

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, October 15, 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

3. PRESENTATIONS AND RECOGNITIONS

- (a) Swearing-in ceremony for the Mayor's Youth Commission members for the 2018-2019 school year.

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 the minutes of the special and regular City Council meetings of October 1, 2018.
- (b) Consider authorizing the execution of an agreement with Harris County related to election services for the November 6, 2018 general election.

7. PUBLIC HEARINGS AND RELATED ACTIONS

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

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

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

9. **AUTHORIZATIONS**

- (a) Consider authorizing the City Manager to negotiate and execute a contract for the construction of a skate park.
- (b) Consider authorizing the execution of a Community Development Block Grant housing rehabilitation contract.

10. **ORDINANCES**

- (a) Consider an ordinance authorizing the crediting of updated service credits in the Texas Municipal Retirement System for certain City of Missouri City employees who have membership in such-system; providing for increased annuities for certain City of Missouri City retirees and beneficiaries of deceased retirees; providing an effective date; and consider the ordinance on the first of two readings.
- (b) Consider an ordinance amending the general budget for the fiscal year beginning October 1, 2018, and ending September 30, 2019; amending the authorized staffing for fiscal year 2019; authorizing the appropriate city officials to take steps necessary to accomplish such amendments; making certain findings; containing certain provisions relating to the subject; and consider the ordinance on the first and final reading.

11. **RESOLUTIONS**

- (a) Consider a resolution authorizing the Mayor to execute and the City Secretary to attest to the City's consent to an assignment of an Economic Development Agreement by HPC-Seefried BB, LLC, to Hou Ind 3, LLC.
- (b) Consider a resolution authorizing the Mayor to execute and the City Secretary to attest to the City's consent to an assignment of a Tax Abatement Agreement for eligible personal property by HPC-Seefried BB, LLC, to Hou Ind 3, LLC.
- (c) Consider a resolution authorizing the Mayor to execute and the City Secretary to attest to the City's consent to an assignment of a Tax Abatement Agreement for real property by HPC-Seefried BB, LLC, to Hou Ind 3, LLC.
- (d) Consider a resolution supporting the United States Census Bureau by creating a Census 2020 "Complete Count Committee" to provide the City with assistance and advice in obtaining the most accurate and complete population count in the upcoming decennial census.
- (e) Consider a resolution describing the purpose of the upcoming bond election of Fort Bend Independent School District as it applies to City of Missouri City residents and encouraging its residents to vote in such election.

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

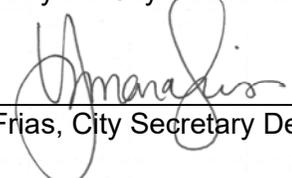
Reconvene into Regular Session and Consider Action, if any, on items discussed in Executive Session.

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 October 15, 2018, agenda of items to be considered by the City Council was posted on the City Hall bulletin board on October 12, 2018, at 4:00 p.m.



Yomara Frias, City Secretary Department

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
October 15, 2018**

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. PRESENTATIONS AND RECOGNITIONS

- (a) Swearing-in ceremony for the Mayor's Youth Commission members for the 2018-2019 school year.

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.
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FLOYD EMERY
Councilmember District D

CITY COUNCIL SPECIAL MEETING MINUTES

The City Council of the City of Missouri City, Texas, met in special session on **Monday, October 1, 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 5:36 p.m.

Those also present: Councilmembers Wyatt, Preston, Maroulis, and Emery; City Manager Snipes, City Attorney Iyamu, City Secretary Jackson, Assistant City Manager Atkinson, Assistant City Manager Elmer, Director of Parks and Recreation Mangum, Director of Communications Walker, Interim Director of Finance Clarkson, Assistant Director of Parks and Recreation Troxell, and Media Relations Specialist II Kalimkootil. Also present: Karen W. Rogers and Michael P. Mauer, Paul Bonnette, Ryan Bass, and Frank Hester. Mayor Pro Tem Ford arrived at 6:05 p.m. Absent: Councilmember Boney.

2. DISCUSSION/POSSIBLE ACTION

(a) Presentation of City Hall Placemaking Plan by PGAL & M2L.

Karen Rogers and Michael P. Mauer, M2L, and Paul Bonnette and Ryan Bass, PGAL, presented the City Hall Placemaking Plan and noted the estimated budget for the plan was \$22,300,000.

(b) Review City Council meeting procedures.

City Attorney Iyamu presented the meeting procedures for item 10a on the October 1, 2018 regular City Council meeting agenda.

3. CLOSED EXECUTIVE SESSION

After proper notice given pursuant to the Texas Open Meetings Act, the City Council went into Executive Session at 6:43 p.m.

Texas Government Code, Section 551.071 – Consultation with attorney to seek or receive legal advice regarding pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act: City of Missouri City v. Third Coast Services LLC (Fort Bend County Cause No. 18-DCV-252938, 458th Judicial District Court of Fort Bend County, Texas).

4. RECONVENE

At 6:45 p.m., Council reconvened into open session. No action was taken.

5. ADJOURN

The special City Council meeting adjourned at 6:46 p.m.

ATTEST:

Allen Owen, Mayor

Maria Jackson, City Secretary

ALLEN OWEN
Mayor

JERRY WYATT
Councilmember at Large Position 1

CHRIS PRESTON
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CITY COUNCIL MEETING MINUTES

The City Council of the City of Missouri City, Texas, met in regular session on **Monday, October 1, 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 7:03 p.m.

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

2. The PLEDGE OF ALLEGIANCE was led by Elkins High School Air Force Junior Reserve Officer Training Corps.

3. PRESENTATIONS AND RECOGNITIONS

Mayor Owen proclaimed October 7-13, 2018 as "Fire Prevention Week"; proclaimed October as "National Community Planning Month"; proclaimed October 2, 2018, as "National Night Out"; and proclaimed October 4, 2018, as "Public Administration Day" in the City of Missouri City, Texas.

4. PUBLIC COMMENTS

Bruce Zaborowski, 7915 Chancel, spoke in support the Fonmeadow subdivision being in the City of Houston city limits.

Horace Buckley, 7915 Chancel, discussed the Willow Waterhole flooding concerns.

5. STAFF REPORTS

City Manager Snipes noted the Fiscal Year 2019 budget began on October 1. Snipes invited the community to the following events: National Night Out on October 2; Leadership Now Symposium on October 4; Public Service Administration Day on October 5; Community Night Out on October 6; Fire Prevention Week from October 7-13, 2018; Shrimp Boil Tennis Tournament on October 12 -13; Drug Take Back on October 27; and, Tricks or Treat in the Park on October 27. He stated Lori Messer, principal consultant of Gallagher Benefits Consultants, presented an overview of the 2018 Market Salary and Benefits Compensation Study to employees. Snipes highlighted and thanked employees for the following past events: the Human Resources Department for coordinating the Second Annual Job Fair and Career Development Forum on September 28; the Parks and Recreation Department for hosting the Second Annual Oktoberfest on September 22 and the Roane Park "Design Day" on September 2; and the Communications Department for coordinating the Community Connection event on September 18. Snipes announced the fall edition of the "Show Me" citizen newsletter would be in the mail for all residents and businesses.

6. CONSENT AGENDA

(a) Consider approving the minutes of the special City Council meeting of September 13, 2018, and the special and regular City Council meetings of September 17, 2018.

- (b) Consider an ordinance levying an assessment on certain residential lots within Section 8, Lake Shore Harbour subdivision, for public improvements in Public Improvement District No. 2; and consider the ordinance on the second and final reading.

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

There were no **Zoning Public Hearings and Ordinances, Public Hearings and related actions, or APPOINTMENTS.**

9. AUTHORIZATIONS

- (a) Consider authorizing the City Manager to execute a contract for diesel fuel and gasoline for the City's fleet of vehicles.

Councilmember Emery moved to authorize the execution of a contract with Houston Pasadena Apache Oil Company. Councilmember Maroulis seconded. **MOTION PASSED UNANIMOUSLY.**

- (b) Consider approving the parkland dedication proposal for Murphy Village Townhomes.

Mayor Pro Tem Ford moved to approve the parkland dedication proposal. Councilmember Wyatt seconded. **MOTION PASSED UNANIMOUSLY.**

10. ORDINANCES

- (a) Consider an ordinance providing for the assessment, levy, and collection of ad valorem taxes for the City of Missouri City, Texas, for the 2018 tax year and for each year thereafter until otherwise provided; providing the date on which such taxes shall be due and timely paid; authorizing an additional penalty for the collection of delinquent ad valorem taxes in lieu of recovering attorneys' fees; and consider the ordinance on the first and final reading. *Separate votes are required for the adoption of operations tax rate, the debt service tax rate, and the tax rate ordinance.*

Councilmember Wyatt moved to approve the rate of \$0.460000 for the maintenance and operations component of the tax rate. Councilmember Emery seconded. **MOTION PASSED UNANIMOUSLY.**

Councilmember Wyatt moved to approve the rate of \$0.170000 for the debt service component of the tax rate. Councilmember Maroulis seconded. **MOTION PASSED UNANIMOUSLY.**

Councilmember Wyatt moved that the property tax rate be increased by the adoption of a tax rate of \$0.63000, which is effectively a 7.76 percent increase in the tax rate. Councilmember Maroulis seconded. **MOTION PASSED UNANIMOUSLY.**

Ayes: Mayor Owen, Mayor Pro Tem Ford, Councilmembers Wyatt, Preston, Maroulis, and Emery

Nays: None

Absent: Councilmember Boney

- (b) Consider an ordinance authorizing the issuance and sale of City of Missouri City, Texas, Certificates of Obligation, Series 2018A in the aggregate principal amount of \$21,000,000; levying a tax in payment thereof; authorizing the issuance of the certificates in accordance with specified parameters; authorizing the execution and delivery of a paying agent/registrar agreement and a certificate purchase agreement; approving the official statement; confirming the engagement of professionals in connection with the issuance of the certificates of obligation; finding and determining that the meeting at which this ordinance is passed is open

to the public as required by law; enacting other provisions relating thereto; and consider the ordinance on the first and final reading.

Interim Director of Finance Clarkson stated \$21,000,000 would be used for the purpose of constructing a regional surface water treatment plan. Joe Morrow, First Southwest Company, added the City would expand the existing water treatment plant and that the total principal amount of these Certificates of Obligation, \$21 million, would be used to construct the needed improvements and pay professional fees related to the sale of the certificates of obligation. In addition, the ordinance prescribed the terms of the sale that were acceptable to the City and authorized specified officers to act on behalf of the City in relation to the sale. The parameters of the sale were outlined in Section 7.01(a) of the ordinance. The payment of the debt would primarily be from ad valorem taxes and were factored into the estimated interest and sinking requirements of the 2018 Tax Rate (fiscal year 2019). The funding source for the certificates would be ad valorem taxation and a limited (in an amount not to exceed \$10,000) subordinate pledge of certain revenues of the waterworks and sewer system of the City.

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

- (c) Consider an ordinance authorizing the issuance and sale of City of Missouri City, Texas, Certificates of Obligation, Series 2018B in the aggregate principal amount of \$1,230,000; levying a tax in payment thereof; authorizing the issuance of the certificates in accordance with specified parameters; authorizing the execution and delivery of a paying agent/registrar agreement and a certificate purchase agreement; approving the official statement; confirming the engagement of professionals in connection with the issuance of the certificates of obligation; finding and determining that the meeting at which this ordinance is passed is open to the public as required by law; enacting other provisions relating thereto; and consider the ordinance on first and final reading.

Derrick Mitchell requested an amendment to the proposed ordinance for the aggregate principal amount to not exceed \$2.1 million.

Councilmember Wyatt moved to approve the ordinance as amended. Mayor Pro Tem Ford seconded. **MOTION PASSED UNANIMOUSLY.**

- (d) Consider an ordinance authorizing the issuance and sale of City of Missouri City, Texas, General Obligation Bonds, Series 2018, in the aggregate principal amount not to exceed \$13,000,000; levying a tax in payment thereof; authorizing the execution and delivery of a bond purchase contract, a paying agent/registrar agreement and an officer's pricing certificate; approving the official statement; approving the engagement of certain professionals in connection with the issuance of the bonds; finding and determining that the meeting at which this ordinance is passed is open to the public as required by law; enacting other provisions relating thereto; and consider the ordinance on the first and final reading.

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

There were no **RESOLUTIONS.**

12. CITY COUNCIL ANNOUNCEMENTS

Councilmember Wyatt invited everyone to the Shrimp Boil Tennis tournament and thanked the Parks and Recreation Department for organizing the event. Councilmember Emery spoke about the success of the PIGS golf tournament. Councilmember Maroulis invited everyone to participate in National Night Out.

13. ADJOURN

The regular City Council meeting adjourned at 7:45 p.m.

ATTEST:

Allen Owen, Mayor

Maria Jackson, City Secretary



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

October 15, 2018

To: Mayor and City Council
Agenda Item: 6(b) Consider authorizing the execution of an agreement for joint elections and election services with Harris County for the November 6, 2018 general election.
Submitted by: Maria Jackson, City Secretary

SYNOPSIS

The City is being asked to authorize the execution of an agreement and for joint elections and election services with Harris County for the November 6, 2018 general election.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Maintain A Financially Sound City Government

BACKGROUND

The City of Missouri City will contract with Harris County for the City's November 6, 2018, general election. This contract states that the City agrees to hold a joint election with Harris County in accordance with the Texas Election Code.

The Harris County Elections Administrator will coordinate, supervise, and handle all aspects of administering the joint election for Missouri City Harris County Precinct 506. The City will pay Harris County for equipment, supplies, services and administrative costs. The Harris County Elections Administrator is also named as the administrator for the Joint Election and the City remains responsible for the lawful conduct of the election.

City Staff is requesting City Council to approve and execution of the Joint Election Agreement.

The City Council moved to approve the Fort Bend County Joint Election Contract during the August 6, 2018, regular City Council meeting.

BUDGET/FISCAL ANALYSIS

Funding Source	Account Number	Project Code/Name	FY19 Funds Budgeted	FY19 Funds Available	Amount Requested
General Fund	101-53511-10-102	Election Expense	\$55,000	\$55,000	*\$3,717.88 <i>(estimated)</i>

Purchasing Review: N/A
Financial/Budget Review: Keresa Aaron, Senior Budget Analyst

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.

Sufficient funds have been budgeted for conducting the City's general election on November 6, 2018. The cost of Missouri City's general election is dependent upon the shared cost of each jurisdiction contracting with Harris County for election services in November. The total cost for election services may fluctuate due to jurisdictions cancelling their elections, which may increase Missouri City's shared cost for election services.

Below is the total cost of contracting our election services from 2017 to present:

Year	Total Cost	Election Information
2017	\$29,983.60	November 7, 2017, General Election to elect District City Councilmembers and Special Election regarding the (7) Charter Propositions. <i>Total Expenses Include:</i> Fort Bend County Joint Election: \$18,769.55 Harris County Joint Election: \$1,657.03 Publications: \$5,143.68 Election Signs: \$280.00 Translations: \$4,133.34

SUPPORTING MATERIALS

1. Harris County Joint Election Contract

STAFF'S RECOMMENDATION

Authorize the negotiation and execution of the contract.

Director Approval: Maria Jackson, City Secretary

**AGREEMENT BETWEEN HARRIS COUNTY AND
City of Missouri City, RELATING TO JOINT ELECTIONS TO BE HELD
NOVEMBER 6, 2018**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS AGREEMENT is made and entered into by and between Harris County, a body corporate and politic under the laws of the State of Texas (hereinafter the “County”), and City of Missouri City, a body corporate and politic under the laws of the State of Texas (hereinafter referred to as the “Entity”).

RECITALS:

The County will be conducting a joint election on November 6, 2018 for multiple entities. The County will be using an electronic voting system, eSlate, (hereinafter “Voting System”) that has been duly approved by the Secretary of State pursuant to Texas Election Code §§122.031-122.039, §122.061, §122.091, as amended, and duly approved by the United States Justice Department for use in Harris County pursuant to Voting Rights Act of 1965.

Part or all of the Entity lies within the boundaries of Harris County.

The Entity desires to join the November 6, 2018 General and Special Elections (hereinafter referred to as the “November 6, 2018 Election”) being conducted by the County.

The County desires to provide certain election services to the Entity for its election to be held on November 6, 2018.

TERMS:

In consideration of the mutual covenants, agreements and benefits to the parties, IT IS AGREED as follows:

I. Entity’s Responsibilities

The Entity agrees that it has furnished the County with a list of race titles and proposition titles and proposition language, if any, for the November 6, 2018 Election. All information must be provided in all four languages.

The Entity agrees that it provided the County with a list of candidates’ names and ballot positions for the November 6, 2018 Election.

Further, the Entity agrees that it has verified its current jurisdictional boundaries and the total number of Harris County precincts required by those jurisdictional boundaries by August 20, 2018. If the Entity failed to provide the County with this information by this stated deadline, then the County is hereby authorized to adopt the current jurisdictional boundaries and total

number of Harris County precincts for the non-performing Entity that are provided to the County by the Harris County Voter Registrar's Office, and the non-performing Entity hereby agrees to the County's use of that information to fulfill the requirements of this paragraph.

The Entity shall agree to appoint positions as the Harris County Commissioners Court, Election Board and the Early Voting Clerk have appointed for positions such as all Election Day Presiding and Alternate Judges, Early Voting Judges and Clerks, Early Voting Ballot Board and Central Count Presiding and Alternate Judges, Central Count Manager and Tabulation Supervisor pursuant to the Texas Election Code. The Entity agrees to accept the Early Voting and Election Day polling places accepted by the Harris County Commissioners Court and the hours designated by Harris County for Early Voting.

The Entity agrees to prepare, post and publish any and all notices required of the Entity by state law for the November 6, 2018 Election. Unless otherwise expressly provided herein, the Entity agrees to do all things that may be required of it in connection with the November 6, 2018 Election. The Entity is responsible for the preparation of election orders, resolutions, notices and other pertinent documents for adoption or execution by the appropriate officer of the Entity with regard to the November 6, 2018 Election. The County shall not have any responsibility or duty in connection with such preparations by the Entity. The Entity is responsible for making their own submissions, if any is required or desired, to the United States Justice Department and the County shall have no responsibility or duty in connection with such submission relating to the November 6, 2018 Election.

Regarding Debt Obligation Elections, if an entity is holding a bond election, the Entity accepts the responsibility to ensure that the order of the election is posted at each polling location where its precincts will be voting on Election Day. The Entity will provide packets and place them in the supply kits on November 2, 2018. The Entity will provide forty-eight (48) packets to be used for Early Voting to the County by October 5, 2018. Documents for the voters will be in four (4) languages: English, Spanish, Vietnamese and Chinese.

II. County's Responsibilities

The County agrees to follow the Texas Election Code in the conduct of the November 6, 2018 General and Special Elections. The County agrees to provide mail ballots to all voters who request a ballot in the Entity's jurisdictions. The County shall provide space on the ballot sufficient to encompass all candidate races and issues of the Entity.

The County will provide the Entity with all dates and times for Early Voting no later than the 21st day before Election Day. The County agrees to provide polling locations for use during Early Voting. The County will arrange for the delivery of the Voting System equipment and other equipment and supplies for use in Early Voting by personal appearance in the November 6, 2018 Election. The County Clerk shall select election officers for the main Early Voting location, as well as any branch Early Voting location, pursuant to the Texas Election Code §85.009.

The County agrees to provide all equipment and supplies for use in Early Voting by mail in the November 6, 2018 Election. The County is authorized to employ or use such personnel, as it deems necessary or desirable, to prepare and conduct Early Voting by mail.

Further, the County agrees to provide all the Election Day polling places, Voting System equipment, and other equipment as it deems necessary or desirable for the holding of the November 6, 2018 Election and cause same to be delivered to the polling places. The County agrees to provide the Voting System to all polling places at least one (1) hour before the time set for opening the polls. The County shall determine the amount of voting equipment available for the November 6, 2018 Election and its decision shall be final.

The County will employ or use such personnel as it deems necessary to program and operate the automatic tabulating equipment in accordance with Texas Election Code.

The Harris County Commissioners Court shall appoint the Presiding and Alternate Election Judges for each county election precinct and the Central Counting Station, the Early Voting Ballot Board, Central Count Manager and Tabulation Supervisor according the Texas Election Code. Necessary additional appointments shall be made under the Texas Election Code. The County agrees to pay the Presiding Judges of the County and their clerks, pursuant to Texas Election Code §§32.091-32.093 and §271.013, as amended, for their services in connection with the November 6, 2018 Election at the expense of the Entity. The County agrees to pay the Presiding Judge and clerks of the Early Voting Ballot Board to process Early Voting results pursuant to Texas Election Code §§87.001-87.025, §87.101, and §87.103, as amended at the expense of the Entity.

The County agrees to perform its obligations under this Agreement in accordance with all applicable federal and state laws, rules and regulations.

Regarding the posting of Debt Obligation Election Orders, Harris County, as a courtesy, will post a copy of all Debt Obligation Election Orders in four (4) languages in a notebook on the qualifying table of every Early Voting location for this election. A notice, approved by the Secretary of State, will be posted on the wall stating that information regarding the Debt Obligation Election Orders is available. Regarding Election Day, the entity will provide the Debt Obligation Election Order in four (4) languages in an 10" by 13" white envelope with instructions for the judge to post the information on the qualifying table for each polling location in the Entity's jurisdiction, Harris County will guide a representative of the Entity to place the envelope with the judge's supplies on November 2, 2018. Harris County will train judges on the importance of making this information available. Harris County will use best efforts to collect the certificates of posting from all Early Voting and Election Day Judges. However, it is still the responsibility of the entity to ensure that the judge received the order and that the order was posted at each polling location within the jurisdiction.

III. Compensation

The fair and reasonable compensation for use of the County's Voting System, equipment, supplies, and staff and for other services provided for administration of the election is detailed in the itemized list of estimated election expenses under **Exhibit A**, attached hereto and

incorporated herein. The Entity agrees to pay its pro rata share of costs to the County for the Voting System, equipment, furniture, telephones, election kits, Early Voting Ballot by Mail, printing, supplies, delivery and transportation services, personnel, polling places, technical support, training, administrative costs and any other costs incurred by the Entity under this Agreement for the November 6, 2018 Election held by the County and the Entity and to share the cost of the November 6, 2018 Election in accordance with the terms of this Agreement.

The Entity's pro rata shares will be computed by attributing the total number of registered voters in each of the Entity's precincts that will be serviced by the County in the November 6, 2018 Election. The Voter Registry of the Entity, as of seventy (70) days before the November 6, 2018 Election, will be used to determine the total number of registered voters in each of the Entity's precincts. An estimate of the Entity's total cost is attached and incorporated herein as **Exhibit B**. The final determination of the Entity's pro rata share of the costs incurred by the County for November 6, 2018 Election necessary for the purposes contemplated by this Agreement shall be made by the County and its decision shall be final.

The fair and reasonable value of the general overall supervision and advisory services of the County in connection with decisions to be made and actions to be taken by officers of the Entity is ten percent (10%) of the total amount of the Agreement for the Entity, in accordance with the applicable provisions of Chapters 31 and 271 of the Texas Election Code, as amended. The Entity agrees to pay the County this ten percent (10%) fee for advisory services for its November 6, 2018 Election. It is understood that the fees paid for these advisory services shall be deposited in a separate fund in the County treasury, in accordance with Texas Election Code §31.100, as amended.

The Entity agrees to deliver sixty percent (60%) of their respective total estimated cost for its share of the November 6, 2018 Election to the County within ten (10) days of the execution of this Agreement. The County agrees to furnish a final accounting of the November 6, 2018 Election expenses actually incurred within ninety (90) days after the November 6, 2018 Election. The Entity agrees to pay the County's invoice for the balance of its November 6, 2018 Election expenses within thirty (30) days of receipt of the invoice. Payments, in the name of Harris County, must be submitted to Stan Stanart, Harris County Clerk, Attn: Elections Division, P.O. Box 1148, Houston, TX 77251-1148. Copies of all related invoices, records or documentation used in calculating the total cost of the elections will be made available as soon as practicable by the County upon written request to the County at the address above. Within ten (10) days of execution of this Agreement, the County will provide the Entity with a Personal Entity I.D. ("PEID") number assigned by the County Auditor. Each payment by the Entity to the County shall reference and include their respective PEID number.

If an entity has a proposition that is longer than 500 characters for one language or if there are more than five (5) contests, the entity may incur additional coding and supply fees to accommodate the additional costs. The additional amount will represent the additional time to code the ballot, the additional space on the sample ballot, additional costs for ballot by mail and postage, and any other associated costs.

Waiver of any penalty fees imposed upon the Entity under this Agreement is at the discretion of the County.

IV. Additional Entities

It is understood that other political subdivisions may wish to participate in the November 6, 2018 Election and request the use of the above-mentioned election equipment, voting places and personnel, etc. It is agreed that the County may contract with other political subdivisions for such purposes. It is understood and agreed that the County will use the same formula for determining a pro rata share for each entity as described in this Agreement.

V. Cancellation of Election

In the event the Entity's November 6, 2018 Election is enjoined or canceled, or if for any reason whatsoever the Entity shall decide not to proceed with its November 6, 2018 Election, the Entity agrees that it shall be responsible for its share of any costs and expenses incurred by the County up to the cancellation date.

VI. Presiding Judges and Clerks

Presiding Judges and clerks shall be selected pursuant to the Texas Election Code Chapter 32. Regarding powers and duties, the Presiding Judge is in charge of and responsible for the and conduct of the election at the polling place of the election precinct that the judge serves. See Texas Election Code §32.071.

VII. Notice

Any notices permitted or required to be given under this Agreement must be made by certified mail, return receipt requested or hand-delivered to the parties at the following addresses:

Harris County:

Harris County Clerk
1001 Preston, 4th Floor
Houston, TX 77002
Attention: Maureen Fisbeck

Entity:

City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
Attention: Maria Jackson

VIII. Termination

Each party may terminate this agreement upon thirty days (30) notice as provided in this agreement. Should the Entity terminate this contract, the Entity shall be responsible for its pro rata share of expenses incurred up unto the time of termination or as described herein specifically.

IX. Miscellaneous

Third Party Beneficiaries. The County is not obligated or liable to any party other than the Entity for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create or increase any additional rights or remedies in any third party, or the duties or responsibilities of the County with respect to any third party.

Successors and Assigns. The County and Entity bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a Party hereto.

Applicable Law and Venue. This Agreement is governed by the laws of the State of Texas. The Agreement is subject to Texas state and federal laws, orders, rules, and regulations. Each Party shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations concerning the performance of this Agreement.

Entire Agreement. This instrument contains the entire agreement between the parties. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties to this Agreement.

Severability. If any provision of this Agreement is construed to be illegal or invalid, this will not affect the legality or validity of any of the other provisions hereof. The illegal or invalid provisions will be deemed stricken and deleted here from to the same extent and effect as if never incorporated herein.

Subtitles. The subtitles in this Agreement are provided for organizational purposes only and do not provide substantive meaning to the Agreement.

Multiple Counterparts. This Agreement will be executed in several counterparts, each of which shall be an original and all of which shall constitute but one instrument.

EXECUTED on this the _____ day of _____, 2018.

ATTEST:

HARRIS COUNTY

STAN STANART
County Clerk

APPROVED AS TO FORM:

VINCE RYAN
County Attorney

By _____
DOUGLAS P. RAY
Assistant County Attorney

ATTEST/SEAL:

Name: _____

Title: _____

City of Missouri City
Signed by:

Name: _____

Title: _____

COUNTERSIGNED BY:

Name: _____

Title: _____

DATE COUNTERSIGNED:

APPROVED AS TO FORM:

Name: _____

Attorney for City of Missouri City

Item	Estimated Costs			Actual Costs		
	Qty.	Cost	Total	Qty.	Cost	Total
EARLY VOTING						
Early Voting/Absentee Personnel			\$1,100,000.00	Early Voting Personnel and Absentee Personnel		\$0.00
Ballot Board			\$6,500.00			\$0.00
Early Voting Polling Places			\$2,500.00			\$0.00
Sheriff/Constables (security)			\$2,500.00			\$0.00
Ballot by Mail						
Postage	105,000		\$152,530.00			\$0.00
Absentee/Early Print & Supply			\$97,310.00			\$0.00
			\$1,361,340.00			\$0.00
Equipment - 46 EV locations						
JBC	124	\$129.75	\$16,089.00	0	\$129.75	\$0.00
DAU	116	\$156.24	\$18,123.84	0	\$156.24	\$0.00
eSlate	1155	\$132.49	\$153,025.95	0	\$132.49	\$0.00
Caddy	173	\$29.25	\$5,060.25	0	\$29.25	\$0.00
			\$192,299.04			\$0.00
ELECTION DAY						
Training Booklets	8000	\$2.00	\$16,000.00			\$0.00
Judge/Clerk Payroll, eSlate Training, Judge Supply Pickup, Law School, ePoll			\$730,000.00	Judge/Clerk Payroll, eSlate Training, Judge Supply Pickup, Law School, ePoll		\$0.00
Interpreters' Training			\$15,000.00			\$0.00
Training Sites			\$10,000.00			\$0.00
Technical Support			\$188,000.00			\$0.00
Trainers			\$30,000.00			\$0.00
Polling Places	739		\$175,000.00			\$0.00
Election Day Print & Supplies	739		\$185,000.00			\$0.00
			\$1,349,000.00			\$0.00
Equipment - 739 ED locations						
JBC	1478	\$129.75	\$191,770.50	0	\$129.75	\$0.00
DAU	1478	\$156.24	\$230,922.72	0	\$156.24	\$0.00
eSlate	5096	\$132.49	\$675,169.04	0	\$132.49	\$0.00
Caddy	1123	\$29.25	\$32,847.75	0	\$29.25	\$0.00
			\$1,130,710.01			\$0.00
ELECTION NIGHT						
Sheriff/Constables (security)			\$7,000.00			\$0.00
Satellite Sites (usage)			\$10,000.00			\$0.00
SERVICES						
Coding fee	1	\$1,800.00	\$1,800.00	0	\$1,800.00	\$0.00
Tally Equipment	1	\$220.00	\$220.00	0	\$220.00	\$0.00
Delivery						
Early Voting	46		\$18,000.00	0		\$0.00
Election Day	739		\$90,000.00	0		\$0.00
ETC Pickup and Deliveries	50		\$4,500.00	0		\$0.00
			\$131,520.00			\$0.00
Miscellaneous			\$60,000.00			\$0.00
Base Contract Total			\$4,224,869.05			\$0.00
10% Fee [TEC Sect. 31.100 (d)]			\$422,486.91			\$0.00
Total			\$4,647,355.96			\$0.00
Deposit			\$2,788,413.57			\$0.00
			\$1,858,942.39			
*Charge for extra coding/ballot language -- TBD			\$0.00			
			\$1,858,942.39			\$0.00
Grand total for November 2018 Election			\$4,647,355.96			

	% Share	Base Cost	Admin 10%	Total	Deposit	*Extra code fee	Grand Total
	100.00%	\$4,224,869.05	\$422,486.91	\$4,647,355.96	\$2,788,413.57	\$35,000.00	\$4,682,355.96
HARRIS COUNTY	63.18%	\$2,669,272.27	\$266,927.23	\$2,936,199.49	\$1,761,719.70	\$0.00	\$2,936,199.49
CITY OF HOUSTON*	22.98%	\$970,874.91	\$97,087.49	\$1,067,962.40	\$640,777.44	\$25,000.00	\$1,092,962.40
LONE STAR COMM COLLEGE	7.04%	\$297,430.78	\$29,743.08	\$327,173.86	\$196,304.32	\$0.00	\$327,173.86
KLEIN ISD	3.16%	\$133,505.86	\$13,350.59	\$146,856.45	\$88,113.87	\$0.00	\$146,856.45
TOMBALL ISD	0.88%	\$37,178.85	\$3,717.88	\$40,896.73	\$24,538.04	\$0.00	\$40,896.73
CITY OF BAYTOWN*	0.72%	\$30,419.06	\$3,041.91	\$33,460.96	\$20,076.58	\$5,000.00	\$38,460.96
CROSBY ISD	0.35%	\$14,787.04	\$1,478.70	\$16,265.75	\$9,759.45	\$0.00	\$16,265.75
CHANNELVIEW ISD	0.34%	\$14,364.55	\$1,436.46	\$15,801.01	\$9,480.61	\$0.00	\$15,801.01
SHELDON ISD	0.30%	\$12,674.61	\$1,267.46	\$13,942.07	\$8,365.24	\$0.00	\$13,942.07
HUFFMAN ISD	0.21%	\$8,872.23	\$887.22	\$9,759.45	\$5,855.67	\$0.00	\$9,759.45
CYPRESS HILL MUD NO 1	0.13%	\$5,492.33	\$549.23	\$6,041.56	\$3,624.94	\$0.00	\$6,041.56
CITY OF WEBSTER	0.11%	\$4,647.36	\$464.74	\$5,112.09	\$3,067.25	\$0.00	\$5,112.09
HC WCID NO 89	0.10%	\$4,224.87	\$422.49	\$4,647.36	\$2,788.41	\$0.00	\$4,647.36
WOODLANDS TOWNSHIP	0.09%	\$3,802.38	\$380.24	\$4,182.62	\$2,509.57	\$0.00	\$4,182.62
CITY OF MISSOURI CITY	0.08%	\$3,379.90	\$337.99	\$3,717.88	\$2,230.73	\$0.00	\$3,717.88
CITY OF NASSAU BAY	0.07%	\$2,957.41	\$295.74	\$3,253.15	\$1,951.89	\$0.00	\$3,253.15
PARKWAY UTILITY DISTRICT	0.05%	\$2,112.43	\$211.24	\$2,323.68	\$1,394.21	\$0.00	\$2,323.68
NW HC MUD NO 16	0.04%	\$1,689.95	\$168.99	\$1,858.94	\$1,115.37	\$0.00	\$1,858.94
CITY OF LEAGUE CITY*	0.03%	\$1,267.46	\$126.75	\$1,394.21	\$836.52	\$5,000.00	\$6,394.21
CYPRESS KLEIN UD	0.03%	\$1,267.46	\$126.75	\$1,394.21	\$836.52	\$0.00	\$1,394.21
HC MUD NO 149	0.03%	\$1,267.46	\$126.75	\$1,394.21	\$836.52	\$0.00	\$1,394.21
HC MUD NO 166	0.03%	\$1,267.46	\$126.75	\$1,394.21	\$836.52	\$0.00	\$1,394.21
BAMMEL UD	0.02%	\$900.00	\$90.00	\$990.00	\$594.00	\$0.00	\$990.00
TIMBERLAKE ID	0.02%	\$900.00	\$90.00	\$990.00	\$594.00	\$0.00	\$990.00
NEW CANEY ISD	0.01%	\$900.00	\$90.00	\$990.00	\$594.00	\$0.00	\$990.00
HC MUD NO 105	0.00%	\$900.00	\$90.00	\$990.00	\$594.00	\$0.00	\$990.00
OLD TOWN SPRING ID	0.00%	\$900.00	\$90.00	\$990.00	\$594.00	\$0.00	\$990.00



**Council Agenda Item
October 15, 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** – *There are no Public Hearings and related actions on this agenda.*
 8. **APPOINTMENTS** – *There are no Appointments on this agenda.*
-



CITY COUNCIL AGENDA ITEM COVER MEMO

October 15, 2018

To: Mayor and City Council
Agenda Item: 9(a) Authorize the City Manager to execute a contract with Evergreen Skateparks for the construction of the City's Skatepark
Submitted by: Shashi K. Kumar, P.E., Director of Public Works/City Engineer

SYNOPSIS

Staff requests authorization for the City Manager to execute a contract with Evergreen Skateparks for the construction of the City's Skatepark.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Have quality development through buildout

BACKGROUND

In August 2018, the Public Works Department along with the Purchasing Division prepared and advertised an Invitation for Bid - IFB No. 18-260 "Construction of the City's Skatepark". Notices were published on the Electronic State Business Daily, Demand Star bid services, local newspaper and City's website. Two responses were received and opened on September 26, 2018. The respondents included SPA Skateparks and Evergreen Skateparks.

Evergreen Skateparks was the lowest most responsible bidder with a total bid of \$205,020, which is approximately \$71,480 less than the engineers estimate, with an anticipated 120 days for project completion. The City's Review Team completed the process of reviewing the bids and checked the references. Both Bidders were highly recommended by their references as companies that do quality work and also complete the projects on schedule.

BUDGET/FISCAL ANALYSIS

Funding Source	Account Number	Project / Account Name	FY18 Funds Budgeted	FY18 Funds Available	Amount Requested
Bond Proceeds	405-58200-16-999-30026	30026/Skatepark	\$305,000	\$247,550	\$205,020

Purchasing Review: Shannon Pleasant, CTPM - Procurement & Risk Manager
Financial/Budget Review: Dennice Chui

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. Bid Tabulation
2. References
3. Vicinity Map of Proposed Skatepark

STAFF'S RECOMMENDATION

Authorize the City Manager to execute a contract with Evergreen Skateparks for the construction of the City's Skatepark in the amount of \$205,020.

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

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



Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

BID TABULATION SHEET

IFB Number: 18-260

Date: Wednesday, September 26, 2018

Bidder	EVERGREEN SKATEPARKS	SPA SKATEPARKS
Telephone Number	503.807.0103	512.203.5445
E-Mail	evergreenskateparks@gmail.com	info@spaateparks.com
Base Bid Amount (TOTAL)	\$205,020	\$283,475
Mobilization, Bond & Insurance (Item 1)	\$18,600.00	\$24,680.00
Earthworks inc. lime stabilization complete and in place per plans and specifications (Item 2)	\$45,300.00	\$ 54,400.00 Typo, see the Bid Proposal \$4,400.00
Skatepark concrete and steel complete and in place per plans and specifications (Item 3)	\$136,120.00	\$197,635.00
Construction project sign complete and in place per plans and specifications (Item 4)	\$1,000.00	\$1,500.00
Hydroseeding (Bermuda) and site restoration of disturbed construction area complete and in place per plans and specifications (Item 5)	\$4,000.00	\$5,260.00
Calendar Days to Completion	120	120
Bid Bond Included (YES or NO)	YES	YES

Submissions reviewed by:

Ireyan J. Clark-Sam

Ireyan J. Clark-Sam
Senior Contracts & Procurement Analyst

9.26.2018

Date

10. Provide a list of at least five recent projects that are of similar size and scope to the project specified in this Invitation For Bids.

Project Name #1: Taylor, Texas Skatepark

Owner: City of Taylor

Cost: \$452,000 Date Completed: 4/1/18

Bidder's Project Manager: Lance Spiker

Owner's Reference Name & Phone #: Brent Humphreys (214) 683-7763

Project Name #2: Johnson City, Texas Skatepark

Owner: City of Johnson City

Cost: \$135,000 Date Completed: 3/17

Bidder's Project Manager: Lance Spiker

Owner's Reference Name & Phone #: Marley Porter (512) 736-4566

Project Name #3: Fredericksburg, Texas Skatepark

Owner: City of Fredericksburg

Cost: \$325,000 Date Completed: 5/1/15

Bidder's Project Manager: Billy Calan

Owner's Reference Name & Phone #: Mark Bennett (830) 997-8076

Project Name #4: Sterling Heights, Michigan Skatepark

Owner: City of Sterling Heights

Cost: \$450,000 Date Completed: 10/10/17

Bidder's Project Manager: ~~Richie Conklin~~ Richie Conklin

Owner's Reference Name & Phone #: Sam Darchen (248) 557-1062

Project Name #5: Livingston, Montana Skatepark

Owner: City of Livingston

Cost: \$311,000 Date Completed: 6/15/18

Bidder's Project Manager: Richie Conklin

Owner's Reference Name & Phone #: Shannon Holmes (406) 222-5667

11. Name of Bidder's proposed project manager for this project:

Richie Conklin

12. List any subcontractors you propose to use on the City's project that will comprise at least 10% of the total project cost. Use additional page if necessary. This information is considered preliminary and may be revised prior if bid is awarded and re-submitted during the pre-construction phase. However, it is expressly understood that the use of any subcontractor other than those listed with bid shall require written approval from the City of Missouri City.

Failure to submit the information as required may result in a disqualification of your bid.

Subcontractor Name: n/a

City/State: _____

Trade or Service to Be Provided: _____

Estimated Percentage of Overall Cost: _____

Subcontractor Name: _____

City/State: _____

Trade or Service to Be Provided: _____

Estimated Percentage of Overall Cost: _____

Subcontractor Name: _____

City/State: _____

10. Provide a list of at least five recent projects that are of similar size and scope to the project specified in this Invitation For Bids.

Project Name #1: City of The Colony's Wheel Zone - Skate & Bike Park
Owner: City of The Colony
Cost: \$300,000 Date Completed: 12/15/17
Bidder's Project Manager: Jamie Curtis
Owner's Reference Name & Phone #: Eve Morgan (972) 624-3956

Project Name #2: City of Seguin MTR Skatepark
Owner: City of Seguin
Cost: \$420,000 Date Completed: 06/2015
Bidder's Project Manager: Jamie Curtis
Owner's Reference Name & Phone #: Jack Jones. 830 401 2482

Project Name #3: City of Granbury City Park Skatepark
Owner: City of Granbury
Cost: \$313,500 Date Completed: 10/2015
Bidder's Project Manager: Yann Curtis
Owner's Reference Name & Phone #: Aaron McLain. 817-243-2068

Project Name #4: City of Texas City Nessler Park Skatepark
Owner: City of Texas City
Cost: \$300,000 Date Completed: 09/2013
Bidder's Project Manager: Yann Curtis

Owner's Reference Name & Phone #: Dennis Harris. 409 949 3030

Project Name #5: City of Kingsville Brookshire Park Skatepark

Owner: City of Kingsville

Cost: \$275,000 Date Completed: 10/20/2017

Bidder's Project Manager: Yann Curtis

Owner's Reference Name & Phone #: Susan Ivy. 361-595-8591

11. Name of Bidder's proposed project manager for this project:

Dallas Haney

12. List any subcontractors you propose to use on the City's project that will comprise at least 10% of the total project cost. Use additional page if necessary. This information is considered preliminary and may be revised prior if bid is awarded and re-submitted during the pre-construction phase. However, it is expressly understood that the use of any subcontractor other than those listed with bid shall require written approval from the City of Missouri City.

Failure to submit the information as required may result in a disqualification of your bid.

Subcontractor Name: Houston Hydroseeding

City/State: Houston, TX

Trade or Service to Be Provided: Hydroseeding

Estimated Percentage of Overall Cost: approx 1%

Subcontractor Name: _____

City/State: _____

Trade or Service to Be Provided: _____

Estimated Percentage of Overall Cost: _____

Subcontractor Name: _____

City/State: _____

Missouri City Skatepark : Design Alternatives

Context Plans

Option # 3 was approved during the Public Input Meeting # 3 for detailed design and Construction on 05.24.2018



Existing Site Photos



Missouri City, TX
May 24th, 2018

www.spaskateparks.com
www.newlineskateparks.com



CITY COUNCIL AGENDA ITEM COVER MEMO

October 15, 2018

To: Mayor and City Council
Agenda Item: 9(b) Authorize City Manager to execute a contract for CDBG Housing Rehabilitation
Submitted by: Chalisa G. Dixon, Community Development Coordinator

SYNOPSIS

An objective of the City of Missouri City Owner-Occupied Housing Rehabilitation Program (the "Housing Rehabilitation Program") is to provide housing rehabilitation assistance to low-and-moderate income persons. The Purchasing Office and the Development Services Department desires to award a contract to Fort Bend Habitat for Humanity, Inc. and Santex Construction LLC to provide housing rehabilitation services to eligible residents. The anticipated contract amount is expected to exceed \$50,000.00 and therefore requires council action.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Create a great place to live

BACKGROUND

Funding has been provided through the City's federally-funded Community Development Block Grant (CDBG) program, as accepted by the United States Department of Housing and Urban Development (HUD) in the City's 2016, 2017 and 2018 Annual Action Plans, approved by the City Council on May 16, 2016, October 2, 2017 and May 21, 2018, respectively. Total funding allocated for housing rehabilitation is in the amount of **\$330,059.00** for the rehabilitation of approximately 20 homes.

The total allocation is funded as follows:

PY2016 Funding available: **\$100,418.00**
PY2017 Funding available: **\$136,837.00**
PY2018 Funding available: **\$ 92,804.00**

The objectives of the Housing Rehabilitation Program are as follows:

- To prevent hazardous health conditions and code violations in owner-occupied homes in the City of Missouri City (the "City").
- To prevent the deterioration of property and neighborhoods.
- To improve the quality of the owner-occupied housing stock for low- and moderate-income persons.
- To provide rehabilitation assistance to low- and moderate-income persons for housing rehabilitation activities.

On August 15, 2016, Council approved amendments to the Owner-Occupied Housing Rehabilitation Program Guidelines, which included revisions to the administration of the housing rehabilitation program and policy procedures.

In mid-September 2018, a Request for Proposals for Rehabilitation Services (RFP # 18-248) was issued for a 21-day period. Notices were published in the Fort Bend Independent, Electronic State Business Daily (ESBD), and the City’s website. Fort Bend Habitat for Humanities, Inc. and Santex Construction, LLC were the respondents. Fort Bend Habitat for Humanity is the previous contract holder for the Housing Rehabilitation program. Staff recommends awarding a contract to Fort Bend Habitat for Humanities, Inc. and Santex Construction, LLC for these services.

In accordance with the adopted housing rehabilitation policy and upon approval of an application for rehabilitation assistance, the City will invite each awarded contractor to submit an informal quote for rehabilitation services outlined in the scope of work. Upon review of submitted informal quote(s), the City will select the lowest, most responsible bidder to perform rehabilitation services, provided that no contractor may be authorized to perform rehabilitation services on more than three properties at any one given time.

BUDGET ANALYSIS

Funding for the Owner-Occupied Housing Rehabilitation program is available from the CDBG Program Years 2016 through 2018 HUD allocations. All funding is provided by U.S. Department of Housing and Urban Development (HUD). The City’s Building Inspector(s) and Building Official shall track the time spent performing duties related to the administration of this program and shall be compensated using the activity delivery costs available through the Housing Rehabilitation program year funding allocation. There is no perceived fiscal impact to the City’s general fund. The last appropriation of the funds was submitted to City Council for final approval with the FY 2019 budget to Council in October, 2018.

Funding Source	Account Number	Project Code/Name	FY19 Revised Budget	FY19 Funds Available	Amount Requested
CDBG	240-53620-17-240-CB18	Housing Rehab Expense	\$191,049	\$191,049	N/A

****Note:** CDBG is requesting a City Budget Amendment in the amount of \$139,010.00 for PY2016 and PY2017 funds. Funding for these activities would be available from the allocations of Community Development Block Grant Housing Rehabilitation (CDBG-HR) funds provided by the U.S. Department of Housing and Urban Development (HUD) allocation to the City.

Purchasing Review: N/A

Financial/Budget Review: Wanja Thomas, Financial Analyst, II

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. RFP Summary, Scoring, and Submissions
2. Draft Contracts/Agreements
3. Housing Rehabilitation Policy

MEMO

Date: October 6, 2018

TO: Ireyan J. Clark-Sam, Senior Contracts & Procurement Analyst

THROUGH: Otis T. Spriggs, Director of Development Services

FROM: Chalisa Dixon, Community Development Coordinator

RE: CDBG Housing Rehabilitation Program RFP Contract Scoring.

=====

The purpose of this memo is to inform you of the review committee's results from the pending RFP selection for the HUD, CDBG Housing Rehab Contractors submitted bids.

If you have any questions or require additional information, please do not hesitate to contact me at (281) 403-8628.

Sincerely,

Chalisa Dixon, Community Development Coordinator
Development Services

REVIEW COMMENTS FROM SCORING TEAM ARE AS FOLLOWS:

Member #1:

In terms with my thoughts, I believe both contractors, Fort Bend Habitat for Humanity and Santex Construction LLC, have the potential to partner with the City of Missouri City's CDBG program.

Fort Bend Habitat for Humanity is familiar with the CDBG program with the City. They have shown commitment to the program and our residents. In addition to performing the scope of work for each home, FBHFH also provides volunteer assistance for qualified repairs beyond the agreed work. Their communication with the City and its residence is consistent.

Per Santex Construction, LLC documentation, the company seems to have the experience needed to assist with repairing homes. Santex reports experience with home

repairs /remodels and hurricane damage to homes. They also provide information pertaining to the assistance they have provided to the elderly with home repair.

It will be very beneficial to have both contractors as a part of our team. By having two contractors at the same time, more residents can be assisted in a timely manner. Their partnership together will also assist the Housing Rehabilitation Program by decreasing the amount of wait time for our applicants in terms of a year or two waiting list.

Member 2:

After reviewing the request for proposals from Santex Construction LLC. and Fort Bend Habitat for Humanity, I believe both companies would provide a great opportunity for the CDBG Housing Rehabilitation Program. Having more than one contractor would be ideal, as we would be able to facilitate the needs of our participants in an efficient and timely manner.

What I have come to know of Fort Bend Habitat for Humanity is they have proved their commitment to the city and the CDBG program. They're considerate to the needs of the participants and willing to go above and beyond to get the job done. Due to their understanding of the Housing Rehabilitation Program they offered volunteer services and more; willing to compromise in cost but never in quality.

In regards to Santex Construction LLC, their presentation was quite impressive. It appears they are extensive experience in a variety of repairs, remodels and builds, to include disaster recovery. The references provided praised their communication, professionalism and timeliness which are indispensable qualities as a construction company.

Partnering with two contractors would allow the CDBG Housing Rehabilitation Program make a substantial difference within the community. I believe Santex Construction LLC. and Fort Bend Habitat for Humanity would be great facilitators of that imprint.

Member 3:

Habitat for Humanity has successfully implemented the program since 2016. I have full confidence. Santex Construction, LLC appears to have a good amount of exposure and experiences serving elderly and individuals needing housing rehabilitation including disaster relieve programing. The existing programming could definitely afford to have another contractor/ team to assist in executing the CDBG program more efficiently and timing.



Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

BID EVALUATION SHEET

RFP #: 18-248

OWNER-OCCUPIED SINGLE-FAMILY HOUSING REHABILITATION SERVICES FOR THE CITY OF MISSOURI CITY, TEXAS

Submission Deadline: September 26, 2018 at 2:00PM CST

EVALUATION CRITERIA	SCORE	COMMENTS
Financial Strength	40 /40	
Expertise/experience/qualifications	35 /35	
Record of past performance	25 /25	
TOTAL	100 /100	

Submission evaluated by COMMITTEE MEMBER #1.

Review Date: 10/3/2018

A



Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

BID EVALUATION SHEET

RFP #: 18-248

OWNER-OCCUPIED SINGLE-FAMILY HOUSING REHABILITATION SERVICES FOR THE CITY OF MISSOURI CITY, TEXAS

Submission Deadline: September 26, 2018 at 2:00PM CST

EVALUATION CRITERIA	SCORE	COMMENTS
Financial Strength	40 /40	
Expertise/experience/qualifications	35 /35	
Record of past performance	25 /25	
TOTAL	100 /100	

Submission evaluated by COMMITTEE MEMBER #1.

Review Date: 10/3/2018

B



Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

#2

BID EVALUATION SHEET

RFP #: 18-248

OWNER-OCCUPIED SINGLE-FAMILY HOUSING REHABILITATION SERVICES FOR THE CITY OF MISSOURI CITY, TEXAS

Submission Deadline: September 26, 2018 at 2:00PM CST

EVALUATION CRITERIA	SCORE	COMMENTS
Financial Strength	140	38
Expertise/experience/qualifications	135	34
Record of past performance	125	23
TOTAL	1100	95

Submission evaluated by COMMITTEE MEMBER #2.

Review Date: 10/3/18

A



Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

BID EVALUATION SHEET

RFP #: 18-248

OWNER-OCCUPIED SINGLE-FAMILY HOUSING REHABILITATION SERVICES FOR THE CITY OF MISSOURI CITY, TEXAS

Submission Deadline: September 26, 2018 at 2:00PM CST

EVALUATION CRITERIA	SCORE	COMMENTS
Financial Strength	140	38
Expertise/experience/qualifications	135	33
Record of past performance	125	23
TOTAL	1100	94

Submission evaluated by COMMITTEE MEMBER #1.

Review Date: 10/3/18

B



Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

BID EVALUATION SHEET

#3

RFP #: 18-248

OWNER-OCCUPIED SINGLE-FAMILY HOUSING REHABILITATION SERVICES FOR THE CITY OF MISSOURI CITY, TEXAS

Submission Deadline: September 26, 2018 at 2:00PM CST

EVALUATION CRITERIA	SCORE	COMMENTS
Financial Strength	36/40	
Expertise/experience/qualifications	32/35	
Record of past performance	20/25	
TOTAL	88/100	

Submission evaluated by COMMITTEE MEMBER #3.

Review Date: 10/3/18

A



Purchasing

1522 Texas Parkway
Missouri City, Texas 77489-2170

Phone: (281) 403-8500
www.missouricitytx.gov

BID EVALUATION SHEET

#3

RFP #: 18-248

OWNER-OCCUPIED SINGLE-FAMILY HOUSING REHABILITATION SERVICES FOR THE CITY OF MISSOURI CITY, TEXAS

Submission Deadline: September 26, 2018 at 2:00PM CST

EVALUATION CRITERIA	SCORE	COMMENTS
Financial Strength	39/40	
Expertise/experience/qualifications	35/35	
Record of past performance	22/25	
TOTAL	96/100	

Submission evaluated by COMMITTEE MEMBER #3.

Review Date: 10/3/18

B



ISSUED BY THE PURCHASING OFFICE
OF THE CITY OF MISSOURI CITY, TEXAS

**REQUEST FOR PROPOSALS FOR
OWNER-OCCUPIED SINGLE-FAMILY HOUSING REHABILITATION SERVICES
FOR THE CITY OF MISSOURI CITY, TEXAS**

RFP# 18-248

Sealed responses, subject to the terms and conditions of this Request for Proposals for Owner-Occupied Single-Family Housing Rehabilitation Services, will be received by the Purchasing Manager of the City of Missouri City, Texas until the time stated below. Responses received after the specified date and time will be returned unopened.

SUBMIT RESPONSES TO:
City of Missouri City
Sealed Bid Box
1522 Texas Parkway
Missouri City, TX 77489

SUBMIT NO LATER THAN:
Tuesday, October 9, 2018
2:00 p.m., Central Standard Time

MARK ENVELOPE:
"RFP #18-248 Housing Rehab"

FOET BEND HABITAT FOR HUMANITY
LEGAL NAME OF CONTRACTING COMPANY

SHERWIN FOW EXECUTIVE DIRECTOR
CONTACT PERSON TITLE

(281) 403-0705 (281) 403-0709 sherwin@foetbendhabitat.org
TELEPHONE NUMBER FACSIMILE NUMBER E-MAIL ADDRESS

13570 MURPHY RD STAFFORD, TX 77477
COMPLETE MAILING ADDRESS CITY/STATE ZIP

[Signature]
AUTHORIZED SIGNATURE



MASTER HOUSING REHABILITATION AGREEMENT
(Local Contract # 18-248-A)

STATE OF TEXAS §

COUNTY OF FORT BEND §

This MASTER HOUSING REHABILITATION AGREEMENT ("Agreement") is entered into as of this _____ day of _____, 2018, between the CITY OF MISSOURI CITY, a body corporate and politic under the laws of the State of Texas, hereinafter referred to as "CITY," and Fort Bend Habitat for Humanity hereinafter referred to as "CONTRACTOR," collectively referred to as the "Parties," for the provision of housing rehabilitation to eligible homes.

WHEREAS, the United States Department of Housing and Urban Development (HUD) has provided Community Development Block Grant (CDBG) funds to local governments to address housing needs that primarily benefit low and moderate income persons; and

WHEREAS, the City has determined through its Consolidate Plan for CDBG funds to provide assistance to eligible homeowners within the City for the purpose of rehabilitating their homes in accordance with the CDBG criteria specifically described in Title I of the Housing and Community Development Act of 1974 (42 U.S.C. §530, et seq.); 24 CFR Part 570; and the City of Missouri City Owner-Occupied Housing Rehabilitation Program Guidelines; and

WHEREAS, the CONTRACTOR represents that it is fully capable of and qualified to provide housing rehabilitation to eligible homes in the CITY and the CONTRACTOR desires to perform the same;

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

SECTION 1
DEFINITIONS

"Building Official" means the City Building Official and his or her designee.

"City" means the City of Missouri City, Texas.

"City Code" or "City Codes" means the applicable Missouri City Code, including, but not limited to, residential, building, plumbing, electrical, and energy conservation codes.

"Director" means the Director of the City Development Services Department or his or her designee.

"Eligible Home" means a single-family owner-occupied home that is eligible for Housing Rehabilitation under Program Guidelines.

"General Contractor" means the Contractor who is selected by the City to provide rehabilitation to an individual eligible home.

"Housing Rehabilitation" or "Rehabilitation" means the diverse scope of repair work needed to bring eligible homes into compliance with applicable City Codes; provide access to persons with disabilities; or result in the conservation or more efficient use of energy.

“Owner” shall mean the owner of a single-family home that is eligible for rehabilitation under the Program Guidelines.

“Program Guidelines mean the City of Missouri City Owner-Occupied Housing Rehabilitation Program Guidelines, attached hereto as Exhibit “A”.

“Rehabilitation Agreement” means a written agreement to be executed between the City, the Owner of an eligible home, and the General Contractor to provide rehabilitation to the Owner’s home, attached hereto as Exhibit “B,” and incorporated herein for all purposes.

SECTION 2 SCOPE OF AGREEMENT

- 2.1. Following a competitive selection process, the CONTRACTOR has been selected to perform housing rehabilitation utilizing CDBG funds to eligible homes located within the City. At such time that the City desires to have rehabilitation work provided, the CONTRACTOR will be invited to submit an informal quote to provide housing rehabilitation to eligible homes based on a scope of work developed by the Building Official. The scope of work will vary depending upon the actual repair needs of each individual eligible home. A general scope of work that may be needed in connection with the rehabilitation of eligible homes may include the following: water, heating, electrical, plumbing and sewer repairs; insect and rodent extermination; repairs to deteriorated steps, walls, ceilings, floors, porches, roofs, down spouts, chimneys, and foundations; work on exterior walls, including painting, siding, windows and insulation, and demolition of deteriorated structures for the purpose of housing-related improvements to meet the special needs of handicapped persons and the elderly; repair or replace principle features, specifically, a kitchen stove or a refrigerator, if no such equipment exists in the residence, or if existing equipment is unsafe or unsanitary because of its basic condition; and lead-based paint abatement. Most of the homes that are eligible for housing rehabilitation services are at alteration level one, and do not require a comprehensive set of plans. Typical homes have three (3) bedrooms with one (1) bathroom and are approximately 1200-1600 square feet.
- 2.2 Before submitting a quote, the Contractor shall, by careful examination, satisfy himself as to the nature and location of the work, the character and quality of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the performance of the work, the general and local conditions, and all other matters, which can in any way affect the scope of work, if applicable. No information given by the City or any officials thereof, other than that contained in the quote documents, shall be binding upon the City.
- 2.3 The City will not include, for housing rehabilitation, any home where it has been determined by the City that the home cannot be reasonably rehabilitated within a maximum amount of \$12,000 per home grant allowance. This amount includes a ten percent (10%) administrative activity delivery cost that will be set aside for each eligible home that is to be rehabilitated. As such, the informal quote for the rehabilitation of each eligible home shall not exceed a prima facie quote in the amount of \$9,000. However, the City may, on a case-by-case basis, authorize rehabilitation of an eligible home for an additional amount, not to exceed, \$20,000.
- 2.4 The City will evaluate the submitted quotes, and the CONTRACTOR with the lowest responsible bid for the City, as determined by the City, will be awarded a contract to serve as the General Contractor for the rehabilitation of the eligible home. No selected General

Contractor will be authorized to perform housing rehabilitation on more than three (3) homes at any one given time.

- 2.5 The General Contractor shall be solely responsible for hiring and managing qualified workers and/or sub-contractors, as needed, to ensure that all work included in the scope of work is carried out in a timely manner and is completed in compliance with the Program Guidelines, HUD regulations, applicable City ordinances, including the 2015 International Residential Building Code, and, as applicable, Uniform Federal Accessibility Standards. The normal duration of each rehabilitation project is approximately 120 calendar days.
- 2.6 For each eligible home the CONTRACTOR is selected to rehabilitate, the CONTRACTOR shall be required to execute a Rehabilitation Agreement, in substantially the form attached hereto as Exhibit "A." No work shall commence, nor shall a notice to proceed be issued by the City until the parties have signed the Rehabilitation Agreement, and until after an "Applicant –Contractor Conference" is held.
- 2.7 The Applicant-Contractor Conference shall be attended by the City CDBG Coordinator, the Owner of the subject property, the General Contractor, and any applicable subcontractor(s). The Applicant-Contractor Conference shall allow the Owner and the General Contractor to review the scope of work, the time of performance, and warranties, and negotiate logistical arrangements needed to execute the scope of work, including, but not limited to, the General Contractor's use of utilities and other facilities at the applicant's property, moving or the offsite storage of furniture and personal belongings needed to provide the General Contractor with ready access to identified work areas, and any other matters related to steps necessary to ensure that the rehabilitation is completed in a timely manner. Both the General Contractor and the Applicant shall execute a copy of the scope of work, which shall include project details and expectations, and such executed scope of work shall become an addendum to the Rehabilitation Agreement. A copy of the executed scope of work must be provided to the Director before a notice to proceed may be issued. The City will issue a notice to proceed upon receipt of all required executed documents.
- 2.8 The General Contractor shall rehabilitate eligible homes at no charge to the Owner, in accordance with the scope of work, as directed by the City and the terms of the Rehabilitation Agreement, and in the chronological order that the City has provided the list of eligible properties to the General Contractor for completion.
- 2.9 The General Contractor shall be required to apply for residential building permits from the City for all work to be performed under the scope of work. The Building Official shall conduct a preconstruction meeting with the General Contractor in accordance with the City's standard permitting process. Furthermore, the General Contractor and his/her subcontractor(s) must possess trade and/or other professional licenses as may be required by the State of Texas and the City in order to perform such functions that are subject to licensing.
- 2.10 The General Contractor and all housing rehabilitation associated with the performance of the scope of work shall be subject to inspection by the City. Inspections will be made to ensure compliance with the terms of the Rehabilitation Agreement, Program Guidelines, and applicable local, state, and federal laws, ordinances, standards and regulations. The General Contractor shall, at all times, provide access to all work sites and disposal areas to the City. The Building Official will conduct a final inspection and issue final certification of completion.

- 2.11 The General Contractor shall provide information as requested by the City to complete all HUD required reports for compliance with Section 3 requirements. The General Contractor will work closely with the City, HUD and other applicable state and federal agencies to ensure that eligible housing rehabilitation and data documentation appropriately address concerns of the likely reimbursing agencies.
- 2.12 All requests for rehabilitation services under this Agreement are on an “as needed” basis. The CITY does not guarantee a minimum order of services. If applicable, no contract(s) will be awarded to any CONTRACTOR that has been debarred, suspended, excluded or ineligible for participation in federal assistance programs. In the event an awarded party or their subcontractor(s) become debarred, suspended, excluded or ineligible for participation in federal assistance programs after execution of this Agreement, this Agreement may be terminated without notice.

SECTION 3 TERM OF AGREEMENT

This Agreement shall be for the period beginning on the date of execution of the Agreement through September 30, 2019. Upon completion of the term of this Agreement and upon adoption and approval of the owner-occupied housing rehabilitation program in the City’s 2018 Annual Action Plan and CDBG funding, this Agreement may be renewed for an additional one (1) year period, upon mutual agreement of the parties. Additional federal regulations, laws of the State of Texas, and local ordinances may become applicable as changes occur.

SECTION 4 TERMINATION

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

SECTION 5 ADDRESS AND NOTICES AND COMMUNICATIONS

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

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

Fort Bend Habitat for Humanity
13570 Murphy Rd.
Stafford, TX 77477
(281-403-0700
sherwin@ftbendhabitat.org

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

City of Missouri City
Attn: Alan A. Phillips, CPPB CTPM
1522 Texas Parkway
Missouri City, Texas 77489
281-403-8626
alan.phillips@missouricitytx.gov

SECTION 6 SUCCESSORS AND ASSIGNS

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

SECTION 7 MEDIA

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

SECTION 8 MODIFICATIONS

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

SECTION 9 FISCAL FUNDING

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

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

SECTION 10 INSURANCE REQUIREMENTS

A current certificate of liability insurance is required to be submitted to the Purchasing Office before the CITY will enter into a Rehabilitation Agreement with the CONTRACTOR. The certificate of insurance shall be an attachment to the Rehabilitation Agreement, and shall be incorporated therein for all purposes.

POLICY REQUIREMENTS

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

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

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

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

- (a) The CONTRACTOR shall notify the CITY of any change in the required coverage or cancellation, and shall give such notices not less than 30 days prior to the change or cancellation. The CONTRACTOR shall provide a replacement CERTIFICATE OF INSURANCE prior to such change or cancellation;
- (b) Provide for an endorsement that the "other insurance" clause or provision shall not apply to the CITY where the CITY is shown as an additional insured on the policy;
- (c) Provide for notice to the CITY at the address shown in this Agreement;

(d) The CONTRACTOR agrees to waive all the CONTRACTOR'S, its officers, employees, agents, assigns, and successors' rights of subrogation against the CITY, its officers, employees, and elected representatives for injuries, death, property damage, or other loss covered by insurance and the CONTRACTOR will provide a waiver of subrogation endorsement against the CITY. The CITY must be named or listed on the endorsement; and

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

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

NOTICES

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

City of Missouri City
Purchasing and Risk Management
Attn: Alan A. Phillips
1522 Texas Parkway
Missouri City, Texas 77489

APPROVAL

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

SECTION 11 CHOICE OF LAW

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

SECTION 12 EQUAL OPPORTUNITY

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Contractor

agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

SECTION 13
SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

Contractor agrees to comply with 24 CFR 135.38. See the following page.

Code of Federal Regulations

Title 24. Housing and Urban Development

Subtitle B. Regulations Relating to Housing and Urban Development

Chapter I. Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Refs & Annos)

Subchapter B. Employment and Business Opportunity

Part 135. Economic Opportunities for Low- and Very Low-Income Persons (Refs & Annos)

Subpart B. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

24 C.F.R. § 135.38

§ 135.38 Section 3 clause.

Currentness

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

SOURCE: 59 FR 33880, June 30, 1994; 61 FR 5206, Feb. 9, 1996, unless otherwise noted.

AUTHORITY: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

Current through January 9, 2014; 79 FR 1606

**SECTION 14
MERGER OR INTEGRATION**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof; there are no other further written or oral understandings or agreements with respect hereto.

**SECTION 15
MODIFICATION, ASSIGNMENT OR SUBCONTRACTING**

No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of the CITY and the CONTRACTOR. Any alterations, additions or deletions to the terms of this Agreement, which are required by the enactment of legislation, regulations and directives are automatically incorporated into this Agreement on the date designated by law, regulation or directive.

**SECTION 16
SEVERABILITY**

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

MASTER HOUSING REHABILITATION AGREEMENT
(Local Contract # 18-248-B)

STATE OF TEXAS §

COUNTY OF FORT BEND §

This MASTER HOUSING REHABILITATION AGREEMENT ("Agreement") is entered into as of this _____ day of _____, 2018, between the CITY OF MISSOURI CITY, a body corporate and politic under the laws of the State of Texas, hereinafter referred to as "CITY," and Santex Construction, LLC hereinafter referred to as "CONTRACTOR," collectively referred to as the "Parties," for the provision of housing rehabilitation to eligible homes.

WHEREAS, the United States Department of Housing and Urban Development (HUD) has provided Community Development Block Grant (CDBG) funds to local governments to address housing needs that primarily benefit low and moderate income persons; and

WHEREAS, the City has determined through its Consolidate Plan for CDBG funds to provide assistance to eligible homeowners within the City for the purpose of rehabilitating their homes in accordance with the CDBG criteria specifically described in Title I of the Housing and Community Development Act of 1974 (42 U.S.C. §530, et seq.); 24 CFR Part 570; and the City of Missouri City Owner-Occupied Housing Rehabilitation Program Guidelines; and

WHEREAS, the CONTRACTOR represents that it is fully capable of and qualified to provide housing rehabilitation to eligible homes in the CITY and the CONTRACTOR desires to perform the same;

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

SECTION 1
DEFINITIONS

"Building Official" means the City Building Official and his or her designee.

"City" means the City of Missouri City, Texas.

"City Code" or "City Codes" means the applicable Missouri City Code, including, but not limited to, residential, building, plumbing, electrical, and energy conservation codes.

"Director" means the Director of the City Development Services Department or his or her designee.

"Eligible Home" means a single-family owner-occupied home that is eligible for Housing Rehabilitation under Program Guidelines.

"General Contractor" means the Contractor who is selected by the City to provide rehabilitation to an individual eligible home.

"Housing Rehabilitation" or "Rehabilitation" means the diverse scope of repair work needed to bring eligible homes into compliance with applicable City Codes; provide access to persons with disabilities; or result in the conservation or more efficient use of energy.

“Owner” shall mean the owner of a single-family home that is eligible for rehabilitation under the Program Guidelines.

“Program Guidelines mean the City of Missouri City Owner-Occupied Housing Rehabilitation Program Guidelines, attached hereto as Exhibit “A”.

“Rehabilitation Agreement” means a written agreement to be executed between the City, the Owner of an eligible home, and the General Contractor to provide rehabilitation to the Owner’s home, attached hereto as Exhibit “B,” and incorporated herein for all purposes.

SECTION 2 SCOPE OF AGREEMENT

- 2.1. Following a competitive selection process, the CONTRACTOR has been selected to perform housing rehabilitation utilizing CDBG funds to eligible homes located within the City. At such time that the City desires to have rehabilitation work provided, the CONTRACTOR will be invited to submit an informal quote to provide housing rehabilitation to eligible homes based on a scope of work developed by the Building Official. The scope of work will vary depending upon the actual repair needs of each individual eligible home. A general scope of work that may be needed in connection with the rehabilitation of eligible homes may include the following: water, heating, electrical, plumbing and sewer repairs; insect and rodent extermination; repairs to deteriorated steps, walls, ceilings, floors, porches, roofs, down spouts, chimneys, and foundations; work on exterior walls, including painting, siding, windows and insulation, and demolition of deteriorated structures for the purpose of housing-related improvements to meet the special needs of handicapped persons and the elderly; repair or replace principle features, specifically, a kitchen stove or a refrigerator, if no such equipment exists in the residence, or if existing equipment is unsafe or unsanitary because of its basic condition; and lead-based paint abatement. Most of the homes that are eligible for housing rehabilitation services are at alteration level one, and do not require a comprehensive set of plans. Typical homes have three (3) bedrooms with one (1) bathroom and are approximately 1200-1600 square feet.
- 2.2 Before submitting a quote, the Contractor shall, by careful examination, satisfy himself as to the nature and location of the work, the character and quality of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the performance of the work, the general and local conditions, and all other matters, which can in any way affect the scope of work, if applicable. No information given by the City or any officials thereof, other than that contained in the quote documents, shall be binding upon the City.
- 2.3 The City will not include, for housing rehabilitation, any home where it has been determined by the City that the home cannot be reasonably rehabilitated within a maximum amount of \$12,000 per home grant allowance. This amount includes a ten percent (10%) administrative activity delivery cost that will be set aside for each eligible home that is to be rehabilitated. As such, the informal quote for the rehabilitation of each eligible home shall not exceed a prima facie quote in the amount of \$9,000. However, the City may, on a case-by-case basis, authorize rehabilitation of an eligible home for an additional amount, not to exceed, \$20,000.
- 2.4 The City will evaluate the submitted quotes, and the CONTRACTOR with the lowest responsible bid for the City, as determined by the City, will be awarded a contract to serve as the General Contractor for the rehabilitation of the eligible home. No selected General

Contractor will be authorized to perform housing rehabilitation on more than three (3) homes at any one given time.

- 2.5 The General Contractor shall be solely responsible for hiring and managing qualified workers and/or sub-contractors, as needed, to ensure that all work included in the scope of work is carried out in a timely manner and is completed in compliance with the Program Guidelines, HUD regulations, applicable City ordinances, including the 2015 International Residential Building Code, and, as applicable, Uniform Federal Accessibility Standards. The normal duration of each rehabilitation project is approximately 120 calendar days.
- 2.6 For each eligible home the CONTRACTOR is selected to rehabilitate, the CONTRACTOR shall be required to execute a Rehabilitation Agreement, in substantially the form attached hereto as Exhibit "A." No work shall commence, nor shall a notice to proceed be issued by the City until the parties have signed the Rehabilitation Agreement, and until after an "Applicant –Contractor Conference" is held.
- 2.7 The Applicant-Contractor Conference shall be attended by the City CDBG Coordinator, the Owner of the subject property, the General Contractor, and any applicable subcontractor(s). The Applicant-Contractor Conference shall allow the Owner and the General Contractor to review the scope of work, the time of performance, and warranties, and negotiate logistical arrangements needed to execute the scope of work, including, but not limited to, the General Contractor's use of utilities and other facilities at the applicant's property, moving or the offsite storage of furniture and personal belongings needed to provide the General Contractor with ready access to identified work areas, and any other matters related to steps necessary to ensure that the rehabilitation is completed in a timely manner. Both the General Contractor and the Applicant shall execute a copy of the scope of work, which shall include project details and expectations, and such executed scope of work shall become an addendum to the Rehabilitation Agreement. A copy of the executed scope of work must be provided to the Director before a notice to proceed may be issued. The City will issue a notice to proceed upon receipt of all required executed documents.
- 2.8 The General Contractor shall rehabilitate eligible homes at no charge to the Owner, in accordance with the scope of work, as directed by the City and the terms of the Rehabilitation Agreement, and in the chronological order that the City has provided the list of eligible properties to the General Contractor for completion.
- 2.9 The General Contractor shall be required to apply for residential building permits from the City for all work to be performed under the scope of work. The Building Official shall conduct a preconstruction meeting with the General Contractor in accordance with the City's standard permitting process. Furthermore, the General Contractor and his/her subcontractor(s) must possess trade and/or other professional licenses as may be required by the State of Texas and the City in order to perform such functions that are subject to licensing.
- 2.10 The General Contractor and all housing rehabilitation associated with the performance of the scope of work shall be subject to inspection by the City. Inspections will be made to ensure compliance with the terms of the Rehabilitation Agreement, Program Guidelines, and applicable local, state, and federal laws, ordinances, standards and regulations. The General Contractor shall, at all times, provide access to all work sites and disposal areas to the City. The Building Official will conduct a final inspection and issue final certification of completion.

- 2.11 The General Contractor shall provide information as requested by the City to complete all HUD required reports for compliance with Section 3 requirements. The General Contractor will work closely with the City, HUD and other applicable state and federal agencies to ensure that eligible housing rehabilitation and data documentation appropriately address concerns of the likely reimbursing agencies.
- 2.12 All requests for rehabilitation services under this Agreement are on an “as needed” basis. The CITY does not guarantee a minimum order of services. If applicable, no contract(s) will be awarded to any CONTRACTOR that has been debarred, suspended, excluded or ineligible for participation in federal assistance programs. In the event an awarded party or their subcontractor(s) become debarred, suspended, excluded or ineligible for participation in federal assistance programs after execution of this Agreement, this Agreement may be terminated without notice.

SECTION 3 TERM OF AGREEMENT

This Agreement shall be for the period beginning on the date of execution of the Agreement through September 30, 2019. Upon completion of the term of this Agreement and upon adoption and approval of the owner-occupied housing rehabilitation program in the City’s 2018 Annual Action Plan and CDBG funding, this Agreement may be renewed for an additional one (1) year period, upon mutual agreement of the parties. Additional federal regulations, laws of the State of Texas, and local ordinances may become applicable as changes occur.

SECTION 4 TERMINATION

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

SECTION 5 ADDRESS AND NOTICES AND COMMUNICATIONS

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

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

Santex Construction, LLC
4608 W. Walnut
Pearland, TX. 77581
832-434-5883
javier@teamsantex.com

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

City of Missouri City
Attn: Ireyan J. Clark-Sam, Senior Contracts & Procurement Analyst
1522 Texas Parkway
Missouri City, Texas 77489
281-403-8626
ireyan.clark-sam@missouricitytx.gov

SECTION 6 SUCCESSORS AND ASSIGNS

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

SECTION 7 MEDIA

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

SECTION 8 MODIFICATIONS

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

SECTION 9 FISCAL FUNDING

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

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

SECTION 10 INSURANCE REQUIREMENTS

A current certificate of liability insurance is required to be submitted to the Purchasing Office before the CITY will enter into a Rehabilitation Agreement with the CONTRACTOR. The certificate of insurance shall be an attachment to the Rehabilitation Agreement, and shall be incorporated therein for all purposes.

POLICY REQUIREMENTS

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

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

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

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

- (a) The CONTRACTOR shall notify the CITY of any change in the required coverage or cancellation, and shall give such notices not less than 30 days prior to the change or cancellation. The CONTRACTOR shall provide a replacement CERTIFICATE OF INSURANCE prior to such change or cancellation;
- (b) Provide for an endorsement that the "other insurance" clause or provision shall not apply to the CITY where the CITY is shown as an additional insured on the policy;
- (c) Provide for notice to the CITY at the address shown in this Agreement;

(d) The CONTRACTOR agrees to waive all the CONTRACTOR'S, its officers, employees, agents, assigns, and successors' rights of subrogation against the CITY, its officers, employees, and elected representatives for injuries, death, property damage, or other loss covered by insurance and the CONTRACTOR will provide a waiver of subrogation endorsement against the CITY. The CITY must be named or listed on the endorsement; and

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

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

NOTICES

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

City of Missouri City
Purchasing and Risk Management
Attn: Ireyan J. Clark-Sam, Senior Contracts & Procurement Analyst
1522 Texas Parkway
Missouri City, Texas 77489

APPROVAL

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

SECTION 11 CHOICE OF LAW

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

SECTION 12 EQUAL OPPORTUNITY

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Contractor

agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

SECTION 13
SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

Contractor agrees to comply with 24 CFR 135.38. See the following page.

Code of Federal Regulations

Title 24. Housing and Urban Development

Subtitle B. Regulations Relating to Housing and Urban Development

Chapter I. Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Refs & Annos)

Subchapter B. Employment and Business Opportunity

Part 135. Economic Opportunities for Low- and Very Low-Income Persons (Refs & Annos)

Subpart B. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

24 C.F.R. § 135.38

§ 135.38 Section 3 clause.

Currentness

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

SOURCE: 59 FR 33880, June 30, 1994; 61 FR 5206, Feb. 9, 1996, unless otherwise noted.

AUTHORITY: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

Current through January 9, 2014; 79 FR 1606

**SECTION 14
MERGER OR INTEGRATION**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof; there are no other further written or oral understandings or agreements with respect hereto.

**SECTION 15
MODIFICATION, ASSIGNMENT OR SUBCONTRACTING**

No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of the CITY and the CONTRACTOR. Any alterations, additions or deletions to the terms of this Agreement, which are required by the enactment of legislation, regulations and directives are automatically incorporated into this Agreement on the date designated by law, regulation or directive.

**SECTION 16
SEVERABILITY**

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

**SECTION 17
CONTRACT SIGNATURE SHEET**

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

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

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

Reviewed by: _____
Ireyan J. Clark-Sam, Senior Contracts & Procurement Analyst, Purchasing Manager

Director (Spriggs): _____

Santex Construction, LLC

City of Missouri City

Signature

Anthony J. Snipes

Title: _____

City Manager

Date

Date

APPENDIX B: CITY OF MISSOURI CITY OWNER-OCCUPIED HOUSING REHABILITATION PROGRAM GUIDELINES

Section 1. Program Objectives

- 1.1 The objectives of the City of Missouri City Owner-Occupied Housing Rehabilitation Program (Program) are as follows:
- a. To prevent hazardous health conditions and code violations in owner-occupied homes in the City of Missouri City (the "City").
 - b. To prevent the deterioration of property and neighborhoods.
 - c. To improve the quality of the owner-occupied housing stock for low- and moderate-income persons.
 - d. To provide rehabilitation assistance to low- and moderate-income persons for housing rehabilitation activities.

Section 2. Administration

The Program will be administered by the Director in conformance with the Program guidelines established herein. The City may contract with a subrecipient or a contractor to implement, administer or conduct, in whole or in part, the Program in accordance with the guidelines set forth herein. These guidelines are established, and may be amended, by the City Council. The administration and operation of the Program will conform to all City ordinances, including the 2015 International Residential Code, City polices and regulations, and all requirements established by the United States Department of Housing and Urban Development (HUD) and the State of Texas pertaining to the Community Development Block Grant (CDBG) Program.

Section 3. Funding

- 3.1 Rehabilitation assistance will be provided in the form of a grant and in accordance with the provisions prescribed below:
- a. CDBG funds will be provided for the rehabilitation of owner-occupied single-family homes for **low-and moderate**-income households in the City. An applicant's total household income must not exceed HUD Section 8 income limits for housing assistance to low- and moderate-income households (income may not exceed 80 percent of the area median income) as established for the Houston-Sugar Land-Baytown Labor Market Area (as such area is described by the United States Bureau of Labor Statistics).
 - b. An applicant meeting the requirements of the Program guidelines may

qualify for 100% CDBG assistance for rehabilitation of the applicant's property up to a maximum of **\$10,000**, including the administrative activity delivery cost of the Program related to the rehabilitation of the property. Based on information and the recommendation provided by the Director, the Community Development Advisory Committee (the "CDAC") may approve, on a case-by-case basis, rehabilitation assistance for an individual property, for an additional amount, up to a maximum amount of \$20,000, within the Program guidelines.

- 3.2 CDBG funds may be provided for emergency assistance. Emergency assistance is defined as assistance for repairs to a residence that, without the repairs, would be uninhabitable. A residence is deemed to be uninhabitable if such residence appears to present an immediate and serious danger to persons or property.
- a. A person seeking emergency assistance shall certify that an imminent threat to health and safety exists and that no other funds are available to correct the problem and shall submit any and all documentation requested by the Director on the applicant's need and ability to pay for corrections. Failure to submit the requested documentation may result in the denial of emergency assistance.
 - b. Emergency assistance may be provided if the following conditions are met:
 1. an applicant's household constitutes a low-income household, which is a household having an income equal to or less than the Section 8 "very low-income" limit established by HUD;
 2. there is an imminent threat to health and safety;
 3. no other funds are available to the applicant to correct the problem; and
 4. the nature and severity of the problem is documented by the Director.
 - c. Based upon information and the recommendation provided by the Director, the CDAC may approve, on a case-by-case basis, emergency assistance for an individual property, up to a maximum of \$20,000, within the Program guidelines.
 - d. Upon approval of emergency assistance by the CDAC, the City will immediately expend funds to address the emergency, irrespective of whether the applicant has been approved for rehabilitation assistance.
 - e. If an applicant who has been approved for rehabilitation assistance requests emergency assistance before rehabilitation of the applicant's property is underway, the CDAC may approve immediate emergency assistance for the

applicant. All such emergency assistance will count towards the maximum funds allocated for rehabilitation assistance, unless an additional amount is approved by the CDAC as set forth in subsection 3.1(b) herein.

Section 4. Definitions

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

- 4.1 **BUILDING OFFICIAL** means the City Building Official and his or her designee.
- 4.2 **CONTRACTOR** means an entity that receives a contract from the city to perform services needed to carry out the Program.
- 4.3 **DIRECTOR** means the Director of the Development Services Department or his or her designee.
- 4.4 **HOUSEHOLD** means all persons who occupy a housing unit.
- 4.5 **INCOME:** This subsection will define what is considered income and will be used in the process of qualifying applicants for the Program. Income eligibility is based on total household income for the twelve month period prior to the date of application for Program benefits. For the purpose of this Program, "total household income" shall include the combined annual income of all household members.
 - a. "Annual income" shall have the meaning assigned by the Section 8 Housing Assistance Payments program at 24 C.F.R. §5.609. Annual income includes, but is not limited to:
 1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
 2. Interest, dividends, and other net income of any kind from real or personal property;
 3. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in subsection 4.2.B.14);
 4. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except

as provided in subsection 4.2.B.3);

5. Welfare assistance payments;
 6. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
 7. All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in subsection 4.2.B.7); and
 8. Any financial assistance in excess of amounts received for tuition.
- b. "Annual income" does not include the following:
1. Income from employment of children (including foster children) under the age of 18 years;
 2. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
 3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in subsection 4.2.A.4);
 4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
 5. Income of a live-in aide;
 6. Subject to subsection 4.2.A.8, the full amount of student financial assistance paid directly to the student or to the educational institution;
 7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
 8. Amounts received under training programs funded by HUD;
 9. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a

Plan to Attain Self-Sufficiency (PASS);

10. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
11. Amounts received under a resident service stipend;
12. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff;
13. Temporary, nonrecurring or sporadic income (including gifts);
14. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
15. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
16. Adoption assistance payments in excess of \$480 per adopted child;
17. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;
18. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the residence;
19. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
20. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits, including the value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 [b]); amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study programs; and earned income tax credit (EITC) refund payments

received on or after January 1, 1991, including advanced earned income credit payments (26 U.S.C. 32[j]).

- 4.6 **OWNER:** "Owner" means a person vested with fee simple title, including a general warranty deed or a special warranty deed, in a home and excluding a contract for deed, quit claim deed, life estate, 99-year leasehold, and any other cloud to title.
- 4.7 **PROPERTY OWNERS' ASSOCIATION:** "Property owners' association" or "association" means an incorporated or unincorporated association that: (a) is designated as the representative of the owners of property in a residential subdivision; (b) has a membership primarily consisting of the owners of the property covered by the dedicatory instrument for the residential subdivision; and (c) manages or regulates the residential subdivision for the benefit of the owners of property in the residential subdivision.

Section 5. Applicant Eligibility

- 5.1 To be eligible for rehabilitation assistance under this Program, an applicant must meet the following conditions:
- a. The applicant must be the owner (as defined in subsection 4.6 of these guidelines) of a single-family house located within the corporate limits of the City. A HUD-Code manufactured home or a mobile home are ineligible. Title to the property must be in the applicant's name. Title research may be used to verify this requirement.
 - b. The applicant must have owned and resided in the property proposed for rehabilitation for at least 12 months prior to the date the applicant submits an application for rehabilitation assistance under this Program. The applicant must occupy the property as his or her primary residence. Acceptable proof that supports that the applicant resides in the property, includes, but is not limited to, utility bills with the applicant's name for the prior 12 months.
 - c. An applicant must not be in arrears on mortgage payments. If applicable, the applicant shall provide a copy of the applicant's mortgage statement for the prior three (3) months.
 - d. An applicant must not be delinquent in real estate taxes. The applicant shall provide the most current tax certificate or statement. If the applicant owes delinquent taxes and is on a payment plan with the tax assessor-collector, the applicant must provide the payment plan that shows the applicant is current on the payment plan.
 - e. The applicant must not be delinquent in the payment of property owners' association assessments. The applicant shall provide the applicant's most

current association statement. If the applicant is delinquent in the payment of assessments and is on a payment plan with the association, the applicant must provide the payment plan that shows that the applicant is current on the payment plan.

- f. The applicant must have sufficient insurance that would replace the property if it were destroyed by fire or other means. If the property is within a floodplain area, as identified on the Federal Emergency Management Agency's official flood plain map, the applicant must have flood insurance. The applicant shall provide a copy of the homeowners' insurance, and, if applicable, flood insurance.
- g. The applicant must be classified as low- and moderate-income pursuant to HUD Section 8 income requirements (income may not exceed 80 percent of the area median income). The applicant must submit complete and accurate documentation of the applicant's household composition and the income of all household members, age 18 and older. Income may be established in any reasonable manner, including, but not limited to, IRS tax returns, W-2 forms, employment pay stubs, social security checks, court orders for child support or spousal support, verification of employment, or bank statements.
- h. An applicant must not have received rehabilitation assistance from the City within the past five (5) years, except for emergency assistance.

Section 6. Property Eligibility Criteria

- 6.1 To be eligible for rehabilitation assistance under the Program, the property proposed for rehabilitation must require improvements in one or more of the following categories:
 - a. The proposed rehabilitation must bring the property into conformance with applicable City ordinances and regulations incorporated in these Program guidelines, i.e., building, housing, fire, electrical or plumbing codes;
 - b. The proposed rehabilitation will provide access to persons with disabilities;
or
 - c. The proposed improvement will result in the conservation or more efficient use of energy.
- 6.3 The structures to which repairs are being proposed, must be economically repairable as determined through an inspection of the property.

Section 7. Eligible Repairs

- 7.1 Rehabilitation assistance provided through this Program shall address repairs in the following order of priorities:
- a. to remedy violations of City ordinances.
 - b. to remedy accessibility issues.
 - c. to provide energy efficiency improvements.
- 7.2 Proposed repairs to the property must fall within the scope of the following general categories: water, heating, electrical, plumbing and sewer; insect and rodent extermination; repairs to deteriorated steps, walls, ceilings, floors, porches, roofs, down spouts, chimneys and foundations; work on exterior walls, including painting, siding, windows and insulation, and demolition of deteriorated structures for the purpose of housing-related improvements to meet the special needs of handicapped persons and the elderly; repair or replace principal features, specifically, a kitchen stove or a refrigerator, if no such equipment exists in the residence, or if existing equipment is unsafe or unsanitary because of its basic condition. If a potential code violation exists at the time of inspection and it is thought that the physical condition of an element in the structure will deteriorate due to an actual violation in the near future, rehabilitation assistance may be used to correct the condition.
- 7.3 The proposed repairs must be in compliance with all applicable City ordinances, including the 2015 International Residential Code, and must include the elimination of lead-based paint conditions.
- 7.4 Rehabilitation assistance funded through this Program must provide for the purchase and/or installation of smoke detectors in all properties proposed for rehabilitation, which do not contain such devices. The location and installation of such devices shall comply with all applicable City ordinances.

Section 8. Ineligible Repairs

- 8.1 Rehabilitation assistance may not be provided for the following:
- a. The purchase, installation, or repair of furnishings and appliances, except as set forth in subsection 7.2.
 - b. New construction or expansion of the size of a structure, unless such is necessary to alleviate overcrowding.
 - c. Nonessential repairs such as purely decorative, cosmetic, or remodeling work are not eligible.

- d. The rehabilitation of appurtenant structures not attached to the living unit are generally ineligible unless deemed necessary under the provisions of subsection 7.2.

Section 9. General Application Process

- 9.1 When CDBG funds are available and when program capacity allows, the City will accept applications for housing rehabilitation beginning on the first day of July of each year. If the first day of July falls on a weekend or a City holiday, the next working day shall be considered the first day on which applications will be accepted.
- 9.2 In order to maintain the confidentiality of certain applicant information, a separate log of applicant numbers with names and addresses shall be maintained. Two files will be kept on each application. One file will contain Program service (rehabilitation) information and the other will contain the applicant's confidential information such as income verification. All information submitted by the applicant shall be retained in the applicant's file.
- 9.3 The number of applicants whose properties will be rehabilitated during a Program Year will be determined by dividing the amount of funding allocated for the Program year by \$10,000.
- 9.4 All applications will be considered in the order in which they are received by the City ("first-come, first served").

Section 10. Application for Rehabilitation Assistance

- 10.1 A person who is seeking rehabilitation assistance under this Program shall file an application for housing rehabilitation with the Director on an application form provided by the Director. The application shall be accompanied with all documentation required to verify the applicant's eligibility for rehabilitation assistance as set forth in Section 5.
- 10.2 Failure to disclose information which may affect eligibility requirements under this subsection may constitute fraud and result in denial of an application for rehabilitation assistance. Applicants shall be required to make full restitution to the City in the event rehabilitation assistance is provided to an applicant who provided inaccurate or incomplete information in order to meet eligibility requirements. Requests for further rehabilitation assistance will be denied unless restitution is made in full.

Section 11. Review and Approval of Application

- 11.1 Upon receipt of an application, the CDBG Grant Coordinator will conduct a preliminary review of the application to determine whether the application is complete. To be considered complete, an application must be fully filled out and signed by all owners

of the property proposed for rehabilitation, and all documentation required to verify applicant eligibility as set forth in Section 5 must be submitted with the application.

- 11.2 If the application is not complete, the Director will send a letter to the applicant informing the applicant of the specific documents or information that is deemed necessary for the application to be considered complete. An applicant whose application is not complete will be placed on an incomplete list until the remaining documentation or information is provided to the City.
- 11.3 Each complete application shall be assigned a number beginning with "(year)-01" and a separate file shall be set up for each application. Numbers shall be assigned consecutively from this sequence regardless of whether the application is approved or denied for rehabilitation assistance under this Program. Once a number is assigned, the number will not be reused.
- 11.4 The CDBG Grant Coordinator will review each complete application, in the order received, to determine if the applicant meets the applicant eligibility requirements of the Program guidelines. If the applicant fails to meet any of the applicant eligibility requirements, the Director will deny the application for rehabilitation assistance, and notify the applicant of such denial and the reason for the denial. An applicant who meets the applicant eligibility requirements will be conditionally approved for rehabilitation assistance, and will be notified in writing of such approval. Each determination will be kept in the applicant's file.
- 11.5 In the event that the number of conditionally approved applications exceed the number of properties that may rehabilitated during a Program Year, the additional applications will placed on a waiting list, in the order in which the applications were conditionally approved, to be considered for rehabilitation assistance should funding become available during that Program Year. Conditionally approved applications that do not receive rehabilitation assistance during the current Program Year will be placed at the top of the waiting list for rehabilitation assistance for the next Program Year in the order in which the applications were conditionally approved. This process will be followed for successive Program Years, until the number of conditionally approved applications on the waiting list does not exceed the number of properties that may be rehabilitated during the Program Year. At that time, the City will then accept applications for rehabilitation assistance for the Program Year.
- 11.6 The Director will notify in writing each applicant who is placed on the waiting list of the applicant's position on the waiting list. Each applicant on the waiting list shall be responsible for updating the applicant's income information every six months, or, sooner, when the applicant becomes aware of any significant change in the income status of the any member of the applicant's household.

Section 12. Property Assessment

- 12.1 The Building Official will contact an applicant whose application is conditionally

approved to schedule a time and date to conduct an inspection of the applicant's property to determine whether the property is eligible for rehabilitation under the provisions set forth in the Program guidelines. On the day of the inspection, the applicant shall ensure that the property is fully accessible, allowing for full view of all walls, floors, ceilings and other components in order to determine the condition of the property and rehabilitation requirements. The Building Official may cancel inspection appointments if, on the day and time of inspection, the applicant's home is not ready. The Director may revoke a conditionally approved application if an initial inspection cannot be completed within 60 days of initial contact by the Building Official.

- 12.2 The Building Official shall prepare an inspection report, which identifies whether the property meets the property eligibility requirements and each deficiency that may be corrected with rehabilitation of the property. The Building Official will ascertain whether through the proposed rehabilitation, the property will conform to applicable City ordinances, including the 2015 International Residential Code, city policies, and state and federal law. If the property was built prior to 1978, the property must be reviewed for applicability of the Lead Based-Paint regulations. A copy of the inspection report will be kept on file with the Development Services Department.
- 12.3 If the applicant's property meets the property eligibility requirements and the proposed repairs are eligible for rehabilitation assistance as outlined in the Program guidelines, the Director shall approve the applicant's application for rehabilitation assistance. If the applicant's property is not eligible for rehabilitation assistance, the Director will deny the application for rehabilitation assistance and provide the applicant notice of the denial and a reason for such denial.

Section 13. Determining Work to Be Done

- 13.1 **Work Write-up.** The inspection report will serve as the basis for preparing a work write-up and a cost estimate of the eligible repairs. The work write-up will include all repairs necessary to bring the property into compliance with the City Code, and repairs requested by the applicant that qualify as eligible repairs under these guidelines. All repairs on the work write-up must conform to the eligible repairs allowed under these guidelines. Any costs associated with lead-based paint activities (e.g., testing, use of qualified contractors etc.) will be included in the work-write up. The work write-up should not contain details that have no significant effect on cost, such as color, style, or pattern.
- 13.2 **Adjusting Work Write-Up.** If the total estimated cost of the rehabilitation identified in the work write-up exceeds the amount available to the applicant under this Program, the Building Official will advise the applicant that additional funds may be needed for all the items identified in the work write-up to be completed. If the applicant is unable to provide supplementary funds to meet the difference, the Building Official shall eliminate or modify items in the work write-up as necessary to reduce the estimated cost. However, items necessary to meet

City code requirements and Program guidelines shall not be eliminated. If the total estimated cost of the work cannot be reduced as necessary, the approval for rehabilitation assistance may be revoked.

- 13.3 **Scope of Work.** The Building Official will consult with the applicant to finalize the proposed rehabilitation scope of work and the amount of CDBG rehabilitation assistance, which may be available. Any changes to the scope of work should be completed before the rehabilitation project is put out for bid by the Director. The scope of work will include performance standards applicable to the project.
- 13.4 **Environmental Review.** HUD regulations require the City identify specific environmental factors that may be encountered at potential project sites and to develop procedures to ensure compliance with regulations pertaining to these factors. The CDBG Grants Coordinator will review the scope of work and determine the level of environmental review that needs to be conducted. A complete environmental review of all project activities must be complete prior to obligating CDBG funds.

Section 14. Contracts for Rehabilitation Work

- 14.1 **Solicitation of Bids and Proposals.** The City shall solicit and select contractors to perform rehabilitation services in accordance with all applicable local, state, and federal laws. Only pre-selected contractors shall be eligible to submit quotes for rehabilitation projects. In the event a subrecipient is used to administer the Program, the subrecipient may solicit informal quotes from contractors and subcontractors for repairs that require an expenditure of \$50,000 or less.
- 14.2 **Contractor Quote.** Once an application is approved for rehabilitation assistance, the City will invite each pre-selected contractor to submit an informal quote for rehabilitation services outlined in the scope of work. The City may schedule a walk-through of the eligible property with the applicant and the pre-selected contractor(s) prior to the close of the quote period. Upon review of submitted informal quote(s), the City will select the lowest, most responsible bidder to perform rehabilitation services, provided that no contractor may be authorized to perform rehabilitation services on more than three properties at any one given time.
- 14.3 **Contract Documents.** The City will prepare appropriate contract documents for execution by the applicant, contractor, and the City. The contractor shall be required to execute a written contract in a format prescribed by the City for each eligible property the contractor is selected to provide rehabilitation services. Each specification in the contract shall be written so that it provides a clear understanding of the nature and scope of the work to be done, the location of the work, the quantity and type of materials, manufacturers' brand names or association standards to identify the quality of materials and equipment required, and provisions for acceptable or equivalent substitutes. If the scope of work is sufficiently comprehensive, it may itself be used for the specifications.

- 14.4 Subcontractors. Each contractor shall ensure that all subcontractors used on a Program rehabilitation project have complied with the requirements of the Program guidelines.
- 14.5 Applicant-Contractor Conference. The CDBG Grant Coordinator shall meet with the applicant, the selected contractor, and any applicable subcontractor to review the scope of work, the completion time, and warranties. The Applicant-Contractor Conference shall allow the applicant and the selected contractor to negotiate logistical arrangements needed to execute the scope of work, including, but not limited to, the contractor's use of utilities and other facilities at the applicant's property; moving or the offsite storage of furniture and personal belongings needed to provide the contractor with ready access to identified work areas; and any other matters related to steps necessary to ensure that the rehabilitation work is completed in a timely manner. Both the contractor and the applicant shall sign a copy of the scope of work, which shall include project details and expectations. A copy of the signed scope of work must be provided to the Director before a notice to proceed may be issued.
- 14.6 Notice to Proceed. The City will issue a notice to proceed upon receipt of all required executed contracts.
- 14.7 Permits Required. The contractor must apply for residential building permits for all work to be performed on a form provided by the Director. The Building Official shall conduct a preconstruction meeting with the contractor in accordance with the City's standard permitting process.
- 14.8 Progress Reports. As work progresses, the Building Official shall conduct all required inspections and provide progress reports of the rehabilitation services to the Director. The CDBG Grant Coordinator will verify compliance with the contract work schedule and compliance with general specifications.
- 14.9 Change Orders. If change orders are required or requested to the scope of work due to additional findings while the rehabilitation work is underway, the contractor shall notify the Director of such requested changes prior to commencing the work. Change orders will not be authorized for additional work desired by the applicant unless it is to include work, which is necessary to prevent further property damage. If a change order is approved, a revised scope of work shall be signed by the applicant and the contractor and provided to the Director.
- 14.10 Final Inspection. Upon notification by the contractor to the applicant and the Director that the work is completed, the Building Official shall conduct a final inspection and issue final certification of completion.
- 14.11 Project Closeout. The contractor shall provide the Director, prior to, or along with, a request for final funds disbursement:

- a. A letter of completion signed by the applicant;
- b. A guarantee of work;
- c. Manufacturers and supplies warranties; and
- d. Release of lien, if applicable.

Section 15. Procedures for Funds Disbursement

- 15.1 Payment in the amounts authorized, shall be made in accordance with the terms and conditions of the contract between the contractor and the City.
- 15.2 In any project wherein the applicant is required to contribute funding toward the cost of rehabilitation, said funds must be deposited in an escrow account prior to the start of construction. The applicant's funds must be disbursed prior to the use of CDBG funds approved for the project.
- 15.3 Prior to the disbursement of project funds, the contractor must submit an invoice and a document that indicates the applicant's approval of the work for which project funds are requested, to the Director for final authorization.
- 15.4 Final payment to a contractor shall be made upon satisfactory completion of the project work as determined through a final inspection conducted by the Building Official and approval of the work by the applicant and upon completion of required reporting documents.

Section 16. Terms and Conditions of Program Participation

- 16.1 Civil Rights. The applicant will be required to comply with Title VI of the Civil Rights Act of 1964 and shall not discriminate on the basis of race, color, or national origin.
- 16.2 Use of Funds. All CDBG funds provided under this shall be used only for work approved and identified in the Program documents.
- 16.3 Work to be performed by the applicant. An applicant approved for rehabilitation assistance who wishes to perform rehabilitation services on his or her own property, may do so, provided that the applicant has the necessary skill, equipment and ability to satisfactorily perform the work. In such a case, labor costs, time and effort expended by the applicant, shall not be eligible expenses. However, the purchase of supplies and materials related to the authorized project work shall be an eligible expense.
- 16.4 Inspections. Inspection of the property, the rehabilitation work, materials, and equipment by the Director shall be a condition of participation in the Program.

- 16.5 Supplementary Funds. In instances where the rehabilitation project costs exceed the amount of rehabilitation assistance provided, the applicant shall be responsible for providing whatever additional amount is needed to assure completion of the work or project.
- 16.6 Conflict of Interest. The operation and administration of this Program shall comply with all applicable local, state and federal requirements regarding conflict of interest.
- 16.7 Bonuses, Commissions, Fees, and Kickbacks. It shall be strictly prohibited for any person having any connection with this Program to use their knowledge, position or influence to secure any kind of a bonus, commission, or fee, including a finder's fee or kickback.
- 16.8 Participating Contractors. The Director reserves the right to recommend to the CDAC the debarment from this Program of any contractor or subcontractor on the basis of unsatisfactory performance or impropriety relating to the contractor or subcontractor's participation in the Program.
- 16.9 Section 3 compliance. All Section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):
- a. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 - b. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
 - c. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- d. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- e. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- g. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

16.10 Lead-Based Paint Notification. The applicant and the occupants of a property requesting rehabilitation assistance must receive and sign a lead-based paint notification form. The signed form for the applicant and occupants must be in the Program file, with a copy to remain with the applicant.

16.11 Installation of Smoke Detectors. Properties assisted with HUD funds must comply with the Fire Administration Authorization Act of 1992 regarding installation of fire protection and safety devices.

16.12 The applicant, the contractor, and any applicable subcontractors, are required to adhere to the provisions of the Program guidelines.

Section 17. Community Development Advisory Committee

17.1 The CDAC shall:

- a. Recommend amendments and revisions to the Program guidelines;
- b. Review Program progress and operation;
- c. Review and act upon staff recommendations to debar contractors from participating in the Program; and
- d. Serve as the Program review team. The review functions of the CDAC shall be as follows:
 1. Review and determine eligibility for applicants requesting rehabilitation assistance in excess of established Program limits and requesting emergency assistance;
 2. Review program complaints; and
 3. Act on appeals of any decision of the Director regarding the Program guidelines.

Section 18. Program Amendments

Amendments to the Program guidelines may be recommended by the Director and the CDAC and amended by the City Council.

Section 19. Grievance Procedure

19.1 Purpose. This appeal and complaint procedure provides for the prompt review and equitable disposition of disputes and complaints relating to the Program. These procedures are used by the City and its Subrecipients or Contractors.

19.2 Procedure. An applicant may file the following with the CDAC:

- a. An appeal of a decision by the Director, a subrecipient, or a contractor.
- b. A *complaint* relating to an alleged violation of the law, which is defined as an individual or organization's allegation of a violation of the Housing and Community Development Act of 1974, as amended; the CDBG regulations; the City's contract with the HUD; the City's contracts with its subrecipient or contractor agencies; certain laws because of disability, race, color, national origin, age, sex, religion, sexual orientation, gender identification, or marital status discrimination; and the Inspector General Act of 1978, as amended.

19.3 Appeal and Complaint Process.

- a. An applicant may appeal the decision of the Director, a subrecipient, or a contractor or a may file a complaint relating to an alleged violation of the law by providing written notice of such appeal or complaint to the City Secretary within ten (10) working days of receipt of notice of the decision or the alleged violation. An applicant who is deemed ineligible for rehabilitation assistance due to income may not appeal such decision to the CDAC. A complainant may simultaneously pursue resolution of the complaint through the internal complaint procedures of the subrecipient or contractor or through the federal agencies having jurisdiction over the substance of the complaint.
- b. Upon receipt of the appeal or complaint by the City Secretary, the applicant will be provided written notice that the appeal or complaint has been received and the timetable under which it will be processed.
- c. If the appeal or complaint relates to a decision or complaint other than a decision of or complaint against the Director, the Director will attempt to reach an informal resolution of the appeal or complaint prior to the hearing.
- d. The CDAC will hear the appeal or complaint within twenty (20) working days of receipt of the applicant's appeal or complaint.
- e. The CDAC shall take the steps necessary to ensure each applicant is given a fair and equal opportunity to present his or her case.
- f. The CDAC shall forward to the applicant a written decision within fifteen (15) days of the date of the hearing.
- g. An applicant may appeal the decision of the CDAC by submitting a written notice of such appeal to the City Secretary within ten (10) working days of the receipt of the written decision of the CDAC. The City Council shall hear the appeal within thirty (30) days of receipt of the notice of appeal and shall issue a response within fifteen (15) days of the date of the hearing.
- h. An applicant may appeal the decision of the City Council by submitting a written notice of appeal to the Houston Field Office of the United States Department of Housing and Urban Development Office of Community Planning and Development (CPD) within ten (10) days of receipt of the written response from the City Council. The Houston Field Office Director of CPD shall have final authority to resolve the issue.
- i. The City will maintain written documentation of its investigation and efforts involved in resolving an appeal or complaint.

- j. The City will prepare and maintain a written summary of the outcome of each appeal, complaint, investigation, and any hearing or other resolution and will provide such summary to the applicant.

19.4 Complaints may be directed to:

Grantee Contact:
Director of Development Services
City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
Telephone: (281)-403-8661

Section 20. Program Subrecipients and Contractors

Subrecipients and contractors contracted to administer or conduct the Program must adopt these guidelines, including, but not limited to, any notification processes or procedures established in these guidelines, and any application, letter, or document related to these guidelines provided by the City for the administration of the Program.



**CITY COUNCIL
AGENDA ITEM COVER MEMO**

October 15, 2018

To: Mayor and City Council
Agenda Item: 10(a) Consider an ordinance authorizing the crediting of updated service credits in the Texas Municipal Retirement System for certain City of Missouri City employees who have membership in such system; providing for increased annuities for certain City of Missouri City employees.

Submitted by: Sandra Clarkson, Interim Financial Services Director

SYNOPSIS

As part of management’s evaluation of benefits and how the structuring of the retirement benefits may affect the costs, staff is presenting an ordinance that maintains our costs for retirement benefits at the same levels as last year. This strategy will allow us to continue to effectively evaluate our long-term plan.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Maintain a financially sound City

BACKGROUND

Since 2012, the City has elected the Ad Hoc TMRS structure for Updated Service Credits (USC) and Cost Of Living Adjustment (COLA) benefits. This election plays a part in calculating the benefit employees receive after retirement.

The 2011 plan design included the provision to automatically repeat these benefits without annual adoption by City Council. However, an option to annually adopt these provisions was approved by City Council in order to give us the flexibility to set our rate at an affordable level. The rate we are proposing considers the future costs associated with the Ad Hoc TMRS method and, if implemented, would gradually raise the funded ratio of the UAAL, and the unfunded ratio would decline over time.

A new regulation by the Governmental Accounting Standards Board (GASB) will require the City to present the underfunded liability incurred by electing the Ad Hoc funding method in the financial statements as a liability. In our discussions with TMRS and review of our liability status, the City is recommending opting to continue the plan that includes the Ad Hoc structure, updated Service Credits at 100% and a 70% annuity increase. The minimum contribution rate for this plan would be 8.29%. However, staff is proposing we fund the Ad Hoc plan at a rate of 10% to close the gap for any potential unfunded liability, while maintaining sufficient reserves to meet unanticipated obligations or stakeholder reserve requirements.

BUDGET/FISCAL ANALYSIS

Funding Source	Account Number	Project Code/Name	FY19 Funds Budgeted	FY19 Funds Available	Amount Requested
Various	Various		\$2,596,066.48	\$2,596,066.48	

The FY 2019 Budget was prepared using a 10% rate for TMRS benefits beginning January 1, 2019.

Purchasing Review: N/A
Financial/Budget Review: Bertha P. Alexander, Budget & Financial Reporting Manager

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

SUPPORTING MATERIALS

1. Ordinance

STAFF'S RECOMMENDATION

Staff recommends the City Council adopt the Ordinance Electing Annual Updated Service Credits and COLAs and that this decision be reviewed on an annual basis. This action will not affect city employee current retirement benefits.

Director Approval: Sandra Clarkson, CPA, Interim Financial Services Director

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

ORDINANCE NO O-18-

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AUTHORIZING THE CREDITING OF UPDATED SERVICE CREDITS IN THE TEXAS MUNICIPAL RETIREMENT SYSTEM FOR CERTAIN CITY OF MISSOURI CITY EMPLOYEES WHO HAVE MEMBERSHIP IN SUCH SYSTEM; PROVIDING FOR INCREASED ANNUITIES FOR CERTAIN CITY OF MISSOURI CITY RETIREES AND BENEFICIARIES OF DECEASED RETIREES; PROVIDING FOR REPEAL; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, pursuant to Section 853.403 and Section 854.203 of Subtitle G of Title 8, Government Code, as such sections may be amended, this Ordinance may not take effect unless the board of trustees of the Texas Municipal Retirement System ("System") approves this Ordinance as meeting the requirements of such sections; and

WHEREAS, the board of trustees of the System may not approve this Ordinance unless the actuary of the System first determines, and the board of trustees concurs in the determination, that all obligations charged against the City of Missouri City's account in the benefit accumulation fund, including obligations proposed in this Ordinance, can be funded by the City of Missouri City within its maximum total contribution rate and within its amortization period as in effect on the effective date of this Ordinance; and

WHEREAS, the City Council of the City of Missouri City has determined that the adoption of this ordinance is in the best interest of the City of Missouri City; now therefore,

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

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

Section 2. Updated Service Credits.

(a) Pursuant to Section 853.401 through 853.403 of Subtitle G of Title 8, Government Code, as such sections may be amended, the City of Missouri City hereby authorizes each member of the System who has current service credit or prior service credit in the System in force and effect on the first day of January of the calendar year preceding the effective date of this Ordinance by reason of service in the employment of the City of Missouri City, and on such date has at least 36 months of credited service with the System, to receive updated service credit in an amount that is 100 percent (100%) of the base updated service credit of the member. Base updated service credit and updated service credit shall be determined by the System pursuant to Section 853.402 of Subtitle G of Title 8, Government Code, as section may be

amended. The updated service credit hereby authorized shall replace any updated service credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(b) Pursuant to Section 853.601 of Subtitle G of Title 8, Government Code, as such section may be amended, any member of the System who is eligible for updated service credits on the basis of service with the City of Missouri City, and who has unforfeited credit for prior service or current service with another participating municipality or municipalities by reason of previous employment and was a contributing member on the first day of January of the calendar year preceding the effective date of this Ordinance, shall be credited in the System with updated service credits calculated in accordance with and subject to adjustment as set forth in Section 853.601 of Subtitle G of Title 8, Government Code, as such section may be amended.

Section 3. Increase in Retirement Annuities.

(a) Pursuant to Section 854.203 of Subtitle G of Title 8, Government Code, as such section may be amended, the City of Missouri City authorizes and provides for increased annuities to be paid by the System to retirees and beneficiaries of deceased retirees of the City of Missouri City under current service annuities and prior service annuities. An annuity increased pursuant to this Ordinance replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of annuity increase authorized by this Ordinance is computed as the sum of the prior and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by seventy percent (70%) of the percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of this Ordinance.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation pursuant to Section 3(b) of this Ordinance does not result in an increase in the amount of an annuity, the amount of the annuity shall not be changed by this Ordinance.

(e) The amount by which an increase under this Ordinance exceeds all previously granted increases to an annuitant is payable as a prior service annuity, is an obligation of the City of Missouri City's account in the benefit accumulation fund of the System, and is subject to reduction by the System at any time pursuant to Section 855.308(f) of Subtitle G of Title 8, Government Code, as such sections may be amended.

Section 4. *Repeal.* All ordinances or parts of ordinances in conflict

herewith shall be and are hereby repealed only to the extent of such conflict.

Section 5. *Effective Date.* Subject to approval by the Board of Trustees of Texas Municipal Retirement System, the updated service credits and increased annuities shall become effective January 1, 2019.

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 15th day of October, 2018.

PASSED AND APPROVED and ADOPTED on second and final reading this 5th day of November, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney



CITY COUNCIL AGENDA ITEM COVER MEMO

October 15, 2018

To: Mayor and City Council
Agenda Item: 10(b) Consider an ordinance amending Staffing in the FY 2019 Adopted Budget
Submitted by: Bertha Alexander, Budget & Financial Reporting Manager

SYNOPSIS

Consider an ordinance amending the authorized staffing level in the budget for the fiscal year beginning October 1, 2018 and ending September 30, 2019; authorizing the appropriate officials to take steps necessary to accomplish such staffing; making certain findings; containing certain provisions relating to the subject; and consider the ordinance on the first and final reading.

STRATEGIC PLAN 2019 GOALS ADDRESSED

- Maintain a financially sound City

BACKGROUND

One of the Council's priorities for the City in FY 2019, is the implementation of the Economic Development and Redevelopment Plan is a priority for the City in FY 2019. The purpose of this amendment is to amend the authorized staffing for Fiscal Year 2019 to include a new full-time position for the Economic Development Department. Funding for the position was included in the FY 2019 Adopted Budget.

BUDGET ANALYSIS

See Staffing Schedule

Purchasing Review: N/A
Financial/Budget Review: Bertha P. Alexander, Budget & Financial Reporting Manager

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

SUPPORTING MATERIALS

1. Ordinance
2. Staffing Schedule

STAFF'S RECOMMENDATION

Staff recommends approval of the change in the staffing schedule.

Director Approval: Sandra Clarkson, CPA, Interim Director of Financial Services

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

ORDINANCE NO. O-18-__

**AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS,
AMENDING THE GENERAL BUDGET FOR THE FISCAL YEAR
BEGINNING OCTOBER 1, 2018, AND ENDING SEPTEMBER 30, 2019;
AMENDING THE AUTHORIZED STAFFING FOR FISCAL YEAR 2019;
AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO TAKE
STEPS NECESSARY TO ACCOMPLISH SUCH AMENDMENTS;
MAKING CERTAIN FINDINGS; AND CONTAINING CERTAIN
PROVISIONS RELATING TO THE SUBJECT.**

* * * * *

WHEREAS, pursuant to Ordinance No. O-18-26, passed and approved on September 17, 2018, the City Council of the City of Missouri City (the "City Council") approved and adopted the City of Missouri City, Texas, General Budget for the fiscal year beginning October 1, 2018, and ending September 30, 2019 ("Fiscal Year 2019"); and

WHEREAS, the City Manager hereby requests City Council authorization to amend the staffing for Fiscal Year 2019; and

WHEREAS, it is the desire of City Council to comply with the request of the City Manager; 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 General Budget of the City of Missouri City, Texas, for Fiscal Year 2019 is hereby amended as set forth in Exhibit "A," staff authorization changes, which is attached hereto and incorporated herein by reference.

Section 3. The appropriate officials are hereby authorized and directed to take those steps necessary to accomplish such amendments and to cause the same to be duly reflected in the records of the City.

PASSED, APPROVED and ADOPTED on first and final reading this 15th day of October, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

Exhibit "A"

FY 2019 STAFFING AUTHORIZATION BY DEPARTMENT

Full-Time Positions

GENERAL FUND		FY 2018 ADOPTED	FY 2018 AMENDED	FY 2018 REVISED/ AMENDED	FY 2019 ADOPTED	FY 2019 AMENDED
DIV GENERAL GOVERNMENT DEPARTMENT - 10						
101	City Management	6.0	6.0	6.0	6.0	6.0
102	City Secretary	4.0	4.0	4.0	4.0	4.0
103	Human Resources/Organ. Dev.	3.0	3.0	3.0	3.0	3.0
104	Legal	3.0	3.0	4.0	4.0	4.0
106	Municipal Court	7.0	7.0	7.0	7.0	7.0
108	Communications	8.0	8.0	8.0	8.0	8.0
109	Economic Development	1.0	1.0	1.0	1.0	2.0
	Total General Government	32.0	32.0	33.0	33.0	34.0
FINANCIAL SERVICES DEPARTMENT - 12						
110	Finance Administration/Treasury	1.0	2.0	2.0	3.0	3.0
112	Purchasing & Risk Management	3.0	3.0	3.0	3.0	3.0
113	Budget and Financial Reporting	0.0	3.0	3.0	3.0	3.0
114	Controller Services	13.0	9.0	9.0	8.0	8.0
	Total Financial Services	17.0	17.0	17.0	17.0	17.0
POLICE DEPARTMENT - 13						
120	Police Administration	10.0	10.0	10.0	10.0	10.0
122	Code Enforcement	9.0	8.0	8.0	8.0	8.0
124	Support Services	27.2	27.2	26.2	26.2	26.2
126	Criminal Investigation	31.0	30.0	30.0	30.0	30.0
128	Patrol	72.0	73.0	73.0	73.0	73.0
	Total Police	149.2	148.2	147.2	147.2	147.2
FIRE & RESCUE SERVICES DEPARTMENT - 14						
130	Administration	3.0	3.0	3.0	3.0	3.0
132	Fire Prevention	4.0	4.0	4.0	4.0	4.0
134	Training/Education	1.0	1.0	1.0	1.0	1.0
136	Operations	71.0	71.0	71.0	71.0	71.0
	Total Fire	79.0	79.0	79.0	79.0	79.0
PUBLIC WORKS DEPARTMENT - 15						
140	Administration	3.0	3.0	3.0	3.0	3.0
141	Capital Projects	3.0	3.0	3.0	3.0	3.0
142	Streets/Drainage/Traffic Control	14.0	14.0	14.0	14.0	14.0
143	Engineering/Utilities Planning	4.0	4.0	4.0	4.0	4.0
144	Geographic Information Services	4.0	4.0	4.0	4.0	4.0
145	Fleet Maintenance	5.0	5.0	5.0	5.0	5.0
146	Facilities Maintenance	4.0	4.0	4.0	4.0	4.0
148	Animal Services	3.0	3.0	4.0	4.0	4.0
	Total Public Works	40.0	40.0	41.0	41.0	41.0
PARKS & RECREATION DEPARTMENT - 16						
150	Parks	11.0	11.0	11.0	11.0	11.0
152	Recreation	8.0	8.0	8.0	8.0	8.0
	Total Parks & Recreation	19.0	19.0	19.0	19.0	19.0

Exhibit "A"

FY 2019 STAFFING AUTHORIZATION BY DEPARTMENT

Full-Time Positions

GENERAL FUND		FY 2018 ADOPTED	FY 2018 AMENDED	FY 2018 REVISED/ AMENDED	FY 2019 ADOPTED	FY 2019 AMENDED
DEVELOPMENT SERVICES DEPARTMENT - 17						
160	Planning & Development	5.0	5.0	5.0	5.0	5.0
162	Inspections & Permits	14.0	14.0	14.0	14.0	14.0
	Total Development Services	19.0	19.0	19.0	19.0	19.0
INNOVATION & TECHNOLOGY DEPARTMENT - 18						
170	Innovation & Technology	10.0	10.0	10.0	10.0	10.0
	Total Innovation & Technology	10.0	10.0	10.0	10.0	10.0
	TOTAL GENERAL FUND	365.2	364.2	365.2	365.2	366.2
SPECIAL REVENUE FUNDS						
220	Radio Communications	0.8	0.8	0.8	0.8	0.8
221	Court Building Security	0.0	0.0	0.5	0.5	0.5
240	CDBG Fund	1.0	2.0	2.0	2.0	2.0
255	Hotel Tax Fund	1.0	1.0	1.0	1.0	1.0
	Total Special Revenue Funds	2.8	3.8	4.3	4.3	4.3
	TOTAL EMPLOYEES-ALL FUNDS	368.0	368.0	369.5	369.5	370.5



CITY COUNCIL AGENDA ITEM COVER MEMO

October 15, 2018

To: Mayor and City Council
Agenda Items: 11(a), 11(b), and 11(c) Resolution and agreements with Best Buy and BCBP Cravens East, LP
Submitted by: Joseph Esch, Economic Development

SYNOPSIS

Consider a resolution authorizing the Mayor to execute and the City Secretary to attest to the City's consent to an assignment of related tax abatement and economic development agreements

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 October of last year, the City Council approved three incentive agreements to attract the development of the Best Buy distribution center to locate in Missouri City. The agreements included a tax abatement agreement for real property improvements, a tax abatement agreement for personal property and lastly an economic development incentive agreement.

The agreements are between the City of Missouri City, Best Buy and BCBP Cravens East, LP. The agreements required that if the developer/owner sells the property the City must consent to the assignment of the agreements. The developer has a buyer for the project and has requested an assignment of the agreements. The assignment of the agreements changes the owner, but does not change the terms of the agreement.

The City Attorney has reviewed the agreements and prepared the resolution prior to them being brought to Council for consideration.

BUDGET/FISCAL ANALYSIS

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

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

SUPPORTING MATERIALS

- 1. Resolution
- 2. Agreement

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 TO THE CITY'S CONSENT TO AN ASSIGNMENT OF AN ECONOMIC DEVELOPMENT AGREEMENT BY HPC-SEEFRIED BB, LLC, TO HOU IND 3, LLC.

* * * * *

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

Section 1. 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 to the consent authorized by the City Council of the City of Missouri City for the Assignment by and between HPC-Seefried BB, LLC, a Delaware limited liability company, and Hou Ind 3, LLC, a Delaware company pertaining to an economic development agreement between the City of Missouri City, Texas, BCBP Cravens East, LP, a Texas limited partnership, and Best Buy Warehousing Logistics, Inc., a Delaware corporation. A copy of such Assignment is attached hereto as Exhibit "A" and made a part hereof for all purposes.

Section 2. Repeal. All resolutions or parts of resolutions, if any, in conflict herewith, shall be and are expressly repealed to the extent of such conflict.

Section 3. Severability. In the event any clause, phrase, provision, sentence or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED and ADOPTED this 15th day of October, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

ASSIGNMENT OF ECONOMIC DEVELOPMENT AGREEMENT

This Assignment of Economic Development Agreement (this "Assignment") is entered into as of the ____ day of _____, 2018 (the "Effective Date"), from **HPC-Seefried BB, LLC**, a Delaware limited liability company ("Assignor"), to **HOU IND 3, LLC**, a Delaware limited liability company ("Assignee").

RECITALS:

Assignor is the owner of real property located at 636 Highway 90A, Missouri City, Texas (the "Property"). Assignor, as the successor to BCBP Cravens East, LP, is party to that Economic Development Agreement dated November 6, 2017 (the "Agreement") with the City of Missouri City, Texas, and Best Buy Warehousing Logistics, Inc., which relates to the Property.

Assignor is transferring the Property to Assignee, an in connection with such transfer, Assignor desires to assign its rights and obligations under the Agreement to Assignee, and Assignee desires to accept such assignment and such rights, and assume such obligations.

FOR AND IN CONSIDERATION of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Assignment and Assumption.** Assignor hereby assigns to Assignee all of its rights, duties and obligations under the Agreement, effective as of the Effective Date. Assignee hereby accepts such assignment and assumes the rights, duties and obligations of Assignor under the Agreement, effective as of the Effective Date.

2. **Indemnification.** Assignor hereby indemnifies and holds Assignee harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable attorneys' arising out of or in connection with Assignor's failure, prior to the Effective Date, to observe, perform and discharge the covenants, obligations and liabilities of Assignor under the Agreement. Assignee hereby indemnifies and holds Assignor harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable attorneys' fees and expenses actually incurred, arising out of or in connection with Assignee's failure, from and after the Effective Date, to observe, perform and discharge each the covenants, obligations and liabilities assumed by Assignee under the Agreement.

Exhibit "A"

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date written above.

HPC-Seefried BB, LLC, a Delaware limited liability company

By: HPC-SEEFRIED I, LP, a Georgia limited partnership

By: Seefried West, LLC, a Georgia limited liability company, its general partner

By: _____
Name: _____
Authorized Signatory

HOU IND 3, LLC, a Delaware limited liability company

By: _____
Name: _____

CONSENT

The undersigned, as party to the Agreement, has executed below to evidence its consent to the assignment and assumption set forth herein.

City of Missouri City

By: _____
Allen Owen, Mayor

Attest:

By: _____
Maria Jackson, City Secretary

ECONOMIC DEVELOPMENT AGREEMENT

This **ECONOMIC DEVELOPMENT AGREEMENT** (this "Agreement") is made by and between the **CITY OF MISSOURI CITY, TEXAS** (the "City"), a Texas home-rule city; **BCBP CRAVENS EAST, LP**, a limited partnership, and its assignees ("Lessor"); and **BEST BUY WAREHOUSING LOGISTICS, INC.**, a Delaware corporation, and its assignees (the "Recipient"), and is effective as of the 6 day of ~~November~~, 2017 ("Effective Date").

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 have constructed and leased a distribution center and related facilities within the City from the Lessor, and 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 Project (hereinafter defined) 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, Lessor, and the Recipient wish to set out the terms and conditions, as applicable to the 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, Lessor, 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 purposes of this Agreement the words "shall" and "will" are mandatory, and the word "may" is permissive.

1.1 "Construction Materials" means the construction materials to be used in the construction of the Project, including, but not limited to, the items described in **Exhibit A**, attached hereto and made a part hereof for all purposes.

1.2 "Payment" means the reimbursement described in Article 5 from the City

to the Recipient in consideration of the Project, which shall consist of the amount of City-imposed sales and use taxes collected, reported, and remitted on Construction Materials by Lessor, Recipient, or their respective contractors and subcontractors, to the Texas Comptroller, less the amount designated for submission to the Harris County Metropolitan Transit Authority (hereinafter referred to as "METRO") and returned by the Texas Comptroller to the City.

1.3 "Project" means that certain proposed distribution center and related facilities located within the Property and consisting of at least 500,000 square feet of interior floor space and having at least twenty million dollars (\$20,000,000) in Project Costs.

1.4 "Project Costs" means the cost to construct all buildings, fixtures, and other improvements related to the Project, which may include, but is not limited to, out-of-pocket costs of Construction Materials, wages, fees for subcontractor services, soft costs, and other similar costs incurred by Lessor and Recipient either directly or via a general contractor or other subcontractor.

1.5 "Property" means that certain 36.39-acre tract of land located within the City east of Cravens Road, west of the Sam Houston Tollway, south of Sunset Lane, and north of U.S. Highway 90A and more particularly described on **Exhibit B** attached hereto and made a part hereof for all purposes.

1.6 "Substantially Complete" means, in the case of the construction of buildings and other vertical improvements, the issuance of a temporary or permanent certificate of occupancy by the City.

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 Delaware and is duly qualified and authorized to carry out its obligations and to transact business in the State of Texas as 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 Lessor. The Lessor hereby represents that:

(a) It is duly authorized, created and existing in good standing under the laws of the State of Texas and is duly qualified and authorized to carry out its obligations and to transact business in the State of Texas as 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 Lessor under any agreement or instrument to which the Lessor is a party or by which the Lessor or its assets may be bound or affected.

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

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

2.3 Representation 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.

2.4 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 Project, and that nothing in this Agreement shall be construed to create any such relationship.

ARTICLE 3

THE PROJECT

3.1 Description of the Project. The Project consists of a distribution center to be constructed by the Lessor for use by the Recipient and to be located within the City as depicted in **Exhibit C** attached hereto and made a part hereof.

3.2 Contingent upon commencement of the Project. If the Lessor has not commenced construction of the Project within twelve (12) months of the Effective Date, this Agreement shall be automatically terminated and be of no further force and effect, wherein neither party shall have any liabilities or obligations whatsoever to the other party, unless the parties hereto have agreed in writing to extend this commencement period.

3.3 Completion of the Project. The Lessor hereby agrees to commence the design, permitting, and construction of the Project and proceed to completion thereof in accordance with this Agreement. Without limitation, the Lessor agrees to comply with all applicable codes, permits and regulations of any governmental authority having jurisdiction over the Project, including the City. Upon completion of construction, Lessor shall provide the City with a final cost summary evidencing expenditures of at least \$20,000,000 in Project Costs.

3.4 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 30 days in any deadline, or 10% in any Payment.

3.5 Monitoring progress. The City may, but is not required to, monitor the progress of the Project to determine its compliance with this Agreement. City personnel shall have reasonable access to the Property, all books and records relating thereto, and such other information as the City may reasonably require in order to confirm Lessor and Recipient's compliance with this Agreement.

ARTICLE 4

CONSTRUCTION OF THE PROJECT

4.1 Construction manager. The Lessor agrees to construct the Project and to provide and furnish, or cause to be provided and furnished, all materials and services

as and when required in connection with the construction of the Project. The Lessor will provide adequate supervision of the construction of the Project, provide reasonable periodic reports of such construction to the City upon written request, and cause the construction to be performed in accordance with any approved plans.

4.2 Construction and Implementation of the Project. The Lessor shall be responsible for the inspection and supervision of the construction and implementation of the Project. Upon completion of a contract for the construction of the Project, the Lessor shall provide the City with a final cost summary of all material costs associated with such contract, and upon completion of the Project and payment of the costs therefor, show that all amounts owing to contractors and subcontractors have been paid in full as evidenced by customary affidavits executed by such contractors.

4.3 Abandonment of Project. The City Manager may reasonably determine that the Project is abandoned for the purposes of this Agreement if, after commencement of construction, no measurable work toward completion is documented for 180 days or longer, unless due to a force majeure event. If the City Manager determines that the Project has been abandoned, this Agreement shall be terminated and be of no further force and effect, wherein neither party shall have any liabilities or obligations whatsoever to the other party.

ARTICLE 5 REIMBURSEMENT PAYMENTS

5.1 Payments: Source.

(a) In consideration of the economic development benefits of the Project by the Recipient, including the specification of Missouri City, Texas, as the location of the Project on shipping materials, the City agrees to make one Payment to the Recipient as provided in Section 5.2. Prior to providing the Recipient with the Payment, such Payment must be verified by an independent auditor selected by the City, the reasonable costs of which are borne by the City.

(b) The Payment 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.

(c) Notwithstanding any other provision contained herein, the Payment (as defined above) shall be capped at the actual amount of City sales taxes paid by the Lessor or the Recipient to the State of Texas for Construction Materials for the Project, less any amount designated for submission to METRO, as of the date on which the Project is Substantially Complete.

(d) Lessor shall provide all information and execute all documents, waivers, releases, and consents reasonably required by the Comptroller to allow the City to obtain information necessary to calculate the Payment. If necessary, and upon the City's written request, Lessor shall provide City copies of pertinent portions of Lessor's, Recipient's, and, provided that Lessor submits documentation of payment by Lessor or Recipient,

Lessor or Recipient's contractors', signed Texas sales and use tax returns and such other information necessary to audit, confirm, and verify Lessor and Recipient's payments germane to the Payment.

5.2 Payment and Timing.

(a) Except as provided herein and as limited by Section 5.1 (providing a maximum total reimbursement amount), at such time that the Project is Substantially Complete, the City shall pay to the Recipient the Payment. The Payment will be equal to fifty percent (50%) of the City sales and use taxes on Construction Materials paid to the Texas Comptroller by the Lessor, Recipient, or, provided that Lessor or Recipient pays for such costs, their respective contractors or subcontractors, related to the Project as of the date the Project becomes Substantially Complete. For example, in the event the cost of the Construction Materials is \$100 and the City sales and use taxes collected is two percent of the cost of the Construction Materials, or \$2, the City shall make a Payment to the Recipient in the amount of \$1.

(b) Before payment, the City shall validate that the terms and conditions of this Agreement have been met. The Payment shall be due and payable to the Recipient after:

- (1) the Project is Substantially Complete;
- (2) 90 days after the City has received sales and use taxes from the Texas Comptroller for the Construction Materials for the Project; and
- (3) 120 days after the date the Recipient submits a written request for the Payment, which shall include evidence of compliance.

ARTICLE 6 DEFAULT

6.1 Default.

(a) If the Lessor or the Recipient does not perform its obligations hereunder in substantial compliance with this Agreement, in addition to the other rights given the City under this Agreement, the City may, as applicable, withhold the Payment or require the Recipient to repay any prior Payment.

(b) If the City fails to timely make the Payment in accordance with this Agreement, the Recipient may seek damages for such failure to pay equal to the amount unpaid. The Recipient shall have no recourse against any other funds of the City other than as specified herein.

(c) Pursuant to Chapter 2264, Texas Government Code, Lessor and Recipient are prohibited from knowingly employing undocumented workers as that term is defined

in Section 2264.001, Texas Government Code. If Recipient or Lessor 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 Recipient or Lessor, depending on the defaulting party, of the default and this Agreement shall automatically 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 the Payment 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 60th day after the date the City notifies the Recipient of the violation.

(d) Except for a default described in Section 6(c) above, the party alleging default shall provide written notice to the other parties of such default, and the defaulting party shall have 60 days to remedy the default (or such longer time period if the cure of any such failure by Recipient or Lessor cannot reasonably be cured within such 60 day period, provided that Recipient or Lessor commences such cure within such 60 day period and thereafter diligently attempts to cure any such failure). If such default is not cured within the time period set forth above, in the event of a material default hereunder, any of the non-defaulting parties may terminate this Agreement by providing written notice thereof to the other parties.

ARTICLE 7 GENERAL

7.1 Inspections, audits. The Lessor agrees to keep such operating records with respect to the Project and other activities contemplated by this Agreement and all costs associated therewith as may be reasonably required by the City or by State or federal law or regulation.

7.2 Recipient operations and employees. No personnel supplied or used by the Lessor or Recipient in the performance of this Agreement or with respect to the Project will be considered employees, agents, contractors or subcontractors of the City for any purpose whatsoever. The Lessor or Recipient shall be solely responsible for the compensation of all of their respective contractors and subcontractors.

7.3 INDEMNIFICATION. THE LESSOR SHALL INDEMNIFY AND SAVE HARMLESS THE CITY, ITS OFFICERS AND EMPLOYEES AND THEIR RESPECTIVE OFFICERS, REPRESENTATIVES, AND AGENTS FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED BY ANY PERSON, PERSONS, OR PROPERTY RESULTING FROM THE INTENTIONAL OR NEGLIGENT ACTS OR OMISSIONS OF THE LESSOR, OR ANY OF ITS AGENTS, OFFICERS, OR REPRESENTATIVES WITH RESPECT TO THE PROJECT, THE ECONOMIC DEVELOPMENT PROGRAM OR RELATED MATTERS.

7.4 Notices. Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic

transmission confirmed by mailing written confirmation at substantially the same time as such electronic transmission, or personally delivered to an officer of the receiving party at the following addresses:

The Recipient:

Best Buy Warehousing Logistics, Inc.
7601 Penn Avenue South
Richfield, MN 55423
Attention: Legal Department-Real Estate

Copy Recipient:

Robin Kaplan LLP
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
Attention: Steven A. Schumeister, Esq.

The Lessor:

BCBP Cravens East LP
510 Bering Drive, Suite 525
Houston, TX 77057
Attention: Tripp H. Rice, Vice President

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 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 by, or actually received by the other parties.

7.5 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, the Lessor, 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.

7.6 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.

7.7 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, such consent not to be unreasonably withheld, delayed or conditioned, and any assignment without such prior written consent, including an assignment by operation of law, is void and of no effect. The City hereby consents to the assignment of this Agreement, in its entirety, by Lessor to HPC-Seefried BB, LLC, a Delaware Limited Liability Company. Upon assignment of this Agreement by Lessor to HPC-Seefried BB, LLC, Lessor shall be released from, and HPC-Seefried BB, LLC shall assume, all liabilities and obligations under this Agreement. 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.

7.8 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.

7.9 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.

7.10 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.

7.11 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.

7.12 Term. This Agreement shall be in force and effect from the date of execution hereof for a term expiring five (5) years thereafter, subject to the early termination rights set forth herein. In addition, the Agreement may be terminated by the Recipient for any reason or no reason with thirty (30) days advance written notice. If the Agreement is terminated by the Recipient, the right to receive Payment from the City will cease on the effective date of the termination.

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

7.14 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.

7.15 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, material shortages, lockouts, orders of any kind of the government of the United States or the State of Texas or any civil or military authority (but an order of the City shall not be an event of force majeure for the City), terrorism, lightning, earthquakes, fires, hurricanes, storms, floods, explosions, breakage or accidents to machinery, or similar events not within the control of the party claiming the force majeure.

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

RECIPIENT

Best Buy Warehousing Logistics, Inc.

By: 

Name: Patrick R. Matre

Title: V.P.

LESSOR

BCBP Cravens East, LP

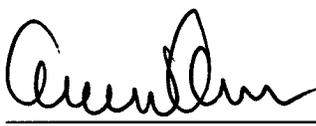
By: BC Business Park GP, LLC, its general partner

By:  11/2/17
Tripp H. Rice
Vice President

ATTEST:

Printed Name: Judy Duncan

CITY OF MISSOURI CITY


Allen Owen
Mayor

ATTEST:

Maria Jackson
City Secretary



Exhibits

Exhibit A Description of Construction Materials

Exhibit B Property Description

Exhibit C Project Description

Exhibit A

Project Renew Construction Materials

Division 3 - Concrete

Rebar
Concrete
Concrete Accessories
Formwork

Division 5 - Metals

Metal Canopies
Bar Joist and Trusses
Structural Steel Columns and Base Plates
Misc Structural Steel

Division 6 - Wood

Wood Blocking
Bathroom Vanities
Breakroom Millwork

Division 7 - Thermal & Moisture Protection

TPO Roofing Membrane, Insulation and Fasteners
Metal Flashing
Caulking Material and Back Rod

Division 8 - Doors and Windows

Hollow Metal Doors and Frames
Plastic Laminate Doors
Overhead Doors
Exterior Window Framing and Glass
Door Hardware

Division 9 - Finishes

Paint & Wall Coverings
Fiberglass Reinforced Paneling
Carpet, Adhesives, Rubber base
Porcelain Tile & Grout
Solid Surface Countertops
Metal Studs, Gypsum Board, Fasteners
Joint Tape, Corner Beads
Acoustical Ceiling Grid and Tile

Division 10 - Specialties

Toilet / Bath Accessories
Toilet Partitions
Fire Extinguishers

Division 11 - Equipment

Loading Dock Levelers
Dock Seals
Truck Restraints
Dock Lights

Division 21 - Fire Protection

Sprinkler Pipe, Heads, Hangers
Fire Pump and Controller

Division 22 - Plumbing

Sinks
Toilets
Urinals
Gas piping
Water heaters
Piping and Accessories

Division 23 - HVAC

Ductwork, Grilles, Insulation
Roof Top Units
Exhaust Fans
Louvers
Cambridge Make Up Air Units

Division 26 - Electrical

Wiring, Conduit, Hangers
Switch Gear, Transformers, Panel Boards
Fire Alarm Panel, Strobes, Smoke Detectors
Light poles
Light Fixtures

Division 32 - Exterior Improvements

Signage and Wheel Stops
Landscaping Materials
Irrigation Piping, Heads and Controller
RCP Pipe
HDPE Pipe
Precast Manholes
Precast Inlets
Fire Hydrants, Valves and Fittings
Backflow Devices

EXHIBIT B

METES AND BOUNDS DESCRIPTION

36.3911 ACRES

LOCATED IN THE

B.B.B. & Co. SURVEY No. 8, A-116

B.B.B. & Co. SURVEY No. 8, A-184

HARRIS COUNTY, TEXAS

FORT BEND COUNTY, TEXAS

Being a tract or parcel of land containing 36.3911 acres of land or 1,585,200 square feet, located in the B.B.B. & Co. Survey No. 8, Abstract 116 and B.B.B. & Co. Survey No. 8, Abstract 184, Harris County and Fort Bend County, Texas, Said 36.3911 acre tract being out of and a part of a called 69.4045 acre tract of record in the name of BC Business Park LP in Harris County Clerk's File (H.C.C.F.) Number X654164 and all of a called 12.4877 acre tract of record in the name of George Gilman, Trustee in Fort Bend County Clerk's File (F.B.C.C.F.) Number 2004092907; Said 36.3911 acre tract being more particularly described as follows (bearings based on the Texas State Plane Coordinate System, South Central Zone (NAD83):

COMMENCING at a Texas Department of Transportation (TxDOT) Monument found for the north corner of aforesaid 69.4045 acre tract, being the east corner of a called 111.1695 acre tract of record in the name of West Belt III, LTD. in Harris County Clerk's File (H.C.C.F.) No. U914972 and being on the southwest Right-of-Way (R.O.W.) line of Beltway 8 (width varies);

THENCE, coincident the northwest line of aforesaid 69.4045 acre tract and the southeast line of aforesaid 111.1695 acre tract, South 42 degrees 02 minutes 35 seconds East, a distance of 1,165.72 feet to a 5/8 inch iron rod with "Gruller" cap set for the north corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, through and across aforesaid 69.4045 acre tract, South 47 Degrees 46 Minutes 59 Seconds East, a distance of 1,643.03 feet to a 5/8 inch iron rod with "Gruller" cap set for the east corner of the herein described tract, being on the southeast line of said 69.4045 acre tract and the northwest Right-of-Way (R.O.W.) line of a Texas & New Orleans Railroad (100 feet wide);

THENCE, coincident the southeast line of both the herein described tract and aforesaid 69.4045 acre tract, South 64 Degrees 33 Minute 07 Seconds West, a distance of 1,214.28 feet to a 5/8 inch iron rod with "Gruller" cap set for the south corner of both the herein described tract and said 69.4045 acre tract, being on the northwest R.O.W. line of aforesaid Texas & New Orleans Railroad and the northeast R.O.W. line of Cravens Road (width varies);

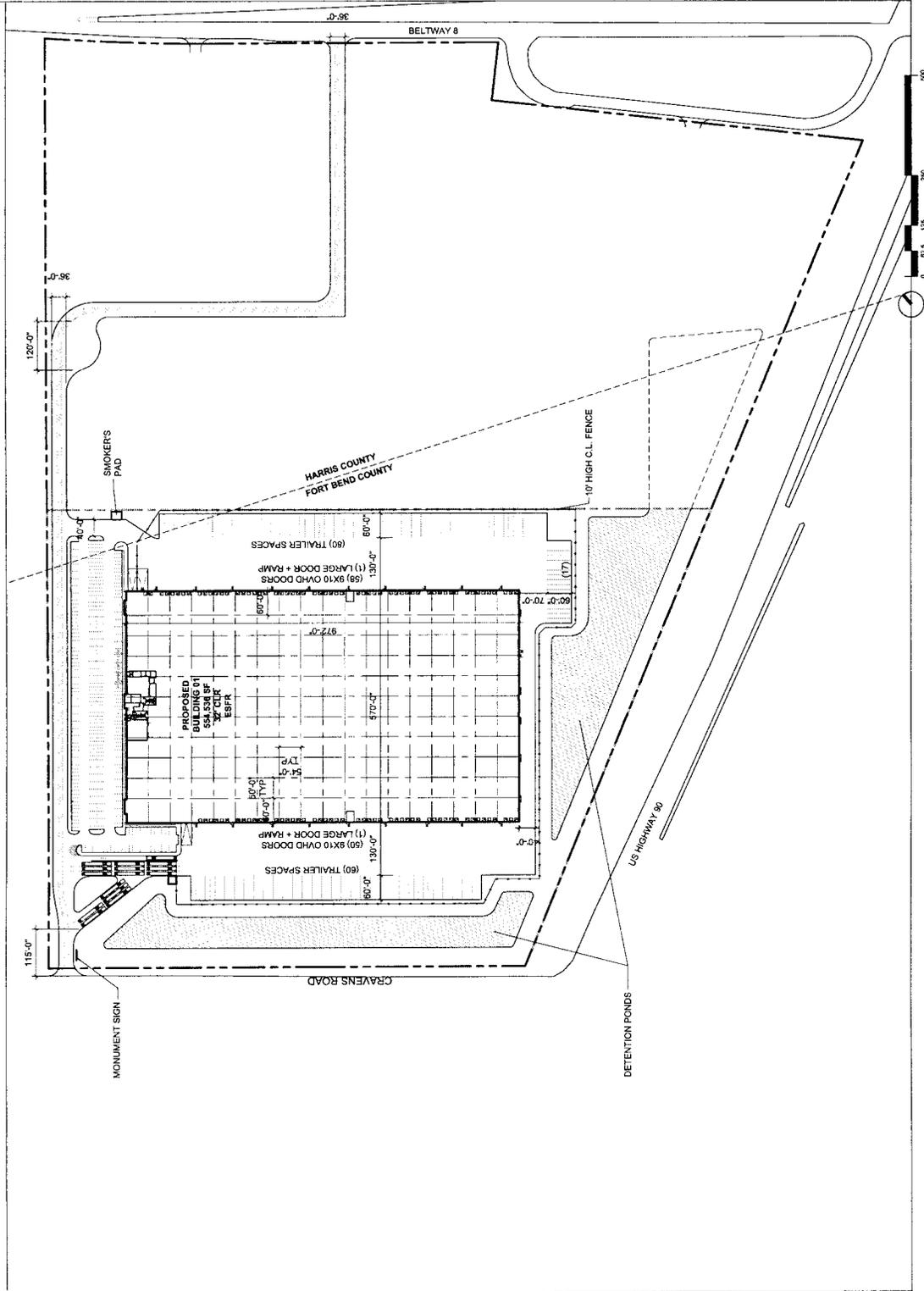
THENCE, coincident the southwest line of the herein described tract and the northeast R.O.W. line of aforesaid Cravens Road, North 47 Degrees 52 Minutes 38 Seconds West, a distance of 1,177.42 feet to a 5/8 inch iron rod with "Gruller" cap set for the west corner of both the herein described tract and aforesaid 12.4877 acre tract, being on the northeast R.O.W. line of said Cravens Road and the southeast line of aforesaid 111.1695 acre tract;

THENCE, coincident the northwest line of the herein described tract and the southeast line of aforesaid 111.1695 acre tract, North 42 Degrees 00 Minutes 19 Seconds East, a distance of 1,125.12 feet to the **POINT OF BEGINNING** and containing 36.3911 acres of land.

EXHIBIT C

SITE PLAN

TRACT 01 = 36.4 AC (1,585,200 SF)
PROPOSED BLDG 01 = +/- 554,536 SF
VEHICLE PARKING = 350 SPACES
12X60 TRAILER PRKG = 157 SPACES
9X10 OVHD DOORS = 108
TOTAL DOCK POSITIONS = 110
QUEUING STATIONS = 14



BELTWAY 8 & MAIN TENANT PROSPECTS
 a project for
4M INVESTMENTS / SEEFRIED INDUSTRIAL PROPERTIES

BRUNN
 brown
 archit
 ctors

06 OCTOBER 2017

151160



CITY COUNCIL AGENDA ITEM COVER MEMO

October 15, 2018

To: Mayor and City Council
Agenda Items: 11(a), 11(b), and 11(c) Resolution and agreements with Best Buy and BCBP Cravens East, LP
Submitted by: Joseph Esch, Economic Development

SYNOPSIS

Consider a resolution authorizing the Mayor to execute and the City Secretary to attest to the City's consent to an assignment of related tax abatement and economic development agreements

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 October of last year, the City Council approved three incentive agreements to attract the development of the Best Buy distribution center to locate in Missouri City. The agreements included a tax abatement agreement for real property improvements, a tax abatement agreement for personal property and lastly an economic development incentive agreement.

The agreements are between the City of Missouri City, Best Buy and BCBP Cravens East, LP. The agreements required that if the developer/owner sells the property the City must consent to the assignment of the agreements. The developer has a buyer for the project and has requested an assignment of the agreements. The assignment of the agreements changes the owner, but does not change the terms of the agreement.

The City Attorney has reviewed the agreements and prepared the resolution prior to them being brought to Council for consideration.

BUDGET/FISCAL ANALYSIS

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

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

SUPPORTING MATERIALS

1. Resolution
2. Agreement

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 TO THE CITY'S CONSENT TO AN ASSIGNMENT OF A TAX ABATEMENT AGREEMENT FOR ELIGIBLE PERSONAL PROPERTY BY HPC-SEEFRIED BB, LLC, TO HOU IND 3, LLC.

* * * * *

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

Section 1. 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 to the consent authorized by the City Council of the City of Missouri City for the Assignment by and between HPC-Seefried BB, LLC, a Delaware limited liability company, and Hou Ind 3, LLC, a Delaware company pertaining to a tax abatement agreement for eligible personal property between the City of Missouri City, Texas, BCBP Cravens East, LP, a Texas limited partnership, and Best Buy Warehousing Logistics, Inc., a Delaware company. A copy of such Assignment is attached hereto as Exhibit "A" and made a part hereof for all purposes.

Section 2. Repeal. All resolutions or parts of resolutions, if any, in conflict herewith, shall be and are expressly repealed to the extent of such conflict.

Section 3. Severability. In the event any clause, phrase, provision, sentence or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED and ADOPTED this 15th day of October, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

ASSIGNMENT OF TAX ABATEMENT AGREEMENT
RELATING TO REAL PROPERTY

This Assignment of Tax Abatement Agreement Relating to Real Property (this "Assignment") is entered into as of the ____ day of _____, 2018 (the "Effective Date"), from **HPC-Seefried BB, LLC**, a Delaware limited liability company ("Assignor"), to **HOU IND 3, LLC**, a Delaware limited liability company ("Assignee").

RECITALS:

Assignor is the owner of real property located at 636 Highway 90A, Missouri City, Texas (the "Property"). Assignor, as the successor to BCBP Cravens East, LP, is party to that Tax Abatement Agreement Relating to Real Property dated November 6, 2017 (the "Agreement") with the City of Missouri City, Texas, which relates to the Property.

Assignor is transferring the Property to Assignee, and in connection with such transfer, Assignor desires to assign its rights and obligations under the Agreement to Assignee, and Assignee desires to accept such assignment and such rights, and assume such obligations.

FOR AND IN CONSIDERATION of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Assignment and Assumption.** Assignor hereby assigns to Assignee all of its rights, duties and obligations under the Agreement, effective as of the Effective Date. Assignee hereby accepts such assignment and assumes the rights, duties and obligations of Assignor under the Agreement, effective as of the Effective Date.

2. **Indemnification.** Assignor hereby indemnifies and holds Assignee harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable attorneys' arising out of or in connection with Assignor's failure, prior to the Effective Date, to observe, perform and discharge the covenants, obligations and liabilities of Assignor under the Agreement. Assignee hereby indemnifies and holds Assignor harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable attorneys' fees and expenses actually incurred, arising out of or in connection with Assignee's failure, from and after the Effective Date, to observe, perform and discharge each the covenants, obligations and liabilities assumed by Assignee under the Agreement.

Exhibit "A"

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date written above.

HPC-Seefried BB, LLC, a Delaware limited liability company

By: HPC-SEEFRIED I, LP, a Georgia limited partnership

By: Seefried West, LLC, a Georgia limited liability company, its general partner

By: _____
Name: _____
Authorized Signatory

HOU IND 3, LLC, a Delaware limited liability company

By: _____
Name: _____

CONSENT

The undersigned, as party to the Agreement, has executed below to evidence its consent to the assignment and assumption set forth herein.

City of Missouri City

By: _____
Allen Owen, Mayor

Attest:

By: _____
Maria Jackson, City Secretary

2111

TAX ABATEMENT AGREEMENT RELATING TO ELIGIBLE PERSONAL PROPERTY
by and between
THE CITY OF MISSOURI CITY, TEXAS,
BCBP CRAVENS EAST, LP, and BEST BUY WAREHOUSING LOGISTICS, INC.

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; **BEST BUY WAREHOUSING LOGISTICS, INC.**, a Delaware corporation, hereinafter referred to as "Lessee" (hereinafter defined), the lessee of the Real Property (hereinafter defined); and **BCBP CRAVENS EAST, LP**, a limited partnership, hereinafter referred to as "Lessor" (hereinafter defined), and the owners of the Real Property located within City of Missouri City Reinvestment Zone No. 15, established by City of Missouri City Ordinance No. O-17-35, adopted October 2, 2017, incorporated herein by reference for all purposes, and is effective as of the 6 day of November, 2017.

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. 15 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. 15.
- 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, inventory and equipment, excluding supplies and furnishings, 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; Real Property used primarily to provide retail sales or services to the public; Real Property used for residential purposes or with a productive life of less than 10 years; tangible personal property that the District classifies as supplies or furnishings; real or tangible personal property located in City of Missouri City Reinvestment Zone No. 15 prior to the effective date of this Agreement; or any other property for which abatement is not allowed by state law.
- i. **“Lessee”** means Best Buy Warehousing Logistics, Inc., a Delaware corporation, 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 BCBP Cravens East, LP, or any other person or entity to which the rights and obligations of the Lessors contained in this Agreement are assigned pursuant to this Agreement.
- k. **“Real Property”** means the land described on Exhibit A attached hereto and made a part hereof for all purposes.
- l. **“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. 15.

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 distribution warehouse consisting of not less than approximately 500,000 square feet in size located on the Real Property.
- b. Beginning January 1, 2019, and continuing through December 31, 2028, Lessee agrees to maintain a real property improvement at the Real Property with a value of at least \$20,000,000. Lessee shall annually furnish City with documentation, including, but not limited to, District assessed valuations, to confirm Lessee's compliance with this Agreement. 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 own or control at least twenty million dollars (\$20,000,000) of Eligible Personal Property at the Real Property on January 1 of each Tax Year from January 1, 2019, through December 31, 2028. The District's Certified Appraised Value shall be used to determine the value of the Eligible Personal Property. Not later than ten (10) days after receiving the certification required by Section 7 for compliance, the City will provide notice of the failure to comply to the Lessee if the City reasonably determines that Lessee failed to comply with this requirement. Failure to meet the requirements of this Section 4(c) will invalidate the Abatement for the year that this requirement is not satisfied. The failure to receive an abatement in one year will have no effect on the Lessee's right to receive an Abatement for any other year.
- d. Lessee agrees that, for each Tax Year in which an abatement is not granted pursuant to any related tax abatement agreement relating to the

Real Property, entered into by the City and Lessor on or about the effective date of this Agreement, such failure to receive an abatement will invalidate the Abatement authorized by this Agreement for the year that the requirements of the related tax abatement agreement relating to the Real Property are not satisfied. Not later than ten (10) days after receiving the certification required by Section 7 for compliance, the City will provide notice of the failure to comply to the Lessee and the Lessor if the City determines that Lessor failed to comply with this requirement. The failure to receive an abatement in one year will have no effect on the Lessee's right to receive an Abatement for any other year.

- e. Lessee agrees that the termination of the tax abatement agreement relating to the Real Property, entered into by the City and Lessor, on or about the effective date of this Agreement, shall constitute the termination of this Agreement.

5. **Term and Abatement**

- a. This Agreement shall be effective on the date executed by City, the Lessee, and the Lessor, whichever is last. This Agreement shall terminate on December 31, 2028, unless terminated earlier as provided elsewhere herein. In no event shall this Agreement extend beyond December 31, 2028. Lessee'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 Certified Appraised Value of the Eligible Personal Property during each applicable Tax Year.

- c. Except as provided by Subsection 5(f) of this section, subject to the limitations imposed by law and conditioned upon the Lessor and 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
2019	65%
2020	65%
2021	65%
2022	65%
2023	65%
2024	65%
2025	65%
2026	65%
2027	65%
2028	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 assessed values shall be used to determine the Certified Appraised Value of the property subject to this Agreement. If Lessee protests the District's assessed valuation of the property, the valuation placed on the property after the protest is resolved under State law shall be used.
- f. Lessee agrees that, in any given Tax Year, if Lessee receives a Freeport exemption on Eligible Personal Property, in whole or in part, the value of the Eligible Personal Property for Abatement shall be adjusted so that the total abatement provided for such Eligible Personal Property shall not exceed sixty-five percent (65%). For example, if the Lessee has \$50 in Eligible Personal Property and the Lessee is granted a Freeport

exemption on 20% of that amount (\$10), the Lessee shall receive an Abatement of 65% on \$40.

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, except, if applicable, as agreed to in the Tax Abatement Agreement relating to Real Property executed by and between the parties hereto; and
- (2) the Abated Value, as established by the District, of the Eligible Personal Property shall be fully taxable, provided that Lessee complies with the obligations contained herein.

7. **Additional Responsibilities and Representations of Lessee and Lessor**

- a. In consideration of receiving the Abatement granted herein, Lessee represents and agrees:
 - i. That Lessee has, as of the effective date of this Agreement, the financial resources to implement the above responsibilities and representations.
 - ii. That Lessee, as of the effective date of this Agreement, submitted an Application for Abatement.
 - iii. **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.**
 - iv. **IN THE EVENT THE LESSEE INTENDS TO SELL THE ENTIRETY OF 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, PROVIDED, HOWEVER, THAT NO SUCH AUTHORIZATION SHALL BE NECESSARY IF THE LESSEE INTENDS TO SELL THE ELIGIBLE PERSONAL PROPERTY TO AN ENTITY THAT IS CONTROLLED BY THE LESSEE AND IS AUTHORIZED TO CONDUCT BUSINESS IN THE STATE OF TEXAS AT THE TIME OF ASSIGNMENT OR IF THE LESSEE SELLS THE ELIGIBLE PERSONAL PROPERTY AS PART OF ITS REGULAR BUSINESS OPERATIONS TO CONSUMERS. LESSEE SHALL NOTIFY THE TAX ASSESSOR-COLLECTOR AND THE CITY OF THE SALE OF THE ENTIRETY 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.

- v. 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.
- vi. 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.

b. In consideration of receiving the Abatement granted herein, Lessor represents and agrees:

- i. That Lessor, as of the effective date of this Agreement, has

- acquired fee simple ownership of the Real Property.
- ii. **EXCEPT AS OTHERWISE PROVIDED BY THIS AGREEMENT, IN THE EVENT THE LESSOR INTENDS TO SELL THE REAL PROPERTY, THAT LESSOR 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 LESSOR INTENDS TO SELL THE REAL PROPERTY TO AN ENTITY THAT IS CONTROLLED BY THE LESSOR AND IS AUTHORIZED TO CONDUCT BUSINESS IN THE STATE OF TEXAS AT THE TIME OF ASSIGNMENT. LESSOR 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 LESSOR 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). LESSOR SHALL BE RESPONSIBLE FOR FILING ALL FORMS AS MAY BE REQUIRED BY THE DISTRICT TO DOCUMENT SUCH CHANGE OF OWNERSHIP.**

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, which means that the City shall not be required to provide an Abatement from the date of such default forward, if Lessee:
- (1) except as otherwise provided herein, fails to comply with any of its obligations under this Agreement;

(2) to the extent Lessee is legally responsible for payment, 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 the Agreement or ceases operations on the Real Property for a continuous period of ninety (90) days before the expiration of the term of the Abatement without the prior written consent of the City (except due to casualty damage to the Improvements).

- 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 and Lessee will not be entitled to any Abatement "earned" after the effective date of the termination.
- 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 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 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 forty-eight (48) hours prior written 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. Notwithstanding any other provision of this Agreement, the City may terminate this Agreement if Lessee assigns this Agreement without consent from the City.
- b. The City hereby consents to the assignment of this Agreement, in its entirety, by Lessor to HPC-Seefried BB, LLC, a Delaware Limited Liability Company. Upon assignment of this Agreement by Lessor to HPC-Seefried BB, LLC, Lessor shall be released from, and HPC-Seefried BB, LLC shall assume, all liabilities and obligations under this Agreement.
- c. The City may elect to withhold its consent for assignment 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, Lessor, or, its respective assignee is delinquent in the payment of ad valorem taxes.
- d. 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 thirty (30) 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 Lessors, 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.

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, Lessors, 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: Best Buy Warehousing Logistics, Inc.
7601 Penn Avenue South
Richfield, MN 55423
Attention: Legal Department-Real Estate

Copy Lessee: Robin Kaplan LLP
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
Attention: Steven A. Schumeister, Esq.

To Lessor: BCBP Cravens East, LP
510 Bering Drive, Suite 525
Houston, TX 77057
Attention: Tripp H. Rice, Vice President

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

A party may designate a different address by giving the other parties 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 Lessors as of the dates below stated. Lessee and Lessors warrant and represent that the individuals executing this agreement on behalf of Lessee and Lessors have full authority to execute this Agreement and bind Lessee and Lessors to the same.

CITY OF MISSOURI CITY, TEXAS

By: _____
Allen Owen, Mayor

Date: _____

ATTEST:

Maria Jackson, City Secretary

BCBP CRAVENS EAST, LP

By: BC Business Park GP, LLC, its
general partner

By:  _____ 11/2/17
Tripp H. Rice, Vice President

ATTEST:



Printed Name: Judy Duncan

**BEST BUY WAREHOUSING
LOGISTICS, INC.**

By: _____
Name: _____
Title: _____

19. Execution

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by City, Lessee, and Lessors as of the dates below stated. Lessee and Lessors warrant and represent that the individuals executing this agreement on behalf of Lessee and Lessors have full authority to execute this Agreement and bind Lessee and Lessors to the same.



CITY OF MISSOURI CITY, TEXAS

By: 
Allen Owen, Mayor

Date: 11.6.2017

ATTEST:


Maria Jackson, City Secretary

BCBP CRAVENS EAST, LP

By: BC Business Park GP, LLC, its
general partner

By: _____
Tripp H. Rice, Vice President

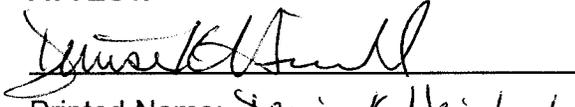
ATTEST:

Printed Name: _____

BEST BUY WAREHOUSING
LOGISTICS, INC.

By: 
Name: Patrick R. Matre
Title: V.P.

ATTEST:



Printed Name: Jenise K. Fleinbuch

Attachment: Exhibit A—Real Property Description

**EXHIBIT A
REAL PROPERTY DESCRIPTION**

EXHIBIT A

METES AND BOUNDS DESCRIPTION

36.3911 ACRES

LOCATED IN THE

B.B.B. & Co. SURVEY No. 8, A-116

B.B.B. & Co. SURVEY No. 8, A-184

HARRIS COUNTY, TEXAS

FORT BEND COUNTY, TEXAS

Being a tract or parcel of land containing 36.3911 acres of land or 1,585,200 square feet, located in the B.B.B. & Co. Survey No. 8, Abstract 116 and B.B.B. & Co. Survey No. 8, Abstract 184, Harris County and Fort Bend County, Texas, Said 36.3911 acre tract being out of and a part of a called 69.4045 acre tract of record in the name of BC Business Park LP in Harris County Clerk's File (H.C.C.F.) Number X654164 and all of a called 12.4877 acre tract of record in the name of George Gilman, Trustee in Fort Bend County Clerk's File (F.B.C.C.F.) Number 2004092907; Said 36.3911 acre tract being more particularly described as follows (bearings based on the Texas State Plane Coordinate System, South Central Zone (NAD83):

COMMENCING at a Texas Department of Transportation (TxDOT) Monument found for the north corner of aforesaid 69.4045 acre tract, being the east corner of a called 111.1695 acre tract of record in the name of West Belt III, LTD. in Harris County Clerk's File (H.C.C.F.) No. U914972 and being on the southwest Right-of-Way (R.O.W.) line of Beltway 8 (width varies);

THENCE, coincident the northwest line of aforesaid 69.4045 acre tract and the southeast line of aforesaid 111.1695 acre tract, South 42 degrees 02 minutes 35 seconds East, a distance of 1,165.72 feet to a 5/8 inch iron rod with "Gruller" cap set for the north corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, through and across aforesaid 69.4045 acre tract, South 47 Degrees 46 Minutes 59 Seconds East, a distance of 1,643.03 feet to a 5/8 inch iron rod with "Gruller" cap set for the east corner of the herein described tract, being on the southeast line of said 69.4045 acre tract and the northwest Right-of-Way (R.O.W.) line of a Texas & New Orleans Railroad (100 feet wide);

THENCE, coincident the southeast line of both the herein described tract and aforesaid 69.4045 acre tract, South 64 Degrees 33 Minute 07 Seconds West, a distance of 1,214.28 feet to a 5/8 inch iron rod with "Gruller" cap set for the south corner of both the herein described tract and said 69.4045 acre tract, being on the northwest R.O.W. line of aforesaid Texas & New Orleans Railroad and the northeast R.O.W. line of Cravens Road (width varies);

THENCE, coincident the southwest line of the herein described tract and the northeast R.O.W. line of aforesaid Cravens Road, North 47 Degrees 52 Minutes 38 Seconds West, a distance of 1,177.42 feet to a 5/8 inch iron rod with "Gruller" cap set for the west corner of both the herein described tract and aforesaid 12.4877 acre tract, being on the northeast R.O.W. line of said Cravens Road and the southeast line of aforesaid 111.1695 acre tract;

THENCE, coincident the northwest line of the herein described tract and the southeast line of aforesaid 111.1695 acre tract, North 42 Degrees 00 Minutes 19 Seconds East, a distance of 1,125.12 feet to the **POINT OF BEGINNING** and containing 36.3911 acres of land.

RETURNED AT COUNTER TO:

Kimberly Thomas

1522 Texas Parkway

Missouri City, Texas 77489



CITY COUNCIL AGENDA ITEM COVER MEMO

October 15, 2018

To: Mayor and City Council
Agenda Items: 11(a), 11(b), and 11(c) Resolution and agreements with Best Buy and BCBP Cravens East, LP
Submitted by: Joseph Esch, Economic Development

SYNOPSIS

Consider a resolution authorizing the Mayor to execute and the City Secretary to attest to the City's consent to an assignment of related tax abatement and economic development agreements

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 October of last year, the City Council approved three incentive agreements to attract the development of the Best Buy distribution center to locate in Missouri City. The agreements included a tax abatement agreement for real property improvements, a tax abatement agreement for personal property and lastly an economic development incentive agreement.

The agreements are between the City of Missouri City, Best Buy and BCBP Cravens East, LP. The agreements required that if the developer/owner sells the property the City must consent to the assignment of the agreements. The developer has a buyer for the project and has requested an assignment of the agreements. The assignment of the agreements changes the owner, but does not change the terms of the agreement.

The City Attorney has reviewed the agreements and prepared the resolution prior to them being brought to Council for consideration.

BUDGET/FISCAL ANALYSIS

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

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

SUPPORTING MATERIALS

1. Resolution
2. Agreement

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 TO THE CITY'S CONSENT TO AN ASSIGNMENT OF A TAX ABATEMENT AGREEMENT FOR REAL PROPERTY BY HPC-SEEFRIED BB, LLC, TO HOU IND 3, LLC.

* * * * *

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

Section 1. 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 to the consent authorized by the City Council of the City of Missouri City for the Assignment by and between HPC-Seefried BB, LLC, a Delaware limited liability company, and Hou Ind 3, LLC, a Delaware company pertaining to a tax abatement agreement for real property between the City of Missouri City, Texas, and BCBP Cravens East, LP, a Texas limited partnership. A copy of such Assignment is attached hereto as Exhibit "A" and made a part hereof for all purposes.

Section 2. Repeal. All resolutions or parts of resolutions, if any, in conflict herewith, shall be and are expressly repealed to the extent of such conflict.

Section 3. Severability. In the event any clause, phrase, provision, sentence or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED and ADOPTED this 15th day of October, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

**ASSIGNMENT OF TAX ABATEMENT AGREEMENT RELATING TO ELIGIBLE
PERSONAL PROPERTY**

This Assignment of Tax Abatement Agreement Relating to Eligible Personal Property (this "Assignment") is entered into as of the ____ day of _____, 2018 (the "Effective Date"), from **HPC-Seefried BB, LLC**, a Delaware limited liability company ("Assignor"), to **HOU IND 3, LLC**, a Delaware limited liability company ("Assignee").

RECITALS:

Assignor is the owner of real property located at 636 Highway 90A, Missouri City, Texas (the "Property"). Assignor, as the successor to BCBP Cravens East, LP, is party to that Tax Abatement Agreement Relating to Eligible Personal Property dated November 6, 2017 (the "Agreement") with the City of Missouri City, Texas, and Best Buy Warehousing Logistics, Inc., which relates to the Property.

Assignor is transferring the Property to Assignee, an in connection with such transfer, Assignor desires to assign its rights and obligations under the Agreement to Assignee, and Assignee desires to accept such assignment and such rights, and assume such obligations.

FOR AND IN CONSIDERATION of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Assignment and Assumption.** Assignor hereby assigns to Assignee all of its rights, duties and obligations under the Agreement, effective as of the Effective Date. Assignee hereby accepts such assignment and assumes the rights, duties and obligations of Assignor under the Agreement, effective as of the Effective Date.

2. **Indemnification.** Assignor hereby indemnifies and holds Assignee harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable attorneys' arising out of or in connection with Assignor's failure, prior to the Effective Date, to observe, perform and discharge the covenants, obligations and liabilities of Assignor under the Agreement. Assignee hereby indemnifies and holds Assignor harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable attorneys' fees and expenses actually incurred, arising out of or in connection with Assignee's failure, from and after the Effective Date, to observe, perform and discharge each the covenants, obligations and liabilities assumed by Assignee under the Agreement.

Exhibit "A"

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date written above.

HPC-Seefried BB, LLC, a Delaware limited liability company

By: HPC-SEEFRIED I, LP, a Georgia limited partnership

By: Seefried West, LLC, a Georgia limited liability company, its general partner

By: _____
Name: _____
Authorized Signatory

HOU IND 3, LLC, a Delaware limited liability company

By: _____
Name: _____

CONSENT

The undersigned, as party to the Agreement, has executed below to evidence its consent to the assignment and assumption set forth herein.

City of Missouri City

By: _____
Allen Owen, Mayor

Attest:

By: _____
Maria Jackson, City Secretary

**TAX ABATEMENT AGREEMENT RELATING TO REAL PROPERTY by and between
THE CITY OF MISSOURI CITY, TEXAS and BCBP CRAVENS EAST, LP**

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 **BCBP CRAVENS EAST, LP**, a limited partnership, hereinafter referred to as Owner, and the owner of the Real Property located within City of Missouri City Reinvestment Zone No. 15, established by City of Missouri City Ordinance No. O-17-35, adopted October 2, 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. 15, and is effective as of the 16 day of November, 2017.

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 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. 15 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 Real Property, Improvements, or Ineligible Property, as applicable, located on the Real Property within City of Missouri City Reinvestment Zone No. 15.
- 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 an office, distribution center, warehouse, and service center and containing at least 500,000 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; 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. 15 prior to the effective date of this Agreement and any other property for which abatement is not allowed by state law.
- i. **“Lessee”** means Best Buy Warehousing Logistics, Inc. 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. **“Owner”** means BCBP Cravens East, LP, a limited partnership, 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.
- k. **“Real Property”** means the land described on Exhibit A attached hereto and made a part hereof for all purposes.
- l. **“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. 15.

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 July 1, 2018, and shall be completed on or before December 31, 2018, subject to delays for circumstances beyond the reasonable control of Owner. Owner shall provide the Tax Assessor-Collector a certified statement evidencing a minimum of \$20,000,000 in hard and soft 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. Owner agrees that, beginning on January 1, 2019, 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 \$20,000,000. Failure to meet the requirements of this Section 4(b) will invalidate the Abatement for the year that this requirement is not satisfied.

- c. Owner agrees that, beginning on January 1, 2019, the Improvements shall be occupied by Lessee. Failure to meet the requirements of this Section 4(c) will invalidate the Abatement for the year that this requirement is not satisfied. The failure to receive an abatement in one year will have no effect on the Owner's right to receive an Abatement for any other 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, Lessee, 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 for the year in which the requirement is not satisfied. The failure to receive an abatement in one year will have no effect on the Owner's right to receive an Abatement for any other year.
- e. Owner agrees that termination of the tax abatement agreement relating to certain eligible personal property, entered into by the City, Lessee, and the Owner, on or about the effective date of this Agreement, shall terminate 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, 2028, 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
2019	65%
2020	65%
2021	65%
2022	65%
2023	65%
2024	65%
2025	65%
2026	65%
2027	65%
2028	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 satisfies the obligations of the Owner 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 Lessee, 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. **EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, 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 the City, the Lessee, and to the Tax Assessor-Collector whether, to Owner's knowledge, 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 promptly 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) except as otherwise provided herein, 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 the Agreement or ceases operations on the Real Property for a continuous period of ninety (90) days before the expiration of the term of the Abatement without

the prior written consent of the City (except due to casualty damage to the Improvements).

- b. City shall notify Owner and Lessee 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, and Owner will not be entitled to any Abatement "earned" after the effective date of termination.
- 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 and 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 Real Property and the Improvements, at City's sole cost, expense, and risk during the term of the Agreement, subject to the rights of Lessee in the Real Property. All inspections shall be made only after prior notice to Lessee and will be conducted in such a manner as not to unreasonably interfere with the construction or operation of the facility. A representative of Owner and Lessee may accompany the inspector at Owner and Lessee'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 and Lessee.
- 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. Notwithstanding any other provision of this Agreement, the City may terminate this Agreement if Owner assigns this Agreement without consent from the City.

- b. The City hereby consents to the assignment of this Agreement, in its entirety, by Owner to HPC-Seefried BB, LLC, a Delaware Limited Liability Company. Upon assignment of this Agreement by Owner to HPC-Seefried BB, LLC, Owner shall be released from, and HPC-Seefried BB, LLC shall assume, all liabilities and obligations under this Agreement.
- c. The City hereby consents to the assignment of this Agreement, in its entirety, by Owner or its assignee to Lessee.
- d. The City may elect to withhold its consent for assignment 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, Owner, or, its respective assignee is delinquent in the payment of ad valorem taxes.
- e. 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 thirty (30) 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 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, Lessee, 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: BCBP Cravens East, LP
510 Bering Drive, Suite 525
Houston, TX 77057
Attention: Tripp H. Rice, Vice-President

To Lessee: Best Buy Warehousing Logistics, Inc.
7601 Penn Avenue South
Richfield, MN 55423
Attention: Legal Department

Copy Lessee: Robin Kaplan LLP
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
Attention: Steven A. Schumeister, Esq.

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

A party may designate a different address by giving the other parties 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.

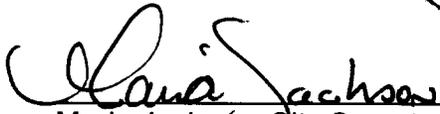


CITY OF MISSOURI CITY, TEXAS

By: 
Allen Owen, Mayor

Date: 11.6.2017

ATTEST:


Maria Jackson, City Secretary

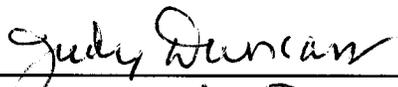
BCBP CRAVENS EAST, LP

By: BC Business Park GP, LLC, its
general partner

By: 
Tripp H. Rice, Vice President

ATTEST:

Date: 11/2/17


Printed Name: Judy Duncan

Attachment:Exhibit A—Real Property description

**EXHIBIT A
REAL PROPERTY DESCRIPTION**

EXHIBIT A

METES AND BOUNDS DESCRIPTION

36.3911 ACRES

LOCATED IN THE

B.B.B. & Co. SURVEY No. 8, A-116

B.B.B. & Co. SURVEY No. 8, A-184

HARRIS COUNTY, TEXAS

FORT BEND COUNTY, TEXAS

Being a tract or parcel of land containing 36.3911 acres of land or 1,585,200 square feet, located in the B.B.B. & Co. Survey No. 8, Abstract 116 and B.B.B. & Co. Survey No. 8, Abstract 184, Harris County and Fort Bend County, Texas, Said 36.3911 acre tract being out of and a part of a called 69.4045 acre tract of record in the name of BC Business Park LP in Harris County Clerk's File (H.C.C.F.) Number X654164 and all of a called 12.4877 acre tract of record in the name of George Gilman, Trustee in Fort Bend County Clerk's File (F.B.C.C.F.) Number 2004092907; Said 36.3911 acre tract being more particularly described as follows (bearings based on the Texas State Plane Coordinate System, South Central Zone (NAD83):

COMMENCING at a Texas Department of Transportation (TxDOT) Monument found for the north corner of aforesaid 69.4045 acre tract, being the east corner of a called 111.1695 acre tract of record in the name of West Belt III, LTD. in Harris County Clerk's File (H.C.C.F.) No. U914972 and being on the southwest Right-of-Way (R.O.W.) line of Beltway 8 (width varies);

THENCE, coincident the northwest line of aforesaid 69.4045 acre tract and the southeast line of aforesaid 111.1695 acre tract, South 42 degrees 02 minutes 35 seconds East, a distance of 1,165.72 feet to a 5/8 inch iron rod with "Gruller" cap set for the north corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, through and across aforesaid 69.4045 acre tract, South 47 Degrees 46 Minutes 59 Seconds East, a distance of 1,643.03 feet to a 5/8 inch iron rod with "Gruller" cap set for the east corner of the herein described tract, being on the southeast line of said 69.4045 acre tract and the northwest Right-of-Way (R.O.W.) line of a Texas & New Orleans Railroad (100 feet wide);

THENCE, coincident the southeast line of both the herein described tract and aforesaid 69.4045 acre tract, South 64 Degrees 33 Minute 07 Seconds West, a distance of 1,214.28 feet to a 5/8 inch iron rod with "Gruller" cap set for the south corner of both the herein described tract and said 69.4045 acre tract, being on the northwest R.O.W. line of aforesaid Texas & New Orleans Railroad and the northeast R.O.W. line of Cravens Road (width varies);

THENCE, coincident the southwest line of the herein described tract and the northeast R.O.W. line of aforesaid Cravens Road, North 47 Degrees 52 Minutes 38 Seconds West, a distance of 1,177.42 feet to a 5/8 inch iron rod with "Gruller" cap set for the west corner of both the herein described tract and aforesaid 12.4877 acre tract, being on the northeast R.O.W. line of said Cravens Road and the southeast line of aforesaid 111.1695 acre tract;

THENCE, coincident the northwest line of the herein described tract and the southeast line of aforesaid 111.1695 acre tract, North 42 Degrees 00 Minutes 19 Seconds East, a distance of 1,125.12 feet to the **POINT OF BEGINNING** and containing 36.3911 acres of land.

RETURNED AT COUNTER TO:

Kimberly Thomas

1522 Texas Parkway

Missouri City, Texas 77489



CITY COUNCIL AGENDA ITEM COVER MEMO

October 15, 2018

To: Mayor and City Council
Agenda Item: 11(d) Resolution creating a Census 2020 Complete Count Committee
Submitted by: Bill Atkinson, Assistant City Manager

SYNOPSIS

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

STRATEGIC PLAN 2019 GOALS ADDRESSED

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

BACKGROUND

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

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

The suggested activities of the group include:

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

Once appointed, the Census Bureau staff would come and train the committee members on their roles and responsibilities. This training would take place before the beginning of the year in order to train and prepare the group to provide information to residents about on-line census participation beginning in March. They suggest the citizen committee is not too large in order to keep it manageable. So, the resolution has there being seven (7) members of the committee. Further, it is recommended that the committee is representative of the demographic, religious, educational and cultural make-up of our community.

BUDGET ANALYSIS

Not applicable

Purchasing Review: N/A

Financial/Budget Review: N/A

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

SUPPORTING MATERIALS

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

STAFF'S RECOMMENDATION

Staff recommends approval of the resolution.

Director Approval: Bill Atkinson, Assistant City Manager

RESOLUTION NO. R-18-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, SUPPORTING THE UNITED STATES CENSUS BUREAU BY CREATING A CENSUS 2020 “COMPLETE COUNT COMMITTEE” TO PROVIDE THE CITY WITH ASSISTANCE AND ADVICE IN OBTAINING THE MOST ACCURATE AND COMPLETE POPULATION COUNT IN THE UPCOMING DECENNIAL CENSUS.

* * * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 5. Membership. The Committee shall consist of a total of seven (7) members. The City Council of the City of Missouri City shall appoint the members. The Committee shall elect its own chair person.

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

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

Section 8. The officers and employees of the City are hereby authorized and directed to execute such instruments and take such actions as are consistent with the provisions of this Resolution.

PASSED AND APPROVED on first and final reading this 15th day of October, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

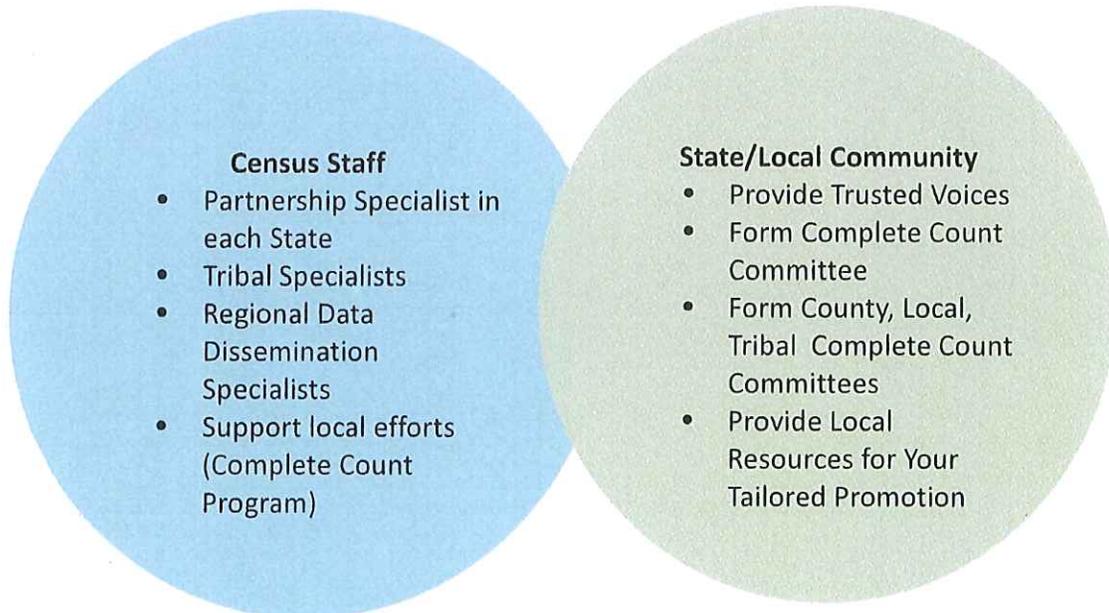
Structure of a Complete Count Committee

The mayor/county official appoints the members of the Complete Count Committee. The key elements of a successful CCC are:

- **Outreach** - People who can communicate to hard-to-count groups
- **Resourceful** - People who can bring resources to the table
- **Decision-makers** - People who can approve initiatives
- **Credibility** - People of influence and respect
- **Commitment** - People willing to doing the work
- Bipartisan
- Representative of all major races and ethnicities within the community/emerging population
- Creation of a coalition of businesses, community groups, government officials and large university representatives



Once the committee is formed, the Census Partnership staff member serves as liaison and advisor to the Complete Count Committee. The Partnership staff member will attend the meetings in an advisory capacity.



Suggested Subcommittees

Government subcommittee – Assists in all activities between the Census Bureau and the local government, such as participation in decennial geography programs, providing free space for Mobile Response Tables, recruitment and training, and identifying other resources for CCC activities.

Education subcommittee—Facilitates census awareness for local schools from prekindergarten through twelfth grade, as well as postsecondary education institutions in the area. Encourages school administrators, teachers, and students to use Statistics In Schools materials where appropriate.

Faith-based subcommittee—Creates and coordinates activities and materials that can be used by any local faith-based institution in the promotion of the 2020 Census for awareness and participation purposes.

Media subcommittee—Creates and facilitates ways to get the census message to all community residents, using all available sources such as social media, local newspapers, newsletters, fliers, local festivals, billboards, radio, and television.

Community-based organizations subcommittee—Collaborates with community organizations to inform residents of the importance of participating in the 2020 Census and the benefits derived from census data.

Business subcommittee—Creates and coordinates activities that involve businesses in census awareness, such as distribution of census information and census messages on packaging (grocery bags), and the inclusion of the census logo and message on sales promotion materials.

Recruiting subcommittee—Disseminates information about census job openings for the 2020 Census. Information will include the number of jobs available, types of jobs available, and the locations of testing and training sites.

The subcommittee chairpersons may recruit members for their respective teams. The ideal candidates for a **Complete Count Committee** are community members who have expertise, influence, and experience in the area of the respective committee. Committees are more productive and successful when they invest time, resources, and energy to this effort.

Suggested Complete Count Committee Activities

Develop an action plan that will include activities, events, etc., which will support your efforts and help you meet your goals and objectives.

Create ways to dispel myths and alleviate fears about the privacy and confidentiality of census data.

Encourage corporations and foundations to become official sponsors of your census activities.

Implement special events that will generate interest and participation in the census.

Plan a Census Day event to motivate community response.





**CITY COUNCIL
AGENDA ITEM COVER MEMO**

October 15, 2018

To: Mayor and City Council
Agenda Item: 11(e) Resolution Regarding Upcoming Fort Bend Independent School District Bond Election
Submitted by: Anthony J. Snipes, City Manager

SYNOPSIS

Council is being asked to adopt a resolution regarding the upcoming bond election of Fort Bend Independent School District. This resolution encourages Missouri City's eligible residents to vote in the upcoming Fort Bend Independent School District bond election.

STRATEGIC PLAN 2019 GOALS ADDRESSED

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

BACKGROUND

Fort Bend Independent School District has scheduled a \$992.6 million bond election for November 6, 2018. The bonds, if approved, will be used to address capital needs related to new construction, enhance the safety and security of schools across the District, make renovations to address maintenance and adequacy for all schools, and provide for the District's transportation and technology needs.

BUDGET/FISCAL ANALYSIS

N/A

SUPPORTING MATERIALS

1. Resolution
2. Fort Bend Chamber of Commerce letter of support and resolution
3. Strong Schools, Strong Community Committee letter of support

STAFF'S RECOMMENDATION

Staff recommends adoption of the resolution.

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, DESCRIBING THE PURPOSE OF THE UPCOMING BOND ELECTION OF FORT BEND INDEPENDENT SCHOOL DISTRICT AS IT APPLIES TO CITY OF MISSOURI CITY RESIDENTS AND ENCOURAGING ITS RESIDENTS TO VOTE IN SUCH ELECTION.

* * * * *

WHEREAS, Fort Bend Independent School District (the "District") has scheduled a \$992.6 million bond election for November 6, 2018; and

WHEREAS, such bond election follows an extensive Facilities Master Planning process that began in January, 2018, to ensure that the District was and continues to provide the best learning environments, valuable opportunities and access to programs; and

WHEREAS, the bonds, if approved, will be used to address capital needs related to new construction, enhance the safety and security of schools across the District, make renovations to address maintenance and adequacy for all schools, and provide for the District's transportation and technology needs; and

WHEREAS, the City Council of the City of Missouri City desires to encourage its residents to educate themselves about the upcoming Fort Bend Independent School District bond election and to vote in the upcoming election; now therefore,

BE IT RESOLVED 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 resolution are hereby declared true and correct.

Section 2. The City Council of the City of Missouri City hereby encourages its eligible residents to vote in the upcoming Fort Bend Independent School District bond election.

PASSED and APPROVED, this 15th day of October, 2018.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney



Op-ed
September 25, 2018
Keri Schmidt
President & CEO
Fort Bend Chamber of Commerce
281-491-0277 | Keri@fortbendcc.org

Business Leaders Support Strong Schools, Strong Community

Business Leaders advocate in support of the 2018 FBISD Bond Proposal

The Fort Bend Chamber of Commerce Government Affairs Team (GAT) advocates and serves as proxy on behalf of the membership on issues affecting job creation, economic development and the overall vitality of the region. Issues that impact the interests of the greater Fort Bend business community, economic development within Fort Bend County or members of the Fort Bend Chamber of Commerce members directly are given consideration. After careful and thoughtful analysis, the Government Affairs Team recommended support of the 2018 FBISD (FBISD) Bond Proposal at the September 18th Fort Bend Chamber Board of Directors meeting, They further recommended that the Chamber educate its members on the bond proposal and work to enlist their active support and influence. The Board of Directors passed the resolution unanimously.

On August 13, 2018, the FBISD Board of Trustees unanimously called for a \$992.6 million bond referendum to be held on November 6, 2018. If approved, these bonds will be used to address capital needs related to new construction, enhance the safety and security of our children's schools across the District, make renovations to address maintenance and adequacy for all schools, as well as provide for the District's transportation and technology needs.

The \$992.6 million November 6, 2018 bond referendum supports building and improving safe classrooms and learning spaces and includes:

- \$403.4 million for new construction, rebuilds and additions, including the construction of three elementary campuses, design of one middle school, construction of one high school, the rebuild of Lakeview Elementary and Meadows Elementary, and additions at Madden Elementary and Neill Elementary
- \$396.5 million to address life-cycle deficiencies and facility adequacy across the District
- \$14.9 million to fund safety and security upgrades and investments
- \$10.6 million for transportation
- \$142.6 million for technology
- \$19.7 million for future land purchases
- \$5 million program contingency

As the advocate for business excellence in Fort Bend County, the chamber recognizes the critical and essential roles strong public schools have in the economic development and vitality of the region. Investing in high quality education provides our students with the necessary tools to become productive citizens. Additionally, an investment in FBISD will address the capital improvements needed to build and improve the safe classrooms and learning spaces that will impact students' lives for many years to come.

The development of this bond follows an extensive Facilities Master Planning process that began in January 2018. This comprehensive due diligence will ensure that FBISD provides the best possible learning environment and worthwhile opportunities to of its 75,000 students. Further, each will receive a strong academic foundation, and develop the strong character and skills for lifelong success. The bond initiative represents the first of a two-phase, six-year plan to address capital needs of the District, which is expected to serve 85,000 students by the year 2027.

FBISD continues to have one of the lowest tax rates among peer districts and a low debt per student ratio. A successful bond election will not cause any immediate change in the existing tax burden; however, a potential three penny increase (not anticipated until 2020) may be needed during the duration of the three-year program. Most projections show that the tax rate will not be any higher than the 2016 rate and no more than one cent higher. One cent on the tax rate represents about \$40 per year for the average home owner in the FBISD

jurisdiction. Even so, FBISD would still maintain the lowest projected tax rates and debt per student ratio compared to other districts.

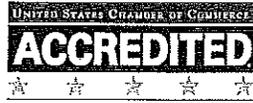
Please join the Fort Bend Chamber in supporting the 2018 FBISD Bond Proposal to keep our schools and community strong by building and improving safe classrooms and learning spaces for our children! If you would like to be an active participant in *Strong Schools, Strong Community Committee*, please contact the committee by email to: strongschoolsfbisd@gmail.com.

About the Fort Bend Chamber of Commerce

As the only 5-star accredited and single-county chamber in the nine-county area surrounding the Houston Metroplex, membership provides both immediate and long-term benefits for your business and helps build momentum for our community's future.

Keri Schmidt
President & CEO
Fort Bend Chamber of Commerce

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**FORT BEND CHAMBER OF COMMERCE BOARD OF DIRECTORS
RESOLUTION 091818-2
A RESOLUTION IN SUPPORT OF THE FORT BEND ISD 2018 BOND
PROPOSAL**

WHEREAS, the Fort Bend Chamber of Commerce (FBCC) is a business organization in Fort Bend County established in 1972 to represent its membership, and

WHEREAS, the FBCC is committed to be the advocate for business excellence and recognizes its role in identifying and establishing positions on critical issues, local, state and federal, affecting job creation, economic development and the overall vitality of the region, and

WHEREAS, The Board of Directors has the authority and responsibility to make decisions that are in the best interest of the FBCC membership and the community, and

WHEREAS, The quality of education in Fort Bend County is paramount to our continued success and a positive impact on the economic development in the region; and

WHEREAS, Fort Bend ISD currently served approximately 76,000 students and enrollment is projected to increase by another 10,000 students by 2017; and

WHEREAS, The development of the \$992.6 million bond referendum follows an extensive Facilities Master Planning process that began in January of 2018 to ensure that the District is providing the best learning environments, valuable opportunities and access to programs in accordance with the Board-adopted Profile of a Graduate, and

WHEREAS, This Facilities Master Planning process helped to identify construction projects and other life-cycle maintenance and adequacy needs essential for the next six years, and led to the development of an updated capital plan. This capital plan also includes additional funding for safety and security, technology, and transportation needs, and

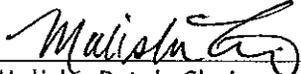
WHEREAS, The \$992.6 million bond referendum will fund the first of a two-phase, six-year plan to address capital needs in the District, which is expected to serve more than 85,000 students by the year 2027. Phase one includes the \$992 million bond referendum, followed by a projected \$705.2 million bond plan in 2021, and

WHEREAS, While a successful bond election would not necessitate any immediate change in the tax rate of \$1.32, a potential three penny increase may be needed during the duration of the three-year program, with the earliest increase not until 2020. Even with a three-penny increase, at \$1.35, Fort Bend ISD would still have one of the lowest projected tax rates compared to other districts nearby, and with a lower debt per student ratio, and

WHEREAS, Taxpayers who have established Over 65 or Disabled Persons exemptions would not be impacted by a potential tax increase, as they have established tax ceilings on their homesteads and those ceilings will not be impacted, and

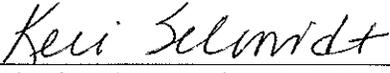
NOW, THEREFORE, BE IT RESOLVED, The FBCC Board of Directors supports the passage of the 2018 Fort Bend ISD Bond proposal that will be on the November 6, 2018 ballot.

PASSED AND APPROVED this 18th day of September, 2018.



Malisha Patel, Chairman
Fort Bend Chamber of Commerce

ATTEST:



Keri Schmidt, President & CEO
Fort Bend Chamber of Commerce



Community Leaders form Strong Schools, Strong Community Committee to support the passage of a November 6 FBISD Bond Package

Join us to support building and improving safe learning spaces for all of our children!

A group of community leaders has joined me to form the ***Strong Schools, Strong Community Committee*** to help ensure the successful passage of a November 6 Fort Bend ISD bond issue.

On August 13, 2018, the Fort Bend ISD Board of Trustees unanimously called for a \$992.6 million bond referendum to be held on November 6, 2018. If approved, these bonds will be used to address capital needs related to new construction, enhance the safety and security of our children's schools across the District, make renovations to address maintenance and adequacy for all schools, as well as provide for the District's transportation and technology needs.

The \$992.6 million November 6, 2018 bond referendum supports building and improving safe learning spaces and includes:

- \$403.4 million for new construction, rebuilds and additions, including the construction of three elementary campuses, design of one middle school, construction of one high school, the rebuild of Lakeview Elementary and Meadows Elementary, and additions at Madden Elementary and Neill Elementary.
- \$396.5 million to address life-cycle deficiencies and facility adequacy across the District.
- \$14.9 million to fund safety and security upgrades and investments.
- \$10.6 million for transportation.
- \$142.6 million for technology.
- \$19.7 million for future land purchases.
- *\$5 million program contingency.

The reason I support the Fort Bend ISD Bond package is that the strength of our local public schools is critically important to the core of our community. If you invest in a high quality education for all of our students, they will have more opportunities and choices to find lifelong success and have more productive lives. An investment in Fort Bend ISD will address the much needed capital improvements that will impact student's lives for many years to come by building and improving safe learning spaces.

The development of this bond follows an extensive Facilities Master Planning process that began in January 2018 to ensure the District is providing the best learning environments and valuable opportunities for each of the 75,000 students to have a rigorous academic foundation and strong character that leads them to develop skills for lifelong success. This bond initiative represents the first of a two-phase, six-year plan to address capital needs of the District, which is expected to serve 85,000 students by the year 2027.



After maintaining one of the lowest taxes rates in the area since 2010 at \$1.34 year, consisting of a \$1.04 Maintenance and Operations (M&O) Tax Rate and a \$0.30 Debt Service tax rate, the District dropped the tax rate two pennies to \$1.32 in 2018, which consisted of a \$1.06 M&O Tax Rate and \$0.26 for Debt Service. Fort Bend ISD's tax rate continues to be one of the lowest among peer districts.

While a successful bond election would not necessitate any immediate change in the tax rate of \$1.32, a potential three penny increase may be needed during the duration of the three-year program, with the earliest increase not anticipated until 2020. With a three-penny increase to \$1.35, Fort Bend ISD would still have one of the lowest projected tax rates compared to other districts nearby and a lower debt per student ratio. Since the average home in Fort Bend ISD is \$284,377, the three pennies represent \$76.53/year or \$6.38/month. Taxpayers who have established Over 65 or Disabled Persons exemptions would be minimally impacted by a potential tax increase, as they have established tax ceilings on their homesteads and those ceilings would not be impacted if they are locked in at \$1.32 or lower. They could be impacted slightly if their cap is \$1.34 from the tax rate prior to 2017-18.

So effectively, what can the one penny buy?

[View the projects by campus.](#)

Join our committee in supporting the 2018 Fort Bend ISD Bond Package to keep our schools and our community strong by building and improving safe learning spaces for our children!

If you would like to be an active participant in ***Strong Schools, Strong Community Committee***, please contact the Committee by email to: strongschoolsfbisd@gmail.com.

Michael Schiff
Chairman



**Council Agenda Item
October 15, 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
