

ALLEN OWEN
Mayor

JERRY WYATT
Councilmember at Large Position 1

CHRIS PRESTON
Councilmember at Large Position 2



YOLANDA FORD
Mayor Pro Tem
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, May 7, 2018**, 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 - The Pledge of Allegiance will be led by Girl Scout Troop 28173 Daisy Patrol.

3. PRESENTATIONS AND RECOGNITIONS

(a) Proclaim the week of May 6-12, 2018, as "Public Service Recognition Week" in the City of Missouri City, Texas.

(b) Proclaim the week of May 13-19, 2018, as "National Police Week" in the City of Missouri City, Texas.

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.

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 minutes of the special City Council meetings of April 4, 2018 and April 5, 2018; and the special and regular City Council meeting of April 16, 2018.

(b) Consider an ordinance amending Section 22, Violations and Penalties, of Appendix A, Zoning Ordinance, of the Missouri City Code; providing rules pertaining to minimum penalties for certain zoning violations; providing a penalty; and consider the ordinance on the second and final reading.

(c) Consider an ordinance amending Chapter 10, Animals, of the Missouri City Code; amending regulations regarding the abandonment, surrender, and ownership of certain animals; providing a penalty; and consider the ordinance on the second and final reading.

- (d) Consider an ordinance creating investment Zone No. 18 for tax abatement purposes; encompassing an approximate 16.82-acre tract of land north of Willow Oak Drive, south of Buffalo Run, west of Fairway Pines Drive, and east of Willow Wisp Drive in the City of Missouri City, Texas; and consider the ordinance on the second and final reading.
- (e) Consider accepting the quarterly investment report for the period ending on March 31, 2018.

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

- (1) Public hearing to receive comments for or against proposed rates incorporated in the proposed settlement agreement for the provision of natural gas service by SiEnergy, LP, within the City of Missouri City; declaring a final determination of rates; requiring acceptance by SiEnergy, LP, of the rates prescribed therein; establishing an effective date; and consider a related ordinance on the first of two readings.
- (2) Public hearing to receive comments for or against an ordinance amending Chapter 2, Administration; Chapter 34, Finance and Taxation; and Chapter 82, Subdivisions, of the Missouri City Code to change the name of the Finance Department to the Financial Services Department; providing a penalty; and consider the ordinance on the first of two readings.

8. APPOINTMENTS – *There are no Appointments on this agenda.*

9. AUTHORIZATIONS – *There are no Authorizations on this agenda.*

10. ORDINANCES

- (a) Consider an ordinance amending Chapter 58, Motor Vehicles and Traffic, of the Missouri City Code; amending regulations related to the use of a wireless communication device while operating a motor vehicle; providing a penalty; and consider the ordinance on the first of two readings.
- (b) Consider an ordinance amending Chapter 18, Businesses, of the Missouri City Code; establishing regulations for massage establishments; providing a penalty; and consider the ordinance on the first of two readings.

11. RESOLUTIONS

- (a) Consider a resolution authorizing the Mayor to execute and the City Secretary to attest an economic development agreement between the City of Missouri City, Texas, and Century Land Holdings of Texas, LLC pertaining to certain improvements to an approximate 30.30-acre tract of land located north of Court Road, south of the Knanaya Homes residential subdivision, east of StaMo Park, and west of Staffordshire Road.
- (b) Consider a resolution authorizing the Mayor to execute and the City Secretary to attest a tax abatement agreement by and between the City of Missouri City, Texas, and 827 Wanamaker Limited Partnership, pertaining to certain real property to be located on a 16.82-acre tract of land situated north of Willow Oak Drive, south of Buffalo Run, east of Willow Wisp Drive, and west of Fairview Pines Drive within Reinvestment Zone No. 18 in the City of Missouri City, Texas.
- (c) Consider a resolution authorizing the Mayor to execute and the City Secretary to attest a tax abatement agreement by and between the City of Missouri City, Texas, 827 Wanamaker Limited Partnership and Warren Valve Company, LLC, pertaining to certain personal property to be located on a 16.82-acre tract of land situated north of Willow Oak Drive, south of Buffalo

Run, east of Willow Wisp Drive, and west of Fairview Pines Drive within Reinvestment Zone No. 18 in the City of Missouri City, Texas.

- (d) Consider a resolution authorizing the Mayor to execute and the City Secretary to attest a tax abatement agreement by and between the City of Missouri City, Texas, and AX Park 8Ninety Castcom L.P. pertaining to certain real property improvements to be located on a 6.13 acre tract of land located north of Buffalo Run Park, south of U.S. Highway 90A, east of Cravens Road, and west of the Sam Houston Tollway within Reinvestment Zone No. 16 in the City of Missouri City, Texas.
- (e) Consider a resolution denying a request by CenterPoint Energy Houston Electric, LLC to amend its distribution cost recovery factor.

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 Chapter 551 of the Texas Government Code.

14. RECONVENE

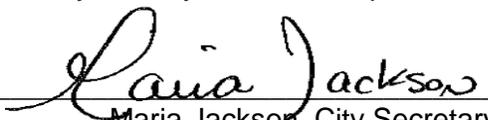
Reconvene into Regular Session and Consider Action, if any, on items discussed in Executive Session.

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 May 7, 2018, agenda of items to be considered by the City Council was posted on the City Hall bulletin board on May 4, 2018, 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 _____, 2018.

Signed: _____

Title: _____



**Council Agenda Item
May 7, 2018**

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE - The Pledge of Allegiance will be led by Girl Scout Troop 28173 Daisy Patrol.

3. PRESENTATIONS AND RECOGNITIONS

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5. STAFF REPORTS

- (a) City Manager announcements.
-

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JERRY WYATT
Councilmember at Large Position 1

CHRIS PRESTON
Councilmember at Large Position 2



YOLANDA FORD
Mayor Pro Tem
Councilmember District A

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Councilmember District B

ANTHONY G. MAROULIS
Councilmember District C

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 **Wednesday, April 4, 2018**, at the City Hall, Council Conference Room, 2nd Floor, behind the Council Chamber, 1522 Texas Parkway, Missouri City, Texas, 77489, at **6:00 p.m.** to consider the following:

1. CALL TO ORDER

Mayor Pro Tem Ford called the meeting to order at 6:09 p.m.

Those also present: Councilmembers Wyatt, Boney, Maroulis, and Emery;

City Manager Snipes, City Attorney Iyamu, City Secretary Jackson, Assistant City Manager Atkinson, Assistant City Manager Elmer, Director of Development Services Spriggs, Director of Public Works Kumar, Director of Financial Services Atmore, Police Chief Berezin, Director of Communications Walker, Chief Performance Officer Weisenberger, and Media Relations Specialist III Stottlemyer. Also present: Renee Yan, Community Impact Newspaper. Councilmember Preston arrived at 6:21 p.m. Absent: Mayor Owen.

2. DISCUSSION/POSSIBLE ACTION

- (a) Presentation and updates on actions and milestones in the City Council Strategic Plan.
- (b) Discuss five-year refresh of the Strategic Plan.

Chief Performance Officer Weisenberger presented the strategic plan update including the five overarching goals established by City Council, action items, and milestones developed by City Staff. City Council and City Staff also addressed the in progress, pending, no longer applicable, and activities or milestones that required further clarification or re-visitation.

3. ADJOURN

The special City Council meeting adjourned at 7:30 p.m.

ATTEST:

Allen Owen, Mayor

Maria Jackson, City Secretary

ALLEN OWEN
Mayor

JERRY WYATT
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Councilmember at Large Position 2



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Councilmember District B

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Councilmember District C

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 **Thursday, April 5, 2018**, at the City Hall, Community Center, 1522 Texas Parkway, Missouri City, Texas, 77489, at **6:00 p.m.** to consider the following:

1. CALL TO ORDER

Mayor Owen called the meeting to order at 7:04 p.m.

Those also present: Councilmembers Wyatt, Preston, Boney, Maroulis, and Emery; City Manager Snipes, City Attorney Iyamu, City Secretary Jackson, Assistant City Manager Atkinson, Assistant City Manager Elmer, Director of Public Works Kumar, Director of Communications Walker, Director of Financial Services Atmore, Fire Chief Campbell, and Chief Performance Officer Weisenberger. Also present Jon Hockenyos, President of TXP Economists Strategists. Absent: Mayor Pro Tem Ford.

2. DISCUSSION/POSSIBLE ACTION

(a) Presentation of City financial forecast with Jon Hockenyos.

Mr. Hockenyos presented on the financial forecast for Missouri City.

(b) Presentation of Fiscal Year 2019 budget overview.

Director of Financial Services Atmore presented the City's budget calendar for FY 2019.

3. ADJOURN

The special City Council meeting adjourned at 8:56 p.m.

ATTEST:

Allen Owen, Mayor

Maria Jackson, City Secretary

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Councilmember District C

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, April 16, 2018**, at the City Hall, Council Conference Room, 2nd Floor, behind the Council Chamber, 1522 Texas Parkway, Missouri City, Texas, 77489, at **5:30 p.m.** to consider the following:

1. CALL TO ORDER

Mayor Owen called the meeting to order at 5:42 p.m.

Those also present: Councilmembers Preston, Boney, and Maroulis; City Manager Snipes, City Attorney Iyamu, City Secretary Jackson, Assistant City Manager Atkinson, Assistant City Manager Elmer, Director of Development Services Spriggs, Director of Economic Development Esch, Director of Communications Walker, Assistant Director of Public Works Brouhard, First Assistant City Attorney Kimeu, and Media Relations Specialist III Stottlemeyer. Also present: Jim Archer, Cindy Siegel, Jose Pulido, and Kenneth Brown, METRO representatives; Frank Hester, Roy Gilbert, and Adrian Matteucci. Councilmember Wyatt and Emery arrived at 5:43 p.m. Absent: Mayor Pro Tem Ford.

2. DISCUSSION/POSSIBLE ACTION

(a) Presentation of a check by Mudra Inc.

Presented to the Mayor and City Council in the Council Chamber.

(b) Discuss the zoning of properties that are temporarily classified as SD Suburban District.

Planning Manager Gomez discussed the zoning of properties that were temporarily classified as SD Suburban District and requested City Council's direction.

Councilmember Wyatt moved to authorize Staff to review zoning SD Suburban District properties as PD Planned Development properties. Councilmember Maroulis seconded. **MOTION PASSED UNANIMOUSLY.**

(c) Presentation on the proposed Metro transit service in Missouri City.

Jim Archer of METRO presented on a community connector service and/or fixed route shuttle service in Missouri City. He addressed the requested destinations for the City and noted hotels would be added to the list of stops. The proposal was for a community connector service which does not operate outside the specified Missouri City zone. It would operate on a 14-hour span, seven days per week, at the base fare rate of \$1.25 which would be paid with a standard transfer Q card. The community connector would be branded as a Missouri City curb-to-curb service that would connect to the METRO service area. Discussion ensued regarding roll out schedules, additional destinations to Memorial Hermann hospital, safety and security of its passengers, and growth potential.

(d) Discuss the prioritization of the economic development plan goals.

Director of Economic Development Esch discussed Council prioritization of the economic development goals. City Council agreed to rank the priorities and return that list to Director Esch by Friday, April 27, 2018.

3. ADJOURN

The special City Council meeting adjourned at 6:53 p.m.

ATTEST:

Allen Owen, Mayor

Maria Jackson, City Secretary

ALLEN OWEN
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CITY COUNCIL MEETING MINUTES

The City Council of the City of Missouri City, Texas, met in regular session on **Monday, April 16, 2018**, 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 Owen called the meeting to order at 7:06 p.m.

Those also present: Councilmembers Wyatt, Preston, Boney, Maroulis, and Emery; City Manager Snipes, City Attorney Iyamu, and City Secretary Jackson. Absent: Mayor Pro Tem Ford.

2. The PLEDGE OF ALLEGIANCE was led by Assistant City Manager Elmer.

3. PRESENTATIONS AND RECOGNITIONS

Koshy Thomas of Voice of Asia presented a plaque to Mayor Allen Owen for earning the University of Houston Master of Public Administration Program's Public Official of the Year award. Don Smith presented a check by the Brazos River Bike Rally to the Missouri City Parks Foundation for the Veteran's Memorial Project. Missouri City Green presented the Golden Tree Award to Millis Development and Construction, Inc. for outstanding contribution to the City's beautification.

There were no **PUBLIC COMMENTS**.

5. STAFF REPORTS

City Manager Snipes stated that Mayor Owen participated in several official meetings regarding the Hurricane Harvey recovery at the Senate Commerce Committee along with other agencies. He also participated in a congressional hearing by Homeland Security committee on "Lessons Learned." Snipes stated the 2018 Citizen Survey would be conducted this week through the ETC institute via phone, mail and internet. Survey findings would be submitted to the City by late May. Snipes announced the following upcoming City events and activities: the City Auction on April 17; the State of the City Address on April 26; the Missouri City Green Paper Shredding Event on April 28; the Police Department's Drug "Take Back" Day on April 28; the 2018 Police & Fire Academy set to begin on May 8; the 2nd Annual Mother's Day Cake Decorating event on May 12; and, the Fire Station No. 3 open house on May 19. He also recognized and thanked the following: the Sugar Creek Baptist Church for bringing pastries to Fire Station No. 1; Jennifer Ogilvie of Methodist Day School, Iris McAfee of Dulles High School, Fort Settlement Middle School National Junior Honor Society members and other residents who helped the Animal Shelter with donations; Councilmember Boney for partnering with staff for the Walk Drive Talk Tour in the Quail Green Subdivision; Councilmember Maroulis for presenting the Lake Olympia Middle School Counselor Tammy Byrd with a "Random Acts of Kindness" certificate; the Parks and Recreation team for coordinating the 2nd Annual MCTX Fest! Along with Public Works, Police, Fire, Development Services, Visitors Center and Communication departments; the Financial Services team for hosting the Long-Range Financial Forecast Symposium and all teams for partnering with the City Manager's Office on the First Annual Pinnacle HPO Awards luncheon.

6. CONSENT AGENDA

- (a) Consider approving the minutes of the special and regular City Council meeting of April 2, 2018.
- (b) Consider a request to change the zoning classification of approximately 5.66 acres of land from SD suburban district to R-1 single-family residential district; providing for an amendment to the Comprehensive Plan; providing a penalty; and consider a related ordinance on the second and final reading. The subject site is located north of the Waterbrook residential subdivision, southeast of the intersection of Sienna Parkway and Watts Plantation Road, and southwest of a section of Avalon at Sienna residential subdivision.

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

Councilmember Wyatt moved to take agenda item 11b out of order. Councilmember Emery seconded. **MOTION PASSED UNANIMOUSLY.**

11. RESOLUTIONS

- (b) Consider a resolution granting consent and approval to the Metropolitan Transit Authority of Harris County (METRO) to provide a community connector option within Missouri City.

Jim Archer with METRO presented a brief overview on the community connector option within Missouri City. Archer stated customers would have three ride options through the METRO Connector: a subscription service (repeated service), call in, or residents could meet at one of several locations at the base fare of \$1.25. If approved, the plan would be presented before the METRO Board on Wednesday. Councilmember Wyatt asked if the buses were 12 passenger buses. Archer stated they were. Councilmember Emery inquired if the City could chose a wrap for the buses. Archer stated the City could. Councilmember Boney requested to hear about safety issues. Archer stated they did not expect any safety issues and the buses would have cameras. He added that METRO would be expanding police officers to Missouri City. Councilmember Preston inquired about the financial impacts. Archer stated the City requested METRO connectors, which Metro would incur such costs. If additional connectors were needed, they would reach out to the City.

Monica Riley, 1706 Foxwood Court, stated she was concerned that there was no community input on the approval. Riley requested City Council to postpone this item until they could receive feedback from the community.

Councilmember Wyatt stated the decision to partner with METRO was made by the resident's years ago. Mrs. Riley questioned the structure. Mayor Owen noted the buses would go through major thoroughfares, not residential streets unless the request was made. Mrs. Riley stated she was concerned with the type of people coming into the City. Mayor Owen explained the buses would be used to get people to facilities. City Manager Snipes noted the program was a pilot to see if there was a demand in our community.

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

Mayor Owen moved to take 9c at this time.

9. AUTHORIZATIONS

- (c) Consider authorizing the request by Farmers Market Partners to host a farmers market at 2700 Lake Olympia Parkway.

Jill Argento and Thomasine Johnson presented on the request to host a farmers market. Director of Development Services Spriggs stated the organization met with staff for other farmer market events which

they met the City's special events standards. Councilmember Wyatt stated they were here because they have exceeded the amount of events allowed. Spriggs stated the ordinance allows for an event once every six months. Councilmember Maroulis inquired about onsite security and for the increased traffic flow. Mrs. Johnson stated farmer markets were designed so that customers arrive to the same location of their produce and less likely to linger. Councilmember Boney inquired if they spoke to Fort Bend ISD regarding parking. Mrs. Johnson stated she spoke with Palmer Elementary and they had a mutual, verbal agreement. Mayor Owen inquired about controlling parking along Crow Valley. Spriggs stated there were "no parking" signs along the street. Mrs. Argento stated they would like to place signage. Councilmember Wyatt asked if the event was for profit. Mrs. Johnson stated it was for profit. Councilmember Wyatt stated if they planned to host the event for a year, they should fill out a business application. Wyatt also stated he objected that it was off Lake Olympia Parkway as it was a major thoroughfare. Councilmember Emery asked if they change the ordinance for farmers market, would it be open to everyone or be specific to farmers market. City Attorney Iyamu stated there may be complications with the outdoor sales and services ordinance as the City has a provision that prohibits certain businesses from having outdoor sales depending on the size of the business.

Karen Overton, 831 Dessert Rose Place, stated she attended a farmer's market event and thought it was well organized and marketed. Overton liked that Council addressed the parking concerns and believes this was a good idea to bring the community together.

John Bertram, 4406 Crow Valley Drive, believed the proposed area was not a good fit for these types of events. Bertram asked for a traffic impact analysis as the events occurred twice per month.

Council requested police presence at the farmer's market event.

Councilmember Wyatt moved to approve the event this weekend provided there was no parking on Crow Valley and Lake Olympia Parkway with traffic maintained with their security and directional signage. Councilmember Maroulis 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 proposed amendments to Section 22, Violation and Penalties, of Appendix A, Zoning Ordinance, of the Missouri City Code, to provide rules pertaining to minimum penalties for certain zoning violations; providing a penalty; and consider a related ordinance on the first of two readings.

At 8:31 p.m., Councilmember Wyatt stepped away.

Councilmember Emery moved to open the public hearing at 8:31 p.m. Councilmember Boney seconded. **MOTION PASSED UNANIMOUSLY.**

Director of Development Services presented proposed amendments to Section 22. This item was introduced and discussed by the City's Code Enforcement Taskforce and unanimously refined. The affected provisions include those regulating accessory buildings and structures, the storage and use of recreational and utility equipment, portable storage units, the outside storage of materials and merchandise, landscaping, fencing trash screening, and certain parking regulations. With the exception of trash screening, which would carry a minimum fine of \$50 for first time offenders, the proposed amendment sets the fine for these violations at \$100 for the first offense, \$250 for the second, and \$500 for the third and subsequent offenses within the same twelve-month period.

At 8:33 p.m., Councilmember Wyatt returned.

Councilmember Boney moved to close the public hearing at 8:33 p.m. and approve the ordinance. Councilmember Emery seconded. **MOTION PASSED UNANIMOUSLY.**

(b) Public Hearings and related actions

- (1) Public hearing to receive comments for or against the proposed City's Community Development Block Grant Program Year 2018 Annual Action Plan.

Grants Coordinator Ricketts presented on the Community Development Block Grant Program Year 2018 Annual Action Plan.

Councilmember Wyatt moved to open the public hearing at 8:39 p.m. Councilmember Boney seconded. **MOTION PASSED UNANIMOUSLY.**

Mayor Owen asked if the Fonmeadow bridge would be considered and/or eligible. Ricketts stated the HOA would need to submit an application to be considered. Assistant City Manager Elmer stated the Harris County Flood Control estimated \$300,000 to repair the bridge, which would exceed the City's total allocation for CDBG.

Charity Carter with Edison Art Foundation thanked City staff and the Committee for their consideration.

Hunters Glen 1 & 2 HOA placed applications for playground improvements. The HOA would also contribute for the playground improvements. Councilmember Wyatt stated he had a number of concerns as the City received several similar requests and the City did not approve funds to be allocated towards private improvements. Wyatt would like to know if the HOA would continue to maintain the playground should they receive funds. Councilmember Boney asked if the City would be held liable.

Councilmember Wyatt moved to waive Attorney Client privilege. Councilmember Boney seconded. **MOTION PASSED UNANIMOUSLY.**

City Attorney Iyamu stated the City could require the HOA to indemnify the City and provide the resources and payment if the City was sued. Mayor Owen stated if the pool was a part of the park, then it would be considered a public pool as well.

Councilmember Wyatt moved to close the public hearing at 9:06 p.m. Councilmember Preston seconded. **MOTION PASSED UNANIMOUSLY.**

There were no **APPOINTMENTS.**

9. AUTHORIZATIONS

- (a) Consider authorizing the City Manager to execute a contract with a tennis professional for the Parks and Recreation department.

Councilmember Wyatt requested activities on the two public tennis courts in Fondren Park on a regular basis.

Councilmember Wyatt moved to approve the contract. Councilmember Boney seconded. **MOTION PASSED UNANIMOUSLY.**

- (b) Consider ratifying the execution of an interlocal agreement with Fort Bend County for use of county property for the MCTX Fest!

Councilmember Wyatt moved to ratify the execution of the interlocal agreement. Councilmember Maroulis seconded. **MOTION PASSED UNANIMOUSLY.**

10. ORDINANCES

- (a) Consider an ordinance amending the general budget for the fiscal year beginning July 1, 2017, and ending June 30, 2018; transferring various appropriations among accounts; appropriating

supplemental revenue to various fund accounts; authorizing the appropriate city officials to take steps necessary to accomplish such transfers; making certain findings; containing certain provision relating to the subject; and consider the ordinance on the first and final reading.

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

- (b) Consider an ordinance amending Chapter 10, Animals, of the Missouri City Code; amending regulations regarding the abandonment, surrender, and ownership of certain animals; providing a penalty; and consider the ordinance on the first of two readings.

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

11. RESOLUTIONS

- (a) Consider a resolution approving the submission of a grant application to the Texas Department of Transportation for overtime activities by law enforcement to reduce the incidence of traffic collisions, injuries, and fatalities; and agreeing to provide matching funds.

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

- (c) Consider a resolution adopting the bylaws of the Community Development Advisory Committee.

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

- (d) Consider a resolution adopting the Economic Development Plan.

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

12. CITY COUNCIL ANNOUNCEMENTS

Councilmember Wyatt stated he met two representatives from FEMA at Home Depot whom were there to discuss emergency preparedness. He added the FEMA representatives would also visit Lowes for next two weeks. Councilmember Maroulis and Councilmember Boney commended staff for their work on MCTX Fest! Mayor Owen invited everyone to the Oyster Creek Rotary Club Crawfish Boil on Saturday at the Community Center.

13. ADJOURN

The regular City Council meeting adjourned at 9:17 p.m.

ATTEST:

Allen Owen, Mayor

Maria Jackson, City Secretary



CITY COUNCIL AGENDA ITEM COVER MEMO

May 7, 2018

To: Mayor and City Council
Agenda Item: 6(b) Ordinance amending Section 22, Violation and Penalties, of Appendix A, the Zoning Ordinance, of the Missouri City Code, to amend the rules regarding minimum penalties for certain zoning violations.
Submitted by: Otis T. Spriggs, Director of Development Services

SYNOPSIS

This is the second and final reading of an ordinance amending Section 22, Violation and Penalties, of Appendix A, the Zoning Ordinance, of the Missouri City Code, to amend the rules regarding minimum penalties for certain zoning violations.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live

BACKGROUND

This item was introduced and discussed by the City's Code Enforcement Taskforce and unanimously refined. The affected provisions include those regulating accessory buildings and structures, the storage and use of recreational and utility equipment, portable storage units, the outside storage of materials and merchandise, landscaping, fencing trash screening, and certain parking regulations. With the exception of trash screening, which would carry a minimum fine of \$50 for first time offenders, this proposed amendment sets the fine for these violations at \$100 for the first, \$250 for the second, and \$500 for the third and subsequent offenses within the same twelve-month period. The ordinance was further drafted by our City Attorney's Office for consideration by P&Z for recommendation as follows:

01/10/2018: P&Z discussion
03/14/2018: Public hearing and P&Z approval of a preliminary report
04/11/2018: Public hearing and P&Z consideration of a final report
04/16/2018: Public hearing and City Council consideration of first reading of proposed ordinance
05/07/2018: City Council consideration of a second and final reading of proposed ordinance

SUPPORTING MATERIALS

1. Ordinance
2. Draft P&Z Minutes April 11, 2018
3. P&Z Final Report
4. Proposed Text Amendment (Changes Marked)
5. Notice of Public Hearing

STAFF'S RECOMMENDATION

P&Z and Staff recommends that City Council hold a Public Hearing to receive comments concerning this request and consider adoption of the proposed Ordinance of proposed amendments to Section 22, Violation and Penalties, of Appendix A, the Zoning Ordinance, of the Missouri City Code, to amend the rules regarding minimum penalties for certain zoning violations; and consider the ordinance on the second and final reading.

Director Approval:

Otis T. Spriggs, AICP, Director of Planning

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

Scott R. Elmer, P.E., Assistant City Manager

ORDINANCE NO. O-18-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING SECTION 22, VIOLATIONS AND PENALTIES, OF APPENDIX A OF THE MISSOURI CITY CODE ENTITLED “THE CITY OF MISSOURI CITY ZONING ORDINANCE;” AMENDING RULES REGARDING MINIMUM PENALTIES FOR CERTAIN ZONING VIOLATIONS; PROVIDING FOR REPEAL; PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the City of Missouri City (the “City”) is a home rule municipality with all of the express and implied powers to enact ordinances that provide for and maintain the health, safety and welfare of its residents and preserve property values; and

WHEREAS, Goal 3 of the 2017 Comprehensive Plan provides that the City will have an ongoing and increasing focus on neighborhood integrity and commercial redevelopment as the community continues to mature; and

WHEREAS, the first goal of the Strategic Plan for the City, pursuant to Resolution No. R-14-34, is to create a great place to live by striving to maintain a safe, beautiful and active environment; 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 notice required by law and the City of Missouri City Zoning Ordinance, public hearings on certain proposed amendments to the City of Missouri City Zoning Ordinance; and

WHEREAS, all persons appearing at such public hearings who desired to speak on such proposed amendments were afforded that opportunity and their comments were duly noted and considered; and

WHEREAS, the Planning and Zoning Commission of the City of Missouri City has issued its final report to the City Council of the City of Missouri City; and

WHEREAS, the City Council of the City of Missouri City now deems it appropriate and in the best interest of the residents of the City to penalize habitual offenders of certain zoning violations of the Missouri City Code, including those involving accessory buildings and structures in residentially zoned areas; parking, storage or use of major recreational or utility equipment; portable storage units in suburban and residential districts; outside placement, storage, sales and services of materials, merchandise and equipment in commercial, business park and industrial districts; and fences; 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 a public hearing on the amendments to the Missouri City Zoning Ordinance as set forth herein 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 22 of Appendix A thereof and substituting therefor a new Section 22 of Appendix A to provide as follows:

**“APPENDIX A
ZONING**

. . . .

SECTION 22. VIOLATIONS AND PENALTIES

1. Except as set forth in subsection 4 below, any person who shall violate any of the provisions of this ordinance or who shall fail to comply with any of the requirements thereof, or who shall erect or alter any building or structure, or who shall commence to erect or alter any building or structure in violation of any detailed statement or plan submitted or approved thereunder, shall for each and every violation or noncompliance be deemed guilty of a misdemeanor and, upon conviction, shall be punishable by a fine of not more than \$500.00. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner of that building, structure or premises or part thereof where anything in violation of this ordinance shall be placed or shall exist, and any architect, builder, contractor, agent or corporation employed in connection therewith who may have assisted in the commission of any such violation, shall be guilty of a separate offense and, upon conviction, shall be subject to the penalties stated above.

2. Offenses under subsections 9.2, relating to accessory buildings or structures in residentially-zoned areas; 9.6, relating to parking, storage, and use of major recreational or utility equipment; 9.15, relating to portable storage unit regulations in suburban and residential districts; 9.17, relating to outside placement, storage, sales and services of materials, merchandise, and equipment in commercial, business park, and industrial districts; 12.2.J, relating to standards for off-street parking; and Sections 11, relating to landscaping, and 14, relating to fence regulations, of the Missouri City Zoning Ordinance, as such sections may be amended, are punishable by a fine of not less than:
 - (a) \$ 100 for a first conviction;
 - (b) \$250 for a second conviction of the same violation within any 12-month period; and
 - (c) \$500 for a third or subsequent conviction of the same violation within any 12-month period.
3. An offense under subsection 9.14, relating to trash disposal regulations, of the Missouri City Zoning Ordinance is punishable by a fine of not less than:
 - (a) \$ 50 for a first conviction;
 - (b) \$250 for a second conviction of the same violation within any 12-month period; and
 - (c) \$500 for a third or subsequent conviction of the same violation within any 12-month period.
4. Any person who shall violate any of the provisions of this ordinance or who shall fail to comply with any of the requirements thereof, or who shall erect or alter or commence to erect or alter any building or structure, in violation of any section pertaining to a sexually oriented business as regulated pursuant to V.T.C.A., Local Government Code ch. 243, shall be guilty of a Class A misdemeanor as defined in the Texas Penal Code. Each day any violation of this ordinance shall continue shall constitute a separate offense.”

Section 4. 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 5. Penalty. Any person firm, partnership, association, corporation, company, or organization of any kind who or which violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense, and each day in which any violation of this Ordinance occurs shall constitute a separate offense. The owner or owners of any property or 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 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 16th day of April, 2018.

PASSED, APPROVED and ADOPTED on second and final reading this ____ day of _____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney



DRAFT MINUTES
PLANNING AND ZONING COMMISSION
CITY OF MISSOURI CITY, TEXAS
April 11, 2018

1. CALL TO ORDER

The Notice of Meeting and Agenda having been duly posted in accordance with the legal requirements and quorum being present, the meeting was call to order by Vice-Chair Haney at 7:00 PM.

2. ROLL CALL

Commissioners Present:

Douglas Parker
John O'Malley
Reginald Pearson
Ramesh Anand
Tim Haney, Vice Chair

Commissioners Absent: Sonya Brown-Marshall, Courtney Johnson Rose, Hugh Brightwell

Councilmembers Present: None.

Staff Present:

Otis T. Spriggs, Director of Development Services
Evelyn Kimeu, First Assistant City Attorney
Shashi Kumar, City Engineer/Public Works Director
Jennifer Gomez, Planning Manager
Mason Garcia, Planner I
Egima Brown, Planning Technician

3. READING OF MINUTES:

Vice-Chairman Haney called for a motion to accept the March 14, 2018 Planning and Zoning Commission meeting minutes.

Motion: Approval of the March 14, 2018 meeting minutes

Made By: Commissioner O'Malley
Second: Commissioner Pearson

AYES: Commissioner Parker, Commissioner O'Malley, Commissioner Pearson.

NAYES: None

ABSTENTIONS: Commissioner Anand, Commissioner Haney

The motion passed.

4. ZONING TEXT AMENDMENTS

A. PUBLIC HEARING FOR AMENDMENTS REGARDING ENFORCEMENT FINES, VIOLATION AND PENALTIES

- (1) Public hearing to receive comments for or against proposed amendments to the Zoning Ordinance regarding enforcement fines, violations and penalties.

Mr. Otis Spriggs appeared before the Commission giving the timeline of previous discussions and hearings. The proposed amendments would affect repeat offenders of certain violations of the City's zoning ordinance, including those involving accessory buildings and structures in residentially zoned areas; parking, storage or use of major recreational or utility equipment; portable storage units in suburban and residential districts; outside placement, storage, sales and services of materials, merchandise and equipment in commercial, business park and industrial districts; and fences.

With the exception of trash screening, which would carry a minimum fine of \$50 for first time offenders, this proposed amendment sets the fine for these violations at \$100 for the first, \$250 for the second, and \$500 for the third and subsequent offenses within the same twelve-month period.

Motion: To close the public hearing.

Made By: Commissioner Anand
Second: Commissioner Pearson

AYES: Commissioner Anand, Commissioner Parker, Commissioner Haney, Commissioner O'Malley, Commissioner Pearson

NAYES: None

ABSTENTIONS: None

The motion passed

- (2) Consideration of the approval of a final report on item 4A(1) above.

Motion: The Planning and Zoning Commission grant approval of the final report.

Made By: Commissioner O'Malley

Second: Commissioner Anand

AYES: Commissioner Anand, Commissioner Parker, Commissioner Haney, Commissioner O'Malley, Commissioner Pearson

NAYS: None

ABSTENTIONS: None

The motion passed

5. CLOSED EXECUTIVE SESSION

The Planning and Zoning Commission may go into Executive Session regarding any item posted on the Agenda as authorized by Chapter 551 of the Texas Government Code.

6. RECONVENE

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

7. ADJOURN

Egima Brown
Planning Technician



**PLANNING AND ZONING COMMISSION
FINAL REPORT**

AGENDA DATE: April 16, 2018

AGENDA ITEM SUBJECT: Tiered Fines Ordinance, Zoning Text Amendment (ZTA),
Final Report

AGENDA ITEM NUMBER: 7.A.1

PROJECT NUMBER: 1704075

PROJECT PLANNER: **Otis T. Spriggs**, AICP, Director of Development Services
Sonya Brown-Marshall, Planning and Zoning
Commission Chair

Sonya Brown Marshall, Chair

SUMMARY:

Proposed amendments to the Zoning Ordinance, Section 22, regarding enforcement fines, violations and penalties.

RECOMMENDED ACTION:

The Planning and Zoning Commission adopts this as its Final Report and recommend final approval to City Council.

PLANNING & ZONING / CITY COUNCIL SCHEDULE:

01/10/2018: P&Z discussion
03/14/2018: Public hearing and P&Z approval of a preliminary report
04/11/2018: Public hearing and P&Z consideration of a final report
04/16/2018: Public hearing and City Council consideration of first reading of
proposed ordinance
05/07/2018: Tentative: City Council consideration of a second and final reading
of proposed ordinance

BACKGROUND:

With the City of Missouri City celebrating 62 years of incorporation, it is imperative that we continue to address key items such as our aging infrastructure, aging commercial facilities, and our residential structures from a property maintenance and quality of life perspective.

Missouri City residents continue to express much pride in our neighborhood preservation as evident through our active and engaged Home Owners Associations' (HOA's) efforts.

The administrative leadership of the City of Missouri City deems it appropriate and in the best interest of the residents of the City to penalize habitual offenders of certain violations of the City's zoning ordinance, including those involving accessory buildings and structures in residentially zoned areas; parking, storage or use of major recreational or utility equipment; portable storage units in suburban and residential districts; outside placement, storage, sales and services of materials, merchandise and equipment in commercial, business park and industrial districts; and fences.

With the exception of trash screening, which would carry a minimum fine of \$50 for first time offenders, this proposed amendment sets the fine for these violations at \$100 for the first, \$250 for the second, and \$500 for the third and subsequent offenses within the same twelve-month period.

The focus and approach of the proposed amendments is to provide more clarity and additional tools to assure compliance is maintained across every level of property maintenance, enforcement, and upkeep.

This item was introduced and discussed by the City's Code Enforcement Taskforce, unanimously refined and further drafted by our City Attorney's Office.

The Commission considered and reviewed the proposed amendments on its January 10, 2018 agenda, on March 14, 2018, and on April 11, 2018, with no further changes requested.

-----**END OF REPORT**-----

**APPENDIX A
ZONING**

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SECTION 22. VIOLATIONS AND PENALTIES

1. Except as set forth in subsection [24](#) below, any person who shall violate any of the provisions of this ordinance or who shall fail to comply with any of the requirements thereof, or who shall erect or alter any building or structure, or who shall commence to erect or alter any building or structure in violation of any detailed statement or plan submitted or approved thereunder, shall for each and every violation or noncompliance be deemed guilty of a misdemeanor and, upon conviction, shall be punishable by a fine of not more than \$500.00. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner of that building, structure or premises or part thereof where anything in violation of this ordinance shall be placed or shall exist, and any architect, builder, contractor, agent or corporation employed in connection therewith who may have assisted in the commission of any such violation, shall be guilty of a separate offense and, upon conviction, shall be subject to the penalties stated above.

2. [Offenses under subsections 9.2, relating to accessory buildings or structures in residentially-zoned areas; 9.6, relating to parking, storage, and use of major recreational or utility equipment; 9.15, relating to portable storage unit regulations in suburban and residential districts; 9.17, relating to outside placement, storage, sales and services of materials, merchandise, and equipment in commercial, business park, and industrial districts; 12.2.J, relating to standards for off-street parking; and Sections 11, relating to landscaping, and 14, relating to fence regulations, of the Missouri City Zoning Ordinance, as such sections may be amended, are punishable by a fine of not less than:](#)
 - (a) [\\$ 100 for a first conviction;](#)

 - (b) [\\$250 for a second conviction of the same violation within any 12-month period; and](#)

 - (c) [\\$500 for a third or subsequent conviction of the same violation within any 12-month period.](#)

3. [An offense under subsection 9.14, relating to trash disposal regulations, of the Missouri City Zoning Ordinance is punishable by a fine of not less than:](#)
 - (a) [\\$ 50 for a first conviction;](#)

(b) \$250 for a second conviction of the same violation within any 12-month period; and

(c) \$500 for a third or subsequent conviction of the same violation within any 12-month period.

24. Any person who shall violate any of the provisions of this ordinance or who shall fail to comply with any of the requirements thereof, or who shall erect or alter or commence to erect or alter any building or structure, in violation of any section pertaining to a sexually oriented business as regulated pursuant to V.T.C.A., Local Government Code ch. 243, shall be guilty of a Class A misdemeanor as defined in the Texas Penal Code. Each day any violation of this ordinance shall continue shall constitute a separate offense.



CITY COUNCIL AGENDA ITEM COVER MEMO

May 7, 2018

To: Mayor and City Council
Agenda Item: 6(c) Consider amending Chapter 10 of the Missouri City Code of Ordinances pertaining to Animals.
Submitted by: Shashi K. Kumar, P.E., Director of Public Works/City Engineer

SYNOPSIS

Staff is proposing amendments to chapter 10 of the Missouri City Code of Ordinances pertaining to Animal Services to be consistent with the recently adopted Standard Operating Procedures (SOP) manual aimed at further enhancing and streamlining the operation of the City's Animal Shelter.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a Great Place to Live
- Maintain a financially sound City Government.

BACKGROUND

Based on feedback provided by the City Council at the February, 2018 workshop, staff benchmarking with other animal shelters in the region, and input provided by the animal shelter volunteers at the recent "listening session", several enhancements are being proposed to further streamline Animal Services operations, and enhance the level of care provided at the City's Animal Shelter. These code amendments are being necessitated based on the recent adoption of the new Standard Operating Procedures (SOP) Manual and best practices adopted by other municipal shelters in the region.

The proposed amendments mainly address the following:

1. Abandonment or release of animal
2. Clarifying when city will assume "ownership" of the animal at the city's shelter

Currently, the city's code allows for the open admission of any animal that is brought-in to the city's shelter. This in-turn has historically resulted in high intake of animals to the city's shelter, which otherwise would be the responsibility of the owner to care for. Moving forward, the city through the proposed code amendments will not accept owner turn-in, and animals cannot be dropped-off at the city's shelter. The city will continue to pick-up and accept animals found at-large within the city limits. This approach is standard across other animal shelters (Sugar Land, Friendswood, etc.) in the region, since it discourages owner surrenders. Otherwise, the city is having to bear the responsibility to care for these dropped-off animals. Often times, these dropped-off animals originate from other jurisdictions, which are outside the city limits. This proposed amendment will help alleviate overcrowding of the city's shelter as the city continues to grow, while providing adequate care for the animals housed in the city's shelter in a fiscally responsible manner. Once these proposed amendments are adopted, the city plans to do a public outreach to inform the residents, as well as provide a listing of other facilities in the area where owner turn-in are being accepted, should that become necessary due various constraints on the animal owner.

The other proposed amendments mainly pertain to clarifying when the city will accept “ownership” of stray animals located within the shelter. Clarifying this ownership is necessary so that city staff can appropriately care for animals within the shelter or transfer them to rescue groups or adoption agencies.

BUDGET/FISCAL 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. Ordinance
2. Amended section of Chapter 10 of the Missouri City Code of Ordinances

STAFF'S RECOMMENDATION

Staff recommends approval of the amendments proposed to Chapter 10 of the Missouri City Code of Ordinances pertaining to Animals.

Director Approval: Shashi K. Kumar, P.E.

**Assistant City Manager/
City Manager Approval:** Scott R. Elmer, P.E.

ORDINANCE NO. O-18-__

**AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS,
AMENDING CHAPTER 10, ANIMALS, OF THE MISSOURI CITY CODE;
AMENDING REGULATIONS REGARDING THE ABANDONMENT,
SURRENDER, AND OWNERSHIP OF CERTAIN ANIMALS; PROVIDING
FOR REPEAL; PROVIDING A PENALTY; AND PROVIDING FOR
SEVERABILITY.**

* * * * *

WHEREAS, generally, the mission of the City of Missouri City (the “City”) Animal Services is to protect the health, safety, and well-being of all people and animals in the City through enforcement of state and local laws and by providing compassionate care for every animal within the City’s animal shelter; and

WHEREAS, to accomplish the aforementioned mission, the City provides temporary housing and humane care and treatment for shelter animals; and

WHEREAS, to provide high quality temporary housing for shelter animals, the City Council finds that penalizing owners for surrendering their animals may deter owners from taking such action; and

WHEREAS, the City Council finds that it is appropriate to clarify that ownership in animals at the City’s shelter vests in the City after a time certain; and

WHEREAS, the City Council of the City of Missouri City now deems it appropriate to amend regulations regarding the abandonment, release, and ownership of certain animals; 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. The Missouri City Code is hereby amended by deleting Section 10-64 of Article III of Chapter 10 thereof and substituting therefor, a new Section 10-64 of Article III of Chapter 10 to provide as follows:

“Chapter 10 – ANIMALS

. . . .

ARTICLE III. - CARE AND CONTROL GENERALLY

. . . .

Sec. 10-64. - Abandonment or surrender of animal.

It shall be unlawful for an owner to abandon or surrender his animal. Any animal left without proper food, water or shelter shall be considered abandoned. Any animal left at the city animal shelter shall be considered surrendered.”

Section 3. The Missouri City Code is hereby amended by adding a new Section 10-110 of Division 2 of Article IV of Chapter 10 thereof to provide as follows:

“Chapter 10 - ANIMALS

. . . .
ARTICLE IV. - IMPOUNDMENT

. . . .
DIVISION 2. – DISPOSITION OF IMPOUNDED ANIMALS

. . . .
Sec. 10-110. - Ownership of animals in city’s shelter.

Title and sole ownership of an animal that is not wearing current registration or vaccination metal certificates transfers to the city if such animal is not reclaimed by the owner after being held by the city for 72 hours from the time at which the city takes possession of the animal. Title and sole ownership of an animal wearing current registration or vaccination metal certificates transfers to the city if such animal is not reclaimed by the owner after being held by the city for six days from the time at which the city takes possession of the animal.”

Section 4. The Missouri City Code is hereby amended by deleting Section 10-116 of Division 2 of Article IV of Chapter 10 thereof and substituting therefor, a new Section 10-116 of Division 2 of Article IV of Chapter 10 to provide as follows:

“Chapter 10 - ANIMALS

. . . .
ARTICLE IV. - IMPOUNDMENT

. . . .
Sec. 10-116. - Euthanization at direction of owner.

Any owner who believes an animal to be ill or injured, may sign a written waiver, supplied by animal services, allowing the animal to be euthanized in a humane manner, provided that such warm-blooded animal has not bitten any human. Such animal that has bitten a human shall be held for a ten-day quarantine except where laboratory examination is provided for.”

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. Penalty. Any person who violates, or any person who causes or allows another person to violate, any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense. Each day in which any violation of this Ordinance occurs shall constitute a separate offense.

Section 7. 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 16th day of April, 2018.

PASSED, APPROVED and ADOPTED on second and final reading this ____ day of ____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

Chapter 10 - ANIMALS

ARTICLE III. - CARE AND CONTROL GENERALLY

.

Sec. 10-64. - Abandonment or surrender of animal.

~~No~~ It shall be unlawful for an owner ~~shall to~~ abandon ~~any or surrender his~~ animal. Any animal left without proper food, water or shelter shall be considered abandoned. ~~Animal services shall take any abandoned animal into protective custody until owners of such animals can be located and/or prosecuted.~~ Any animal left at the city animal shelter shall be considered surrendered.

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ARTICLE IV. - IMPOUNDMENT

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DIVISION 2. – DISPOSITION OF IMPOUNDED ANIMALS

.

Sec. 10-110. - Ownership of animals in city's shelter.

Title and sole ownership of an animal that is not wearing current registration or vaccination metal certificates transfers to the city if such animal is not reclaimed by the owner after being held by the city for 72 hours from the time at which the city takes possession of the animal. Title and sole ownership of an animal wearing current registration or vaccination metal certificates transfers to the city if such animal is not reclaimed by the owner after being held by the city for six days from the time at which the city takes possession of the animal.

Sec. 10-116. - Euthanization at direction of owner.

Any owner ~~who no longer wants responsibility for an animal, or~~ who believes an animal to be ill or injured, may sign a written waiver, supplied by animal services, allowing the animal to be euthanized in a humane manner, provided that such warm-blooded animal has not bitten any human. Such animal that has bitten a human shall be held for a ten-day quarantine except where laboratory examination is provided for.

Document comparison by Workshare 9.5 on Thursday, April 5, 2018 3:55:52 PM

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| Description | Sec. 10-64 O.2 |
| Document 2 ID | file://W:\Legal Department\Ordinance\Drafts\2018 Drafts\2018 Animal Surrender\Sec. 10-64 R 2018.04.04.docx |
| Description | Sec. 10-64 R 2018.04.04 |
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| Format changed | 0 |
| Total changes | 13 |



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

May 7, 2018

To: Mayor and City Council
Agenda Item: 6(d) Consider an ordinance creating Reinvestment Zone No. 18 for tax abatement purposes.

Submitted by: Joseph Esch, Economic Development

SYNOPSIS

Second and final reading for the creation of a tax abatement Reinvestment Zone #18

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Maintain a financially sound City
- Grow business investments in Missouri City
- Have quality development through buildout

BACKGROUND

State statute requires that cities wishing to offer tax abatement to create a reinvestment zone to identify the specific geographic area in which a tax abatement agreement may be entered into. The creation of the reinvestment zone requires a public hearing and two readings in open session of the City Council. The appropriate notice has been published in the City's paper of record and this agenda item is to allow for the second of two readings of the ordinance.

The proposed tax abatement reinvestment zone is being created to allow the City to offer a tax abatement to a new business recruitment prospect.

SUPPORTING MATERIALS

1. Reinvestment Zone Ordinance

STAFF'S RECOMMENDATION

Staff recommends adoption of the ordinance creating reinvestment zone #18.

Director Approval: Joseph Esch, Economic Development

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

ORDINANCE NO. O-18-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, CREATING REINVESTMENT ZONE NO. 18 ENCOMPASSING AN APPROXIMATE 16.82 ACRE TRACT OF LAND LOCATED NORTH OF WILLOW OAK DRIVE, SOUTH OF BUFFALO RUN, WEST OF FAIRWAY PINES DRIVE, AND EAST OF WILLOW WISP DRIVE IN THE CITY OF MISSOURI CITY, TEXAS; MAKING RELATED FINDINGS; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the City Council of the City of Missouri City (the "City Council") has passed and approved Tax Abatement Guidelines and Criteria ("Guidelines") for granting tax abatement in reinvestment zones created in the City of Missouri City, Texas (the "City"); and

WHEREAS, pursuant to the Guidelines, the City has received a request for the creation of a reinvestment zone and tax abatement; and

WHEREAS, after proper notice, the City held a public hearing where all interested persons were given an opportunity to speak and present evidence for and against the creation of Reinvestment Zone No. 18; and

WHEREAS, written notice of the hearing was given to all taxing entities where the proposed zone is to be located; and

WHEREAS, the City Council has determined, based on evidence presented, that the improvements sought to be located in proposed Reinvestment Zone No. 18 are feasible and practical and would be a benefit to the land to be included in the Zone and to the City after the expiration of the tax abatement agreement; and

WHEREAS, the creation of Reinvestment Zone No. 18 will be reasonably likely, as a result of its creation, to contribute to the retention or expansion of primary employment or to attract major investment into the Zone that would be a benefit to the property located therein and that will contribute to the economic development of 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 found to be true and correct, and are made a part of this Ordinance for all purposes.

Section 2. The City Council conducted the public hearing on the creation of Reinvestment Zone No. 18 and closed the public hearing prior to the final adoption of this Ordinance.

Section 3. That Reinvestment Zone No. 18 is hereby created for the purpose of encouraging economic development through tax abatement. Reinvestment Zone No. 18 can be described as being all 4.0967 acres of Reserve 18, all 4.1589 acres of Reserve 19, and all 8.567 acres of Reserve 20, for a total of approximately 16.82 acres described in the Final Plat of Lakeview Business Park, a subdivision recorded under Fort Bend County Clerk's instrument number 20080032 of the Plat Records of Fort Bend County, and is depicted in Exhibit "A," attached hereto and made a part hereof for all purposes. Exhibit "A" shall be for reference purposes only. In the event Exhibit "A" conflicts with the recorded plat, the recorded plat shall prevail.

Section 4. This designation shall be effective for five (5) years from the date of final passage of this Ordinance and may be renewed for periods not to exceed five (5) years.

Section 5. *Repeal.* All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict only.

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 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, whether there be one or more parts.

PASSED and APPROVED on first reading this 5th day of February, 2018.

PASSED, APPROVED and ADOPTED on second and final reading this _____ day of _____, 2018.

Allen Owen, Mayor

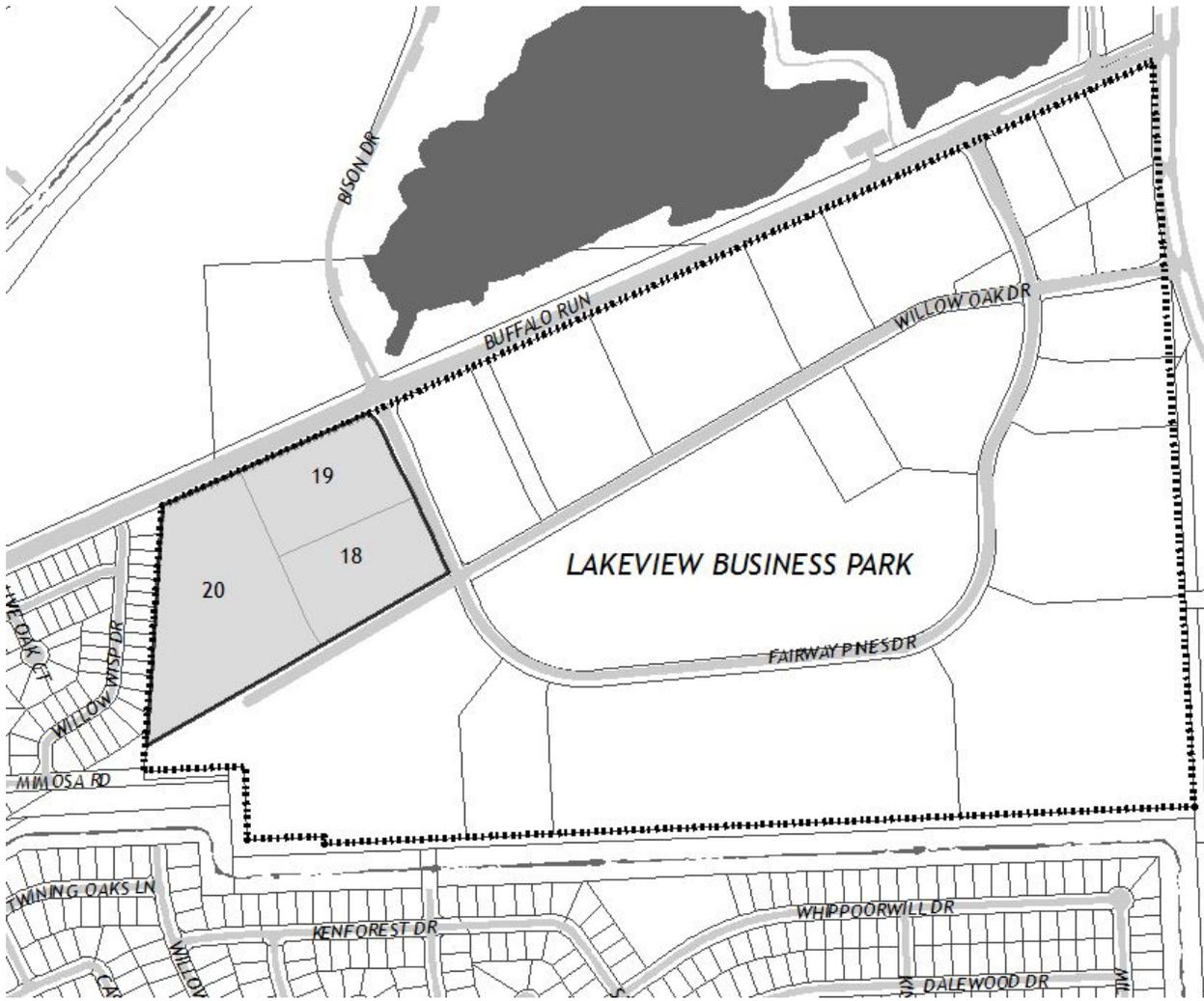
ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

EXHIBIT "A"





CITY COUNCIL AGENDA ITEM COVER MEMO

May 7, 2018

To: Mayor and City Council
Agenda Item: (6e) Review and acceptance of the Quarterly Investment Report for the Quarter Ended on March 31, 2018
Submitted by: Finance and Services Committee,
LaToya Jasper, CPA, CGFO, CPM

SYNOPSIS

The city's investment policy states that a quarterly investment report shall be submitted and reviewed by the Finance and Services Committee. The report is a summary that provides an analysis of the status of the current investment portfolio and transactions made over the last quarter. The quarterly reports are to be presented to Council for review and acceptance.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Maintain a financially sound City

BACKGROUND

The quarterly investment report for the period ending March 31, 2018 is attached for your review. A few items to note about the March 2018 report is that the portfolio ended the quarter with a yield of 1.88% as compared to the prior quarter yield of 1.74%. The ending portfolio market balance is over \$100 million as compared to the last quarter's balance of over \$74 million. The change in last quarter ending numbers is due to a timing difference in the processing of an investment sweep account.

BUDGET/FISCAL ANALYSIS

Investment activities are expected to yield an amount of interest equal to our projected amount.

Purchasing Review: N/A
Financial/Budget Review: Edena J. Atmore, CPA, CPM

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. Quarterly Investment Report for quarter ended on March 31, 2018.

STAFF'S RECOMMENDATION

Staff recommends City Council accept the Quarterly Investment Report for the quarter ending March 31, 2018.

Director Approval: Edena J. Atmore, CPA, CPM

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



QUARTERLY INVESTMENT REPORT

**For the Quarter Ended
March 31, 2018**

**Prepared by
Valley View Consulting, L.L.C.**

The investment portfolio of Missouri City is in compliance with the Public Funds Investment Act and the Investment Policy and Strategies.

Edena Atmore
Financial Services Director

LaToya Jasper
Assistant Director of Financial Services

Bill Atkinson
Assistant City Manager

Disclaimer: These reports were compiled using information provided by the City. No procedures were performed to test the accuracy or completeness of this information. The market values included in these reports were obtained by Valley View Consulting, L.L.C. from sources believed to be accurate and represent proprietary valuation. Due to market fluctuations these levels are not necessarily reflective of current liquidation values. Yield calculations are not determined using standard performance formulas, are not representative of total return yields and do not account for investment advisor fees.

Summary

Quarter End Results by Investment Category:

| Asset Type | Ave. Yield | March 31, 2018 | | December 31, 2017 | |
|------------------|------------|-----------------------|-----------------------|----------------------|----------------------|
| | | Book Value | Market Value | Book Value | Market Value |
| Demand Accounts | 0.00% | \$ 20,720 | \$ 20,720 | \$ 2,311,508 | \$ 2,311,508 |
| Pools/MMA/NOWMMF | 1.23% | 60,434,557 | 60,434,557 | 41,808,746 | 41,808,746 |
| Securities/CDS | 2.25% | 39,823,613 | 39,849,692 | 30,336,654 | 30,473,617 |
| Totals | | \$ 100,278,889 | \$ 100,304,969 | \$ 74,456,908 | \$ 74,593,871 |

Quarter End Average Yield (1)

Total Portfolio 1.88%

Rolling Three Mo. Treas. Yield 1.58%

Rolling Six Mo. Treas. Yield 1.58%

Fiscal Year-to-Date Average Yield (2)

Total Portfolio 1.74%

Rolling Three Mo. Treas. Yield 1.29%

Rolling Six Mo. Treas. Yield 1.31%

Quarterly TexPool Yield 1.24%

Quarterly Interest Income \$ 427,999 Approximate

Year-to-date Interest Income \$ 1,066,006 Approximate

Quarterly Bank Fees Offset N/A

Year-to-date Bank Fees Offset N/A

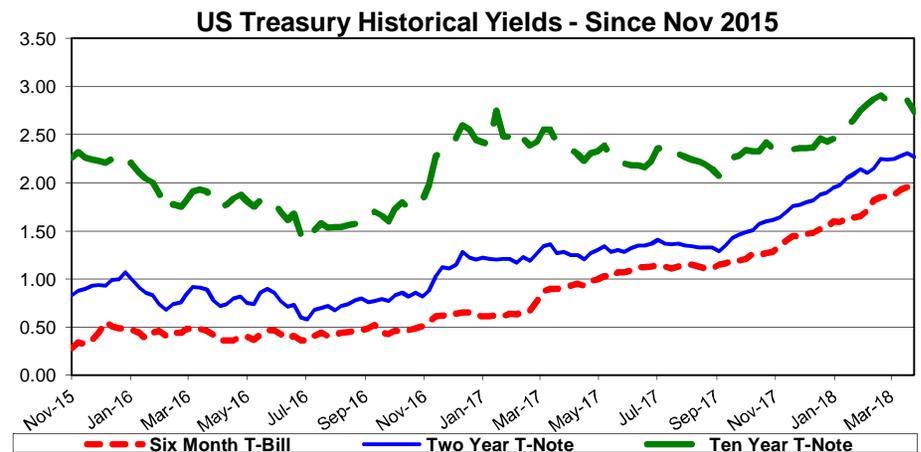
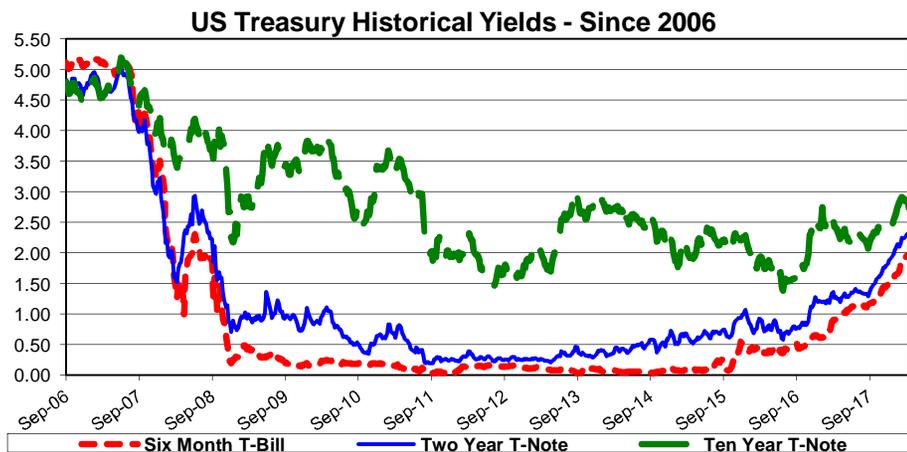
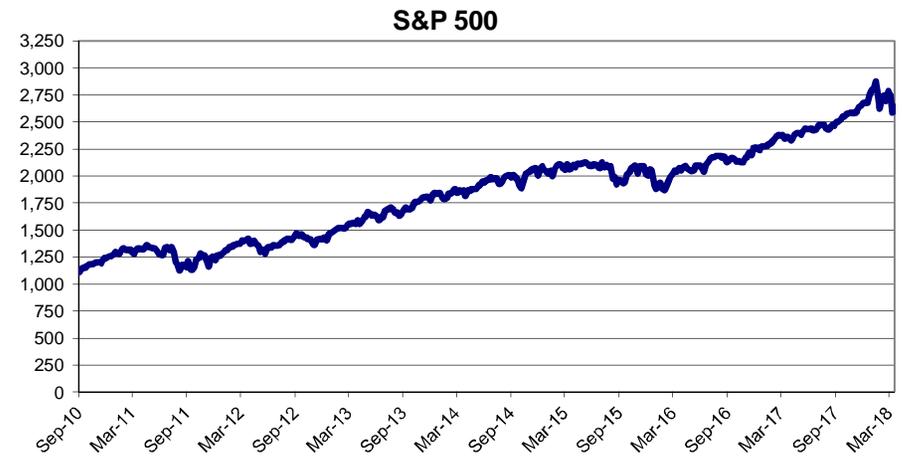
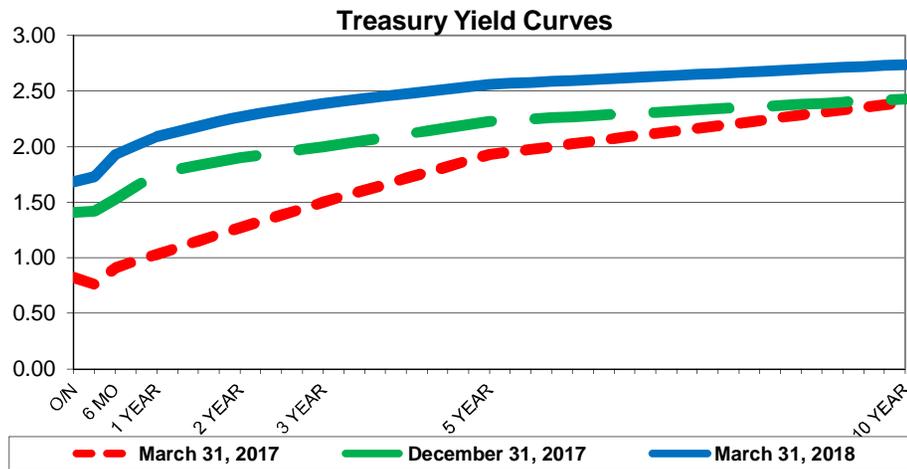
(1) Average Yield calculated using quarter end report yields and adjusted book values and does not reflect a total return analysis or account for advisory fees.

(2) Fiscal Year-to-Date Average Yields calculated using quarter end report yields and adjusted book values and does not reflect a total return analysis or account for advisory fees.

Economic Overview

3/31/2018

The Federal Open Market Committee (FOMC) increased the Fed Funds target range 0.25% to 1.50% - 1.75% (Effective Fed Funds are trading +/-1.68%). Two to three additional increases are projected for 2018 (although subject to economic activity). Gradual portfolio reduction continues by limiting reinvestment of maturing holdings. Fourth Quarter 2017 GDP measured 2.9% (third/final estimate). February Non Farm Payroll data jumped +313k (well above the expected +205k). The Three Month Average increased to +242k. World events raised some uncertainty (Korea, Russia, Middle East). WTI Crude oil maintained +/- \$65. The Stock Markets waffled 5% to 10% below recent highs. The post-FOMC meeting press release pointed to continuing and frequent rate increases.



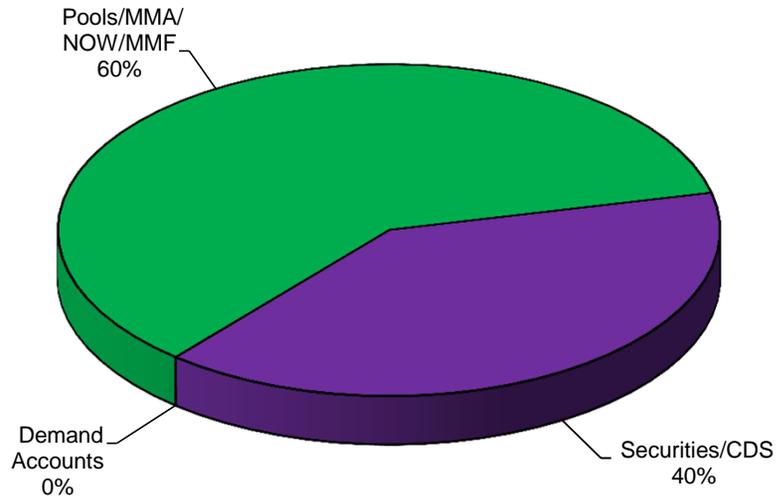
Investment Holdings by Portfolio
March 31, 2018

| Pooled Funds Portfolio | Ratings | Coupon/ Discount | Maturity Date | Settlement Date | Face Amount/ Par Value | Book Value | Market Price | Market Value | Life | Yield |
|---|----------------|-----------------------------|--------------------------|----------------------------|-----------------------------------|-----------------------|-------------------------|-------------------------|----------------|--------------|
| Wells Fargo Bank Cash | | 0.00% | 04/01/18 | 03/31/18 | \$ 20,720 | \$ 20,720 | 1.00 | \$ 20,720 | 1 | 0.00% |
| NexBank MMA | | 1.81% | 04/01/18 | 03/31/18 | 5,015,853 | 5,015,853 | 1.00 | 5,015,853 | 1 | 1.81% |
| Wells Fargo Bank MMF | AAAm | 1.50% | 04/01/18 | 03/31/18 | 10,362,454 | 10,362,454 | 1.00 | 10,362,454 | 1 | 1.50% |
| Texas Class | AAAm | 1.75% | 04/01/18 | 03/31/18 | 16,643,694 | 16,643,694 | 1.00 | 16,643,694 | 1 | 1.75% |
| TexPool | AAAm | 1.34% | 04/01/18 | 03/31/18 | 201,565 | 201,565 | 1.00 | 201,565 | 1 | 1.34% |
| LOGIC | AAAm | 1.59% | 04/01/18 | 03/31/18 | 28,210,990 | 28,210,990 | 1.00 | 28,210,990 | 1 | 1.59% |
| Commonwealth Auth. PA Muni | A1/A+ | 5.05% | 06/01/18 | 04/20/15 | 1,000,000 | 1,006,110 | 100.47 | 1,004,740 | 62 | 1.30% |
| Commonwealth Auth. PA Muni | A1/A+ | 5.05% | 06/01/18 | 04/24/15 | 500,000 | 503,055 | 100.47 | 502,370 | 62 | 1.30% |
| FL Hurr. Catastrophe Muni | Aa3/AA | 2.11% | 07/01/18 | 01/21/15 | 2,500,000 | 2,502,843 | 100.06 | 2,501,450 | 92 | 1.64% |
| East West Bank CD | | 1.85% | 11/01/18 | 01/23/18 | 5,017,262 | 5,017,262 | 100.00 | 5,017,262 | 215 | 1.85% |
| Lubbock National Bank CD | | 1.50% | 12/03/18 | 10/03/17 | 5,031,104 | 5,031,104 | 100.00 | 5,031,104 | 247 | 1.50% |
| East West Bank CD | | 1.90% | 12/03/18 | 01/23/18 | 5,017,730 | 5,017,730 | 100.00 | 5,017,730 | 247 | 1.90% |
| Peoria SD Muni | AA | 5.25% | 01/01/19 | 05/12/15 | 500,000 | 512,659 | 101.80 | 508,975 | 276 | 1.75% |
| TX ST Pub Fin Auth Muni | AA+ | 2.00% | 02/01/19 | 09/29/17 | 480,000 | 481,772 | 99.78 | 478,925 | 307 | 1.55% |
| Columbus Fin TX Muni | AA- | 4.90% | 02/15/19 | 05/04/15 | 1,360,000 | 1,394,173 | 101.83 | 1,384,820 | 321 | 1.90% |
| Texas State Muni | Aa2/AA | 2.04% | 03/15/19 | 03/18/15 | 900,000 | 902,792 | 99.65 | 896,814 | 349 | 1.70% |
| LegacyTexas Bank CD | | 1.65% | 06/03/19 | 08/14/17 | 6,057,738 | 6,057,738 | 100.00 | 6,057,738 | 429 | 1.65% |
| WV HSG Muni | Aaa/AAA | 3.22% | 11/01/19 | 08/17/15 | 1,000,000 | 1,022,431 | 100.16 | 1,001,620 | 580 | 1.75% |
| Cleveland Tax Revenue Muni | A1/AA+ | 2.30% | 10/01/20 | 04/09/15 | 1,610,000 | 1,610,000 | 98.07 | 1,578,927 | 915 | 2.30% |
| Port of Corpus Christi Muni | A1/A+ | 2.61% | 12/01/20 | 05/27/15 | 635,000 | 639,609 | 99.45 | 631,476 | 976 | 2.32% |
| Pooled Funds Portfolio - Sub Total | | | | | \$ 92,064,111 | \$ 92,154,555 | | \$ 92,069,228 | 112 | 1.67% |
| | | | | | | | | | Days | |
| Mortgage Portfolio | | | | | | | | | | |
| FNMA MBS 4X6 | Aaa/AA+ | 6.00% | 12/01/20 | 09/20/10 | 45,728 | 46,585 | 102.14 | 46,709 | 976 | 5.10% |
| FHLMC MBS G92 | Aaa/AA+ | 6.00% | 06/01/22 | 10/18/10 | 1,346,783 | 1,399,907 | 104.47 | 1,406,965 | 1,523 | 4.77% |
| GNMA MBS MY1 | Aaa/AA+ | 6.00% | 07/15/22 | 04/16/09 | 517,807 | 529,123 | 103.89 | 537,962 | 1,567 | 5.29% |
| FNMA MBS JR7 | Aaa/AA+ | 3.00% | 08/01/22 | 06/18/13 | 1,084,692 | 1,111,752 | 100.77 | 1,093,093 | 1,584 | 2.36% |
| GNMA MBS CC2 | Aaa/AA+ | 2.50% | 05/20/27 | 01/24/13 | 1,403,282 | 1,403,282 | 96.64 | 1,356,118 | 3,337 | 2.18% |
| FNMA MBS MT7 | Aaa/AA+ | 6.00% | 06/01/36 | 06/13/11 | 514,269 | 549,118 | 112.31 | 577,586 | 6,637 | 5.33% |
| FNMA MBS SS5 | Aaa/AA+ | 6.00% | 12/01/36 | 06/13/11 | 1,117,611 | 1,215,914 | 112.35 | 1,255,673 | 6,820 | 5.15% |
| FNMA MBS GP3 | Aaa/AA+ | 6.00% | 03/01/37 | 06/13/11 | 1,357,396 | 1,477,213 | 112.29 | 1,524,254 | 6,910 | 5.14% |
| FHLMC MBS WA4 | Aaa/AA+ | 6.00% | 02/01/38 | 03/12/12 | 391,442 | 391,442 | 111.74 | 437,381 | 7,247 | 5.19% |
| Mortgage Portfolio - Sub Total | | | | | \$ 7,779,009 | \$ 8,124,334 | | \$ 8,235,742 | 12 | 4.21% |
| | | | | | | | | | Years | |
| Total Portfolio | | | | | \$ 99,843,120 | \$ 100,278,889 | | \$ 100,304,969 | 446 | 1.88% |
| | | | | | | | | | 1.2 | |
| | | | | | | | | | (Years) | |
| | | | | | | | | | (1) (2) | |

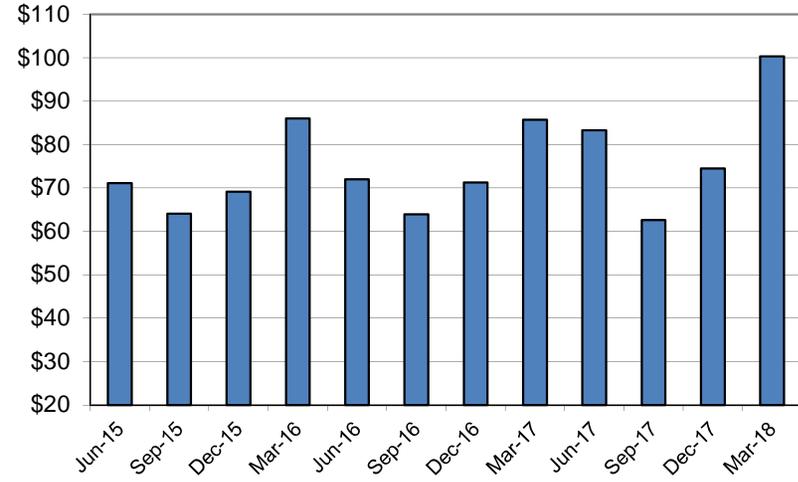
(1) **Weighted average life** - For purposes of calculating weighted average life, bank accounts, pools and money market funds are assumed to have an one day maturity. MBS securities adjusted for minimum anticipated principal amortization.

(2) **Weighted average yield to maturity** - The weighted average yield to maturity is based on adjusted book value, realized and unrealized gains/losses and investment advisory fees are not considered. The yield for the reporting month is used for bank accounts, pools, and money market funds.

Portfolio Composition

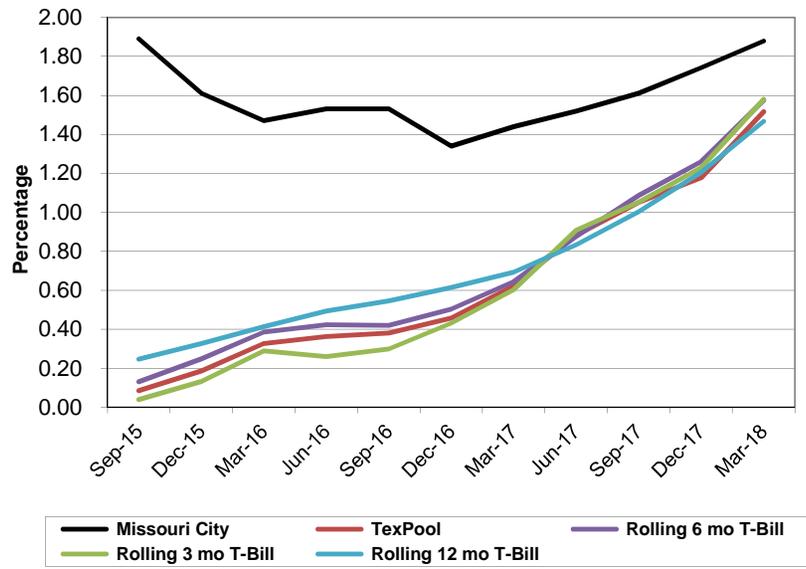


Total Portfolio (Millions)



■ Quarter End Book Value

Total Portfolio Performance



Book Value Comparison

| Description | Coupon/ Discount | Maturity Date | December 31, 2017 | | Purchases/ Adjustments | Sales/Adjust/ Call/Maturity | March 31, 2018 | |
|-----------------------------|---------------------|------------------|---------------------------|----------------------|---------------------------|--------------------------------|---------------------------|-----------------------|
| | | | Face Amount/ Par Value | Book Value | | | Face Amount/ Par Value | Book Value |
| Amegy Bank Cash | 0.05% | 04/01/18 | \$ 2,307,780 | \$ 2,307,780 | \$ - | \$ (2,307,780) | \$ - | \$ - |
| Wells Fargo Bank Cash | 0.00% | 04/01/18 | 3,728 | 3,728 | 16,992 | | 20,720 | 20,720 |
| Wells Fargo Bank MMF | 1.50% | 04/01/18 | 6,899,913 | 6,899,913 | 3,462,541 | | 10,362,454 | 10,362,454 |
| NexBank MMA | 1.81% | 04/01/18 | - | - | 5,015,853 | | 5,015,853 | 5,015,853 |
| Texas Class | 1.75% | 04/01/18 | 16,576,528 | 16,576,528 | 67,166 | | 16,643,694 | 16,643,694 |
| TexPool | 1.34% | 04/01/18 | 200,877 | 200,877 | 688 | | 201,565 | 201,565 |
| LOGIC | 1.59% | 04/01/18 | 18,131,428 | 18,131,428 | 10,079,563 | | 28,210,990 | 28,210,990 |
| Commonwealth Auth. PA Muni | 5.05% | 06/01/18 | 1,000,000 | 1,015,274 | | (9,165) | 1,000,000 | 1,006,110 |
| Commonwealth Auth. PA Muni | 5.05% | 06/01/18 | 500,000 | 507,638 | | (4,583) | 500,000 | 503,055 |
| FL Hurr. Catastrophe Muni | 2.11% | 07/01/18 | 2,500,000 | 2,505,687 | | (2,843) | 2,500,000 | 2,502,843 |
| East West Bank CD | 1.85% | 11/01/18 | - | - | 5,017,262 | | 5,017,262 | 5,017,262 |
| Lubbock National Bank CD | 1.50% | 12/03/18 | 5,012,542 | 5,012,542 | 18,562 | | 5,031,104 | 5,031,104 |
| East West Bank CD | 1.90% | 12/03/18 | - | - | 5,017,730 | | 5,017,730 | 5,017,730 |
| Peoria SD Muni | 5.25% | 01/01/19 | 500,000 | 516,879 | | (4,220) | 500,000 | 512,659 |
| TX ST Pub Fin Auth Muni | 2.00% | 02/01/19 | 480,000 | 482,303 | | (531) | 480,000 | 481,772 |
| Columbus Fin TX Muni | 4.90% | 02/15/19 | 1,360,000 | 1,403,967 | | (9,795) | 1,360,000 | 1,394,173 |
| Texas State Muni | 2.04% | 03/15/19 | 900,000 | 903,523 | | (731) | 900,000 | 902,792 |
| LegacyTexas Bank CD | 1.65% | 06/03/19 | 6,033,159 | 6,033,159 | 24,579 | | 6,057,738 | 6,057,738 |
| WV HSG Muni | 3.22% | 11/01/19 | 1,000,000 | 1,025,973 | | (3,542) | 1,000,000 | 1,022,431 |
| Cleveland Tax Revenue Muni | 2.30% | 10/01/20 | 1,610,000 | 1,610,000 | | | 1,610,000 | 1,610,000 |
| FNMA MBS 4X6 | 6.00% | 12/01/20 | 57,442 | 58,618 | | (12,033) | 45,728 | 46,585 |
| Port of Corpus Christi Muni | 2.61% | 12/01/20 | 635,000 | 640,041 | | (432) | 635,000 | 639,609 |
| FHLMC MBS G92 | 6.00% | 06/01/22 | 1,497,268 | 1,559,872 | | (159,965) | 1,346,783 | 1,399,907 |
| GNMA MBS MY1 | 6.00% | 07/15/22 | 583,956 | 597,462 | | (68,339) | 517,807 | 529,123 |
| FNMA MBS JR7 | 3.00% | 08/01/22 | 1,162,736 | 1,193,416 | | (81,664) | 1,084,692 | 1,111,752 |
| GNMA MBS CC2 | 2.50% | 05/20/27 | 1,441,531 | 1,441,531 | | (38,249) | 1,403,282 | 1,403,282 |
| FNMA MBS MT7 | 6.00% | 06/01/36 | 546,752 | 584,313 | | (35,195) | 514,269 | 549,118 |
| FNMA MBS SS5 | 6.00% | 12/01/36 | 1,177,450 | 1,282,403 | | (66,489) | 1,117,611 | 1,215,914 |
| FNMA MBS GP3 | 6.00% | 03/01/37 | 1,432,816 | 1,560,962 | | (83,749) | 1,357,396 | 1,477,213 |
| FHLMC MBS WA4 | 6.00% | 02/01/38 | 401,091 | 401,091 | | (9,650) | 391,442 | 391,442 |
| TOTAL | | | \$ 73,951,998 | \$ 74,456,908 | \$ 28,720,936 | \$ (2,898,954) | \$ 99,843,120 | \$ 100,278,889 |

Market Value Comparison

| Description | Coupon/ Discount | Maturity Date | December 31, 2017 | | Qtr to Qtr Change | March 31, 2018 | |
|-----------------------------|---------------------|------------------|---------------------------|----------------------|----------------------|---------------------------|-----------------------|
| | | | Face Amount/ Par Value | Market Value | | Face Amount/ Par Value | Market Value |
| Amegy Bank Cash | 0.05% | 04/01/18 | \$ 2,307,780 | \$ 2,307,780 | \$ (2,307,780) | \$ - | \$ - |
| Wells Fargo Bank Cash | 0.00% | 04/01/18 | 3,728 | 3,728 | 16,992 | 20,720 | 20,720 |
| Wells Fargo Bank MMF | 1.50% | 04/01/18 | 6,899,913 | 6,899,913 | 3,462,541 | 10,362,454 | 10,362,454 |
| NexBank MMA | 1.81% | 04/01/18 | - | - | 5,015,853 | 5,015,853 | 5,015,853 |
| Texas Class | 1.75% | 04/01/18 | 16,576,528 | 16,576,528 | 67,166 | 16,643,694 | 16,643,694 |
| TexPool | 1.34% | 04/01/18 | 200,877 | 200,877 | 688 | 201,565 | 201,565 |
| LOGIC | 1.59% | 04/01/18 | 18,131,428 | 18,131,428 | 10,079,563 | 28,210,990 | 28,210,990 |
| Commonwealth Auth. PA Muni | 5.05% | 06/01/18 | 1,000,000 | 1,011,590 | (6,850) | 1,000,000 | 1,004,740 |
| Commonwealth Auth. PA Muni | 5.05% | 06/01/18 | 500,000 | 505,795 | (3,425) | 500,000 | 502,370 |
| FL Hurr. Catastrophe Muni | 2.11% | 07/01/18 | 2,500,000 | 2,500,875 | 575 | 2,500,000 | 2,501,450 |
| East West Bank CD | 1.85% | 11/01/18 | - | - | 5,017,262 | 5,017,262 | 5,017,262 |
| Lubbock National Bank CD | 1.50% | 12/03/18 | 5,012,542 | 5,012,542 | 18,562 | 5,031,104 | 5,031,104 |
| East West Bank CD | 1.90% | 12/03/18 | - | - | 5,017,730 | 5,017,730 | 5,017,730 |
| Peoria SD Muni | 5.25% | 01/01/19 | 500,000 | 513,425 | (4,450) | 500,000 | 508,975 |
| TX ST Pub Fin Auth Muni | 2.00% | 02/01/19 | 480,000 | 480,091 | (1,166) | 480,000 | 478,925 |
| Columbus Fin TX Muni | 4.90% | 02/15/19 | 1,360,000 | 1,396,271 | (11,451) | 1,360,000 | 1,384,820 |
| Texas State Muni | 2.04% | 03/15/19 | 900,000 | 899,145 | (2,331) | 900,000 | 896,814 |
| LegacyTexas Bank CD | 1.65% | 06/03/19 | 6,033,159 | 6,033,159 | 24,579 | 6,057,738 | 6,057,738 |
| WV HSG Muni | 3.22% | 11/01/19 | 1,000,000 | 1,012,890 | (11,270) | 1,000,000 | 1,001,620 |
| Cleveland Tax Revenue Muni | 2.30% | 10/01/20 | 1,610,000 | 1,590,100 | (11,173) | 1,610,000 | 1,578,927 |
| FNMA MBS 4X6 | 6.00% | 12/01/20 | 57,442 | 58,969 | (12,260) | 45,728 | 46,709 |
| Port of Corpus Christi Muni | 2.61% | 12/01/20 | 635,000 | 638,112 | (6,636) | 635,000 | 631,476 |
| FHLMC MBS G92 | 6.00% | 06/01/22 | 1,497,268 | 1,581,051 | (174,085) | 1,346,783 | 1,406,965 |
| GNMA MBS MY1 | 6.00% | 07/15/22 | 583,956 | 610,236 | (72,274) | 517,807 | 537,962 |
| FNMA MBS JR7 | 3.00% | 08/01/22 | 1,162,736 | 1,184,938 | (91,845) | 1,084,692 | 1,093,093 |
| GNMA MBS CC2 | 2.50% | 05/20/27 | 1,441,531 | 1,420,401 | (64,283) | 1,403,282 | 1,356,118 |
| FNMA MBS MT7 | 6.00% | 06/01/36 | 546,752 | 619,237 | (41,650) | 514,269 | 577,586 |
| FNMA MBS SS5 | 6.00% | 12/01/36 | 1,177,450 | 1,331,757 | (76,084) | 1,117,611 | 1,255,673 |
| FNMA MBS GP3 | 6.00% | 03/01/37 | 1,432,816 | 1,622,485 | (98,231) | 1,357,396 | 1,524,254 |
| FHLMC MBS WA4 | 6.00% | 02/01/38 | 401,091 | 450,549 | (13,168) | 391,442 | 437,381 |
| TOTAL | | | \$ 73,951,998 | \$ 74,593,871 | \$ 25,711,098 | \$ 99,843,120 | \$ 100,304,969 |



**Council Agenda Item
May 7, 2018**

7. **PUBLIC HEARINGS AND RELATED ACTIONS**
(a) **Zoning Public Hearings and Ordinances** – *There are no Zoning Public Hearings and Ordinances on this agenda.*
-



CITY COUNCIL AGENDA ITEM COVER MEMO

May 7, 2018

To: Mayor and City Council
Agenda Item: 7(b)(1) Public hearing and ordinance adopting a settlement agreement with SiEnergy, LP regarding increased rates
Submitted by: E. Joyce Iyamu, City Attorney

SYNOPSIS

This is a public hearing to consider the adoption of rates and the consideration of an ordinance that adopts a unanimous settlement agreement between a gas utility company, SiEnergy, LP ("SiEnergy"), the Gulf Coast Coalition of Cities ("GCCC") (which includes the City of Missouri City), and the staff of the Texas Railroad Commission and approves tariffs for SiEnergy.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Grow business investments in Missouri City
- Have quality development through buildout

BACKGROUND

On January 5, 2018, SiEnergy filed a Statement of Intent seeking to increase gas utility rates within the incorporated areas served by SiEnergy in central and south Texas. In the filing, SiEnergy asserted that it was entitled to a \$400,000 revenue increase, or a 22% increase, including gas costs, and a 35% increase over current adjusted revenues, excluding gas costs. 1,286 residential and 43 commercial customers in Missouri City would have been impacted by the increase. SiEnergy serves Missouri City customers in the Sienna Plantation, Riverstone, and Silver Ridge subdivisions.

On February 5, 2018, the City Council of the City of Missouri City adopted a resolution suspending the proposed effective date for the increase for a period of 90 days to allow the City of Missouri City (the "City") time to study the request and to intervene in any proceeding related to the requested rate changes at the Texas Railroad Commission. Other GCCC members, particularly, the cities of Conroe, Fulshear, and Sugar Land also took action to suspend SiEnergy's proposed rates in February. The GCCC hired an attorney and natural gas rate experts to investigate the Company's request and conduct discovery. Based upon their analysis, they were able to negotiate a reasonable final resolution of the rate request.

SiEnergy's rate increase request is the first of such requests in approximately ten (10) years. Pursuant to the settlement agreement, a residential customer may see an increase in the customer's rate from \$15.00 to \$17.00, instead of \$19.50, as initially proposed, and a commercial customer may see a rate increase from \$30.00 to \$37.00, instead of \$45.00, as initially proposed.

Pursuant to state law, cities with original jurisdiction over the matter have until May 10, 2018 to take final action on the application. However, SiEnergy has agreed to allow each city's ordinance to take effect upon its standard agenda schedule (May 21, 2018, for Missouri City).

BUDGET/FISCAL ANALYSIS

| Funding Source | Account Number | Project Code/Name | FY18 Funds Budgeted | FY18 Funds Available | Amount Requested |
|----------------|----------------|-------------------|---------------------|----------------------|------------------|
| N/A | | | | | |
| N/A | | | | | |

Purchasing Review: N/A
Financial/Budget Review: N/A

The City's reasonable rate case expenses are reimbursable by SiEnergy.

SUPPORTING MATERIALS

1. Ordinance

STAFF'S RECOMMENDATION

Consider adopting the ordinance.

Director Approval: E. Joyce Iyamu

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

ORDINANCE NO. O-18-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS; ADOPTING A UNANIMOUS SETTLEMENT AGREEMENT SETTING RATES AND ESTABLISHING TARIFFS FOR THE PROVISION OF NATURAL GAS SERVICE BY SIENERGY, LP, WITHIN THE CITY OF MISSOURI CITY; DECLARING A FINAL DETERMINATION OF RATES; REQUIRING ACCEPTANCE BY SIENERGY, LP, OF THE RATES PRESCRIBED HEREIN; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

* * * * *

WHEREAS, on January 5, 2018, SiEnergy, LP (“SiEnergy”), filed with the Railroad Commission of Texas, the City of Missouri City (“City”), and other affected cities in central and south Texas, its Statement of Intent to increase its annual revenue by \$400,000 within the incorporated areas in its service territory, or by \$2.267 million system wide with a \$9.5 million revenue requirement; and

WHEREAS, pursuant to Texas Utilities Code § 104.107 and Resolution No. R-18-02, adopted by the City Council on February 5, 2018, the City Council suspended SiEnergy’s proposed February 9, 2018 effective date for a proposed rate increase; and

WHEREAS, in collaboration with other affected cities, the City and SiEnergy have negotiated a settlement; and

WHEREAS, the negotiated revenue requirement results in an increase of approximately \$1,773,000 in current annual revenues system-wide for SiEnergy; and

WHEREAS, pursuant to the negotiated settlement, SiEnergy will agree not to utilize the Gas Reliability Infrastructure Program to make interim rate adjustments before it files its next base rate case; and

WHEREAS, the City Council finds that the tariffs and specific rates and charges, and customer service rules appended to this ordinance are reasonable and in the public interest; and

WHEREAS, the City Council finds that the costs of the City’s rate consultants, attorneys, and technical staff to conduct investigations, present evidence, advise and represent the City in these rate-making proceedings as set out in the settlement agreement are reasonable and necessary expenses, as are the agreed-upon rate case expenses incurred by SiEnergy in this proceeding; and

WHEREAS, SiEnergy has agreed to remove \$175,000 of rate case expenses from its final reimbursable amount; and

WHEREAS, the City Council is the regulatory body with exclusive original jurisdiction over the rates, operations, and services of SiEnergy within the City; and

WHEREAS, the City Council of the City of Missouri City now deems it appropriate to adopt the proposed settlement agreement with SiEnergy; 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. The Unanimous Settlement Agreement (“Settlement Agreement”) entered into between SiEnergy and the City and appended to this ordinance as Exhibit “A” is in the public interest and is adopted by this Ordinance.

Section 3. A revenue requirement of \$8.25 million for SiEnergy, as determined on a system-wide basis for its service territory, is hereby approved within the City.

Section 4. Except to the extent approved in this Ordinance and the Settlement Agreement appended to this Ordinance as “Attachment 1”, the City denies SiEnergy’s request for rates, tariffs, and charges as proposed in SiEnergy’s Statement of Intent and rate increase request filed with the City on or about January 5, 2018.

Section 5. The rates, tariffs, charges, schedules, and service rules appended to this Ordinance as Exhibit A to Attachment 1 for natural gas service provided by SiEnergy within the City are reasonable and are hereby approved.

Section 6. The proposed depreciation and amortization rates set forth in the tariffs are reasonable and hereby approved by this Ordinance.

Section 7. The costs of rate consultants, attorneys, and technical staff to conduct investigations, present evidence, advise and represent the City in these rate-making proceedings shall be reimbursed to the City by SiEnergy no later than 30 days after the effective date of this Ordinance.

Section 8. Nothing in this Ordinance shall be construed as limiting or modifying in any manner the right and power of the City under the law to regulate the charges, rates, operations and services of SiEnergy.

Section 9. 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 10. 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.

Section 11. Effective Date. This Ordinance takes effect on May 21, 2018.

PASSED and APPROVED on first reading this ____ day of _____, 2018.

PASSED, APPROVED and ADOPTED on second and final reading this ____ day of _____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

GUD NO. 10679

| | | |
|-------------------------------------|----------|----------------------------|
| STATEMENT OF INTENT TO | § | |
| INCREASE GAS UTILITY RATES | § | BEFORE THE |
| WITHIN THE UNINCORPORATED | § | RAILROAD COMMISSION |
| AREAS SERVED BY SIENERGY, LP | § | OF TEXAS |
| IN CENTRAL AND SOUTH TEXAS | § | |

UNANIMOUS SETTLEMENT AGREEMENT

This Unanimous Settlement Agreement is entered into by and between SiEnergy, LP (“SiEnergy” or “Company”); the Gulf Coast Coalition of Cities (“GCCC”); and the Staff of the Railroad Commission of Texas (“Staff”), (collectively, the “Signatories”).

WHEREAS, on January 5, 2018, SiEnergy filed a Statement of Intent to Increase Rates (“Statement of Intent”) within all incorporated and unincorporated areas in which SiEnergy provides service in Central and South Texas; and

WHEREAS, the Commission docketed the rate request as GUD No. 10679; and

WHEREAS, GCCC and Commission Staff sought intervention and were granted party status in GUD No. 10679; and

WHEREAS, the Commission suspended the implementation of the Company’s rate request until July 9, 2018; and

WHEREAS, SiEnergy provided public notice by direct mail on February 7, 2018, to all affected customers; and

WHEREAS, on or before February 9, 2018, the cities within GCCC suspended the implementation of the Company’s rate request until May 10, 2018; and

WHEREAS, the Company will seek the consolidation of any municipal appeals with GUD No. 10679; and

WHEREAS, the rate case expense issues were severed from the original filing and were docketed as GUD No. 10694; and

WHEREAS, direct testimony of GCCC and Staff were due on April 17, 2018, but GCCC and Staff did not file direct testimony in reliance on this Unanimous Settlement Agreement; and

WHEREAS, all parties to this proceeding have engaged in significant discovery regarding the issues in dispute; and

WHEREAS, the Signatories agree that resolution of this docket by unanimous settlement agreement will significantly reduce the amount of reimbursable rate case expenses associated with this docket; and

WHEREAS, the Signatories represent diverse interests and the Unanimous Settlement Agreement resolves the issues in GUD No. 10679 in a manner that the Signatories agree is consistent with the public interest;

NOW, THEREFORE, in consideration of the mutual agreements and covenants established herein, the Signatories, through their undersigned representatives, agree to and recommend for approval by the Commission the following Settlement Terms as a means of concluding the above-referenced docket filed by SiEnergy without the need for prolonged litigation:

Settlement Terms

1. As a product of compromise and for the purposes of settlement, the Signatories agree to the rates, terms and conditions reflected in the tariffs attached to this Unanimous Settlement Agreement as Exhibit A. The tariffs attached as Exhibit A replace and supersede those tariffs currently in effect within all incorporated and unincorporated areas served by SiEnergy in Central and South Texas. These tariffs are premised on an increase of approximately \$1,773,000 in current annual revenues as illustrated in the proof of revenues attached as Exhibit B to this Unanimous Settlement Agreement. Except as specifically provided herein, the Signatories agree that the approximately \$1,773,000 revenue increase is a “black box” figure and is not tied to any specific expense in the underlying cost of service within the areas served by SiEnergy in Central and South Texas. The Signatories further agree that the rates, terms and conditions reflected in Exhibit A to this Unanimous Settlement Agreement comply with the rate-setting requirements of Chapter 104 of the Texas Utilities Code. The gas rates, terms and conditions established by this Unanimous Settlement Agreement shall be effective upon approval by the Commission or other regulatory authority. The Signatories agree that SiEnergy will implement rates in all areas, subject to Commission approval, on bills issued on or after July 1, 2018.
2. The Signatories agree to the following customer charges and volumetric rates. These rates are reflected in the rate schedules attached as Exhibit A.

| Rate Schedule* | Customer Charge | Single Block Volumetric Charge |
|-----------------------|------------------------|---------------------------------------|
| Residential | \$17.00 | \$0.4739 per CCF |
| General Service Small | \$37.00 | \$0.5525 per CCF |

* Includes customers in both incorporated and unincorporated areas.

3. The Signatories agree that the “black box” increase amount in Paragraph 1 is inclusive of a 29-year amortized expense credit of \$58,000. This amortized expense credit of \$58,000 shall be reflected in all future SiEnergy base rate filings made with the Commission through June 20, 2047. To the extent the Commission determines in any future filing that the Company is liable to flow back any amount of excess deferred federal income taxes to its customers, the total amount of the amortized expense credit that has been returned to customers as a result of this or any other future filing shall constitute an offset to any future

excess deferred federal income tax expense ordered to be flowed back to customers by the Commission or other regulatory authority.

4. The Signatories agree that a net plant amount of \$41.5 million as of September 30, 2017 is prudent and appropriate for recovery in this proceeding. In addition, the Signatories agree to the following:
 - a. SiEnergy shall use construction work in progress (“CWIP”) only to describe plant in FERC Account 107 in future statement of intent filings;
 - b. SiEnergy shall not apply a carrying charge to plant in service in Mains lot inventory or any other item in FERC Accounts 101 or 106 as of January 1, 2018; and
 - c. SiEnergy agrees to comply with the following FERC Uniform System of Accounts capitalization guideline:

The cost of individual items of equipment of small value (for example, \$500 or less) or of short life, including small portable tools and implements, shall not be charged to utility plant accounts unless the correctness of the accounting therefor is verified by current inventories. The cost shall be charged to the appropriate operating expense or clearing accounts, according to the use of such items, or, if such items are consumed directly in construction work, the cost shall be included as part of the cost of the construction.
5. The Signatories agree that in addition to the net plant amount of \$41.5 million referenced in Paragraph 4 of this Unanimous Settlement Agreement, SiEnergy is entitled to recover as part of the Company’s next rate case an additional \$3,930,325 in net plant as of September 30, 2017, for mains associated with lots in builder inventory, as such amounts are not reflected in the net plant amount referenced in Paragraph 4 of this Settlement Agreement and are prudent and appropriate for recovery in the next rate case.
6. The Signatories agree to the depreciation rates reflected in Exhibit C.
7. The Signatories agree that Interim Rate Adjustment (“IRA”) factors are not necessary to be established at this time because SiEnergy will not utilize the IRA mechanism between now and its next rate case.
8. The Signatories agree that the “black box” amount included in Paragraph 1 reflects a reduction of the corporate income tax rate from 35% to 21% to recognize changes to the Federal Tax Code due to the Tax Cuts and Jobs Act of 2017 (“Act”) and that such amount reflects all impacts associated with calculation of taxes under the Act. The Signatories further agree that SiEnergy is compliant with GUD No. 10695, Gas Utilities Accounting Order (Feb. 27, 2018) and Order Nunc Pro Tunc (Mar. 20, 2018), except that SiEnergy shall comply with Ordering Paragraph No. 3 of the GUD No. 10695 Accounting Order by making a filing within twelve (12) months of the date of the Final Order in this proceeding that refunds to customers any revenues collected between January 1, 2018 and the effective date of new rates approved in this proceeding if rates had been reduced during that time period to reflect changes to the corporate tax rate made in the Act.

9. The Signatories agree that the July 31, 2017 equity transaction by IX Si Investment Co., LLC that resulted in ORIX AM Investments, LLC purchasing a portion of SiEnergy is in the public interest pursuant to Texas Utilities Code § 102.051. The Signatories further agree that the Company is authorized to amortize over a period of thirty-one (31) years the acquisition adjustment relating to the excess over net book value on an original-cost basis of the purchase price paid by IX Si Investment Co., LLC for the portion of the Company it acquired and that no amounts associated with the acquisition adjustment or its amortization shall be reflected in future SiEnergy rate filings.
10. For purposes of settlement, SiEnergy has agreed to decrease its recoverable rate case expenses by \$175,000.
11. SiEnergy and GCCC represent that their reasonable rate case expenses incurred through April 2018, and estimated rate case expenses incurred through completion of this case, are as follows:

| | Actual Invoices Received | Invoices Due and Estimated to Completion | Adjustment | TOTAL |
|----------|---------------------------------|---|-------------------|--------------|
| SiEnergy | \$402,618.54 | \$23,000.00 | (\$175,000) | \$250,618.54 |
| GCCC | \$31,325.55 | \$20,674.45 | — | \$52,000 |

12. SiEnergy and GCCC attach as Exhibit D affidavits and invoices in support of these amounts and will supplement with additional invoices as they are processed. The Signatories agree that the amounts represented above are reasonable and recoverable pursuant to Texas Utilities Code § 103.022. The Signatories agree that rate case expenses shall be recovered through a volumetric surcharge and that the recovery period for the applicable surcharge to recover rate case expenses shall be thirty-six (36) months. The Signatories intend and advocate that the Commission authorize recovery of the rate case expenses recited above in the same proceeding and at the same time as it approves this Unanimous Settlement Agreement.
13. The Signatories agree that equal recovery of rate case expenses arising from this proceeding from all customers within all incorporated and unincorporated areas served by SiEnergy in Central and South Texas is appropriate and reasonable and that good cause exists to support equal recovery of rate case expenses from all customers within all incorporated and unincorporated areas served by SiEnergy in Central and South Texas for the following reasons:
 - a. SiEnergy Litigation and Estimated expenses: Good cause exists to recover SiEnergy litigation and estimated expenses equally from all customers, including customers within all incorporated and unincorporated areas served by SiEnergy in Central and South Texas. The intent of Commission Rule 7.5530(e) is to allocate rate case expenses to the participating parties according to which party caused the expenses to be incurred; therefore, it is reasonable to seek recovery of rate case expenses from all customers who benefit from the settlement agreement in this case, which includes all customers within all incorporated and unincorporated areas

Settlement Agreement are privileged and inadmissible to prove the validity or invalidity of any issue raised by or presented in this proceeding.

20. The Signatories agree that neither this Unanimous Settlement Agreement nor any oral or written statements made during the course of settlement negotiations may be used for any purpose other than as necessary to support the entry by the Commission of an order approving this Unanimous Settlement Agreement.
21. The Signatories agree that the terms of the Unanimous Settlement Agreement are interdependent and indivisible, and that if the Commission intends to enter an order that is inconsistent with this Unanimous Settlement Agreement, then any Signatory may withdraw without being deemed to have waived any procedural right or to have taken any substantive position on any fact or issue by virtue of that Signatory's entry into the Unanimous Settlement Agreement or its subsequent withdrawal and further agrees that SiEnergy's application to increase rates will be remanded for hearings.
22. The Signatories agree that this Unanimous Settlement Agreement is binding on each Signatory only for the purpose of settling the issues set forth herein and for no other purposes. The matters resolved herein are resolved on the basis of a compromise and settlement. Except to the extent the Unanimous Settlement Agreement governs a Signatory's rights and obligations for future periods, this Unanimous Settlement Agreement shall not be binding or precedential upon a Signatory outside this proceeding. Each Signatory acknowledges that a Signatory's support of the matters contained in this Stipulation may differ from the position taken or testimony presented by it in other dockets or other jurisdictions. To the extent that there is a difference, a Signatory does not waive its position in any of those other dockets or jurisdictions. Because this is a stipulated resolution, no Signatory is under any obligation to take the same positions as set out in this Stipulation in other dockets or jurisdictions, regardless of whether other dockets present the same or a different set of circumstances, except as otherwise may be explicitly provided by this Stipulation. Agreement by the Signatories to any provision in this Stipulation will not be used against any Signatory in any future proceeding with respect to different positions that may be taken by that Signatory.
23. The provisions of this Stipulation are intended to relate to only the specific matters referred to herein. By agreeing to this Stipulation, no Signatory waives any claim it may otherwise have with respect to issues not expressly provided for herein. The Signatories further understand and agree that this Stipulation represents a negotiated settlement of all issues in this proceeding.
24. The Signatories agree that this Unanimous Settlement Agreement may be executed in multiple counterparts and may be filed with facsimile signatures.

Agreed to this 27th day of April 2018.

SIENERGY, LP

By: _____
Evan D. Johnson
Attorney for SiEnergy, LP

GULF COAST COALITION OF CITIES

By:  _____
Thomas Brocato
Attorney for Gulf Coast Coalition of Cities

STAFF OF THE RAILROAD COMMISSION OF TEXAS

By: _____
Natalie Dubiel
Attorney for Staff of the Railroad Commission of Texas

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule DEF

DEFINITIONS

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties

Effective Date: July 1, 2018

Page 1 of 3

“Applicant” means any person, organization or group of persons or organizations making a formal request either orally or in writing for gas service from the Company.

“Btu” means British thermal unit(s) and will be calculated on a temperature base of sixty degrees (60°) Fahrenheit and at the standard pressure base of the applicable service area and on a gross-real-dry basis and will not be corrected for real water vapor as obtained by means commonly acceptable to the industry, and *“MMBtu”* will mean one million (1,000,000) Btu.

“Ccf and Mcf” means for *“Ccf,”* one hundred (100) Standard Cubic Feet of Gas, where one Standard Cubic Foot of gas is the amount of gas contained in one (1) cubic foot of space at a standard pressure of fourteen and sixty-five hundredths (14.65) pounds per square inch, absolute and a standard temperature of sixty (60) degrees Fahrenheit; and, for *“Mcf,”* one thousand (1,000) Standard Cubic Feet of Gas.

“Commission or The Commission” means the Railroad Commission of Texas.

“Commodity Cost of Gas” means the portion of the cost of gas service recovered by the Company through any Purchased Gas Adjustment Rate Schedule.

“Company” means SiEnergy, LP, its successors, and its assigns.

“Consumer” means any person or organization receiving gas service from the Company for his or her own appliances or equipment whether or not the gas is billed directly to him or her. (For example, a rental unit where the utilities are part of the rent, the landlord is a Customer and the tenant is a Consumer.)

“Customer” means any person or organization being billed for gas service whether used by him or her, or by others. Customer also means a Consumer that subscribes to natural gas services provided by SiEnergy.

“Consumption” means the volumes consumed by a Customer during a volumetric read period.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule DEF

DEFINITIONS

| | |
|-----------------|--|
| Applicable to: | All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties |
| Effective Date: | July 1, 2018 |

Page 2 of 3

“Expedited Service” means a Customer request for same day or other acceleration of service relative to the Company’s standard scheduling process.

“Gas or Natural Gas” means the effluent vapor stream in its natural, gaseous state, including gas-well gas, casing head gas, residue gas resulting from processing both casing head gas and gas-well gas, and all other hydrocarbon and non-hydrocarbon components thereof.

“General Gas Service” means all service other than Residential Gas Service and that includes purchase of the Commodity Cost of Gas from the Company. General Gas Service Consumers include commercial Consumers engaged in the sale or furnishing of goods and services; industrial Consumers engaged primarily in processes that change raw or unfinished materials into another form of product; public authorities, including all governmental agencies and authorities; schools whether public or privately held; and, Consumers utilizing gas for any other purpose not otherwise provided for herein.

“General Service Customer” means any person, individual, family, partnership, association, joint venture, corporation, etc., or governmental agency or organization being billed for General Gas Service. A General Service Customer also includes any Consumer that subscribes to natural gas services provided by SiEnergy for purposes of General Gas Service.

“Month” means the period beginning at 9:00 a.m. Central clock time on the first Day of each calendar month and ending at 9:00 a.m. Central clock time on the first Day of the next succeeding calendar month.

“Overtime Fee” means the fee charged by the Company to perform work outside its normal business hours or on holidays and includes changes to previously scheduled work that must be performed outside Company’s normal business hours.

“Rate Schedule” means a statement of the method of determining charges for gas service, including the conditions under which such method applies.

“Regulatory Authority” means the City Council or equivalent municipal governing body of each respective city in the Company’s Service Area, or the Railroad Commission of Texas, as applicable.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule DEF

DEFINITIONS

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties

Effective Date: July 1, 2018

Page 3 of 3

“Residential Gas Service” means gas service used directly for domestic purposes including heating, air conditioning, cooking, water heating, pool water heating and other similar purposes, whether in a single dwelling, in a dwelling unit of a multiple dwelling facility, in a residential apartment unit, in a condominium unit, in a dwelling unit that is operated by a public housing agency acting as an administrator of public housing under the direction of the U.S. Department of Housing and Urban Development, or in other similar individual dwelling units.

“Residential Customer” means any person, individual, family, partnership, association, joint venture, corporation, etc., or governmental agency or organization being billed for *Residential Gas Service* that is individually metered at the point of delivery, whether such service is used by that Customer or by others. A *Residential Customer* also includes any *Consumer* that subscribes to natural gas services provided by SiEnergy for purposes of *Residential Gas Service*.

“Service Area” means the area receiving gas utility service provided by the Company under the terms of this Tariff.

“Special Rate Schedule” means a rate schedule designed for a specific Customer.

“System” means any group of interconnected pipelines and appurtenances owned or operated by the Company and independent from any other such group of facilities.

“Tariff” means every rate schedule, or provision thereof, and all terms, conditions, rules and regulations for furnishing gas service filed with the regulatory authorities or agencies having jurisdiction over the Company or the services provided hereunder.

“Temporary” means any service that will not be utilized continuously at the same location by the same Customer.

“Year” means a period of three hundred sixty-five (365) consecutive Days, or three hundred sixty-six (366) consecutive Days when such period includes a February 29.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule M

RATE M – MISCELLANEOUS FEES AND DEPOSITS

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties
Effective Date: July 1, 2018 Page 1 of 4

Application of Schedule

This Schedule is applicable to all Customers who are located in the incorporated or unincorporated areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties. The fees and deposits listed shall be assessed in addition to any other charges applicable under the Company’s Tariff for Gas Service and will be applied for the conditions and services described. Other services not covered by these standard conditions will be charged on the basis of an estimate for the job or the Company’s actual cost plus appropriate surcharges.

Missed Appointments

If a Customer makes an appointment with the Company for the provision of any of the following services, but fails to appear, the applicable fee will be assessed for the missed appointment(s) as well as being assessed when the service is ultimately provided.

| Number | Name and Description | Amount |
|--------|--|----------|
| M.1 | <p>Connection/Reconnection Charge During Business Hours During standard business hours, 8:00 a.m.-5:00 p.m. Monday through Friday, for each reconnection of gas service where service has been discontinued at the same premises for any reason, for the initial inauguration of service, and for each inauguration of service when the billable party has changed, with the following exceptions:</p> <ul style="list-style-type: none"> • For a builder who uses gas temporarily during construction or for display purposes; • Whenever gas service has been temporarily interrupted because of System outage or service work done by Company; or • For any reason deemed necessary for Company operations. | \$ 65.00 |
| M.2 | <p>Connection/Reconnection Charge After Business Hours After standard business hours, for each reconnection of gas service where service has been discontinued at the same premises for any reason, for the initial inauguration of service, and for each inauguration of service when the billable party has changed, with the following exceptions:</p> <ul style="list-style-type: none"> • For a builder who uses gas temporarily during construction or for display purposes; • Whenever gas service has been temporarily interrupted because of System outage or service work done by Company; or • For any reason deemed necessary for Company operations. | \$ 97.00 |

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule M

RATE M – MISCELLANEOUS FEES AND DEPOSITS

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties
Effective Date: July 1, 2018 Page 2 of 4

| Number | Name and Description | Amount |
|--------|--|-----------|
| M.3 | <p>Field Read of Meter Charge to an existing Customer for the Company to read the meter at a currently served location at the request of the existing Customer for any purpose other than connection or reconnection of service by that Customer. For charges to a Customer to initiate or reconnect service, refer to Service Charge 1–Connection/Reconnection and Service Charge 2–Connection /Reconnection After Business Hours.</p> | \$ 60.00 |
| M.4 | <p>Returned Check Charges Returned check handling charge for each check returned to Company for any reason.</p> | \$ 35.00 |
| M.5 | <p>Temporary Discontinuance of Service Whenever service has been temporarily disconnected at the request of the Customer, this charge plus the appropriate Connection Charge will be made to reestablish such service for that Customer at the same address.</p> | \$ 65.00 |
| M.6 | <p>Meter Testing The Company shall, upon request of a Customer, make a test of the accuracy of the meter serving that Customer. The Company shall inform the Customer of the time and place of the test and permit the Customer or his authorized representative to be present if the Customer so desires. If no such test has been performed within the previous four (4) years for the same Customer at the same location, the test shall be performed without charge. If such test has been performed for the same Customer at the same location within the previous four (4) years, the Company will charge the Meter Testing Fee. The Customer must be properly informed of the result of any test on a meter that services him.</p> | \$ 190.00 |
| M.7 | <p>Charge for Service Calls During Business Hours A Service Call Charge is made for responding to a service call during standard business hours that is determined to be a Customer related problem rather than a Company or Company facilities problem.</p> | \$ 60.00 |
| M.8 | <p>Charge for Service Calls After Business Hours A Service Call Charge is made for responding to a service call after standard business hours that is determined to be a Customer related problem rather than a Company or Company facilities problem.</p> | \$ 90.00 |

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule M

RATE M – MISCELLANEOUS FEES AND DEPOSITS

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties
Effective Date: July 1, 2018 Page 3 of 4

| Number | Name and Description | Amount |
|--------|---|-------------|
| M.9 | <p>Tampering Charge No Company Meters, equipment, or other property, whether on Customer's premises or elsewhere, are to be tampered with or interfered with for any reason. A Tampering Charge is made for unauthorized reconnection or other tampering with Company metering facilities or a theft of gas service by a person on the Customer's premises or evidence by whomsoever at Customer's premises. An additional cost for the cost of repairs and/or replacement of damaged facilities and the installation of protective facilities or relocation of meter are made at cost plus appropriate charges as may be detailed in the Company's Service Rules and Regulations.</p> | \$ 125.00 |
| M.10 | <p>Credit/Debit Card Payments Charge Bill payments using credit cards, debit cards, and electronic checks (includes third-party transaction fees and administrative costs).</p> | Actual Cost |
| M.11 | <p>Pool or Upgraded Meter Installation Charge Fee to install meter and regulators to support higher or multiple pressure requirements on a residential service line.</p> | \$ 280.00 |
| M.12 | <p>Expedited Service and Overtime Fee A Customer's request for expedited service may be scheduled at any time to fit the Company's work schedule, and an Expedited Service charge will be collected. The Company will not be obligated to provide Expedited Service when the personnel and resources to do so are not reasonably available. This Fee represents the minimum charge for Expedited Service. For Expedited Service requiring more than one hour to perform, the Fee will represent a rate per hour of time multiplied by the total time required to perform the requested Expedited Service, incremented in 15-minute intervals. This fee will be charged in addition to any other applicable fees.</p> | \$ 95.00 |
| M.13 | <p>History Research Fee A fee will be charged for services related to account history research and/or provision of Customer accounting/billing history documentation.</p> | \$ 30.00 |
| M.14 | <p>No Access Fee A fee will be charged to a Customer who, through padlocks, fencing, animals or other means, prevents access to the Company's meter or other equipment located on the Customer's premise.</p> | \$ 35.00 |
| M.15 | <p>Police Escort Fee A fee will be charged for the Company to access a meter when the Company is required to use law enforcement personnel to escort it into locked sites or sites requiring animal control. The Company will charge the stated amounts or current rate charged by the entity providing the police escort for this service.</p> | Actual Cost |

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule M

RATE M – MISCELLANEOUS FEES AND DEPOSITS

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties
Effective Date: July 1, 2018 Page 4 of 4

| Number | Name and Description | Amount |
|--------|--|-------------------------------|
| M.16 | <p>Costs Associated with Certain Stand-By Gas Generators Customers installing stand-by gas generators to provide service in the event of an interruption in electric service in facilities where gas service is not otherwise adequate to operate the stand-by gas generators will reimburse the Company for the actual cost of acquiring and installing the additional and/or upgraded regulator, service line, and meter required to provide gas service for the stand-by generators. The subsequent gas service provided for the stand-by generators will be billed at the rate applicable for other gas service to the class of Customer making the request.</p> | Actual Cost |
| M.17 | <p>Line Extensions The Company has the right to contract with individual Customers for the installation of gas facilities. Upon the request of a prospective new Customer for service in an area served by SiEnergy, LP, will extend its main lines up to 100 feet from an existing SiEnergy, LP main in the Public Rights of Way, without charge. The 100-foot allowance applies to a single Customer or to a group of Customers requesting service from the same extension. Customers requesting mainline extensions in excess of 100 feet shall bear the actual cost of any additional mainline, the cost of all yard and service lines, and the cost of any appurtenant equipment and other costs necessary to install the extension, including applicable overhead charges. SiEnergy, LP is not required to extend its mains or facilities if the Customer will not use gas for space heating and water heating, or the equivalent load, at a minimum.</p> | Actual Cost |
| M.18 | <p>Customer Deposits Minimum deposit Residential Gas Service Minimum deposit General Gas Service Additional deposits may be required in accordance with Rate Schedule QSR – Quality of Service Rules</p> | <p>\$ 75.00 \$ 250.00</p> |

Taxes and Franchise Fees (Rate Schedule TFF)

Other than with respect to M.18 – Customer Deposits, the amounts charged under Rate M are subject to all applicable taxes and fees in accordance with the provisions of Rate Schedule TFF – Taxes and Franchise Fees.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule RSI

RATE RSI – RESIDENTIAL SALES, INCORPORATED AREAS

Applicable to: All Residential Customers located in Incorporated Areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties
Effective Date: July 1, 2018

Page 1 of 1

Application of Schedule

This Schedule is applicable to all Customers meeting the definition of “Residential Customers” under Rate Schedule DEF – Definitions and who are located in incorporated areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties.

Monthly Base Rate

Each Customer’s base monthly bill will be calculated using the following Customer and Ccf charges:

| <u>Charge</u> | <u>Amount</u> |
|-----------------|-------------------------|
| Customer Charge | \$17.00 per month, plus |
| All Ccf @ | \$0.4739 per Ccf |

In addition to the base monthly bill calculated using the Monthly Base Rates above, each Customer’s monthly bill shall be increased by amounts pursuant to the following:

Purchased Gas Adjustment (Rate Schedule PGA)

Amounts billed for the commodity cost of gas in accordance with the provisions of Rate Schedule PGA - Purchased Gas Adjustment.

Weather Normalization Adjustment (Rate Schedule WNA)

Amounts billed to eliminate the effect of non-normal weather in accordance with the provisions of Rate Schedule WNA – Weather Normalization Adjustment.

Rate Case Expense Recovery (Rate Schedule RCE-I)

Amounts billed for the recovery of rate case expenses in accordance with the provisions of Rate Schedule RCE-I – Rate Case Expense.

Taxes and Franchise Fees (Rate Schedule TFF)

All applicable taxes and fees in accordance with the provisions of Rate Schedule TFF – Taxes and Franchise Fees, including fees pertaining to the Monthly Base Rate bill, PGA charges, WNA charges, RCE-I charges, and any other charge that is subject to taxes and fees described therein.

Other Conditions and Surcharges

Subject in all respects to applicable laws, rules and regulations from time to time in effect. In addition to the monthly charges above, each Customer’s bill will include amounts required to be billed in accordance with any additional applicable rates, riders, surcharges or fees.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule RSU

RATE RSU - RESIDENTIAL SALES, UNINCORPORATED AREAS

Applicable to: All Residential Customers located in Unincorporated Areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties.

Effective Date: July 1, 2018

Page 1 of 1

Application of Schedule

This Schedule is applicable to all Customers meeting the definition of "Residential Customers" under Rate Schedule DEF – Definitions and who are located in unincorporated areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties

Monthly Base Rate

Each Customer's base monthly bill will be calculated using the following Customer and Ccf charges:

| <u>Charge</u> | <u>Amount</u> |
|-----------------|-------------------------|
| Customer Charge | \$17.00 per month, plus |
| All Ccf @ | \$0.4739 per Ccf |

In addition to the base monthly bill calculated using the Monthly Base Rates above, each Customer's monthly bill shall be increased by amounts pursuant to the following:

Purchased Gas Adjustment (Rate Schedule PGA)

Amounts billed for the commodity cost of gas in accordance with the provisions of Rate Schedule PGA - Purchased Gas Adjustment.

Weather Normalization Adjustment (Rate Schedule WNA)

Amounts billed to eliminate the effect of non-normal weather in accordance with the provisions of Rate Schedule WNA – Weather Normalization Adjustment.

Rate Case Expense Recovery (Rate Schedule RCE-U)

Amounts billed for the recovery of rate case expenses in accordance with the provisions of Rate Schedule RCE-U – Rate Case Expense.

Taxes and Franchise Fees (Rate Schedule TFF)

All applicable taxes and fees in accordance with the provisions of Rate Schedule TFF – Taxes and Franchise Fees, including fees pertaining to the Monthly Base Rate bill, PGA charges, WNA charges, RCE-U charges, and any other charge that is subject to taxes and fees described therein.

Other Conditions and Surcharges

Subject in all respects to applicable laws, rules and regulations from time to time in effect. In addition to the monthly charges above, each Customer's bill will include amounts required to be billed in accordance with any additional applicable rates, riders, surcharges or fees.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Schedule GSSI

RATE GSSI - GENERAL SERVICE SMALL, INCORPORATED AREAS

Applicable to: All General Service Customers whose Annual Usage is 30,000 Ccf or less and who are located in Incorporated Areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties.

Effective Date: July 1, 2018

Page 1 of 1

Application of Schedule

This Schedule is applicable to all Customers meeting the definition of "General Service Customers" under Rate Schedule DEF – Definitions (i.e., non-Residential Customers) whose annual usage is 30,000 Ccf or less and who are located in incorporated areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties.

Monthly Base Rate

Each Customer's base monthly bill will be calculated using the following Customer and Ccf charges:

| <u>Charge</u> | <u>Amount</u> |
|-----------------|-------------------------|
| Customer Charge | \$37.00 per month, plus |
| All Ccf @ | \$0.5525 per Ccf |

In addition to the base monthly bill calculated using the Monthly Base Rates above, each Customer's monthly bill shall be increased by amounts pursuant to the following:

Purchased Gas Adjustment (Rate Schedule PGA)

Amounts billed for the commodity cost of gas in accordance with the provisions of Rate Schedule PGA - Purchased Gas Adjustment.

Rate Case Expense Recovery (Rate Schedule RCE-I)

Amounts billed for the recovery of rate case expenses in accordance with the provisions of Rate Schedule RCE-I – Rate Case Expense.

Taxes and Franchise Fees (Rate Schedule TFF)

All applicable taxes and fees in accordance with the provisions of Rate Schedule TFF – Taxes and Franchise Fees, including fees pertaining to the Monthly Base Rate bill, PGA charges, WNA charges, RCE-I charges, and any other charge that is subject to taxes and fees described therein.

Other Conditions and Surcharges

Subject in all respects to applicable laws, rules and regulations from time to time in effect. In addition to the monthly charges above, each Customer's bill will include amounts required to be billed in accordance with any additional applicable rates, riders, surcharges or fees.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Schedule GSSU

RATE GSSU – GENERAL SERVICE SMALL, UNINCORPORATED AREAS

Applicable to: All General Service Customers whose Annual Usage is 30,000 Ccf or less and who are located in Unincorporated Areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties.
Effective Date: July 1, 2018

Page 1 of 1

Application of Schedule

This Schedule is applicable to all Customers meeting the definition of “General Service Customers” under Rate Schedule DEF – Definitions (i.e., non-Residential Customers), whose annual usage is 30,000 Ccf or less and who are located in unincorporated areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties.

Monthly Base Rate

Each Customer’s base monthly bill will be calculated using the following Customer and Ccf charges:

| <u>Charge</u> | <u>Amount</u> |
|-----------------|-------------------------|
| Customer Charge | \$37.00 per month, plus |
| All Ccf @ | \$0.5525 per Ccf |

In addition to the base monthly bill calculated using the Monthly Base Rates above, each Customer’s monthly bill shall be increased by amounts pursuant to the following:

Purchased Gas Adjustment (Rate Schedule PGA)

Amounts billed for the commodity cost of gas in accordance with the provisions of Rate Schedule PGA - Purchased Gas Adjustment.

Rate Case Expense Recovery (Rate Schedule RCE-U)

Amounts billed for the recovery of rate case expenses in accordance with the provisions of Rate Schedule RCE-U – Rate Case Expense.

Taxes and Franchise Fees (Rate Schedule TFF)

All applicable taxes and fees in accordance with the provisions of Rate Schedule TFF – Taxes and Franchise Fees, including fees pertaining to the Monthly Base Rate bill, PGA charges, WNA charges, RCE-U charges, and any other charge that is subject to taxes and fees described therein.

Other Conditions and Surcharges

Subject in all respects to applicable laws, rules and regulations from time to time in effect. In addition to the monthly charges above, each Customer’s bill will include amounts required to be billed in accordance with any additional applicable rates, riders, surcharges or fees.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule PGA

RATE PGA – PURCHASED GAS ADJUSTMENT

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties

Effective Date: July 1, 2018

Page 1 of 5

Application of Schedule

This Rate Schedule shall apply to all SiEnergy Rate Schedules that incorporate this Rate PGA - Purchased Gas Adjustment provision.

Purpose and Intent

This provision is intended to allow collection of the gas purchase costs of SiEnergy, LP, (hereinafter “SiEnergy” or the “Company”) in a manner that will lessen monthly fluctuations in the Purchased Gas Adjustment and ensure that actual costs billed to Customers are fully reconciled with actual costs incurred, subject to limitations for excessive lost and unaccounted-for gas. The billing methods set forth herein are intended to be followed to the extent the goals are realized. To the extent billing methods fail to achieve these goals, the methodology shall be revised and a revised tariff filed to reflect such revisions. SiEnergy will make appropriate regulatory filings and obtain regulatory approvals, as required, before making changes to its rates.

Definitions

Purchased Gas Volumes - The volumes of gas, expressed in Mcfs, purchased by the Company and received into the Company’s distribution systems from all sources, including withdrawals from storage, and excluding gas injected into storage.

Purchased Gas Cost(s) - The total cost of Purchased Gas Volumes, as received into the Company’s distribution systems, all as more specifically described herein.

Weighted Average Cost of Gas - The Purchased Gas Costs divided by the Purchased Gas Volumes, calculated on a monthly basis, and expressed as dollars per Mcf.

Billed Gas Volumes - The volumes of gas billed to Customers, plus volumes of gas billed to third parties following losses or damages, expressed in Mcfs.

Billed Gas Revenues - The total amount of revenues attributable to billings by SiEnergy for Purchased Gas Costs during a given period, exclusive of any billings for any Reconciliation Adjustment during the same period.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule PGA

RATE PGA – PURCHASED GAS ADJUSTMENT

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties

Effective Date: July 1, 2018

Page 2 of 5

Lost and Unaccounted-for Gas (LUG) - Purchased Gas Volumes minus the sum of Billed Gas Volumes and metered Company used gas.

Purchased Gas Adjustment (PGA) - An Adjustment on each Customer's monthly bill, expressed in dollars per Ccf, to reflect the Purchase Gas Costs and the Reconciliation Adjustment, all as more specifically described herein.

Annual Review Period - The 12-month period ending June 30 of each year.

Annual Review - An annual review of the Company's records covering the 12-month period ending June 30 to determine LUG volumes and any imbalances between the Purchased Gas Costs and Billed Gas Revenues existing at the end of the Annual Review Period.

Annual Imbalance Total - The total amount determined through the Annual Review to be credited or surcharged to Customers' bills in order to balance Purchased Gas Costs with Billed Gas Revenues.

Reconciliation Adjustment - A credit or surcharge included in the Purchased Gas Adjustment to reflect the pro-rated adjustment in billings for any over or under collections on an annual basis.

Record Keeping

The Company shall keep accurate records of all gas metered in and out of its system, gas purchases, and Company-owned gas injected into and withdrawn from storage, and any adjustments relative to any imbalances. The records shall include date, quantity, and cost details for all gas handled.

Purchased Gas Cost Calculation

The Purchased Gas Cost shall be determined for each month to fairly and accurately reflect the cost to the Company at the points of delivery into the Company's distribution systems. The determination shall include, but not be limited to, volumetric and demand charges for Purchased Gas Volumes, fees paid to others where such fees are integrally tied to the purchase or transportation of gas purchased by SiEnergy, pipeline transportation charges (both volumetric and demand), and gas storage charges (both volumetric and demand). The Company shall account for gas injected into and withdrawn from storage on a weighted average cost basis.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule PGA

RATE PGA – PURCHASED GAS ADJUSTMENT

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties

Effective Date: July 1, 2018

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Purchased Gas Adjustment Calculation (continued)

Each Customer bill shall include a Purchased Gas Adjustment reflecting the estimated Weighted Average Cost of Gas for the period covered by the bill, which estimate shall include, as applicable, a pro-rata amount to adjust for previous over or under estimates of the Weighted Average Cost of Gas, plus a Reconciliation Adjustment to account for any Annual Imbalance Total.

Annual Review

For each Annual Review Period, the Company shall determine (i) the amount of any imbalance between the Purchased Gas Costs and Billed Gas Revenues, and (ii) the LUG volume for the Annual Review Period. As limited by the LUG volume limitation set forth below, the Annual Imbalance Total shall then be credited or surcharged to the Customers' bills over a twelve-month period commencing each September 1 following the Annual Review Period.

Accrual Imbalance Total - LUG Volume less than five percent of Purchased Gas Volumes or LUG Volume is negative

If the Annual Review shows the LUG volume for the Annual Review Period to be less than five percent of the Purchased Gas Volumes, or if the LUG volume is negative (indicating a line gain), the Accrual Imbalance Total shall be the difference between the total Purchased Gas Cost and the total Billed Gas Revenues for the Annual Review Period.

Annual Imbalance Total - LUG Volume is positive and is greater than five percent of Purchased Gas Volumes

If the Annual Review shows the LUG volume for the Annual Review Period to be positive and to be greater than five percent of the Purchased Gas Volumes, the Annual Imbalance Total shall be determined as follows:

- The difference between the total Purchased Gas Costs and the total Billed Gas Revenues for the Annual Review Period shall be determined;
- Minus, the Purchased Gas Costs attributable to LUG volumes in excess of 5% of the Purchase Gas Volumes, using the Company's Weighted Average Cost of Purchased Gas for the Review Period.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule PGA

RATE PGA – PURCHASED GAS ADJUSTMENT

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties

Effective Date: July 1, 2018

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Reconciliation Adjustment Calculation

The Annual Imbalance Total (whether positive or negative) shall be credited or surcharged over twelve months in equal total amounts per month. The recovery shall be through a Reconciliation Adjustment included in the Purchased Gas Adjustment. The Reconciliation Adjustment for each month shall be determined as follows:

- Each month of the twelve-month reconciliation period, the Reconciliation Adjustment, expressed in Ccfs, shall be calculated by dividing the amount to be credited or surcharged during that month (which amount shall include, as necessary, an amount to correct for any previous over or under estimates of Billed Gas Volumes during the previous month or months in the same reconciliation period), by the estimated Billed Gas Volumes for the month.
- At the end of each 12-month period, any remaining balance in the Annual Imbalance Total shall be included in any Annual Imbalance Total to be credited or surcharged during the successor 12 -month period.

Annual Reconciliation Report

The Company shall file an Annual Reconciliation Report with the Regulatory Authority, which shall include but not necessarily be limited to:

1. A tabulation of volumes of gas purchased and costs incurred listed by account or type of gas, supplier and source by month for the twelve months ending June 30.
2. A tabulation of gas units sold to general service Customers and related Cost of Gas Clause revenues.
3. A description of all other costs and refunds made during the year and their effect on the Cost of Gas Clause to date.
4. A description of the imbalance payments made to and received from the Company's transportation Customers within the service area, including monthly imbalances incurred, the monthly imbalances resolved, and the amount of the cumulative imbalance. The description should reflect the system imbalance and imbalance amount for each supplier using the Company's distribution system during the reconciliation period.

The Company shall file the Annual Reconciliation Report with the Commission addressed to the Director of Oversight and Safety Division and reference Gas Utilities Docket No. 10679. The Report shall detail the monthly collections for PGA surcharge by customer class and show the accumulative balance.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule PGA

RATE PGA – PURCHASED GAS ADJUSTMENT

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery
counties
Effective Date: July 1, 2018

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Reports for the Commission should be filed electronically at GUD_Compliance@rrc.texas.gov or
at the following address:

Compliance Filing
Oversight and Safety Division
Gas Services Dept.
Railroad Commission of Texas
P.O. Drawer 12967
Austin, TX 78711-2967

Taxes and Franchise Fees (Rate Schedule TFF)

Subject to all applicable taxes and fees in accordance with the provisions of Rate Schedule TFF –
Taxes and Franchise Fees.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule WNA

RATE WNA – WEATHER NORMALIZATION ADJUSTMENT

Applicable to: All Residential Customers located in Travis, Harris, Fort Bend, Waller, or
Montgomery counties

Effective Date: July 1, 2018

Page 1 of 3

Application of Schedule

This Rate Schedule shall apply to all residential customers located in incorporated and unincorporated areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties.

Purpose and Intent

This provision provides for the refund or surcharge to residential Customers of over- or under-collections of revenue due to colder or warmer than normal weather as established in the Company's most recent rate case that established the Rate Schedules applicable to the Customers.

Monthly calculation

In order to reflect weather variances in a timely and accurate manner, the Weather Normalization Adjustment ("WNA") shall be calculated separately for each billing cycle and rate schedule. The weather factors, determined in the most recent rate case, identify the value per Ccf of one heating degree day for Residential Customers. During each billing cycle, the applicable Weather Factor is multiplied by the difference between normal and actual heating degree days for the billing period, and by the number of Customers billed to yield the total WNA Ccf Adjustment. The resulting WNA Ccf Adjustment is then multiplied by the current applicable Base Rate per Ccf to determine the total WNA revenue adjustment. The WNA revenue adjustment is then spread to the Customers in the billing cycle on a prorated basis.

The Weather Normalization Adjustment rate for each Cycle shall be based on the following formula:

$$\text{WNA Rate} = (\text{WND} + \text{RC}) / \text{CMV}$$

$$\text{WND} = [(\text{HDD}_n - \text{HDD}_a) * \text{WF}_a] * \text{VR}$$

Definitions

WND - Weather Normalized Dollars to be collected each month as calculated by billing cycle route.

CMV - Current Month Volumes billed for each billing cycle route.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule WNA

RATE WNA – WEATHER NORMALIZATION ADJUSTMENT

Applicable to: All Residential Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties

Effective Date: July 1, 2018

Page 2 of 3

HDD_n - Monthly Normal heating degree days for each billing cycle route. Monthly Normal heating degree days are defined as the sum of the daily normal heating degree days applicable to each billing cycle route each month. Normal daily HDD are defined as the normal daily HDD used in GUD 10679 to calculate normalized revenue.

HDD_a - Actual heating degree days for each billing cycle route. Monthly actual heating degree days are defined as the sum of the actual daily heating degree days applicable to each billing cycle route each month, as measured at the same weather stations used to calculate comparable HDD_n

VR - Volumetric cost of service rate for the applicable customer class.

RC – The monthly WNA Reconciliation Component, by billing cycle route, calculated pursuant to the annual compliance filing.

WF_a – Weather Factors by Area - as calculated in GUD 10679 and reflected in the table below:

Weather Factors by Area

| Customer Rate Schedule | WNA Period | Weather Factor CCF per HDD |
|---|-------------------|-----------------------------------|
| South Texas - Harris, Fort bend, Waller, Montgomery Counties | | |
| 5-RSI Residential Incorporated | November – May | .236675 |
| 5-RSU Residential Unincorporated | November – May | .236675 |
| Central Texas – Travis County | | |
| 5-RSI Residential Incorporated | November – May | .175357 |
| 5-RSU Residential Unincorporated | November – May | .175357 |

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule WNA

RATE WNA – WEATHER NORMALIZATION ADJUSTMENT

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery
counties

Effective Date: July 1, 2018

Page 3 of 3

Monthly Report

By the 25th day of the following month, the Company will file with the applicable Regulatory Authority a monthly report showing the current rate adjustments applicable to each rate schedule. Supporting documentation will be made available for review upon request.

Taxes and Franchise Fees (Rate Schedule TFF)

Subject to all applicable taxes and fees in accordance with the provisions of Rate Schedule TFF – Taxes and Franchise Fees.

Compliance

The Company shall file a reconciliation report on or before October 1st of each year. The Company shall file the report with the Commission addressed to the Director of Oversight and Safety Division and referencing Gas Utilities Docket No. 10679. The report shall be in Excel and shall show how the company calculated the WNA factor during the preceding winter season. If the report reflects either an over recovery or under recovery of revenues in any rate class, such amount if any, shall be prorated to each billing cycle route based on the volumes of each billing cycle route during the preceding winter season and divided by 7 (the number of months in the WNA season). Reports for the Commission should be filed electronically at GUD_Compliance@rrc.texas.gov or at the following address:

Compliance Filing
Oversight and Safety Division
Gas Services Dept.
Railroad Commission of Texas
P.O. Drawer 12967
Austin, TX 78711-2967

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule RCE-U

RATE RCE-U – RATE CASE EXPENSES

Applicable to: All Customers located in Unincorporated Areas of Travis, Harris, Fort Bend,
Waller, or Montgomery counties.
Effective Date: July 1, 2018 Page 1 of 1

Application of Schedule

This Rate Schedule shall apply to all Customers located in unincorporated areas of Travis, Harris, Fort Bend, Waller, or Montgomery counties.

Monthly RCE-U Rate

All Ccf during each billing period \$0.0119 per Ccf

This schedule is for the recovery of rate case expenses and shall be in effect beginning on July 1, 2018, for an approximate thirty-six (36) month period or until all approved expenses are collected. SiEnergy will recover \$258,944.09 in actual expenses and up to 43,674.45 in estimated expenses, not to exceed the total of final actual rate case expenses incurred.

The RCE-U will be billed as a separate line item on the Customer's bill.

Taxes and Franchise Fees (Rate Schedule TFF)

Subject to all applicable taxes and fees in accordance with the provisions of Rate Schedule TFF – Taxes and Franchise Fees.

Compliance

SiEnergy shall file a reconciliation report on or before July 1st of each year, commencing in 2019. The Company shall file the report with the Commission addressed to the Director of Oversight and Safety Division and reference Gas Utilities Docket No. 10679. The report shall detail the monthly collections for RCE-U surcharge by customer class and show the outstanding balance. Reports for the Commission should be filed electronically at GUD_Compliance@rrc.texas.gov or at the following address:

Compliance Filing
Oversight and Safety Division
Gas Services Dept.
Railroad Commission of Texas
P.O. Drawer 12967
Austin, TX 78711-2967

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule PSF

RATE PSF – PIPELINE SAFETY FEE

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery
counties

Effective Date: July 1, 2018

Page 1 of 1

Application of Schedule

Applicable to all Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery counties.
except state agencies, as defined in Texas Utilities Code, Section 101.003.

Monthly calculation

The Company will charge a surcharge to recover pipeline safety fees assessed by the Commission pursuant to Section 121.211 of the Texas Utilities Code and Commission Rule 16 Texas Administrative Code § 8.201.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule TFF

RATE TFF – TAXES AND FRANCHISE FEES

Applicable to: All Customers located in Travis, Harris, Fort Bend, Waller, or Montgomery
counties

Effective Date: July 1, 2018

Page 1 of 1

Application of Schedule

This Rate Schedule shall apply to all SiEnergy Rate Schedules that incorporate this Rate TFF provision.

Taxes (Does Not Include City Franchise Fees)

In addition to the monthly charges billed to each Customer under each Rate Schedule applicable to that Customer, Customers shall reimburse the Company for their proportionate part of any tax, charge, impost, assessment or fee of whatever kind and by whatever name (except ad valorem taxes, payroll taxes, and income taxes) levied upon the Company by any governmental authority under any law, rule, regulation, ordinance, or agreement (hereinafter referred to as “the Taxes”). If the law, rule, regulation, ordinance, or agreement levying the Tax specifies a method of collection from Customers, then the method so specified shall be utilized provided such method results in the collection of the Taxes from the Customers equal to the Taxes levied on the Company. If no method of collection is specified, then the Company shall collect an amount calculated as a percentage of the Customers’ bills applicable directly to those Customers located solely within the jurisdiction imposing the Taxes and/or within the jurisdiction where the Taxes are applicable. The percentage shall be determined so that the collection from Customers within the Company’s different legal jurisdictions (municipal or otherwise defined) is equal to the Taxes levied on the Company after allowing for the Taxes applicable to those collections. The initial Tax Adjustment Rate shall be based on the Taxes that are levied upon the Company on the effective date of this Rate Schedule. The Company will initiate a new or changed Tax Adjustment Rate beginning with the billing cycle immediately following the effective date of the new or changed Tax as specified by the applicable law, rule, regulation, ordinance, or agreement, provided that the Company has the Customer billing data necessary to bill and collect the Tax. If at any time there is a significant change that will cause an unreasonable over- or under-collection of the Taxes, the Company will adjust the Tax Adjustment Rate so that such over- or under-collection will be minimized. The Tax Adjustment Rate (calculated on a per Ccf or per Mcf basis, as appropriate) shall be reported to the applicable governmental authority by the last business day of the month in which the Tax Adjustment Rate became effective.

City Franchise Fees

In addition to the monthly charges billed to each Customer under each Rate Schedule applicable to that Customer, and in addition to the Taxes billed to each Customer as defined above, the monthly bill for Customers who are located inside the corporate limits of an incorporated municipality that imposes a municipal franchise fee upon Company for the Gas Service provided to Customer shall reimburse the Company for an amount equal to the municipal franchise fees payable for the Gas Service provided to the Customer by Company. Municipal franchise fees are determined by each municipality’s franchise ordinance. Each municipality’s franchise ordinance will specify the percentage and applicability of franchise fees. Customers located in unincorporated areas will not be assessed a City Franchise Fee.

**TARIFF FOR GAS SERVICE
SIENERGY, LP**

Rate Schedule QSR

SCHEDULE QSR – QUALITY OF SERVICE RULES

Applicable to: Entire System
Effective Date: November 13, 2008

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Application of Schedule

Applicable to all Customer classes in all areas. At a minimum, SiEnergy shall adhere to the Quality of Service requirements in the Railroad Commission of Texas Substantive Rules, Section 7.45.

Texas Administrative Code
TITLE 16
ECONOMIC REGULATION
PART 1
RAILROAD COMMISSION OF TEXAS
CHAPTER 7
GAS SERVICES DIVISION
SUBCHAPTER B
SPECIAL PROCEDURAL RULES
RULE §7.45 Quality of Service

For gas utility service to residential and small commercial Customers, the following minimum service standards shall be applicable in unincorporated areas. In addition, each gas distribution utility is ordered to amend its service rules to include said minimum service standards within the utility service rules applicable to residential and small commercial Customers within incorporated areas, but only to the extent that said minimum service standards do not conflict with standards lawfully established within a particular municipality for a gas distribution utility. Said gas distribution utility shall file service rules incorporating said minimum service standards with the Railroad Commission and with the municipalities in the manner prescribed by law.

(1) Continuity of service.

(A) Service interruptions.

(i) Every gas utility shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility shall reestablish service within the shortest possible time consistent with prudent operating principles so that the smallest number of Customers are affected.

(ii) Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of an emergency in order to prevent or mitigate interruption or impairment of service.

(iii) In the event of national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other Customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.

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(B) Record of interruption. Except for momentary interruptions which do not cause a major disruption of service, each utility shall keep a complete record of all interruptions, both emergency and scheduled. This record shall show the cause of interruptions, date, time duration, location, approximate number of Customers affected, and, in cases of emergency interruptions, the remedy and steps taken to prevent recurrence.

(C) Report to commission. The commission shall be notified in writing within 48 hours of interruptions in service affecting the entire system or any major division thereof lasting more than four hours. The notice shall also state the cause of such interruptions. If any service interruption is reported to the commission otherwise (for example, as a curtailment report or safety report), such other report is sufficient to comply with the terms of this paragraph.

(2) Customer relations.

(A) Information to Customers. Each utility shall:

- (i) maintain a current set of maps showing the physical locations of its facilities. All distribution facilities shall be labeled to indicate the size or any pertinent information which will accurately describe the utility's facilities. These maps, or such other maps as may be required by the regulatory authority, shall be kept by the utility in a central location and will be available for inspection by the regulatory authority during normal working hours. Each business office or service center shall have available up-to-date maps, plans, or records of its immediate area, with such other information as may be necessary to enable the utility to advise applicants and others entitled to the information as to the facilities available for serving that locality;
- (ii) assist the Customer or applicant in selecting the most economical rate schedule;
- (iii) in compliance with applicable law or regulations, notify Customers affected by a change in rates or schedule or classification;
- (iv) post a notice in a conspicuous place in each business office of the utility where applications for service are received informing the public that copies of the rate schedules and rules relating to the service of the utility as filed with the commission are available for inspection;
- (v) upon request inform its Customers as to the method of reading meters;
- (vi) provide to new Customers, at the time service is initiated or as an insert in the first billing, a pamphlet or information packet containing the following information. This information shall be provided in English and Spanish as necessary to adequately inform the Customers; provided, however, the regulatory authority upon application and a showing of good cause may exempt the utility from the requirement that the information be provided in Spanish:

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(I) the Customer's right to information concerning rates and services and the Customer's right to inspect or obtain at reproduction cost a copy of the applicable tariffs and service rules.

(II) the Customer's right to have his or her meter checked without charge under paragraph (7) of this section, if applicable;

(III) the time allowed to pay outstanding bills;

(IV) grounds for termination of service;

(V) the steps the utility must take before terminating service;

(VI) how the Customer can resolve billing disputes with the utility and how disputes and health emergencies may affect termination of service;

(VII) information on alternative payment plans offered by the utility;

(VIII) the steps necessary to have service reconnected after involuntary termination;

(IX) the appropriate regulatory authority with whom to register a complaint and how to contact such authority;

(X) the hours, addresses, and telephone numbers of utility offices where bills may be paid and information may be obtained; and

(XI) the Customer's right to be instructed by the utility how to read his or her meter;

(vii) at least once each calendar year, notify Customers that information is available upon request, at no charge to the Customer, concerning the items listed in clause (vi)(I) - (XI) of this subparagraph. This notice may be accomplished by use of a billing insert or a printed statement upon the bill itself.

(B) Customer complaints. Upon complaint to the utility by residential or small commercial Customers either at its office, by letter, or by telephone, the utility shall promptly make a suitable investigation and advise the complainant of the results thereof. It shall keep a record of all complaints which shall show the name and address of the complainant, the date and nature of the complaint, and the adjustment or disposition thereof for a period of one year subsequent to the final disposition of the complaint.

(C) Utility response. Upon receipt of a complaint, either by letter or by telephone, from the regulatory authority on behalf of a Customer, the utility shall make a suitable investigation and advise the regulatory authority and complainant of the results thereof. An initial response must be made by the next working day. The utility must make a final and complete response within 15 days from the date of the complaint, unless additional time is granted within the 15-day period. The commission encourages all Customer complaints to be made in writing to assist the regulatory authority in maintaining records of the quality of service of each utility; however, telephone communications will be acceptable.

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(D) Deferred payment plan. The utility is encouraged to offer a deferred payment plan for delinquent residential accounts. If such a plan is offered, it shall conform to the following guidelines:

(i) Every deferred payment plan entered into due to the Customer's inability to pay the outstanding bill in full must provide that service will not be discontinued if the Customer pays current bills and a reasonable amount of the outstanding bill and agrees to pay the balance in reasonable installments until the bill is paid.

(ii) For purposes of determining reasonableness under these rules, the following shall be considered: size of delinquent account; Customer's ability to pay; Customer's payment history; time that the debt has been outstanding; reasons why debt has been outstanding; and other relevant factors concerning the circumstances of the Customer.

(iii) A deferred payment plan, if reduced to writing, offered by a utility shall state, immediately preceding the space provided for the Customer's signature and in bold-face print at least two sizes larger than any other used, that: "If you are not satisfied with this agreement, do not sign. If you are satisfied with this agreement, you give up your right to dispute the amount due under the agreement except for the utility's failure or refusal to comply with the terms of this agreement."

(iv) A deferred payment plan may include a one-time 5.0% penalty for late payment on the original amount of the outstanding bill with no prompt payment discount allowed except in cases where the outstanding bill is unusually high as a result of the utility's error (such as an inaccurately estimated bill or an incorrectly read meter). A deferred payment plan shall not include a finance charge.

(v) If a Customer for utility service has not fulfilled terms of a deferred payment agreement or refuses to sign the same if it is reduced to writing, the utility shall have the right to disconnect pursuant to disconnection rules herein and, under such circumstances, it shall not be required to offer a subsequent negotiation of a deferred payment agreement prior to disconnection.

(vi) Any utility which institutes a deferred payment plan shall not refuse a Customer participation in such a program on the basis of race, color, creed, sex, marital status, age, or any other form of discrimination prohibited by law.

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(E) Delayed payment of bills by elderly persons.

(i) Applicability. This subparagraph applies only to:

(I) a utility that assesses late payment charges on residential Customers and that suspends service before the 26th day after the date of the bill for which collection action is taken;

(II) utility bills issued on or after August 30, 1993; and

(III) an elderly person, as defined in clause (ii) of this subparagraph, who is a residential Customer and who occupies the entire premises for which a delay is requested.

(ii) Definitions.

(I) Elderly person--A person who is 60 years of age or older.

(II) Utility--A gas utility or municipally owned utility, as defined in Texas Utilities Code, §§101.003(7), 101.003(8), and 121.001 - 121.006.

(iii) An elderly person may request that the utility implement the delay for either the most recent utility bill or for the most recent utility bill and each subsequent utility bill.

(iv) On request of an elderly person, a utility shall delay without penalty the payment date of a bill for providing utility services to that person until the 25th day after the date on which the bill is issued.

(v) The utility may require the requesting person to present reasonable proof that the person is 60 years of age or older.

(vi) Every utility shall notify its Customers of this delayed payment option no less often than yearly. A utility may include this notice with other information provided pursuant to subparagraph (A) of this paragraph.

(3) Refusal of service.

(A) Compliance by applicant. Any utility may decline to serve an applicant for whom service is available from previously installed facilities until such applicant has complied with the state and municipal regulations and approved rules and regulations of the utility on file with the commission governing the service applied for or for the following reasons.

(i) Applicant's facilities inadequate. If the applicant's installation or equipment is known to be hazardous or of such character that satisfactory service cannot be given.

(ii) For indebtedness. If the applicant is indebted to any utility for the same kind of service as that applied for; provided, however, that in the event the indebtedness of the applicant for service is in dispute, the applicant shall be served upon complying with the applicable deposit requirement.

(iii) Refusal to make deposit. For refusal to make a deposit if applicant is required to make a deposit under these rules.

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(B) Applicant's recourse. In the event that the utility shall refuse to serve an applicant under the provisions of these rules, the utility must inform the applicant of the basis of its refusal and that the applicant may file a complaint with the municipal regulatory authority or commission, whichever is appropriate.

(C) Insufficient grounds for refusal to serve. The following shall not constitute sufficient cause for refusal of service to a present Customer or applicant:

- (i) delinquency in payment for service by a previous occupant of the premises to be served;
- (ii) failure to pay for merchandise or charges for nonutility service purchased from the utility;
- (iii) failure to pay a bill to correct previous underbilling due to misapplication of rates more than six months prior to the date of application;
- (iv) violation of the utility's rules pertaining to operation of nonstandard equipment or unauthorized attachments which interfere with the service of others unless the Customer has first been notified and been afforded reasonable opportunity to comply with these rules;
- (v) failure to pay a bill of another Customer as guarantor thereof unless the guarantee was made in writing to the utility as a condition precedent to service; and
- (vi) failure to pay the bill of another Customer at the same address except where the change of Customer identity is made to avoid or evade payment of a utility bill.

(4) Discontinuance of service.

(A) The due date of the bill for utility service shall not be less than 15 days after issuance, or such other period of time as may be provided by order of the regulatory authority. A bill for utility service is delinquent if unpaid by the due date.

(B) A utility may offer an inducement for prompt payment of bills by allowing a discount in the amount of 5.0% for payment of bills within 10 days after their issuance. This provision shall not apply where it conflicts with existing orders or ordinances of the appropriate regulatory authority.

(C) A Customer's utility service may be disconnected if the bill has not been paid or a deferred payment plan pursuant to paragraph (2)(D) of this section has not been entered into within five working days after the bill has become delinquent and proper notice has been given. Proper notice consists of a deposit in the United States mail, postage prepaid, or hand delivery to the Customer at least five working days prior to the stated date of disconnection, with the words "Termination Notice" or similar language prominently displayed on the notice.

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The notice shall be provided in English and Spanish as necessary to adequately inform the Customer, and shall include the date of termination, the hours, address, and telephone number where payment may be made, and a statement that if a health or other emergency exists, the utility may be contacted concerning the nature of the emergency and the relief available, if any, to meet such emergency.

(D) Utility service may be disconnected for any of the following reasons:

- (i) failure to pay a delinquent account or failure to comply with the terms of a deferred payment plan for installment payment of a delinquent account;
- (ii) violation of the utility's rules pertaining to the use of service in a manner which interferes with the service of others or the operation of nonstandard equipment, if a reasonable attempt has been made to notify the Customer and the Customer is provided with a reasonable opportunity to remedy the situation;
- (iii) failure to comply with deposit or guarantee arrangements where required by paragraph (5) of this section;
- (iv) without notice where a known dangerous condition exists for as long as the condition exists;
- (v) tampering with the utility company's meter or equipment or bypassing the same.

(E) Utility service may not be disconnected for any of the following reasons:

- (i) delinquency in payment for service by a previous occupant of the premises;
- (ii) failure to pay for merchandise or charges for nonutility service by the utility;
- (iii) failure to pay for a different type or class of utility service unless fee for such service is included on the same bill;
- (iv) failure to pay the account of another Customer as guarantor thereof, unless the utility has in writing the guarantee as a condition precedent to service;
- (v) failure to pay charges arising from an underbilling occurring due to any misapplication of rates more than six months prior to the current billings;
- (vi) failure to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due;
- (vii) failure to pay an estimated bill other than a bill rendered pursuant to an approved meter reading plan, unless the utility is unable to read the meter due to circumstances beyond its control.

(F) Unless a dangerous condition exists, or unless the Customer requests disconnection, service shall not be disconnected on a day, or on a day immediately preceding a day, when personnel of the utility are not available to the public for the purpose of making collections and reconnecting service.

(G) No utility may abandon a Customer without written approval from the regulatory authority.

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(H) No utility may discontinue service to a delinquent residential Customer permanently residing in an individually metered dwelling unit when that Customer establishes that discontinuance of service will result in some person residing at that residence becoming seriously ill or more seriously ill if the service is discontinued. Any Customer seeking to avoid termination of service under this section must make a written request supported by a written statement from a licensed physician. Both the request and the statement must be received by the utility not more than five working days after the date of delinquency of the bill. The prohibition against service termination provided by this section shall last 20 days from the date of receipt by the utility of the request and statement or such lesser period as may be agreed upon by the utility and the Customer. The Customer who makes such request shall sign an installment agreement which provides for payment of such service along with timely payments for subsequent monthly billings.

(5) Applicant deposit.

(A) Establishment of credit for residential applicants. Each utility may require a residential applicant for service to satisfactorily establish credit but such establishment of credit shall not relieve the Customer from complying with rules for prompt payment of bills. Subject to these rules, a residential applicant shall not be required to pay a deposit:

- (i) if the residential applicant has been a Customer of any utility for the same kind of service within the last two years and is not delinquent in payment of any such utility service account and during the last 12 consecutive months of service did not have more than one occasion in which a bill for such utility service was paid after becoming delinquent and never had service disconnected for nonpayment;
- (ii) if the residential applicant furnishes in writing a satisfactory guarantee to secure payment of bills for the service required; or
- (iii) if the residential applicant furnishes in writing a satisfactory credit rating by appropriate means, including, but not limited to, the production of generally acceptable credit cards, letters of credit reference, the names of credit references which may be quickly and inexpensively contacted by the utility, or ownership of substantial equity.

(B) Reestablishment of credit. Every applicant who has previously been a Customer of the utility and whose service has been discontinued for nonpayment of bills shall be required before service is rendered to pay all his amounts due the utility or execute a written deferred payment agreement, if offered, and reestablish credit as provided in subparagraph (A) of this paragraph.

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- (C) Amount of deposit and interest for residential service, and exemption from deposit.
- (i) Each gas utility shall waive any deposit requirement for residential service for an applicant who has been determined to be a victim of family violence as defined in Texas Family Code, §71.004, by a family violence center, by treating medical personnel, by law enforcement agency personnel, or by a designee of the Attorney General in the Crime Victim Services Division of the Office of the Attorney General. This determination shall be evidenced by the applicant's submission of a certification letter developed by the Texas Council on Family Violence and made available on its web site.
 - (ii) The required deposit shall not exceed an amount equivalent to one-sixth of the estimated annual billings. If actual use is at least twice the amount of the estimated billings, a new deposit requirement may be calculated and an additional deposit may be required within two days. If such additional deposit is not made, the utility may disconnect service under the standard disconnection procedure for failure to comply with deposit requirements.
 - (iii) All applicants for residential service who are 65 years of age or older will be considered as having established credit if such applicant does not have an outstanding account balance with the utility or another utility for the same utility service which accrued within the last two years. No cash deposit shall be required of such applicant under these conditions.
 - (iv) Each utility which requires deposits to be made by its Customers shall pay a minimum interest on such deposits according to the rate as established by law. If refund of deposit is made within 30 days of receipt of deposit, no interest payment is required. If the utility retains the deposit more than 30 days, payment of interest shall be made retroactive to the date of deposit.
 - (I) Payment of interest to the Customer shall be annually or at the time the deposit is returned or credited to the Customer's account.
 - (II) The deposit shall cease to draw interest on the date it is returned or credited to the Customer's account.
- (D) Deposits for temporary or seasonal service and for weekend or seasonal residences. The utility may require a deposit sufficient to reasonably protect it against the assumed risk, provided such a policy is applied in a uniform and nondiscriminatory manner.

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- (E) Records of deposits.
- (i) The utility shall keep records to show:
 - (I) the name and address of each depositor;
 - (II) the amount and date of the deposit; and
 - (III) each transaction concerning the deposit.
 - (ii) The utility shall issue a receipt of deposit to each applicant from whom a deposit is received and shall provide means whereby a depositor may establish claim if the receipt is lost.
 - (iii) A record of each unclaimed deposit must be maintained for at least four years, during which time the utility shall make a reasonable effort to return the deposit.
- (F) Refund of deposit.
- (i) If service is not connected or after disconnection of service, the utility shall promptly and automatically refund the Customer's deposit plus accrued interest on the balance, if any, in excess of the unpaid bills for service furnished. The transfer of service from one premise to another within the service area of the utility shall not be deemed a disconnection within the meaning of these rules, and no additional deposit may be demanded unless permitted by these rules.
 - (ii) When the Customer has paid bills for service for 12 consecutive residential bills without having service disconnected for nonpayment of bill and without having more than two occasions in which a bill was delinquent and when the Customer is not delinquent in the payment of the current bills, the utility shall promptly and automatically refund the deposit plus accrued interest to the Customer in the form of cash or credit to a Customer's account.
- (G) Upon sale or transfer of utility or company. Upon the sale or transfer of any public utility or operating units thereof, the seller shall file with the commission under oath, in addition to other information, a list showing the names and addresses of all Customers served by such utility or unit who have to their credit a deposit, the date such deposit was made, the amount thereof, and the unpaid interest thereon.
- (H) Complaint by applicant or Customer. Each utility shall direct its personnel engaged in initial contact with an applicant or Customer for service seeking to establish or reestablish credit under the provisions of these rules to inform the Customer, if dissatisfaction is expressed with the utility's decision, of the Customer's right to file a complaint with the regulatory authority thereon.

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(6) Billing.

(A) Bills for gas service shall be rendered monthly, unless otherwise authorized or unless service is rendered for a period less than a month. Bills shall be rendered as promptly as possible following the reading of meters.

(B) The Customer's bill must show all the following information. The information must be arranged and displayed in such a manner as to allow the Customer to compute his bill with the applicable rate schedule. The applicable rate schedule must be mailed to the Customer on request of the Customer. A utility may exhaust its present stock of nonconforming bill forms before compliance is required by this section:

- (i) if the meter is read by the utility, the date and reading of the meter at the beginning and end of the period for which rendered;
- (ii) the number and kind of units billed;
- (iii) the applicable rate schedule title or code;
- (iv) the total base bill;
- (v) the total of any adjustments to the base bill and the amount of adjustments per billing unit;
- (vi) the date by which the Customer must pay the bill to get prompt payment discount;
- (vii) the total amount due before and after any discount for prompt payment within a designated period;
- (viii) a distinct marking to identify an estimated bill.

(C) Where there is good reason for doing so, estimated bills may be submitted, provided that an actual meter reading is taken at least every six months. For the second consecutive month in which the meter reader is unable to gain access to the premises to read the meter on regular meter reading trips, or in months where meters are not read otherwise, the utility must provide the Customer with a postcard and request that the Customer read the meter and return the card to the utility if the meter is of a type that can be read by the Customer without significant inconvenience or special tools or equipment. If such a postcard is not received by the utility in time for billing, the utility may estimate the meter reading and render the bill accordingly.

(D) Disputed bills.

- (i) In the event of a dispute between the Customer and the utility regarding the bill, the utility must forthwith make such investigation as is required by the particular case and report the results thereof to the Customer. If the Customer wishes to obtain the benefits of clause (ii) of this subparagraph, notification of the dispute must be given to the utility prior to the date the bill becomes delinquent. In the event the dispute is not resolved, the utility shall inform the Customer of the complaint procedures of the appropriate regulatory authority.

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(ii) Notwithstanding any other subsection of this section, the Customer shall not be required to pay the disputed portion of the bill which exceeds the amount of that Customer's average usage for the billing period at current rates until the earlier of the following: resolution of the dispute or the expiration of the 60-day period beginning on the day the disputed bill is issued. For purposes of this section only, the Customer's average usage for the billing period shall be the average of the Customer's usage for the same billing period during the preceding two years. Where no previous usage history exists, the average usage shall be estimated on the basis of usage levels of similar Customers and under similar conditions.

(7) Meters.

(A) Meter requirements.

(i) Use of meter. All gas sold by a utility must be charged for by meter measurements, except where otherwise provided for by applicable law, regulation of the regulatory authority, or tariff.

(ii) Installation by utility. Unless otherwise authorized by the regulatory authority, each utility must provide and install and will continue to own and maintain all meters necessary for measurement of gas delivered to its Customers.

(iii) Standard type. No utility may furnish, set up, or put in use any meter which is not reliable and of a standard type which meets generally accepted industry standards; provided, however, special meters not necessarily conforming to such standard types may be used for investigation, testing, or experimental purposes.

(B) Meter records. Each utility must keep the following records:

(i) Meter equipment records. Each utility must keep a record of all its meters, showing the Customer's address and date of the last test.

(ii) Records of meter tests. All meter tests must be properly referenced to the meter record provided for therein. The record of each test made on request of a Customer must show the identifying number and constants of the meter, the standard meter and other measuring devices used, the date and kind of test made, by whom made, the error (or percentage of accuracy) at each load tested, and sufficient data to permit verification of all calculations.

(iii) Meter readings--meter unit location. In general, each meter must indicate clearly the units of service for which charge is made to the Customer.

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(iv) Meter tests on request of Customer.

(I) Each utility must, upon request of a Customer, make a test of the accuracy of the meter serving that Customer. The utility must inform the Customer of the time and place of the test and permit the Customer or his authorized representative to be present if the Customer so desires. If no such test has been performed within the previous four years for the same Customer at the same location, the test is to be performed without charge. If such a test has been performed for the same Customer at the same location within the previous four years, the utility is entitled to charge a fee for the test not to exceed \$15 or such other fee for the testing of meters as may be set forth in the utility's tariff properly on file with the regulatory authority. The Customer must be properly informed of the result of any test on a meter that serves him.

(II) Notwithstanding subclause (I) of this clause, if the meter is found to be more than nominally defective, to either the Customer's or the utility's disadvantage, any fee charged for a meter test must be refunded to the Customer. More than nominally defective means a deviation of more than 2.0% from accurate registration.

(v) Bill adjustments due to meter error.

(I) If any meter test reveals a meter to be more than nominally defective, the utility must correct previous readings consistent with the inaccuracy found in the meter for the period of either:

(-a-) the last six months; or

(-b-) the last test of the meter, whichever is shorter. Any resulting underbillings or overbillings are to be corrected in subsequent bills, unless service is terminated, in which event a monetary adjustment is to be made. This requirement for a correction may be foregone by the utility if the error is to the utility's disadvantage.

(II) If a meter is found not to register for any period of time, the utility may make a charge for units used but not metered for a period not to exceed three months previous to the time the meter is found not to be registering. The determination of amounts used but not metered is to be based on consumption during other like periods by the same Customer at the same location, when available, and on consumption under similar conditions at the same location or of other similarly situated Customers, when not available.

(8) New construction.

(A) Standards of construction. Each utility is to construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with the provisions of such codes and standards as are generally accepted by the industry, as modified by rule or regulation of the regulatory authority or otherwise by law, and in such manner to best accommodate the public and to prevent interference with service furnished by other public utilities insofar as practical.

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(B) Line extension and construction charges. Every utility must file its extension policy. The policy must be consistent, nondiscriminatory, and is subject to the approval of the regulatory authority. No contribution in aid of construction may be required of any Customer except as provided for in extension policy.

(C) Response to request for service. Every gas utility must serve each qualified applicant for service within its service area as rapidly as practical. As a general policy, those applications not involving line extensions or new facilities should be filled within seven working days. Those applications for individual residential service requiring line extensions should be filled within 90 days unless unavailability of materials or other causes beyond the control of the utility result in unavoidable delays. In the event that residential service is delayed in excess of 90 days after an applicant has met credit requirements and made satisfactory arrangements for payment of any required construction charges, a report must be made to the regulatory authority listing the name of the applicant, location, and cause for delay. Unless such delays are due to causes which are reasonably beyond the control of the utility, a delay in excess of 90 days may be found to constitute a refusal to serve.



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

May 7, 2018

To: Mayor and City Council
Agenda Item: 7(b)(2) Name change from "Finance Department" to "Financial Services Department"
Submitted by: James Santangelo, Assistant City Attorney

SYNOPSIS

This ordinance changes the name of the Finance Department to the Financial Services Department throughout the Missouri City Code.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Develop a high performance City team.

BACKGROUND

On December 12, 2016, the 2016 Missouri City Charter Review Commission released its final report containing recommendations to revise the Charter of the City of Missouri City. One such proposed revision was a unanimous recommendation to change the name of the City Finance Department to the Financial Services Department in the Charter. Pursuant to such recommendation, 79.9% of Missouri City voters in the November 7, 2017 election voted to enact the proposed change. This Ordinance makes all references to the City Finance Department consistent with the Charter's establishment of the Financial Services Department throughout the Missouri City Code.

BUDGET/FISCAL ANALYSIS

None.

SUPPORTING MATERIALS

1. Ordinance
2. Document showing changes

STAFF'S RECOMMENDATION

Staff recommends that the City Council adopt the Ordinance.

Assistant City Attorney Approval: James Santangelo

City Attorney Approval: E. Joyce Iyamu

ORDINANCE NO. O-18-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING CHAPTER 2, ADMINISTRATION; CHAPTER 34, FINANCE AND TAXATION; AND CHAPTER 82, SUBDIVISIONS, OF THE MISSOURI CITY CODE; CHANGING THE NAME OF THE CITY FINANCE DEPARTMENT; PROVIDING FOR REPEAL; PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, in the City of Missouri City's November 7, 2017 general and special election, a majority of Missouri City voters voted in favor Proposition No. F, amending the Charter of the City of Missouri City to change the name of the "Finance Department" to the "Financial Services Department"; and

WHEREAS, the City Council of the City of Missouri City desires to amend all references to the "Finance Department" in the Missouri City Code pursuant to the results of such election; now therefore,

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

Section 1. The facts and recitals set forth in the preamble of this Ordinance are hereby found to be true and correct and are in all things incorporated herein and made a part hereof.

Section 2. The Missouri City Code is hereby amended by deleting Section 2-161 of Article IV of Chapter 2 thereof and substituting therefor a new Section 2-161 of Article IV of Chapter 2 to provide as follows:

"CHAPTER 2 – ADMINISTRATION

. . . .

ARTICLE IV. – ADMINISTRATIVE DEPARTMENTS

Sec. 2-161. – Financial Services Department.

A financial services department is hereby established to manage the finances of the city."

Section 3. The Missouri City Code is hereby amended by deleting Section 2-267 of Division 2 of Article VI of Chapter 2 thereof and substituting therefor a new Section 2-267 of Division 2 of Article VI of Chapter 2 to provide as follows:

"CHAPTER 2 – ADMINISTRATION

. . . .

ARTICLE VI. – PUBLIC RECORDS

. . . .

Division 2. – Records management

. . . .

Sec. 2-267. - Records management committee established; duties.

A records management committee consisting of the records management officer, city manager, director of financial services and city attorney is hereby established. The committee shall:

- (1) Assist the records management officer in the development of policies and procedures governing the records management program;
- (2) Review the performance of the program on a regular basis and propose changes and improvements if needed;
- (3) Review and approve records control schedules submitted by the records management officer;
- (4) Give final approval to the destruction of records in accordance with approved records control schedules; and
- (5) Actively support and promote the records management program throughout the city.”

Section 4. The Missouri City Code is hereby amended by deleting Section 34-1 of Article I of Chapter 34 thereof and substituting therefor a new Section 34-1 of Article I of Chapter 34 to provide as follows:

“Chapter 34 - FINANCE AND TAXATION

ARTICLE I. - IN GENERAL

Sec. 34-1. - Duties of tax assessor and collector; deputies; receipt of taxes and other moneys.

(a) The tax assessor and collector, or his authorized deputies, shall perform all duties and responsibilities as are required of them by the laws of the state and the Charter, and all duties prescribed and specified in existing state laws, this Code and all other ordinances of the city, including those hereafter passed, providing for the rendition and assessment of property in the city for taxes. The deputies shall do and perform all the duties imposed upon and required of the assessor and collector of taxes, and their acts in reference to any of the matters referred to in this section shall be as authoritative and binding as though performed by the assessor and collector in person.

(b) The tax assessor and collector shall be the receiver and collector of all taxes levied and assessed by the city, all other moneys due and owed to the city, unless other provision is made for such collection and receipt by law or ordinance, and all of the fees and moneys

collected by any officer, department or employee of the city for, on behalf of, or for the benefit of the city. The tax assessor and collector shall pay over daily to the city financial services department all moneys received and collected by him and shall take the receipt of the financial services officer therefor.”

Section 5. The Missouri City Code is hereby amended by deleting Sections 34-181 and 34-182 of Division 1 of Article V of Chapter 34 thereof and substituting therefor new Sections 34-181 and 34-182 of Division 1 of Article V of Chapter 34 to provide as follows:

“Chapter 34 - FINANCE AND TAXATION

. . . .

ARTICLE V. - MUNICIPAL HOTEL OCCUPANCY TAX

DIVISION 1. - GENERALLY

Sec. 34-181. - Definitions.

The following words, terms and phrases are defined as follows:

Director of financial services means the director of financial services or his designee.

Hotel means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodginghouse, inn, roominghouse, or bed and breakfast. The term "hotel" does not include:

- (1) A hospital, sanitarium, or nursing home; or
- (2) A dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by V.C.T.A., Education Code § 61.003, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution.

Operator means any person who owns, operates, manages or controls any hotel.

Permanent resident means a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for the period.

Quarterly period means a calendar quarter of the year, as follows: the first quarterly period being the months of July, August, and September; the second quarterly period being the months of October, November, and December; the third quarterly period being the months of January, February, and March; and the fourth quarterly period being the months of April, May, and June.

Sec. 34-182. - Director of financial services duties and power to establish rules and regulations.

(a) The director of financial services shall administer and enforce the provisions of this article.

(b) The director of financial services shall provide a receipt, a certificate, or a statement regarding payment of the municipal hotel occupancy tax pursuant to V.C.T.A., Tax Code § 351.0041, as it exists and as it may be amended from time to time.

(c) The director of financial services shall have the power to make such rules and regulations as are reasonable and necessary to collect the municipal hotel occupancy tax levied by this article and to collect tax reports required to be filed pursuant to this article.”

Section 6. The Missouri City Code is hereby amended by deleting Sections 34-199, 34-200, and 34-201 of Division 2 of Article V of Chapter 34 thereof and substituting therefor new Sections 34-199, 34-200, and 34-201 of Division 2 of Article V of Chapter 34 to provide as follows:

“Chapter 34 - FINANCE AND TAXATION

. . . .

ARTICLE V. - MUNICIPAL HOTEL OCCUPANCY TAX

. . . .

DIVISION 2. – TAX LEVIED

. . . .

Sec. 34-199. - Tax reports to director of financial services.

(a) Every operator shall file a tax report for each quarterly period in a form prescribed by the director of financial services. Such tax report shall be filed at the same time the corresponding tax is submitted. The tax report shall include, in addition to any other information the director of financial services may require, the following information for the quarterly period:

- (1) The name and physical address of the hotel;
- (2) The name, mailing address and phone number of the operator;
- (3) The price paid for all rooms subject to the tax in the preceding quarter;
- (4) The amount of the municipal hotel occupancy tax required to be collected by the operator; and

(5) The amount of the municipal hotel occupancy tax actually collected by the operator.

(b) At the time of a filing of a tax report, every operator shall also submit to the director of financial services a copy of all state hotel occupancy tax reports filed with the state comptroller during the quarterly period for which the municipal hotel occupancy tax report is filed.

Sec. 34-200. - Access to records.

The director of financial services shall have the authority to require an operator to provide documentation regarding information contained in a tax report filed pursuant to this article in order to verify the information provided in such tax report and to verify the amount of municipal hotel occupancy taxes due. Upon such request of the director of financial services, an operator shall do one of the following:

- (1) Produce all records requested by the director of financial services and deliver such records to the director of financial services in a form acceptable to the director of financial services; or
- (2) Make all records requested by the director of financial services available for inspection during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

Sec. 34-201. - Appeal of tax.

(a) Upon a determination by the director of financial services that an operator has not paid the full amount of the municipal hotel occupancy tax due, the director of financial services shall notify such operator in writing of such deficiency and of the operator's right to appeal the determination. Such notice shall be sent by first class mail.

(b) Upon receipt of written notice of a determination by the director of financial services that a balance is due for the municipal hotel occupancy tax, the operator may either pay the amount due or appeal in writing to the city manager.

- (1) An appeal must be filed within 30 days after receipt of the notice of determination from the director of financial services.
- (2) The city manager shall grant or deny the appeal and shall notify the operator of his decision in a written notice sent by first class mail within 30 days of receiving the request.”

Section 7. The Missouri City Code is hereby amended by deleting Section 34-216 of Division 3 of Article V of Chapter 34 thereof and substituting therefor a new Section 34-216 of Division 3 of Article V of Chapter 34 to provide as follows:

“Chapter 34 - FINANCE AND TAXATION

. . . .

ARTICLE V. - MUNICIPAL HOTEL OCCUPANCY TAX

. . . .

DIVISION 3. - PENALTIES

Sec. 34-216. - Offense.

(a) It shall be unlawful for an operator to fail to render payment to the director of financial services of the municipal hotel occupancy tax levied by this article when such tax is due.

(b) It shall be unlawful for an operator to fail to file a tax report or a copy of any tax report with the director of financial services as required by this article.

(c) It shall be unlawful for an operator to file a false tax report, a copy of any false tax report, or a false copy of any tax report with the director of financial services.”

Section 8. The Missouri City Code is hereby amended by deleting subsection 82-174(c) of Article III of Chapter 82 thereof and substituting therefor a new subsection 82-174(c) of Article III of Chapter 82 to provide as follows:

“CHAPTER 82 – SUBDIVISIONS

. . . .

ARTICLE III. – STANDARDS AND SPECIFICATIONS

. . . .

Sec. 82-174. - Dedication of land for neighborhood parks; reservation of land for public uses.

. . . .

(c) Escrow in lieu of dedication of land. Subject to city council approval, the developer of a project which has received conceptual plan approval that provides for dedication of parkland outside of the area currently being platted may, in lieu of the dedication of parkland by the current plat, elect to reserve parkland for future dedication in subsequent phases of development by paying into a city escrow fund a dollar amount equal to the fees in lieu of dedication otherwise due for the phase that is part of the current plat in the amount set forth in subsection (e)(3) of this section. The provisions of the escrow agreement shall be approved by the city attorney and city financial services director. The escrow funds must be paid to the city prior to the filing of the first phase final plat and shall be maintained in the escrow fund pending the platting of the project phase that contains the parkland to be dedicated. Escrow funds will be returned to the developer, without interest, upon the filing of the final plat for the subsequent phase that dedicates the required parkland. Such money in escrow shall guarantee that the developer will dedicate the amount of land required by subsection (b) of this section in the park area designated in the conceptual plan within three years after the date of the placement of such money

into escrow. If such parkland has not been dedicated by this third anniversary date, the city shall be entitled to transfer such escrow funds into the appropriate park land dedication fund as a cash payment in lieu of land or allow the developer to extend the deadline for dedication of such park land to a date designated by the city. Alternatively, the developer may elect to record upon the final plat the following notation: "No building or other permit, except permits for construction of public improvements, will be issued by the City of Missouri City, Texas, for construction within the subdivision until such time as the escrow of funds required under the provisions of subsection (c) of section 82-174 of the Code of Ordinances of the City of Missouri City, Texas, has been submitted to and accepted by the city." If the developer places this notation upon the final recorded plat of the subdivision in lieu of paying the money into escrow, the city shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as the appropriate amount of money is placed into escrow in accordance with the requirements of subsection (c) of this section and as accepted by the city."

Section 9. 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 10. Penalty. Any person who violates, or any person who causes or allows another person to violate, any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense.

Section 11. 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 ____ day of _____, 2018.

PASSED, APPROVED and ADOPTED on second and final reading this ____ day of _____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

CHAPTER 2 – ADMINISTRATION

. . . .

ARTICLE IV. – ADMINISTRATIVE DEPARTMENTS

Sec. 2-161. – ~~Finace~~ Financial Services Department.

A ~~finance~~ financial services department is hereby established to manage the finances of the city.

. . . .

ARTICLE VI. – PUBLIC RECORDS

. . . .

Division 2. – Records management

. . . .

Sec. 2-267. - Records management committee established; duties.

A records management committee consisting of the records management officer, city manager, director of ~~finance~~ financial services and city attorney is hereby established. The committee shall:

- (1) Assist the records management officer in the development of policies and procedures governing the records management program;
- (2) Review the performance of the program on a regular basis and propose changes and improvements if needed;
- (3) Review and approve records control schedules submitted by the records management officer;
- (4) Give final approval to the destruction of records in accordance with approved records control schedules; and
- (5) Actively support and promote the records management program throughout the city.

Chapter 34 - FINANCE AND TAXATION

ARTICLE I. - IN GENERAL

Sec. 34-1. - Duties of tax assessor and collector; deputies; receipt of taxes and other moneys.

(a) The tax assessor and collector, or his authorized deputies, shall perform all duties and responsibilities as are required of them by the laws of the state and the Charter, and all duties prescribed and specified in existing state laws, this Code and all other ordinances

of the city, including those hereafter passed, providing for the rendition and assessment of property in the city for taxes. The deputies shall do and perform all the duties imposed upon and required of the assessor and collector of taxes, and their acts in reference to any of the matters referred to in this section shall be as authoritative and binding as though performed by the assessor and collector in person.

(b) The tax assessor and collector shall be the receiver and collector of all taxes levied and assessed by the city, all other moneys due and owed to the city, unless other provision is made for such collection and receipt by law or ordinance, and all of the fees and moneys collected by any officer, department or employee of the city for, on behalf of, or for the benefit of the city. The tax assessor and collector shall pay over daily to the city ~~finance~~financial services department all moneys received and collected by him and shall take the receipt of the ~~finance~~financial services officer therefor.

. . . .

ARTICLE V. - MUNICIPAL HOTEL OCCUPANCY TAX

DIVISION 1. - GENERALLY

Sec. 34-181. - Definitions.

The following words, terms and phrases are defined as follows:

Director of ~~finance~~financial services means the director of ~~finance~~financial services or his designee.

Hotel means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodginghouse, inn, roominghouse, or bed and breakfast. The term "hotel" does not include:

- (1) A hospital, sanitarium, or nursing home; or
- (2) A dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by V.C.T.A., Education Code § 61.003, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution.

Operator means any person who owns, operates, manages or controls any hotel.

Permanent resident means a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for the period.

Quarterly period means a calendar quarter of the year, as follows: the first quarterly period being the months of July, August, and September; the second quarterly period being the months of October, November, and December; the third quarterly period being the months

of January, February, and March; and the fourth quarterly period being the months of April, May, and June.

Sec. 34-182. - Director of ~~finance~~financial services duties and power to establish rules and regulations.

(a) The director of ~~finance~~financial services shall administer and enforce the provisions of this article.

(b) The director of ~~finance~~financial services shall provide a receipt, a certificate, or a statement regarding payment of the municipal hotel occupancy tax pursuant to V.C.T.A., Tax Code § 351.0041, as it exists and as it may be amended from time to time.

(c) The director of ~~finance~~financial services shall have the power to make such rules and regulations as are reasonable and necessary to collect the municipal hotel occupancy tax levied by this article and to collect tax reports required to be filed pursuant to this article.

DIVISION 2. – TAX LEVIED

. . . .

Sec. 34-199. - Tax reports to director of ~~finance~~financial services.

(a) Every operator shall file a tax report for each quarterly period in a form prescribed by the director of ~~finance~~financial services. Such tax report shall be filed at the same time the corresponding tax is submitted. The tax report shall include, in addition to any other information the director of ~~finance~~financial services may require, the following information for the quarterly period:

- (1) The name and physical address of the hotel;
- (2) The name, mailing address and phone number of the operator;
- (3) The price paid for all rooms subject to the tax in the preceding quarter;
- (4) The amount of the municipal hotel occupancy tax required to be collected by the operator; and
- (5) The amount of the municipal hotel occupancy tax actually collected by the operator.

(b) At the time of a filing of a tax report, every operator shall also submit to the director of ~~finance~~financial services a copy of all state hotel occupancy tax reports filed with the state comptroller during the quarterly period for which the municipal hotel occupancy tax report is filed.

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Sec. 34-200. - Access to records.

The director of ~~finance~~financial services shall have the authority to require an operator to provide documentation regarding information contained in a tax report filed pursuant to this article in order to verify the information provided in such tax report and to verify the amount of municipal hotel occupancy taxes due. Upon such request of the director of ~~finance~~financial services, an operator shall do one of the following:

- (1) Produce all records requested by the director of ~~finance~~financial services and deliver such records to the director of ~~finance~~financial services in a form acceptable to the director of ~~finance~~financial services; or
- (2) Make all records requested by the director of ~~finance~~financial services available for inspection during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

Sec. 34-201. - Appeal of tax.

(a) Upon a determination by the director of ~~finance~~financial services that an operator has not paid the full amount of the municipal hotel occupancy tax due, the director of ~~finance~~financial services shall notify such operator in writing of such deficiency and of the operator's right to appeal the determination. Such notice shall be sent by first class mail.

(b) Upon receipt of written notice of a determination by the director of ~~finance~~financial services that a balance is due for the municipal hotel occupancy tax, the operator may either pay the amount due or appeal in writing to the city manager.

- (1) An appeal must be filed within 30 days after receipt of the notice of determination from the director of ~~finance~~financial services.
- (2) The city manager shall grant or deny the appeal and shall notify the operator of his decision in a written notice sent by first class mail within 30 days of receiving the request.

DIVISION 3. - PENALTIES

Sec. 34-216. - Offense.

(a) It shall be unlawful for an operator to fail to render payment to the director of ~~finance~~financial services of the municipal hotel occupancy tax levied by this article when such tax is due.

(b) It shall be unlawful for an operator to fail to file a tax report or a copy of any tax report with the director of ~~finance~~financial services as required by this article.

(c) It shall be unlawful for an operator to file a false tax report, a copy of any false tax report, or a false copy of any tax report with the director of ~~finance~~financial services.

. . . .

CHAPTER 82 – SUBDIVISIONS

. . . .

ARTICLE III. – STANDARDS AND SPECIFICATIONS

. . . .

Sec. 82-174. - Dedication of land for neighborhood parks; reservation of land for public uses.

. . . .

(c) Escrow in lieu of dedication of land. Subject to city council approval, the developer of a project which has received conceptual plan approval that provides for dedication of parkland outside of the area currently being platted may, in lieu of the dedication of parkland by the current plat, elect to reserve parkland for future dedication in subsequent phases of development by paying into a city escrow fund a dollar amount equal to the fees in lieu of dedication otherwise due for the phase that is part of the current plat in the amount set forth in subsection (e)(3) of this section. The provisions of the escrow agreement shall be approved by the city attorney and city ~~finance~~financial services director. The escrow funds must be paid to the city prior to the filing of the first phase final plat and shall be maintained in the escrow fund pending the platting of the project phase that contains the parkland to be dedicated. Escrow funds will be returned to the developer, without interest, upon the filing of the final plat for the subsequent phase that dedicates the required parkland. Such money in escrow shall guarantee that the developer will dedicate the amount of land required by subsection (b) of this section in the park area designated in the conceptual plan within three years after the date of the placement of such money into escrow. If such parkland has not been dedicated by this third anniversary date, the city shall be entitled to transfer such escrow funds into the appropriate park land dedication fund as a cash payment in lieu of land or allow the developer to extend the deadline for dedication of such park land to a date designated by the city. Alternatively, the developer may elect to record upon the final plat the following notation: "No building or other permit, except permits for construction of public improvements, will be issued by the City of Missouri City, Texas, for construction within the subdivision until such time as the escrow of funds required under the provisions of subsection (c) of section 82-174 of the Code of Ordinances of the City of Missouri City, Texas, has been submitted to and accepted by the city." If the developer places this notation upon the final recorded plat of the subdivision in lieu of paying the money into escrow, the city shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as the appropriate amount of money is placed into escrow in accordance with the requirements of subsection (c) of this section and as accepted by the city.



**Council Agenda Item
May 7, 2018**

8. **APPOINTMENTS** – *There are no Appointments on this agenda.*
 9. **AUTHORIZATIONS** – *There are no Authorizations on this agenda.*
-



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

May 7, 2018

To: Mayor and City Council
Agenda Item: 10(a) Amendment to Ordinance regulating the use of wireless communication devices while driving
Submitted by: James Santangelo, Assistant City Attorney

SYNOPSIS

This ordinance resolves any inconsistencies between the City's current ordinance governing wireless communication devices and current state law.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live.

BACKGROUND

During the 2016 legislative session, the 85th Texas Legislature voted to adopt House Bill 62, which, among other things, prohibited the use of wireless communication devices to send, write, or read electronic messages while operating a motor vehicle. Such bill states that the new state law preempts local ordinances, rules, and regulations pertaining to electronic messaging and driving. Therefore, this amendment provides that areas covered by the new state law will not be applicable to the City's ordinance. Texting and other electronic messaging while driving will still be prohibited by the new state law (instead of City ordinance).

BUDGET/FISCAL ANALYSIS

None.

SUPPORTING MATERIALS

1. Ordinance
2. Document showing changes

STAFF'S RECOMMENDATION

Staff recommends that the City Council adopt the Ordinance.

Assistant City Attorney Approval: James Santangelo

City Attorney Approval: E. Joyce Iyamu

ORDINANCE NO. O-18-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING CHAPTER 58, MOTOR VEHICLES AND TRAFFIC, OF THE MISSOURI CITY CODE; AMENDING REGULATIONS RELATED TO THE USE OF A WIRELESS COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE; PROVIDING FOR REPEAL; PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, during the 85th Legislative Session, the Legislature of the State of Texas adopted House Bill 62, which regulates the use of a wireless communication device for electronic messaging while operating a motor vehicle; and

WHEREAS, the City Council of the City of Missouri City desires to amend its regulations related to the use of a wireless communication device while operating a motor vehicle to be consistent with such state law; now therefore,

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

Section 1. The facts and recitals set forth in the preamble of this Ordinance are hereby found to be true and correct and are in all things incorporated herein and made a part hereof.

Section 2. The Missouri City Code is hereby amended by deleting Section 58-138 of Article VII of Chapter 58 thereof and substituting therefor a new Section 58-138 of Article VII of Chapter 58 to provide as follows:

“CHAPTER 58. – MOTOR VEHICLES AND TRAFFIC

. . . .

ARTICLE VII. - MISCELLANEOUS TRAFFIC PROVISIONS

. . . .

Sec. 58-138. - Use of wireless communication device while operating a motor vehicle.

(a) Definitions. For the purposes of this section, the following words and phrases shall have the meanings ascribed to them:

Operate means to drive or be in physical control of a motor vehicle.

Operator means a person who drives or has physical control of a motor vehicle.

Wireless communication device means a device that uses a commercial mobile service, as defined by 47 USC § 332.

(b) *Offense.* It shall be unlawful for an operator of a motor vehicle to use a wireless communication device to manually engage application software while operating a motor vehicle upon any roadway in the city, including when stopped or standing.

(c) *Affirmative defenses.* It is an affirmative defense to prosecution of conduct prohibited by subsection (b) of this section if:

(1) An operator of a motor vehicle uses a wireless communication device strictly to engage in a telephone conversation, including dialing or deactivating a phone call;

(2) An operator of an authorized government vehicle uses a wireless communication device to respond to an emergency while acting in an official capacity while operating an authorized government vehicle;

(3) An operator of a motor vehicle uses a wireless communication device while stopped or standing at a position parallel to and as close as possible to the right-hand edge or curb of a roadway where parking, standing or stopping in a nonemergency situation is not otherwise prohibited; or

(4) An operator of a motor vehicle uses a wireless communication device to:

a. Operate only a global positioning or navigation system;

b. Obtain emergency assistance by contacting an emergency response service, including a rescue, emergency medical, or hazardous material response service; a hospital; a fire department; a health clinic; a medical doctor's office; an individual to administer first aid treatment; or a police department;

c. Obtain emergency assistance to prevent a crime about to be committed;

d. Report a traffic accident or serious traffic hazard; or

e. Communicate with the reasonable belief that a person's life, safety, or property is in immediate danger.

(d) *Conflicting regulations.* To the extent that any clause, phrase, provision, sentence or part of this section conflicts with V.T.C.A., Transportation Code § 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors; V.T.C.A., Transportation Code § 545.425, regarding the use of wireless communication devices in school crossing zones; or V.T.C.A., Transportation Code § 545.4251, regarding the use of a portable wireless communication device by the operator of a motor vehicle to read, write, or send an electronic message, this section does not apply.”

Section 3. *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 4. *Penalty.* Any person who violates, or any person who causes or allows another person to violate, any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense.

Section 5. *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 ____ day of _____, 2018.

PASSED, APPROVED and ADOPTED on second and final reading this ____ day of _____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

CHAPTER 58. – MOTOR VEHICLES AND TRAFFIC

. . . .

ARTICLE VII. - MISCELLANEOUS TRAFFIC PROVISIONS

. . . .

Sec. 58-138. - Use of wireless communication device while operating a motor vehicle.

(a) Definitions. For the purposes of this section, the following words and phrases shall have the meanings ascribed to them:

~~Electronic message means a self-contained piece of digital communication that is designed or intended to be transmitted to or from a wireless communication device. An electronic message includes, but is not limited to, a text-based communication, such as electronic mail, a text message, or an instant message, or a command or request to access an internet site.~~

Operate means to drive or be in physical control of a motor vehicle.

Operator means a person who drives or has physical control of a motor vehicle.

Wireless communication device means a device that uses a commercial mobile service, as defined by 47 USC § 332.

(b) Offense. It shall be unlawful for an operator of a motor vehicle to use a wireless communication device to ~~view, send or compose an electronic message or~~ manually engage ~~other~~ application software while operating a motor vehicle upon any roadway in the city, including when stopped or standing.

(c) *Affirmative defenses*. It is an affirmative defense to prosecution of conduct prohibited by subsection (b) of this section if:

(1) An operator of a motor vehicle uses a wireless communication device strictly to engage in a telephone conversation, including dialing or deactivating a phone call;

(2) An operator of an authorized government vehicle uses a wireless communication device to respond to an emergency while acting in an official capacity while operating an authorized government vehicle;

(3) An operator of a motor vehicle uses a wireless communication device while stopped or standing at a position parallel to and as close as possible to the right-hand edge or curb of a roadway where parking, standing or stopping in a nonemergency situation is not otherwise prohibited; or

(4) An operator of a motor vehicle uses a wireless communication device to:

- a. Operate only a global positioning or navigation system;
- b. Obtain emergency assistance by contacting an emergency response service, including a rescue, emergency medical, or hazardous material response service; a hospital; a fire department; a health clinic; a medical doctor's office; an individual to administer first aid treatment; or a police department;
- c. Obtain emergency assistance to prevent a crime about to be committed;
- d. Report a traffic accident or serious traffic hazard; or
- e. Communicate with the reasonable belief that a person's life, safety, or property is in immediate danger.

(d) *Conflicting regulations.* To the extent that any clause, phrase, provision, sentence or part of this section conflicts with V.T.C.A., Transportation Code § 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors; ~~or~~ V.T.C.A., Transportation Code § 545.425, regarding the use of wireless communication devices in school crossing zones; ~~this section does not apply. or V.T.C.A., Transportation Code § 545.4251, regarding the use of a portable wireless communication device by the operator of a motor vehicle to read, write, or send an electronic message, this section does not apply.~~



CITY COUNCIL AGENDA ITEM COVER MEMO

May 7, 2018

To: Mayor and City Council
Agenda Item: 10(b) Establishing regulations for massage establishments
Submitted by: Mike Berezin, Chief of Police

SYNOPSIS

This ordinance establishes regulations for massage establishments within the City.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live.

BACKGROUND

Law enforcement agencies throughout the country have found that illegal activity such as prostitution and sex trafficking are frequently conducted at massage establishments. This ordinance utilizes the City's police power as a home rule municipality to establish regulations for massage establishments so that the City may more effectively reduce, and the Missouri City Police Department can more effectively combat, such illegal activity and provide for the health, safety and welfare of Missouri City residents.

The proposed ordinance provides that each massage establishment within the City be licensed pursuant to state law. It also governs the hours of operations, prohibits the use of a massage establishment as sleeping quarters, and provides regulations for the cleanliness of such establishments. Finally, the proposed ordinance prohibits activities related to prostitution and sexually oriented businesses and gives peace officers a right of access to inspect massage establishments for compliance with state and local law.

BUDGET/FISCAL ANALYSIS

None.

SUPPORTING MATERIALS

1. Ordinance

STAFF'S RECOMMENDATION

Staff recommends that the City Council adopt the Ordinance.

Director Approval: Mike Berezin

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

ORDINANCE NO. O-18-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING CHAPTER 18, BUSINESSES, OF THE MISSOURI CITY CODE; ESTABLISHING REGULATIONS RELATED TO MASSAGE ESTABLISHMENTS; PROVIDING FOR REPEAL; PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the City of Missouri City (the “City”) is a home rule municipality with all of the express and implied powers to enact ordinances that provide for and maintain the health, safety and welfare of its residents; and

WHEREAS, The City Council of the City of Missouri City finds it to be in the best interests of the residents of the City to adopt regulations for massage establishments in the interest of public safety; now therefore,

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

Section 1. The facts and recitals set forth in the preamble of this Ordinance are hereby found to be true and correct and are in all things incorporated herein and made a part hereof.

Section 2. The Missouri City Code is hereby amended by adding a new Article VIII of Chapter 18 to provide as follows:

“CHAPTER 18 – BUSINESSES

. . . .

ARTICLE VIII – MASSAGE ESTABLISHMENTS

Sec. 18-901. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Communicable disease means Methicillin-resistant Staphylococcus aureus (MRSA), scabies, and tuberculosis.

Massage establishment means any place of business that advertises massage therapy or offers massage therapy as a service, but not a duly licensed physician, whether with or without the use of mechanical, therapeutic or bathing devices.

Massage therapist means a person who practices or administers massage therapy or other massage services to a client for compensation. The term includes a licensed massage therapist, therapeutic massage practitioner, massage technician, masseur, masseuse, myotherapist, body massager, body rubber, or any derivation of those titles.

Massage therapy means the manipulation of soft tissue. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, or tub, shower or cabinet baths. Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, myo-therapy, body massage, body rub or any derivation of those terms. Massage therapy is a health care service when the massage therapy is for therapeutic purposes. As used in this article, the terms "therapy" and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy or podiatry is required by law. Massage therapy does not constitute chiropractic practice.

Other massage services has the meaning ascribed in Section 455.001 of the Texas Occupations Code.

Sec. 18-902. Massage establishment licensing requirements.

- (a) A massage establishment or a place of business that advertises massage therapy or offers massage therapy or other massage services must be licensed in accordance with V.T.C.A., Occupations Code ch. 455, as such chapter may be amended.
- (b) A massage therapist or massage establishment must display the massage therapist or massage establishment's valid and current license in a prominent location available for inspection by the public.

Sec. 18-903. Hours of operation.

No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 8:00 a.m. on any day.

Sec. 18-904. Use of premises as living or sleeping quarters.

No massage establishment shall be operated or conducted in connection, either directly or indirectly, with any place used for living or sleeping quarters.

Sec. 18-905. Maintenance of premises; sterilization and cleaning of equipment.

It shall be the duty of every person conducting or operating a massage establishment to keep the establishment at all times in a clean and sanitary condition. All instruments and mechanical, therapeutic and bathing devices or parts thereof that come into contact with the human body shall be sterilized by a modern and industry-approved method of sterilization before initial use, and any such instruments and devices or parts thereof, after

having been used upon one patron, shall be sterilized before being used upon another, and shall be rendered free from harmful organisms in a manner consistent with applicable state and local laws and regulations. Towels and linens furnished for use of one patron shall not be furnished for use of another until thoroughly laundered.

Sec. 18-906. Cleanliness and health of employees generally; accommodation of diseased patrons.

All massage therapists in a massage establishment shall wash their hands thoroughly before administering massage therapy to each patron accommodated. No owner manager, keeper, custodian or operator of a massage establishment shall employ a person suffering from a communicable disease. No owner manager, keeper, custodian, operator or employee of a massage establishment shall knowingly accommodate a person suffering from a communicable disease as a patron therein.

Sec. 18-907. List of employees.

The manager or person in charge of a massage establishment shall keep a list of the names and addresses of all employees, both on duty and off duty, and such list, in accordance with the law, shall be immediately available during regular business hours for inspection upon the request of any law enforcement officer or city health officer.

Sec. 18-908. Responsibility of employer for acts of employees.

The persons managing, keeping or operating a massage establishment shall be responsible for the acts of their employees in the conduct of such business. This section does not relieve an employee of potential liability pursuant to this article.

Sec. 18-909. Prohibited Operations.

(a) It shall be unlawful for any person operating a massage establishment to employ, in any capacity therein, any person who has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense involving prostitution or another sexual offense, or the practice or administration of massage therapy at or for a sexually oriented business.

(b) It shall be unlawful to operate a massage establishment as a sexually oriented business as defined by Section 18-701 of the Missouri City Code.

(c) It shall be unlawful for a person to commit a crime or offense involving prostitution or another sexual offense resulting in a conviction, or to which a plea of nolo contendere or guilty was entered or deferred adjudication was received, on the premises of a massage establishment.

(d) It shall be unlawful for a massage therapist to dress in attire that:

- (1) is transparent or substantially exposes the person's undergarments, or
- (2) in a manner that exposes the person's breasts, buttocks, anus or genitals.

Sec. 18-910. Access; right of entry.

A peace officer appointed or employed by a law enforcement agency of this state or a city health officer may enter the premises of a massage establishment for periodic inspections, in accordance with the law, to determine compliance with this article. If entry and access to the premises of the massage establishment is denied, entry may be made under the authority of a warrant to inspect the massage establishment.

Sec. 18-911. Cumulative effect; effect of state law.

The provisions of this article are cumulative of the applicable state law and regulations concerning massage establishments. To the extent there exists any conflict between the provisions of this article and applicable state law, state law shall prevail.”

Section 3. 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 4. Penalty. Any person who violates, or any person who causes or allows another person to violate, any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense.

Section 5. *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 ____ day of _____, 2018.

PASSED, APPROVED and ADOPTED on second and final reading this ____ day of _____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney



CITY COUNCIL AGENDA ITEM COVER MEMO

May 7, 2018

To: Mayor and City Council
Agenda Item: 11(a) Economic Development Agreement between the City and Century Land Holdings of Texas, LLC.
Submitted by: Jennifer Hobbs, P.E., Assistant City Engineer

SYNOPSIS

Consider approving an economic development agreement between the City of Missouri City and Century Land Holdings of Texas, LLC to construct a portion of the Independence Boulevard Roadway Segment 1 / Staffordshire project as depicted in Exhibit A.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Maintain a financially sound City
- Grow business investments in Missouri City
- Have quality development through buildout

BACKGROUND

Century Land Holdings of Texas, LLC (developer) is currently developing the Liberty Ridge Subdivision located in the vicinity of the Independence Boulevard Segment 1 roadway expansion project as shown in Exhibit C. As part of the proposed development, the developer has dedicated right-of-way for the above referenced project. In order for the developer to continue progress, maintain adequate drainage, and allow a safe passage for builders and future homeowners, the developer has proposed to construct a small section of the subject project, ahead of the city's schedule to construct the remaining section of this roadway project.

The development agreement sets the terms and conditions that follow the economic development program, which benefits both the city and the developer. The developer will advance the cost and manage the design and construction of certain transportation and drainage infrastructure at the western entrance of the property as shown in Exhibit A. The current construction schedule for Independence Boulevard Segment 1 would likely not go forward in a manner that promotes economic development within the City at this site, if not for this agreement. As such, staff recommends approval of this development agreement to facilitate timely construction of a section of the Independence Boulevard Segment 1.

The remaining section of the project as noted in Exhibit D is currently under design and is expected to be under construction in fall 2018. The entire Independence Boulevard Segment 1 project is funded through the Capital Improvement Program (CIP) and is also a recipient of the 2014 Fort Bend County Mobility Bond Funds.

The developer will comply with all applicable codes, permits, and regulations, including but not limited to: the standard processes for a capital improvement project or major improvement project, compliance with all laws and regulations regarding the bidding and construction of public improvement projects, requirements for payment bonds, performance bonds, and maintenance bonds, and advertising and bid opening at City Hall.

BUDGET ANALYSIS

| Funding Source | Account Number | Project Code/Name | FY18 Funds Budgeted | FY18 Funds Available | Amount Requested |
|----------------|------------------------|-------------------------------------|---------------------|----------------------|------------------|
| Bond | 403-58700-15-999-50084 | Independence Seg. 1 / Staffordshire | \$4,205,000 | \$3,869,137 | TBD* |

*As per the terms of this agreement, the city will reimburse the developer cost associated with the construction of a section of the Independence Boulevard Segment 1 roadway within ninety (90) days after the City receives a written request for payment for the above improvements and the City is in receipt of funds from Fiscal Year 2018 bond sales allocated to fund the Independence Boulevard project.

The City will reimburse the Developer at the bid price per item cost of Independence Boulevard Segment 1 or at the Developer's bid price cost, whichever is lower.

Purchasing Review:
Financial/Budget Review:

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. Resolution
2. Development Agreement
3. Exhibit A – Improvements
4. Exhibit B – Project Costs
5. Exhibit C – Property Description
6. Exhibit D – Independence Description

STAFF'S RECOMMENDATION

Staff recommends approval of this economic development agreement.

Director Approval: Shashi K. Kumar, P.E.

**Assistant City Manager/
City Manager Approval:** Scott R. Elmer, P.E.

RESOLUTION NO. R-18-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MISSOURI CITY, TEXAS, AND CENTURY LAND HOLDINGS OF TEXAS LLC, PERTAINING TO CERTAIN IMPROVEMENTS TO AN APPROXIMATELY 30.30-ACRE TRACT OF LAND LOCATED IN THE CITY OF MISSOURI CITY, TEXAS.

* * * * *

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

Section 1. That the Mayor of the City of Missouri City, Texas, be, and is hereby authorized to execute for and on behalf of the City of Missouri City, Texas, and the City Secretary be, and is hereby, authorized to attest the Economic Development Agreement between the City of Missouri City, Texas, and Century Land Holdings of Texas, LLC, pertaining to certain improvements to an approximately 30.30-acre tract of land located in the City of Missouri City, Texas. A copy of such economic development agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

Section 2. All resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict only.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

ECONOMIC DEVELOPMENT AGREEMENT

This **ECONOMIC DEVELOPMENT AGREEMENT** (this "Agreement") is made as of _____ (the "Effective Date") by and between the **CITY OF MISSOURI CITY, TEXAS** (the "City"), a Texas home-rule city, and **CENTURY LAND HOLDINGS OF TEXAS, LLC** (the "Recipient"), a Colorado limited liability company.

RECITALS

WHEREAS, pursuant to Chapter 380 of the Texas Local Government Code, the City Council of the City of Missouri City adopted Ordinance No. O-15-01 establishing a program to promote economic development as more fully described therein (the "Economic Development Program"); and

WHEREAS, the Recipient intends to develop the Property (hereinafter defined) into a residential subdivision, Liberty Ridge; and

WHEREAS, the City intends to fund the design and construction of certain infrastructure near the Property; and

WHEREAS, to encourage economic development on and near the Property, Recipient intends to advance the cost of and manage the design and construction of certain transportation and drainage infrastructure (the "Improvements," hereinafter defined) at the west entrance of the Property; and

WHEREAS, the City Council of the City has determined that the Recipient's application for economic development incentive funds is consistent with the Economic Development Program and that the Improvements would not likely go forward in the manner best anticipated to promote economic development within the City without the aid of funds from the City under the Economic Development Program; and

WHEREAS, the City and the Recipient wish to set out the terms and conditions, as applicable to both parties, under the Economic Development Program, as more fully set out herein; now, therefore,

For and in consideration of the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Recipient agree as follows:

ARTICLE 1 DEFINITIONS

The terms defined in the preamble hereto shall have the meanings provided

for them therein. The following capitalized terms shall have the meanings provided below, unless otherwise defined or the context clearly requires otherwise. For the purposes of this Agreement the words "shall" and "will" are mandatory, and the word "may" is permissive.

"Improvements" means the design and construction of a portion of Independence Boulevard and the associated drainage, as specifically described and depicted on **Exhibit A**, attached hereto and made a part hereof for all purposes.

"Project Costs" are the allowable expenses particularly described on **Exhibit B** and quantified by calculating the expenses described on **Exhibit B** by the unit amount and quantity of materials to be used for construction as set forth in the awarded contract for the construction of the Improvements. Engineering costs shall not be considered Project Costs.

"Property" means that property more particularly described on **Exhibit C** attached hereto and made a part hereof for all purposes.

"Reimbursement" means the payment by City to Recipient, in accordance with this Agreement, of a portion of the Project Costs, as further described in Article 4.

"Substantially Completed" or "Substantially Complete" means the date after which the Improvements are complete, and the one year maintenance period, as described in the City's design manual, has commenced.

ARTICLE 2 REPRESENTATIONS

2.1 Representations of the Recipient. The Recipient hereby represents that:

(a) It is duly authorized, created and existing in good standing under the laws of the State of Colorado and is duly qualified and authorized to transact business as described in this Agreement in the State of Texas and to carry out its obligations described in this Agreement.

(b) It has the power, authority and legal right to enter into and perform this Agreement and the execution, delivery and performance hereof (i) has been duly authorized, (ii) will not, to the best of its knowledge, violate any applicable judgment, order, law or regulation, and (iii) does not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Recipient under any agreement or instrument to which the Recipient is a party or by which the Recipient or its assets may be bound or affected.

(c) This Agreement has been duly authorized, executed and delivered by the Recipient and, constitutes a legal, valid and binding obligation of the Recipient, enforceable in accordance with its terms.

(d) The execution, delivery and performance of this Agreement by the Recipient does not require the consent or approval of any person which has not been obtained.

2.2 Representations of the City. The City hereby represents that:

(a) The City is duly authorized, created and existing under the laws of the State of Texas and is duly qualified and authorized to carry out the governmental functions and operations as contemplated by this Agreement and to carry out its obligations described in this Agreement.

(b) The City has the power, authority and legal right to enter into and perform this Agreement and the execution, delivery and performance hereof (i) has been duly authorized, (ii) will not, to the best of its knowledge, violate any applicable judgment, order, law or regulation, and (iii) does not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.

(c) This Agreement has been duly authorized, executed and delivered by the City and, constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

(d) The execution, delivery and performance of this Agreement by the City does not require the consent or approval of any person which has not been obtained.

2.3 No partnership or agency created. Each party agrees and represents that the City and the Recipient are not agents, partners or venturers of the other with respect to the Improvements, and that nothing in this Agreement shall be construed to create any such relationship.

ARTICLE 3 THE IMPROVEMENTS

3.1 Description of the Improvements. The Improvements are described in **Exhibit A** attached hereto.

3.2 Commencement of Improvements. Before beginning construction, construction contracts shall be awarded and the Recipient shall participate in a pre-construction meeting with the City. If the Recipient has not commenced construction of the Improvements within twelve (12) months of the date of this Agreement (subject to extension for force majeure pursuant to Section 6.15), either party may terminate this Agreement upon written notice to the other party, after which this Agreement shall be of no further force and effect, and neither party shall have any liabilities or obligations whatsoever to the other party.

3.3 Monitoring progress. The City may, but is not required to, monitor the progress of the Improvements to determine compliance with this Agreement. City personnel, upon two (2) business days prior notice, shall have reasonable access to the Property and Improvements, all books and records relating thereto, and such other information as the City may reasonably determine to be relevant to the Property and Improvements and the Recipient's compliance with this Agreement.

3.4 Completion of the Improvements. The Recipient hereby agrees to commence the design, permitting, and construction of the Improvements and proceed to completion thereof in accordance with this Agreement. Without limitation, the Recipient agrees to comply with all applicable codes, permits and regulations of any governmental authority having jurisdiction over the Improvements, including the City. Recipient further agrees to follow and comply with all standard City processes for a capital improvement project or a major construction improvement project, as outlined in a pre-development meeting to be held with the City. After the approval of this Agreement, the Recipient shall advertise, receive, open, award and manage all contracts for the Improvements in compliance with all laws and regulations regarding the bidding and construction of public improvements applicable to similar infrastructure constructed by the City, including without limitation any applicable requirement relating to payment bonds, performance bonds and maintenance bonds. The Recipient shall coordinate with the City for the bid advertising and the bid opening process, which shall occur at City Hall, 1522 Texas Parkway, Missouri City, Texas 77459.

3.5 Construction of Improvements. Construction of the Improvements shall be Substantially Completed within twenty-four (24) months of the date on which this Agreement is executed (subject to extension for force majeure pursuant to Section 6.15).

3.6 Minor amendments. The City Manager is authorized to approve minor amendments to this Agreement. A "minor amendment" consists of an amendment that, in conjunction with any prior such amendments, does not constitute a change of more than ten percent in any deadline or any material criterion.

3.7 Abandonment of Improvements. If, after the Effective Date of this Agreement, the City Manager reasonably determines that the Recipient has abandoned the Improvements, this Agreement may, upon written notice from the City, be terminated and be of no further force and effect, wherein neither party shall have any liabilities or obligations whatsoever to the other party. The City Manager may reasonably determine that the Improvements are abandoned for the purposes of this Agreement if, after commencement of construction, no measurable work toward completion is documented to the City Manager by the Recipient for 90 days or longer, subject to force majeure, and Recipient fails to provide evidence of measurable work within 30 days after written request from the City.

ARTICLE 4 REIMBURSEMENT PAYMENTS

4.1 Additional Recipient Commitments.

(a) In consideration of the City agreeing to grant the Recipient the Reimbursement in accordance with the terms of this Agreement, the Recipient shall:

(1) Work with the City's engineer(s) to identify the scope and dimensions of the Independence Boulevard construction project for the design, construction, and acceptance of the Improvements;

(2) Substantially Complete the Improvements;

(3) Take all required actions to ensure that such Improvements will be and are accepted by the City; and

(4) Provide the City with a final summary of all costs associated with the construction of the Improvements and show that all amounts owed to contractors and subcontractors have been paid in full, as evidenced by customary lien waivers or affidavits executed by such contractors.

(b) Failure to meet the requirements or a portion of the requirements of Section 4.1(a) will invalidate this Agreement.

4.2 City Commitments.

(a) At such time as Recipient notifies the City that the Improvements have been completed and that the terms of this Agreement have been complied with, the City shall hire a certified public accountant, the reasonable costs of which shall be borne by the Recipient (in an amount not to exceed \$1,000.00), to calculate the amount due to the Recipient and shall prepare and submit a report (the "Agreed Upon Procedures") to the City certifying the amount due the Recipient for the Reimbursement. Such report shall be approved by the City at the earliest practicable time, but not later than 90 days after submission by the Recipient of the records required therefor.

(b) Provided that Recipient complies with the terms of this Agreement, within ninety (90) days after the City receives a written request for payment from the Recipient for the Improvements and the City is in receipt of funds from Fiscal Year 2018 bond sales allocated to fund the Independence Boulevard Project, as described by **Exhibit D**, the City agrees to pay Recipient the Reimbursement.

4.3 Source. The Reimbursement is payable from any source lawfully available to the City. This Agreement shall be subordinate to any pledge of the City's tax revenue with respect to the City's bonded indebtedness. Notwithstanding any other provision contained herein, if the awarded contract amount for the Improvements, is less than the actual amount incurred by the Recipient, Recipient acknowledges and agrees that the

City will not pay Recipient more than the awarded contract amount per unit, as estimated in the awarded contract. If the awarded contract amount for the Improvements is more than the actual amount incurred by the Recipient, Recipient acknowledges and agrees that the City will only reimburse the Recipient for the amount the Recipient actually incurred and paid, as supported by appropriate documentation.

ARTICLE 5 DEFAULT

5.1 Default.

(a) If the Recipient does not perform its obligations hereunder in substantial compliance with this Agreement, and fails to cure such performance within the time frame set forth in Section 5.1(f), then in addition to the other rights given the City under this Agreement, the City may require the Recipient to repay the Reimbursement.

(b) If the City fails to timely pay the Reimbursement in accordance with this Agreement, the Recipient's sole remedy is to seek damages for such failure to pay in the amount equal to the amount due pursuant to this Agreement, except that should any legal action be brought in relation to this Agreement, the prevailing party in such action shall be entitled to collect, from the other party, reasonable and necessary attorney's fees that are equitable and just and that are incurred by such party in connection with such action. The Recipient shall have no other recourse against the City.

(c) Pursuant to Chapter 2264, Texas Government Code, Recipient is prohibited from knowingly employing undocumented workers as that term is defined in Section 2264.001, Texas Government Code. If Recipient is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered a default of this Agreement from which no cure provisions shall apply. In such event, City shall provide written notice to Recipient of the default and this Agreement shall terminate on the 30th day after the date of the notice of default from City to Recipient. In the event of termination under this paragraph, Recipient shall be responsible for repaying to City the amount of all of the Reimbursement paid under this Agreement plus interest and penalties on the reimbursed amount at the rate provided for in the Texas Tax Code for delinquent taxes from the date of termination until repaid in full. Such repayment is due not later than the 120th day after the date the City notifies the Recipient of the violation.

(d) 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 this Agreement, Recipient verifies that Recipient does not boycott Israel and will not boycott Israel during the term of this Agreement.

(e) Pursuant to Section 2252.152, Texas Government Code, Recipient warrants, represents, and agrees that Recipient 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.

(f) The party alleging default shall provide written notice to the other party of such default, and the defaulting party shall have 30 days to remedy the default. If such default is not cured within the time period set forth above, either party may terminate this Agreement by providing written notice thereof to the other party.

ARTICLE 6 GENERAL

6.1 Inspections, audits.

(a) The Recipient shall allow employees or other representatives of City who have been designated by the City Manager for the specific purpose of ensuring compliance with this Agreement, to have access to and to inspect the Improvements, at City's sole cost, expense, and risk, during the term of the Agreement. All inspections shall be made only after two (2) business days' prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction or operation of the facility. A representative of the Recipient may accompany the inspector at Recipient's sole discretion. The City shall annually evaluate the Improvements to ensure compliance with the terms and provisions of this Agreement.

(b) Recipient shall provide all information and execute all documents, waivers, releases, and consents required to allow the City to obtain information necessary to calculate the Reimbursement. If necessary, and upon City's written request, Recipient shall provide City copies of pertinent portions of Recipient's information necessary to audit, confirm, and verify Recipient's payments germane to the Reimbursement.

6.2 Recipient operations and employees. All personnel supplied or used by the Recipient in the performance of this Agreement or with respect to the Improvements shall be deemed contractors or subcontractors of the Recipient and will not be considered employees, agents, contractors or subcontractors of the City for any purpose whatsoever. The Recipient shall be solely responsible for the compensation of all such contractors and subcontractors.

6.3 Indemnity. It is understood and agreed between the parties that Recipient, in performing its obligations hereunder, is acting independently, and City assumes no responsibilities or liabilities in connection therewith to third parties. RECIPIENT AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER TO THE EXTENT ARISING OUT OF RECIPIENT'S BREACH OF ITS OBLIGATIONS HEREUNDER. RECIPIENT'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION. RECIPIENT SHALL BE RESPONSIBLE FOR ALL FEES INCURRED BY CITY IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT CITY FROM ENGAGING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF

ACTION AND RECIPIENT SHALL BE RESPONSIBLE FOR ANY SUCH COSTS AND OR FEES SO INCURRED.

6.4 Notices. Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following addresses:

The Recipient:

_____, Texas _____
Attention: _____

The City:

City of Missouri City, Texas
1522 Texas Parkway
Missouri City, Texas 77489
Attention: City Manager

Each party may change its address by written notice in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given five days after such communication is mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for, or actually received by the other party.

6.5 Amendments and waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the Recipient and the City. No course of dealing on the part of the parties, nor any failure or delay by one or more of the parties, with respect to exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, except as otherwise provided in this section.

6.6 Invalidity. If any of the provisions contained in this Agreement shall be held unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement, except to the extent of a complete failure of consideration.

6.7 Successors and assigns. All covenants and agreements contained by or

on behalf of a party in this Agreement shall bind its successors and assigns and shall inure to the benefit of the other party, its successors and assigns. The parties may assign their rights and obligations under this Agreement or any interest herein, only with the prior written consent of the other party, and any assignment without such prior written consent, including an assignment by operation of law, is void and of no effect. This Agreement and the provisions of this paragraph do not apply, inure to the benefit of, or have any binding effect on third parties not a party to this Agreement.

6.8 Singular and plural: gender. Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa. Likewise, any masculine references shall include the feminine, and vice versa.

6.9 Exhibits; titles of articles, sections and subsections. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail. All titles or headings are only for the convenience of the parties and shall not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a section or subsection shall be considered a reference to such section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

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

6.11 Entire Agreement. THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

6.12 Term. This Agreement shall be in force and effect from the Effective Date for a term expiring five (5) years after the Effective Date.

6.13 Time of the essence. Time is of the essence with respect to the obligations of the parties to this Agreement.

6.14 Further assurances. Each party hereby agrees that it will take all actions and execute all documents necessary to fully carry out the purposes and intent of this Agreement.

6.15 Force Majeure. If any party is rendered unable, wholly or in part, by force

majeure to carry out any of its obligations 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, is suspended during the continuance of the force majeure. The term "force majeure," means acts of God, strikes, lockouts, orders of any kind of the government of the United States or the State of Texas or any civil or military authority, lightning, earthquakes, fires, hurricanes, storms, floods, explosions, breakage or accidents to machinery, or similar events.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of the date first written above.

CENTURY LAND HOLDINGS OF TEXAS, LLC

By: _____

Name: _____

Title: _____

CITY OF MISSOURI CITY

Allen Owen

Mayor

ATTEST:

Maria Jackson

City Secretary

Exhibits

| | |
|-----------|--|
| Exhibit A | Improvements |
| Exhibit B | Project Costs |
| Exhibit C | Property Description |
| Exhibit D | Independence Boulevard Project Description |

EXHIBIT B – PROJECT COSTS

| ITEM NO. | ITEM DESCRIPTION | UNIT | QTY. | UNIT PRICE | TOTAL AMOUNT |
|---------------------|---|-------------|-------------|-------------------|---------------------|
| PAVING ITEMS | | | | | |
| 1. | 8" REINFORCED CONCRETE PAVEMENT POURED FULL-WIDTH WHERE APPLICABLE, COMPLETE IN PLACE | SY | 1,418 | \$ _____ | \$ _____ |
| 2. | 6" REINFORCED CONCRETE CURB, (MISSOURI CITY SPECIFICATIONS), COMPLETE IN PLACE | LF | 462 | \$ _____ | \$ _____ |
| 3. | 8" LIME STABILIZED SUBGRADE, (MISSOURI CITY SPECIFICATIONS), COMPLETE IN PLACE | SY | 2,165 | \$ _____ | \$ _____ |
| 4. | HYDRATED LIME FOR SUBGRADE PREPARATION, (8% BY WEIGHT, 48 LBS/SY), COMPLETE IN PLACE | TON | 58 | \$ _____ | \$ _____ |
| 5. | COMMON ROADWAY EXCAVATION TO BE USED FOR ROADWAY FILL OR MOVED TO ADJACENT LIBERTY RIDGE SECTION 1, INCLUDES EXCAVATION, HAULING, PLACING AND COMPACTION TO 95% STANDARD PROCTOR DENSITY WITH MAXIMUM 8" LIFTS, COMPLETE IN PLACE | CY | 1,281 | \$ _____ | \$ _____ |
| 6. | REINFORCED CONCRETE SIDEWALK, COMPLETE IN PLACE | SY | 213 | \$ _____ | \$ _____ |
| 7. | TYPE III BARRICADE, COMPLETE IN PLACE | EA | 2 | \$ _____ | \$ _____ |
| 8. | LOAD TRANSFER DEVICE, COMPLETE IN PLACE | LF | 50 | \$ _____ | \$ _____ |
| 9. | 2" TYPE "D" HOT MIX ASPHALT CONCRETE FOR TEMPORARY ASPHALT MEDIAN, INCLUDES 8" STABILIZED CRUSHED CONCRETE BASE, COMPLETE IN PLACE | SY | 646 | \$ _____ | \$ _____ |
| 10. | FILL EXISTING DITCH ALONG COURT ROAD, COMPLETE IN PLACE | LS | 1 | \$ _____ | \$ _____ |

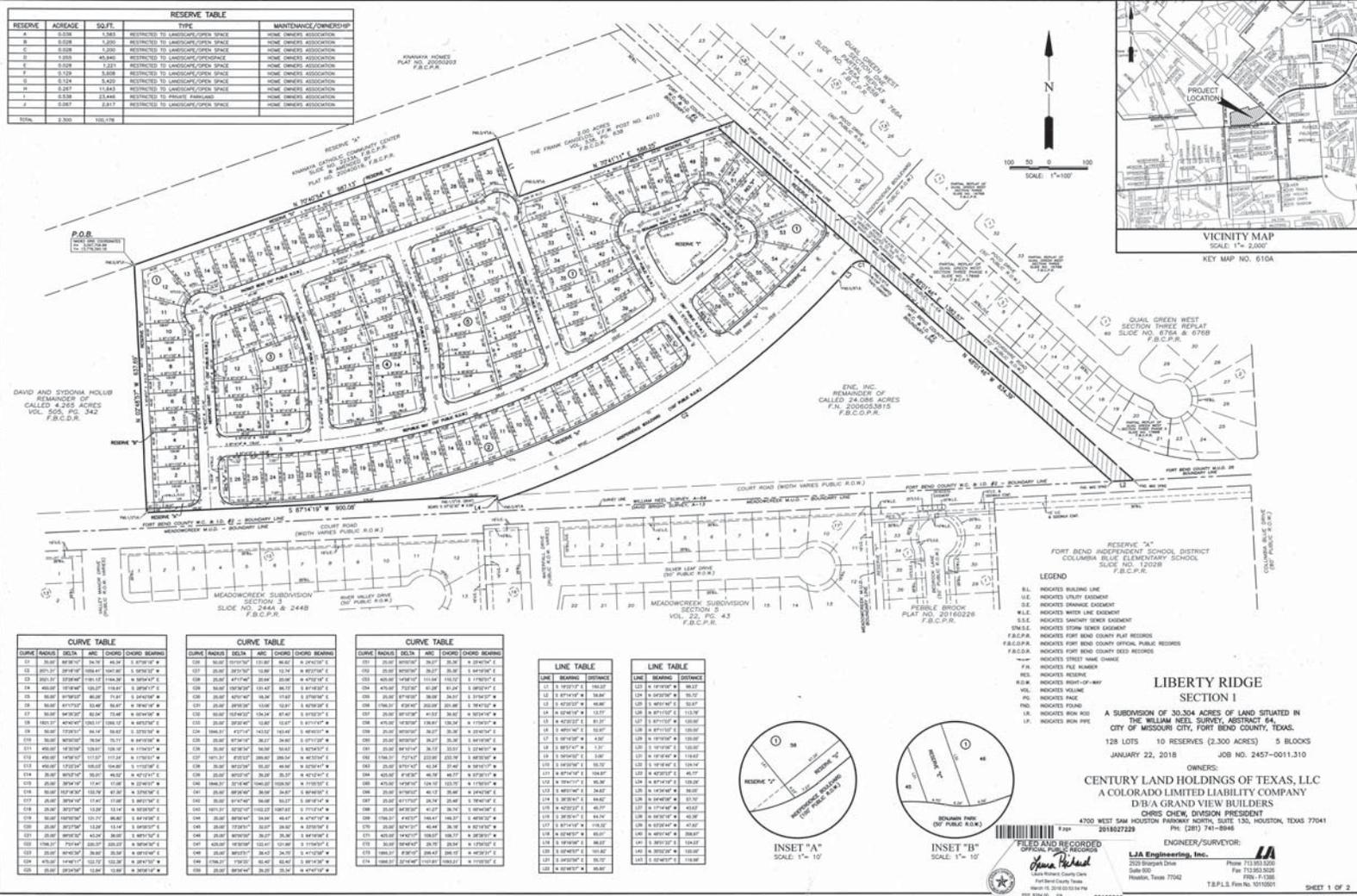
| ITEM NO. | ITEM DESCRIPTION | UNIT | QTY. | UNIT PRICE | TOTAL AMOUNT |
|------------------------------|---|------|-------|------------|--------------|
| PAVING ITEMS | | | | | |
| 11. | PERMANENT TRAFFIC CONTROL DEVICES, PER COMC STANDARDS, INCLUDES TRAFFIC BUTTONS, PAVEMENT STRIPING, MARKERS, REFLECTIVE PAINT ON MEDIAN NOSES, STOP SIGNS, AND ALL OTHER TRAFFIC SIGNS SHOWN IN PLANS, ETC., INCLUDES REMOVAL OF EXISTING STRIPING AND SIGNAGE AS NEEDED, COMPLETE IN PLACE | LS | 1 | \$ _____ | \$ _____ |
| 12. | TEMPORARY TRAFFIC CONTROL AND DETOUR PLAN AS SHOWN ON SHEETS 6, 7 & 9 OF THE PLANS, COMPLETE IN PLACE | LS | 1 | \$ _____ | \$ _____ |
| 13. | REMOVAL OF EXISTING ASPHALT ROADWAY, COMPLETE IN PLACE | SY | 1,665 | \$ _____ | \$ _____ |
| 14. | REMOVAL OF EXISTING SIDEWALK, COMPLETE IN PLACE | SY | 148 | \$ _____ | \$ _____ |
| SUBTOTAL PAVING ITEMS | | | | \$ _____ | |

| ITEM NO. | ITEM DESCRIPTION | UNIT | QTY. | UNIT PRICE | TOTAL AMOUNT |
|----------------------------------|---|------|------|------------|--------------|
| DRAINAGE FACILITIES ITEMS | | | | | |
| 1. | 8'X8' R.C.B. STORM SEWER, ASTM C-1433, ALL DEPTHS, COMPLETE IN PLACE | LF | 185 | \$ _____ | \$ _____ |
| 2. | 24" R.C.P. STORM SEWER, ASTM C-76, CLASS III, ALL DEPTHS, COMPLETE IN PLACE | LF | 80 | \$ _____ | \$ _____ |
| 3. | 48" R.C.P. STORM SEWER, ASTM C-76, CLASS III, ALL DEPTHS, COMPLETE IN PLACE | LF | 35 | \$ _____ | \$ _____ |
| 4. | TRENCH SAFETY, ALL DEPTHS, COMPLETE IN PLACE | LF | 258 | \$ _____ | \$ _____ |
| 5. | 45 DEGREE BEND FOR 8'X8' R.C.B. STORM SEWER, COMPLETE IN PLACE | EA | 2 | \$ _____ | \$ _____ |
| 6. | STAGE I – STANDARD TYPE "C" PRECAST INLET, ALL DEPTHS, (INCLUDES TEMPORARY SILT BARRIER FENCE FOR STAGE I INLETS, COMPLETE IN PLACE | EA | 2 | \$ _____ | \$ _____ |
| 7. | STAGE II – STANDARD TYPE "C" PRECAST INLET, ALL DEPTHS, (INCLUDES TEMPORARY SILT BARRIER FENCE FOR STAGE I INLETS, COMPLETE IN PLACE | EA | 2 | \$ _____ | \$ _____ |
| 8. | TYPE "C" MANHOLE FOR 48". STORM SEWER AND LARGER TO BE CONSTRUCTED AROUND EXIST. 48" STORM SEWER, INCLUDES FINAL ADJUSTMENT OF MANHOLE TOP, COMPLETE ON PLACE | EA | 1 | \$ _____ | \$ _____ |
| 9. | TYPE "C" MANHOLE TOP FOR R.C.B. STORM SEWER, ALL DEPTHS, INCLUDES FINAL ADJUSTMENT OF MANHOLE TOP, COMPLETE ON PLACE | EA | 3 | \$ _____ | \$ _____ |
| 10. | 8" BRICK PLUG FOR 8'X8' R.C.B. STORM SEWER, COMPLETE IN PLACE | EA | 1 | \$ _____ | \$ _____ |

| ITEM NO. | ITEM DESCRIPTION | UNIT | QTY. | UNIT PRICE | TOTAL AMOUNT |
|---|--|------|------|------------|--------------|
| DRAINAGE FACILITIES ITEMS | | | | | |
| 11. | REMOVE EXIST. 8'X8' R.C.B. PLUG AND CONNECT PROP. 8'X8' R.C.P. WITH 2'X8" CONCRETE COLLAR, COMPLETE IN PLACE | EA | 1 | \$ _____ | \$ _____ |
| 12. | REMOVE EXISTING 48" R.C.P. STORM SEWER, COMPLETE IN PLACE | LF | 178 | \$ _____ | \$ _____ |
| 13. | REMOVE EXISTING TYPE "E" INLET TOP, COMPLETE IN PLACE | EA | 1 | \$ _____ | \$ _____ |
| SUBTOTAL DRAINAGE FACILITIES ITEMS | | | | \$ _____ | |

| ITEM NO. | ITEM DESCRIPTION | UNIT | QTY. | UNIT PRICE | TOTAL AMOUNT |
|-------------------------------------|--|------|------|------------|--------------|
| MISCELLANEOUS ITEMS | | | | | |
| 1. | METHOD "A" CONSTRUCTION STAKING, COMPLETE IN PLACE | LS | 1 | \$ _____ | \$ _____ |
| 2. | STORM WATER POLLUTION PREVENTION PLAN COMPLIANCE, INCLUDING INSPECTIONS, MAINTENANCE OF FILTER FABRIC, STABILIZED CONSTRUCTION EXIT AND STREET CLEANING, COMPLETE IN PLACE | LS | 1 | \$ _____ | \$ _____ |
| 3. | FILTER FABRIC FENCE, COMPLETE IN PLACE | LF | 538 | \$ _____ | \$ _____ |
| 4. | REINFORCED FILTER FABRIC FENCE, COMPLETE IN PLACE | LF | 464 | \$ _____ | \$ _____ |
| 5. | INLET PROTECTION BARRIERS, COMPLETE IN PLACE | EA | 6 | \$ _____ | \$ _____ |
| 6. | INSTALLATION AND REMOVAL OF STABILIZED CONSTRUCTION ENTRANCE, (TO BE USED ONLY AS DIRECTED BY THE ENGINEER), COMPLETE IN PLACE | EA | 1 | \$ _____ | \$ _____ |
| 7. | INSTALLATION AND REMOVAL OF CONCRETE TRUCK WASHOUT, (TO BE USED ONLY AS DIRECTED BY THE ENGINEER), COMPLETE IN PLACE | EA | 1 | \$ _____ | \$ _____ |
| 8. | CITY OF MISSOURI CITY (COMC) FIRE MARSHAL'S OFFICE PERMIT FOR FLAMMABLE AND COMBUSTIBLE LIQUIDS, COMPLETE IN PLACE | LS | 1 | \$ _____ | \$ _____ |
| 9. | CITY OF MISSOURI CITY (COMC) CONSTRUCTION PERMIT FOR CONSTRUCTION OF PAVING (1% OF PAVING COST FOR FIRST \$500,000 VALUATION AND 0.75% FOR ALL VALUATION EXCEEDING \$500,000), COMPLETE IN PLACE | LS | 1 | \$ _____ | \$ _____ |
| SUBTOTAL MISCELLANEOUS ITEMS | | | | \$ _____ | |

| RESERVE | ACREAGE | SQ.FT. | TYPE | MAINTENANCE/OWNERSHIP |
|---------|---------|--------|------------------------------------|-------------------------|
| A | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| B | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| C | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| D | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| E | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| F | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| G | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| H | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| I | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| J | 0.038 | 1,683 | RESTRICTED TO LANDSCAPE/OPEN SPACE | HOME OWNERS ASSOCIATION |
| TOTAL | 0.390 | 16,830 | | |



| CURVE | RADIUS | DELTA | ARC | CHORD | CHORD BEARING |
|-------|----------|-----------|------------|------------|---------------|
| 01 | 100.00 | 90.000° | 157.080' | 100.000' | N 00°00'00" E |
| 02 | 200.00 | 180.000° | 314.159' | 200.000' | N 00°00'00" E |
| 03 | 300.00 | 270.000° | 471.239' | 300.000' | N 00°00'00" E |
| 04 | 400.00 | 360.000° | 628.319' | 400.000' | N 00°00'00" E |
| 05 | 500.00 | 450.000° | 785.399' | 500.000' | N 00°00'00" E |
| 06 | 600.00 | 540.000° | 942.479' | 600.000' | N 00°00'00" E |
| 07 | 700.00 | 630.000° | 1099.559' | 700.000' | N 00°00'00" E |
| 08 | 800.00 | 720.000° | 1256.639' | 800.000' | N 00°00'00" E |
| 09 | 900.00 | 810.000° | 1413.719' | 900.000' | N 00°00'00" E |
| 10 | 1000.00 | 900.000° | 1570.799' | 1000.000' | N 00°00'00" E |
| 11 | 1100.00 | 990.000° | 1727.879' | 1100.000' | N 00°00'00" E |
| 12 | 1200.00 | 1080.000° | 1884.959' | 1200.000' | N 00°00'00" E |
| 13 | 1300.00 | 1170.000° | 2042.039' | 1300.000' | N 00°00'00" E |
| 14 | 1400.00 | 1260.000° | 2199.119' | 1400.000' | N 00°00'00" E |
| 15 | 1500.00 | 1350.000° | 2356.199' | 1500.000' | N 00°00'00" E |
| 16 | 1600.00 | 1440.000° | 2513.279' | 1600.000' | N 00°00'00" E |
| 17 | 1700.00 | 1530.000° | 2670.359' | 1700.000' | N 00°00'00" E |
| 18 | 1800.00 | 1620.000° | 2827.439' | 1800.000' | N 00°00'00" E |
| 19 | 1900.00 | 1710.000° | 2984.519' | 1900.000' | N 00°00'00" E |
| 20 | 2000.00 | 1800.000° | 3141.599' | 2000.000' | N 00°00'00" E |
| 21 | 2100.00 | 1890.000° | 3298.679' | 2100.000' | N 00°00'00" E |
| 22 | 2200.00 | 1980.000° | 3455.759' | 2200.000' | N 00°00'00" E |
| 23 | 2300.00 | 2070.000° | 3612.839' | 2300.000' | N 00°00'00" E |
| 24 | 2400.00 | 2160.000° | 3769.919' | 2400.000' | N 00°00'00" E |
| 25 | 2500.00 | 2250.000° | 3926.999' | 2500.000' | N 00°00'00" E |
| 26 | 2600.00 | 2340.000° | 4084.079' | 2600.000' | N 00°00'00" E |
| 27 | 2700.00 | 2430.000° | 4241.159' | 2700.000' | N 00°00'00" E |
| 28 | 2800.00 | 2520.000° | 4398.239' | 2800.000' | N 00°00'00" E |
| 29 | 2900.00 | 2610.000° | 4555.319' | 2900.000' | N 00°00'00" E |
| 30 | 3000.00 | 2700.000° | 4712.399' | 3000.000' | N 00°00'00" E |
| 31 | 3100.00 | 2790.000° | 4869.479' | 3100.000' | N 00°00'00" E |
| 32 | 3200.00 | 2880.000° | 5026.559' | 3200.000' | N 00°00'00" E |
| 33 | 3300.00 | 2970.000° | 5183.639' | 3300.000' | N 00°00'00" E |
| 34 | 3400.00 | 3060.000° | 5340.719' | 3400.000' | N 00°00'00" E |
| 35 | 3500.00 | 3150.000° | 5497.799' | 3500.000' | N 00°00'00" E |
| 36 | 3600.00 | 3240.000° | 5654.879' | 3600.000' | N 00°00'00" E |
| 37 | 3700.00 | 3330.000° | 5811.959' | 3700.000' | N 00°00'00" E |
| 38 | 3800.00 | 3420.000° | 5969.039' | 3800.000' | N 00°00'00" E |
| 39 | 3900.00 | 3510.000° | 6126.119' | 3900.000' | N 00°00'00" E |
| 40 | 4000.00 | 3600.000° | 6283.199' | 4000.000' | N 00°00'00" E |
| 41 | 4100.00 | 3690.000° | 6440.279' | 4100.000' | N 00°00'00" E |
| 42 | 4200.00 | 3780.000° | 6597.359' | 4200.000' | N 00°00'00" E |
| 43 | 4300.00 | 3870.000° | 6754.439' | 4300.000' | N 00°00'00" E |
| 44 | 4400.00 | 3960.000° | 6911.519' | 4400.000' | N 00°00'00" E |
| 45 | 4500.00 | 4050.000° | 7068.599' | 4500.000' | N 00°00'00" E |
| 46 | 4600.00 | 4140.000° | 7225.679' | 4600.000' | N 00°00'00" E |
| 47 | 4700.00 | 4230.000° | 7382.759' | 4700.000' | N 00°00'00" E |
| 48 | 4800.00 | 4320.000° | 7539.839' | 4800.000' | N 00°00'00" E |
| 49 | 4900.00 | 4410.000° | 7696.919' | 4900.000' | N 00°00'00" E |
| 50 | 5000.00 | 4500.000° | 7853.999' | 5000.000' | N 00°00'00" E |
| 51 | 5100.00 | 4590.000° | 8011.079' | 5100.000' | N 00°00'00" E |
| 52 | 5200.00 | 4680.000° | 8168.159' | 5200.000' | N 00°00'00" E |
| 53 | 5300.00 | 4770.000° | 8325.239' | 5300.000' | N 00°00'00" E |
| 54 | 5400.00 | 4860.000° | 8482.319' | 5400.000' | N 00°00'00" E |
| 55 | 5500.00 | 4950.000° | 8639.399' | 5500.000' | N 00°00'00" E |
| 56 | 5600.00 | 5040.000° | 8796.479' | 5600.000' | N 00°00'00" E |
| 57 | 5700.00 | 5130.000° | 8953.559' | 5700.000' | N 00°00'00" E |
| 58 | 5800.00 | 5220.000° | 9110.639' | 5800.000' | N 00°00'00" E |
| 59 | 5900.00 | 5310.000° | 9267.719' | 5900.000' | N 00°00'00" E |
| 60 | 6000.00 | 5400.000° | 9424.799' | 6000.000' | N 00°00'00" E |
| 61 | 6100.00 | 5490.000° | 9581.879' | 6100.000' | N 00°00'00" E |
| 62 | 6200.00 | 5580.000° | 9738.959' | 6200.000' | N 00°00'00" E |
| 63 | 6300.00 | 5670.000° | 9896.039' | 6300.000' | N 00°00'00" E |
| 64 | 6400.00 | 5760.000° | 10053.119' | 6400.000' | N 00°00'00" E |
| 65 | 6500.00 | 5850.000° | 10210.199' | 6500.000' | N 00°00'00" E |
| 66 | 6600.00 | 5940.000° | 10367.279' | 6600.000' | N 00°00'00" E |
| 67 | 6700.00 | 6030.000° | 10524.359' | 6700.000' | N 00°00'00" E |
| 68 | 6800.00 | 6120.000° | 10681.439' | 6800.000' | N 00°00'00" E |
| 69 | 6900.00 | 6210.000° | 10838.519' | 6900.000' | N 00°00'00" E |
| 70 | 7000.00 | 6300.000° | 10995.599' | 7000.000' | N 00°00'00" E |
| 71 | 7100.00 | 6390.000° | 11152.679' | 7100.000' | N 00°00'00" E |
| 72 | 7200.00 | 6480.000° | 11309.759' | 7200.000' | N 00°00'00" E |
| 73 | 7300.00 | 6570.000° | 11466.839' | 7300.000' | N 00°00'00" E |
| 74 | 7400.00 | 6660.000° | 11623.919' | 7400.000' | N 00°00'00" E |
| 75 | 7500.00 | 6750.000° | 11780.999' | 7500.000' | N 00°00'00" E |
| 76 | 7600.00 | 6840.000° | 11938.079' | 7600.000' | N 00°00'00" E |
| 77 | 7700.00 | 6930.000° | 12095.159' | 7700.000' | N 00°00'00" E |
| 78 | 7800.00 | 7020.000° | 12252.239' | 7800.000' | N 00°00'00" E |
| 79 | 7900.00 | 7110.000° | 12409.319' | 7900.000' | N 00°00'00" E |
| 80 | 8000.00 | 7200.000° | 12566.399' | 8000.000' | N 00°00'00" E |
| 81 | 8100.00 | 7290.000° | 12723.479' | 8100.000' | N 00°00'00" E |
| 82 | 8200.00 | 7380.000° | 12880.559' | 8200.000' | N 00°00'00" E |
| 83 | 8300.00 | 7470.000° | 13037.639' | 8300.000' | N 00°00'00" E |
| 84 | 8400.00 | 7560.000° | 13194.719' | 8400.000' | N 00°00'00" E |
| 85 | 8500.00 | 7650.000° | 13351.799' | 8500.000' | N 00°00'00" E |
| 86 | 8600.00 | 7740.000° | 13508.879' | 8600.000' | N 00°00'00" E |
| 87 | 8700.00 | 7830.000° | 13665.959' | 8700.000' | N 00°00'00" E |
| 88 | 8800.00 | 7920.000° | 13823.039' | 8800.000' | N 00°00'00" E |
| 89 | 8900.00 | 8010.000° | 13980.119' | 8900.000' | N 00°00'00" E |
| 90 | 9000.00 | 8100.000° | 14137.199' | 9000.000' | N 00°00'00" E |
| 91 | 9100.00 | 8190.000° | 14294.279' | 9100.000' | N 00°00'00" E |
| 92 | 9200.00 | 8280.000° | 14451.359' | 9200.000' | N 00°00'00" E |
| 93 | 9300.00 | 8370.000° | 14608.439' | 9300.000' | N 00°00'00" E |
| 94 | 9400.00 | 8460.000° | 14765.519' | 9400.000' | N 00°00'00" E |
| 95 | 9500.00 | 8550.000° | 14922.599' | 9500.000' | N 00°00'00" E |
| 96 | 9600.00 | 8640.000° | 15079.679' | 9600.000' | N 00°00'00" E |
| 97 | 9700.00 | 8730.000° | 15236.759' | 9700.000' | N 00°00'00" E |
| 98 | 9800.00 | 8820.000° | 15393.839' | 9800.000' | N 00°00'00" E |
| 99 | 9900.00 | 8910.000° | 15550.919' | 9900.000' | N 00°00'00" E |
| 100 | 10000.00 | 9000.000° | 15707.999' | 10000.000' | N 00°00'00" E |

| CURVE | RADIUS | DELTA | ARC | CHORD | CHORD BEARING |
|-------|---------|-----------|-----------|-----------|---------------|
| 01 | 100.00 | 90.000° | 157.080' | 100.000' | N 00°00'00" E |
| 02 | 200.00 | 180.000° | 314.159' | 200.000' | N 00°00'00" E |
| 03 | 300.00 | 270.000° | 471.239' | 300.000' | N 00°00'00" E |
| 04 | 400.00 | 360.000° | 628.319' | 400.000' | N 00°00'00" E |
| 05 | 500.00 | 450.000° | 785.399' | 500.000' | N 00°00'00" E |
| 06 | 600.00 | 540.000° | 942.479' | 600.000' | N 00°00'00" E |
| 07 | 700.00 | 630.000° | 1099.559' | 700.000' | N 00°00'00" E |
| 08 | 800.00 | 720.000° | 1256.639' | 800.000' | N 00°00'00" E |
| 09 | 900.00 | 810.000° | 1413.719' | 900.000' | N 00°00'00" E |
| 10 | 1000.00 | 900.000° | 1570.799' | 1000.000' | N 00°00'00" E |
| 11 | 1100.00 | 990.000° | 1727.879' | 1100.000' | N 00°00'00" E |
| 12 | 1200.00 | 1080.000° | 1884.959' | 1200.000' | N 00°00'00" E |
| 13 | 1300.00 | 1170.000° | 2042.039' | 1300.000' | N 00°00'00" E |
| 14 | 1400.00 | 1260.000° | 2199.119' | 1400.000' | N 00°00'00" E |
| 15 | 1500.00 | 1350.000° | 2356.199' | 1500.000' | N 00°00'00" E |
| 16 | 1600.00 | 1440.000° | 2513.279' | 1600.000' | N 00°00'00" E |
| 17 | 1700.00 | 1530.000° | 2670.359' | 1700.000' | N 00°00'00" E |
| 18 | 1800.00 | 1620.000° | 2827.439' | 1800.000' | N 00°00'00" E |
| 19 | 1900.00 | 1710.000° | 2984.519' | 1900.000' | N 00°00'00" E |
| 20 | 2000.00 | 1800.000° | 3141.599' | 2000.000' | N 00°00'00" E |
| 21 | 2100.00 | 1890.000° | 3298.679' | 2100.000' | N 00°00'00" E |
| 22 | 2200.00 | 1980.000° | 3455.759' | 2200.000' | N 00°00'00" E |
| 23 | 2300.00 | 2070.000° | 3612.839' | 2300.000' | N 00°00'00" E |
| 24 | 2400.00 | 2160.000° | 3769.919' | 2400.000' | N 00°00'00" E |
| 25 | 2500.00 | 2250.000° | 3926.999' | 2500.000' | N 00°00'00" E |
| 26 | 2600.00 | 2340.000° | 4084.079' | 2600.000' | N 00°00'00" |



CITY COUNCIL AGENDA ITEM COVER MEMO

May 7, 2018

To: Mayor and City Council
Agenda Item: 11b & 11c Cover Memo for economic development project with 827 Wanamaker Limited Partnership and Warren Valve Company, LLC.
Submitted by: Joseph Esch, Economic Development

SYNOPSIS

Consideration and action on Council resolution for economic development project with 827 Wanamaker Limited Partnership and Warren Valve Company, LLC.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Maintain a financially sound City
- Grow business investments in Missouri City
- Have quality development through buildout

BACKGROUND

In keeping with the City's stated strategic plan goals, the Economic Development Department has sought to attract capital investment and new jobs to the community. One of the projects the department has been competing to attract is the expansion of facilities for Warren Valve in Lake View Business Park.

The company has locations elsewhere in Missouri City and was considering various locations for the development. Staff has worked with the company's leadership to attract the new capital investment to select their remaining land in Lakeview Business Park. This will be the third project the company has located in Missouri City.

The company will construct a new ~200,000 SF facility with a total project cost of real and personal property which is anticipated to exceed \$10,000,000. The project will also add 35 new employees with an average wage of at least \$60,000 before benefits.

But for the proposed incentive package this project will not locate in Missouri City. The proposed incentive does not require any payments or reduction in taxes from what is already being collected by the City. The incentive package will have the City abate 65% of assessed values on real and personal property (excluding inventory) for a period of ten years.

In preparation for this incentive package Reinvestment zone # 18 was created.

BUDGET/FISCAL ANALYSIS

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

Purchasing Review: N/A
Financial/Budget Review: N/A

SUPPORTING MATERIALS

- 1. Associated resolutions and agreements

STAFF'S RECOMMENDATION

Staff recommends approval of resolutions.

Director Approval: Joseph Esch, Economic Development

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

RESOLUTION NO. R-18-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST THE TAX ABATEMENT AGREEMENT BY AND BETWEEN THE CITY OF MISSOURI CITY, TEXAS, AND 827 WANAMAKER LIMITED PARTNERSHIP, PERTAINING TO CERTAIN REAL PROPERTY TO BE LOCATED ON A 16.82-ACRE TRACT OF LAND SITUATED NORTH OF WILLOW OAK DRIVE, SOUTH OF BUFFALO RUN, EAST OF WILLOW WISP DRIVE, AND WEST OF FAIRVIEW PINES DRIVE WITHIN REINVESTMENT ZONE NO. 18 IN THE CITY OF MISSOURI CITY, TEXAS.

* * * * *

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

Section 1. That the Mayor of the City of Missouri City, Texas, is hereby authorized to execute for and on behalf of the City of Missouri City, Texas, and the City Secretary is hereby authorized to attest the Tax Abatement Agreement by and between the City of Missouri City, Texas, and 827 Wanamaker Limited Partnership pertaining to certain real property improvements to be located on a 16.82-acre tract of land situated north of Willow Oak Drive, south of Buffalo Run, east of Willow Wisp Drive, and west of Fairview Pines Drive in Reinvestment Zone No. 18 in the City of Missouri City, Texas. A copy of such tax abatement agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED and ADOPTED this 19th day of February, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

TAX ABATEMENT AGREEMENT RELATING TO REAL PROPERTY
by and between
THE CITY OF MISSOURI CITY, TEXAS,
and
827 WANAMAKER LIMITED PARTNERSHIP

This Tax Abatement Agreement, hereinafter referred to as "Agreement," is executed by and between **THE CITY OF MISSOURI CITY, TEXAS**, hereinafter referred to as City, acting by and through its City Council, and **827 WANAMAKER LIMITED PARTNERSHIP**, a Texas limited partnership, hereinafter referred to as Owner, and the owner of the Real Property located within City of Missouri City Reinvestment Zone No. 18, established by City of Missouri City Ordinance No. O-18-____, adopted _____, 2018, incorporated herein by reference for all purposes, and of the Improvements (hereinafter defined) to be constructed within the City of Missouri City Reinvestment Zone No. 18.

GENERAL PROVISIONS

1. **Authorization**

- a. This Agreement is authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the TEXAS TAX CODE as it exists on the effective date of this Agreement, and the Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones created in Missouri City, Texas (Guidelines for Tax Abatement), which were approved by the City Council of the City of Missouri City on September 5, 2017, by Resolution No. R-17-23. City has determined that the request for Tax Abatement presented by Owner conforms with the criteria established in the Guidelines for Tax Abatement.
- b. No official of the City has an interest in the property subject to this Agreement.

2. **Definitions**

As used in this Agreement, the following terms shall have the meanings set forth below:

- a. **"Abated Value"** means the value of the Improvements subject to taxation after the appraised value is reduced by the percentage of abatement each year during the term of the Abatement.
- b. **"Abatement"** means the exemption from ad valorem taxes of certain property in City of Missouri City Reinvestment Zone No. 18 as set forth in Section 5 hereof.

- c. **“Application for Abatement”** means the Application for Value Added Tax Abatement and the answers provided on the Economic Impact Statement Questionnaire, both of which are provided by Owner.
- d. **“Certified Appraised Value”** means the value, as certified by the District as of January 1 of each year of this Agreement, regarding Real Property, Improvements or Ineligible Property, as applicable, located on the Real Property within City of Missouri City Reinvestment Zone No. 18.
- e. **“City”** means the City of Missouri City, Texas.
- f. **“District”** means Fort Bend Central Appraisal District.
- g. **“Improvements”** means the building and related improvements to be constructed on the Real Property and used as a warehouse, assembly plant, and office, and containing at least 194,000 square feet of floor space to serve the aforementioned uses.
- h. **“Ineligible Property”** means the Real Property, excluding the Improvements; improvements on the Real Property existing on the date of this Agreement, if any; the Real Property used primarily to provide retail sales or services to the public; the Real Property used for residential purposes or with a productive life of less than 10 years; tangible personal property, including, but not limited to, tangible personal property that the District classifies as inventory or supplies; real or tangible personal property located in City of Missouri City Reinvestment Zone No. 18 prior to the effective date of this Agreement and any other property for which abatement is not allowed by state law.
- i. **“Owner”** means 827 Wanamaker Limited Partnership, a Texas limited partnership, or any other person or entity who acquires the Real Property and to which the rights and obligations of Owner contained in this Agreement are assigned pursuant to the terms of this Agreement.
- j. **“Real Property”** means Reserves 18, 19, and 20, in Block 2 of the Lakeview Business Park, a subdivision recorded under Fort Bend County Clerk’s instrument number 20080032 of the Plat Records of Fort Bend County, Texas, and the improvements, if any, located thereon on the date of this Agreement.
- k. **“Tax Assessor-Collector”** means the Fort Bend County Tax Assessor-Collector.
- l. **“Tax Year”** has the meaning given in Section 1.04(13), TEXAS TAX CODE.

3. **Subject Real Property**

The Real Property subject to this Agreement is located within City of Missouri City Reinvestment Zone No. 18.

4. **Responsibilities and Representations of Owner**

In consideration of receiving the Abatement granted herein for the Improvements, Owner represents and agrees as follows:

(a) That construction of the Improvements shall be commenced on or before August 1, 2018, and shall be completed on or before December 31, 2019. Owner shall provide the Tax Assessor-Collector a certified statement evidencing a minimum of \$10,000,000.00 in project costs with respect to the design, construction, and acquisition of the Improvements within sixty (60) days after completion of the Improvements. Improvements shall be constructed by "separated contracts," as that term is defined by 34 TEX. ADMIN. CODE § 3.291, and Owner shall collect and pay City taxes in accordance with 34 TEX. ADMIN. CODE § 3.379(b). Failure to meet the requirements of this Section 4(a) will invalidate the Abatement for the year that this requirement is not satisfied. Owner may from time to time during the term of this Agreement and after the date set forth above in this Section 4(a), modify, remove or replace Improvements, as Owner may determine in its discretion, provided such shall not modify the minimum value requirements in Section 4(b) hereof.

(b) That, beginning on January 1, 2020, the combined Certified Appraised Value of the Improvements on January 1 of each year that taxes are abated under this Agreement's provisions must have a minimum value of \$10,000,000.00 Failure to meet the requirements of this Section 4(b) will invalidate the Abatement for the year that this requirement is not satisfied.

5. **Term and Abatement**

- (a) This Agreement shall be effective on the date executed by City or the Owner, whichever is last. This Agreement shall terminate on December 31, 2029, unless terminated earlier as provided elsewhere herein. In no event shall this Agreement extend beyond December 31, 2029. Owner's obligations upon default to pay to City any taxes owed under this Agreement shall not terminate until the taxes are paid.
- (b) In each year that this Agreement is in effect, the amount of Abatement shall be an amount equal to the percentage indicated below of the value assessed on the Improvements during each applicable Tax Year.
- (c) Subject to the limitations imposed by law and conditioned upon the Owner's performance outlined in Section 4 above, there shall be granted and allowed hereunder an Abatement on the value of the Improvements as follows:

| Tax Year | Abatement percentage |
|----------|----------------------|
| 2020 | 65% |
| 2021 | 65% |
| 2022 | 65% |
| 2023 | 65% |
| 2024 | 65% |
| 2025 | 65% |
| 2026 | 65% |
| 2027 | 65% |
| 2028 | 65% |
| 2029 | 65%. |

- (d) The Abatement granted for the Improvements shall not apply to the Certified Appraised Value of the Ineligible Property or the Real Property.
- (e) All Improvements shall be constructed in substantial accordance with applicable laws, ordinances, rules, or regulations in effect at the time such Improvements are constructed.

- (f) The District's determination of values shall be used to determine the Certified Appraised Value of the property subject to this Agreement. If Owner protests the District's valuation of the property, the valuation placed on the property after the protest is resolved under State law shall be used.

6. **Taxability**

During the period that this Abatement for the Improvements is effective, taxes shall be payable by Owner as follows:

- (1) the value, as established by the District for each Tax Year, of Real Property and Ineligible Property shall be fully taxable; and
- (2) the Abated Value, as established by the District, of the Improvements shall be fully taxable, provided that Owner comports with the obligations contained herein.

7. **Additional Responsibilities and Representations of Owner**

In consideration of receiving the Abatement granted herein, Owner represents and agrees:

- (a) That Owner has, as of the effective date of this Agreement, the financial resources to implement the above responsibilities and representations.
- (b) That Owner, as of the effective date of this Agreement, has submitted an Application for Abatement.
- (c) The Owner, as of the effective date of this Agreement, has acquired fee simple ownership of the Real Property.
- (d) **THAT OWNER SHALL BE RESPONSIBLE FOR NOTIFYING THE DISTRICT OF THE ABATEMENT, INCLUDING FILING WITH THE DISTRICT ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.**
- (e) **IN THE EVENT THE OWNER INTENDS TO SELL THE REAL PROPERTY, THAT OWNER SHALL BE RESPONSIBLE FOR REQUESTING FROM THE CITY AN ASSIGNMENT OF THIS AGREEMENT AT LEAST THIRTY (30) DAYS BEFORE THE**

PROPOSED DATE FOR CLOSING. OWNER SHALL NOTIFY THE TAX ASSESSOR-COLLECTOR AND THE CITY OF THE SALE OF THE REAL PROPERTY WITHIN NINETY (90) DAYS AFTER SUCH SALE. FAILURE OF OWNER TO COMPLY WITH ANY OF THESE NOTIFICATION REQUIREMENTS SHALL RESULT IN DEFAULT OF THIS AGREEMENT, SUBJECT TO THE NOTICE AND OPPORTUNITY TO CURE PROVISIONS OF SECTION 8(B). OWNER SHALL BE RESPONSIBLE FOR FILING ALL FORMS AS MAY BE REQUIRED BY THE DISTRICT TO DOCUMENT SUCH CHANGE OF OWNERSHIP.

- (f) On or before April 30 of each year of this Agreement, Owner shall certify in writing, in a form prescribed by the City and the Tax Assessor Collector, respectively, to both the City and to the Tax Assessor-Collector whether Owner is in compliance with each term of this Agreement.
- (g) Owner shall record a copy of the Agreement in the real property records of the county in which the Improvements are located and shall submit a file-stamped copy to the City immediately after such filing.

8. Event of Default

- (a) Subject to the notice and opportunity to cure provisions in Section 8(b), City may declare a default of this Agreement if Owner:
 - (1) fails to comply with any of its obligations under this Agreement;
 - (2) allows City ad valorem taxes on the Real Property, on the Ineligible Property, or on the Abated Value of the Improvements to become delinquent; or
 - (3) vacates the Real Property subject to this Agreement or ceases occupancy of the Real Property, without the prior written consent of the City, for a continuous period of one hundred and twenty (120) days before the expiration of the term of this Agreement, for any reason other than (i) casualty damage to the Improvements; (ii) condemnation of the Real Property; or (iii) force majeure as that term is defined in Section 12 of this Agreement.

- (b) City shall notify Owner of any default in writing specifying the default. The Owner shall have sixty (60) days from the date of the notice to cure any default, or if said default is not reasonably curable within such time, the Owner must commence and continue to diligently pursue the cure of said default. If the default is not cured, City may terminate this Agreement by written notice.
- (c) If this Agreement is terminated by City due to Owner's default Owner agrees that Owner is liable for and will pay to City within thirty (30) days of the termination of this Agreement:
 - (1) The amount of all ad valorem taxes abated under this Agreement to the date of termination;
 - (2) Interest, which shall accrue beginning on the date that the Agreement is terminated, on the amount of all ad valorem taxes abated under this Agreement at the interest rate provided for in the Texas Tax Code for delinquent taxes; and
 - (3) Penalties on the amount of all ad valorem taxes abated under this Agreement at the rate provided for in the Texas Tax Code for delinquent taxes.
- (d) City shall have a lien against Owner, the Real Property, and the Improvements for the taxes, interest, and penalties owed because of the recapture of taxes under this Agreement during the time period beginning on the date such payment obligation accrues and continuing until the date paid.

9. **Administration and Inspection**

- (a) This Agreement shall be administered on behalf of City by the City Manager or the City Manager's designee. Owner shall allow employees or other representatives of City, who have been designated by the City Manager for the specific purpose of ensuring compliance with this Agreement, to have access to and to inspect the Real Property and the Improvements, at City's sole cost, expense, and risk during the term of the

Agreement. All inspections shall be made only after two (2) business days' prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction and/or operation of the facility. A representative of Owner may accompany the inspector at Owner's sole discretion.

- (b) Upon completion of the construction of the Improvements, the City shall annually evaluate the Real Property and the Improvements to ensure compliance with the terms and provisions of this Agreement and shall report defaults to Owner.
- (c) The Chief Appraiser of the District shall annually determine (1) the Abated Value of the Improvements under the terms of this Agreement and (2) the Certified Appraised Value of the Improvements. The Chief Appraiser shall record both the Abated Value and the Certified Appraised Value in the appraisal records. The Certified Appraised Value figure for each applicable year listed in the appraisal records shall be used to compute the amount of abated taxes to be recaptured in the event that this Agreement is terminated in a manner that results in recapture of abated taxes.
- (d) Owner shall furnish the Chief Appraiser annually such information required to be furnished to the Chief Appraiser under Chapter 22 of the TEXAS TAX CODE as may be necessary for the administration of the Abatement.

10. **Assignment**

- (a) Owner shall obtain the City's prior written consent at least 30 days before this Agreement may be assigned. This Agreement may not be assigned, and the refusal of the City shall be deemed reasonable if either the City has declared a default hereunder which has not been cured or the Owner or its assignee is delinquent in the payment of ad valorem taxes.

- (b) Any and all assignments shall contain the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of this Agreement.

11. **Indemnity**

It is understood and agreed between the parties that the Owner, in performing its obligations hereunder, is acting independently, and City assumes no responsibilities or liabilities in connection therewith to third parties. **OWNER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND THE DISTRICT FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF OWNER'S BREACH OF ITS OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY AND THE DUTY TO DEFEND SHALL NOT APPLY TO THAT PORTION OF LIABILITIES RESULTING FROM THE INTENTIONAL CONDUCT OR NEGLIGENCE OF CITY OR THE DISTRICT OR THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. OWNER'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION WHICH ARE NOT DUE TO CITY'S, THE DISTRICT'S, OR THEIR REPRESENTATIVES' INTENTIONAL CONDUCT OR NEGLIGENCE. OWNER SHALL BE RESPONSIBLE FOR ALL REASONABLE FEES INCURRED BY CITY IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT THE CITY OR THE DISTRICT FROM ENGAGING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION, AND OWNER SHALL BE RESPONSIBLE FOR ANY SUCH COSTS AND/OR FEES SO INCURRED.**

12. **Force Majeure**

If by reason of force majeure, Owner is unable to perform any obligation of this Agreement, including the completion of the construction of the Improvements by the date

specified in this Agreement, it shall give notice of the force majeure to City in writing within ten (10) calendar days after Owner first becomes aware of the occurrence relied upon and the effect on the performance of the Owner's obligations. By doing so, the obligation of Owner to the extent and for the period of time affected by the force majeure, shall be suspended. Owner shall endeavor to remove or overcome the inability with all reasonable effort. For purposes of this provision, "force majeure" shall mean acts of God, landslides, lightning, earthquakes, hurricanes, storms, floods, or other natural occurrences; strikes, lockouts, insurrections, riots, wars or other civil or industrial disturbances; orders of any kind of the federal or state government or of any civil or military authority; explosions, fires, breakage or accidents to machinery, lines, or equipment; or any other similar causes not reasonably within the control of Owner.

13. **Agreement Approval**

This Agreement is conditioned upon the approval of the City Council of the City of Missouri City by the affirmative vote of a majority of the members present at a duly scheduled meeting of the City Council and upon execution of this Agreement by a representative of the Owner fully authorized to engage in such transaction.

14. **Compliance with State and Local Regulations**

- (a) This Agreement shall not be construed to alter or affect the obligations of Owner to comply with any city ordinance or federal or state law or regulation.
- (b) This paragraph is required by Chapter 2264, Texas Government Code, and supersedes any conflicting provision of this Agreement. Owner is prohibited from knowingly employing undocumented workers as that term is defined in Section 2264.001, Texas Government Code. If Owner is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered default of this Agreement from which no cure provisions shall apply. In such event, City shall provide written notice to

Owner of the default and this Agreement shall automatically terminate on the 30th day after the date of the notice of default from City to Owner. In the event of termination under this paragraph, Owner shall be responsible for repaying to City the amount of all property taxes abated under this Agreement, plus interest and penalties on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes from the date of termination until repaid in full.

15. **Changes in Tax Laws**

The Abatement provided in this Agreement is subject to any changes in the state tax laws during the term of this Agreement, but only the extent required by law to be enforceable and after giving Owner all vesting, non-conforming and/or "grandfather" rights, contained in and applicable to this Agreement and to the extent allowed by law.

16. **Miscellaneous**

- (a) This Agreement shall be construed under and in accordance with the laws of the State of Texas, except conflict of laws principles and provisions, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.
- (b) In the event one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- (c) The waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach.
- (d) Any amendments of this Agreement shall be of no effect unless in writing and signed by each party affected thereby.

- (e) Any act required by this Agreement to be performed by Owner may be performed by the agent of Owner.

17. **Notices**

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to Owner, City, District or the Tax Assessor-Collector, as appropriate, at the mailing address as hereinafter set out. If mailed, any notice of communication shall be deemed to be received three (3) business days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to Owner, City, District, or Tax Assessor-Collector at the following addresses:

To Tax Assessor-Collector: Fort Bend County Tax Assessor-Collector
1317 Eugene Heimann Circle
Richmond, Texas 77469

To Owner: 827 Wanamaker Limited Partnership
34071 La Plaza Ste. 100
Dana Point, CA 92629
Attention: Tobias Lawry

Copy Owner: Jeb Brown
Attorney at Law
3100 Edloe Street, Suite 220
Houston, TX 77027

To City: City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
Attention: City Manager

Copy City: City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
Attention: Economic Development Director

To **District:**

Fort Bend Central Appraisal District
2801 B. F. Terry Blvd.
Rosenberg, Texas 77471
Attention: Chief Appraiser

Either party may designate a different address by giving the other party ten (10) days written notice thereof.

18. **Entire Agreement**

This Agreement contains the entire Agreement among the parties and supersedes all other negotiations and agreements, whether written or oral. This Agreement shall be binding on the parties hereto and their successors and assigns, and shall inure to their benefit as well.

(Execution Pages Follow)

19. **Execution**

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by City and Owner as of the dates below stated. Owner warrants and represents that the individual executing this agreement on behalf of Owner has full authority to execute this Agreement and bind Owner to the same.

CITY OF MISSOURI CITY, TEXAS

By: _____
Allen Owen, Mayor

Date: _____

ATTEST:

Maria Jackson, City Secretary

**827 WANAMAKER LIMITED PARTNERSHIP,
a Texas limited partnership**

**BY: 827 Wanamaker General Partner, Inc., a
Texas corporation, its general partner**

By: _____
Printed Name: _____
Date: _____

STATE OF TEXAS

COUNTY OF _____

**§
§
§**

This instrument was acknowledged before me on this ____ day of _____, 2018, by _____, as _____, of 827 Wanamaker General Partner, Inc., a Texas corporation, the general partner of 827 Wanamaker Limited Partnership, a Texas limited partnership, on its behalf.

Notary Public, State of Texas

RESOLUTION NO. R-18-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST THE TAX ABATEMENT AGREEMENT BY AND BETWEEN THE CITY OF MISSOURI CITY, TEXAS, 827 WANAMAKER LIMITED PARTNERSHIP, AND WARREN VALVE COMPANY, LLC, PERTAINING TO CERTAIN PERSONAL PROPERTY TO BE LOCATED ON A 16.82-ACRE TRACT OF LAND SITUATED NORTH OF WILLOW OAK DRIVE, SOUTH OF BUFFALO RUN, EAST OF WILLOW WISP DRIVE, AND WEST OF FAIRVIEW PINES DRIVE WITHIN REINVESTMENT ZONE NO. 18 IN THE CITY OF MISSOURI CITY, TEXAS.

* * * * *

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

Section 1. That the Mayor of the City of Missouri City, Texas, is hereby authorized to execute for and on behalf of the City of Missouri City, Texas, and the City Secretary is hereby authorized to attest the Tax Abatement Agreement by and between the City of Missouri City, 827 Wanamaker Limited Partnership, and Warren Valve Company, LLC, pertaining to certain personal property to be located on a 16.82-acre tract of land situated north of Willow Oak Drive, south of Buffalo Run, east of Willow Wisp Drive, and west of Fairview Pines Drive in Reinvestment Zone No. 18 in the City of Missouri City, Texas. A copy of such tax abatement agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED and ADOPTED this 19th day of February, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

**TAX ABATEMENT AGREEMENT RELATING TO ELIGIBLE PERSONAL PROPERTY
by and between
THE CITY OF MISSOURI CITY, TEXAS, 827 WANAMAKER LIMITED PARTNERSHIP,
and
WARREN VALVE COMPANY, LLC**

This Tax Abatement Agreement, hereinafter referred to as "Agreement," is executed by and between **THE CITY OF MISSOURI CITY, TEXAS**, hereinafter referred to as City, acting by and through its City Council; **WARREN VALVE COMPANY, LLC**, a Texas limited liability company, hereinafter referred to as "Lessee" (hereinafter defined), the lessee of the Real Property (hereinafter defined); and **827 WANAMAKER LIMITED PARTNERSHIP**, a Texas limited partnership, hereinafter referred to as "Lessor" (hereinafter defined), and the owner of the Real Property located within City of Missouri City Reinvestment Zone No. 18, established by City of Missouri City Ordinance No. O-18-___, adopted _____, 2018, incorporated herein by reference for all purposes.

GENERAL PROVISIONS

1. **Authorization**

- a. This Agreement is authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the TEXAS TAX CODE as it exists on the effective date of this Agreement, and the Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones created in Missouri City, Texas (Guidelines for Tax Abatement), which were approved by the City Council of the City of Missouri City on September 5, 2017, by Resolution No. R-17-23. City has determined that the request for Tax Abatement presented by Lessee conforms with the criteria established in the Guidelines for Tax Abatement.
- b. No official of the City has an interest in the property subject to this Agreement.

2. **Definitions**

As used in this Agreement, the following terms shall have the meanings set forth below:

- a. **"Abated Value"** means the value of the Eligible Personal Property subject to taxation after the appraised value is reduced by the percentage of abatement each year during the term of the Abatement.

- b. **“Abatement”** means the exemption from ad valorem taxes of certain property in City of Missouri City Reinvestment Zone No. 18 as set forth in Section 5 hereof.
- c. **“Application for Abatement”** means the Application for Value Added Tax Abatement and the answers provided on the Economic Impact Statement Questionnaire, both of which are provided by Lessee.
- d. **“Certified Appraised Value”** means the value, as certified by the District as of January 1 of each year of this Agreement, regarding the Eligible Personal Property or Ineligible Property, as applicable, located on the Real Property within City of Missouri City Reinvestment Zone No. 18.
- e. **“City”** means the City of Missouri City, Texas.
- f. **“District”** means Fort Bend Central Appraisal District.
- g. **“Eligible Personal Property”** means personal property, including but not limited to furnishings, fixtures, machinery and equipment, but excluding inventory and supplies, located on the Real Property and not defined as Ineligible Property. Eligible Personal Property is subject to abatement as set forth in Section 5(c) below.
- h. **“Ineligible Property”** means the Real Property; improvements on the Real Property, including improvements on the Real Property existing prior to the effective date of this Agreement; the Real Property used primarily to provide retail sales or services to the public; the Real Property used for residential purposes or with a productive life of less than 10 years; tangible personal property that the District classifies as inventory or supplies; real or tangible personal property located in City of Missouri City Reinvestment Zone No. 18 prior to the effective date of this Agreement; or any other property for which abatement is not allowed by state law.
- i. **“Lessee”** means Warren Valve Company, LLC or any other person or entity to which the rights and obligations of Lessee contained in this Agreement are assigned pursuant to the terms of this Agreement.
- j. **“Lessor”** means 827 Wanamaker Limited Partnership, or any other person or entity who acquires ownership of the Real Property and to which the rights and obligations of the Lessor contained in this Agreement are assigned pursuant to this Agreement.
- k. **“Real Property”** means Reserves 18, 19, and 20, in Block 2 of the Lakeview Business Park, a subdivision recorded under Fort Bend County Clerk’s instrument number 20080032 of the Plat Records of Fort Bend County, Texas, and the improvements, if any, located thereon on the date of this Agreement.

- I. **“Tax Assessor-Collector”** means the Fort Bend County Tax Assessor-Collector.
- m. **“Tax Year”** has the meaning given in Section 1.04(13), TEXAS TAX CODE.

3. **Subject Real Property**

The Real Property subject to this Agreement is located within City of Missouri City Reinvestment Zone No. 18.

4. **Responsibilities and Representations of Lessee**

In consideration of receiving the Abatement granted herein for the Eligible Personal Property, Lessee represents and agrees as follows:

- (a) Lessee agrees to operate a warehouse, assembly plant, and an office at an approximately 194,000 square-foot facility located on the Real Property.
- (b) Beginning January 1, 2020, and continuing through December 31, 2029, Lessee agrees to annually employ an average of at least 35 employees at the Real Property site with an average wage per employee, excluding benefits, of at least \$60,000. Lessee shall annually furnish City with only those payroll records or other records allowed by law and necessary for City to confirm Lessee’s compliance with this Agreement (e.g. number of employees and payroll dollars is appropriate; taxes, benefits, and bonuses are not appropriate). Failure to meet the requirements of this Section 4(b) will invalidate the Abatement for the year that this requirement is not satisfied.
- (c) Lessee agrees to maintain at least eight million dollars (\$8,000,000) of taxable inventory at the Real Property for each Tax Year from January 1, 2020, through December 31, 2029. The District’s Certified Appraised Value shall be used to determine the value of the inventory. Failure to

meet the requirements of this Section 4(c) will invalidate the Abatement for the year that this requirement is not satisfied.

- (d) Lessee agrees to maintain at least two million dollars (\$2,000,000) of Eligible Personal Property at the Real Property for each Tax Year from January 1, 2020, through December 31, 2029. The District's Certified Appraised Value shall be used to determine the value of the Eligible Personal Property. Failure to meet the requirements of this Section 4(d) will invalidate the Abatement for the year that this requirement is not satisfied.

5. **Term and Abatement**

- (a) This Agreement shall be effective on the date executed by City, the Lessee, or the Lessor, whichever is last. This Agreement shall terminate on December 31, 2029, unless terminated earlier as provided elsewhere herein. In no event shall this Agreement extend beyond December 31, 2029. Lessee's obligations upon default to pay to City any taxes owed under this Agreement shall not terminate until the taxes are paid.
- (b) In each year that this Agreement is in effect, the amount of Abatement shall be an amount equal to the percentage indicated below of the value assessed on the Eligible Personal Property during each applicable Tax Year.
- (c) Subject to the limitations imposed by law and conditioned upon the Lessee's performance outlined in Section 4 above, there shall be granted and allowed hereunder an Abatement on the value of the Eligible Personal Property as follows:

| | |
|----------|----------------------|
| Tax Year | Abatement percentage |
| 2020 | 65% |

| | |
|------|------|
| 2021 | 65% |
| 2022 | 65% |
| 2023 | 65% |
| 2024 | 65% |
| 2025 | 65% |
| 2026 | 65% |
| 2027 | 65% |
| 2028 | 65% |
| 2029 | 65%. |

- (d) The Abatement granted for the Eligible Personal Property shall not apply to the Certified Appraised Value of the Ineligible Property or the Real Property.
- (e) The District's determination of values shall be used to determine the Certified Appraised Value of the property subject to this Agreement. If Lessee protests the District's valuation of the property, the valuation placed on the property after the protest is resolved under State law shall be used.

6. **Taxability**

During the period that this Abatement for the Eligible Personal Property is effective, taxes shall be payable by Lessee as follows:

- (1) the value, as established by the District for each Tax Year, of Real Property and Ineligible Property shall be fully taxable; and
- (2) the Abated Value, as established by the District, of the Eligible Personal Property shall be fully taxable, provided that Lessee comports with the obligations contained herein.

7. **Additional Responsibilities and Representations of Lessee**

In consideration of receiving the Abatement granted herein, Lessee represents and agrees:

- (a) That Lessee has, as of the effective date of this Agreement, the financial resources to implement the above responsibilities and representations.

- (b) That Lessee, as of the effective date of this Agreement, submitted an Application for Abatement.
- (c) That Lessor, as of the effective date of this Agreement, has acquired fee simple ownership of the Real Property.
- (d) **THAT LESSEE SHALL BE RESPONSIBLE FOR NOTIFYING THE DISTRICT OF THE ABATEMENT, INCLUDING FILING WITH THE DISTRICT ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.**
- (e) **IN THE EVENT THE LESSEE INTENDS TO SELL THE ELIGIBLE PERSONAL PROPERTY, THAT LESSEE SHALL BE RESPONSIBLE FOR REQUESTING FROM THE CITY AN ASSIGNMENT OF THIS AGREEMENT AT LEAST THIRTY (30) DAYS BEFORE THE PROPOSED DATE FOR CLOSING. LESSEE SHALL NOTIFY THE TAX ASSESSOR-COLLECTOR AND THE CITY OF THE SALE OF THE ELIGIBLE PERSONAL PROPERTY WITHIN NINETY (90) DAYS AFTER SUCH SALE. FAILURE OF LESSEE TO COMPLY WITH ANY OF THESE NOTIFICATION REQUIREMENTS SHALL RESULT IN DEFAULT OF THIS AGREEMENT, SUBJECT TO THE NOTICE AND OPPORTUNITY TO CURE PROVISIONS OF SECTION 8(B). LESSEE SHALL BE RESPONSIBLE FOR FILING ALL FORMS AS MAY BE REQUIRED BY THE DISTRICT TO DOCUMENT SUCH CHANGE OF OWNERSHIP.**
- (f) On or before April 30 of each year, Lessee shall certify in writing, in a form prescribed by the City and the Tax Assessor Collector, respectively, to both the City and to the Tax Assessor-Collector whether Lessee is in compliance with each term of this Agreement.
- (g) Lessee shall record a copy of the Agreement in the real property records of the county in which the Eligible Personal Property is located and shall submit a file-stamped copy to the City immediately after such filing.

8. **Event of Default**

- (a) Subject to the notice and opportunity to cure provisions in Section 8(b), City may declare a default of this Agreement if Lessee:
- (1) fails to comply with any of its obligations under this Agreement;
 - (2) allows City ad valorem taxes on the Real Property, on the Ineligible Property, or on the Abated Value of the Eligible Personal Property to become delinquent; or
 - (3) vacates the Real Property subject to this Agreement or ceases operations on the Real Property, without the prior written consent of the City, for a continuous period of one hundred and twenty (120) days before the expiration of the term of this Agreement for any reason other than (i) casualty damage to the Lessor's improvements on the Real Property; (ii) condemnation of the Real Property; or (iii) force majeure as that term is defined in Section 12 of this Agreement.
- (b) City shall notify Lessee of any default in writing specifying the default. The Lessee shall have sixty (60) days from the date of the notice to cure any default, or if said default is not reasonably curable within such time, the Lessee must commence and continue to diligently pursue the cure of said default. If the default is not cured, City may terminate this Agreement by written notice.
- (c) If this Agreement is terminated by City due to Lessee's default, Lessee agrees that Lessee is liable for and will pay to City within thirty (30) days of the termination of this Agreement:
- (1) The amount of all ad valorem taxes abated under this Agreement to the date of termination;
 - (2) Interest, which shall accrue beginning on the date that the Agreement is terminated, on the amount of all ad valorem taxes abated under this Agreement at the interest rate provided in the Texas Tax Code for delinquent taxes; and

- (3) Penalties on the amount of ad valorem taxes abated under this Agreement at the rate provided for in the Texas Tax Code for delinquent taxes.
- (d) City shall have a lien against Lessee, the Eligible Personal Property, and the Ineligible Property, as applicable, for the taxes, interest, and penalties owed because of the recapture of taxes under this Agreement during the time period beginning on the date such payment obligation accrues and continuing until the date paid.

9. **Administration and Inspection**

- (a) This Agreement shall be administered on behalf of City by the City Manager or the City Manager's designee. Lessee shall allow employees or other representatives of City, who have been designated by the City Manager for the specific purpose of ensuring compliance with this Agreement, to have access to and to inspect the Eligible Personal Property, at City's sole cost, expense, and risk during the term of the Agreement. All inspections shall be made only after two (2) business days' prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction and/or operation of the facility. A representative of Lessee may accompany the inspector at Lessee's sole discretion.
- (b) The City shall annually evaluate the Eligible Personal Property to ensure compliance with the terms and provisions of this Agreement and shall report defaults to Lessee.
- (c) The Chief Appraiser of the District shall annually determine (1) the Abated Value of the Eligible Personal Property under the terms of this Agreement and (2) the Certified Appraised Value of the Eligible Personal Property. The Chief Appraiser shall record both the Abated Value and the Certified Appraised Value in the appraisal records. The Certified Appraised Value figure for each applicable year listed in the appraisal records shall be used to compute the amount of abated taxes to be recaptured in the event that

this Agreement is terminated in a manner that results in recapture of abated taxes.

- (d) Lessee shall furnish the Chief Appraiser annually such information required to be furnished to the Chief Appraiser under Chapter 22 of the TEXAS TAX CODE as may be necessary for the administration of the Abatement.

10. **Assignment**

- (a) Lessee shall obtain the City's prior written consent before this Agreement is assigned. This Agreement may not be assigned and the refusal of the City shall be deemed reasonable if either the City has declared a default hereunder which has not been cured or the Lessee or its assignee is delinquent in the payment of ad valorem taxes.
- (b) Any and all assignments shall contain the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of this Agreement.

11. **Indemnity**

It is understood and agreed between the parties that the Lessee, in performing its obligations hereunder, is acting independently, and City assumes no responsibilities or liabilities in connection therewith to third parties. **LESSEE AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND THE DISTRICT FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF LESSEE'S BREACH OF ITS OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY AND THE DUTY TO DEFEND SHALL NOT APPLY TO THAT PORTION OF LIABILITIES RESULTING FROM THE INTENTIONAL CONDUCT OR NEGLIGENCE OF CITY OR THE DISTRICT OR THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. LESSEE'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED**

IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION WHICH ARE NOT DUE TO CITY'S, THE DISTRICT'S, OR THEIR REPRESENTATIVES' INTENTIONAL CONDUCT OR NEGLIGENCE. LESSEE SHALL BE RESPONSIBLE FOR ALL REASONABLE FEES INCURRED BY CITY IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT THE CITY OR THE DISTRICT FROM ENGAGING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION, AND LESSEE SHALL BE RESPONSIBLE FOR ANY SUCH COSTS AND/OR FEES SO INCURRED.

12. **Force Majeure**

If by reason of force majeure, Lessee is unable to perform any obligation of this Agreement, it shall give notice of the force majeure to City in writing within ten (10) calendar days after Lessee first becomes aware of the occurrence relied upon and the effect on the performance of the Lessee's obligations. By doing so, the obligation of Lessee to the extent and for the period of time affected by the force majeure, shall be suspended. Lessee shall endeavor to remove or overcome the inability with all reasonable effort. For purposes of this provision, "force majeure" shall mean acts of God, landslides, lightning, earthquakes, hurricanes, storms, floods, or other natural occurrences; strikes, lockouts, insurrections, riots, wars or other civil or industrial disturbances; orders of any kind of the federal or state government or of any civil or military authority; explosions, fires, breakage or accidents to machinery, lines, or equipment; or any other similar cause not reasonably within the control of Lessee.

13. **Agreement Approval**

This Agreement is conditioned upon the approval of the City Council of the City of Missouri City by the affirmative vote of a majority of the members present at a duly scheduled meeting of the City Council and upon execution of this Agreement by a

representative of the Lessee and the Lessor, respectively, fully authorized to engage in such transaction.

14. **Compliance with State and Local Regulations**

- (a) This Agreement shall not be construed to alter or affect the obligations of Lessee to comply with any city ordinance or federal or state law or regulation.
- (b) This paragraph is required by Chapter 2264, Texas Government Code, and supersedes any conflicting provision of this Agreement. Lessee is prohibited from knowingly employing undocumented workers as that term is defined in Section 2264.001, Texas Government Code. If Lessee is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered default of this Agreement from which no cure provisions shall apply. In such event, City shall provide written notice to Lessee of the default and this Agreement shall automatically terminate on the 30th day after the date of the notice of default from City to Lessee. In the event of termination under this paragraph, Lessee shall be responsible for repaying to City the amount of all property taxes abated under this Agreement, plus interest and penalties on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes from the date of termination until repaid in full.

15. **Changes in Tax Laws**

The Abatement provided in this Agreement is subject to any changes in the state tax laws during the term of this Agreement, but only the extent required by law to be

enforceable and after giving Lessor all vesting, non-conforming and/or "grandfather" rights, contained in and applicable to this Agreement and to the extent allowed by law.

16. **Miscellaneous**

- (a) This Agreement shall be construed under and in accordance with the laws of the State of Texas, except conflict of laws principles and provisions, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.
- (b) In the event one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- (c) The waiver by any party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach.
- (d) Any amendments of this Agreement shall be of no effect unless in writing and signed by each party affected thereby.
- (e) Any act required by this Agreement to be performed by Lessee may be performed by the agent of Lessee.

17. **Notices**

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to Lessee, Lessor, City, District or the Tax Assessor-Collector, as appropriate, at the mailing address as hereinafter set out.

If mailed, any notice of communication shall be deemed to be received three (3) business days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to Lessee, Lessor, City, District, or Tax Assessor-Collector at the following addresses:

To Tax Assessor-Collector: Fort Bend County Tax Assessor-Collector
1317 Eugene Heimann Circle
Richmond, Texas 77469

To Lessee: Warren Valve Company, LLC
7200 Mykawa
Houston, TX 77033
Attention: Jeremy Blachman

Copy Lessee: Jeb Brown
Attorney at Law
3100 Edloe Street Suite 220
Houston, TX 77027

To Lessor: 827 Wanamaker Limited Partnership
34071 La Plaza Ste. 100
Dana Point, CA 92629
Attention: Tobias Lawry

Copy Lessor: Jeb Brown
Attorney at Law
3100 Edloe Street Suite 220
Houston, TX 77027

To City: City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
Attention: City Manager

Copy City: City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
Attention: Economic Development Director

To District: Fort Bend Central Appraisal District
2801 B. F. Terry Blvd.
Rosenberg, Texas 77471
Attention: Chief Appraiser

Either party may designate a different address by giving the other party ten (10) days written notice thereof.

18. **Entire Agreement**

This Agreement contains the entire Agreement among the parties and supersedes all other negotiations and agreements, whether written or oral. This Agreement shall be binding on the parties hereto and their successors and assigns, and shall inure to their benefit as well.

(Execution Pages Follow)

19. **Execution**

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by City, Lessee, and Lessor as of the dates below stated. Lessee and Lessor warrant and represent that the individuals executing this agreement on behalf of Lessee and Lessor have full authority to execute this Agreement and bind Lessee and Lessor to the same.

CITY OF MISSOURI CITY, TEXAS

By: _____
Allen Owen, Mayor

Date: _____

ATTEST:

Maria Jackson, City Secretary

Warren Valve Company, LLC, a Texas limited liability company

By: _____
Printed Name: _____

Date: _____

STATE OF TEXAS

COUNTY OF _____

§
§
§

This instrument was acknowledged before me on this ____ day of _____, 2018, by _____, as _____, of Warren Valve Company, LLC, a Texas limited liability company, on its behalf.

Notary Public, State of Texas

**827 WANAMAKER LIMITED PARTNERSHIP,
a Texas limited partnership**

**BY: 827 Wanamaker General Partner, Inc., a
Texas corporation, its general partner**

By: _____
Printed Name: _____
Date: _____

STATE OF TEXAS

**§
§
§**

COUNTY OF _____

This instrument was acknowledged before me on this ____ day of _____, 2018,
by _____, as _____, of 827 Wanamaker
General Partner, Inc., a Texas corporation, the general partner of 827 Wanamaker
Limited Partnership, a Texas limited partnership, on its behalf.

Notary Public, State of Texas



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

May 7, 2018

To: Mayor and City Council
Agenda Item: 11d Resolution for economic development project with AX Park 8Ninety Castcom L.P
Submitted by: Joseph Esch, Economic Development

SYNOPSIS

Consideration and action on Council resolution for economic development project with AX Park 8Ninety Castcom L.P.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Maintain a financially sound City
- Grow business investments in Missouri City
- Have quality development through buildout

BACKGROUND

For nearly a year city staff has been working with Trammel Crow and Comcast to attract the development of a Comcast service center facility in Park 8Nintey. The project would be developed by Trammel Crow and leased to Comcast. The proposed new facility would be at least 32,000 SF and provide space for Comcast service vehicles. The total project is anticipated to exceed \$10,000,000 in total capital investment and create 255 new jobs in Missouri City with an average annual wage of approximately \$50,000 before benefits.

But for the proposed incentive package this project will not locate in Missouri City. The proposed incentive does not require any payments or reduction in taxes from what is already being collected by the City. The incentive package will have the City abate 50% of assessed values on real property for a period of nine years.

In preparation for this incentive package Reinvestment zone # 16 was created by Resolution # R-17-23 on September 18, 2017.

BUDGET/FISCAL ANALYSIS

| Funding Source | Account Number | Project Code/Name | FY__ Funds Budgeted | FY__ Funds Available | Amount Requested |
|----------------|----------------|-------------------|---------------------|----------------------|------------------|
|----------------|----------------|-------------------|---------------------|----------------------|------------------|

| | | | | | |
|-----|--|--|--|--|--|
| N/A | | | | | |
| N/A | | | | | |

Purchasing Review: N/A
Financial/Budget Review: N/A

SUPPORTING MATERIALS

1. Associated resolution and agreement

STAFF'S RECOMMENDATION

Staff recommends approval of resolution

Director Approval: Joseph Esch, Economic Development

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

RESOLUTION NO. R-18-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST THE TAX ABATEMENT AGREEMENT BY AND BETWEEN THE CITY OF MISSOURI CITY, TEXAS, AND AX PARK 8NINETY CASTCOM L.P. PERTAINING TO CERTAIN REAL PROPERTY IMPROVEMENTS TO BE LOCATED ON A 6.13-ACRE TRACT OF LAND SITUATED NORTH OF BUFFALO RUN PARK, SOUTH OF HIGHWAY 90A, EAST OF CRAVENS ROAD, AND WEST OF THE SAM HOUSTON TOLLWAY WITHIN REINVESTMENT ZONE NO. 16 IN THE CITY OF MISSOURI CITY, TEXAS.

* * * * *

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

Section 1. That the Mayor of the City of Missouri City, Texas, be, and is authorized to execute for and on behalf of the City of Missouri City, Texas, and the City Secretary be, and is hereby, authorized to attest the Tax Abatement Agreement by and between the City of Missouri City, Texas, and AX Park 8Ninety Castcom L.P., pertaining to certain real property improvements to be located on a 6.13-acre tract of land situated north of Buffalo Run Park, south of Highway 90A, east of Cravens Road, and west of the Sam Houston Tollway in Reinvestment Zone No. 16 in the City of Missouri City, Texas. A copy of such tax abatement agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED and ADOPTED this __ day of _____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

**TAX ABATEMENT AGREEMENT RELATING TO REAL PROPERTY AND
IMPROVEMENTS by and between
THE CITY OF MISSOURI CITY, TEXAS, and AX PARK 8NINETY CASTCOM L.P.**

This Tax Abatement Agreement, hereinafter referred to as "Agreement," is executed by and between **THE CITY OF MISSOURI CITY, TEXAS**, hereinafter referred to as "City", acting by and through its City Council, and **AX PARK 8NINETY CASTCOM L.P.**, hereinafter referred to as "Owner", a Delaware limited partnership and the owner of the Real Property located within City of Missouri City Reinvestment Zone No. 16, established by City of Missouri City Ordinance No. O-17-43, adopted November 6, 2017, incorporated herein by reference for all purposes, and of the Improvements (hereinafter defined) to be constructed within the City of Missouri City Reinvestment Zone No. 16.

GENERAL PROVISIONS

1. Authorization

- a. This Agreement is authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the TEXAS TAX CODE as it exists on the effective date of this Agreement, and the Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones created in Missouri City, Texas (Guidelines for Tax Abatement), which were approved by the City Council of the City of Missouri City on September 18, 2017, by Resolution No. R-17-23. City has determined that the request for Tax Abatement presented by Owner conforms with the criteria established in the Guidelines for Tax Abatement.
- b. No official of the City has an interest in the property subject to this Agreement.

2. Definitions

As used in this Agreement, the following terms shall have the meanings set forth below:

- a. **"Abated Value"** means the value of the Improvements subject to taxation after the appraised value is reduced by the percentage of abatement each year during the term of the Abatement.
- b. **"Abatement"** means the exemption from ad valorem taxes of certain property in City of Missouri City Reinvestment Zone No. 16 as set forth in Section 5 hereof.

- c. **“Application for Abatement”** means the Application for Value Added Tax Abatement and the answers provided on the Economic Impact Statement Questionnaire, both of which are provided by Owner.
- d. **“Certified Appraised Value”** means the value, as certified by the District as of January 1 of each year of this Agreement, regarding Real Property, Improvements, or Ineligible Property, as applicable, located on the Real Property within City of Missouri City Reinvestment Zone No. 16.
- e. **“City”** means the City of Missouri City, Texas.
- f. **“District”** means Fort Bend Central Appraisal District.
- g. **“Improvements”** means the construction of a building used as an office and warehouse, to be located on the Real Property and containing at least 32,000 square feet of floor space, and any sidewalks, parking lots, outdoor lighting, landscaping and other improvements to serve the building.
- h. **“Ineligible Property”** means the Real Property, excluding the Improvements, improvements on the Real Property existing on the date of this Agreement, the Real Property used primarily to provide retail sales or services to the public, the Real Property used for residential purposes or with a productive life of less than 10 years, tangible personal property, including, but not limited to, tangible personal property that the District classifies as inventory or supplies, real or tangible personal property located in City of Missouri City Reinvestment Zone No. 16 prior to the effective date of this Agreement and any other property for which abatement is not allowed by state law.
- i. **“Owner”** means AX Park 8Ninety Castcom L.P., or any other person or entity to which the rights and obligations of Owner contained in this Agreement are assigned pursuant to the terms of this Agreement.
- j. **“Real Property”** means the land described on Exhibit A attached hereto and made a part hereof for all purposes.
- k. **“Tax Assessor-Collector”** means the Fort Bend County Tax Assessor-Collector.
- l. **“Tax Year”** has the meaning given in Section 1.04(13), TEXAS TAX CODE.

3. **Subject Real Property**

The Real Property subject to this Agreement is located within City of Missouri City Reinvestment Zone No. 16.

4. **Responsibilities and Representations of Owner**

In consideration of receiving the Abatement granted herein for the Improvements, Owner represents and agrees as follows:

(a) Owner agrees that construction of the Improvements shall be commenced on or before November 1, 2018, and shall be completed on or before July 31, 2019, subject to Section 12 below. Owner shall provide the Tax Assessor-Collector a certified statement evidencing a minimum of \$4,500,000 in project costs with respect to the design, construction, and acquisition of the Improvements within sixty (60) days after completion of the Improvements. Improvements shall be constructed by "separated contracts," as that term is defined by 34 TEX. ADMIN. CODE § 3.291, and Owner shall collect and pay City taxes in accordance with 34 TEX. ADMIN. CODE § 3.379(b). Failure to meet the requirements of this Section 4(a) will invalidate the Abatement for the year that this requirement is not satisfied, but shall not be considered a default of this Agreement provided that Owner notifies City and does not receive an Abatement for such year. Owner may from time to time during the term of this Agreement and after the date set forth above in this Section 4(a), modify, remove or replace Improvements, as Owner may determine in its discretion, provided such shall not modify the minimum value requirements in Section 4(b) hereof.

(b) Owner agrees that, beginning on January 1, 2020, and each year thereafter in which taxes are abated pursuant to this Agreement, the combined Certified Appraised Value of the Improvements on January 1 of each year must have a minimum value of \$4,500,000, subject to Section 12 below. Failure to meet the requirements of this Section 4(b) will invalidate the Abatement for the year that this requirement is not satisfied, but shall not be considered a default of this Agreement provided that the Owner notifies the City and does not receive an Abatement for such year.

(c) Owner agrees that, beginning on January 1, 2020, the Improvements shall be occupied by Comcast of Houston, LLC (or an affiliate thereof), subject to Section 12 below. Failure to meet the requirements of this Section 4(c) will invalidate the Abatement for the year that this requirement is not satisfied, but shall not be considered a default of

this Agreement provided that the Owner notifies the City and does not receive an Abatement for such year.

(d) Owner agrees that, for each Tax Year in which an abatement is not granted pursuant to the tax abatement agreement relating to certain eligible personal property, entered into by the City, Comcast of Houston, LLC, and the Owner, on or about the effective date of this Agreement, such failure to receive an abatement will invalidate the Abatement authorized by this Agreement.

(e) Owner agrees that a default of the tax abatement agreement relating to certain eligible personal property, entered into by the City, Comcast of Houston, LLC, and the Owner, on or about the effective date of this Agreement, shall constitute a default of this Agreement.

5. **Term and Abatement**

(a) This Agreement shall be effective on the date executed by City or the Owner, whichever is last. This Agreement shall terminate on December 31, 2029, unless terminated earlier as provided elsewhere herein. In no event shall this Agreement extend beyond December 31, 2028. Owner's obligations upon default to pay to City any taxes abated or owed under this Agreement shall not terminate until the abated taxes are paid.

(b) In each year that this Agreement is in effect, the amount of Abatement shall be an amount equal to the percentage indicated below of the value assessed on the Improvements during each applicable Tax Year.

(c) Subject to the limitations imposed by law and conditioned upon the Owner's performance outlined in Section 4 above, there shall be granted and allowed hereunder an Abatement on the value of the Improvements as follows:

| Tax Year | Abatement percentage |
|----------|----------------------|
| 2020 | 50% |
| 2021 | 50% |
| 2022 | 50% |
| 2023 | 50% |
| 2024 | 50% |
| 2025 | 50% |
| 2026 | 50% |
| 2027 | 50% |
| 2028 | 50%. |

(d) The Abatement granted for the Improvements shall not apply to the Certified Appraised Value of the Ineligible Property or the Real Property.

(e) All Improvements shall be constructed in substantial accordance with applicable laws, ordinances, rules, or regulations in effect at the time such Improvements are constructed.

(f) The District's determination of values shall be used to determine the Certified Appraised Value of the property subject to this Agreement. If Owner protests the District's valuation of the property, the valuation placed on the property after the protest is resolved under State law shall be used.

(g) Owner may terminate this Agreement with thirty (30) days' written notification to the City. Owner shall not be entitled to a tax abatement for the year in which such termination is made. If taxes for the year of termination have been abated, the Owner shall, with such notice, make payment to the City of any abated taxes for the year of termination with interest and penalties as described in Section 8.

6. **Taxability**

During the period that this Abatement for the Improvements is effective, taxes shall be payable by Owner as follows:

- (1) the value, as established by the District for each Tax Year, of Real Property and Ineligible Property shall be fully taxable; and

- (2) the Abated Value, as established by the District, of the Improvements shall be fully taxable, provided that Owner comports with the obligations contained herein.

7. **Additional Responsibilities and Representations of Owner**

In consideration of receiving the Abatement granted herein, Owner represents and agrees:

(a) That Owner has, as of the effective date of this Agreement, the financial resources to implement the above responsibilities and representations.

(b) That Owner, as of the effective date of this Agreement, submitted an Application for Abatement.

(c) The Owner, as of the effective date of this Agreement, has acquired fee simple ownership of the Real Property.

(d) **THAT OWNER SHALL BE RESPONSIBLE FOR NOTIFYING THE DISTRICT OF THE ABATEMENT, INCLUDING FILING WITH THE DISTRICT ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.**

(e) **IN THE EVENT THE OWNER INTENDS TO SELL THE REAL PROPERTY, THAT OWNER SHALL BE RESPONSIBLE FOR REQUESTING FROM THE CITY AN ASSIGNMENT OF THIS AGREEMENT AT LEAST THIRTY (30) DAYS BEFORE THE PROPOSED DATE FOR CLOSING, PROVIDED, HOWEVER, THAT NO SUCH AUTHORIZATION SHALL BE NECESSARY IF THE OWNER INTENDS TO SELL THE REAL PROPERTY TO AN ENTITY THAT IS CONTROLLED BY THE OWNER AND IS AUTHORIZED TO CONDUCT BUSINESS IN THE STATE OF TEXAS AT THE TIME OF ASSIGNMENT. OWNER SHALL NOTIFY THE TAX ASSESSOR-COLLECTOR AND THE CITY OF THE SALE OF THE REAL PROPERTY WITHIN NINETY (90) DAYS AFTER SUCH SALE. FAILURE OF OWNER TO COMPLY WITH ANY OF THESE NOTIFICATION REQUIREMENTS SHALL RESULT IN DEFAULT OF THIS AGREEMENT, SUBJECT TO THE NOTICE AND OPPORTUNITY TO CURE PROVISIONS OF SECTION 8(B). OWNER SHALL BE RESPONSIBLE FOR FILING**

ALL FORMS AS MAY BE REQUIRED BY THE DISTRICT TO DOCUMENT SUCH CHANGE OF OWNERSHIP.

(f) On or before April 30 of each year of this Agreement, Owner shall certify in writing, in a form prescribed by the City and the Tax Assessor Collector, respectively, to both the City and to the Tax Assessor-Collector whether Owner is in compliance with each term of this Agreement.

(g) Owner shall record a copy of the Agreement in the real property records of the county in which the Improvements are located and shall submit a file-stamped copy to the City immediately after such filing. Upon expiration or earlier termination of this Agreement, the City agrees to timely execute a release and any other documentation required by a title insurance company to release such recording from the title of the Real Property and Improvements, provided that any and all payment obligations (including, but not limited to, interest and penalty payment obligations) to the City, if any, have been satisfied. This provision shall survive such expiration or termination.

8. Event of Default

(a) Subject to the notice and opportunity to cure provisions in Section 8(b), and except as otherwise set forth in this Agreement, City may declare a default of this Agreement if:

- (1) Owner fails to comply with any of its obligations under this Agreement beyond any applicable notice and cure period;
- (2) Owner allows City ad valorem taxes on the Real Property, on the Ineligible Property, or on the Abated Value of the Improvements to become delinquent; or
- (3) Comcast of Houston, LLC (or an affiliate thereof) (a) vacates the Real Property subject to the Agreement or ceases operations on the Real Property for a continuous period of one hundred twenty (120) days before the expiration of the term of the Abatement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed; except that, in the event of (i) a temporary shutdown of the facility, with assurance of the resumption of operations, for the purpose of

facility modification, repair, restoration, expansion, improvement, retooling or similar purpose, (ii) the facility is being actively marketed, the City shall not unreasonably withhold consent to a reasonable extension to such period to permit the sale or lease of the facility to another operator, or (iii) the closure of the facility pending settlement of insurance, casualty or condemnation claims shall not constitute a vacating of or a cessation of operations on the Real Property under this Section, and (b) such parties are unable to lease or sublease the Real Property to a third party tenant within eight (8) months following such vacation or cessation. Such exceptions are subject to further extension for force majeure as defined in Section 12 herein.

(b) City shall notify Owner of any default in writing specifying the default. The Owner shall have sixty (60) days from the date of the notice to cure any default, or if said default is not reasonably curable within such time, the Owner must commence and continue to diligently pursue the cure of said default. If the default is not cured within ninety (90) days from receipt of notice, City may terminate this Agreement by written notice.

(c) If this Agreement is terminated by City due to Owner's default, Owner agrees that Owner is liable for and will pay to City within thirty (30) days of the termination of this Agreement:

- (1) The amount of all ad valorem taxes abated under this Agreement to the date of termination;
- (2) Interest, which shall accrue beginning on the date that the Agreement is terminated, on the amount of all ad valorem taxes abated under this Agreement at the interest rate provided for in the Texas Tax Code for delinquent taxes; and
- (3) Penalties on the amount of all ad valorem taxes abated under this Agreement at the rate provided for in the Texas Tax Code for delinquent taxes.

(d) City shall have a lien against the Real Property and the Improvements for the taxes, interest, and penalties owed because of the recapture of taxes under this

Agreement during the time period beginning on the date such payment obligation accrues and continuing until the date paid.

9. **Administration and Inspection**

(a) This Agreement shall be administered on behalf of City by the City Manager or the City Manager's designee. Owner shall allow employees or other representatives of City, who have been designated by the City Manager for the specific purpose of ensuring compliance with this Agreement, to have access to and to inspect the Real Property and the Improvements, at City's sole cost, expense, and risk during the term of the Agreement, subject to the rights and requirements of any tenant thereof. All inspections shall be made only after two (2) business days' prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction and/or operation of the facility. A representative of Owner may accompany the inspector at Owner's sole discretion.

(b) Upon completion of the construction of the Improvements, the City shall annually evaluate the Real Property and the Improvements to ensure compliance with the terms and provisions of this Agreement and shall report defaults to Owner.

(c) The Chief Appraiser of the District shall annually determine (1) the Abated Value of the Improvements under the terms of this Agreement and (2) the Certified Appraised Value of the Improvements. The Chief Appraiser shall record both the Abated Value and the Certified Appraised Value in the appraisal records. The Certified Appraised Value figure for each applicable year listed in the appraisal records shall be used to compute the amount of abated taxes to be recaptured in the event that this Agreement is terminated in a manner that results in recapture of abated taxes.

(d) Owner shall furnish the Chief Appraiser annually such information required to be furnished to the Chief Appraiser under Chapter 22 of the TEXAS TAX CODE as may be necessary for the administration of the Abatement.

10. **Assignment**

(a) Owner shall obtain the City's prior written consent (not to be unreasonably withheld, conditioned or delayed) before this Agreement may be assigned to any third-party person or entity. This Agreement may not be assigned and the refusal of the City shall be deemed reasonable if either the City has declared a default hereunder which has not been cured or the Owner or its assignee is delinquent in the payment of ad valorem taxes. City's consent shall not be required for any assignment of this Agreement to an affiliated person or entity, provided that the Owner provides the City with notice of such assignment at least thirty (30) days after such assignment is made.

(b) Any and all assignments shall contain the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of this Agreement.

11. **Indemnity**

It is understood and agreed between the parties that the Owner, in performing its obligations hereunder, is acting independently, and City assumes no responsibilities or liabilities in connection therewith to third parties. **OWNER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND THE DISTRICT FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF OWNER'S BREACH OF ITS OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY AND THE DUTY TO DEFEND SHALL NOT APPLY TO THAT PORTION OF LIABILITIES RESULTING FROM THE INTENTIONAL CONDUCT OR NEGLIGENCE OF CITY OR THE DISTRICT OR THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. OWNER'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION WHICH ARE NOT DUE TO CITY'S, THE DISTRICT'S, OR THEIR REPRESENTATIVES' INTENTIONAL CONDUCT OR NEGLIGENCE. OWNER SHALL BE RESPONSIBLE**

FOR ALL REASONABLE FEES INCURRED BY CITY IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT THE CITY OR THE DISTRICT FROM ENGAGING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION, AND OWNER SHALL BE RESPONSIBLE FOR ANY SUCH COSTS AND/OR FEES SO INCURRED.

12. **Force Majeure**

If by reason of force majeure, Owner is unable to perform any obligation of this Agreement, including, without limitation, the completion of the construction of the Improvements by the date specified in this Agreement, it shall give notice of the force majeure to City in writing within fifteen (15) business days after Owner first becomes aware of the occurrence relied upon and the effect on the performance of the Owner's obligations. By doing so, the obligation of Owner to the extent and for the period of time affected by the force majeure, shall be suspended. Owner shall endeavor to remove or overcome the inability with all reasonable effort. For purposes of this provision, "force majeure" shall mean acts of God, landslides, lightning, earthquakes, hurricanes, storms, floods, or other natural occurrences; strikes, lockouts, insurrections, riots, wars or other civil or industrial disturbances; orders of any kind of the federal or state government or of any civil or military authority; explosions, fires, breakage or accidents to machinery, lines, or equipment; or any other similar cause not reasonably within the control of Owner.

13. **Agreement Approval**

This Agreement is conditioned upon the approval of the City Council of the City of Missouri City by the affirmative vote of a majority of the members present at a duly scheduled meeting of the City Council and upon execution of this Agreement by a representative of the Owner fully authorized to engage in such transaction.

14. **Compliance with State and Local Regulations**

(a) This Agreement shall not be construed to alter or affect the obligations of Owner to comply with any city ordinance or federal or state law or regulation.

(b) This paragraph is required by Chapter 2264, Texas Government Code, and supersedes any conflicting provision of this Agreement. Owner is prohibited from knowingly employing undocumented workers as that term is defined in Section 2264.001, Texas Government Code. If Owner is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered default of this Agreement from which no cure provisions shall apply. In such event, City shall provide written notice to Owner of the default and this Agreement shall automatically terminate on the 30th day after the date of the notice of default from City to Owner. In the event of termination under this paragraph, Owner shall be responsible for repaying to City the amount of all property taxes abated under this Agreement, plus interest and penalties on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes from the date of termination until repaid in full.

15. **Changes in Tax Laws**

The Abatement provided in this Agreement is subject to any changes in the state tax laws during the term of this Agreement.

16. **Miscellaneous**

(a) This Agreement shall be construed under and in accordance with the laws of the State of Texas, except conflict of laws principles and provisions, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.

(b) In the event one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity,

illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(c) The waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach.

(d) Any amendments of this Agreement shall be of no effect unless in writing and signed by each party affected thereby.

(e) Any act required by this Agreement to be performed by Owner may be performed by the agent of Owner.

17. **Notices**

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to Owner, City, District or the Tax Assessor-Collector, as appropriate, at the mailing address as hereinafter set out. If mailed, any notice of communication shall be deemed to be received three (3) business days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to Owner, City, District, or Tax Assessor-Collector at the following addresses:

To Tax Assessor-Collector: Fort Bend County Tax Assessor-Collector
1317 Eugene Heimann Circle
Richmond, Texas 77469

To Owner: AX Park 8Ninety Castcom L.P.
c/o Artis REIT
16220 N. Scottsdale Road, Suite 280
Scottsdale, Arizona 85254
Attention: Philip Martens

Copy Owner: AX Park 8Ninety Castcom L.P.
c/o Artis REIT
300-360 Main Street
Winnipeg, MB R3C 3Z3

Attention: Jim Green

AND

Reinhart Boerner Van Deuren s.c.
16220 North Scottsdale Road, Suite 290
Scottsdale, Arizona 85254
Attn: William (Will) Invie Shroyer

To City: City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
Attention: City Manager

Copy City: City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
Attention: Economic Development Director

To District: Fort Bend Central Appraisal District
2801 B.F. Terry Blvd.
Rosenberg, Texas 77471
Attention: Chief Appraiser

Either party may designate a different address by giving the other party ten (10) days written notice thereof.

18. **Entire Agreement**

This Agreement contains the entire Agreement among the parties and supersedes all other negotiations and agreements, whether written or oral. This Agreement shall be binding on the parties hereto and their successors and assigns, and shall inure to their benefit as well.

(Execution Pages Follow)

19. **Execution**

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by City and Owner as of the dates below stated. Owner warrants and represents that the individual executing this agreement on behalf of Owner has full authority to execute this Agreement and bind Owner to the same.

CITY OF MISSOURI CITY, TEXAS

By: _____
Allen Owen, Mayor

Date: _____

ATTEST:

Maria Jackson, City Secretary

**AX PARK 8NINETY CASTCOM L.P. a
Delaware limited partnership**

By: AX Park 8Ninety Castcom, LLC, a
Delaware limited liability company,
General Partner

By: _____
Printed Name: _____
Title: _____

ATTEST:

Date: _____

Printed Name: _____

Attachment: Exhibit A – Real Property Description

**EXHIBIT A
REAL PROPERTY DESCRIPTION**

All 6.13 acres of Reserves 8 and 9 of the Park 8Ninety subdivision recorded under Fort Bend County Clerk's Instrument Number 20160020 of the Plat Records of Fort Bend County, Texas, and the improvements, if any, located thereon on the date of this Agreement.



CITY COUNCIL AGENDA ITEM COVER MEMO

May 7, 2018

To: Mayor and City Council
Agenda Item: 11(e) - Resolution denying CenterPoint Energy Houston Electric, LLC's Application for Approval to Amend its Distribution Cost Recovery Factor
Submitted by: Evelyn W. Kimeu, First Assistant City Attorney

SYNOPSIS

The purpose of this Resolution is to deny CenterPoint Energy Houston Electric, LLC's ("CenterPoint") application to amend its distribution cost recovery factor (DCRF).

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live
- Grow business investments in Missouri City

BACKGROUND

The Gulf Coast Coalition of Cities (the "GCCC") has been the primary public interest advocate before the Texas Public Utility Commission (the "PUC"), the courts, and the Texas Legislature on electric utility regulation matters for over 20 years. The City, along with approximately 25 other cities served by CenterPoint, is a member of the GCCC. The City Council approved the City's membership in GCCC on August 6, 2012.

On April 4, 2018, CenterPoint filed, with each of the cities in its service area, an Application for Approval to Amend its DCRF ("Application"). CenterPoint's application provides that its total DCRF revenue requirement (i.e. the total distribution revenue requirement associated with distribution invested capital during the period January 1, 2010, through December 31, 2017) is approximately \$121 million. However, due to adjustments resulting from federal income tax rate changes as a result of the Tax Cuts and Jobs Act of 2017, CenterPoint is requesting a total DCRF revenue requirement in the amount of approximately \$82 million. The resulting total DCRF revenue requirement constitutes an approximate \$7 million decrease to the currently approved total distribution revenue requirement that is scheduled to go into effect on September 1, 2018.

The effect of CenterPoint's request to CenterPoint residential customers in the City will be \$0.001486 per kWh effective September 1, 2017. CenterPoint's most recent request to increase distribution revenues was in April 2017.

GCCC has engaged the services of a consultant, Mr. Karl Nalepa, to review CenterPoint's filing. GCCC's attorney recommends that all GCCC members adopt a resolution denying the Application. Once the resolution is adopted, CenterPoint will have 30 days to appeal the decision to the PUC where the appeal will be consolidated with CenterPoint's filing that is currently pending at the PUC

for the unincorporated areas and for those cities that have relinquished their original jurisdiction. The City has until June 4, 2018, to take final action on this item.

BUDGET ANALYSIS

CenterPoint will reimburse the cities for rate case expenses found to be reasonable by the Public Utility Commission. Any additional expenses will be borne by the GCCC.

SUPPORTING MATERIALS

1. Resolution
2. Letter from CenterPoint

STAFF'S RECOMMENDATION

Consider adopting the resolution.

Director Approval: E. Joyce Iyamu

RESOLUTION NO. R-18-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, FINDING THAT CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE CITY OF MISSOURI CITY SHOULD BE DENIED; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC, AS REQUIRED BY LAW; AND PROVIDING NOTICE OF THIS RESOLUTION.

* * * * *

WHEREAS, the City of Missouri City, Texas (the "City") is an electric utility customer of CenterPoint Energy Houston Electric, LLC ("CenterPoint") and a regulatory authority with an interest in CenterPoint's rates and charges; and

WHEREAS, the City is a member of the Gulf Coast Coalition of Cities ("GCCC"), a coalition of similarly situated cities served by CenterPoint that have joined together to review and respond to electric issues affecting rates charged in CenterPoint's service area (such participating cities are referred to herein as "GCCC"); and

WHEREAS, on or about April 4, 2018, CenterPoint filed with the City an Application for Approval to Amend its Distribution Cost Recovery Factor ("Application") to be effective on September 1, 2018; and

WHEREAS, CenterPoint seeks a total DCRF revenue requirement of \$82,620,101 to be effective on September 1, 2018; and

WHEREAS, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if CenterPoint's Application is approved; and

WHEREAS, GCCC is coordinating the review of CenterPoint's Application with designated attorneys and consultants to resolve issues in CenterPoint's Application; and

WHEREAS, the Public Utility Regulatory Act provides that costs incurred by cities in ratemaking activities are to be reimbursed by the regulated utility; now therefore,

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

Section 1. That 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. That the rates proposed by CenterPoint to be recovered through its Distribution Cost Recovery Factor, which will be charged to customers located within the City limits are hereby found to be unreasonable and are denied.

Section 3. That CenterPoint shall continue to charge its existing rates to customers within the City.

Section 4. That the City's reasonable rate case expenses shall be reimbursed in full by CenterPoint within 30 days of adoption of this Resolution.

Section 5. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and notice of the time, place, and purpose of said meeting was given as required.

Section 6. That a copy of this Resolution shall be sent to Denise Gaw, CenterPoint Energy Service Company, LLC, 1111 Louisiana Street, Houston, Texas, 77002, and to Thomas Brocato, General Counsel to the Gulf Coast Coalition of Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED, APPROVED AND ADOPTED this the ____ day of _____, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney



April 4, 2018

CenterPoint Energy
P.O. Box 1700
Houston, TX 77251-1700

Mayor and City Council Members
City of Missouri City
Missouri City, Texas

Re: Application of CenterPoint Energy Houston Electric, LLC for Approval to Amend its Distribution Cost Recovery Factor

Mayor and City Council Members:

CenterPoint Energy Houston Electric, LLC ("CenterPoint Houston" or the "Company") files this Application for Approval to Amend its Distribution Cost Recovery Factor ("DCRF") pursuant to Section 36.210 of the Public Utility Regulatory Act ("PURA") and 16 Tex. Admin. Code ("TAC") §25.243 and asks that its regulatory authorities, which include your city and the Public Utility Commission of Texas ("Commission"), approve CenterPoint Houston's proposed Rider DCRF.

CenterPoint Houston is filing this Application simultaneously with the Commission and all municipal authorities that have retained jurisdiction over CenterPoint Houston's rates. This is CenterPoint Houston's fourth DCRF filing. The Company's proposed effective date for rates under Rider DCRF is September 1, 2018. If the DCRF requested in this Application is approved, CenterPoint Houston's distribution revenue requirement will decrease by \$7,088,052 compared to the DCRF revenue requirement currently approved to be effective on September 1, 2018.

Municipalities that have not ceded their jurisdiction to the Commission have exclusive original jurisdiction over this filing, as it affects service within their municipal boundaries. This jurisdiction extends for 60 days from the date of this filing. Pursuant to 16 TAC § 25.243(c)(1)(B), on the 60th day after the filing of this Application with the city, the Application is deemed appealed to the Commission, regardless of whether the city approves or denies the application, and the appeal will be consolidated with the CenterPoint Houston's DCRF proceeding before the Commission.

If you desire any additional information concerning this filing, please contact Denise Gaw at (713) 207-5956.

Very truly yours,



Chasta T. Martin
Director of Regulatory Affairs

Enclosures

Mayor and City Council Members
April 4, 2018
Page 2

DELIVERED TO:

MARIA Jackson, City Secretary of
NAME OFFICE (Mayor, City Secretary, etc.)

the City of Missouri City on this 4th day of April 2018.

Laura Jackson



**Council Agenda Item
May 7, 2018**

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 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
