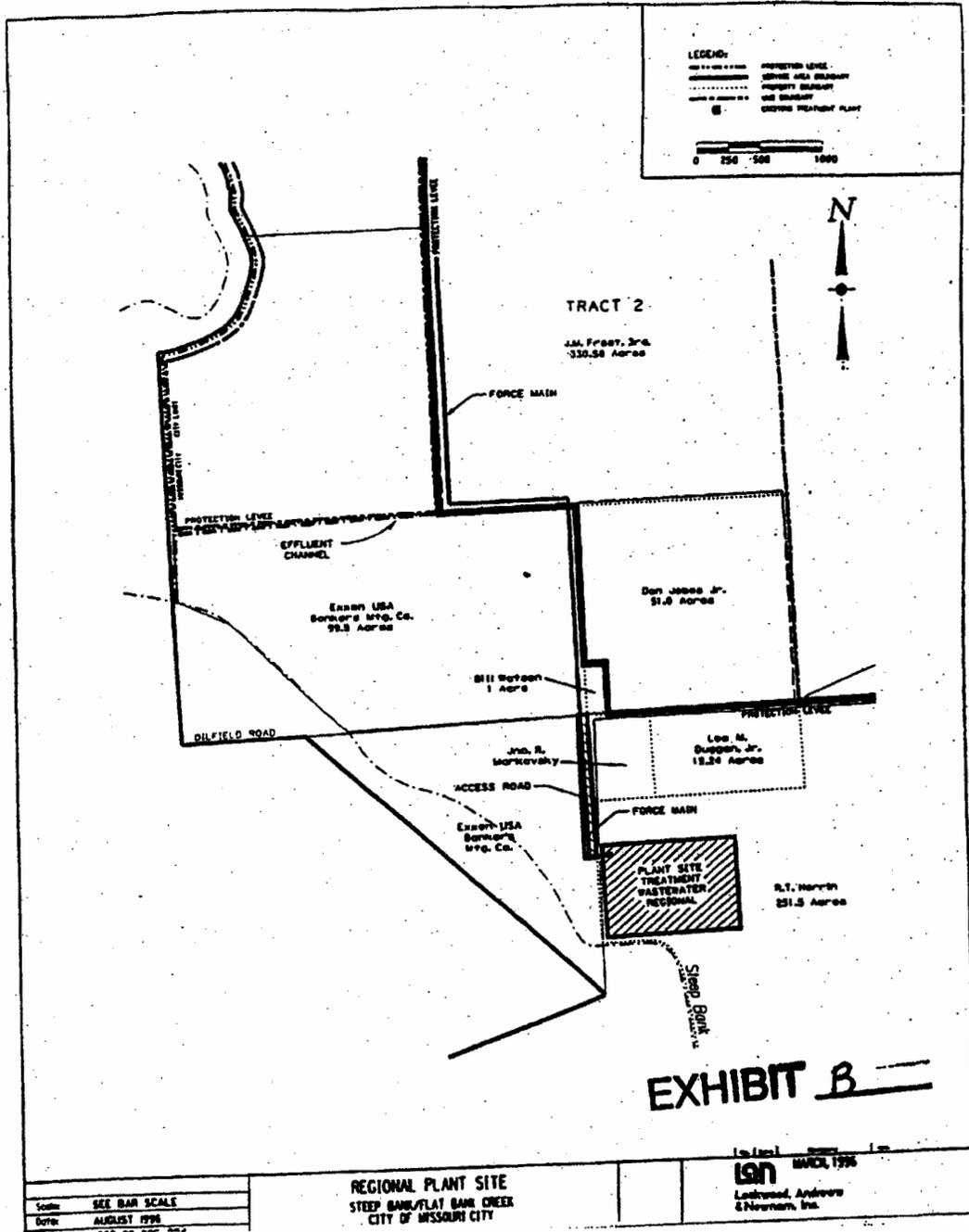
0 300 600
 Feet
 1 inch = 600 feet

Date: January 2017

Costello
 Costello, Inc.
 Engineering and Surveying
 Texas Board of Professional Engineers Firm Registration No. 280

SIENNA NORTH SERVICE AREA
**PROPOSED NORTH FORCE
 MAIN & SANITARY SEWER**

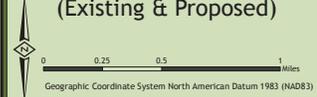
EXHIBIT B



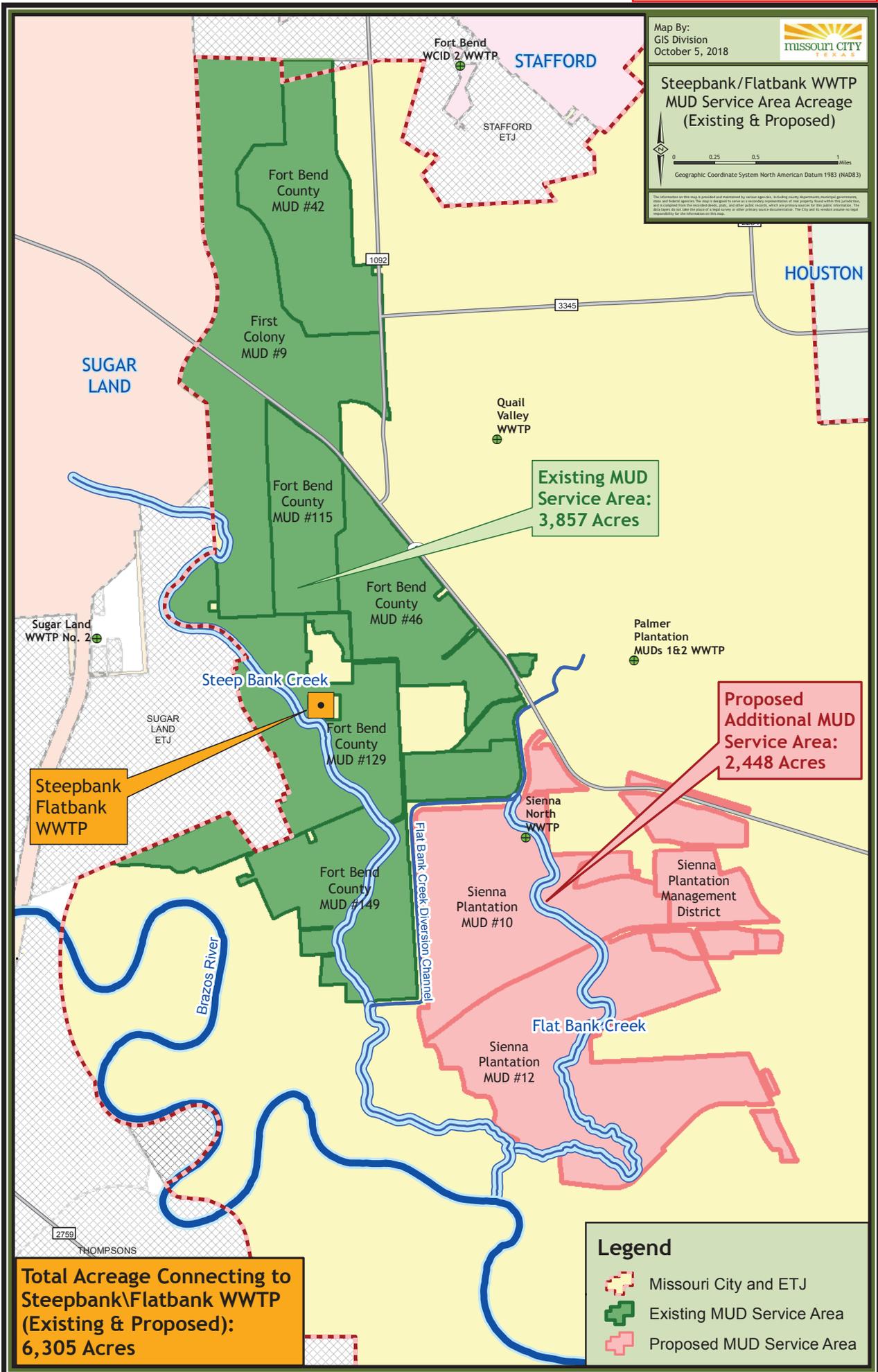
Map By:
GIS Division
October 5, 2018



Steepbank/Flatbank WWTP
MUD Service Area Acreage
(Existing & Proposed)



The information on this map is provided and maintained by various agencies, including county departments, municipal governments, state and federal agencies. The map is designed to serve as a secondary representation of the property boundary with the jurisdiction, and is compiled from the most current data, plans, and other public records, which are primary sources for this public information. The data herein do not take the place of a legal survey or other primary source of documentation. The City and its vendors assume no legal responsibility for the information on this map.



Existing MUD Service Area:
3,857 Acres

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2,448 Acres

Steepbank Flatbank WWTP

Total Acreage Connecting to Steepbank/Flatbank WWTP (Existing & Proposed):
6,305 Acres

Legend

- Missouri City and ETJ
- Existing MUD Service Area
- Proposed MUD Service Area

Exhibit "D"
Estimate of Costs

City of Missouri City
Steepbank/Flatbank Wastewater Treatment Plant
Phase 2 Expansion
Capital Recovery Fee Analysis



Schedule 2
Summary of Phase 1 Costs

Component	Design Basis (MGD)	MGD for each Phase			Phase 1 Cost	Phase 2 Participants	Phase 3 Cost	
		Actual Cost	Cost per MGD					
Site Prep	3.43	\$ -	\$ -	\$ -	\$ -	\$ -	TRUE	
Levee	3.43	-	-	-	-	-	TRUE	
Access Road & Site Fill	3.43	-	-	-	-	-	TRUE	
Access Road Asphalt Topping	3.43	-	-	-	-	-	TRUE	
Planning & SRF Report	3.43	139,848	40,772	61,158	61,158	17,532	TRUE	
Permit Application	3.43	33,530	9,775	14,663	14,663	4,203	TRUE	
ESA	3.43	52,049	15,175	22,762	22,762	6,525	TRUE	
Wetlands Assessment	3.43	7,295	2,127	3,190	3,190	915	TRUE	
Drainage/Floodplain Study	3.43	2,602	759	1,138	1,138	326	TRUE	
Surveying	3.43	28,231	8,231	12,346	12,346	3,539	TRUE	
Site Acquisition, Easements	3.43	768,878	224,163	336,244	336,244	96,390	TRUE	
Landscaping & Irrigation	3.43	150,000	43,732	65,598	65,598	18,805	TRUE	
Plant Drain Pump Station	3.43	75,900	22,128	33,192	33,192	9,515	TRUE	
"Site"	3.43	1,259,000	367,055	550,583	550,583	157,834	TRUE	
Allowance and Change Orders	3.43	220,094	64,167	96,251	96,251	27,592	TRUE	
Headworks	3	579,550	193,183	289,775	289,775	-	TRUE	
Yard Piping	3	290,900	96,967	145,450	145,450	-	TRUE	
Electrical & Instrumentation	3	-	-	-	-	-	TRUE	
Sludge Fac./Holding Tank	3	727,780	242,593	363,890	363,890	-	TRUE	
MCC Buildings	3	196,990	65,663	98,495	98,495	-	TRUE	
Aeration and Clarifiers	1.5	1,368,080	912,053	1,368,080	-	-	TRUE	
Disinfection	1.5	220,800	147,200	220,800	-	-	TRUE	
RAS-WAS & Scum Pump Stations	1.5	85,800	57,200	85,800	-	-	TRUE	
WWTP Engineering	3.43	685,028	199,717	299,575	299,575	85,878	TRUE	
Mobilization	3.43	336,200	98,017	147,026	147,026	42,148	TRUE	
Bonds & Insurance	66.87%	-	-	-	-	-	TRUE	
Lift Station	96.36%	-	-	-	-	-	TRUE	
Lift Station Engineering	96.36%	-	-	-	-	-	TRUE	
Totals		\$ 7,228,555		\$ 4,216,017	\$ 2,541,337	\$ 471,202	TRUE	

Removed lift station costs. These costs will ultimately be allocated to MUDs 9/42 and 115.

Oversizing for Phase 3 Participants Percentage of Total

7%

EXHIBIT "E"

Enterprises Discharging Commercial and Industrial Wastewater

None.

**UTILITY CONVEYANCE
AGREEMENT
BETWEEN THE CITY OF MISSOURI CITY AND
SIENNA PLANTATION MUNICIPAL UTILITY DISTRICT NO. 1**

This Agreement is made and entered into as of the ___ day of _____, 2019, by and between the City of Missouri City ("**City**"), a Texas home rule city, and Sienna Plantation Municipal Utility District No. 1, a Texas municipal utility district operating pursuant to Chapters 49 and 54, Texas Water Code ("**District**").

RECITALS

1. The City furnishes wastewater treatment services to District.
2. The District owns certain wastewater facilities that can be utilized to deliver wastewater treatment services to District.
3. The District wishes to convey and the City wishes to take title to such wastewater facilities so that the City can utilize such infrastructure to provide wastewater treatment services to District.

AGREEMENT

For and in consideration of the premises and of the mutual obligations, covenants, and benefits hereinafter set forth, City and District contract and agree as follows:

1. **Definition.** The "Facilities" shall be that certain lift station and related facilities, more specifically located and described in Exhibit "A" and generally depicted in Exhibit "A-1" attached hereto and incorporated for all purposes. In the event that Exhibit "A-1" conflicts with Exhibit "A," Exhibit "A" shall prevail.
2. **Sale and Purchase.** District hereby sells, conveys, transfers, and delivers to City all of the Facilities free and clear of all liens, claims, encumbrances, options, charges, assessments,

reservations or restrictions. The Facilities being conveyed hereby are more completely described in the plans and specifications described in Section 4(h) herein, which are incorporated herein by reference.

3. Assignment. District hereby assigns all of its rights under any relevant construction contracts for the Facilities to City and agrees to make provision for the transfer of any performance and payment bonds, and guarantees and warranties executed by the contractor, if any, and all other rights of District pursuant to the provisions of such construction contracts.

4. Representations by District. District represents to City that:

(a) Title. The Facilities of District covered by this Agreement are hereby conveyed to City, free and clear of all liens, claims, encumbrances, options, charges, assessments, reservations, and restrictions.

(b) Rights-of-Way, Easements, etc. District represents, warrants and guarantees that the Facilities are located on property owned by the District or in utility easements or in road rights-of-way as shown on recorded plats. District represents that said property, easements and rights-of-way are adequate and sufficient to permit City to operate the Facilities, and any easements and rights-of-way held by District in connection therewith are hereby transferred to City whether or not expressly described herein.

(c) Possession. District is in possession of the Facilities and no objection to the location or use of the Facilities or adverse claims of title to the lands, easements, rights-of-way, licenses, permits, or leases on which the Facilities are situated is presently being asserted by any person or persons.

(d) Legal Proceedings. There are no actions, suits, or proceedings pending or, to the knowledge of District, threatened or affecting the properties or Facilities to be conveyed hereunder and there are no pending condemnation proceedings of which District is aware connected with the Facilities or other properties to be conveyed hereunder.

(e) Known Defects. District represents and warrants that the Facilities, including any

easements or rights-of-way or other properties to be conveyed hereunder are free of known defects, either legal or technical, that would prohibit City's use of the Facilities or other properties to be conveyed hereunder.

(f) Authorization. This Agreement, the transactions contemplated herein, and the execution and delivery of this Agreement have been duly authorized by District.

(g) No Violation of Other Contracts. This Agreement, and the warranties, representations, and covenants contained herein, and the consummation of the transactions contemplated herein does not violate or constitute a known breach of any contract or other agreement to which District is a party.

(h) "Record" or "As-Built" Drawings and Operational Reports. Contemporaneously herewith, District has provided City with a complete set of "record or as-built" drawings, indicating that the Facilities were constructed as indicated on the drawings and will furnish all operational records.

5. Expenses. Except as specifically set forth herein, each party shall pay its own expenses incident to carrying this Agreement into effect and consummating all transactions contemplated hereby.

6. Further Assurances. District agrees that from time to time and upon the request of City, District will execute and deliver such other instruments of conveyance and transfer and take such other action as may be reasonably required to more effectively convey, transfer to, and vest in City and to put City in possession of all of the Facilities conveyed, transferred, and delivered hereunder, and, in the case of contracts and rights, if any, which cannot be transferred effectively without the consent of other parties, to obtain such consents and take such other action as may be reasonably necessary to assure to City the rights and benefits thereof.

7. Representations Survive Conveyance. The agreements and representations made by the parties to this Agreement shall survive the conveyance of the Facilities.

8. Miscellaneous. This Agreement shall be governed by, and construed in accordance with,

the laws of the State of Texas and can be changed or terminated only by an agreement in writing signed by the parties hereto. This Agreement embodies the entire understanding between the parties and there are no prior effective representations, warranties, or agreements between the parties.

WITNESS the execution of this Agreement in multiple counterparts, each of equal dignity, as of the _____ day of _____, 2019.

**SIENNA PLANTATION MUNICIPAL UTILITY
DISTRICT NO. 1**, a Texas water district operating pursuant to Chapters 49 and 54, Texas Water Code

By: _____
Carl Bowles, President
Board of Directors

ATTEST:

James Condrey, Secretary
Board of Directors

Dr.

Exhibit "A"

Lift Station and associated facilities located at _____, Missouri City, Texas, together with any sanitary sewer collection facilities, excluding any gravity lines, gravity manholes, and internal lift station internal force mains between manholes and the lift station, located within easements or other interests in property necessary to collect and transport sanitary sewer waste from such lift station to the Steep Bank Flat Bank Wastewater Treatment Plant.

EXHIBIT “G”

Sienna Plantation Municipal Utility District No. 1 North Regional WWTP Phase III Expansion of Scope of Work

1. **Headworks** – Add a second headworks structure, second 12 mgd (3 mgd ADF) grit chamber, and manual bar rack to allow bypass of the two existing mechanical screens if either was out of service.
2. **Disinfection** – Add one parallel UV channel (1.5 mgd ADF) to match the two existing.
3. **Existing Oxidation Ditches** – Convert existing ditches from surface aerators/rotors with local blowers to four centrifugal blowers with bottom-mounted fine bubble diffused air.
4. **Clarifier** – Re-rate existing clarifiers from total of 3.0 mgd to 4.5 mgd.
5. **Sludge Holding Basin** – Add two sludge holding basins with two blowers, each 700 scfm @ 7.8 psig.
6. **Dewatering** – Add one 2-meter belt press (same as existing) with building to handle additional sludge.
7. The City’s planned odor control project, which may or may not be separately developed. The District’s responsibility for the project shall be its pro rata share.
8. Any other modification to the existing Plant necessary to expand the capacity from 3.0 to 4.5 MGD, that is mutually agreed to on by the City Engineer and the District Engineer.



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 9(d) Authorize Purchase and Installation of Datacenter Edge Switches
Submitted by: Sedrick Cole, IT Director

SYNOPSIS

Purchase and Installation of Complete Datacenter Edge Switches.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live

BACKGROUND

The current datacenter edge switches solution is both end of cycle and end of technology. Edge switches are located closer to client machines than the backbone of the network. The edge switches query core servers for address resolution when destination stations are outside attached local area networks. It is essential to ensure that the right solution is in place to maintain infrastructure and reduce downtime due to equipment failure. As part of the IT replacement schedule it is critical to replace End-of-Life/End-of-Support and defective equipment reducing and minimizing system downtime and loss of City revenue.

The City obtained a hardware quote from Broadleaf Group, whose services will be provided through the Department of Information Resources (DIR) contract DIR-TSO-4167. The Broadleaf Group is a company with whom the City has a professional agreement to provide a quote for the required hardware.

BUDGET/FISCAL ANALYSIS

Funding Source	Account Number	Project Code/Name	FY2019 Funds Budgeted	FY2019 Funds Available	Amount Requested
Budget	611-52260-18-170	N/A	\$349,281.00	\$343,503.44	\$149,902.04
Budget	101-52014-18-170	N/A	\$280,500.00	\$102,305.69	\$100,000.00

Purchasing Review: Shannon Pleasant, CTPM - Procurement & Risk Manager
Financial/Budget Review: Bertha P. Alexander, Budget & Financial Reporting Manager

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

The Broadleaf Group
 13100 Wortham Center Dr Suite 150
 Houston, TX 77065

Phone: 832-678-1000
 Toll Free: 832-295-4830
 Web: www.broadleafgroup.com

City of Missouri City - Cisco - HP Network Switch Replacement



Prepared For:		Quote Information:	
Name:	Sedrick Cole	Quote #:	1001437
Company:	City of Missouri City	Date Created:	04/05/2019
Address:	1522 Texas Pkwy	Date Expires:	06/26/2019
City, State Zip:	Missouri City, TX 77489	Rep:	John Setliff
Phone #:	(281) 403-8604	Email:	jsetliff@broadleafgroup.com
Email:	scole@missouricitytx.gov	Phone:	281-460-5037

All support quoted 36 months

DIR-TSO-4167

Cisco Catalyst 9300 48-port

Description	Price	Qty	Ext. Price
Catalyst 9300 48-port(12 mGig&36 2.5Gbps) Network Essentials	\$5,662.45	18	\$101,924.10
SOLN SUPP 24X7X2 Catalyst 9300 48-port(12 mGig36 2.5Gbps	\$4,453.90	18	\$80,170.20
C9300 Network Essentials, 48-port license	\$0.00	18	\$0.00
CAT9300 Universal image	\$0.00	18	\$0.00
1100W AC 80+ platinum Config 1 Power Supply	\$0.00	18	\$0.00
1100W AC 80+ platinum Config 1 Secondary Power Supply	\$831.11	18	\$14,959.98
North America AC Type A Power Cable	\$0.00	36	\$0.00
C9300 DNA Essentials, 48-Port Term Licenses	\$0.00	18	\$0.00
C9300 DNA Essentials, 48-port - 3 Year Term License	\$489.91	18	\$8,818.38
Catalyst 9300 8 x 10GE Network Module	\$1,115.43	18	\$20,077.74
Network Plug-n-Play License for zero-touch device deployment	\$0.00	18	\$0.00
No Stack Cable Selected	\$0.00	18	\$0.00

The Broadleaf Group
 13100 Wortham Center Dr Suite 150
 Houston, TX 77065

Phone: 832-678-1000
 Toll Free: 832-295-4830
 Web: www.broadleafgroup.com

City of Missouri City - Cisco - HP Network Switch Replacement



Cisco Catalyst 9300 48-port

Description	Price	Qty	Ext. Price
No Stack Power Cable Selected	\$0.00	18	\$0.00
Cisco Catalyst 9300 48-port Subtotal			\$225,950.40

Cisco Catalyst 9300 24-port

Description	Price	Qty	Ext. Price
Catalyst 9300 24-port mGig and UPOE, Network Essentials	\$5,686.51	1	\$5,686.51
SOLN SUPP 24X7X2 Catalyst 9300 24-port mGig and UPOE, Net	\$4,521.41	1	\$4,521.41
C9300 Network Essentials, 24-port license	\$0.00	1	\$0.00
CAT9300 Universal image	\$0.00	1	\$0.00
1100W AC 80+ platinum Config 1 Power Supply	\$0.00	1	\$0.00
1100W AC 80+ platinum Config 1 Secondary Power Supply	\$831.11	1	\$831.11
North America AC Type A Power Cable	\$0.00	2	\$0.00
C9300 DNA Essentials, 24-Port Term Licenses	\$0.00	1	\$0.00
C9300 DNA Essentials, 24-Port, 3 Year Term License	\$266.83	1	\$266.83
Catalyst 9300 8 x 10GE Network Module	\$1,115.43	1	\$1,115.43
Network Plug-n-Play License for zero-touch device deployment	\$0.00	1	\$0.00
No Stack Cable Selected	\$0.00	1	\$0.00
No Stack Power Cable Selected	\$0.00	1	\$0.00
Cisco Catalyst 9300 24-port Subtotal			\$12,421.29

The Broadleaf Group
 13100 Wortham Center Dr Suite 150
 Houston, TX 77065

Phone: 832-678-1000
 Toll Free: 832-295-4830
 Web: www.broadleafgroup.com

City of Missouri City - Cisco - HP Network Switch Replacement



Cisco Catalyst 3560-CX 12-Port

Description	Price	Qty	Ext. Price
Cisco Catalyst 3560-CX 12 Port PoE, 10G Uplinks IP Base	\$1,216.91	3	\$3,650.73
SOLN SUPP 24X7X2 Cisco Catalyst 3560-CX 12 Port PoE, 10G Upl	\$1,026.54	3	\$3,079.62
North America AC Type A Power Cable	\$0.00	3	\$0.00
Cisco Catalyst 3560-CX 12-Port Subtotal			\$6,730.35

SFPs

Description	Price	Qty	Ext. Price
10GBASE-SR SFP Module, Enterprise-Class	\$300.00	16	\$4,800.00
SFPs Subtotal			\$4,800.00

Quote Summary

Description	Amount
Cisco Catalyst 9300 48-port	\$225,950.40
Cisco Catalyst 9300 24-port	\$12,421.29
Cisco Catalyst 3560-CX 12-Port	\$6,730.35
SFPs	\$4,800.00
Subtotal	\$249,902.04
Tax	\$0.00
Total	\$249,902.04

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City of Missouri City - Cisco - HP Network Switch Replacement

Terms & Conditions General • These terms and conditions apply to the proposed transactions described in the attached quote for products and/or services. Broadleaf IT, LLC d/b/a Broadleaf Group ("Broadleaf Group") is the seller of the products and/or services, and the entity named in the quote as purchasing the products and/or services is the Client ("Client"). Signed quotes or Client issued purchase orders shall constitute firm purchase obligations of the above mentioned product(s) and/or service(s) and may not be cancelled or rescheduled without Broadleaf Group's written consent. • All prepaid service hours will expire twelve months after the purchase date. • Broadleaf Group will bill Client for services in one (1) hour minimum blocks for services delivered away from any of Client's locations and four (4) hour minimum blocks for services delivered at a Client location. • Client rescheduling or cancelling a scheduled appointment within a 24-hour window, or failing to attend a scheduled appointment, may result in Broadleaf Group billing Client for the scheduled appointment time. • Client is solely responsible for all applicable taxes and all third-party fees incident to the subject move or otherwise arising hereunder. • This proposal is valid for a period of thirty (30) days from the date of this proposal. • Broadleaf Group will invoice customer weekly with Net 30 day terms. Customer agrees to pay 1.5% for each month that invoice is past due. • If the attached quote contains any products or services for ForeScout, all sales are final with acceptance of this quote and initiation of a purchase order. This condition supersedes any Purchase Order (PO) terms and conditions. • Neither party will be liable or responsible for any delay or nonperformance in whole or in part for its obligations under this agreement if prevented from doing so by a cause or causes beyond its reasonable control, including, without limitation, acts of God or public enemy, fire, floods, storms, earthquakes, riots, strikes, war, failure of utilities, and restraints of government. The suspension of performance shall be for no greater scope and for no longer duration than is reasonably required; the non-performing party shall use reasonable efforts to remedy its inability to perform as soon as practicable. • Client agrees to neither solicit nor hire any Broadleaf Group employee, consultant, or contractor during this engagement or for a period of one (1) year following the conclusion of this engagement, without Broadleaf Group express written consent. • Neither party shall ever be liable or responsible to the other party or to any third party for any indirect, consequential, or incidental damages whatsoever. • Broadleaf Group's liability hereunder is strictly limited to: (1) repair or replace defective work or services, or (2) a refund of monies paid with respect to such services at the SOLE election of the Broadleaf Group. THERE ARE ABSOLUTELY NO OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. • Each party shall save, defend, and hold harmless the other party as well as their respective officers, directors, managers, trustees, agents, contractors, employees, as well as their respective legal representatives, successors and assigns from any and all claims, dues, debts, demands, actions, and causes of action whatsoever arising from the sole negligence of the offending party. • The information in this document is proprietary and contains trade secrets and/or commercial or financial information which is privileged and/or confidential. Client will not disclose the confidential information contained in this quote or any attachments to this quote outside its organization and Broadleaf Group. • The document and the information in it shall not be duplicated, used, or disclosed in whole or part for any purpose other than Client evaluation. • Provided a contract is awarded to Broadleaf Group as a result of, or in connection with, the submission of this document, Client will have the right to duplicate, use, or disclosed the data to all parties participating in this work outlined within. • The waiver by either party of any right or obligation provided under this quote shall not constitute a subsequent or continuing waiver of such right or obligation or of any other right under the SOW. • If lease information is provided on the quote, the actual total monthly lease payment will be confirmed upon and subject to credit approval by the applicable financial institution. All rates include a one-month deposit applied to the last payment due under the lease, assume equipment cost is comprised of 100% new hardware, and are subject to the additional terms and conditions of First American's standard master lease agreement.

Signature

Date

The Broadleaf Group
13100 Wortham Center Dr Suite 150
Houston, TX 77065

Phone: 832-678-1000

Toll Free: 832-295-4830

Web: www.broadleafgroup.com

City of Missouri City - Cisco - HP Network Switch Replacement





**CITY COUNCIL
AGENDA ITEM COVER MEMO**

June 17, 2019

To: Mayor and City Council
Agenda Item: 9(e) Consider ratifying a contract with a tennis professional for the Parks and Recreation department.
Submitted by: Kevin Browne, Recreation Superintendent

SYNOPSIS

Consider action to ratify a contract with King Daddy Sports for tennis programs, lessons, clinics, tournaments and services that has exceeded \$50,000.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Maintain a financially sound City

BACKGROUND

Contract 18-255 was authorized by the City on October 8, 2018, with King Daddy Sports to provide tennis coaching and instruction to the Recreation Division’s tennis program, including team and individual lessons, drills, junior development, mixers, tournaments, and adaptive programs.

The average monthly payments to King Daddy Sports for services rendered has been approximately \$7,730, which over the 11-month period of the contract in Fiscal Year 19 would equate to \$85,000. Pursuant to the City’s purchasing policy, any purchase over \$50,000 must be approved by council. This item ratifies the agreement in order to keep the program growing through the end of the contract’s term, with an allowance in the event higher monthly payments are incurred due to summer camp registrations. This \$85,000-\$90,000 in projected cost will be offset by the revenues brought in to the City under the contract to instruct on City facilities.

This procurement is exempt from the competitive bidding requirements pursuant to state law. The Texas Local Government Code sec. 252.022(a)(4) exempts “a procurement for personal, professional, or planning services” from such requirements.

BUDGET ANALYSIS

Funding Source	Account Number	Project Code/Name	FY19 Funds Budgeted	FY19 Funds Available
General Revenue	101-53571-16-152	Instructor Pay-Contractual	\$183,200	\$32,675.34

Purchasing Review: Shannon Pleasant, CTPM - Procurement & Risk Manager
Financial/Budget Review: Bertha P. Alexander, Budget & Financial Reporting Manager

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Local Contract 18-255

STAFF'S RECOMMENDATION

Staff recommends that the City Council ratify the contract.

Director Approval: Jason S. Mangum, Parks & Recreation Director

Assistant City Manager Approval: Bill Atkinson, Assistant City Manager

**AGREEMENT/CONTRACT
FOR
TENNIS INSTRUCTION & COACHING
(LOCAL CONTRACT NO. 18-255)**

STATE OF TEXAS §

COUNTY OF FORT BEND §

THIS AGREEMENT MADE, entered into and executed by and between the CITY OF MISSOURI CITY, a body corporate and politic under the laws of the State of Texas, hereinafter called "CITY", and KING DADDY SPORTS hereinafter called "CONTRACTOR".

WHEREAS, the CONTRACTOR represents that it is fully capable of making and qualified to provide assistance to the CITY (or Client) and the CONTRACTOR desires to perform the same;

NOW, THEREFORE, the CITY and the CONTRACTOR, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I
SCOPE OF AGREEMENT**

The CONTRACTOR agrees to provide the following services:

CONTRACTOR shall provide tennis instruction and coaching to the Recreation Department's tennis program including team and individual lessons, drills, junior development and mixers.

CONTRACTOR will provide USTA certified tennis coaches for teaching clinics, and lessons and being present for mixers, tournaments and other events.

CONTRACTOR shall provide coaching for all junior programming, adaptive tennis and community/Missouri Tennis Center individual/group adult lessons.

CONTRACTOR shall utilize CITY'S Tennis Center as a main site to generate additional court rental income as feasible by hosting tournaments and mixers.

CONTRACTOR may offer equipment, merchandise and stringing services at the Missouri City Recreation Center.

CONTRACTOR may provide additional community outreach services contingent on availability of space and equipment.

CONTRACTOR will provide water and trash removal on all courts. Water will be provided on all courts (Monday through Friday) and refilled when necessary.

All cash related services must be handled and managed by CITY. CONTRACTOR will be required to route all money through the front desk staff. CONTRACTOR will not personally accept any payments for on court instruction, coaching or any other service rendered under the terms of this agreement.

CONTRACTOR may submit written requests to CITY's designated representative to provide additional tennis-related services.

**SECTION II
CHARACTER AND EXTENT OF WORK**

The CONTRACTOR shall provide the services as defined in Section I. The CITY shall be under no obligation to pay for any additional services rendered without prior written authorization.

**SECTION III
TERM AND TERMINATION**

This AGREEMENT is effective August 31, 2018 and remains in effect for one (1) year from the effective date, unless sooner terminated under the terms of this AGREEMENT. Upon expiration of the initial term, this AGREEMENT may be renewed for one (1) additional one-year option with the same terms and conditions.

The CITY reserves the right to terminate this contract at any time during the term of the contract, without cause, with a written thirty (30) days' notice to terminate and pay the contractor for work performed to date.

**SECTION IV
COMPLIANCE AND STANDARDS**

The CONTRACTOR agrees to provide services hereunder in accordance with the generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the CONTRACTOR's trade or profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the services provided hereunder and the CONTRACTOR's performance. The CONTRACTOR shall and does hereby agree to indemnify and hold harmless the CITY, its officers, agents, and employees from any and all damages, loss, or liability of any kind, whatsoever, including, but not limited to, death, injury, or property damages, caused by the intentional, knowing, reckless, or negligent act or omission (hereinafter referred to as "fault") of the CONTRACTOR, its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this Agreement, and the CONTRACTOR will, at its cost and expense, defend, pay on behalf of, and protect the CITY and its officers, agents, and employees against any and all such claims and demands. Such indemnity shall apply where the suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees arise in whole or in part from the fault of the CONTRACTOR. The indemnification provision shall survive the expiration or termination of the Agreement.

Force Majeure. Neither the CONTRACTOR, its suppliers nor the CITY will be liable for any failure or delay in this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the negligence or willful misconduct of CONTRACTOR), provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If the CONTRACTOR is unable to provide services for a period of ten (10) consecutive days as a result of a continuing force majeure event, the CITY may cancel the services order without penalty.

**SECTION V
THE CONTRACTOR'S COMPENSATION**

For and in consideration of the services rendered by the CONTRACTOR pursuant to this Agreement, the CITY shall pay the CONTRACTOR a flat fee of \$1400.00 per month and CONTRACTOR will be eligible for additional compensation (not to exceed 90% of net) through programmatic sales of services to the public. Accounting for additional compensation shall rest entirely with CITY.

**SECTION VI
TIME OF PAYMENT**

Payment by the CITY to the CONTRACTOR shall be made as follows:

The CONTRACTOR shall be provided a purchase order number from the CITY and such number shall be referenced on all invoices submitted to the CITY.

The CONTRACTOR shall submit, to the appropriate CITY staff member, an invoice in a form acceptable to the CITY, setting forth the charges for the service provided which were delivered during such billing period, and the compensation which is due for same. The CITY contract manager shall review the same and approve it with such modifications, as deemed appropriate. The CITY shall pay each invoice as approved by the CITY contract manager within thirty (30) days after receipt of a true and correct invoice by the CITY. The approval or payment of any such invoice shall not be considered to be evidence of performance by the CONTRACTOR to the point indicated by such invoice or of the receipt of or acceptance by the CITY of the services covered by such invoice.

Invoices shall be submitted via electronic mail to the following address:

City of Missouri City
Accounts Payable Office
1522 Texas Parkway
Missouri City, TX 77489
accountspayable@missouricitytx.gov

Invoices submitted without a purchase order number will be returned unpaid. Failure to submit invoices to the above address will delay payment. DO NOT submit invoices to any other address for payment.

Chapter 2251 of the Texas Government Code, commonly known as the Prompt Payment Act, sets out the required deadlines for payment of the CITY'S obligations to its vendors, requirements for vendor's payments to their subcontractors, penalties for failure to comply with the Act and exceptions to the Act.

The Act requires political subdivisions to pay all payments owed not later than thirty (30) days after the goods and services are received, the performance of the service under the contract is completed, or the date the invoice is received, whichever is later. A payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of one percent (1%) percent; and the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. Interest on an overdue payment

stops accruing on the date the governmental entity or vendor mails or electronically transmits the payment.

The CITY shall notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the entity receives the invoice. If a dispute is resolved in favor of the vendor, the vendor is entitled to receive interest on the unpaid balance of the invoice submitted by the vendor beginning on the date under Section 2251.021 that the payment for the invoice is overdue. If a dispute is resolved in favor of the governmental entity, the vendor shall submit a corrected invoice that must be paid in accordance with Section 2251.021. The unpaid balance accrues interest as provided by this chapter if the corrected invoice is not paid by the appropriate date.

SECTION VII TERMINATION

The CITY may terminate this Agreement at any time by giving thirty (30) days written notice to the CONTRACTOR. The CONTRACTOR may terminate this agreement upon thirty (30) days written notice to the CITY in the event the CITY has failed to pay the CONTRACTOR'S invoices. If the CONTRACTOR has been providing services in accordance with this Agreement, the CITY shall pay the CONTRACTOR all amounts due up to the time of termination.

SECTION VIII ADDRESS AND NOTICES AND COMMUNICATIONS

The parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal notices or other communications ("Notice") required to be given by one party to the other party under this Agreement shall be given in writing addressed to the party to be notified at the address set forth below for such party, (i) by delivering the same in person, (ii) by depositing the same in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the party to be notified, or (iii) by depositing the same with a nationally recognized courier service guaranteeing "next day delivery," addressed to the party to be notified, (iv) by sending the same by telefax with confirming copy sent by mail, or (v) by sending the same by electronic mail with confirming copy sent by mail. Notice deposited in the United States mail in the manner hereinabove described shall be deemed effective from and after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties, until changed by providing written notice in accordance hereunder, shall be as follows:

All notices and communications under this Agreement shall be mailed to the CONTRACTOR at the following address:

KING DADDY SPORTS
Attn: Todd Folsom - President
806 Greenbelt Drive
Houston, Texas 77079
kdsports@aol.com
281-723-8633

All notices and communications under this Agreement shall be sent to the CITY at the following address:

City of Missouri City
Attn: Procurement and Risk Management
1522 Texas Parkway
Missouri City, Texas 77489
purchasing@missouricitytx.gov

**SECTION IX
LIMIT OF APPROPRIATION**

Prior to the execution of this Agreement, the CONTRACTOR has been advised by the CITY and the CONTRACTOR clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the CITY shall have available the amount budgeted by the CITY for materials testing to discharge any and all liabilities which may be incurred by the CITY pursuant to this Agreement and that the total maximum compensation that the CONTRACTOR may become entitled to hereunder and the total maximum sum that the CITY shall become liable to pay to the CONTRACTOR hereunder shall not under any conditions, circumstances, or interpretations, hereof, exceed the said total maximum sum provided for in this section without prior written permission from the CITY.

The CITY and the CONTRACTOR bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the CITY nor the CONTRACTOR shall assign, sublet or transfer its or his interest in this Agreement without the written consent of the other, which consent will not be unreasonably withheld. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto.

**SECTION X
MEDIA**

Contact with the news media shall be the sole responsibility of the CITY. The CONTRACTOR shall under no circumstances release any material or information developed in the performance of its work hereunder without the express written permission of the CITY.

**SECTION XI
AUTHORITY OF CITY PROJECT MANAGER**

All work to be performed by the CONTRACTOR hereunder shall be performed to the satisfaction of the CITY'S project manager. The CITY'S project manager shall decide any and all questions, which may arise as to the quality, or acceptability of the work performed by the CONTRACTOR and the decisions of the CITY'S project manager in such cases shall be final and binding on both parties. However, nothing contained herein shall be construed to authorize the CITY'S project manager to alter, vary or amend this Agreement.

**SECTION XII
MODIFICATIONS**

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect, except for a subsequent modification in writing signed by both parties hereto.

**SECTION XIII
FISCAL FUNDING**

The CITY'S fiscal year is October 1st through September 30th.

If this contract extends beyond September 30th, there shall be a fiscal funding out. If, for any reason, funds are not appropriated to continue the contract in the new fiscal year, said contract shall become null and void on the last day of the current appropriation of funds. Contract will then be terminated without penalty of any kind or form to the CITY.

**SECTION XIV
INSURANCE REQUIREMENTS**

If required, as indicated below, the CONTRACTOR shall procure and maintain, with respect to the subject matter of this Agreement, appropriate insurance coverage with limits to cover the CONTRACTOR'S liability as may arise or cause, directly or indirectly, from work performed under terms of this Agreement.

If applicable, a current certificate of liability insurance is required to be submitted to the Purchasing Office before the CITY will enter into a contract with the CONTRACTOR. The certificate of insurance shall be an attachment to the contract document.

POLICY REQUIREMENTS (IF APPLICABLE)

The CONTRACTOR and all subcontractors performing work for the CONTRACTOR under this Agreement shall furnish a completed insurance certificate to the CITY prior to the event, which shall be completed by an agent authorized to bind the named underwriter(s) for coverage, limits, and termination provisions shown thereon, and which shall contain the following:

- (a) Worker's Compensation: Workers' Compensation Insurance with statutory limits as required by the State of Texas and Employer's Liability with minimum limits of \$1,000,000 each accident and each employee;
- (b) Commercial General Liability: General Liability Coverage with minimum limits of \$1,000,000 each occurrence, \$2,000,000 in aggregate;
- (c) Automobile Liability: Automobile Liability Insurance that provides coverage for owned, hired, and non-owned automobiles. Liability limits shall be \$1,000,000 combined single limit each accident for bodily injury and property damage; and
- (d) Professional Liability (Errors and Omissions): Coverage Amount \$1,000,000 per occurrence and \$1,000,000 annual aggregate.

The CITY shall be entitled, upon request and without expense, to receive copies of the certificate of insurance and the required policies and endorsements.

The CONTRACTOR agrees, with respect to the above required insurance, that all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions:

(a) The CONTRACTOR shall notify the CITY of any change in the required coverage or cancellation, and shall give such notices not less than 30 days prior to the change or cancellation. The CONTRACTOR shall provide a replacement CERTIFICATE OF INSURANCE prior to such change or cancellation;

(b) Provide for an endorsement that the "other insurance" clause or provision shall not apply to the CITY where the CITY is shown as an additional insured on the policy;

(c) Provide for notice to the CITY at the address shown in this Agreement;

(d) The CONTRACTOR agrees to waive all the CONTRACTOR'S, its officers, employees, agents, assigns, and successors' rights of subrogation against the CITY, its officers, employees, and elected representatives for injuries, death, property damage, or other loss

(e) The CITY, its elected and appointed officials, employees and agents shall be listed as additional insured to the required coverage. All coverage specified shall remain in effect during the term of this Agreement. No cancellation of or changes to the certificates, the policies or endorsements may be made without thirty (30) days prior written notification to the CITY. Any termination of coverage without replacement shall result in immediate termination of this Agreement.

COVERAGES SHALL BE WITH A COMPANY (WITH AT LEAST AN A- BEST RATING) ACCEPTABLE TO THE CITY PURCHASING AND RISK MANAGEMENT DEPARTMENT AND A COPY OF THE CERTIFICATE OF COVERAGE SHALL BE DELIVERED TO THE CITY ON OR BEFORE THE DATE OF THIS AGREEMENT.

NOTICES

All notices shall be given to the CITY at the following address:

City of Missouri City
Purchasing and Risk Management
1522 Texas Parkway
Missouri City, Texas 77489

APPROVAL

Approval, disapproval, or failure to act by the CITY regarding any insurance supplied by the CONTRACTOR shall not relieve the CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the CONTRACTOR from liability.

**SECTION XV
PROHIBITION ON BOYCOTTING ISRAEL**

Pursuant to Section 2270.002, Texas Government Code, the CITY may not enter into a contract for goods or services unless the contract contains a written verification that the contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. By executing the House Bill 89 Verification Form, Exhibit A, attached hereto and incorporated herein for all purposes, CONTRACTOR verifies that CONTRACTOR does not boycott Israel and will not boycott Israel during the term of this Agreement.

**SECTION XVI
ENGAGING IN BUSINESS WITH SUDAN, IRAN OR FOREIGN TERRORIST
ORGANIZATIONS PROHIBITED**

Pursuant to Section 2252.152, Texas Government Code, CONTRACTOR warrants, represents, and agrees that CONTRACTOR is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts as a company that engages in business with Sudan, Iran or a foreign terrorist organization.

**SECTION XVII
CHOICE OF LAW**

This Agreement shall be governed by the laws of the State of Texas, except for the conflict of law provisions, with venue in Fort Bend County, Texas and the CONTRACTOR hereby consents to such jurisdiction and venue.

**SECTION XVIII
SEVERABILITY**

In the event that any provision(s) of this Agreement shall for any reason be held invalid, illegal, or unenforceable, the invalidity, illegality or unenforceability of that provision(s) shall not affect any other provision(s) of this Agreement, and it shall further be construed as if the invalid, illegal, or unenforceable provision(s) had never been a part of this Agreement.

**SECTION XIX
CONTRACT SIGNATURE SHEET**

This document and the included exhibit, except for any terms and conditions attached to or included in the Scope of Work by the CONTRACTOR, is the entire Agreement and recites the full consideration between the parties, there being no other written or parole agreement.

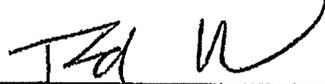
IN WITNESS WHEREOF, the said CITY has lawfully caused these presents to be executed by the City Manager of said CITY, and the said CONTRACTOR, acting by its thereunto duly authorized representative, does now sign, execute and deliver this instrument.

Authorized by the City of Missouri City, Texas on the _____ day of _____, 2018.

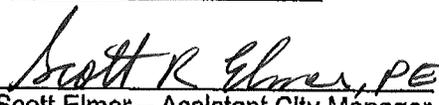
Reviewed by: 
Shannon Pleasant, CTPM - Procurement & Risk Manager

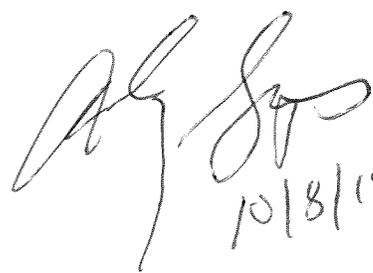
Department Director:  Date: 10-1-18

KING DADDY SPORTS


Todd Folsom - President
9/12/18
Date

CITY OF MISSOURI CITY


Scott Elmer - Assistant City Manager
10-3-18
Date


10/8/18



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 9(f) Consider authorizing the City Manager to negotiate and execute an interlocal agreement with Fort Bend County for the construction of Sienna Parkway Intersections Improvements
Submitted by: Shashi K. Kumar, P.E., Public Works Director and City Engineer

SYNOPSIS

Consider authorizing the City Manager to negotiate and execute an interlocal agreement with Fort Bend County for the Fort Bend County Project No. 17205 – Sienna Parkway Intersection Improvements.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a Great Place to Live
- Maintain a Fiscally Sound City Government
- Have quality development through buildout

BACKGROUND

In November, 2017, Fort Bend County voters passed a \$218 Million bond package to fund potential roadway / mobility projects in Fort Bend County (FBC). The submission of the City's project list to FBC was approved by City Council via Resolution No. R-17-10., of which, four (4) projects were authorized within Missouri City limits. In general, all these projects require a 50% funding match by the local entity (City) based on estimated construction costs. The other 50% is programmed to be funded by FBC, with a not to exceed cap. In addition, sections of the projects that extend beyond FBC limits are not funded by the County, and would require local jurisdictions to absorb these costs. Currently, in the City's adopted 5-year CIP, the City has not committed its share of funding for the four (4) authorized mobility bond projects.

One of the key mobility projects authorized includes the Sienna Parkway Intersections Improvement project as shown in the attached vicinity map. The scope of this project includes strategic improvements at several intersection locations along Sienna Parkway to enhance mobility and reduce congestion. Intersection improvements are proposed at Trammel Fresno Road, Sienna Springs Boulevard, Watts Plantation Road, and Sienna Ranch Road. This is necessary to alleviate high traffic volume along this major north / south corridor attributed to the general growth in the Sienna area. This project is located within the City limits and ETJ. FBC has committed funding of \$2,020,000, whereas the total project cost is estimated at \$5,242,400.

Since none of the mobility projects are currently funded in the City's CIP, the City is trying to leverage other sources of funding and partnerships to commit its share of funding to implement the mobility projects. The City was approached by the Sienna Plantation Management District (SPMD) on behalf of the developer to fund the City's share of the project cost and implement these intersection improvements along Sienna Pkwy. In addition, the developer / SPMD will take the lead on City's behalf in designing and constructing these improvements. This effort was coordinated with the Fort Bend County Engineers office and currently SPMD has authorized their Engineer (LJA Engineering) to perform a detailed study to fine tune

the improvements identified in the 2017 Sienna Parkway Improvements Mobility Bond Project. Subsequently, SPMD would authorize a design contract for the design and construction of these improvements.

This interlocal agreement (ILA) is proposed with FBC to secure County's share of commitment for the project. Upon receipt of funds from FBC, based on the terms of the attached interlocal agreement, the City will reimburse the Developer \ SPMD up to \$2,020,000 towards project cost. A future agreement between the City and the Developer \ SPMD would be forthcoming. Per the terms of this ILA, the city will initiate design of these improvements no later than December 1, 2019. The City agrees to initiate construction of the improvements no later than April 1, 2020.

BUDGET ANALYSIS

Purchasing Review: N/A

Financial/Budget Review: N/A

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Project vicinity map
2. Interlocal Agreement (ILA) with Fort Bend County

STAFF'S RECOMMENDATION

Staff recommends authorizing the City Manager to negotiate and execute an interlocal agreement with Fort Bend County for the Fort Bend County Project No. 17205 – Sienna Parkway Intersection Improvements.

Director Approval:

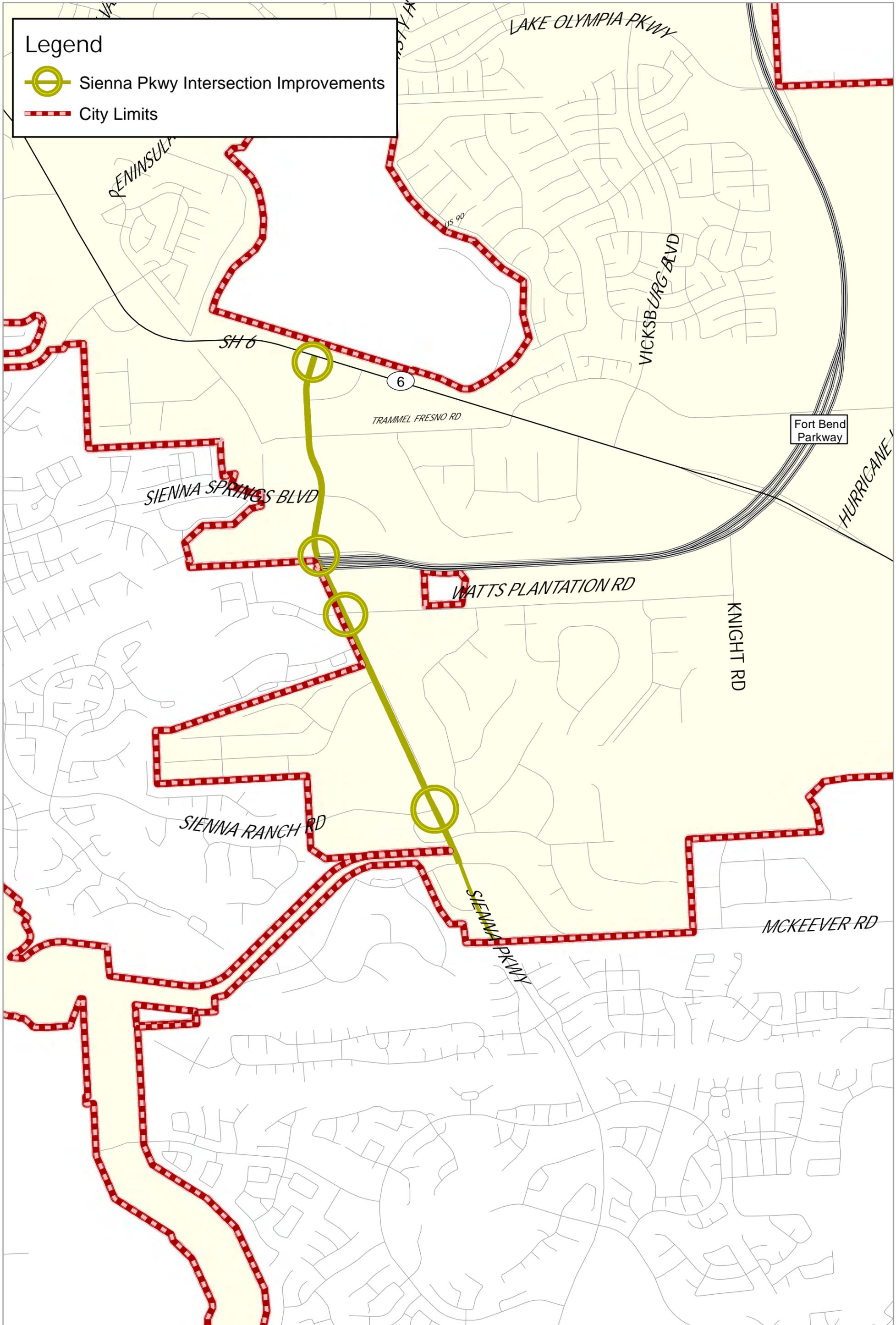
Shashi K. Kumar, P.E.

**Assistant City Manager/
City Manager Approval:**

Bill Atkinson

Legend

-  Sienna Pkwy Intersection Improvements
-  City Limits



Map By:
GIS Division
May 2019



2017 Mobility Bond Project Sienna Intersection Improvements



0 1,000 2,000 4,000 6,000 Feet

Geographic Coordinate System North American Datum 1983 (NAD83)

The information on this map is provided and maintained by various agencies, including county departments, municipal governments, state and federal agencies. No guarantee is given as to the accuracy or currency of any of the data. The map is designed to serve as a secondary representation of real property found within this jurisdiction, and is compiled from the recorded deeds, plats, and other public records, which are primary sources for this public information. Users of this map are hereby notified that these primary sources should be consulted for verification of the information presented here. The data layers do not take the place of a legal survey or other primary source documentation. The city and its vendors assume no legal responsibility for the information on this map.

AGREEMENT

Section 1. Purpose

The purpose of this Agreement is to outline the funding obligations related to the improvements to intersections along Sienna Parkway.

Section 2. Definitions

A. **City** means the City of Missouri City, Texas.

B. **County** means Fort Bend County, Texas.

C. **Project** means improvements to intersections along Sienna Parkway, including but not limited to additional turn lanes at Trammel Fresno Road, Sienna Springs Boulevard, Watts Plantation Road, Sienna Ranch Road and other locations along Sienna Parkway identified based on a detailed traffic study performed for the corridor.

D. **Eligible Project Costs** means costs, as determined by County, construction of roadway improvements, Project related drainage facilities, utility and pipeline conflicts, approved traffic control devices, and sidewalks up to five feet (5') wide. Except for utility conflicts created by the construction of Project elements, and design and construction cost of upgrades to eligible Project components and similar facilities requested by the City to be included in the Project, Eligible Project Costs shall exclude, engineering design and services related to the completion of Plans, Specifications and Estimates ("PS&E"), design and construction costs related to landscaping, irrigation, lighting, hike & bike trails, reconstruction of utilities,

Section 3. Incorporation of Recitals

The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are incorporated into this Agreement.

Section 4. County's Rights and Obligations

A. During the work on the Project, County shall have the right to review all documents, maps, plats, records, photographs, reports and drawings affecting the construction and to inspect the work in progress, provided however, that in conducting such inspections, County shall not interfere with the work in progress. Any deficiencies brought to the attention of City by the County shall be promptly addressed by City within a reasonable time.

B. County shall have the right to participate in the final inspection of the Project. City shall notify County of the schedule for the final inspection of the Project and County shall notify City of its intention to participate in the final inspection within 48 (forty-eight) hours of receipt of said notice. At that time, any deficiencies noted by County shall be promptly addressed by City, within a reasonable time.

C. The County's sole obligation under this Agreement is to provide the funding for Eligible Project Costs to the City as specified in this Section. The County agrees to pay the City an amount equal to the lesser of the following:

- (1) Fifty Percent (50%) of Eligible Project Costs; or
- (2) \$2,020,000.00

D. The County is not obligated to expend any further funds above \$2,020,000.00 on the Project from the 2017 General Obligation Bonds or any other sources of funding, nor shall the County's share of the Project exceed fifty percent (50%) of the cost of Eligible Project Costs.

E. The County will forward the lesser amount as detailed in Section 4. C., above to the City upon the City's award of the construction contract for the Project. The City will forward to the County a request for payment that includes sufficient detail for the County to review the low bidder submittal. The County will forward payment to the City within thirty (30) days of approval of the construction contract from the City Council and a request from the City for payment.

F. Should the City fail to initiate Project design or construction by the dates provided below, or elect to forego construction for any reason, the County shall have, within its sole discretion to exercise, the right to re-allocate its contribution as it determines appropriate.

Section 5. City's Rights and Obligations

A. The City is responsible for managing the design and overseeing the construction and completion of the Project and complying with the applicable state and federal laws.

B. The City agrees to initiate design of the Project no later than December 1, 2019.

C. The City agrees to initiate construction of the Project no later than April 1, 2020.

D. The City agrees that the improvements constructed under this Agreement, except those specifically identified as being County facilities, are the City's public infrastructure and shall be operated and maintained by the City.

E. In the event the City fails to initiate Project design or construction within the time prescribed above, determines the Project lacks feasibility, or for any other reason elects to forego its construction, the City shall provide written notice to the County of such failure or its decision to forego construction. This Agreement shall automatically terminate upon the City's election to forego construction of the Project. However, in the case of the City's delay in initiating Project design or construction, the County shall have the option to proceed with its obligations under this Agreement. Upon an election to terminate this Agreement under any circumstances, City agrees to refund all amounts provided by County, if any, upon thirty (30) days of said notice to the County.

F. The City shall submit reports to the County describing in sufficient detail the progress of the Project. These reports may be submitted to County at increments agreed to between the Parties as appropriate for the various phases of the Project, but if no alternate agreements are made in writing, the reports shall be submitted on a quarterly basis. Reports received by the City from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as the City has reviewed such reports and confirmed accuracy of the contractor's report.

G. The City will submit the plans for the Project to the County Engineer for review in accordance with the 2017 General Obligation Bond requirements for the Project. During the

work on the Project, the County may review the documents, maps, plats, records, photographs, reports, and drawings pertaining to the Project and may inspect the work in progress, provided that it does not interfere with the work.

H. Upon completion of the Project, but no later than sixty (60) days after, the City will furnish the County with a full accounting of the funds expended on the Project and an electronic copy of the record drawings showing the Project as constructed. The County Auditor may review the City's records regarding this Project.

I. If, after completion of Project and the City's receipt of the funds as stated in Section 4, there are funds remaining and/or savings from Project, City shall return such funds to County within thirty (30) days of the County's acceptance of full accounting required in Section 5.H. above.

Section 6. Liability

The City and County are entitled to the immunities and defenses of the Texas Tort Claims Act. Nothing in the Agreement shall be construed to waive either party's sovereign immunity.

Section 7. Maintenance

Upon completion of the Project, the City shall maintain the portion of the Project within its jurisdiction.

Section 8. Limit of Appropriation

A. Prior to the execution of this Agreement, the City has been advised by the County, and the City clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the County shall have available the total maximum amount of (i.) Fifty Percent (50%) of Eligible Project Costs, or (ii.) \$2,020,000.00, WHICHEVER AMOUNT IS LESS.

B. The City does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum funding that the City may become entitled to hereunder and the total maximum amount that the County will reimburse the City hereunder will not under any condition, circumstance or interpretation hereof exceed Fifty Percent (50%) of Eligible Project Costs or \$2,020,000.00, WHICHEVER AMOUNT IS LESS.

C. Each party paying for the performance of its obligations under this Agreement shall make those payments from current revenues available to that party.

Section 9. Insurance Requirements

City agrees that it will require Contractor's insurance policies name County as well as City as additional insureds on all policies except for Workers' Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

A. Worker's Compensation in the amount required by law. The policy shall include the All States Endorsement.

B. Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).

C. Comprehensive Automobile Liability Insurance, including owned, non-owned and hired vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.

D. City may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases County shall remain an additional insured. City will provide County with proof of insurance within thirty (30) days of City's award of the contract for the Project construction.

Section 10. Assignment

No party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party.

Section 11. No Third Party Beneficiaries

The Parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

Section 12. Notices

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, or delivered to the following addresses:

County:	Fort Bend County Attention: County Judge 401 Jackson Street, 1 st Floor Richmond, Texas 77469
City:	City of Missouri City, Texas Attention: City Manger 1522 Texas Parkway Missouri City, Texas 77489
With a copy to:	Fort Bend County Engineering Department Attention: County Engineer 301 Jackson Street Richmond, Texas 77469
City:	City of Missouri City, Texas Attention: Yolanda Ford, Mayor 1522 Texas Parkway Missouri City, Texas 77489

Section 13. Entire Agreement

This Agreement contains the entire agreement between the Parties relating to the rights granted and the obligations assumed. Any modifications concerning this instrument shall be of no force or effect, unless a subsequent modification in writing is signed by all Parties hereto. If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the Parties.

Section 14. Execution

This Agreement has been executed by the City and the County upon and by the authority of their respective governing bodies. This Agreement shall become effective on the date executed by the final party, and remain in effect until (i.) September 30, 2022, (ii.) the Project is complete, or (iii.) the Agreement is terminated otherwise as provided herein; and the obligations under Sections 4 and 5 of this Agreement are fulfilled, whichever is sooner.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

FORT BEND COUNTY, TEXAS

CITY OF MISSOURI CITY, TEXAS

KP George, County Judge

Yolanda Ford, Mayor

Date _____

Date: _____

ATTEST:

ATTEST:

Laura Richard, County Clerk

Maria Jackson, City Secretary

APPROVED:

J. Stacy Slawinski, P.E., County Engineer

APPROVED AS TO LEGAL FORM:

Marcus D. Spencer, First Assistant County Attorney

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under the terms of this Agreement.

Robert Ed Sturdivant, Fort Bend County Auditor



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

June 17, 2019

To: Mayor and City Council
Agenda Item: 9(g) Approval of an abbreviated contract with K3 Resources, LP - Biosolids Management Division for sludge hauling services
Submitted by: Millie Holifield, AICP, Utilities Coordinator

SYNOPSIS

Council approval is needed for an abbreviated contract with the current sludge hauler K-3 Resources, LP, BMI – Biosolids Management Division, to extend contract services from expiration of the most recent contract to execution of a new contract, which is currently out for bid.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Maintain a financially sound City
- Have quality development through buildout

BACKGROUND

K-3 Resources, LP, BMI – Biosolids Management Division, has provided sludge hauling services to the City’s two wastewater treatment plants and surface water treatment plant under the most recent contract executed in 2015. That contract expired in December 2018, and sludge hauling services are currently being advertised for bid. In the interim, K-3 has continued to provide service. An abbreviated contract with K-3 is needed to extend from the December 2018 expiration to when the current bid solicitation process results in award of a new contract. The attached draft contract would extend from December 11, 2018 to August 31, 2019, with provision for month to month extension for a maximum of three months.

BUDGET/FISCAL ANALYSIS

Funding Source	Account Number	Project Code/Name	FY19 Funds Budgeted	FY19 Funds Available	Amount Requested
Steep Bank Flat Bank Wastewater Treatment Plant	506-53548-50-506-	N/A	\$109,433	\$80,292	\$80,000
Surface Water Treatment Plant	540-53548-54-540-	N/A	\$128,108	\$80,361	\$80,000

Purchasing Review: Shannon Pleasant, CTPM, Procurement and Risk Manager
Financial/Budget Review: Allena J. Portis, CPA, MPA, Director of Financial Services

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Service Agreement 16-084A K-3 BMI

STAFF'S RECOMMENDATION

Staff recommends approval of an abbreviated contract with K3 Resources, LP - Biosolids Management Division for sludge hauling services.

Director Approval:

Shashi K. Kumar, P.E.

**Assistant City Manager/
City Manager Approval:**

Bill Atkinson

**AGREEMENT/CONTRACT
FOR
Sludge Hauling Services for Water and Wastewater Facilities
(LOCAL CONTRACT NO. 16-084A)**

STATE OF TEXAS §

COUNTY OF FORT BEND §

THIS AGREEMENT MADE, entered into and executed by and between the CITY OF MISSOURI CITY, a body corporate and politic under the laws of the State of Texas, hereinafter called "CITY", and **K3 Resources L.P.** hereinafter called "CONTRACTOR".

WHEREAS, the CONTRACTOR represents that it is fully capable of making and qualified to provide assistance to the CITY (or Client) and the CONTRACTOR desires to perform the same;

NOW, THEREFORE, the CITY and the CONTRACTOR, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I
SCOPE OF AGREEMENT**

The CONTRACTOR agrees to provide the following services:

Per Contractors response to Invitation for Bid # 16-084, dated October 27, 2015, signed by Chad Minter, all terms and conditions shall apply;

Biosolids sludge hauling and disposal services for the City to meet the following minimum specifications.

The City requires the hauling and disposal of dry sludge. One wastewater treatment plants and the surface water plant are operational.

The dry sludge will be dewatered using a belt filter press and shall be disposed of in a roll-off container with minimum capacity of twenty five (25) cubic yards to be supplied by the contractor.

RESPONSE TIME

Sludge hauling services will be requested as needed by the individual plant operator. Contractor's response time shall be:

Dry Sludge – Same Day. The plant operator will provide notice by 8:00 AM for pick up on the same day. Contractor will pick up on the same day but not earlier than 2:30 PM. Contractor will pick up a container of dry sludge which has been produced by the plant operator with the sludge press. Contractor will exchange the full container with a replacement container supplied under this contract.

LOCATIONS & DESCRIPTION

Location No. 1 - Steep Bank Flat Bank Wastewater Treatment Plant located at 6310 Oilfield Road.

This wastewater treatment plant generates approximately 36,000 pounds of dry sludge each month. In addition, the plant may produce occasional small amounts of wet sludge.

There is a plant operator contracted by the City. On an annual basis, the operator will provide the TCLP, fecal, SOUR and land application analyses results required by the NPDES and TCEQ permits.

Location No. 3 – Missouri City Surface Water Treatment Plant located at 4655 ½ Bees Passage Road.

The Missouri City Surface Water Treatment Plant produces dewatered municipal water treatment plant sludge that passes a paint solids test and meets the analytical requirements for landfill disposal. The sludge generated is expected to be 15-20% solids, with an approximate weight of 1,820 pounds per cubic yard. The sludge will be dewatered using a belt filter press and shall be disposed of in roll-off containers to be supplied by the contractor.

There is a plant operator contracted by the City. On an annual basis, the operator will provide the TCLP, fecal, SOUR and land application analyses results required by the NPDES and TCEQ permits.

The Contractor will supply an Annual Sludge report that complies with the requirements of the NPDES and TCEQ permits and submit the annual reports to the City by July 15th of each year.

DUTY TO COMPLY

The sludge hauling and treatment shall follow all applicable laws and rules as set forth by the Texas Commission on Environmental Quality, the Texas Department of Health and the United States Environmental Protection Agency. **A copy of the bidder's permits and registrations for all treatment and disposal sites to be utilized shall be submitted upon request.**

RECORD KEEPING

All applicable records shall be provided and maintained for each generator as per the federal and state agency's rules and regulations.

All records needed for reporting shall be available for inspection per the generator's current NPDES and TCEQ permit.

A copy of all manifests shall be returned to the City with the invoice for that month.

PRICE

The unit price shall include the record keeping, all costs associated with the hauling, treatment and ultimate disposal of the sludge, including any laboratory analyses required, not previously specified herein. Any cost that is not identified with the bid shall be considered inclusive in the bid price.

PRICING:

Pick-up and Haul Dry Sludge/cubic yard	\$ 29.54 cubic yard
Provide and Deliver Roll-off Containers	No charge

The City of Missouri City shall not be liable for any cost, cleanup or damages caused by the treatment, mixing or application of any other sludge of unknown, non-compliant or hazardous quality for any other entity.

**SECTION II
CHARACTER AND EXTENT OF WORK**

The CONTRACTOR shall provide the services as defined in Section I. The CITY shall be under no obligation to pay for any additional services rendered without prior written authorization.

**SECTION III
TERM AND TERMINATION**

This AGREEMENT is effective **December 11, 2018** and remains in effect until August 31, 2019, unless sooner terminated under the terms of this AGREEMENT. Upon expiration of the initial term, this AGREEMENT may be renewed on a month-to-month basis not to exceed ninety-days (90) with the same terms and conditions.

The CITY reserves the right to terminate this contract at any time during the term of the contract, without cause, with a written thirty (30) days' notice to terminate and pay the contractor for work performed to date.

SECTION IV COMPLIANCE AND STANDARDS

The CONTRACTOR agrees to provide services hereunder in accordance with the generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the CONTRACTOR's trade or profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the services provided hereunder and the CONTRACTOR's performance. The CONTRACTOR shall and does hereby agree to indemnify and hold harmless the CITY, its officers, agents, and employees from any and all damages, loss, or liability of any kind, whatsoever, including, but not limited to, death, injury, or property damages, caused by the intentional, knowing, reckless, or negligent act or omission (hereinafter referred to as "fault") of the CONTRACTOR, its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this Agreement, and the CONTRACTOR will, at its cost and expense, defend, pay on behalf of, and protect the CITY and its officers, agents, and employees against any and all such claims and demands. Such indemnity shall apply where the suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees arise in whole or in part from the fault of the CONTRACTOR. The indemnification provision shall survive the expiration or termination of the Agreement.

Force Majeure. Neither the CONTRACTOR, its suppliers nor the CITY will be liable for any failure or delay in this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the negligence or willful misconduct of CONTRACTOR), provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If the CONTRACTOR is unable to provide services for a period of ten (10) consecutive days as a result of a continuing force majeure event, the CITY may cancel the services order without penalty.

SECTION V THE CONTRACTOR'S COMPENSATION

For and in consideration of the services rendered by the CONTRACTOR pursuant to this Agreement, the CITY will pay the CONTRACTOR the amount not exceed one-hundred, sixty thousand dollars (\$ 160,000).

SECTION VI TIME OF PAYMENT

Payment by the CITY to the CONTRACTOR shall be made as follows:

The CONTRACTOR shall be provided a purchase order number from the CITY and such number shall be referenced on all invoices submitted to the CITY.

The CONTRACTOR shall submit, to the appropriate CITY staff member, an invoice in a form acceptable to the CITY, setting forth the charges for the service provided which were delivered during such billing period, and the compensation which is due for same. The CITY contract manager shall review the same and approve it with such modifications, as deemed appropriate. The CITY shall pay each invoice as approved by the CITY contract manager within thirty (30) days after receipt of a true and correct invoice by the CITY. The approval or payment of any such invoice shall not be considered to be evidence of performance by the CONTRACTOR to the point

indicated by such invoice or of the receipt of or acceptance by the CITY of the services covered by such invoice.

Invoices shall be submitted via electronic mail to the following address:

City of Missouri City
Accounts Payable Office
1522 Texas Parkway
Missouri City, TX 77489
accountspayable@missouricitytx.gov

Invoices submitted without a purchase order number will be returned unpaid. Failure to submit invoices to the above address will delay payment. DO NOT submit invoices to any other address for payment.

Chapter 2251 of the Texas Government Code, commonly known as the Prompt Payment Act, sets out the required deadlines for payment of the CITY'S obligations to its vendors, requirements for vendor's payments to their subcontractors, penalties for failure to comply with the Act and exceptions to the Act.

The Act requires political subdivisions to pay all payments owed not later than thirty (30) days after the goods and services are received, the performance of the service under the contract is completed, or the date the invoice is received, whichever is later. A payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of one percent (1%) percent; and the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. Interest on an overdue payment stops accruing on the date the governmental entity or vendor mails or electronically transmits the payment.

The CITY shall notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the entity receives the invoice. If a dispute is resolved in favor of the vendor, the vendor is entitled to receive interest on the unpaid balance of the invoice submitted by the vendor beginning on the date under Section 2251.021 that the payment for the invoice is overdue. If a dispute is resolved in favor of the governmental entity, the vendor shall submit a corrected invoice that must be paid in accordance with Section 2251.021. The unpaid balance accrues interest as provided by this chapter if the corrected invoice is not paid by the appropriate date.

SECTION VII TERMINATION

The CITY may terminate this Agreement at any time by giving thirty (30) days written notice to the CONTRACTOR. The CONTRACTOR may terminate this agreement upon thirty (30) days written notice to the CITY in the event the CITY has failed to pay the CONTRACTOR'S invoices. If the CONTRACTOR has been providing services in accordance with this Agreement, the CITY shall pay the CONTRACTOR all amounts due up to the time of termination.

**SECTION VIII
ADDRESS AND NOTICES AND COMMUNICATIONS**

The parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal notices or other communications (“Notice”) required to be given by one party to the other party under this Agreement shall be given in writing addressed to the party to be notified at the address set forth below for such party, (i) by delivering the same in person, (ii) by depositing the same in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the party to be notified, or (iii) by depositing the same with a nationally recognized courier service guaranteeing “next day delivery,” addressed to the party to be notified, (iv) by sending the same by telefax with confirming copy sent by mail, or (v) by sending the same by electronic mail with confirming copy sent by mail. Notice deposited in the United States mail in the manner hereinabove described shall be deemed effective from and after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties, until changed by providing written notice in accordance hereunder, shall be as follows:

All notices and communications under this Agreement shall be mailed to the CONTRACTOR at the following address:

K3 Resources, L.P.
P.O. Box 2236
Alvin, TX 77512
Andy Drennan-Chief Operating Officer
281-808-1141
andy@k3bmi.com

All notices and communications under this Agreement shall be sent to the CITY at the following address:

City of Missouri City
Attn: Procurement and Risk Management
1522 Texas Parkway
Missouri City, Texas 77489
purchasing@missouricitytx.gov

**SECTION IX
LIMIT OF APPROPRIATION**

Prior to the execution of this Agreement, the CONTRACTOR has been advised by the CITY and the CONTRACTOR clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the CITY shall have available the amount budgeted by the CITY for materials testing to discharge any and all liabilities which may be incurred by the CITY pursuant to this Agreement and that the total maximum compensation that the CONTRACTOR may become entitled to hereunder and the total maximum sum that the CITY shall become liable to pay to the CONTRACTOR hereunder shall not under any conditions, circumstances, or interpretations, hereof, exceed the said total maximum sum provided for in this section without prior written permission from the CITY.

**SECTION IX
SUCCESSORS AND ASSIGNS**

The CITY and the CONTRACTOR bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the CITY nor the CONTRACTOR shall assign, sublet or transfer its or his interest in this Agreement without the written consent of the other, which consent will not be unreasonably withheld. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto.

**SECTION X
MEDIA**

Contact with the news media shall be the sole responsibility of the CITY. The CONTRACTOR shall under no circumstances release any material or information developed in the performance of its work hereunder without the express written permission of the CITY.

**SECTION XI
AUTHORITY OF CITY PROJECT MANAGER**

All work to be performed by the CONTRACTOR hereunder shall be performed to the satisfaction of the CITY'S project manager. The CITY'S project manager shall decide any and all questions, which may arise as to the quality, or acceptability of the work performed by the CONTRACTOR and the decisions of the CITY'S project manager in such cases shall be final and binding on both parties. However, nothing contained herein shall be construed to authorize the CITY'S project manager to alter, vary or amend this Agreement.

**SECTION XII
MODIFICATIONS**

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect, except for a subsequent modification in writing signed by both parties hereto.

**SECTION XIII
FISCAL FUNDING**

The CITY'S fiscal year is October 1st through September 30th.

If this contract extends beyond September 30th, there shall be a fiscal funding out. If, for any reason, funds are not appropriated to continue the contract in the new fiscal year, said contract shall become null and void on the last day of the current appropriation of funds. Contract will then be terminated without penalty of any kind or form to the CITY.

SECTION XIV INSURANCE REQUIREMENTS

If required, as indicated below, the CONTRACTOR shall procure and maintain, with respect to the subject matter of this Agreement, appropriate insurance coverage with limits to cover the CONTRACTOR'S liability as may arise or cause, directly or indirectly, from work performed under terms of this Agreement.

If applicable, a current certificate of liability insurance is required to be submitted to the Purchasing Office before the CITY will enter into a contract with the CONTRACTOR. The certificate of insurance shall be an attachment to the contract document.

POLICY REQUIREMENTS (IF APPLICABLE)

The CONTRACTOR and all subcontractors performing work for the CONTRACTOR under this Agreement shall furnish a completed insurance certificate to the CITY prior to the event, which shall be completed by an agent authorized to bind the named underwriter(s) for coverage, limits, and termination provisions shown thereon, and which shall contain the following:

- (a) Workman's Compensation Insurance as required by laws and regulations applicable to and covering employees of Contract engaged in the performance of the work under this agreement with a limit of not less than \$1,000,000.00;
- (b) Employers Liability Insurance protecting contractor against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master servant relationship with a limit of not less than \$100,000.00;
- (c) Comprehensive General Liability Insurance including products/completed operation with limits of liability of not less than: Bodily Injury \$1,000,000.00 per each person, \$1,000,000.00 per each occurrence/\$2,000,000.00 aggregate; Property Damage \$1,000,000.00 per each occurrence; and
- (d) Excess Liability Insurance Comprehensive general Liability, Comprehensive Automobile Liability and coverage's afforded by the policies above, with the minimum limits of \$5,000,000.00 excess of specified limits;

The CITY shall be entitled, upon request and without expense, to receive copies of the certificate of insurance and the required policies and endorsements.

The CONTRACTOR agrees, with respect to the above required insurance, that all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions:

- (a) The CONTRACTOR shall notify the CITY of any change in the required coverage or cancellation, and shall give such notices not less than 30 days prior to the change or cancellation. The CONTRACTOR shall provide a replacement CERTIFICATE OF INSURANCE prior to such change or cancellation;
- (b) Provide for an endorsement that the "other insurance" clause or provision shall not apply to the CITY where the CITY is shown as an additional insured on the policy;
- (c) Provide for notice to the CITY at the address shown in this Agreement;

(d) The CONTRACTOR agrees to waive all the CONTRACTOR'S, its officers, employees, agents, assigns, and successors' rights of subrogation against the CITY, its officers, employees, and elected representatives for injuries, death, property damage, or other loss covered by insurance and the CONTRACTOR will provide a waiver of subrogation endorsement against the CITY. The CITY must be named or listed on the endorsement; and

(e) The CITY, its elected and appointed officials, employees and agents shall be listed as additional insured to the required coverage. All coverage specified shall remain in effect during the term of this Agreement. No cancellation of or changes to the certificates, the policies or endorsements may be made without thirty (30) days prior written notification to the CITY. Any termination of coverage without replacement shall result in immediate termination of this Agreement.

COVERAGES SHALL BE WITH A COMPANY (WITH AT LEAST AN A- BEST RATING) ACCEPTABLE TO THE CITY PURCHASING AND RISK MANAGEMENT DEPARTMENT AND A COPY OF THE CERTIFICATE OF COVERAGE SHALL BE DELIVERED TO THE CITY ON OR BEFORE THE DATE OF THIS AGREEMENT.

NOTICES

All notices shall be given to the CITY at the following address:

City of Missouri City
Procurement and Risk Management
1522 Texas Parkway
Missouri City, Texas 77489

APPROVAL

Approval, disapproval, or failure to act by the CITY regarding any insurance supplied by the CONTRACTOR shall not relieve the CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the CONTRACTOR from liability.

SECTION XV PROHIBITION ON BOYCOTTING ISRAEL

Pursuant to Section 2270.002, Texas Government Code, the CITY may not enter into a contract for goods or services unless the contract contains a written verification that the contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. By executing the House Bill 89 Verification Form, Exhibit A, attached hereto and incorporated herein for all purposes, CONTRACTOR verifies that CONTRACTOR does not boycott Israel and will not boycott Israel during the term of this Agreement.

SECTION XVI ENGAGING IN BUSINESS WITH SUDAN, IRAN OR FOREIGN TERRORIST ORGANIZATIONS PROHIBITED

Pursuant to Section 2252.152, Texas Government Code, CONTRACTOR warrants, represents, and agrees that CONTRACTOR is not identified on a list prepared and maintained by the Texas

Comptroller of Public Accounts as a company that engages in business with Sudan, Iran or a foreign terrorist organization.

**SECTION XVII
CHOICE OF LAW**

This Agreement shall be governed by the laws of the State of Texas, except for the conflict of law provisions, with venue in Fort Bend County, Texas and the CONTRACTOR hereby consents to such jurisdiction and venue.

**SECTION XIII
SEVERABILITY**

In the event that any provision(s) of this Agreement shall for any reason be held invalid, illegal, or unenforceable, the invalidity, illegality or unenforceability of that provision(s) shall not affect any other provision(s) of this Agreement, and it shall further be construed as if the invalid, illegal, or unenforceable provision(s) had never been a part of this Agreement.

**SECTION XIX
CONTRACT SIGNATURE SHEET**

This document and the included exhibit, except for any terms and conditions attached to or included in the Scope of Work by the CONTRACTOR, is the entire Agreement and recites the full consideration between the parties, there being no other written or parole agreement.

IN WITNESS WHEREOF, the said CITY has lawfully caused these presents to be executed by the City Manager of said CITY, and the said CONTRACTOR, acting by its thereunto duly authorized representative, does now sign, execute and deliver this instrument.

Authorized by the City of Missouri City, Texas on the _____ day of _____, 2019.

Reviewed by: _____
Shannon Pleasant, CTPM - Procurement & Risk Manager

Department Director (Kumar): _____ Date: _____

K3 RESOURCES, L.P.

CITY OF MISSOURI CITY

By: _____

Bill Atkinson- Assistant City Manager

Title: _____

Date: _____

By: _____

Anthony Snipes - City Manager

Date: _____



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 9(h) Consider suspending Section 2-81 of the City Code of Missouri City and immediately reconsider authorizing the city manager to negotiate and execute a contract for the provision of external auditing services.
Submitted by: Jamilah Way, First Assistant City Attorney

SYNOPSIS

Council is asked to consider suspending its meeting rules and immediately reconsider authorizing the city manager to negotiate and execute a contract for the provision of external auditing services, as detailed in City Council Agenda Item Cover Memo, dated June 3, 2019 and attached to this memo.

STRATEGIC PLAN 2019 GOALS ADDRESSED

Maintain a financially sound City.

BACKGROUND

At the June 3, 2019 regular city council meeting, an item to consider authorizing the city manager to negotiate and execute a contract for the provision of external auditing services received motions and seconds to approve and postpone the item; however, neither motion received a majority of support from Council. Therefore, both motions failed. No additional action was taken on the item. Section 2-81 of the City Code of Missouri City provides that "when a question has once been determined by the council, the same question shall not again be considered until 90 days thereafter, and then only by motion to reconsider made by a member who voted with the prevailing side on such question." Notwithstanding any future action of Council and in accordance with Section 2-81 of the City Code of Missouri City, this item is prohibited from being heard within the next 90 days. Consequently, Mayor Ford requests that Council take the necessary action to reconsider authorizing the city manager to negotiate and execute a contract for the provision of external auditing services at the June 17, 2019 meeting.

Section 2-82 of the City Code of Missouri City provides that "Any one or all of the provisions of this division may be suspended by a vote of two-thirds of the members of the council[[]]." Thus, any rule contained within Division 3 of Chapter 2 of the City Code of Missouri City may be suspended by Council, which includes Section 2-81 of the City Code of Missouri City, prohibiting reconsideration of an item before 90 days. Additionally, Roberts Rules of Order provides that when an item fails due to a tie, causing no prevailing side of an action, the motion to reconsider may be made by any member of the body that was present for the initial consideration. Under this rule, Councilmember Pearson is prohibited from making the motion to reconsider; however, he may vote on the matter.

It should be noted that a motion is required to suspend Section 2-81 of the City Code of Missouri City and immediately reconsider this item and, if there is a favorable motion to suspended said rule, a second motion for action is needed after the reconsideration of authorizing the city manager to negotiate and execute a contract for the provision of external auditing services.

BUDGET/FISCAL ANALYSIS

Funding Source	Account Number	Project Code/Name	FY19 Funds Budgeted	FY19 Funds Available	Amount Requested
General Fund	101-53045-12-114	Audit Services	\$118,000	\$18,520	\$18,520

Purchasing Review: N/A

Financial/Budget Review: N/A

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. City Council Agenda Item Cover Memo, dated June 3, 2019
2. Request for Proposal – RFQ19-048 Professional Auditing Services
3. Addendum No. 1– RFQ19-048 Professional Auditing Services
4. Addendum No. 2– RFQ19-048 Professional Auditing Services
5. RFQ19-048 Score Tabulation

STAFF'S RECOMMENDATION

Staff recommends City Council Consider suspending Section 2-81 of the City Code of Missouri City and immediately reconsider authorizing the city manager to negotiate and execute a contract for the provision of external auditing services with Weaver & Tidwell, LLC.

Director Approval: **Director Approval:** Allena J. Portis, Director of Financial Services

Assistant City Manager/ **Bill Atkinson**

City Manager Approval:



CITY COUNCIL AGENDA ITEM COVER MEMO

JUNE 3, 2019

To: Mayor and City Council

Agenda Item: 9(a) Consider authorizing the city manager to negotiate and execute a contract for the provision of external auditing services.

Submitted by: Allena J. Portis, Director of Financial Services

SYNOPSIS

Whitley Penn's, the City's external auditor, contract expired after the annual audit performed for the period ended September 30, 2018. An RFP for professional auditing services to begin with the fiscal year beginning October 1, 2018 and ending September 30, 2019 was issued on March 4, 2019. A committee has evaluated the five proposals received and recommend staff begin contract negotiations with the highest scoring proposer, Weaver & Tidwell, LLC.

This item was discussed with the Finance and Services Committee on June 3, 2019.

Until the award has been made by City Council, the "no contact period" is still in effect. During this period all inquiries regarding the solicitation are to be directed to the designated City Representative identified in the RFP. Proposers are not to communicate with any appointed or elected official or employee of the City through any means in an attempt to persuade or influence the outcome of the award.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Maintain a financially sound City

BACKGROUND

The City Charter requires that at the close of each fiscal year the council shall cause an independent audit to be made of all accounts of the city by an independent certified public accountant and upon completion of the audit, the results shall be placed on file in the city secretary's office as a public record.

Local Government Code Section 103.001 also requires municipalities to have its records and accounts audited annually and have an annual financial statements prepared based on the audit. The code requires that the annual financial statement, including the auditor's opinion on the statement, be filed as a public record in the office of the City Secretary within 180 days after the last day of the municipality's fiscal year.

Whitley Penn has performed the City's annual audit for the last five years with its contract terminating after the audit for the period ended September 30, 2018. Whitley Penn has completed the audit for the period ended September 30, 2018 and issued an unqualified opinion on the city's financial statements. An unqualified opinion means that the City's financial statements are fairly and appropriately presented in compliance with auditing standards.

The RFP for the external auditor was issued on March 4, 2019 with responses due on April 2, 2019. The City received five responses and a committee has evaluated the proposals. Staff recommends moving forward with negotiations with the highest scoring proposer, Weaver & Tidwell, LLC. Due to the lack of clarifying questions, interviews are not recommended. The final tabulation is as follows:

Name	Score
Weaver & Tidwell, LLP	464
McConnell & Jones	429
BKD CPAs & Advisors	428
Belt Harris Pechacek, LLLP	422
Pattillo, Brown & Hill	410

BUDGET/FISCAL ANALYSIS

Funding Source	Account Number	Project Code/Name	FY19 Funds Budgeted	FY19 Funds Available	Amount Requested
General Fund	101-53045-12-114	Audit Services	\$118,000	\$18,520	\$18,520

Purchasing Review: N/A

Financial/Budget Review: N/A

Note: Compliance with the conflict of interest questionnaire requirements, if applicable, and the interested party disclosure requirements (HB 1295) has been confirmed/is pending within 30-days of this Council action and prior to execution.

SUPPORTING MATERIALS

1. Request for Proposal – RFQ19-048 Professional Auditing Services
2. Addendum No. 1– RFQ19-048 Professional Auditing Services
3. Addendum No. 2– RFQ19-048 Professional Auditing Services
4. RFQ19-048 Score Tabulation

STAFF'S RECOMMENDATION

Staff recommends authorization to negotiate and execute a contract with Weaver & Tidwell, LLC.

Director Approval: Allena J. Portis, Director of Financial Services

Assistant City Manager/

City Manager Approval:

Anthony J. Snipes, City Manager



MARCH 4, 2019

**REQUEST FOR QUALIFICATIONS (RFQ) NO. 19-048
PROFESSIONAL AUDITING SERVICES**

COMMODITY CODE(S): 918-04, 946-20

ISSUED BY THE PURCHASING OFFICE OF THE CITY OF MISSOURI CITY, TEXAS

Sealed responses, subject to the terms and conditions of this RFQ, for the above referenced professional service must be received by the Purchasing Division of the Missouri City, at City Hall, 1522 Texas Parkway, Missouri City, Texas 77489 by **April 2, 2019**. Responses received after the specified time will be not be opened and not returned at the City expense. All necessary information and addendums may be obtained from the following websites: <http://www.txsmartbuy.com/sp> or <https://www.demandstar.com/Default.asp>

LEGAL NAME OF CONTRACTING COMPANY

CONTACT PERSON

TITLE

TELEPHONE NUMBER

FACSIMILE NUMBER

E-MAIL ADDRESS

COMPLETE MAILING ADDRESS

CITY/STATE

ZIP

COMPLETE STREET ADDRESS (if different)

CITY/STATE

ZIP

AUTHORIZED SIGNATURE

SECTION I – GENERAL INFORMATION

1. ESTIMATED PROJECT SCHEDULE

RFQ Posting Date	March 4, 2019
Pre-submission Conference	March 11, 2019 at 3:00PM
Deadline for questions from respondents	March 15, 2019 at 10:00 AM C.S.T.
Responses to questions will be posted	March 19, 2019
Due date for RFQ:	April 2, 2019 at 2:00 PM
Possible Interviews with selected audit firms.	Week of April 15 th - 19 th , 2019
Award recommendation to City Council	May 2019 (Estimated)

Note: With the exception of the time and due date of the RFQ, the above schedule is an estimate. The estimated schedule may be modified as schedules and conditions warrant.

2. PURPOSE

City of Missouri City, Texas (the “City”) is requesting qualifications from qualified firms of certified public accountants to perform financial audits for the fiscal year ending September 30, 2019, with the option of auditing its financial statements for each of the four subsequent fiscal years. A five-year contract is contemplated, subject to:

- a) an annual review,
- b) the satisfactory negotiation of terms (including a price acceptable to both the City and the selected firm), and
- c) the annual availability of an appropriation approved by City Council.

These audits are to be performed in accordance with the provisions contained in the Request for Qualifications. Additionally, a report in compliance with the Single Audit Act may be necessary to fulfill the requirements of federal and state grants.

3. DESCRIPTION OF THE CITY

Missouri City is located approximately 20 miles southwest of downtown Houston in the northeast section of Fort Bend County. A small portion of the City extends into the southwest section of Harris County where it borders the City of Houston.

Services provided by the City include police, fire, street maintenance, repairs, traffic control, parks, recreation, planning and inspection, drainage and general administrative services.

The Missouri City Council approved the creation of a Development Authority for the City that is responsible for management of all Public Improvement Districts (PIDs) and Tax Increment Reinvestment Zones (TIRZs) created by the City.

Excluded from the reporting entity of the City are various special districts established under state law and operating under related regulations for the purpose of providing residential and commercial water, sewer, storm, drainage, and flood control services.

In accordance with the implementation of the Texas Property Tax Code, the Fort Bend County Central Appraisal District provides appraisals of property located within the City. The collection activities are performed by the Fort Bend County Tax Office.

4. FUND STRUCTURE

The City's accounting records are maintained in accordance with accounting principles generally accepted in the United States as promulgated by the Governmental Accounting Standards Board. Accordingly, the City maintains general, special revenue, debt service, and capital projects governmental fund types; enterprise and internal service proprietary fund types; general fixed assets and general long-term debt account groups. Funds Groups are as follows (number of active funds shown in parentheses):

General Fund (1)

Special Revenue Funds (29)

Debt Service Funds (1)

Capital Project Funds (5)

Enterprise Funds (7)

Internal Service Fund (2)

5. BUDGET

The City Manager submits to the City Council a proposed operating budget for the fiscal year beginning on October 1. The adopted operating budget is legally enacted through passage of an ordinance and represents the proposed fund appropriations.

The adopted 2018-19 fiscal year budget includes total appropriations of \$139.4 million of which \$51.5 million is accounted for in the General fund. The budget reflects staffing of 369.5 full-time equivalent positions.

Approved 2018-19 budgets for the City's major operating funds are as follows:

General Fund	\$51,456,355
Special Revenue Fund	\$6,251,240
Debt Service Funds	\$10,641,659
Capital Projects Fund	\$13,074,957
Enterprise Fund	\$57,232,825

Internal Service Funds	\$697,166
Total	\$139,354,202

The City of Missouri City participates in the Texas Municipal Retirement System, a joint contributory, defined contribution plan. Employee contributions are currently 7% of earnings with a City matching employee contributions at a 2:1 rate. Actuarial services for this plan are provided by the Texas Municipal Retirement System

More detailed information on the government and its finances, as well as a summary of significant accounting policies, can be found in the City's Comprehensive Annual Financial Report (CAFR) located on our website at www.missouricitytx.gov

6. ACCOUNTING PROCESS – RELATED SYSTEMS:

The City's accounting records for general governmental operations are maintained on a modified accrual basis and revenues are recorded when available and measurable and expenditures are recorded when the services or goods are received and the liabilities are incurred. Accounting records for the City's enterprise fund is maintained on an accrual basis.

7. COMPUTER SYSTEMS

The City of Missouri City currently utilizes the following computerized system software:

- a) Tyler Technology (Munis) governmental software for most City functions.
- b) Tyler Technologies (Incode) – Municipal Court
- c) Tyler Technologies (Energov) – Development Services
- d) Activeweb - Parks & Recreation

8. ORGANIZATIONAL RESPONSIBILITY FOR THE ACCOUNTING FUNCTION

The Accounting Division falls under the general supervision of the Director of Financial Services who reports to the City Manager. Accounting staff members are assigned to work on the audit.

SECTION II - PROJECT SCOPE

1. SCOPE OF WORK TO BE PERFORMED

For each of the fiscal years covered by the qualifications, the audit shall include an examination of the financial statements of all accounts and funds of the City. Such examination shall be made in accordance with generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants and in accordance with the laws of the State of Texas. These standards require that the Auditor plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. The audit shall include examination, on a test basis, of the evidence supporting the amounts disclosed in the basic financial statements. The annual audit shall also include, in accordance with the Public Funds Investment Act, a compliance audit of management controls on investments and adherence to the City's established investment policies.

The City desires the Auditor to express an opinion on the fair presentation of its basic financial statements in conformity with accounting principles generally accepted in the United States. The combining financial statements, individual fund financial statements, and supplemental information, which are the responsibility of management, will be presented for the purposes of additional analysis and are not a required part of the basic financial statements. Such additional information shall be subjected to the auditing procedures applied in the audit of the basic financial statements. An opinion shall be issued on the fair presentation of this additional information, in all material respects, when considered in relation to the basic financial statements taken as a whole. The auditor shall be responsible for performing certain limited procedures involving required supplementary information required by the Governmental Accounting Standards Board as mandated by generally accepted auditing standards. The accompanying statistical information, provided for the purpose of additional analysis, will be examined to the degree necessary for an opinion satisfactory for the City to apply to the Government Finance Officers Association for the Certificate of Achievement for Excellence in Financial Reporting.

From time to time, the City may request the Auditor to perform other audits and reviews not specifically provided for under this section. If such a request is made, the Auditor shall submit, at the City's request, a separate Statement of Qualification for completing the engagement, along with a proposed fee schedule. The City reserves the right to contract any additional audits or reviews with whomever it may choose.

The Auditor's assistance and consultation will be required in implementing new Governmental Accounting Standards Board and Financial Accounting Standards Board statements at the earliest possible date, even if prior to the required effective date.

2. AUDITING STANDARDS TO BE FOLLOWED

To meet the requirements of this RFQ, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants, the standards for financial audits set forth in the most recent revision of the U.S. General Accounting Office's Government Auditing Standards, the provisions of the Single Audit Act of and the provisions of U.S. Office of Management and Budget Uniform Guidance at 2

CFR 200 subpart F (200.500) (previously(OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*).

The CAFR shall be prepared in accordance with the most recently issued Governmental Accounting and Financial Reporting Principles (GAAFR), as promulgated by the Governmental Accounting Standards Board (GASB) of the Financial Accounting Foundation, and in the format and with the content necessary in the opinion of the Auditor and Director of Financial Services to qualify for the Certificate of Achievement for Excellence in Financial Reporting issued by the Government Finance Officers Association of the U.S. and Canada (GFOA).

3. REPORTS TO BE ISSUED:

A. CAFR (Comprehensive Annual Financial Report)

A report on the fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States is to be issued. Reports of examination of the financial statements must:

- (a) state the scope of the examination and that the audit was performed in accordance with generally accepted auditing standards; and,
- (b) must include an opinion as to whether the statements conform to accounting principles generally accepted in the United States.

In addition to the financial statements, Auditor shall prepare the City's Comprehensive Annual Financial Report (CAFR) with the assistance of the Financial Services Department staff, Auditor shall provide clerical assistance to the City regarding revision.

If components units are identified, they are to be audited as part of the audit of the financial statements of the City of Missouri City. Financial information for these units is to be included in the comprehensive annual financial report of the City if Missouri City. No separate financial statements will be issued for these units.

Auditor will be responsible for printing final document and providing an electronic copy.

B. Management Letter

A report on the internal control structure based on the Auditor's understanding of the control structure and assessment of control risk is to be issued. The management letter shall detail audit findings and recommendations affecting financial statements, internal controls, accounting, data processing systems, legality of actions, other instances of noncompliance with laws and regulations, and any other material matters.

This letter shall be addressed to the Honorable Mayor and Members of the City Council. The management letter shall be reviewed in draft form with the Director of Financial Services and the City Manager in order to determine that the observations reflect an accurate understanding of the City's systems and procedures.

The Auditor shall report any significant deficiencies in the design or operation of the internal control structure, which could adversely affect the City's ability to record, process, summarize, and report financial data consistent with assertions of management in the financial statements. In addition, the Auditor shall report significant opportunities for internal control improvements or increased efficiencies requiring intervention by city management and/or the City Council.

Additionally, the Auditor shall be required to make an immediate written report to the City Manager and City Council Audit Committee Chair of all material irregularities and illegal acts or indications of illegal acts of which the Auditor becomes aware.

The Auditor will prepare and print the management letter, 20 copies of which will be furnished to the City.

C. Reporting to City Council

Auditors shall assure themselves that the City Council is informed of each of the following:

- (a) The Auditor's responsibility under generally accepted auditing standards.
- (b) Significant accounting policies.
- (c) Management judgments and accounting estimates.
- (d) Significant audit adjustments.
- (e) Other information in documents containing audited financial statements.
- (f) Disagreements with management.
- (g) Management consultation with other accountants.
- (h) Major issues discussed with management prior to retention.
- (i) Difficulties encountered in performing the audit.

4. **SPECIAL CONSIDERATIONS**

The City has earned the Certificate of Achievement for Excellence in Financial Reporting awarded by the Government Finance Officers Association of the U.S. and Canada since 1982 and it is the City's objective to retain the Certificate. The Auditor shall also accept this as an objective and shall provide all reasonable assistance and advice to the City to ensure the retention of the Certificate.

The Auditor shall have the City's CAFR reviewed by at least one of the firm's GFOA Special Review Committee members prior to its final printing.

The City does not have a mandatory auditor rotation policy, but prefers audit firm capable of rotating auditors at least every two years.

The City anticipates that during the course of the engagement one or more official statements will be prepared in connection with the sale of debt securities, which will contain the basic financial statements and the Auditor's report thereon. The Auditor may be required, if requested by the City, financial advisor and/or the underwriter, to issue a "consent and citation of expertise" as well as any necessary "comfort letters."

5. WORK PAPER RETENTION AND ACCESS TO WORK PAPERS

All work papers and reports must be retained, at the Auditor's expense, for a minimum of five years, unless the firm is notified in writing by the City of the need to extend the retention period. The Auditor will be required to make the work papers available, upon request, to representatives of federal and state agencies and the City. Auditor will provide a final trial balance in excel format, copies of work papers and supporting schedules, and details for all schedules or documents requested by the City within 30 days of issuing the final report.

In addition, the firm shall respond to the reasonable inquiries of successor Auditors and allow successor Auditors to review work papers relating to matters of continuing accounting significance.

6. CONFERENCES

The following conferences are to be conducted with the Director of Financial Services or other City personnel as needed:

1. Entrance conference prior to interim work with City Council Finance and Services Committee.
2. Exit conference at conclusion of interim work.
3. Entrance conference at beginning of fieldwork.
4. Progress conferences as requested during fieldwork.
5. Exit conference at end of fieldwork with City Manager, Director of Financial Services and then with City Council Finance and Services Committee.
6. Conference when draft copy of management letter is prepared.
7. Presentation to City Council.

The audit Partner and/or Manager will be present at the City Council meeting when the Comprehensive Annual Financial Report is presented to the full City Council to answer any questions of the Council.

**SECTION III. - ASSISTANCE PROVIDED TO THE AUDITOR AND
REPORT PREPARATION**

1. FINANCIAL SERVICES DEPARTMENT AND CLERICAL ASSISTANCE

The Financial Services Department staff and responsible management personnel will be available during the audit to assist the Auditor by providing information, documentation, and explanations. The preparation of confirmations will be the responsibility of the City. Clerical support will be made available to the Auditor for the preparation of routine letters, confirmations, and memoranda.

2. ELECTRONIC DATA PROCESSING (EDP) ASSISTANCE

Any requirements for computer time and/or system documentation will be coordinated through the Director of Financial Services.

3. PRIOR AUDIT

Whitley Penn, L.L.P. has conducted the audits of the City for several years. The opinions have been unqualified for this period. Whitley Penn, L.L.P. should be contacted for your review of the prior audit workpapers.

4. STATEMENTS AND SCHEDULES TO BE PREPARED BY CITY STAFF

City staff will prepare and provide, but not limited to, the following statements and schedules for the Auditor:

- Trial Balances
- Accounts Receivable Schedules
- Accounts Payable Schedules
- Payroll Schedules
- Fixed Asset Listing

Asset Additions and Deletions

The Director of Financial Services and the Auditor will decide at the interim and fieldwork conferences other work papers and documents that are to be prepared by the City to include sections of the Comprehensive Annual Report including footnotes, required supplemental information, the introductory and statistical sections, the letter of transmittal and management's discussion and analysis .

5. WORK AREA, TELEPHONES, PHOTOCOPYING AND FACSIMILE MACHINES

The City shall provide the space and facilities necessary for the Auditor to conduct the examination. In addition, all information, data, reports, and records necessary for carrying out the work shall be furnished to the Auditor and the City shall cooperate with the Auditor in every reasonable way to ensure timely completion of the audit. The Auditor will also be provided with access to one telephone line, photocopying facilities, and a facsimile machine.

SECTION IV - SUBMITTAL INSTRUCTIONS

All qualifications are due to the City of Missouri, City Hall no later than the due date posted on the first page of the RFQ. Qualifications shall be sealed in an envelope, labeled as follows:

**City of Missouri City, Texas
1522 Texas Parkway
Missouri City, Texas 77489
RFQ 19-048 - Auditing Services**

The firm shall submit one (1) original and five (5) copies, along with one (1) electronic thumb drive containing the **entire** submission, in readable .pdf format.

Qualifications must include the cover sheet of this RFQ and be signed by the auditor with his or her signature in full. When an auditor is a partnership, the qualifications shall be signed in the name of the partnership by one or more of the partners. When an auditor is a corporation, the officer signing shall sign their name and give the title. The qualifications shall also bear the seal of the corporation.

All inquiries prior to the due date of the RFQ shall be emailed to Shannon Pleasant, Procurement & Risk Manager shannon.pleasant@missouricitytx.gov. The deadline for submitting questions is noted on the ESTIMATED PROJECT SCHEDULE.

1. PRE-SUBMISSION CONFERENCE: (NON-MANDATORY)

A pre-submission conference will be conducted in the City of Missouri City Hall City Council Chambers at 10:00 AM (CST), **March 11, 2019 at 3:00PM**. The purpose of the conference is to answer any questions prospective auditors may have relating to the RFQ. Attendance at the conference is recommended but not mandatory.

2. SUGGESTED FORMAT OF RESPONSE

To simplify the review process and obtain the maximum degree of comparison, the qualification should be organized in the following manner:

- A. Title Page:
Show the RFQ subject, the name of the auditor's firm, local address, telephone number, name of contact person, and the date.
- B. Table of Contents:
Include a clear identification of the material by section and by page number.
- C. Letter of Intent:
A signed letter of intent briefly stating the auditor's understanding of the work to be performed and a positive commitment to perform the work within the time period required should be included. Such letter of intent should also state why the

firm believes itself to be best qualified to perform the engagement and that the submission is a firm and irrevocable offer for 120 days.

D. Detailed Statement of Qualifications:

The detailed qualifications should follow the order set forth in this RFQ.

Submittals received after the due date will not be accepted. The City of Missouri City is not responsible for submittals that are not properly marked or are delivered to the incorrect address.

3. TECHNICAL STATEMENT OF QUALIFICATIONS

The firm shall demonstrate the qualifications, competence, and capacity of the firms seeking to undertake an independent audit of the City in conformity with the requirements of the RFQ. As such, the substance of Qualifications will carry more weight than their form or manner of presentation. The Statement of Qualification should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify an audit approach that will meet the RFQ requirements.

Interested firms are encouraged to use their own preferred style and format in preparing a Statement of Qualification. However, it is suggested that the Statement of Qualification include at least the following arranged accordingly. There should be no dollar units or total costs included in the Technical Statement of Qualification document.

The Technical Statement of Qualification should address all the points outlined in the RFQ (excluding any cost information which should only be included in the Compensation Statement of Qualification document). The Statement of Qualification should be prepared simply and economically, providing a straightforward and concise description of the Auditor's capabilities to satisfy the requirements of the RFQ. While additional data may be presented, the following subjects, item Nos. 1 through 9, must be included. They represent the criteria against which the Statement of Qualification will be evaluated.

A. Independence

The firm should provide an affirmative statement that it is independent of the City as defined by the U.S. General Accounting Office's Government Auditing Standards as to relationships between the City and its management and members of your firm, and with regard to any other work performed by the firm for the City that might impair the firm's independence and objectivity.

The firm should also list and describe its professional relationships involving the City or any of its agencies for the past five (5) years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed audit.

B. License to Practice in Texas

An affirmative statement should be included indicating that the firm and all assigned key professional staff are properly licensed to practice in Texas.

C. Firm Qualifications and Experience

The Statement of Qualification should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed and the number and nature of the professional staff to be employed in this engagement on a full-time and a part-time basis. State whether your firm is local, regional, national, or international. State the number of partners, managers, supervisors, seniors, and other professional staff employed at the local office. Describe the range of activities performed by the local office such as auditing, accounting, tax service, or management advisory services. Describe the local office's capability to audit computerized systems, including the number and classification of personnel skilled in computer science who will work on the audit.

The firm should demonstrate, both locally and firm-wide, a commitment to governments by participation in Special Review Committees of the GFOA Certificate of Achievement program and active participation in the governmental accounting standards process.

If the Auditor is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified and the firm that is to serve as the principal Auditor should be noted, if applicable.

The Auditor is also required to submit a copy of the report on its most recent external quality control review, with a statement as to whether that quality control review included a review of specific government engagements.

The Auditor shall also provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three (3) years. In addition, the Auditor shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with state regulatory bodies or professional organizations. Please identify any litigation involving the local office.

Indicate the strengths of your firm in general, and more specifically, your local office. Being specific, indicate how your audit philosophy differs from that of other firms. Indicate the strategy for the future of your local office and in what areas you will be investing resources.

Indicate which major clients and local government clients (if not major) you have gained/lost in the local office in the past three (3) years and why they were lost. Describe the rate of audit staff turnover in the local office due to resignations or terminations in the past 24 months.

Describe why the City would be important to your firm and to the local office as a client. Discuss your policies regarding staff education and development. Indicate which universities are the major sources of new staff for the local office.

D. Partner, Supervisory and Staff Qualifications and Experience

The firm should identify the principal supervisory and management staff, including engagement partners, managers, other supervisors, and specialists who would be assigned to the engagement and indicate whether each such person is licensed to practice as a Certified Public Accountant in Texas. Indicate areas of specialty: audit, tax, management advisory services, etc. Indicate the ratio of audit managers and other staff to audit partners in the local office.

The Auditor should provide information on the governmental auditing experience of each person, including information on relevant continuing professional education for the past three (3) years and membership in professional organizations relevant to the performance of this audit. Include resumes as an appendix. Clearly indicate what specific responsibility each individual will have. Provide information as to what time commitment or workload is presently assigned to each person who will be working on this engagement. The firm should also indicate how the quality of staff over the term of the agreement will be assured.

Indicate your firm's policy in rotating partners and managers. Indicate what commitments your firm will make to the City's management and financial employees with respect to accessibility of the partners and managers assigned to this engagement.

E. Prior Engagements with the City of Missouri City and Fort Bend County

The firm should list separately any and all engagements performed for the City and other entities within the City limits or its E.T.J. and within the last five (5) years. For each engagement, the firm should indicate the scope of work, date, engagement, partners, total hours, and the location of the firm's office from which the engagement was performed.

F. Similar Engagements with Other Governmental Entities

For the firm's office that will be assigned responsibility for the audit, list the most significant engagements (maximum of 5) performed in the last five (5) years that are similar to the engagement described in the RFQ. These engagements should be ranked on the basis of total staff hours. Indicate the scope of work, date of engagement, partners, total hours, and the name and telephone number of the principal client contact.

G. Specific Audit Approach

The Statement of Qualification should set forth a work plan, including an explanation of the audit methodology to be followed to perform the services required in Section II of the RFQ. In developing the work plan, reference should be made to such sources of

information as the City's budget and related materials, organization charts, manuals and programs, and financial and other management information systems.

Proposers will be required to provide the following information on their audit approach:

- a. Proposed segmentation of the engagement.
- b. Level of staff and number of hours to be assigned to each proposed segment of the engagement.
- c. Sample sizes and the extent to which statistical sampling is to be used in the engagement.
- d. Extent of use of audit software in the engagement.
- e. Type and extent of analytical procedures to be used in the engagement.
- f. Approach to be taken to gain and document an understanding of the City's internal control structure.
- g. Approach to be taken in determining laws and regulations that will be subject to audit test work.
- h. Approach to be taken in drawing audit samples for purposes of tests of compliance.

H. Identification of Anticipated Potential Audit Problems

The Auditor should identify and describe any anticipated potential audit problems, the firm's approach to resolving these types of problems, and any special assistance that will be required from the City of Missouri City and its staff.

I. Additional Information

Any additional information the Auditor considers essential to the Statement of Qualification should be included in this section. If there is no additional information to present, state "There is no additional information we wish to present."

J. Contractual Arrangements

The contract to be awarded by the City for audit services, as identified in the RFQ, will be for a period of five years, subject to: 1) an annual review, 2) the satisfactory negotiation of terms (including a price acceptable to both the City and the selected firm), and 3) the annual availability of an appropriation approved by City Council.

The primary purpose of the examination is to express an opinion on the financial statements. Conditions could be discovered which lead to the belief that material

errors, defalcations, or other irregularities may exist which require extended services. Please state your understanding of these conditions as part of the RFQ submission.

Include certification that the person signing the qualifications is entitled to represent the firm, empowered to submit the bid, and authorized to sign a contract with the City by including the following verbiage:

I hereby certify that I have read all items of the Request for Qualifications and fully understand the requirements listed herein. I further certify that I am an authorized agent of the proposing Auditor empowered to submit the bid and authorized to sign a contract with the City of Missouri City.

SECTION V - COMPENSATION PROPOSAL

The firm shall submit one (1) copy of the compensation proposal in a separate sealed envelope marked as follows:

“Compensation Proposal Professional Auditing Services”

1. TOTAL ALL-INCLUSIVE MAXIMUM PRICE

The Statement of Qualification should contain all pricing information relative to performing the audit engagement as described in the RFQ. The total all-inclusive maximum price to be bid is to contain all direct and indirect costs including all out-of-pocket expenses. Pricing should be itemized for:

- a. City of Missouri City Annual Audit of the Comprehensive Annual Financial Report including component units.
- b. Single Audit of the City of Missouri City.

2. RATES BY PARTNER, SUPERVISORY, AND STAFF LEVEL, AND TIME HOURS ANTICIPATED FOR EACH

Include a schedule of professional fees and expenses that support the total all-inclusive maximum price. The cost of special services described in the RFQ should be disclosed as separate components of the total all-inclusive maximum price.

3. RATES FOR ADDITIONAL PROFESSIONAL SERVICES

If it should become necessary for the City to request the Auditor to render any additional services to either supplement the services requested in the RFQ or to perform additional work as a result of the specific recommendations included in any report issued during this engagement, then such additional work shall be performed only if set forth in an addendum to the contract between the City and the firm. Any such additional work agreed to between

the City and the firm shall be performed at the same rates set forth in the schedule of fees and expenses.

4. MANNER OF PAYMENT

An initial payment of 25% of the total contract price may be made between August 1 and 30th, upon completion of the interim fieldwork. A second payment of 50% of the total contract price will be made at the end of the fieldwork. The final 25% of the total contract price will be paid upon issuance of the final reports.

5. SUBSEQUENT YEAR FEES

A proposed fee adjustment method for future contract years should be submitted.

SECTION VI - EVALUATION PROCESS

GENERAL PROCEDURE

The general procedure for soliciting and evaluating Request for Qualifications consists of:

- A. City will assign an Evaluation Committee to evaluate the qualifications received from respondents and prepare a short list of three to five submissions.
- B. Firms on the resultant short list may be invited to appear for separate presentations to the Committee. The personnel that will be assigned to the project will conduct the presentation. The presentation should define the respondents understanding of the project, set forth the approach to the project and establish the experience of the personnel assigned to the project.
- C. Following the Committee review of the presentations, a final ranking of the short listed firms will be prepared and authorization to negotiate is given. All short listed firms will be notified.
- D. Negotiations will be initiated with the top-ranked firm on the short list. The firm will be contacted and requested to meet with the City to develop a detailed proposed scope of work and a schedule of fees for that work. If the City staff is unable to successfully negotiate a contract with the top-ranking firm, then the City staff will proceed to meet with the second ranking firm and enter negotiations with that firm. This process will be repeated until a successful contract negotiation has occurred, or the City terminates the process.

SECTION VII - GENERAL TERMS AND CONDITIONS

1. NO CONTACT PERIOD

All inquiries regarding this solicitation are to be directed to the designated City Representative identified on the first page of the solicitation. Upon issuance of the solicitation through the pre-award phase and up to the date the City Secretary publicly posts notice of any City Council agenda containing the applicable award, aside from respondent's formal response to the solicitation, through the pre-award phase, written requests for clarification during the period officially designated for such purpose by the City Representative, neither Respondent(s) nor persons acting on their behalf shall communicate with any appointed or elected official or employee of the City of Missouri City, their families or staff through written or oral means in an attempt to persuade or influence the outcome of the award or to obtain or deliver information intended to or which could reasonably result in an advantage to any respondent. However, nothing in this paragraph shall prevent a respondent from making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action, or to a City Council committee convened to discuss a recommendation regarding the solicitation.

2. KNOWLEDGE OF CONDITIONS

Before submitting Qualifications, auditors must carefully examine this Request for Sealed Statement of Qualification and inform themselves thoroughly as to all the difficulties involved in the completion of all work pursuant to the requirements of this document.

Pleas of ignorance of conditions or difficulties that may be encountered in the execution of the work pursuant to this document as a result of failure to make the necessary examinations or investigations shall not be accepted for any failures or omissions on the part of successful auditors to fulfill, nor shall they be accepted as a basis for any claims whatsoever for extra compensation or for the extension of time.

3. EXCEPTIONS

All Qualifications must clearly and specifically detail all exceptions to the exact requirements imposed by this document. Such exceptions must be explained in the auditor's Statement of Qualification. Otherwise, the City shall consider the subject Statement of Qualification as being made in strict compliance with this document.

4. COMPLIANCE WITH LAWS

In all cases, the laws of the State of Texas shall apply to the Statement of Qualification process, the resultant contract and the contract performance. Auditor's performance of the work shall comply with applicable Federal, State and local laws, rules and regulations.

5. PATENTS AND ROYALTIES

Auditor, without exception, shall indemnify and hold harmless the City, its officers, and its employees from any liability of any nature or kind, including costs and expenses for or on account of any trademark, copyrighted, patented, or non-patented invention, process or article manufactured or used in the performance of the Contract, including its use by Missouri City, Texas. If the auditor uses any design, device or materials covered by patent, trademark, or copyright, it shall be mutually understood and agreed without exception that the Statement of Qualification prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

6. INDEMNIFICATION

Auditors shall indemnify the City, its officers, employees and agents and hold harmless the City from any liability, claims, suits, actions, causes of action, costs, expenses, charges or fees, including attorney's fees, for injury to any person (including death) or damage to or destruction of any property; and, any act of omission of auditor, its contractors, subcontractors, suppliers, or agents, in connection with or arising out of, whether directly or indirectly, this agreement.

Further, Auditor agrees, at its own expense, to indemnify and hold harmless the City and to defend or to provide for such defense, at the City's option, from any and all claims or liability arising from or based upon the alleged violation of any applicable laws, ordinances or regulations and all suits and actions of every name and description that may be brought against the City which result from any operation or activity under this Contract to be awarded whether such activity or operation be performed by Auditor or subcontractor or by anyone directly or indirectly employed by, or under a contract with, either.

7. PREPARATION COSTS

The City of Missouri City will not be liable for any costs associated with the preparation, transmittal, or presentation of any Qualifications or material submitted in response to the RFQ.

8. OWNERSHIP

All responses and accompanying documentation will become the property of the City of Missouri City.

9. PROPRIETARY INFORMATION

Information construed as proprietary by a submitting auditor must be marked as such and will be so regarded by the City of Missouri City. Subject to Texas Open Records Act, Texas Government Code, Chapter 552, the City will treat such information as confidential to the extent permitted by law and the City agrees to withhold any such information and request an opinion from the Attorney General should another party request such data. City shall

abide by the decision of the Attorney General. Such information should be submitted in a separate folder attached to the qualifications and referred to appropriately in the Qualifications. For the Qualifications to be valid, however, all information must be available for review by approval bodies as required by the City of Missouri City. Viewing of information designated as proprietary by such bodies will not be construed to violate the constraints of proprietary information.

10. REFERENCES

Auditors submitting Qualifications shall submit the names, addresses, email addresses, contact persons, phone numbers, size and scope of contract, and dates of a minimum of three (3) local governments in which the auditor has provided similar services.

11. SPECIFICATION CHANGES

NO PERSON has the authority to verbally alter these specifications. Any changes to specifications will be made in writing and posted to the following sites:

<https://www.demandstar.com/Default.asp> or <http://www.txsmartbuy.com/sp>

12. IMPLEMENTATION OF HOUSE BILL 1295

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

The law applies (with a few exceptions) only to a contract between a business entity and a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

Any and all resultant contracts of this RFQ will require the contractor to complete the Texas Ethics Commission requirements under the State of Texas House Bill 1295 Certificate of Interested Parties. Login Information, Forms, and Certification download may be obtained at:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

The City strongly encourages respondents to view the instructional video for Business Entities and review the FAQ's prior to proceeding with the filling. A certification will require the respondent to enter a contract/solicitation number in Box 3. That number for this solicitation is **RFQ No. 19-048**

13. VALIDITY OF RESPONSE

The response submitted shall be valid for a period for up to one hundred twenty days (120) days after the due date for negotiation, acceptance and award by the City.

14. CONTRACT

The City will enter agreement with the successful firm using the City's own contract document only. A sample copy of the contract to be used is attached under separate cover.

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Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

**ADDENDUM NO. 1 FOR REQUEST FOR QUALIFICATIONS NO. 19-048
FOR PROFESSIONAL AUDITING SERVICES
DUE DATE: APRIL 2, 2019 AT 2:00 PM**

March 8, 2019

The City of Missouri City, Texas is now issuing the following addendum:

1. Question: I was wondering if there was going to be a call-in option for the pre-submission conference for RFQ No. 19-048 on Monday March 11th at 3pm. If there is, can you please send me the call-in number? Any assistance you can provide is greatly appreciated.

Response: No there will not be a call in option; however, the presentation will be posted to our solicitation websites: www.txsmartbuy.com or www.demandstar.com. Questions that are asked at the pre-submission conference must be submitted in writing, so they can be posted later as an addendum.

2. Question: Was a Single Audit report issued for FY17? If so, may we have a copy?

Response: No

3. Question: Is a Single Audit report going to be issued for FY18?

Response: No

4. Question: Is a Single Audit report anticipated for FY19?

Response: It's possible. It depends on receiving approved project worksheets and funding from FEMA for Harvey related expenditures.

5. Question: For FY17, how many adjusting journal entries were there?

Response: There were 11 adjusting journal entries in FY2017.

6. Question: For FY17, was a management letter issued?

Answer: Yes. It is attached to this addendum.

7. Question: What were the audit fees for the past 2 fiscal years?

Response: Fee schedules were as follows:

	FY2017	FY2018
Financial Statement Audit	\$67,300	\$79,300*
Single Audit (First Major Program)	\$10,000	\$10,600
Each Additional Federal or State Major Program	\$5,400	\$5,800
Optional Report Writing Fee (Not to exceed)	\$20,000	\$20,000
*FY2018 Based on 15 month fiscal year		

December 4, 2017

To the Honorable Mayor and
Members of City Council
City of Missouri City

In planning and performing our audit of the basic financial statements of the City of Missouri City, Texas (the "City") as of and for the year ended June 30, 2017 in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, we considered The City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we do not express an opinion on the effectiveness of The City's internal control over financial reporting.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses and therefore, significant deficiencies or material weaknesses may exist that have not been identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the following deficiencies in the entity's internal control to be significant deficiencies:

Significant Deficiencies

Year End Closing Processes

Condition:

During the course of closing out the City's financial records for the fiscal year in order to prepare the Comprehensive annual report, numerous adjustments were required after City's trial balance was presented to the auditors in order for the financial statements to be materially correct. The correcting journal entries were proposed and prepared by both the auditors and city staff.

Recommendation:

We recommend the City staff prepare written procedures to instruct and direct staff on the steps necessary to complete the year end closing process. Ideally these procedures would include detailed procedures for each material balance and major class of transactions. The procedures should be specific to each position of the financial services staff and should provide for a specified position to review the completed procedures along with a standard for timely completion or calendar of events.

Reconciliation of Pooled Investments

Condition:

At year end, the City was required to make a large adjustment to agree the aggregate balances in individual funds to the cumulative balance in the pooled cash and investment fund primarily for changes in the fair value of investments. This adjustment was necessary in order to correctly present the balances of pooled cash and investments in the individual funds in the financial statements.

Recommendation:

We recommend the City Staff compare the pooled cash and investment balances (both aggregately and individually) in the fund financial statements to the pooled cash and investment account on a monthly basis. Further, an analysis of adjustments to individual or collective accounts due to market fluctuations should be made on a monthly basis and adjusted in the general ledger as appropriate.

Reconciliation of Accounts Payable

Condition:

Accounts payable detailed listings generated by the City's financial management system did not agree to the aggregate fund information contained in the general ledger. This condition appears to be the result of not reversing prior period closing and audit entries.

Recommendation:

We recommend the City Staff reconcile general ledger control accounts payable balances to the detailed accounts payable subsidiary ledger on at least a monthly basis. This reconciliation process would include agreement of the control accounts to the detailed listings, adjusting the control accounts to the reconciled detail balances and review of the results by supervisory personnel.

To the Honorable Mayor and
Members of City Council
City of Missouri City
December 4, 2017
Page 3 of 3

The purpose of this communication, which is an integral part of our audit, is to describe for management and those charged with governance the scope of our testing of internal control and the results of that testing. Accordingly, this communication is not intended to be and should not be used for any other purpose.

Whitley Penn LLP



Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

**ADDENDUM NO. 2 FOR REQUEST FOR QUALIFICATIONS NO. 19-048
FOR PROFESSIONAL AUDITING SERVICES
DUE DATE: APRIL 2, 2019 AT 2:00 PM**

March 15, 2019

The City of Missouri City, Texas is issuing the following addendum:

1. Does the City anticipate providing any new services to the Community or entering into any new contracts for the FY 2019?

Response: Yes

2. Does the City anticipate any new significant grants?

Response: No, excluding FEMA reimbursements attributable to Harvey

3. Does the City receive any significant state funding?

Response: Current combined state grant awards are less than \$150,000.

4. When does the City prefer to have interim and yearend fieldwork take place?

Response: Interim during the period of July-August, and Year-End December-January

5. When will the FY 2018 CAFR be issued?

Response: Scheduled to be presented to City Council on March 18, 2019

6. Is the City anticipating any significant changes in software?

Response: The City plans to implement the Purchasing Card and Contract modules within our current enterprise resource planning software, Munis.

7. What could the auditors have done to make your experience better?

Response: The City will respectfully decline a response to this question since it is not relevant to the scope of work of the solicitation and will have no impact on the quality your submission.

8. What did the auditors do well?

Response: The City will respectfully decline a response to this question since it is not relevant to the scope of work of the solicitation and will have no impact on the quality your submission.

9. In your RFQ Auditing Services No. 19-048, it states, the City will enter agreement with the successful firm using the City's own contract document only. A sample copy of the contract to be used is attached under separate cover. Would you please let me know where I can find that contract copy?

Response: The attachment "Sample Contract" is on each posting at our bidding websites www.txsmartbuy.com and www.demandstar.com

10. Please help us understand why you decided to issue an RFQ at this time?

Response: The City's contract with our current Auditors will be expiring this year.

11. Are the current auditors being included in the RFQ process?

Response: The current auditors will be allowed to submit their qualifications to this solicitation.

12. What were the fees for the last year? And are they an accurate representation of historical fees year-to-year?

Response: See Addendum No. 1

13. What are your key concerns about the audit and what is most important to you in your selection of an auditor?

Response: It is important that we meet our charter requirements and comply with state law regarding filing the audit. Please see Section VI 3 of the RFQ for the selection criteria.

14. Do the auditors perform any additional services for you? From the RFQ:

Response: From time to time, the City may request the Auditor to perform other audits and reviews not specifically provided for under this section. If such a request is made, the Auditor shall submit, at the City's request, a separate Statement of Qualification for completing the engagement, along with a proposed fee schedule. The City reserves the right to contract any additional audits or reviews with whomever it may choose.

15. Please can you clarify which components of the report the City's staff will be assisting the auditors in drafting?

Response: Please see section II (3)A and Section III(4). The Auditor will be responsible for preparing the Comprehensive Annual Financial Report. The components prepared by the City will depend upon the resources and abilities of the Auditor. In the past, the City has assisted with preparing statistical information, the Transmittal Letter, and notes.

16. How many days/weeks are usually scheduled for interim and final fieldwork?

Response: It depends upon the resources of the audit firm, scheduled time has ranged from 1-2 weeks for both interim and final fieldwork.

17. What are your expectations regarding timing of interim and final fieldwork plus delivery of the report?

Response: We will work with the selected audit firm to schedule interim and final fieldwork with the requirement to deliver the final report prior to the statutory deadline and in accordance with the Council's meeting schedule.

18. Can any portion of the audit be performed remotely?

Response: The proposer is responsible for outlining the audit approach in their response to the RFQ.

19. What is the IT environment like, you mentioned the City uses Munis/Incode/Energov/Activeweb- which systems/software are you using specifically for accounting and have you encountered any issues?

Response: The City uses Tyler Munis for Accounting. We have not encountered any issues that have impacted the audit process.

20. With regard to auditor rotation mentioned in the RFQ- which level(s) of the engagement team is the expected rotation to occur?

Response: Fieldwork

21. Have you experienced any significant changes in activities, funding or key personnel from the prior year? Or are you anticipating any major changes over the course of the contract?

Response: The City hired a new Financial Services Director in January 2019 and is in the process of hiring a new Assistant Director of Finance. There has not been a significant change in activities and/or funding and we are unable to predict future events.

22. How would you describe the internal controls environment? Have you had any issues in this area?

Response: Consideration of adequate internal accounting controls has been made in designing the City's accounting system. Internal accounting controls, instituted by the Financial Services Department as part of the accounting system, are designed to provide reasonable assurances that assets are properly safeguarded against loss from unauthorized use or disposition, that financial records used in preparation of the financial statements are reliable, and that accountability for the City's assets is maintained. Please refer to section II(3)B of the RFQ.

23. How are you preparing for the implementation of GASB 84?

Response: At this time, the City has not identified any fiduciary activities. The Auditor's assistance and consultation will be required in implementing new Governmental Accounting Standards Board and Financial Accounting Standards Board statements at the earliest possible date, even if prior to the required effective date.

24. Do finance staff receive ongoing training on accounting and other matters relevant to financial reporting? Is this something that you could use assistance in?

Response: Staff receives ongoing training, please see the section of the RFQ regarding Independence. The RFQ is for auditing services, not training.

RFQ No. 19-048 Professional Auditing Services

	Technical Statement of Qualifications	Maximum Individual Points	Maximum Combined Points	Weaver & Tidwell	McConnell & Jones	BKD CPAs and Advisors	Belt Harris Pechacek, LLLP	Pattillo, Brown & Hill
A.	<p>Independence</p> <p>The firm should provide an affirmative statement that it is independent of the City as defined by the U.S. General Accounting Office's Government Auditing Standards as to relationships between the City and its management and members of your firm, and with regard to any other work performed by the firm for the City that might impair the firm's independence and objectivity.</p> <p>The firm should also list and describe its professional relationships involving the City or any of its agencies for the past five (5) years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed audit.</p>	5	25	25	25	25	25	25
B.	<p>License to Practice in Texas</p> <p>An affirmative statement should be included indicating that the firm and all assigned key professional staff are properly licensed to practice in Texas.</p>	5	25	25	25	25	25	25
C.	<p>Firm Qualifications and Experience</p> <p>The Statement of Qualification should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed and the number and nature of the professional staff to be employed in this engagement on a full-time and a part-time basis.</p>	25	125	115	107	108	107	94
D.	<p>Partner, Supervisory and Staff Qualifications and Experience</p> <p>The firm should identify the principal supervisory and management staff, including engagement partners, managers, other supervisors, and specialists who would be assigned to the engagement and indicate whether each such person is licensed to practice as a Certified Public Accountant in Texas. Indicate areas of specialty: audit, tax, management advisory services, etc. Indicate the ratio of audit managers and other staff to audit partners in the local office.</p>	15	75	70	63	67	64	61
E.	<p>Prior Engagements with the City of Missouri City and Fort Bend County</p> <p>The firm should list separately any and all engagements performed for the City and other entities within the City limits or its E.T.J. and within the last five (5) years. For each engagement, the firm should indicate the scope of work, date, engagement, partners, total hours, and the location of the firm's office from which the engagement was performed.</p>	5	25	15	21	15	17	17
F.	<p>Similar Engagements with Other Governmental Entities</p> <p>For the firm's office that will be assigned responsibility for the audit, list the most significant engagements (maximum of 5) performed in the last five (5) years that are similar to the engagement described in the RFQ. These engagements should be ranked on the basis of total staff hours. Indicate the scope of work, date of engagement, partners, total hours, and the name and telephone number of the principal client contact.</p>	10	50	48	39	33	44	46
G.	<p>Specific Audit Approach</p> <p>The Statement of Qualification should set forth a work plan, including an explanation of the audit methodology to be followed to perform the services required in Section II of the RFQ. In developing the work plan, reference should be made to such sources of information as the City's budget and related materials, organization charts, manuals and programs, and financial and other management information systems.</p>	25	125	117	108	109	108	102
H.	<p>Identification of Anticipated Potential Audit Problems</p> <p>The Auditor should identify and describe any anticipated potential audit problems, the firms approach to resolving these types of problems, and any special assistance that will be required from the City of Missouri City and its staff,.</p>	5	25	25	22	25	13	19
I.	<p>Additional Information</p> <p>Any additional information the Auditor considers essential to the Statement of Qualification should be included in this section.</p>	5	25	24	19	21	19	21
TOTAL SCORE		100	500	464	429	428	422	410



**Council Agenda Item
June 17, 2019**

10. **ORDINANCES** – *There are no Ordinances on this agenda.*
-



CITY COUNCIL AGENDA ITEM COVER MEMO

June 17, 2019

To: Mayor and City Council
Agenda Item: 11(a) A resolution adopting rules governing the investment of funds of the City of Missouri City; providing for repeal; and designating the Assistant City Manager and the Director of Financial Services to be responsible for the investment of City funds
Submitted by: Allena Portis, Director of Financial Services

SYNOPSIS

This resolution proposes the adoption of the investment policy as of June 17, 2019 for the City.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Maintain a financially sound City

BACKGROUND

Chapter 2256 of the Texas Government Code requires the governing body of an investing entity to adopt a written investment policy regarding the investment of its funds, and requires that the governing body review its investment policy and investment strategies not less than annually. City Council last reviewed and adopted the investment policy on June 18, 2018.

Chapter 2256 of the Texas Government Code, also known as the Public Funds Investment Act, outlines allowable investment instruments for municipalities. The City's investment policy remains in compliance with the Act. Although during the 86th legislative session, there were no changes to the Public Funds Investment Act; the policy has been amended to require Investment Officers to attend ten hours of training in subsequent two year periods as required by the Public Funds Investment Act.

On May 6, 2019, the Investment Committee and Investment Advisors, Valley View Consulting, reviewed the current investment strategies with the Finance and Services Committee. On June 13, 2019, the Investment Committee reviewed the Investment Policy with the Finance and Services Committee, and recommends adopting the investment policy found in Attachment A to our resolution.

SUPPORTING MATERIALS

1. Resolution (including proposed Investment Policy)

STAFF'S RECOMMENDATION

Staff recommends approval of the Investment Policy as of June 17, 2019.

Director Approval: Allena Portis, Director of Financial Services

**Assistant City Manager/
City Manager Approval:**

Anthony J. Snipes, City Manager

RESOLUTION NO. R-19-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, ADOPTING RULES GOVERNING THE INVESTMENT OF FUNDS OF THE CITY OF MISSOURI CITY; DESIGNATING THE ASSISTANT CITY MANAGER AND THE FINANCIAL SERVICES DEPARTMENT DIRECTOR TO BE RESPONSIBLE FOR THE INVESTMENT OF CITY OF MISSOURI CITY FUNDS; AND PROVIDING FOR REPEAL.

* * * * *

WHEREAS, Chapter 2256 of the Texas Government Code (the “Public Funds Investment Act”) requires the governing body of an investing entity to adopt a written investment policy regarding the investment of its funds and funds under its control and to review the investment policy and investment strategies not less than annually; and

WHEREAS, on June 18, 2018, by Resolution No. R-18-24, the City Council of the City of Missouri City (the “City”) reviewed, approved, and adopted a written Investment Policy for the City regarding the investment of public funds (the “Investment Policy”); and

WHEREAS, the City Council has reviewed the Investment Policy and the City’s investment strategies; and

WHEREAS, the City Council has determined that it is in the best interest of the residents of the City to adopt rules governing the investment of the funds of the City; now therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitals set forth in the preamble of this Resolution are hereby found to be true and correct and are in all things incorporated herein and made a part hereof.

Section 2. In accordance with the Public Funds Investment Act, the City Council has reviewed the Investment Policy and the City’s investment strategies and hereby recommends and adopts rules governing the investment of City funds and investment strategies as set forth in the Investment Policy attached hereto as Exhibit “A” and made a part hereof for all purposes.

Section 3. Resolution No. R-18-24, adopted June 18, 2018, and all other resolutions in conflict herewith, are hereby repealed.

Section 4. In accordance with the Public Funds Investment Act, the City Council hereby designates the Assistant City Manager and the Financial Services Department Director to be responsible for the investment of City funds in accordance with the rules governing investments adopted in Section 2 hereof.

PASSED, APPROVED and ADOPTED this 17th day of June, 2019.

Yolanda Ford, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney



INVESTMENT POLICY
FOR
City of
MISSOURI CITY, TEXAS

June 17, 2019

PREFACE

This Policy serves to satisfy the statutory requirements for the City of Missouri City, Texas (the “City”) of the Texas Government Code Chapters 2256 (the “Public Funds Investment Act” or the “Act”) and 2257 (the “Public Funds Collateral Act”) to define and adopt a formal investment policy.

State and local public laws govern the investment process for the City’s funds. Laws cannot ensure that public officials manage public funds in a disciplined and prudent manner. The actions of public officials responsible for investing public funds must be guided by knowledge, skills, systems, policies, procedures, and confidence that can be described only as professional discipline.

It is the policy of the City that giving due regard to safety and risk of investments, all available funds shall be invested in conformance with these legal and administrative guidelines. All City funds shall be invested, to the maximum extent possible, at the risk-appropriate rates obtainable at the time of the investment.

Effective cash management is recognized as essential to good fiscal management. An aggressive cash management and investment policy will be pursued. To that end, investment interest will be used as a viable and material revenue source for all operating and capital funds. Earnings from investments will be used in a manner that will best serve the interest of the City.

The City’s portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

I. INTRODUCTION AND OBJECTIVES

The Investment Policy of the City shall be to have all available funds invested, to the maximum extent possible, at the optimum rates obtainable at the time of investment. This is in conformance with the legal and administrative guidelines outlined herein. The investments shall be consistent with state and local laws and shall be made in accord with the following hierarchy of objectives:

- Preservation of capital, safety of principal and security of investments and City funds,
- Maintenance of sufficient liquidity to meet operating needs,
- Diversification of investments to avoid unreasonable or avoidable risks,
- To ensure public trust, and
- Optimization of return on the portfolio.

Cash management is the process of managing moneys to optimize cash availability and yield on short-term investments of idle cash. An aggressive cash management program consistent with this Investment Policy will be pursued by the City to take advantage of investment interest as viable and material revenue for all operating and capital funds. The City's portfolio shall be designed and managed in a manner responsive to the public trust. Earnings from investments will be used in a manner that will best serve the interests of the City.

II. DELEGATION AND RESTRICTION OF INVESTMENT AUTHORITY

The Assistant City Manager and the Financial Services Director are designated as the Investment Officers. The Financial Services Director shall act as primary Investment Officer with responsibility and authority for daily investment transactions and cash management. The Financial Services Director is also responsible for considering the quality and capability of staff involved in investment management and procedures. The Financial Services Director will ensure that staff involved in the investment function complies with all requirements established by this Policy.

The Investment Officers shall attend training accumulating at least ten (10) hours relating to the Officer's responsibility under the Act within twelve (12) months after assuming duties and attend additional investment training accumulating at least ten (10) hours in subsequent two-year periods that begins on the first day of the fiscal year and consists of the two consecutive fiscal years after that date.

The Financial Services Director is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from

Exhibit "A"

loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived; and the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, the Financial Services Director shall establish internal controls that address the following points:

- Prevention of collusion.
- Separation of transaction authority from accounting and record keeping.
- Custodial safekeeping.
- Avoidance of physical delivery securities.
- Clear delegation of authority to subordinate staff members.
- Written confirmation for telephone (voice) transactions for investments and wire transfers.

III. PRUDENCE AND ETHICAL STANDARDS

The standard of prudence used by the City shall be the "prudent person rule" and shall be applied in the context of managing the overall portfolio. The prudent person rule is restated below:

Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

In determining whether an Investment Officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

1. the investment of all funds, or funds under the City's control, over which the Officer had responsibility rather than a consideration as to the prudence of a single investment; and
2. whether the investment decision is consistent with this Investment Policy.

Investment Officers shall notify the City Council of any conflicts of interest, as defined in the Act, no later than the next regularly scheduled City Council meeting, and provide notification to the Texas Ethics Commission, as applicable.

It is the City's policy that the Investment Officers perform their duties in accordance with the policies and procedures set forth herein. Investment Officers, acting in good faith and in accordance with these policies and procedures, shall be relieved of personal liability.

IV. INVESTMENT COMMITTEE

Exhibit "A"

There shall be established an Investment Committee to determine general strategies and to monitor results of the City's portfolio. Members of this Committee include the Financial Services Director (as chairperson), the Assistant City Manager, and the Assistant Finance Director. Additional members may be appointed by the Committee as appropriate. The Committee shall identify strategies for funds to be invested. The Investment Committee shall include in its deliberation such topics as: economic outlook, portfolio diversification, maturity structure, potential investment risks, authorized brokers/dealers, eligible investment training sources, and the anticipated rate of return on the investment portfolio. The Investment Committee will review changes to the Investment Policy and will make their recommendations to the City Council for approval.

V. AUTHORIZED INVESTMENT INSTRUMENTS

All investments of the City shall be made in accordance with the Act. The City authorizes the following types of investments:

- 1) Obligations, including letters of credit, of the United States or its Agencies and Instruments, including the Federal Home Loan Banks;
- 2) Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of the United States or its agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;
- 3) Obligations of the State of Texas or its agencies and instrumentalities, and obligations of counties, cities, and other political subdivisions of this State rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
- 4) Fully insured or collateralized deposits at eligible depositories placed in compliance with this Policy and the Act;
- 5) Repurchase agreements structured in compliance with the Act. The term includes direct security repurchase agreements entered into by City and reverse repurchase agreements only obtained in connection with investment by City in an Eligible Investment Pool or Money Market Mutual Fund. All City repurchase agreement transactions shall be governed in accordance with a written repurchase agreement;
- 6) Money Market Mutual Funds registered with and regulated by the Securities & Exchange Commission; that fully invest dollar-for-dollar all City funds without sales commissions or loads; that are categorized as a "Treasury" or "Government" money market fund; and, whose investment objectives include seeking to maintain a stable net asset value of \$1.0000 per share. City may not invest funds

Exhibit "A"

under its control in an amount that exceeds 10% of the total assets of any individual money market fund,

- 7) Eligible Investment Pools as defined by and in compliance with the Act, that have been authorized by the City Council, maintain a rating of a least AAA or AAAM, and whose investment philosophy and strategy seek to maintain a stable net asset value of \$1.0000.

The Investment Officers will, in general, purchase investments with the intent to own the investment until maturity. Safety of principal with due consideration of liquidity is the foremost objective of this Investment Policy. Each investment transaction shall seek to avoid capital losses from issuer defaults or erosion of market value.

Investments purchased prior to this Policy's revision that do not meet the revised requirements of this Policy are not required to be liquidated. The Finance Committee shall monitor each investment's status to determine whether it is in the best interest of the City to hold or liquidate the investment.

Any Authorized Investment that requires a minimum rating does not qualify during the period the investment does not have the minimum rating. The City shall monitor the rating of each issuer, as applicable, at least quarterly, and take all prudent measures that are consistent with this Policy to liquidate an investment that does not have the minimum rating.

The City will practice competitive solicitations when purchasing an investment to help strengthen the investment process. The City reserves the right to reject any investment and to select the most favorable option for investment strategy achievement.

VI. UNACCEPTABLE INVESTMENT INSTRUMENTS

The following investments, although authorized by the Public Funds Investment Act, are not eligible for direct investments for the City:

- Collateralized mortgage obligations
- Commercial paper
- Banker's acceptances
- No-load mutual funds other than no-load money market mutual funds

VII. DIVERSIFICATION

Portfolio risk shall be minimized by diversification of investment types. The following limits by instrument, exclusive of funds placed in Investment Pools, are established for

the City's total portfolio and will be implemented after adoption of this Investment Policy.

1. Obligations of the U.S. and its Agencies/Instrumentalities 100%
2. Obligations of states, agencies, counties, cities, districts, and other political subdivision..... 50%
3. Financial Institution Deposits 100%
4. Repurchase Agreements (excluding bond funds)..... 50%
5. Money Market Mutual Funds Public Funds Investment Act Limits
6. Local Government Investment Pools..... 100%

VIII. INVESTMENT STRATEGIES

The City maintains the following portfolios which will utilize the specific investment strategy considerations designed to address the unique characteristics of the pooled fund groups or separately investment assets represented in the portfolios:

1. Internal Investment Pool

Suitability - Any investment eligible in the Investment Policy is suitable for the Internal Investment Pool.

Safety of Principal - All investments shall be high quality with no perceived default risk. Market price fluctuations will occur. However, by managing weighted average days to maturity for the Investment Pool to one year or less and restricting the maximum allowable maturity to two years, the price volatility of the overall portfolio will be managed.

Marketability - Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than a quarter of a percentage point will define an efficient secondary market.

Liquidity – The Internal Investment Pool has moderate liquidity needs. Short-term deposits, investment pools, and money market mutual funds will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Diversification - Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Diversifying the appropriate maturity structure out through two years will

reduce market cycle risk.

Yield - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of comparable maturity, rolling Treasury Obligation portfolio will be the minimum yield objective.

2. **Special Project or Special Purpose Funds**

Suitability - Any investment eligible in the Investment Policy is suitable for Special Project or Special Purpose Funds.

Safety of Principal - All investments will be high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Special Project or Special Purpose Funds to not exceed the anticipated expenditure schedule the market risk of the overall portfolio will be minimized.

Marketability - Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than a quarter of a percentage point will define an efficient secondary market.

Liquidity - Special Project or Special Purpose Funds used for capital improvements programs have reasonably predictable draw down schedules. Therefore, investment maturities should generally follow the anticipated cash flow requirements. Short-term deposits, investment pools, and money market mutual funds will provide readily available funds generally equal to at least one month’s anticipated cash flow needs, or a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any expenditure request. This investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Market conditions and arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for construction, loan and bond proceeds. Generally, when investment rates exceed the applicable cost of borrowing, the City is best served by locking in most investments. If the cost of borrowing cannot be exceeded, then concurrent market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger amounts. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield.

Yield - Achieving a positive spread to the cost of borrowing is the desired objective, within the limits of the Investment Policy’s risk constraints. The yield of an equally weighted, rolling six-month Treasury Bill portfolio will be the minimum yield objective for non-borrowed funds.

3. Mortgage Portfolio

Suitability – Mortgage obligations of U.S. and its Agencies and Instrumentalities listed as eligible in the Investment Policy are suitable for the Mortgage Portfolio.

Safety of Principal - All investments will be high quality with no perceived default risk. Market price fluctuations will occur. However, by managing the Mortgage Portfolio to monitor market valuations and to take action to liquidate positions should their market price deteriorate significantly, the market risk of the overall portfolio will be monitored and adjusted as needed.

Marketability – Mortgage securities that exist in the Mortgage Portfolio have a reasonably efficient secondary market. The City does not intend to purchase additional positions with final maturities beyond 5 years.

Liquidity – The Mortgage Portfolio represents a longer-term investment strategy that is not intended to be a liquidity source for the City.

Diversification – The Mortgage Portfolio consists of longer-term positions that serve to diversify the overall investment program of the City.

Yield – As a longer-term program, the Mortgage Portfolio will have more yield volatility than other portfolios managed by the City.

IX. SAFEKEEPING and CUSTODIAL AGENTS

The City shall select one or more financial institutions to provide safekeeping and custodial services for the City. A City approved agreement shall be executed with each Agent prior to utilizing that Agent's services. To be eligible for designation as the City's Safekeeping or Custodian Agent, a financial institution must qualify under the Public Funds Investment and Collateral Acts.

All repurchase agreements and investment security transactions shall be purchased using the Delivery Versus Payment (DVP) method. That is, funds shall not be wired or paid until verification has been made that the City's Safekeeping Agent received the security.

Exhibit "A"

The security or collateral shall be held in the account of the City. The Safekeeping or Custodial Agent's records shall assure the notation of the City's ownership of or explicit claim on the security or collateral. The original copy of all receipts shall be delivered to the City. Additionally, the Safekeeping or Custodial Agent shall provide a monthly report that includes the following (as available):

Name
Type/Description
CUSIP
Par Value
Current Principal or Face Value
Current Market Value
Maturity Date
Moody's or Standard & Poor's Rating (both if available)

X. COLLATERALIZATION

Consistent with the requirements of State law, the City requires all financial institution deposits to be federally insured or collateralized. Financial institutions serving as City depositories will be required to sign a depository or collateral agreement with the City. The custodial portion of the agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- the agreement must be in writing;
- the agreement must be executed by the depository and the City contemporaneously with the acquisition of the asset;
- the agreement must be approved by the board of directors or the loan committee of the depository and a copy of the meeting minutes must be delivered to the City, specifically to the Financial Services Director; and
- the agreement must be part of the depository's "official record" continuously since its execution.

The City considers repurchase agreements as simultaneous sales and purchases of securities rather than collateralized loans. However, securities underlying repurchase agreements are referred to as "collateral" for the purpose of this Policy.

Financial Institution deposits plus accrued interest do not need to be collateralized pursuant to this Investment Policy as long as FDIC insurance is provided.

Acceptable forms of collateral are limited to those authorized in the Public Funds Collateral Act.

Exhibit "A"

Collateral is valued at current market value plus interest accrued through the date of the valuation. Uninsured Financial Institution deposits and repurchase agreement investments marketable security collateral must be maintained at a minimum 102% of deposit or investment value, plus any accrued interest. The City reserves the right to accept or reject any proposed collateral and to increase the minimum required collateral level.

Letters of Credit issued to the City by an agency or instrumentality of the United States shall have a minimum value of 100% of the uninsured deposit value plus any accrued interest.

Collateralized investments often require substitution of collateral. Substitution is allowed, but should be limited, if possible, to minimize potential administrative problems and transfer expense. The Financial Services Director may limit substitution and assess appropriate fees if substitution becomes excessive or abusive.

Collateral shall be audited at least annually by the City's independent audit firm and may be audited by the City at any time during normal business hours of the safekeeping party.

XI. INVESTMENT REPORTING

Each quarter, the Investment Officers shall prepare and submit to the City Council a written report of all investment transactions. The report will include the following information:

- A detailed description of the investment position of the City at the end of the quarter;
- A summary statement of each pooled fund group that states beginning market value for the quarter, ending market value for the period and fully accrued interest for the period;
- The book value and market value of each separately invested asset at the end of the quarter by the type of asset and fund type invested;
- The maturity date of each separately invested asset that has a maturity date;
- The fund or pooled group fund for which each individual asset was acquired;
- A signed statement of compliance with the investment strategy established in this Investment Policy and by the Public Funds Investment Act.

The City monitors the market price of its investments by contacting sources independent of the transaction and utilizing the Wall Street Journal or other market information sources. The report should also include computations of the weighted average yield on each fund or pooled group fund as the performance measurement standard.

XII. BROKER/DEALERS

The Investment Committee shall maintain a list of authorized broker/dealers, reviewed and approved at least annually. Broker/dealers will be selected on the basis of their

Exhibit "A"

expertise in public cash management and their ability to provide service to the City's account. The City shall purchase securities only from those authorized firms.

To be eligible, a firm must meet the following criteria:

1. Be recognized as a Primary Dealer by the Federal Reserve Bank of New York, or
2. Report voluntarily to the Federal Reserve Bank of New York, or
3. Qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (Uniform Net Capital Rule), and
4. Be registered with the Texas State Securities Board, the Financial Industry Regulatory Authority (FINRA) and the Securities and Exchange Commission (SEC), as appropriate.

XIII. ELIGIBLE BUSINESS ORGANIZATIONS

Investment Pools and discretionary investment management firms ("business organization") eligible to transact investment business with the City shall be presented a written copy of this Policy. The qualified representative of the business organization seeking to transact investment business shall execute a written instrument substantially to the effect that the qualified representative has:

1. Received and thoroughly reviewed this Investment Policy, and
2. Acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and the organization that are not authorized by the Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of City's entire portfolio, requires an interpretation of subjective investment standards, or relates to investment transactions of the City that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The City shall not enter into an investment transaction with a business organization prior to receiving the written instrument described above.

XIV. PRIMARY DEPOSITORY

A Primary Depository shall be selected through the City's banking services procurement process, which shall include a formal Request for Application (RFA) issued in compliance with applicable State law. This contract can be extended as per the RFA specifications. In selecting a Primary Depository, the credit worthiness of institutions shall be considered.

Obtaining competitive applications on the City's depository specifications will be the responsibility of the Financial Services Director. Selection of the primary depository shall be based on the institution's offering the most favorable terms and conditions for the

handling of City funds (Chapter 105 of the Local Government Code) and the services available to the City.

The City reserves the right to open and maintain accounts at other depositories for selective services and investment purposes.

XV. COMPLIANCE AUDITS

The City, in conjunction with its annual financial audit, will require the audit firm to conduct a compliance audit of the management controls on investments and adherence to investment policies, and the quarterly investment reports. The results of the audit shall be reported to the City Council.

XVI. ANNUAL REVIEW

The Finance Committee shall, at a minimum, submit proposed amendments of this Investment Policy and incorporated investment strategies to the City Council annually. The City Council shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed or changed the Investment Policy and incorporated investment strategies.



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

June 17, 2019

To: Mayor and City Council
Agenda Item: 11(b) Consider a resolution amending the authorized representatives to the TexPool Local Government Investment Pool

Submitted by: Allena J. Portis, Director of Financial Services

SYNOPSIS

The City needs to update the signature card on file with TexPool to reflect the addition of Fatima Uwakwe, Assistant Finance Director, as an authorized representative to maintain the City's trust account and removal of Etta Taylor-Edwards, Accounting Manager.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Maintain a financially sound City

BACKGROUND

TexPool requires that the Participant, by an amending resolution signed by the Participant, add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the Participant. In compliance with TexPool requirements, the individuals detailed in Exhibit A are Authorized Representatives on the city of Missouri City's Texas Local Government Investment Pool account. The Accounting Manager became a temporary signer when the Assistant Director of Finance position became vacant. Now that the position is filled, the Accounting Manager should be removed and replaced with the Assistant Director of Finance.

SUPPORTING MATERIALS

1. Resolution, including Exhibit A naming authorized signers

STAFF'S RECOMMENDATION

Adopt the resolution updating the signature card with TexPool to reflect the noted changes to the account.

Director Approval: Allena J. Portis, Director of Financial Services

**Assistant City Manager/
City Manager Approval:** Anthony J. Snipes, City Manager

RESOLUTION NO. R-19-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, AUTHORIZING REPRESENTATIVES TO THE TEXAS LOCAL GOVERNMENT INVESTMENT POOL.

* * * * *

WHEREAS, the City of Missouri City, Texas, Location Number 78733, (“Participant”) is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pool (“TexPool/Texpool Prime”), a public funds investment pool, was created on behalf of entities whose investment objectives, in order of priority, are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. That the individuals, whose signatures appear in this Resolution as shown on Exhibit A, attached hereto and made a part hereof, are “Authorized Representatives” of the Participant and are each hereby authorized to transmit funds for investment in TexPool/Texpool Prime and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

Section 2. That an Authorized Representative of the Participant may be deleted by a written instrument signed by two remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant’s TexPool/Texpool Prime account or (2) is no longer employed by the Participant.

Section 3. That the Participant may, by an amending resolution signed by the Participant, add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the Participant.

Section 4. *Repeal.* Resolution No. R-19-02, adopted on January 22, 2019, is hereby repealed and replaced with this resolution. All other resolutions or parts of resolutions, if any, in conflict herewith, shall be and are expressly repealed to the extent of such conflict.

Section 5. Severability. In the event any clause, phrase, provision, sentence or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until TexPool Participant Services receives a copy of any such amendment or revocation.

PASSED and APPROVED this 17th day of June, 2019.

Yolanda Ford, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

Jamilah Way, First Assistant City Attorney
for E. Joyce Iyamu, City Attorney

Exhibit A

TEXPOOL/TEXPOOL PRIME AUTHORIZED REPRESENTATIVES

List the Authorized Representatives of the Participant. Any new individuals will be issued personal identification numbers to transact business with TexPool Participant Services.

- | | | |
|----|--|--|
| 1. | Name: Charles William Atkinson, Jr. | Title: Assistant City Manager |
| | _____
Signature | Phone Number: (281) 403-8696 |
| | | Email: batkinson@missouricitytx.gov |
| 2. | Name: Allena Portis | Title: Director of Financial Services |
| | _____
Signature | Phone Number: (281) 403-8614 |
| | | Email: allena.portis@missouricitytx.gov |
| 3. | Name: Fatima Uwakwe | Title: Assistant Director of Financial Services |
| | _____
Signature | Phone Number: (281) 403-8610 |
| | | Email:
fatima.uwakwe@missouricitytx.gov |

List the name of the Authorized Representative listed above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

Name: **Charles William Atkinson, Jr.**



**Council Agenda Item
June 17, 2019**

12. CITY COUNCIL ANNOUNCEMENTS

Discussion, review, and possible action regarding a meeting or activity of one or more of the following entities (each entity refers to a City of Missouri City entity unless otherwise indicated):

Charter Review Commission, Community Development Advisory Committee, Construction Board of Adjustments, Electrical Board, Parks Board, Planning and Zoning Commission, Tax Increment Reinvestment Zone Boards, Fort Bend Chamber of Commerce, Houston-Galveston Area Council, Fort Bend Regional Council, Texas Municipal League, Fort Bend County, Harris County, Gulf Coast Building and Construction Trades Council, Mayor's Youth Commission, Finances and Services Committee, Fort Bend Leadership Forum, Fort Bend County Drainage District, Economic Development Committee, Missouri City Parks Foundation, Missouri City Police and Fire Auxiliary, Livable Community Committee, Texas Parkway Alliance, High Performance Organization Committee, Missouri City Juneteenth Celebration Foundation, Fort Bend County Mayor and Council Association, METRO, Planning, Development and Infrastructure Committee, Fort Bend Independent School District, Greater Fort Bend Economic Development Coalition, Transportation Policy Council, Community Development Advisory Committee, Veterans Memorial Committee, Missouri City Recreation and Leisure Local Government Corporation, Missouri City Development Authority, and the Greater Houston Partnership and Emergency Management updates.

13. CLOSED EXECUTIVE SESSION

The City Council may go into Executive Session regarding any item posted on the Agenda as authorized by Title 5, Chapter 551 of the Texas Government Code.

14. RECONVENE

Reconvene into Regular Session and Consider Action, if any, on items discussed in Executive Session.

15. ADJOURN
