

CITY OF TEXAS CITY  
REGULAR CALLED CITY COMMISSION MEETING

AGENDA

WEDNESDAY, OCTOBER 16, 2019 - 5:00 P.M.  
KENNETH T. NUNN COUNCIL ROOM - CITY HALL  
1801 9th Ave. N.  
Texas City, TX 77590

PLEASE NOTE: Public comments and matters from the floor are generally limited to 3 minutes in length. If you would like to request to speak, please do so in advance of the meeting by filling out a Request To Address Commission form. All in attendance are required to remove hats and/or sunglasses (dark glasses) during meetings and to also silence all cell phones and electronic devices.

(1) ROLL CALL

(2) INVOCATION

(3) PLEDGE OF ALLEGIANCE

(4) PROCLAMATIONS AND PRESENTATIONS

(a)

Service Awards

Frederick Posada	Public Works	10/05/2009	10 years
Brian Berg	Police	10/27/2004	15 years
Salvador Chapa	Police	10/06/2004	15 years
Susan Chapa	Administration	10/11/1999	20 years
Claude Harper	Sanitation	10/27/1989	30 years
Jerry Solomon	Sewer	10/02/1989	30 years

(b)

National Physical Therapy Month- Sharon Deshotel

(5) REPORTS

(a)

Financial Quarterly Report (Finance)

(6) PUBLIC HEARING

(7) PRELIMINARY PLAT APPROVAL

(a)

Consider approval of Master Plan for Central Park Subdivision (Meritage Homes), being 109.7 acres out of the W.K. Wilson Survey, A-208 and consisting of 370 lots. Located west of Century Boulevard, directly across from Lone Trail Village and adjacent to Moses Bayou.

(8) PUBLIC COMMENTS

(9) CONSENT AGENDA

- (a) Approve City Commission Minutes for October 2, 2019 meeting. (City Secretary)
- (b) Consider and take action on Resolution No. 19-098, authorizing the Mayor to execute an agreement for professional services with Public Consulting Group, Inc. to continue a program that provides additional revenue for the Fire Department EMS program. (Fire Department)
- (c) Consider and take action on Resolution No. 19-099, authorizing the purchase of Two (2) Staff Units for the fire department from Silsbee Ford in the amount of \$84,696.00 through the H.G.A.C. Buy Program. (Fire Department)
- (d) Consider and take action on Resolution No. 19-100, authorizing the Mayor to execute a one-year agreement between the County of Galveston and the City of Texas City for Mutual Aid. (Fire Department)
- (e) Consider and take action on Resolution No. 19-101, approving appointments and/or re-appointments of Municipal Court Judges. (City Secretary)
- (f) Consider and take action on Resolution No. 19-102, approving the creation of Galveston County Municipal Utility District No. 79, being 90 acres of land on the east side of Century Blvd., and being developed as a single-family residential subdivision known as Central Park. (City Engineer)
- (g) Consider and take action on Resolution No. 19-103, authorizing the Mayor to enter into a ground lease between the City of Texas City and Gulf Coast Center for 8.9 acres of land located at the southwest corner of Magnolia Ave. and 33rd Street. (City Engineer)
- (h) Consider and take action on Resolution No. 19-104, authorizing the Mayor to enter into a Lease of Space Agreement between the City of Texas City (Tenant) and Gulf Coast Center (Landlord) for approximately 3,600 sq. ft. to house the City's Emergency Management personnel and operations. (City Engineer)
- (i) Consider and take action on Resolution No. 19-105, approving of an InterLocal Contract between the City of Texas City and Gulf Coast Center that will support and continue the public transportation services provided by Gulf Coast Center and Connect Transit. (City Engineer)
- (j) Consider and take action on Resolution No. 19-106, approving The City of Texas City to use OMNIA Partners Public Sector Purchasing Cooperative contract " R-TC-17006 Online Marketplace for the Purchase of Products and Services" for Amazon purchases. (Purchasing)
- (k) Consider and take action on Resolution No. 19-107, approving updated Rules of Behavior Policy for Moore Memorial Public Library. (Library)
- (l) Consider and take action on Resolution No. 19-108, approving a new Study Room Policy for Moore Memorial Public Library. (Library)

(10) MAYOR'S COMMENTS

(11) COMMISSIONERS' COMMENTS

(12) ADJOURNMENT

NOTICE OF ANY SUBJECT APPEARING ON THIS AGENDA REGARDLESS OF HOW THE MATTER IS STATED MAY BE ACTED UPON BY THE CITY COMMISSION.

NOTICE: The City of Texas City will furnish free transportation to handicapped individuals via a 4-door sedan for anyone wishing to attend the City Commission meetings. Call 948-3111, City Secretary's Office before noon on Monday preceding the meeting to make arrangements.

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE BULLETIN BOARDS AT CITY HALL, 1801 9TH AVENUE NORTH, TEXAS CITY, TEXAS, AT A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AND ON THE CITY'S WEBSITE ON OCTOBER 11, 2019, PRIOR TO 5:00 P.M. AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

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NICHOLAS J. FINAN  
CITY SECRETARY

**CITY COMMISSION REGULAR MTG**

**(4) (a)**

**Meeting Date:** 10/16/2019

October 2019 Service Awards

**Submitted For:** Jennifer Price, Human Resources

**Submitted By:** Susan Sensat, Administration

**Department:** Administration

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**Information**

**ACTION REQUEST (Brief Summary)**

Service Awards

Frederick Posada	Public Works	10/05/2009	10 years
Brian Berg	Police	10/27/2004	15 years
Salvador Chapa	Police	10/06/2004	15 years
Susan Chapa	Administration	10/11/1999	20 years
Claude Harper	Sanitation	10/27/1989	30 years
Jerry Solomon	Sewer	10/02/1989	30 years

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**CITY COMMISSION REGULAR MTG**

**(7) (a)**

**Meeting Date:** 10/16/2019

Approval of Subdivision Master Plan for Central Park - Meritage Homes

**Submitted For:** Doug Kneupper, Transportation and Planning

**Submitted By:** Doug Kneupper, Transportation and Planning

**Department:** Transportation and Planning

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider approval of Master Plan for Central Park Subdivision (Meritage Homes), being 109.7 acres out of the W.K. Wilson Survey, A-208 and consisting of 370 lots. Located west of Century Boulevard, directly across from Lone Trail Village and adjacent to Moses Bayou.

**BACKGROUND**

Sec. 110.24 of the Subdivision Ordinance states the purpose of a subdivision master plan is to review and approve a general plan for the development of large tracts of property, including the layout of streets, lots, and open spaces, and sites for public facilities and utilities. In accordance with this provision, the Master Plan for Central Park - Meritage Homes was reviewed and given approval by the Planning Board on September 16, 2019.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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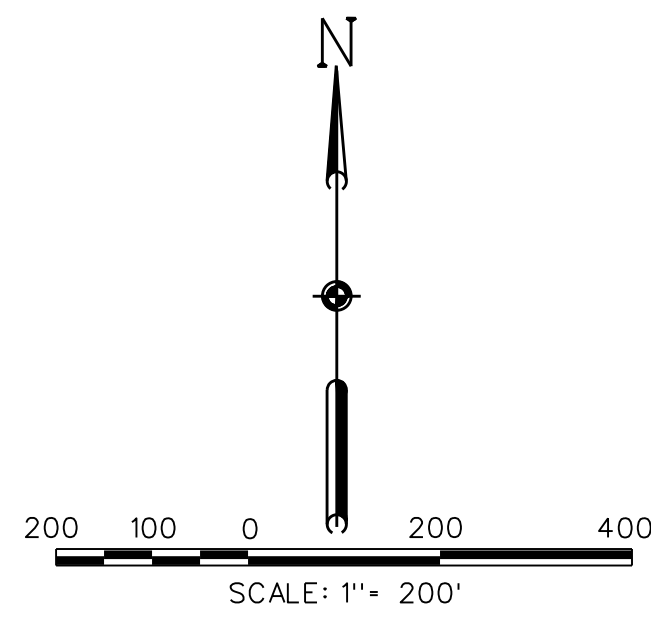
**Fiscal Impact**

**Attachments**

General Plan

Staff Memo

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GENERAL NOTES:

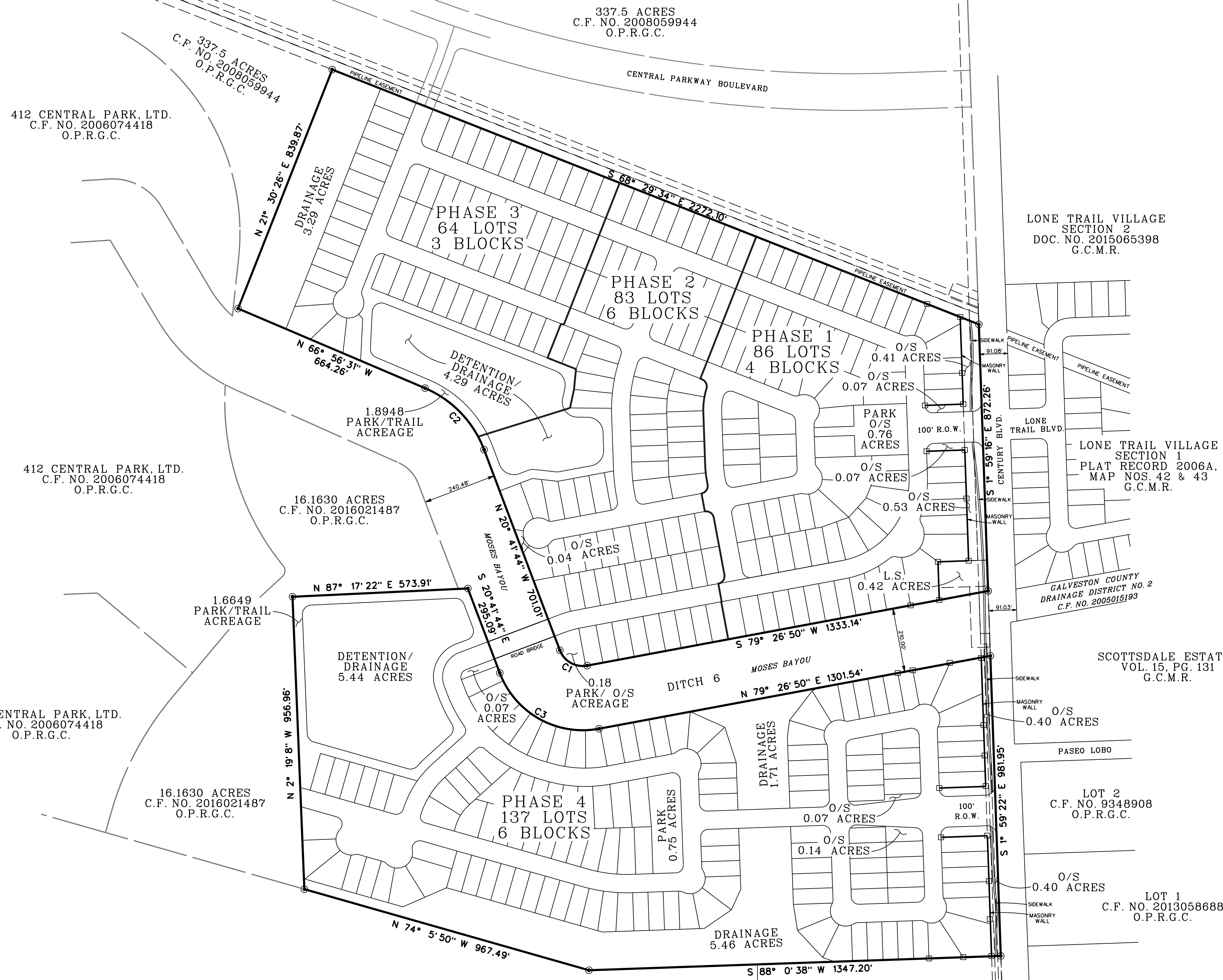
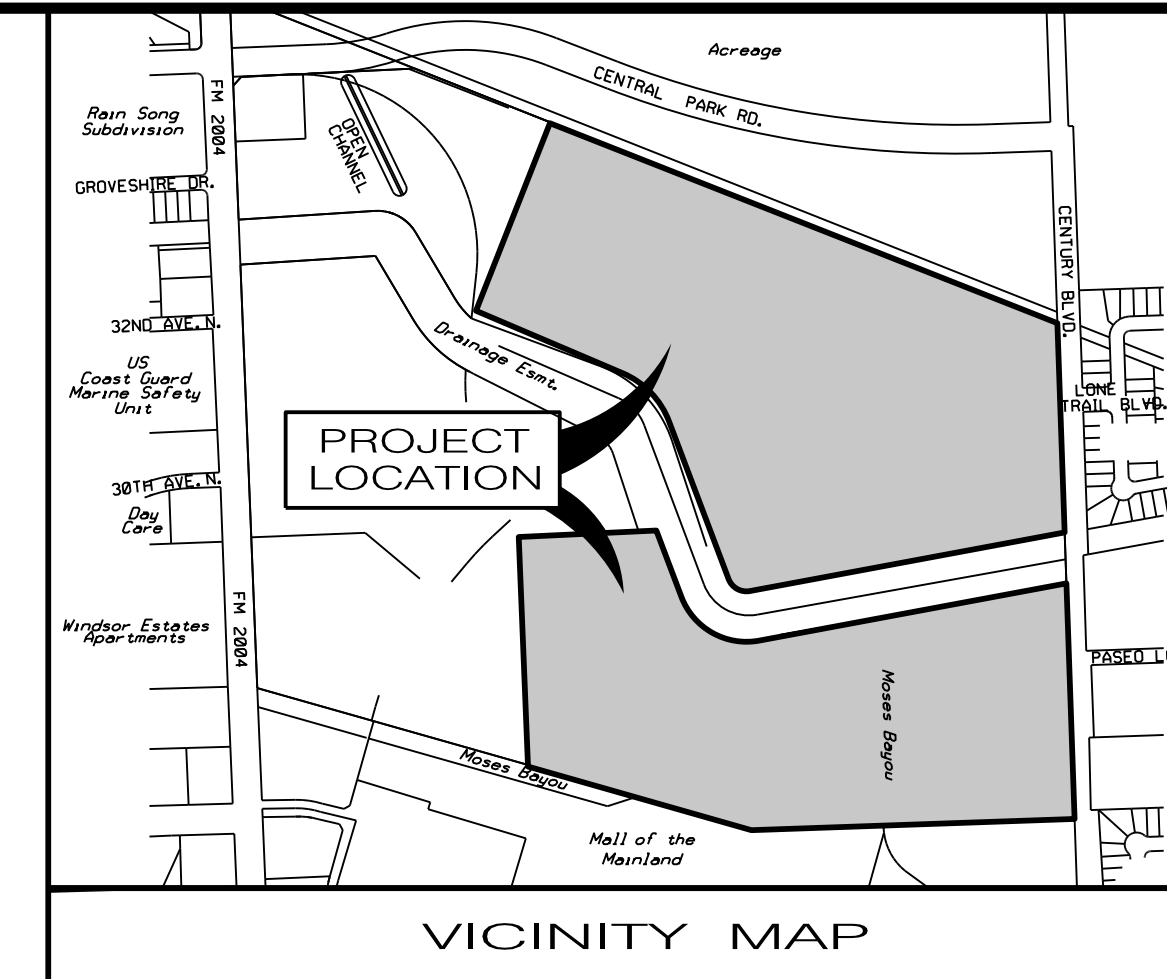
1. ALL RIGHT OF WAYS ARE SIXTY (60) FEET IN WIDTH UNLESS OTHERWISE NOTED.
2. ALL CUL-DE-SAC RADIUS ARE FIFTY (50) FEET UNLESS OTHERWISE NOTED.

— MASONRY WALL

Note:

THE DETENTION POND SERVING PHASES 1, 2 AND 3 WILL BE PHASED AND THE TRAIL SYSTEM AROUND THE POND WILL BE BUILT WITH PHASE 3 OF THE POND.

**LOT SUMMARY:**  
50' X 120' 370 LOTS



PARK / TRAIL TABLE	
PARK ACREAGE	1.69 ACRES
TRAIL ACREAGE	3.56 ACRES
TOTAL	5.25 ACRES

CURVE DATA TABLE

NUMBER	ARC LENGTH (FEET)	RADIUS (FEET)	DELTA ANGLE	CHORD DIRECTION	CHORD LENGTH (FEET)
C1	111.50	80.00	79° 51' 26"	N 60° 37' 2"	102.69
C2	286.54	355.00	46° 14' 47"	N 43° 49' 7"	278.82
C3	404.19	290.00	79° 51' 26"	S 60° 37' 2"	372.26

GENERAL PLAN OF  
**CENTRAL PARK**

BEING +/- 109.73 ACRES OF  
LAND OUT OF THE  
W.K. WILSON SURVEY, A-208  
GALVESTON COUNTY, TEXAS

OCTOBER, 2019

PREPARED BY:

**Costello**



ENGINEER/SURVEYOR:

2107 CITY WEST BLVD., 3RD FLOOR  
HOUSTON, TEXAS 77042  
(713) 783-7788 FAX: 783-3580  
TBPE FIRM REGISTRATION NO. 280  
TBPLS FIRM REGISTRATION NO. 100486

OWNERS:  
**MERITAGE HOMES OF TEXAS, LLC**  
AN ARIZONA LIMITED LIABILITY COMPANY  
DAVID JORDAN SR., VICE PRESIDENT  
3250 BRIARPARK, SUITE 100  
HOUSTON, TEXAS 77042  
713-690-1166

# Memo

**To:** Mayor and City Commission  
**From:** Doug Kneupper, City Engineer   
**CC:**  
**Date:** October 9, 2019  
**Re:** Central Park (Meritage Homes), Master Subdivision Plan

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**Background:** Meritage Homes of Texas has had several meetings with City staff to discuss the proposed single-family residential development. The project will be on approximately 110-acres of undeveloped land that is generally west of Century Blvd., south of the GCWA canal, and across from Lone Trail Village subdivision. The entire tract is currently zoned single-family residential. The project will provide 50' wide lots, which is the City's minimum.

The developer is not contemplating any Municipal Utility District creation or annexation for this tract which would require consent from the City.

**Staff Analysis / Recommendation:** In reviewing the Master Plan, the total lot yield will be approximately 370 lots. As previously stated, all lots will generally be 50' wide by 120' deep, meeting the City's minimum lot size for single-family residential. However, there will be corner lots and cul-de-sac lots that will be wider and have more square footage.

An important component to a viable residential development is providing parks and meaningful open spaces. There are park and open space areas being provided. There is a 3/4<sup>th</sup> acre park site shown in Phase 1. In addition, there are two detention areas that will have the high bank areas developed as Park / Trail and will provide approximately 3.5 acres of meaningful open space. The first one will be developed with Phase 3, with the second being part of Phase 4.

The developer will construct a solid masonry fence along Century Blvd. and along the north and south boundaries, adjacent to Century Blvd., within the limits of the Gateway Overlay District.

The developer will need to provide for the creation of a Homeowner's Association that will be responsible for maintenance of parks and common areas. The HOA document will also need to provide strong language regarding the HOA's ability to keep the subdivision clean, attractive, and sustainable by abating nuisance and property maintenance type issues.

Roadway access into Central Park will be two divided boulevard roadways that connect directly with Century Blvd. There will be a need for a right-turn decel lanes leading into the subdivision; but that is more of a design feature that will be introduced during final plat phase. With regard to internal vehicle circulation; the Master Plan provides for a street connection to cross the

drainage channel providing school bus, passenger vehicle, and pedestrian connectivity to all parts of the subdivision.

Water distribution facilities are available to serve this project. Sanitary sewer service will utilize a regional lift station that is located south of this subdivision adjacent to Century Blvd. Currently, improvements and upgrades to the lift station are being constructed. Staff will monitor this issue very closely to insure sewer service can be provided to residential lots that are platted and ready for homebuilders.

Drainage and stormwater management will be based on a Drainage Impact Study that suggests some of the development can discharge directly into Ditch 6; and some of the development will require detention. Ultimately GCDD 2 will review and have approval authority regarding any stormwater discharge into their Ditch 6 system.

The Planning Board has reviewed the Master Plan and recommends approval. The Master Plan provides the pathway for the developer to move forward with the project and submit preliminary plats and construction plans for developing the residential sections.

**CITY COMMISSION REGULAR MTG**

**(9) (a)**

**Meeting Date:** 10/16/2019

**Submitted By:** Rhomari Jackson, City Secretary

**Department:** City Secretary

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**Information**

**ACTION REQUEST (Brief Summary)**

Approve City Commission Minutes for October 2, 2019 meeting. (City Secretary)

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Minutes

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REGULAR CALLED CITY COMMISSION MEETING

MINUTES

WEDNESDAY, OCTOBER 2, 2019 – 5:00 P.M.  
KENNETH T. NUNN COUNCIL ROOM – CITY HALL

A Regular Called Meeting of the City Commission was held on Wednesday, OCTOBER 2, 2019, at 5:00 P.M. in the Kenneth T. Nunn Council Room in City Hall, Texas City, Texas. A quorum having been met, the meeting was called to order at 5:05 p.m. by Mayor Matthew T. Doyle.

1. ROLL CALL

Present: Matthew T. Doyle, Mayor  
Phil Roberts, Mayor Pro Tem, Commissioner At-Large  
Bruce Clawson, Commissioner At-Large  
Earl Alexander, Commissioner District 1  
Abel Garza, Jr., Commissioner District 2  
Dorthea Jones, Commissioner District 3  
Jami Clark, Commissioner District 4

2. INVOCATION

Led by Dr. Robert Miller of First Baptist Church.

3. PLEDGE OF ALLEGIANCE

Led by Commissioner At-Large Bruce Clawson.

4. PROCLAMATIONS AND PRESENTATIONS

a. Texas City Lions Club 80th Anniversary

Proclamation accepted by John Mitchell on behalf of the Lions Club.

5. REPORTS

a. Aquatic Program (Recreation and Tourism)

Kelly Bender, Aquatics Coordinator, gave a PowerPoint presentation over the City's Aquatic program and pool usage.

Jayda Hoff was presented with a certificate for her accomplishments on the Texas City swim team.

6. PUBLIC HEARING

- a. Fidelina Ramirez/Angie Boudreaux request to rezone from "A" (Single Family Residential) to "O-P" (Office Professional) to construct a commercial building to be used as a dialysis facility. Being 2.36 acres out of Blocks 2,5 and the abandoned 8th Ave. right-of-way of Highlands Addition S/d. Located in the 800 blk. of 34th St. N.

Motion by Commissioner District 2 Abel Garza, Jr., Seconded by Commissioner At-Large Bruce Clawson to close the Public Hearing.

**Vote:** 7 - 0 CARRIED

7. PRELIMINARY ZONING APPROVAL

- a. Consider approval of the request by Fidelina Ramirez/Angie Boudreaux to rezone from "A" (Single Family Residential) to "O-P" (Office Professional) to construct a commercial building to be used as a dialysis facility.

Motion by Commissioner At-Large Bruce Clawson, Seconded by Commissioner District 3 Dorthea Jones to approve the request by Fidelina Ramirez and Angie Boudreaux.

**Vote:** 7 - 0 CARRIED

8. PRELIMINARY PLAT APPROVAL

- a. Consider approval of Master Plan for Central Park Subdivision, being 89.75 acres out of the W.K. Wilson Survey and consisting of 357 lots. Located east of Century Boulevard and north of Lone Trail Village.

Motion by Commissioner At-Large Bruce Clawson, Seconded by Commissioner District 2 Abel Garza, Jr. to approve the Master Plan for Central Park Subdivision.

**Vote:** 7 - 0 CARRIED

9. CONSENT AGENDA

- a. Approve City Commission Minutes for September 18, 2019 meeting. (City Secretary)

**Vote:** 7 - 0 CARRIED

- b. Consider and take action on Resolution No. 19-091, approving the appointments and/or re-appointments to various Boards, Commissions, and Committees. (Management Services)

**Vote:** 7 - 0 CARRIED

- c. Consider and take action on Resolution No. 19-092, approving an agreement with a third party administrator(s) for the City's self-funded health, stop loss and other employee insurance benefits. (Human Resources)

**Vote:** 7 - 0 CARRIED

- d. Consider and take action on Resolution No. 19-093, approving and authorizing the Mayor to enter into a Professional Services Agreement with Axon Enterprise, Inc. to provide portable digital media recorder services to the Fire Department. (Fire Department)

**Vote: 7 - 0 CARRIED**

- e. Consider and take action on Resolution No. 19-094, approving the Lease Agreement between Texas City Salvation Army of Galveston County and the City of Texas City. (Recreation and Tourism)

**Vote: 7 - 0 CARRIED**

- f. Consider and take action on Resolution No. 19-095, approving the execution of an engineering agreement with ARKK Engineers, LLC., for the 14th Street Ditch Improvements Project. (Public Works)

**Vote: 7 - 0 CARRIED**

- g. Consider and take action on a Resolution No. 19-096, authorizing the filing of an application with the Texas Parks and Wildlife Department for funding of the Dike Road Boat Ramp Bulkhead Improvements. (Public Works)

**Vote: 7 - 0 CARRIED**

- h. Consider and take action on Resolution No. 19-097, approving the execution of an engineering agreement with ARKK Engineers, LLC, for the Final Design and Construction Phases of the Fire Department Training Facility on Humble Camp Road. (Public Works)

**Vote: 7 - 0 CARRIED**

10. MAYOR'S COMMENTS

Mayor Doyle congratulated Commissioner Dorthea Jones for her award nomination at the 14th Annual Community Recognition Celebration will be held Thursday, Oct. 17, 2019.

11. STAFF COMMENTS

Jennifer Price, HR Director, stated that there will be a blood drive on October 3, 2019.

Luke Alvey, Library Director, stated that he is currently working with Department Directors and County Officials to coordinate the 2020 Census.

Dennis Harris, Recreation and Tourism Director, stated that the 6th Annual Breast Cancer Awareness Run/ Walk will be on October 5, 2019.

Dominick Zavala, Media Relations Apprentice, stated that Touch-A-Truck will be held on 6th Street on October 26, 2019.

COMMISSIONERS' COMMENTS

Commissioner Earl Alexander thanked the Lions Club for the scholarships and support that they give to local students.

Commissioner Phil Roberts stated that the October 1, 2019 National Night Out was a great success and great fun.

12. ADJOURNMENT

Having no further business, Mayor Matthew T. Doyle made a MOTION to ADJOURN at 5:51 p.m.

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MATTHEW T. DOYLE, MAYOR

ATTEST:

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Nicholas J. Finan, City Secretary

**CITY COMMISSION REGULAR MTG**

**(9) (b)**

**Meeting Date:** 10/16/2019

2019/20 Public Consulting Group Extension of Service Contract

**Submitted For:** David Zacherl, Fire Department

**Submitted By:** Cindy Baker, Fire Department

**Department:** Fire Department

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**Information**

**ACTION REQUEST (Brief Summary)**

Authorization for the Mayor to execute an extension of the agreement for professional services with Public Consulting Group, Inc. to continue a program that provides additional revenue to the Fire Department EMS program.

**BACKGROUND**

On January 21, 2015 the City Commission authorized the Mayor to enter into an agreement with Public Consulting Group, Inc. to provide professional services related to supplemental Medicare and Medicaid Services.

**ANALYSIS**

The agreement permits extension of the original two year agreement for three additional twelve month periods. This request covers the third and final 12 month period of extension.

**ALTERNATIVES CONSIDERED**

None

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**Fiscal Impact**

**Attachments**

Resolution

Exhibit A

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**RESOLUTION NO. 19-098**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXTEND THE AGREEMENT WITH PUBLIC CONSULTING GROUP, INC FOR PROFESSIONAL SERVICES RELATED TO THE ADMINISTRATION OF THE FEDERAL GOVERNMENT AMBULANCE SUPPLEMENTAL PAY PROGRAM DESIGNED TO PROVIDE ADDITIONAL REVENUE TO THE FIRE DEPARTMENT EMS PROGRAM; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

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**WHEREAS**, The Centers for Medicare and Medicaid Services (CMS) allows states to establish alternative payment methodologies (Supplemental Payments) for certain classes of providers pursuant to 42 CFR 447.321, section 1902(a)(30) of the Social Security Act; and

**WHEREAS**, The alternative payment methodologies would supplement current Medicaid payments received by the City of Texas City, and would be based on cost reimbursement for Medicaid-eligible costs; and

**WHEREAS**, CONTRACTOR possesses professional skills that can assist the City of Texas City in analyzing and reporting costs to secure supplemental CMS payments; and

**WHEREAS**, the City of Texas City previously engaged CONTRACTOR as an independent contractor to perform certain professional services in connection with this initiative in January, 2015; and

**WHEREAS**, the agreement permits extension by mutual consent of the Party's.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City hereby authorizes the Mayor to extend the Agreement with Public Consulting Group, Inc. in substantially the same form attached hereto as **Exhibit "A"** and made part thereof.

**PASSED AND ADOPTED this 16th day of October, 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

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Nicholas J. Finan  
City Secretary

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Russell F. Plackemeier  
City Attorney

## AMENDMENT NO. 3 TO THE CONTRACTOR AGREEMENT

This Third Amendment (the "Amendment") to that certain Contractor Agreement entered by City of Texas City, Texas ("CITY") and Public Consulting Group, Inc. ("PCG"), as of January 22, 2015 (the "Agreement"), is made effective as of October 16, 2019.

**WHEREAS**, the parties agree to amend the Agreement pursuant to Attachment B of the Contractor Agreement to extend the agreement for contractor services for a 12-month period.;

**NOW, THEREFORE**, in consideration of the foregoing, the premises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. The parties agree that the Contractor Agreement shall be extended for a 12-month period. With this amendment, PCG will provide Texas City with professional services to assist the City in collecting additional revenue from the Ambulance Supplemental Payment Program for Fiscal Year 2018 (October 1, 2018 – September 30, 2019). This is the third option exercised on the agreement and no options remain.
2. Conflict in Terms. Except as amended and/or modified by this Amendment, the Agreement is hereby ratified and confirmed and all other terms of the Agreement shall remain in full force and effect, unaltered and unchanged by this Amendment. Whether or not specifically amended by this Amendment, all of the terms and provisions of the Agreement are hereby amended to the extent necessary to give effect to the purpose and intent of this Amendment.
3. Authorship. The Parties agree that the terms of this Amendment result from negotiations between them. This Amendment will not be construed in favor of or against either Party by reason of authorship.
4. Severability. If any provision in this Amendment is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions in this Amendment shall continue in full force and effect.
5. Waiver. The failure of a party to enforce a provision of this Amendment shall not constitute a waiver with respect to that provision or any other provision of this Amendment.
6. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart.
7. Authority. Each Party to this Amendment, and each individual signing on behalf of each Party, hereby represents and warrants to the other that it has full power and authority to



148 State Street  
10<sup>th</sup> Floor  
Boston, MA 02109

enter into this Amendment and that its execution, delivery, and performance of this Amendment has been fully authorized and approved, and that no further approvals or consents are required to bind such Party.

8. Entire Agreement; Non-Reliance. The Agreement, as amended by this Amendment, constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof, and supersedes any and all prior agreements, understandings or representations with respect thereto. Neither Party is relying upon any agreement or representation by the other Party except as set forth in the Agreement, as amended by this Amendment.

9. Applicable Law, Jurisdiction, and Venue. This Amendment is to be construed, interpreted, and enforced under and in accordance with the same governing law as set forth in the Agreement, without regard to choice of law provisions. The parties consent to personal jurisdiction in that state or district's courts and that venue is appropriate.

**IN WITNESS WHEREOF**, Texas City and PCG have executed this Amendment as of the date stated above.

PUBLIC CONSULTING GROUP INC.

CITY of TEXAS CITY, TEXAS

By: [Signature]

By: \_\_\_\_\_

Name: MATTHEW SORENTINO

Name: \_\_\_\_\_

Title: MANAGER

Title: \_\_\_\_\_

Date: 9/30/19

Date: \_\_\_\_\_

**CITY COMMISSION REGULAR MTG**

**(9) (c)**

**Meeting Date:** 10/16/2019

Authorize the purchase of Two (2) Staff Units for the fire department

**Submitted For:** David Zacherl, Fire Department

**Submitted By:** Cindy Baker, Fire Department

**Department:** Fire Department

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**Information**

**ACTION REQUEST (Brief Summary)**

Authorize the purchase of Two (2) Staff Units for the fire department from Silsbee Ford in the amount of \$84,696.00 through the H.G.A.C. Buy Program.

**BACKGROUND**

Funds are available in the FY19-20 Capital Equipment Replacement Fund to replace two (2) Staff Units that are scheduled for replacement in the Fire Equipment Cycle program. One (1) Unit is 15 years of age and the other is 14 years of age and a previous PD patrol unit that was transferred as part of the Battalion Chief initiative.

**ANALYSIS**

All contracts available to members of HGAC Buy Program have been awarded by virtue of a public competitive procurement process compliant with state statutes.

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Resolution

Exhibit A

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**RESOLUTION NO. 19-099**

**A RESOLUTION APPROVING THE PURCHASE OF TWO STAFF UNITS, THROUGH THE HOUSTON-GALVESTON AREA COUNCIL (H-GAC) BUY PROGRAM, FOR THE FIRE DEPARTMENT; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

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**WHEREAS**, the Fire department desires to purchase two (2) Staff Units from Silsbee Ford through the Houston Galveston Area Council (H-GAC) Buy Program; and

**WHEREAS**, funds are available in the FY 19-20 Capital Equipment Replacement Fund budget; and

**WHEREAS**, this purchase is intended to replace two (2) Staff Units that are 14 and 15 years of age respectively and scheduled for replacement in the Fire Equipment Cycle program.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas, hereby approves the purchase of (2) Staff Units for \$84,696.00 from Silsbee Ford through the Houston-Galveston Area Council (H-GAC) Buy Program.

**SECTION 2:** That this equipment is to be utilized by the Fire Department.

**SECTION 3:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 16th day of October, 2019.**

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Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

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Nicholas J. Finan

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Russell F. Plackemeier

City Secretary

City Attorney



**CITY COMMISSION REGULAR MTG**

**(9) (d)**

**Meeting Date:** 10/16/2019

Mutual Aid agreement between County of Galveston and the City of Texas City (Fire Department)

**Submitted For:** David Zacherl, Fire Department

**Submitted By:** Cindy Baker, Fire Department

**Department:** Fire Department

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action authorizing the Mayor to execute a one year agreement between the County of Galveston and the City of Texas City for Mutual Aid. (Fire Department)

**BACKGROUND**

New annual agreement replacing the 2018/19 Agreement between the parties.

**ANALYSIS**

City to provide mutual aid to unincorporated areas of Galveston County for \$22,500.00 from the Commissioners Court.

**ALTERNATIVES CONSIDERED**

None

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**Fiscal Impact**

**Attachments**

Resolution

Exhibit A

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**RESOLUTION NO. 19-100**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE COUNTY OF GALVESTON, TEXAS AND THE CITY OF TEXAS CITY, TEXAS, FOR MUTUAL AID; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, the City of Texas City, Texas, wishes to formalize a FY2019/20 Mutual Aid Agreement between the County of Galveston and the City of Texas City, for mutual aid; and

**WHEREAS**, Chapter 352 of the Local Government Code, "County Fire Department" and Chapter 791 of the Government Code, "Interlocal Cooperation Act," provides authority that the Commissioners' Court may contract the governing body of a municipality to provide protection services to locations outside the municipalities; and

**WHEREAS**, citizens residing within the unincorporated areas of the County of Galveston, surrounding City of Texas City, city limits are in need of obtaining the services of the City of Texas City to assist them in time of need; and

**WHEREAS**, the City of Texas City is willing to make its fire protection services available to unincorporated areas of the County of Galveston.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas hereby approves the FY FY2019/20 Mutual Aid Agreement between the County of Galveston and the City of Texas City, and the Mayor is authorized to execute the FY FY2019/20 Mutual Aid Agreement, in the same or similar format attached hereto as Exhibit "A" and made a part hereof.

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 16th day of October, 2019.**

\_\_\_\_\_  
Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Nicholas J. Finan  
City Secretary

\_\_\_\_\_  
Russell F. Plackemeier  
City Attorney



4. It is expressly agreed and understood between the parties that the County shall have no right at any time to supervise, manage, direct or control the City and its members in the performance of their services. The City shall totally decide and be responsible for the manner, means and methods by which they operate.
5. It is further agreed and understood between the parties that in accordance with §352.004 of the Local Government Code, V.T.C.A., the acts of any person who, in the act of carrying out the County's authority to provide fire protection under this agreement, furnishes fire protection to a county resident who lives outside the municipalities in the County, including the act of person who is a regular employee or fire fighter of a municipality, is considered to be the act of an agent of the County.
6. It is further agreed that the City is not liable for the acts of its employee in fighting fires outside the City under this Contract. However, it is acknowledged that the City will continue any responsibilities it may have to provide workers' compensation, to any employees who provide firefighting services under this Contract.
7. Nothing in this Contract shall be construed to waive any provision contained within Chapter 74 of the Civil Practice and Remedies Code of the State of Texas, commonly known as the Good Samaritan Law.
8. To the extent permitted by the Constitution and laws of the State of Texas, City agrees to indemnify and save harmless the county of Galveston, its agents, Commissioners, Boards, Officers and employees from any and all suits, actions, or claims of any character, type or description brought or made for or on account of any injuries or damages received or sustained by any person or persons arising out of or occasioned by the acts of the Fire Department, its members, deputies, agents or employees.
9. During the term of this Contract, the City agrees to:
  - a) Maintain membership in the Galveston County Firefighters Association,
  - b) Comply with the Texas Commission on Fire Protection (TCFP) and any other applicable Federal and State regulatory agency, and submit an annual letter stating such compliance to the Galveston County Fire Fighters Association.
10. Equal Employment Opportunity - The City agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, genetic information, or veteran status. 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 for training, including apprenticeship. The recipient agrees to post notices, which set forth the provisions of this non-discrimination section, in conspicuous places available to employees or applicants for employment and will, in all solicitation or advertisements for employees placed by or on behalf of the recipient, state that all qualified applicants will receive consideration for employment without regard to

race, color, religion, national origin, sex, disability, genetic information, or veteran status.

11. Drug-Free Workplace – the City shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. § 8102, et seq.) and implementing regulations there under and maintain a drug-free work environment.
12. Americans With Disabilities Act – the City shall comply with all applicable terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (Public Law 101-136) and implementing regulations there under.
13. Nondiscrimination – the City acknowledges and agrees that neither it nor its subcontractors shall discriminate on the basis of race, color, religion, national origin, sex, disability, genetic information, or veteran status. Respondent and its subcontractors shall comply with all Federal statutes relating to nondiscrimination. These laws include, but are not limited to:
  - Title VI of the Civil Rights Act of 1964
  - Title IX of the Education Amendments of 1972
  - The Rehabilitation Act of 1973, Section 503
  - The Rehabilitation Act of 1973, Section 504
  - The Age Discrimination Act of 1975
  - The Drug Abuse Office and Treatment Act of 1972
  - The Drug-Free Workplace Act of 1988
14. This Contract shall begin effective upon the execution of this document by both parties and shall terminate on September 30, 2020.
15. This Contract constitutes the only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the within subject matter. The City disclaims any reliance on representations by the County that are not expressly set out in this Contract.
16. In the event any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intention of the parties. The remainder of the provisions shall remain in full force and effect.
17. Neither party's failure to enforce strict performance of any provisions of this Agreement shall be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.
18. This Agreement will be governed by and construed in accordance with the laws of the State of Texas and venue shall lie in Galveston County.
19. Each signatory to this Agreement certifies that he/she has been authorized by their entity to execute this Agreement.

20. This Agreement is being executed with multiple originals signed by both parties.

GALVESTON COUNTY, TEXAS

By: \_\_\_\_\_  
Mark Henry,  
County Judge

ATTEST:

\_\_\_\_\_  
Dwight D. Sullivan,  
County Clerk

CITY OF TEXAS CITY, TEXAS

By: \_\_\_\_\_  
City Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

**CITY COMMISSION REGULAR MTG**

**(9) (e)**

**Meeting Date:** 10/16/2019

Appointment of Municipal Court Judges

**Submitted For:** Tammy Odom, Municipal Court    **Submitted By:** Tammy Odom, Municipal Court

**Department:** Municipal Court

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. xx-xxx, approving appointments and/or re-appointments of Municipal Court Judges. (City Secretary)

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**CITY COMMISSION REGULAR MTG**

**(9) (f)**

**Meeting Date:** 10/16/2019

Consent to the creation of a Municipal Utility District

**Submitted For:** Doug Kneupper, Transportation and Planning

**Submitted By:** Doug Kneupper, Transportation and Planning

**Department:** Transportation and Planning

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider approval of a resolution consenting to the creation of Galveston County Municipal Utility District No. 79, being 90 acres of land on the east side of Century Blvd., and being developed as a single-family residential subdivision known as Central Park.

**BACKGROUND**

This request for creation of a Municipal Utility District (MUD) is for a new single-family residential development known as Central Park. The project is located east of Century Blvd., and north of Lone Trail Village.

The City's policy regarding creation of a new MUD requires the developer's project to be designed to a higher standard with regard to parks, amenities, neighborhood features, etc. On October 2nd, the Commission reviewed and approved a Master Plan for the developer's residential project, Central Park. This Master Plan demonstrated how the "higher standard" benchmark would be met.

If approved, the MUD would provide a funding mechanism to reimburse the developer for expenses associated with water distribution, wastewater collection, drainage, roads, and park facilities.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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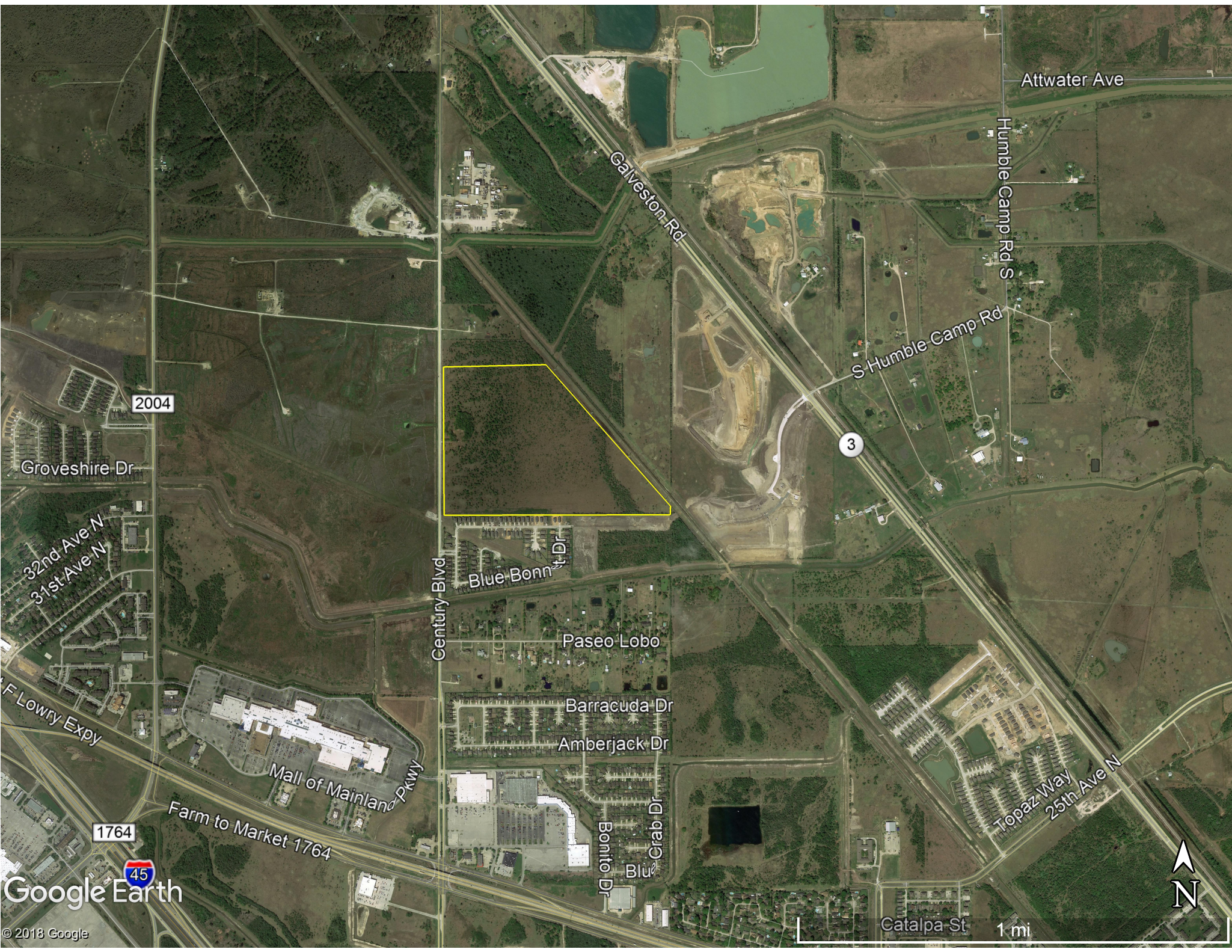
**Fiscal Impact**

**Attachments**

Aerial Exhibit

Petition for Consent

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Attwater Ave

Humble Camp Rd S

S Humble Camp Rd

3

Galveston Rd

2004

Groveshire Dr

32nd Ave N  
31st Ave N

Century Blvd

Blue Bonn  
St Dr

Paseo Lobo

Barracuda Dr

Amberjack Dr

F Lowry Expy

Mall of Mainland Pkwy

1764

Farm to Market 1764

Bonito Dr  
Blue Crab Dr

Topaz Way  
25th Ave N

Google Earth



© 2018 Google

Catalpa St

1 mi



PETITION FOR CONSENT TO THE CREATION  
OF A MUNICIPAL UTILITY DISTRICT

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF TEXAS  
CITY, TEXAS:

BINNACLE TEXAS CITY NINETY LLC, a Texas limited liability company (the "Petitioner"), acting pursuant to the provisions of Chapters 49 and 54, Texas Water Code, respectfully petitions the City Council of the CITY OF TEXAS CITY, TEXAS (the "City"), for its written consent to the creation of a municipal utility district and would show the following:

I.

The name of the proposed District shall be GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT NO. 79 (the "District").

II.

The District shall be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, together with all amendments and additions thereto.

III.

The District shall contain an area of 89.756 acres of land, more or less, situated in Galveston County, Texas. All of the land to be included in the District is within the corporate limits of the City. All of the land proposed to be included may properly be included in the District. The land proposed to be included within the District is described by metes and bounds in **Exhibit A**, which is attached hereto and incorporated herein for all purposes (the "Land").

IV.

The Petitioner hereby represents that it owns fee simple title to the Land, as indicated by the certificate of ownership of the Galveston Central Appraisal District.

V.

The Petitioner represents that there are no lienholders on the Land other than Sterling Commercial Properties, LLC, a Texas limited liability company.

## VII.

The general nature of the work proposed to be done by the District at the present time is the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of a waterworks and sanitary sewer system and a drainage and storm sewer system for residential and commercial purposes, and the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, and such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities, including roads, parks and recreational facilities, systems, plants and enterprises as shall be consistent with all of the purposes for which the District is created.

## VIII.

There is, for the following reasons, a necessity for the above-described work. The Land is urban in nature, is within the growing environs of the City, and is in close proximity to populous and developed sections of Galveston County, Texas. There is not now available within the area, which will be developed for single family residential and commercial uses, an adequate waterworks system, sanitary sewer system, or drainage and storm sewer system or adequate roads or park and recreational facilities. The health and welfare of the present and future inhabitants of the area and of the territories adjacent thereto require the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of an adequate waterworks system, sanitary sewer system, drainage and storm sewer systems, roads and park and recreational facilities. A public necessity, therefore, exists for the creation of the District, to provide for the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of such waterworks system, sanitary sewer system, drainage and storm sewer systems, and such roads and park and recreational facilities to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

## IX.

The Petitioner hereby agrees and covenants that if the requested consent to the creation of the District is given, the Petitioner will adopt and abide by, and will cause the District upon its final creation to adopt and abide by, the conditions set forth in **Exhibit B** attached hereto and incorporated herein for all purposes.

X.

A preliminary investigation has been made to determine the cost of the proposed District's waterworks system, sanitary sewer system, and drainage and storm sewer system projects, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$13,880,000.

XI.

A preliminary investigation has been made to determine the cost of the proposed District's road projects, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$10,345,000.

XII.

A preliminary investigation has been made to determine the cost of the proposed District's park and recreational facilities, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$3,775,000.

XIII.

The total cost of the proposed District's projects is estimated by the Petitioner to be approximately \$28,000,000.

WHEREFORE, the Petitioner prays that this petition be heard and that the City Council duly pass and approve an ordinance or resolution granting the consent to the creation of the District and authorizing the inclusion of the Land within the District.

*[Signature page follows this page.]*

RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**BINNACLE TEXAS CITY NINETY LLC, a  
Texas limited liability company**

By: Binnacle Development LLC, a  
Texas limited liability company,  
its sole Member

By: \_\_\_\_\_  
Jerry W. LeBlanc, Jr.  
Managing Member

THE STATE OF TEXAS                   §  
   §  
COUNTY OF \_\_\_\_\_           §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2019, by Jerry W. LeBlanc, Jr., Managing Member of Binnacle Development LLC, a Texas limited liability company, sole Member of BINNACLE TEXAS CITY NINETY LLC, a Texas limited liability company, on behalf of said limited liability companies.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

- Attachments:**  
**Exhibit A** - Description of the Land  
**Exhibit B** - Conditions of City of Texas City

## EXHIBIT A

### METES AND BOUNDS DESCRIPTION

Being an 89.756 acre tract of land out of the W.K. Wilson Survey, Abstract No. 208, situated in Galveston County, Texas, said tract being more particularly described as follows:

Beginning at 5/8 inch rod found at the Northeast corner of Reserve "G", of Lone Trail Village, Section 2, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded under Instrument No. 2015065398, in the Office of the County Clerk of Galveston County, Texas, said point also being the Southeast corner of a 0.3145 acre tract of land conveyed to the City of Texas City, in deed recorded under Instrument No. 2010044266 in the Office of the County Clerk of Galveston County, Texas;

Thence North 00°03'00" East along the East line of said 0.3145 tract, a distance of 685.00 feet to the Northeast corner of said 0.3145 acre tract, and a set 1/2 inch rod;

Thence North 89°57'00" West along the North line of said 0.3145 acre tract, a distance of 20.00 feet to a point in the East line of Century Boulevard (AKA Johnny Palmer Road), being a variable width right-of-way, and a set 1/2 inch rod;

Thence North 00°03'00" East along the East line of said Century Boulevard, a distance of 1,220.23 feet to the Southwest corner of a 6.000 acre tract of land conveyed to Nancy Gatewood, in deed recorded under Instrument No. 201057327 in the office of the County Clerk of Galveston County, Texas, from which a found 5/8 inch rod bears North 12°24'04" West, a distance of 0.7 feet;

Thence South 89°57'00" East along the South line of said Gatewood tract, a distance of 1,247.29 feet to a 1/2 inch rod set in the Southwesterly line of a tract of land conveyed to Galveston - Houston Electric Railway Company, according to deed recorded in Volume 241, Page 76 in the office of the County Clerk of Galveston County, Texas;

Thence South 40°29'00" East along the Southwesterly line of said Galveston - Houston Electric Railway Company tract, a distance of 2,366.49 feet to a 1/2 inch rod set in the West line of a 115.74 acre tract of land conveyed to SSLT, LLC., in deed recorded under Instrument No. 2017011172, in the office of the County Clerk of Galveston County, Texas;

Thence South 00°03'00" West along the West line of said SSLT, LLC tract, a distance of 106.63 feet to the Northeast corner of a 10.93 acre tract of land conveyed to Lone Trail Development, LLC., in deed recorded under Instrument No. 2014060494, in the office of

the County Clerk of Galveston, Texas, from which a 2 inch pipe bears North 46°05'48" West, a distance of 0.5 feet;

Thence North 89°57'00" West along the North line of said Lone Trail Development, LLC. tract, at a distance of 1,220.15 feet pass a 5/8 inch rod found at the Northwest corner of said Lone Trail Development, LLC. tract, same being the Northeast corner of said Lone Trail Village, Section 2, and continuing along the North line of said Lone Trail Village, Section 2, for a total distance of 2,765.25 feet to the Point of Beginning of the herein described tract.

## Exhibit "B"

(a) Bonds will be issued by the District only for the purpose of purchasing and constructing, or purchasing or constructing under contract with The City of Texas City, Texas, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, drainage facilities, fire-fighting facilities, parks and recreational facilities, and street, road and bridge facilities or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, right-of-way easements, sites, equipment, buildings, plants, structures, and facilities therefor, and to operate and maintain same, and to sell water, sanitary sewer, and other services within or without the boundaries of the District. Such bonds will expressly provide that the District reserves the right to redeem the bonds on any interest-payment date subsequent to the fifteenth (15th) anniversary of the date of issuance without premium and will be sold only after the taking of public bids therefor, and none of such bonds, other than refunding bonds, will be sold for less than 95% of par; provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given. The resolution authorizing the issuance of the District's bonds will contain a provision that any pledge of the revenues from the operation of the District's water and sewer and/or drainage system to the payment of the District's bonds will terminate when and if the City of Texas City, Texas, dissolves the District, takes over the assets of the District and assumes all of the obligations of the District. No land will be added or annexed to the District until The City of Texas City, Texas, has given its written consent by resolution of the City Commission to such addition or annexation.

(b) Any refunding bonds of the District must provide for a minimum of three percent present value savings and no maturity of the refunding bonds may extend beyond the latest maturity of the refunded bonds, unless approved by the City in writing prior to the sale thereof.

(c) Before the commencement of any construction within the District, the District, its directors, officers, or the developers and landowners will submit to the Director of Public Works and the City Engineer of The City of Texas City, Texas, or to his/her designated representative, all plans and specifications for the construction of water, sanitary sewer, and drainage facilities and street, road and bridge facilities to serve the District and obtain the approval of such plans and specifications. All water wells, water meters, flushing valves, valves, pipes, and appurtenances thereto, installed or used within the District, will conform exactly to the specifications of The City of

Texas City, Texas. All water service lines and sewer service lines, lift stations, sewage treatment facilities, and appurtenances thereto, installed or used within the District will comply with The City of Texas City, Texas' standard plans and specifications. Prior to the construction of such facilities within the District, the District or its engineer will give written notice by registered or certified mail to the Director of Public Works and the City Engineer, stating the date that such construction will be commenced. The construction of the District's water, sanitary sewer, and drainage facilities and street, road, and bridge facilities will be in accordance with the approved plans and specifications, and with applicable standards and specifications of The City of Texas City, Texas; and during the progress of the construction and installation of such facilities, the District Engineer of record shall periodically monitor and observe the construction of facilities and submit to the City a certification that all facilities have been installed to City and State plans and specifications. Additionally, the District shall provide funds to pay the City's cost of contracting with an inspector to provide full time monitoring and inspection of the construction of facilities. The Director of Public Works and the City Engineer of the City of Texas City, Texas, or his/her designated representative, may make periodic on-the-ground inspections.

**CITY COMMISSION REGULAR MTG**

**(9) (g)**

**Meeting Date:** 10/16/2019

Consider Approval of a Ground Lease with The Gulf Coast Center

**Submitted For:** Doug Kneupper, Transportation and Planning

**Submitted By:** Doug Kneupper, Transportation and Planning

**Department:** Transportation and Planning

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider approval of a ground lease between the City and Gulf Coast Center for 8.9 acres of land located at the southwest corner of Magnolia Ave. and 33rd Street.

**BACKGROUND**

The City owns 8.9 acres of undeveloped property at the southwest corner of Magnolia Ave. and 33rd Street. Previously, the City has committed to leasing the property to the Gulf Coast Center / Connect Transit. Leasing the property in this manner allows the GCC to utilize the market value of the lease (\$510,000) as local match for grants and other funding opportunities from H-GAC and Federal Transit Administration..

The term of the lease is 40 years and GCC is allowed to use the property for Public Transportation Operations and Administration Facility, and Commuter Park and Ride Facility. An additional benefit to the City is that patrons of the Carlos Garza Sports Complex can utilize the Park and Ride for overflow parking.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Aerial Exhibit  
Ground Lease

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Google Earth

© 2013 Google

Magnolia Ave

13th Ave N

31st 1/2 St N

31st St N

Palmer Hwy

32nd St N

15th Ave

14th Ave

Kingston Dr



1000 ft

GROUND LEASE

Between

City of Texas City,  
As Lessor

And

The Gulf Coast Center  
As Lessee



## TABLE OF CONTENTS

	<u>Page Number</u>
1. WORDS OF LEASING .....	1
2. PREMISES.....	1
3. TERM.....	2
4. USES .....	2
5. RENT .....	4
6. TAXES .....	4
7. UTILITIES .....	5
8. NET LEASE .....	5
9. IMPROVEMENTS .....	5
10. ACCESS .....	6
11. ENCUMBRANCE .....	9
12. ASSIGNMENT; SUBLETTING .....	7
13. INSURANCE; INDEMNITY .....	9
14. CASUALTY .....	12
15. CONDEMNATION.....	12
16. DEFAULT; REMEDIES .....	14
17. REPRESENTATIONS AND WARRANTIES.....	18
18. EXPIRATION; TERMINATION.....	18
19. GENERAL CONDITIONS; MISCELLANIOUS PROVISIONS .....	19
20. EXECUTION; MEMORANDUM OF LEASE .....	23

## GROUND LEASE

THIS GROUND LEASE ("Lease") is executed effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019 ("Effective Date"), by and between the City of Texas City, a political subdivision of the State of Texas ("Lessor"), and the Gulf Coast Center ("Lessee"), established pursuant to provisions of Chapter 534 of the Texas Health & Safety Code Ann. (Vernon 1992),

### 1. WORDS OF LEASING

1.01. Granting Clause. For and in consideration of the covenants made by Lessee herein, and \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor hereby leases and demises to Lessee and Lessee hereby leases and takes from Lessor the Premises (hereinafter defined), to have and to hold the Premises unto Lessee, its permitted successors and assigns, for and during the Term (hereinafter defined).

1.02. Covenant of Quiet Enjoyment. Lessor covenants and warrants, to the extent permitted under the laws and Constitution of the State of Texas, that, so long as Lessee is not in default hereunder, Lessee shall and may peaceably and quietly have, hold, occupy, use, and enjoy and shall have the full and unrestricted use and enjoyment of the Premises during the Term, subject only to any and all easements, rights-of-way, covenants, conditions, restrictions, and outstanding mineral interests and royalty interests, if any, relating to the Premises, to the extent the same may be in force and effect and either shown of record in the Real Property Records of Galveston County, Texas, or apparent on the Premises, and also subject to the approved Plans and Specifications (as hereinafter defined), and all applicable laws, ordinances, and regulations.

1.03. Premises Condition. Lessee accepts the Premises in their current condition AS IS, WHERE IS, and WITH ALL FAULTS and acknowledges that it has examined or will examine, in accordance with the provisions hereof, the Premises and the condition thereof, and that it has not relied on any representation or warranty by Lessor or Lessor's representatives, except as otherwise expressly stated herein, regarding the Premises, including any warranty or representation relating to value, suitability, fitness for a particular purpose, or condition of the Premises.

### 2. PREMISES

2.01. Definition. Except as expressly provided to the contrary in this Lease, reference to "Premises" is to the land described by metes and bounds on Exhibit A and shown on Exhibit A-1, which is located at the southwest intersection of 33<sup>rd</sup> and Magnolia across from the Carlos Garza Sports Complex, which land contains approximately eight (8) acres of land area, more or less, in the City of Texas City, Galveston County, Texas, together with all rights, easements, privileges, and appurtenances thereto or in anywise belonging.

### 3. TERM

3.01. Term. Subject to the terms and conditions hereof, the term of this Lease is for a period of forty (40) years (the "Term"), beginning on Commencement Date (hereinafter defined) and ending at midnight on the day immediately preceding the 40<sup>th</sup> anniversary of the Commencement Date, unless sooner terminated as provided for in this Lease. By mutual agreement of the parties hereto, the primary term of the lease may be extended for an additional ten (10) years, in accordance with the terms of this Ground Lease. Agreement on any extension of the lease term must occur no later than six (6) months prior to the termination of the primary term of this lease.

### 4. USES

4.01. Use. Lessee shall use the Premises solely for the construction, operation, maintenance, and repair of a Public Transportation Operations and Administration Facility and Commuter Park and Ride facility (The "Project") The Lessee may lease un-used space for other general commercial office or public use.

4.02. The Project shall be substantially in accordance with the drawings and plans attached hereto as Exhibit A-2 and incorporated herein for all purposes. Lessee shall not at any time during the Term after the Commencement Date abandon the Premises. Upon substantial completion of the Project Improvements, Lessee shall continuously operate and conduct in 100% of the Premises, the uses permitted by this section.

4.03. Reservation of Easement. Lessor reserves the right for future easements and other rights of access, to utilize a portion or portions of the premises for future property owners who have a contiguous property line with the subject tract. Lessor covenants and agrees that any easement or rights of access shall in no way impair the proposed operation of the Public Transportation Administration or Park and Ride or Facilities.

4.04. Special Provisions Related to Use. Lessee will finance most of the leasehold improvements through funding granted by the Federal Transit Administration (FTA), Texas Department of Transportation (TxDOT) and or other federal and state agencies. The federal funding will be secured through a "Grant Agreement" and/or a "Cooperative Agreement" with the Federal Transit Administration ("FTA") which agreements incorporate the Master Agreement for Federal Transit Administration Agreement authorized by 49 U.S.C 5301 *et seq.* Unless otherwise approved by the FTA, Lessee agrees, as a material covenant to Lessor as well as the to the FTA, to comply with the requirements of the FTA with respect to the Lessee's real property, equipment, and supplies financed by the Grant Agreement(s) or Cooperative Agreement (collectively, the "FTA Agreements"). Lessee agrees to use Premises for the purposes required by the FTA Agreements for the duration of the useful life of that

property, as required by the FTA. Should Lessee unreasonably delay or fail to use Premises property during the useful life, Lessee agrees that it may be required to return the entire amount of the Federal assistance expended on that property. Lessee acknowledges that Lessor is neither a sub-recipient nor third party contractor party to the FTA Agreements and Lessee, to the extent authorized by the Laws and Constitution of the State of Texas, shall indemnify and hold Lessor harmless against such obligation. Lessee further agrees to notify the FTA immediately when the Premises are withdrawn from the use required by the FTA Agreements or when Project property is used in a manner substantially different from the representations Lessee has made in its Application or the Project Description for the Grant Agreement or Cooperative Agreement for the Project. As used herein, "useful life" shall mean forty (40) years.

4.05. Reservation of Use. Lessor reserves the right to utilize leased premises for special events and other activities not inconsistent with the Lessee's intended use of the Premises for the project. This reservation of use includes times of emergencies and other extraordinary circumstances when facilities are required for safety, emergency management, and other events including but not limited to over-flow parking associated with Carlos Garza Spots Complex. Lessor will endeavor to provide Lessee with as much notice as may be practical related to such Reservation of Use.

4.06. Signs. Before erecting or placing any sign upon the Premises, Lessee shall submit the design and specifications of such sign to Lessor for approval, which approval shall not be unreasonably withheld and comply with all of Lessor's ordinances.

4.07. Compliance with Laws. Lessee shall comply with all ordinances, laws, and regulations of all governmental authorities applicable to and as are required for Lessee's use and operation of the Premises as such ordinances, laws, and regulations are enforced by any governmental authority having jurisdiction with respect to the Premises, including, without limitation, the Rules and Regulations of the City of Texas City and the institutional rules and policies of The Federal Transit Administration, State of Texas Department of Transportation, (collectively, "Governmental Regulations"). The City of Texas City may enforce and apply Governmental Regulations on the Premises and to any person in or on the Premises and may authorize officers and commissioned peace officers to provide such enforcement, subject to the jurisdictional limitations provided by law.

4.08. Limitation on Detrimental Uses

a. Lessee shall not use the Premises for any unlawful purpose nor cause, permit, or suffer any waste, damages, or injury to, or nuisance upon, any portion of the Premises. Lessee shall not permit any use of the Premises that is unlawful or sexually explicit or that pertains to sexually oriented businesses.

b. Lessee shall comply with all regulations, ordinances, rules, and laws regarding hazardous substances and wastes applicable to the Premises or to Lessee's or any Subtenant's occupancy and use of the Premises. Any hazardous substances or wastes located on the Premises and arising out of Lessee's or any Subtenant's, contractor's, employee's, or assignee's occupancy and use or activities on the Premises from and after the Effective Date and prior to expiration or earlier termination of this Lease shall be the responsibility of Lessee and Lessee shall be liable and responsible therefor, including, without limitation: (i) removal thereof from the Premises to the extent required by any governmental authority with jurisdiction of any such substances or wastes and the costs therefor; (ii) damages to persons, property, and the Premises caused thereby; (iii) claims resulting therefrom; (iv) fines and costs imposed by any governmental agency in respect thereto; and (v) any other liability as provided by law relating thereto. Lessee shall defend, indemnify, and hold harmless Lessor and Lessor's successors and assigns from any and all such responsibilities, damages, claims, fines, and liabilities, including, without limitation, any costs, expenses and attorney's fees therefor. This indemnification obligation shall survive the expiration or earlier termination of this Lease. No underground or other storage tanks storing hazardous substances shall be located by Lessee on the Premises. Lessee shall immediately disclose to Lessor any knowledge Lessee may have of any hazardous materials that have been stored, used, or disposed of on the Premises in violation of applicable laws.

## 5. RENT

5.01. From and after the Commencement Date. Lessee agrees to pay to Lessor annual Rent in the amount of \$1 per year. Lessee shall pay the Rent to Landlord in annual installments in advance, making the first annual installment payment no later than the Commencement Date and each subsequent installment each year on or before the Anniversary Date of the Lease; or, Lessee may determine to pay the entire forty (40) year Rent in one installment no later than the Commencement Date

5.02. Unrelated Business Income. If Lessor is advised by its counsel at any time that any part of the payments by Lessee to Lessor under this Lease may be characterized under the Internal Revenue Code or its regulations as unrelated business taxable income or may not be excludable from unrelated business taxable income, then Lessee, at the option of Lessor, shall enter into an amendment of this Lease that will enable Lessor to avoid such income, so long as the amendment does not require Lessee to pay more to Lessor or accept fewer services from Lessor than this Lease provides.

## 6. TAXES

6.01. Lessor and Lessee Exempt Organizations. Lessee, with Lessor's reasonable cooperation, shall act diligently to cause the Premises to be recognized as a separate tract for real estate tax purposes. Lessor and Lessee acknowledge that

each is an organization exempt from local taxation and that no ad valorem property taxes should be assessed against either in connection with the Premises or Project. However, to the extent that the activities of either lead to taxes being successfully assessed against the Premises or Project, the party whose activities lead to such assessment shall be responsible to pay the taxes involved.

## 7. UTILITIES

7.01. Utilities. Lessee shall pay, or caused to be paid, when due, all bills for water, heat, gas, telephone, electricity, garbage disposal and collection, and other utilities used on the Project, including but not limited to those associated with the project unless otherwise specified in a separate lease of space agreement which will take precedence.

## 8. NET LEASE

8.01. Net Lease. Lessor shall not be required to make any expenditure, incur any obligation (other than those expressly set forth in this Lease), or incur any liability of any kind whatsoever in connection with this Lease or Lessee's financing, ownership, construction, maintenance, operation, or repair of the Premises or the Improvements unless otherwise specified in a separate lease of space agreement which will take precedence. It is expressly understood and agreed that this is a completely net lease intended to assure Lessor the Rent herein reserved on an absolute net basis.

## 9. IMPROVEMENTS

9.01. Construction of Project. Lessee shall use the Improvements to be constructed on the Premises, solely for project in accordance with the Plans and Specifications (herein so called) approved by Lessor for the construction of the Project Improvement. "Improvements" shall mean the Project Improvements and any and all other improvements now existing or hereafter placed on the Premises as permitted by this Lease. The project improvements shall conform, generally to the drawings and plans attached hereto as Exhibit A-2.

9.02. Protection of Lessor against Cost or Claim. Lessee shall not permit to be foreclosed any mechanic's or materialman's lien or other statutory lien against the Premises or Improvements by reason of work, labor, services, or materials supplied to or at the request of Lessee pursuant to any construction on the Premises, or materials or labor supplied to or at the request of Lessee. Lessee shall pay and discharge, cause to be paid and discharged, or bond around any such mechanic's or materialman's lien filed against the Premises or Improvements within twenty (20) days after the filing thereof. Lessee may in good faith and at Lessee's own expense contest the validity of such asserted lien, claim, or demand, in which event Lessee shall bond around such lien or claim. In no event shall Lessee have the right, authority, or power to bind Lessor or any interest of Lessor in the Premises for any claim for labor or

material or for any other charge or expense incurred in the construction or alteration of the Improvements.

9.03. Maintenance. Throughout the Term hereof, Lessee, at Lessee's sole cost and expense, shall maintain the Premises and Improvements in good condition and repair (ordinary wear and tear excepted) and operate and maintain the same in accordance with all applicable laws, rules, ordinances, orders, and regulations of federal, state, county, municipal, and other governmental agencies and bodies having jurisdiction over the Premises. Lessor shall have no obligation to maintain or repair the Premises or any Improvements thereon, unless otherwise specified in a separate lease of space agreement which will take precedence.

9.04. Ownership of Improvements. Except as otherwise provided herein in respect to Lessee's right to remove certain personal property, all Improvements shall be owned by Lessee until the expiration or earlier termination of this Lease. All Improvements on the Premises at the expiration or earlier termination of this Lease shall, without compensation to Lessee, become Lessor's property free and clear of all claims to or against them by Lessee or anyone claiming by, through, or under Lessee. Lessor acknowledges that the FTA will maintain an eighty percent (80.0%) equitable interest in the project, and any other structures or leasehold improvements implemented by lessee on the premises, throughout the useful life of the federally funded project. The federal interest will cease after the initial forty (40) year life of the primary lease and title to the leasehold improvements will be transferred to Lessor. Lessee will maintain legal title to the improvements throughout the useful life of the project until such title is transferred to Lessor. Prior to transfer of legal title to the Lessor for utilization of the premises for other than the provision of public transportation services, Lessee may remove such personal property which is integral to the utilization of the terminal for a transportation facility.

9.05. Alterations. At least sixty (60) days prior to undertaking any material structural alteration, renovation, or remodeling of the Project Improvements ("Remodeling"), Lessee shall submit plans for such Remodeling (the "Remodeling Plans") to Lessor for approval, which approval shall not be unreasonably withheld provided that such changes or alterations (i) are consistent with the Plans and Specifications approved by Lessor, and (ii) do not result in a substantial or material change in the character or the facade of the Improvements existing as of the date of such alterations. Lessor shall either approve or disapprove any such Remodeling Plans within thirty (30) days after receipt of such plans from Lessee.

## 10. ACCESS

10.01. Access for Lessor. Lessee shall permit Lessor's agents, representatives, and employees to enter on the Premises at reasonable times for the purpose of review and inspection, to determine whether Lessee is in compliance with the terms of this Lease, and for other reasonable purposes.

## 11. ENCUMBRANCE

11.01. Encumbrance. Lessee shall not have the right to mortgage, pledge, hypothecate, or otherwise transfer or assign the leasehold estate granted hereby as security for a debt or other obligation incurred for the construction, maintenance, operation, repair, or refinancing of the Project Improvements (collectively, a "Mortgage") without consent thereto from Lessor. In no event shall any such Mortgage attach to or become a lien on the Premises or any interest other than Lessee's leasehold estate and other rights, title, and interests granted to Lessee hereunder.

Lessor acknowledges the FTA has certain rights in respect of Lessee's interest in the Project pursuant to the FTA Agreements. Lessor shall recognize the FTA or other appropriate agency, or their assignee (a "FTA Party") as the "Lessee" hereunder in the event an FTA Party succeeds to Lessee's interest in the Project; provided, however, that Lessor has received the assurances from the FTA described in Section 4.03 above, confirmation from the FTA Party of Lessor's rights hereunder, and a reconfirmation from the FTA as to the continuing validity of the assurances given by the FTA pursuant to Section 4.03 above.

## 12. ASSIGNMENT; SUBLETTING

12.01. Assignment and Sublease. Lessee shall not have the right to assign, sublet, or otherwise transfer Lessee's interest in this Lease other than to an FTA Party which has made an attornment to the Lessor in form and substance satisfactory to Lessor, without the approval of Lessor.

## 13. INSURANCE; INDEMNITY

### 13.01. Insurance.

a. Lessee's Insurance. During the Term, Lessee will keep and maintain (or cause to be kept and maintained) in force policies of:

i. All-risk property insurance (also called special form insurance) on the Improvements or any replacements or substitutions therefor and Lessee's fixtures and personal property, with deductibles in an amount that Lessee may reasonably determine and Lessor approves, from and after commencement of construction of the Project Improvements, against Insurable Risks (hereinafter defined), and builder's risk completed value form during construction, in amounts not less than one hundred percent (100%) of actual replacement cost (exclusive of cost of excavation, foundations, footings below the surface of the ground, and costs of underground flues, pipes, and drains). The actual replacement cost shall be confirmed

from time to time (but not more frequently than once in any twelve (12) calendar months) at the request of Lessor, by one of the insurers or, at the option of Lessee, by an appraiser, engineer, architect, or contractor approved by the issuer of such insurance policy and paid by Lessee. "Insurable Risks" means those risks covered by the Texas Standard Form Fire and Extended Coverage Policy (including fire and direct loss by windstorm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, and land vehicles); sonic shock wave; and leakage from fire protective equipment;

ii. Commercial General Liability insurance with the following coverages: (a) premises/operations; (b) independent contractors; (c) broad form contractual liability specifically in support of, but not limited to, the indemnification provisions contained in this Lease; (d) broad form property damage; (e) personal injury liability with employee and contractual exclusions removed; (f) liquor liability; and (g) a severability of interest endorsement, and with the following limits: limits of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and not less than Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, sickness, or death, and property damage; and umbrella excess liability insurance for bodily injury and property damage (occurrence basis) above the coverages described above and with limits of not less than Five Million Dollars (\$5,000,000) per occurrence and in the aggregate. Lessor shall be named as an additional insured. The amounts of such insurance shall be reviewed on the fifth (5th) anniversary date of this Lease and each third (3rd) year thereafter and shall be increased, if necessary, so that the amount of such coverage is at all times generally equal to the limits described herein measured in 2013 dollars; and

iii. Workers' Compensation insurance with the statutory limits and employer's liability insurance with limits of not less than \$500,000 for each accident, \$500,000 for disease-policy limit, and \$500,000 for disease-each employee.

All such insurance shall be secured and maintained in a company or companies reasonably satisfactory to Lender and Lessor, and shall be carried in the name of Lessee. Lessee's insurance shall be primary and not contributory to that carried by Lessor or Lender. Lessee shall provide copies of insurance policies required hereunder to Lessor on or before the Commencement Date. The commercial general liability policy shall include the ISO Form 20 11 11 85 additional insured endorsement naming Lessor as an additional insured. The all-risk property insurance policy shall name Lessor as "an insured as its interest may appear."

b. Waiver of Subrogation. Lessee shall secure an appropriate clause in, or an endorsement upon, each policy of insurance required to be provided by it hereunder, except for the commercial general liability policy, pursuant to which the respective insurance companies waive subrogation and rights of recovery or permit the insured to agree with the other party hereto to waive any claim it might have against such party. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the agent of each party hereto and their respective

contractors and employees and, in the case of Lessee, shall also extend to all the persons occupying or using all or any part of the Improvements from time to time.

To the extent permitted by law, Lessee hereby releases Lessor with respect to any claim (including a claim for negligence) that it might otherwise have against Lessor, its officers, agents, or employees, for loss, damage, or destruction with respect to its property or injury to persons by fire or other casualty or other occurrence, to the extent typically covered under policies of all risk property insurance or workers' compensation or employer's liability insurance.

13.02. Indemnity. Lessee, to the extent authorized by the Laws and Constitution of the State of Texas, hereby agrees to defend and indemnify and hold harmless Lessor from and against all claims and all costs, expenses, and liabilities incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of or in any way related to Lessee's, Subtenants', and/or Lessee's assignees', employees', contractors', guests', and/or invitees' use or occupancy of the Premises or any of the activities of any such parties in or on the Premises, and/or the design or construction of the Improvements.

13.03. Contractor's Insurance. Lessee shall cause any contractor of Lessee performing work on the Premises to maintain insurance as follows, with such other terms, coverages, and insurers as Lessor shall reasonably require from time to time:

a. Commercial General Liability insurance, including contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement, and contractor's protective liability coverage, to afford protection with limits, for each occurrence, of not less than One Million Dollars (\$1,000,000) with respect to personal injury, death, or property damage; and

b. Workers' Compensation insurance in form and amounts required by law, and employer's liability insurance with not less than the following limits:

Each Accident	\$500,000
Disease--Policy Limit	\$500,000
Disease--Each Employee	\$500,000

Such insurance shall contain a waiver of subrogation provision in favor of Lessor and its employees and agents.

Lessee's contractor's insurance shall be primary and not contributory to that carried by Lessee, Lessor, their agents, or Lender. Lessee and Lessor shall be named as additional insureds on Lessee's contractor's insurance policies.

## 14. CASUALTY

14.01. Damage to Improvements. Should the Improvements or any other fixtures on the Premises be wholly or partially destroyed or damaged by fire or any other casualty whatsoever during the Term, Lessee shall commence the work of repair, reconstruction, or replacement of the damaged or destroyed Improvements and fixtures and prosecute the same with reasonable diligence to completion, so that the same shall, at the sole expense of Lessee, be restored to substantially the same size, function, and value as existed prior to the damage.

14.02. No Abatement of Rental. In no event shall Lessee be entitled to any abatement, allowance, reduction, or suspension of Rent or other charges herein reserved.

## 15. CONDEMNATION

### 15.01. Condemnation.

a. Definitions. The following definitions apply in construing provisions of this Lease relating to a taking of all or any part of the Premises or the Improvements or any interest in them by eminent domain or inverse condemnation:

i. Taking means any taking by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning authority or entity under threat of condemnation in avoidance of an exercise of eminent domain. The Taking shall be considered to take place as of the later of (x) the date actual physical possession is taken by the condemnor or (y) the date on which the right to compensation and damages accrues under the law applicable to the Premises.

ii. Total Taking means the Taking of the fee title to all the Premises and the Improvements.

iii. Substantial Taking means the Taking of so much of the Premises or Improvements or both that the remaining Premises would not be economically and feasibly usable, in Lessee's reasonable opinion, by Lessee, or the Improvements would be, in Lessee's reasonable opinion, other than reasonably efficient or economic for Lessee's use.

b. Notice to Other Party. The party receiving any notice of the kinds specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

i. Notice of intended Taking.

ii. Service of any legal process relating to condemnation of the Premises or Improvements.

iii. Notice in connection with any proceedings or negotiations with respect to such condemnation.

iv. Notice of intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of condemnation.

c. Representative of Each Party; Effectuation. Lessor and Lessee shall each have the right to represent its respective interests in each proceeding or negotiation with respect to a Taking or intended Taking and to make full proof of his or its claims. Lessor and Lessee each agrees to execute and deliver to the other any instruments that may be required to effectuate or facilitate the provisions of this Lease relating to condemnation.

d. Total or Substantial Taking. On a total Taking, Lessee's obligation to pay Rent shall terminate on the day of Taking. If Lessee determines that the Taking is substantial under the definition appearing in Subsection 15.01.a.iii., Lessee may, by notice to Lessor given within one hundred twenty (120) days after Lessee receives notice of intended Taking, elect to treat the Taking as a Substantial Taking. If Lessee does not so notify Lessor, the Taking shall be deemed a Partial Taking. A Substantial Taking shall be treated as a Total Taking if (1) Lessee delivers notice to Lessor within one hundred twenty (120) days after Lessee receives notice of intended Taking, as provided above, and (2) Lessee is not in default under this Lease and has complied with all Lease provisions concerning apportionment of the award. If these conditions are not met, the Taking shall be treated as a Partial Taking.

e. Delivery of Possession. So long as Lessee is not in Default under this Lease, Lessee may continue to occupy the Premises and Project Improvements until the day of Taking.

f. Award for Total Taking. On a Total Taking, the award therefor shall be distributed and paid to Lessee and Lessor as their respective interests under this Lease (as if the same had not been terminated) may appear. In determining their respective interests:

i. The interest of Lessor shall be based on the value of Lessor's reversionary interest in the Premises and Improvements taking into account the leasehold estate created by this Lease, the amount of rental paid by Lessee and the value of non-monetary consideration, if any, to Lessor hereunder, and all of the other terms and provisions of this Lease; and

ii. The interest of Lessee shall be based on the value of Lessee's interest in the Premises and Improvements, including the value of the

improvements for the Term and the value of Lessee's leasehold estate and interests under this Lease.

g. Partial Taking. In the event of a Partial Taking, Lessor shall be entitled to a portion of the award equal to the value of the fee simple title to the portion of the Premises taken, exclusive of the value of the Improvements and Lessee shall be entitled to the balance of the award. In such event, this Lease shall remain in full force and effect covering the remaining portion of the Premises. Lessee shall, subject to the rights of each Lender, promptly commence reconstruction of the Improvements damaged by such Partial Taking to as near the condition as existed prior to such Taking as is reasonably practicable and diligently prosecute the same to completion.

h. Taking of Less than Fee Title. On any Taking of the temporary use of all or any part or parts of the Premises or Improvements or both for a period, or of any estate less than the fee, ending on or before the expiration date of the Term, neither the Term nor the Rent shall be reduced or affected in any way, and Lessee shall be entitled to any and all awards for the use or estate taken. If any such Taking is for a period extending beyond the expiration date of the Term, the Taking shall be treated under the foregoing provisions for Total, Substantial and Partial Takings.

## 16. DEFAULT; REMEDIES

16.01. Lessee's Default. Each of the following events shall be a default by Lessee and a breach of this Lease:

a. Failure to timely and fully perform Lessee's obligations under Article 9 of this Lease or under the FTA Agreements.

b. Failure or refusal to pay when due the Rent as provided in Article 5 of this Lease.

c. Failure or refusal to pay when due any other sum required by this Lease to be paid by Lessee if such failure to pay is not cured within twenty (20) days after written notice thereof is provided to Lessee.

d. Failure by Lessee to perform as required any other covenant, agreement, or obligation (other than the payment of a liquidated sum of money) of Lessee under this Lease if the same is not cured within thirty (30) days after notice of such failure from Lessor to Lessee; provided, that, if such default is of a nature that cannot reasonably be expected to be cured within said thirty (30) days, then for such longer time as may be reasonably necessary so long as Lessee commences the cure within said thirty (30) days and thereafter diligently prosecutes the same to completion.

e. The taking by execution of Lessee's leasehold estate for the benefit of any person other than a Lender or purchaser at a foreclosure under a Mortgage.

f. The filing of a petition for relief against Lessee, as debtor, under the Federal Bankruptcy Code (the "Code"), as now or hereafter constituted, or any other applicable federal or state law of similar import, or the entry of a decree or order by a court having jurisdiction over the Premises, appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of or for Lessee or any substantial part of the properties of Lessee or ordering the winding up or liquidation of the affairs of Lessee, and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days.

g. The commencement by Lessee of a voluntary case under the Code, as now or hereafter constituted, or any other applicable federal or state law of similar import, or the consent or acquiescence by Lessee to the commencement of a case under the Code or such similar law or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of or for Lessee or any substantial part of the property of Lessee.

16.02. Lessor's Remedies. Upon default hereunder by Lessee, Lessor has the following remedies in addition to all other rights and remedies provided by law or equity, to which Lessor may resort cumulatively or in the alternative:

a. Lessor may, at Lessor's election, terminate this Lease by giving Lessee notice of termination. On the giving of the notice, all of Lessee's rights in the Premises and in all Improvements shall terminate. Promptly after notice of termination, Lessee shall surrender and vacate the Premises and all Improvements and Lessor may re-enter and take possession of the Premises and all Improvements and eject all parties in possession or eject some and not others or eject none. Termination under this Section 16.02.a shall not relieve Lessee from the payment of any sum then due to Lessor or from any claim for damages previously accrued or then accruing against Lessee.

b. Lessor may, at Lessor's election, re-enter the Premises, and, without terminating this Lease, at any time and from time to time relet the Premises and improvements or any part or parts of them for the account and in the name of Lessee or otherwise. Lessor may, at Lessor's election, eject all persons or eject some and not others or eject none. Lessor shall apply all rents from reletting, if any, first to the reasonable costs and expenses incurred by Lessor in reletting the Premises, then to the reasonable costs and expenses incurred by Lessor in operating and maintaining the Improvements, and the balance to rents and other sums payable by Lessee to Lessor. Lessor shall have no duty to remit any sums thus collected to Lessee. Any reletting may be for the remainder of the term or for a longer or shorter period. Lessor may execute any leases made under this provision either in Lessor's name or in Lessee's name and shall be entitled to all rents from the use, operation, or occupancy of the Premises or Improvements or both. No act by or on behalf of Lessor under this provision shall constitute a termination of this Lease unless Lessor gives notice of

termination. Nothing contained herein shall be deemed to place any obligation on Lessor to relet the Premises.

16.03. Mitigation of Damages. If Lessee abandons the Premises or vacates the Premises, or if Lessor terminates Lessee's right to possession of the Premises as a result of a default by Lessee, Lessor shall not have any obligation to relet or attempt to relet the Premises, or any portion thereof, unless applicable law imposes such an obligation on Lessor and prohibits a waiver of that obligation. To the fullest extent allowed by law, Lessee hereby waives any obligation on the part of Lessor to mitigate damages. If applicable law requires Lessor to mitigate damages under any circumstances and prohibits a waiver by Lessee of that obligation, the parties hereby agree that Lessor shall have taken objectively reasonable efforts to so mitigate if Lessor has done either of the following within one hundred twenty (120) days after Lessee no longer occupies the Premises: (a) announce the availability of the Premises for lease in a suitable trade journal or Galveston County, Texas newspaper once a month, or request proposals for lease of the Premises by a request for proposals process as determined by Lessor; or (b) show the Premises to prospective lessees. Lessee acknowledges the unique nature of the Premises and agrees that Lessor shall have no obligation to lease the Premises to any willing lessee. Rather, the lessee must be suitable under the circumstances and in Lessor's sole discretion, considering such factors, among others, as financial responsibility, the identity and business reputation of the proposed lessee, and the experience of the proposed lessee in operating similar projects.

16.04. Notice of Lessor's Default. Each of the following events will constitute a default by Lessor: Lessor shall not be considered to be in default under this Lease unless (a) Lessee has given written notice specifying the default and (b) Lessor has failed for sixty (60) days after receipt of such notice to cure the default or to commence cure within such time and then pursue the same diligently.

a. Lessor's failure, at the expiration of twenty (20) business days following Lessee's notice to Lessor of Lessor's failure to have responded timely to reviews of submittals of plans and specifications, or other timely reviews required through this lease, may result in damages to Lessee to the extent that Lessee incurs increased design and construction costs directly attributable to Lessor's delay as indicated herein. The foregoing shall not apply, however, to Lessor's obligations in this Lease to respond to submittals of the Plans and Specifications; however, Lessor shall not be in default of that obligation until the expiration of twenty (20) business days following Lessee's notice to Lessor of Lessor's failure to have responded timely. To the extent permitted by applicable law, Lessee hereby waives the provisions of § 91.004(b) of the Texas Property Code (or any successor thereto) and any other laws that may grant to Lessee a lien on any of Lessor's property or on any rental due to Lessor.

b. Lessor's failure to fulfill its ground lease obligation to Lessee prior to the expiration of the term of the initial lease, or any extension thereof, thereby preventing Lessee from fulfilling its responsibilities to the FTA to provide for "continuing

control of use of project facilities and equipment" throughout the useful life of the project, and thereby precluding public transportation services from the federally financed facility.

16.05. Lessee's Remedies - In the event that Lessor defaults on its lease with Lessee, thereby preventing Lessee from fulfilling its obligations to the FTA, Lessor will be responsible for compensating Lessee for any repayment of federal funding due to the FTA, resulting from Lessee's failure to fulfill its contractual obligations. Lessor agrees to work with Lessee on pursuing alternatives to mitigate Lessor's responsibility for repayment to the FTA in a manner consistent with federal, state, and local law.

16.06. Unavoidable Default or Delay; Waiver. Any prevention, delay, nonperformance, or stoppage due to any of the following causes shall excuse nonperformance for the period of any such prevention, delay, nonperformance, or stoppage, except the obligations imposed by this Lease for the payment of Rent, Additional Rent, Impositions, Taxes, insurance premiums, or obligations to pay money that are treated as Rent or Additional Rent. The causes referred to above are strikes, lockouts, labor disputes, failure of power, acts of God, acts of public enemies of this State or of the United States, riots, insurrections, civil commotion, inability to obtain labor or materials or reasonable substitutes for either, governmental restrictions or regulations or controls, casualties, or other causes beyond the reasonable control of the party obligated to perform (collectively, "Force Majeure").

No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel, or otherwise. If either party brings any action or proceeding to enforce, protect, or establish any right or remedy, the prevailing party shall be entitled to recover reasonable attorney's fees; provided, however, that Lessor shall be so obligated only to the extent permitted under the laws and Constitution of the State of Texas and Lessor's attorney's fees for Lessor's attorneys shall be the actual amount paid or an amount calculated at a rate equal to the average rate charged by attorneys for comparable services in law firms offering similar services with at least twenty (20) partners, shareholders, or members with offices in Austin, Texas, whichever is greater.

16.07. Payment on Default. If Lessor is compelled or elects to pay any sum of money or do any acts that require the payment of money by reason of Lessee's failure or inability to perform any of the provisions of this Lease after passage of any notice and cure period provided under any other provisions of this Lease, which Lessor may elect in its sole discretion, Lessee shall promptly, upon demand, reimburse Lessor for such sums, and all such sums shall bear interest at the highest allowable rate under the laws of the State of Texas (the "Default Rate") from the date of expenditure until the date of such reimbursement. Other sums payable hereunder that are not paid by Lessee when due shall bear interest at the Default Rate from and after the date of demand therefor by Lessor until the date of payment thereof.

## 17. REPRESENTATIONS AND WARRANTIES

17.01. Lessee's Representations and Warranties. Lessee represents and warrants that:

a. As of the execution date of this Lease, Lessee is a political subdivision duly organized and validly existing under the laws of the State of Texas and is duly qualified to transact business under the laws of the State of Texas and has the power and authority to carry on its business as presently conducted and as contemplated to be conducted on the Premises by this Lease and to enter into and perform its obligations under this Lease; and the execution, delivery, and performance by Lessee of this Lease has been duly authorized by all necessary Gulf Coast Center action.

b. As of the execution date of this Lease, the execution, delivery, and performance of this Lease by Lessee will not violate any law or Lessee's organizational documents.

17.02. Lessor's Representations and Warranties. Lessor represents and warrants that:

a. Except as disclosed to Lessee, as of the execution date of this Lease, Lessor is the record owner of the Premises and Lessor has all power and authority necessary to enter into this Lease.

b. As of the execution date of this Lease, to Lessor's current actual knowledge, there is no pending or threatened condemnation action pertaining to the Premises.

c. Except as disclosed to Lessee, Lessor has not executed any lease covering the Premises that has not been terminated or the term of which has not expired.

## 18. EXPIRATION; TERMINATION

18.01. Lessee's Duty to Surrender. At the expiration or earlier termination of this Lease, Lessee shall surrender to Lessor possession of the Premises and all portions of the Project located on or over the Premises, together with all fixtures, trade fixtures, equipment, and personal property located on the portions of the Premises owned by Lessee and used in connection with the operation of the Project, but specifically excluding Lessee's inventory, computers, maintenance equipment, furniture, furnishings, and other office equipment, all of which Lessee shall have the right and option to remove. Lessee shall leave the surrendered Premises, improvements, and any other property reasonably necessary to operate the Premises and portions of the Project located on or over the Premises in good condition. All property that Lessee is

required to surrender shall become Lessor's property at the expiration or earlier termination of this Lease without compensation to Lessee. All property that Lessee is not required to surrender but that remains on the Premises for thirty (30) days following the expiration or earlier termination of this Lease shall, at Lessor's election, become Lessor's property at the expiration or earlier termination of this Lease without compensation to Lessee.

If Lessee fails to surrender as aforesaid at the expiration or sooner termination of this Lease, Lessee shall defend and indemnify Lessor from all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding lessee founded on or resulting from Lessee's failure to surrender.

18.02. Holding Over. This Lease shall terminate without further notice at the expiration of the Term. Any holding over by Lessee after expiration shall not constitute a renewal or extension or give Lessee any rights in or to the Premises and/or the improvements located on or over either, except as otherwise expressly provided in this Lease, and Lessee shall pay, as liquidated damages, the then current fair market rental value of the Premises and the improvements located on or over both, calculated on a per diem basis, multiplied by two (2) for the period during which Lessee possesses such property beyond the expiration hereof.

## 19. GENERAL CONDITIONS; MISCELLANEOUS PROVISIONS

### 19.01. Transactions Between Parties.

a. Approval of Ancillary Agreements. Lessor agrees that if it becomes necessary or desirable for Lessor to approve in writing any ancillary agreements or documents concerning the Premises or concerning the construction, operation, or maintenance of the Project Improvements or to alter or amend any such ancillary agreements between Lessor and Lessee or to give any approval or consent of Lessor required under the terms of this Lease, Lessor hereby authorizes, designates, and empowers the Mayor of the City of Texas City or successors in function, as empowered to execute such documents; however, any approval of "ancillary agreements" may require the City of Texas City Commission approval.

b. Notice. As used in this Lease, notice includes but is not limited to the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, and appointment. No notice of the exercise of any option or election is required unless the provision giving the election or option expressly requires notice. All notices must be in writing. Notice is considered given either (a) when delivered in person or by facsimile transmission (however, if a facsimile transmission is received after 5:00 p.m. Central Time, it shall be deemed received the following business day) to the recipient named as below, or (b) three (3) days after deposit in the United States mail in a sealed envelope, wrapper, or container, either registered or certified mail, return receipt requested, postage and postal charges prepaid, addressed by name and address to the party or person intended as follows:

Notice to Lessor:

Mayor  
City of Texas City  
1801 9th Avenue North  
City of Texas City, 77592

Notice to Lessee:

Chief Executive Officer  
Gulf Coast Center  
1000 Emmett F Lowry, Suite 1220  
Texas City, Texas 77591

Facsimile notices shall be followed by delivery by first class mail as provided above. Either party may, by notice given at any time or from time to time, require subsequent notices to be given to another person whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

c. Nonmerger of Fee and Leasehold Estates. Notwithstanding any other provision of this Lease to the contrary, if both Lessor's and Lessee's estates in the Premises or the Improvements or both become vested in the same owner, this Lease shall nevertheless not be destroyed by application of the doctrine of merger or any contrary provision of this Lease except at the express written election of the owner.

d. Estoppel Certificates. At any time and from time to time, within thirty (30) days after notice of request by Lessor or Lessee, the other party shall execute, acknowledge, and deliver to the other or to such recipient as the notice shall direct, a statement certifying that this Lease is unmodified and in full force and effect, or, if there have been modifications, that it is in full force and effect as modified in the manner specified in the statement. The statement shall also state the dates to which the Rent and any other charges have been paid in advance and that there are no defaults hereunder, or if there are, specifying those defaults with particularity. The statement shall be such that it can be relied on by any auditor, creditor, commercial banker, and investment banker and by any prospective purchaser or encumbrancer of the Premises or all or any part or parts of Lessor's or Lessee's respective interests under this Lease.

e. Joint and Several Obligations. If either Lessor or Lessee consists of more than one person, the obligation of all such persons is joint and several.

#### 19.02. Interpretation of Lease.

a. Captions, Table of Contents. The table of contents, if any, of the Lease and the captions of the various Articles, Sections, and Subsections of this Lease are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Lease or of any part or parts of this Lease.

b. Gender. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the neuter, and each includes corporation, partnership, or other legal entity when the context so requires.

c. Singular and Plural. The singular number includes the plural whenever the context so requires. References herein to "person", means one or more persons, or one or more entities, or any combination of persons and entities.

d. Exhibits, Addenda. The following **Exhibits A-B** are incorporated herein for all purposes, whether or not they are actually attached, provided that any not attached have been signed or initialed by the parties:

Exhibit A	Metes and Bounds Description of the Premises
Exhibit A-1	Map of Premises
Exhibit A-2	Drawings and Plans
Exhibit B	Memorandum of Lease

No promise, representation, warranty or covenant not included in this Lease has been or is relied on by either party. Each party has relied on his own examination of this Lease, the counsel of his own advisors and the warranties, representations, and covenants in this Lease. The failure or refusal of either party to inspect the Premises, to read the Lease or to obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection, or advice. This Lease may not be changed except by written instrument signed by both Lessor and Lessee.

e. Severability. The invalidity or illegality of any provision shall not affect the remainder of the Lease.

f. No Partnership, Joint Venture, or Principal-Agent Relationship. Nothing in this Lease or any acts of the parties hereto shall be construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between the parties.

g. Time of Essence. Time is of the essence with respect to the performance of each of the terms, provisions, covenants, and conditions contained in this Lease.

h. Texas Law to Apply. This Lease shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Galveston County, Texas.

19.03. Successors. Each and all of the covenants and conditions of this Lease shall be binding on and shall inure to the benefit of the heirs, successors, executors, administrators, assigns, and personal representatives of the respective parties. References herein to "Lessor" shall mean the person who is the owner at the time in question of the Premises, whether singular or plural in number, and whether named in this Lease as Lessor or having become the successor in interest of the named Lessor, or the successor of a successor, whether by assignment, foreclosure, or other transfer, and whether intentional or inadvertent or by operation of law. References herein to "Lessee" shall mean the person named as Lessee in this Lease, whether singular or plural in number, or the person who at the time in question is the successor in interest of Lessee, or the successor of a successor, whether by assignment, foreclosure, or other transfer, and whether intentional or inadvertent or by operation of law. It does not, however, include any person claiming under any assignment or sublease or other transfer prohibited by this Lease, and this definition does not alter the provisions of this Lease relating to assignment or subletting.

19.04. Nondiscrimination. Any impermissible discrimination by Lessee or its agents or employees on the basis of race, color, sex, age, religion, national origin, veteran's status, or disability in employment practices or in the performance of the terms, conditions, covenants and obligations of this Lease is prohibited. Accordingly, Lessee will exercise its reasonable efforts in good faith, consistent with prudent business practices, to include women-owned and minority-owned small business enterprises as material suppliers, as contractors, and/or as subcontractors in planning, designing, developing, constructing, operating, and maintaining the Premises during construction and following completion.

19.05. Conflict of Interest. Lessee acknowledges that it is informed that Texas law prohibits contracts between Lessor and its officers, and that the prohibition extends to contracts with any partnership, corporation, or other organization in which any such officer has an interest. Lessee certifies (and this Lease is made in reliance thereon) that neither Lessee nor any person having an interest in this Lease by, through, or under Lessee is an officer of Lessor.

19.06. No Broker. Lessor and Lessee each indemnifies and agrees to hold the other harmless from any claims for real estate leasing commissions or finders fees in respect to the transaction entered into under this Lease alleged to be due because of any act of the indemnifying party and from any loss, liability, damage, cost, or expense (including attorney's fees) of defending or settling such claims. Lessor's obligation to indemnify Lessee shall apply to the extent authorized by the Constitution and laws of the State of Texas.

## 20. EXECUTION; MEMORANDUM OF LEASE

20.01. Execution in Counterparts. This Lease, or the memorandum of this Lease, or both, is executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

20.02. Recordation of Memorandum Only. Only a memorandum of this Lease in the form attached hereto as Exhibit B shall be recorded (the "Lease Memo"). The Lease Memo shall be recorded only on or after the Commencement Date. Lessee's recordation of this Lease or any other memorandum of this Lease (other than the Lease Memo) shall be a default hereunder.

This Lease is executed on the dates shown below, to be effective for all purposes on the date first written above.

Date: \_\_\_\_\_, 2019

By: \_\_\_\_\_

Mayor  
City of Texas City  
"Lessor"

Date: 09-03 \_\_\_\_\_, 2019

By: [Signature] \_\_\_\_\_

Chief Executive Officer  
Gulf Coast Center  
"Lessee"

Exhibits

- A Metes and Bounds Description of the Premises
- A-1 Map of Premises
- A-2 Drawings and Preliminary Plans
- B Memorandum of Lease

EXHIBIT A  
Metes and Bounds Description of Premises

Survey of all that certain 8.30 acres (361,375 square feet) tract or parcel of land being out of and a part of Lots 2, 3 and 5, Block 3, SUBDIVISION "H" of KOHFELDT'S RE-SUBDIVISION of the HAMLET FERGUSON SURVEY, Abstract #63, a Subdivision in Galveston County, Texas, according to the map or plat thereof recorded Map Record 10, Map Number 35, said tract further being a part of that certain tract or parcel of land conveyed by Southwest Stainless, LP, a Delaware limited partnership, to Texas City Development Corporation, dated April 21, 2011, all being of record in the Office of the County Clerk of said Galveston County, Texas, said 8.30 acres being more particularly described by metes and bounds as follows;

COMMENCING at a point for corner being the point of intersection of the South line of Magnolia Avenue, a 40 foot record public roadway right-of-way, with the West line of 33<sup>rd</sup> Street North, an apparent 60 foot record public roadway right-of-way;

THENCE S 01°56'35" E, along and with the West line of said 33<sup>rd</sup> Street North, a distance of 11.44 feet to a 5/8 inch iron rod with cap stamped 'ELLIS' and being the POINT OF BEGINNING of the herein described tract;

THENCE S 01°56'35" E, continuing along and with said West right-of-way line, a distance of 653.20 feet (called 664.00 feet) to a 5/8 inch iron rod found for corner;

THENCE S 88°00'36" W, along the South line of the herein described tract, said line further being the North line of that certain tract or parcel of land conveyed by C. Michael Orr to 24/7 Grill, LLC, by instrument of record at Galveston County Clerks' File #2004036147, a distance of 364.92 feet to a 5/8 inch iron rod with cap stamped 'GEOSURV' set for corner, said point being the Southwest corner of the herein described tract;

THENCE N 39°26'30" W, a distance of 584.85 feet (called 583.9 feet) to a 5/8 inch iron rod with cap stamped 'GEOSURV' set for angle to the right;

THENCE N 04°20'03" E, a distance of 151.42 feet to a 5/8 inch iron rod with cap stamped 'GEOSURV', said point being S 04°20'03" W, 50.73 feet from the South line of the aforesaid Magnolia Avenue;

THENCE S 80°14'53" E, along and with the South right-of-way of the relocated Magnolia Avenue, a distance of 39.44 feet to a 5/8 inch iron rod with cap stamped 'ELLIS' found for point for curve to the left, said curve having a radius of 775.74 feet;

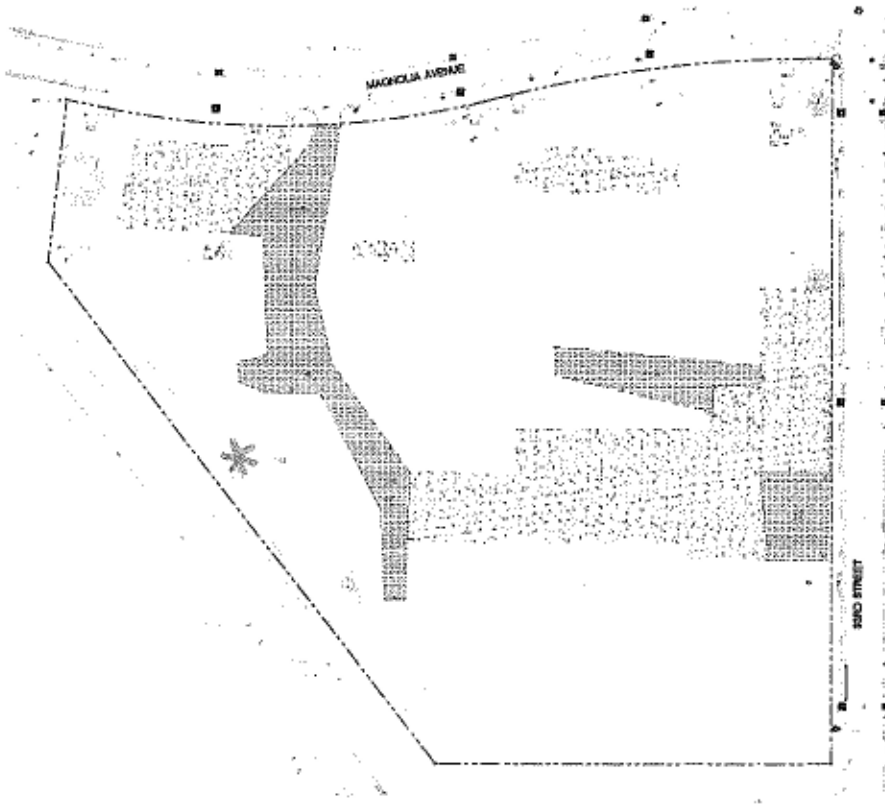
THENCE in a Northeasterly direction along said curve to the left an arc distance of 347.73 feet, the chord of which curve bears N 86°54'35" E, 344.83 feet, to a 5/8 inch iron rod with cap stamped 'ELLIS' found for point for tangency;

THENCE N 74°04'04" E, continuing along the South line of the relocated Magnolia Avenue, a distance of 20.23 feet to a 5/8 inch iron rod with cap stamped 'ELLIS' found for point for curve to the right, said curve having a radius of 1186.79 feet;

THENCE in a Northeasterly direction along said curve to the right an arc distance of 291.14 feet, the chord of which curve bears N 81°05'44" E, 290.41 feet, to a 5/8 inch iron rod with cap stamped 'ELLIS' found for point of tangency;

THENCE N 88°07'24" E, continuing along and with said relocated Magnolia Avenue, a distance of 13.11 feet to the POINT OF BEGINNING and containing a calculated area of 8.30 acres (361,374 square feet) of land.

**EXHIBIT A-1**  
**Map of Premises**



100 FT. E. SIDE  
 100 FT. W. SIDE

**LEGEND**

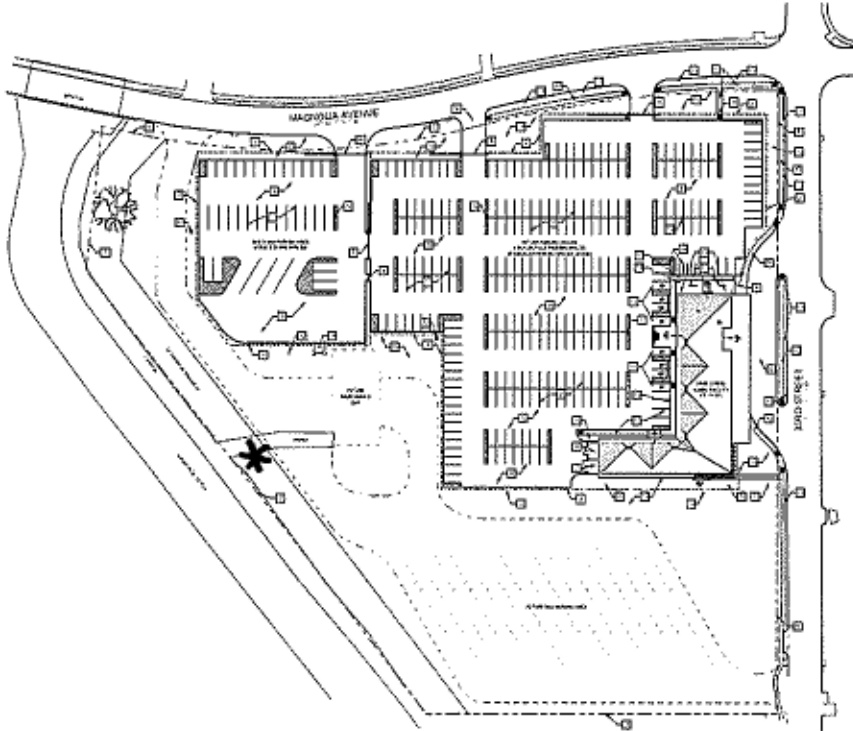
AREA WITHIN THIS BOUNDARY IS THE PROPERTY OF THE CITY OF HOUSTON, TEXAS, AND IS SUBJECT TO THE CITY'S ZONING ORDINANCES. THIS MAP IS A REPRESENTATION OF THE CITY'S ZONING MAP AND IS NOT A GUARANTEE OF THE CITY'S ZONING MAP. THE CITY'S ZONING MAP IS THE AUTHORITY FOR THE CITY'S ZONING ORDINANCES. THE CITY'S ZONING MAP IS SUBJECT TO CHANGE WITHOUT NOTICE. THE CITY'S ZONING MAP IS THE AUTHORITY FOR THE CITY'S ZONING ORDINANCES. THE CITY'S ZONING MAP IS SUBJECT TO CHANGE WITHOUT NOTICE.

**NOTES**

1. THIS MAP IS A REPRESENTATION OF THE CITY'S ZONING MAP AND IS NOT A GUARANTEE OF THE CITY'S ZONING MAP. THE CITY'S ZONING MAP IS THE AUTHORITY FOR THE CITY'S ZONING ORDINANCES. THE CITY'S ZONING MAP IS SUBJECT TO CHANGE WITHOUT NOTICE.

**REVISIONS**

## EXHIBIT A-2 Drawings and Plans



GENERAL NOTES	
1.	SEE ALL NOTES TO MAIN SHEET FOR DETAILS AND NOTES TO THIS SHEET.
2.	ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.
3.	THE PROPOSED WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.
4.	ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.
5.	ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.
6.	ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.
7.	ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.
8.	ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.
9.	ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.
10.	ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.05, AND THE CITY OF HOUSTON, TEXAS ZONING AND ORDINANCE CHAPTER 236, SECTION 236.06.

SITE PLAN LEGEND	
---	PROPERTY LINE
---	EXISTING ROAD
---	PROPOSED ROAD
---	EXISTING DRIVE
---	PROPOSED DRIVE
---	EXISTING SIDEWALK
---	PROPOSED SIDEWALK
---	EXISTING CURB
---	PROPOSED CURB
---	EXISTING DRIVEWAY
---	PROPOSED DRIVEWAY
---	EXISTING UTILITY
---	PROPOSED UTILITY
---	EXISTING FENCE
---	PROPOSED FENCE
---	EXISTING SIGN
---	PROPOSED SIGN
---	EXISTING LIGHT FIXTURE
---	PROPOSED LIGHT FIXTURE
---	EXISTING TREE
---	PROPOSED TREE
---	EXISTING PLANTING
---	PROPOSED PLANTING
---	EXISTING LANDSCAPE
---	PROPOSED LANDSCAPE

KEYED NOTES	
1	PROPOSED SIDEWALK
2	PROPOSED DRIVEWAY
3	PROPOSED DRIVEWAY
4	PROPOSED DRIVEWAY
5	PROPOSED DRIVEWAY
6	PROPOSED DRIVEWAY
7	PROPOSED DRIVEWAY
8	PROPOSED DRIVEWAY
9	PROPOSED DRIVEWAY
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11	PROPOSED DRIVEWAY
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14	PROPOSED DRIVEWAY
15	PROPOSED DRIVEWAY
16	PROPOSED DRIVEWAY
17	PROPOSED DRIVEWAY
18	PROPOSED DRIVEWAY
19	PROPOSED DRIVEWAY
20	PROPOSED DRIVEWAY

EXHIBIT B  
Memorandum of Lease

**CITY COMMISSION REGULAR MTG**

**(9) (h)**

**Meeting Date:** 10/16/2019

Consider Approval of Lease of Space Agreement with Gulf Coast Center

**Submitted For:** Doug Kneupper, Transportation and Planning

**Submitted By:** Doug Kneupper, Transportation and Planning

**Department:** Transportation and Planning

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider approval of a Lease of Space Agreement between the City (Tenant) and Gulf Coast Center (Landlord) for approximately 3,600 sq. ft. to house the City's Emergency Management personnel and operations.

**BACKGROUND**

The Gulf Coast Center / Connect Transit is currently under construction with their newest facility. The project includes 400 automobile park and ride spaces, 36 transit vehicle parking spaces, and approximately 13,00 square feet of administrative office space. Knowing that the administrative space is oversized for future growth, GCC is in a position to lease about 3,600 square feet to the city to house the Emergency Management operations.

The Lease of Space Agreement has a term of 40 years (matching the Ground Lease) and allows the City to use the space for Emergency Management activities. In addition, the City can utilize the parking lot spaces in association with Emergency Management activities.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Lease of Space

Site Plan and Floor Plan

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LEASE OF SPACE AGREEMENT

Between

The Gulf Coast Center  
As LANDLORD

AND

City of Texas City,  
As TENANT



## TABLE OF CONTENTS

	<u>Page Number</u>
1. WORDS OF LEASING.....	1
2. PREMISES .....	1
3. TERM.....	2
4. USES .....	2
5. RENT .....	3
6. TAXES.....	4
7. UTILITIES .....	4
8. NET LEASE .....	4
9. IMPROVEMENTS.....	4
10. ACCESS .....	5
11. ENCUMBRANCE.....	6
12. ASSIGNMENT; SUBLETTING.....	6
13. INSURANCE; INDEMNITY .....	6
14. CASUALTY .....	8
15. CONDEMNATION .....	8
16. DEFAULT; REMEDIES.....	11
17. REPRESENTATIONS AND WARRANTIES .....	14
18. EXPIRATION; TERMINATION .....	15
19. GENERAL CONDITIONS; MISCELLANEOUS PROVISIONS.....	16
20. EXECUTION.....	19

## LEASE OF SPACE AGREEMENT

THIS LEASE OF SPACE AGREEMENT ("Lease") is executed effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019 ("Effective Date"), by and between the Gulf Coast Center ("Landlord"), established pursuant to provisions of Chapter 534 of the Texas Health & Safety Code Ann. (Vernon 1992), and the City of Texas City, a political subdivision of the State of Texas ("Tenant").

### 1. WORDS OF LEASING

1.01. Granting Clause. For and in consideration of the covenants made by Tenant herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby leases to Tenant and Tenant hereby leases and takes from Landlord the Premises (hereinafter defined), to have and to hold the Premises unto Tenant, its permitted successors and assigns, for and during the Term (hereinafter defined).

1.02. Covenant of Quiet Enjoyment. Tenant covenants and warrants, to the extent permitted under the laws and Constitution of the State of Texas, that, so long as Tenant is not in default hereunder, Tenant shall and may peaceably and quietly have, hold, occupy, use, and enjoy and shall have the full and unrestricted use and enjoyment of the Premises during the Term.

1.03. Premises Condition. Tenant accepts the Premises in their current condition AS IS, WHERE IS, and WITH ALL FAULTS and acknowledges that it has examined or will examine, in accordance with the provisions hereof, the Premises and the condition thereof, and that it has not relied on any representation or warranty by Landlord or Landlord's representatives, except as otherwise expressly stated herein, regarding the Premises, including any warranty or representation relating to value, suitability, fitness for a particular purpose, or condition of the Premises.

### 2. PREMISES

2.01. Definition. Except as expressly provided to the contrary in this Lease, reference to "Premises" is to lease approximately 3,598 square feet contained within the Landlord's Public Transportation Administration Facility depicted in Exhibit A and B which is located at the southwest intersection of 33<sup>rd</sup> and Magnolia across from the Carlos Garza Sports Complex, in the City of Texas City, Galveston County, Texas. Furthermore, Tenant shall be provided with the exclusive use of \_\_\_\_\_ parking spaces, which shall be mutually agreed upon by the parties of the execution of this Lease. Furthermore, the premises will include adequate parking for tenants day-to-day use.

### 3. TERM

3.01. Term. Subject to the terms and conditions hereof, the term of this Lease is for a period of ten (10) years (the "Term"), beginning on date the Premises are first occupied by Tenant (Occupancy Date) (hereinafter defined) and ending at midnight on the day immediately preceding the 10<sup>th</sup> anniversary of the Occupancy Date, unless sooner terminated as provided for in this Lease. Tenant shall have the option to extend the Primary Term of this Lease for three (3) additional ten (10) year terms, provided that for each additional term the base monthly rent shall be adjusted by mutual agreement of the parties hereto. Agreement on any extension of the lease term must occur no later than six (6) months prior to the termination of the primary term of this lease or any additional term exercised by the Tenant thereafter.

### 4. USES

4.01. Use. Tenant shall use the Premises for the Administration and Operation of Emergency Management activities for the City of Texas City and the State of Texas. Tenant may utilize the surrounding parking lot(s) within the Public Transportation Facility for parking uses provided that such parking does not interfere with Landlord's (public transportation) use. Upon the written consent of the Landlord, Tenant may also utilize the Premises for other functions that do not interfere with Landlord's use of the premises.

4.02. Special Provisions Related to Use. Landlord has financed most of the leasehold improvements through funding granted by the Federal Transit Administration, Texas Department of Transportation (TxDOT) and or other federal and state agencies. The federal funding has been secured through a "Grant Agreement" and/or a "Cooperative Agreement" with the Federal Transit Administration ("FTA") which agreements incorporate the Master Agreement for Federal Transit Administration Agreement authorized by 49 U.S.C 5301 *et seq*. Unless otherwise approved by the FTA, Tenant agrees, as a material covenant to Landlord as well as the to the FTA, to comply with the requirements of the FTA with respect to the Public Transportation Administration Facility constructed by Landlord pursuant to FTA provisions. These provisions require that Landlord maintain the premises primarily for public transportation use, and that the Tenant's temporary use of lease space herein be not inconsistent with the primary Public Transportation purpose of the Facility.

4.03. Shared Use Space. Landlord and Tenant may agree on the shared use of space (i.e., conference rooms) within the Facility consistent with the Landlord's Public Transportation Administration and Tenants Emergency Management functions. Such agreement may be reflected in a future "joint use of space" Agreement.

4.04. Signs. Before erecting or placing any sign upon the Premises, Tenant shall submit the design and specifications of such sign to Landlord for approval, which approval shall not be unreasonably withheld.

4.05. Compliance with Laws. Tenant shall comply with all ordinances, laws, and regulations of all governmental authorities applicable to and as are required for Tenant's use and operation of the Premises as such ordinances, laws, and regulations are enforced by any governmental authority having jurisdiction with respect to the Premises, including, without limitation, the Rules and Regulations of the City of Texas City and the institutional rules and policies of The Federal Transit Administration, State of Texas Department of Transportation, (collectively, "Governmental Regulations"). The City of Texas City may enforce and apply Governmental Regulations on the Premises and to any person in or on the Premises, may authorize officers and commissioned peace officers to provide such enforcement, subject to the jurisdictional limitations provided by law.

4.06. Limitation on Detrimental Uses

a. Tenant shall not use the Premises for any unlawful purpose nor cause, permit, or suffer any waste, damages, or injury to, or nuisance upon, any portion of the Premises. Tenant shall not permit any use of the Premises that is unlawful or sexually explicit or that pertains to sexually oriented businesses.

b. Tenant shall comply with all regulations, ordinances, rules, and laws regarding hazardous substances and wastes applicable to the Premises or to Tenant's or any SubTenant's occupancy and use of the Premises. Any hazardous substances or wastes located on the Premises and arising out of Tenant's or any SubTenant's, contractor's, employee's, or assignee's occupancy and use or activities on the Premises from and after the Effective Date and prior to expiration or earlier termination of this Lease shall be the responsibility of Tenant and Tenant shall be liable and responsible therefor, including, without limitation: (i) removal thereof from the Premises to the extent required by any governmental authority with jurisdiction of any such substances or wastes and the costs therefor; (ii) damages to persons, property, and the Premises caused thereby; (iii) claims resulting therefrom; (iv) fines and costs imposed by any governmental agency in respect thereto; and (v) any other liability as provided by law relating thereto. Tenant shall defend, indemnify, and hold harmless Landlord and Landlord's successors and assigns from any and all such responsibilities, damages, claims, fines, and liabilities, including, without limitation, any costs, expenses and attorney's fees therefor. This indemnification obligation shall survive the expiration or earlier termination of this Lease.

5. RENT

5.01. From and after the Occupancy Date. Tenant agrees to pay to Landlord annual rent in the amount of \$68,250 per year. Tenant shall pay the rent to Landlord in annual installments in advance, making the first annual installment payment no later than the Occupancy Date and each subsequent installment each year on or before the Anniversary Date of the Lease.

## 6. TAXES

6.01. Landlord and Tenant Exempt Organizations. Landlord and Tenant acknowledge that each is an organization exempt from local taxation and that no ad valorem property taxes should be assessed against either in connection with the Premises or Project. However, to the extent that the activities of either lead to taxes being successfully assessed against the Premises or Project, the party whose activities lead to such assessment shall be responsible to pay the taxes involved.

## 7. UTILITIES

7.01. Utilities. Landlord and Tenant agree that Tenant shall pay, or caused to be paid, when due, all bills for water, heat, gas, telephone, electricity, garbage disposal and collection, and other utilities associated with Tenant's use of the Premises. In this regard, Tenant may choose to have its' lease of space separately metered so that bills for utilities go directly to the attention of Tenant.

## 8. NET LEASE

8.01. Net Lease. Landlord shall not be required to make any expenditure, incur any obligation (other than those expressly set forth in this Lease), or incur any liability of any kind whatsoever in connection with this Lease. It is expressly understood and agreed that this is a net lease intended to assure Tenant the Rent herein reserved is on an absolute net basis.

## 9. IMPROVEMENTS

9.01. Tenant Improvements. Tenant shall use the lease space for the administration and operation of Emergency Management activities or any other public use approved by Landlord that is consistent with FTA regulations. It is understood by Landlord and Tenant that Tenant may make improvements to the lease space suitable to support Emergency Management activity at Tenant's own expense; and, that Tenant will have the right to remove such improvements at the end of its' lease period subject to returning the lease space to its' original condition prior to occupancy by Tenant. Any "non-fixed" improvements not removed by Tenant within sixty (60) days after Tenant's Occupancy ends, will become the property of Landlord.

a. Tenant shall cause all Improvements and alterations to the Premises to be designed, constructed, maintained, and operated in accordance with (i) the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Texas Architectural Barriers Act (Texas Government Code, Chapter 469), and all regulations promulgated thereunder, and the ordinances of the City of Texas City.

9.02. Protection of Landlord against Cost or Claim. Tenant shall not permit to be foreclosed any mechanic's or materialman's lien or other statutory lien against the Premises or Improvements by reason of work, labor, services, or materials supplied to or at the request of Tenant pursuant to any construction on the Premises, or materials or labor supplied to or at the request of Tenant. Tenant shall pay and discharge, cause to be paid and discharged, or bond around any such mechanic's or materialman's lien filed against the Premises or Improvements within twenty (20) days after the filing thereof. Tenant may in good faith and at Tenant's own expense contest the validity of such asserted lien, claim, or demand, in which event Tenant shall bond around such lien or claim. In no event shall Tenant have the right, authority, or power to bind Landlord or any interest of Landlord in the Premises for any claim for labor or material or for any other charge or expense incurred in the construction or alteration of the Improvements.

9.03. Maintenance. Throughout the Term hereof, Tenant, at Tenant's sole cost and expense, shall maintain the Premises and Improvements in good condition and repair (ordinary wear and tear excepted) and operate and maintain the same in accordance with all applicable laws, rules, ordinances, orders, and regulations of federal, state, county, municipal, and other governmental agencies and bodies having jurisdiction over the Premises. Landlord shall have no obligation to maintain or repair the Premises or any Improvements thereon, "with the exception of" those portions of the premises which are occupied by Landlord.

9.04. Ownership of Improvements. Except as otherwise provided herein in respect to Tenant's right to remove certain personal property, all Improvements shall be owned by Tenant until the expiration or earlier termination of this Lease. All Improvements on the Premises at the expiration or earlier termination of this Lease, in accordance with Section 9.01 shall, without compensation to Tenant, become Landlord's property free and clear of all claims to or against them by Tenant or anyone claiming by, through, or under Tenant.

9.05. Alterations. At least sixty (60) days prior to undertaking any material structural alteration, renovation, or remodeling of the Project Improvements ("Remodeling"), Tenant shall submit plans for such Remodeling (the "Remodeling Plans") to Landlord for approval, which approval shall not be unreasonably withheld provided that such changes or alterations (i) are consistent with the Plans and Specifications approved by Landlord, and (ii) do not result in a substantial or material change in the character or the facade of the Public Transportation Administration Facility. Landlord shall either approve or disapprove any such Remodeling Plans within thirty (30) days after receipt of such plans from Tenant.

## 10. ACCESS

10.01. Access for Landlord. Tenant shall permit Landlord's agents, representatives, and employees to enter on the Premises at reasonable times for the

purpose of review and inspection, to determine whether Tenant "is in compliance with" the terms of this Lease, and for other reasonable purposes.

## 11. ENCUMBRANCE

11.01. Encumbrance. Tenant shall not have the right to mortgage, pledge, hypothecate, or otherwise transfer or assign the leasehold estate granted hereby as security for a debt or other obligation incurred for the construction, maintenance, operation, repair, or refinancing of the Project Improvements (collectively, a "Mortgage") without consent thereto from Landlord. In no event shall any such Mortgage attach to or become a lien on the Premises or any interest other than Tenant's leasehold estate and other rights, title, and interests granted to Tenant hereunder.

Tenant acknowledges the FTA has certain rights in respect of Tenant's interest in the Project pursuant to the FTA Agreements. Tenant shall recognize the FTA or other appropriate agency, or their assignee (a "FTA Party") as the "Tenant" hereunder in the event an FTA Party succeeds to Tenant's interest in the Project; provided, however, that Tenant has received the assurances from the FTA described in Section 4.02 above, confirmation from the FTA Party of Tenant's rights hereunder, and a reconfirmation from the FTA as to the continuing validity of the assurances given by the FTA pursuant to Section 4.03 above.

## 12. ASSIGNMENT; SUBLETTING

12.01. Assignment and Sublease. Tenant shall not have the right to assign, sublet, or otherwise transfer Tenant's interest in this Lease other than to an FTA Party which has made an attornment to the Tenant in form and substance satisfactory to Tenant, without the approval of Tenant.

## 13. INSURANCE; INDEMNITY

### 13.01. Insurance.

a. Tenant's Insurance. During the Term, Tenant will keep and maintain (or cause to be kept and maintained) in force policies of:

i. All-risk property insurance (also called special form insurance) on the Improvements or any replacements or substitutions therefor and Tenant's fixtures and personal property, with deductibles in an amount that Tenant may reasonably determine and Landlord approves, from and after commencement of construction of the Project Improvements, against Insurable Risks (hereinafter defined), and builder's risk completed value form during construction, in amounts not less than

one hundred percent (100%) of actual replacement cost (exclusive of cost of excavation, foundations, footings below the surface of the ground, and costs of underground flues, pipes, and drains). The actual replacement cost shall be confirmed from time to time (but not more frequently than once in any twelve (12) calendar months) at the request of Landlord, by one of the insurers or, at the option of Landlord, by an appraiser, engineer, architect, or contractor approved by the issuer of such insurance policy and paid by Landlord. "Insurable Risks" means those risks covered by the Texas Standard Form Fire and Extended Coverage Policy (including fire and direct loss by windstorm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, and land vehicles); sonic shock wave; and leakage from fire protective equipment;

ii. Commercial General Liability insurance with the following coverages: (a) premises/operations; (b) independent contractors; (c) broad form contractual liability specifically in support of, but not limited to, the indemnification provisions contained in this Lease; (d) broad form property damage; (e) personal injury liability with employee and contractual exclusions removed; (f) liquor liability; and (g) a severability of interest endorsement, and with the following limits: limits of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and not less than Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, sickness, or death, and property damage; and umbrella excess liability insurance for bodily injury and property damage (occurrence basis) above the coverages described above and with limits of not less than Five Million Dollars (\$5,000,000) per occurrence and in the aggregate. Landlord shall be named as an additional insured.

b. Waiver of Subrogation. Tenant shall secure an appropriate clause in, or an endorsement upon, each policy of insurance required to be provided by it hereunder, except for the commercial general liability policy, pursuant to which the respective insurance companies waive subrogation and rights of recovery or permit the insured to agree with the other party hereto to waive any claim it might have against such party. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the agent of each party hereto and their respective contractors and employees and, in the case of Landlord, shall also extend to all the persons occupying or using all or any part of the Improvements from time to time.

13.02. Indemnity. Tenant, to the extent permitted and/or authorized by the Laws and Constitution of the State of Texas, hereby agrees to defend and indemnify and hold harmless Landlord from and against all claims and all costs, expenses, and liabilities incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of or in any way related to Tenants', Sub-Tenants', and/or Tenant's assignees', employees', contractors', guests', and/or invitees' use or occupancy of the Premises or any of the activities of any such parties in or on the Premises, and/or the design or construction of the Improvements.

13.03. Contractor's Insurance. Tenant shall cause any contractor of Tenant performing work on the Premises to maintain insurance as follows, with such other terms, coverages, and insurers as Tenant shall reasonably require from time to time:

a. Commercial General Liability insurance, including contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement, and contractor's protective liability coverage, to afford protection with limits, for each occurrence, of not less than One Million Dollars (\$1,000,000) with respect to personal injury, death, or property damage; and

b. Workers' Compensation insurance in form and amounts required by law, and employer's liability insurance with not less than the following limits:

Each Accident	\$500,000
Disease--Policy Limit	\$500,000
Disease--Each Employee	\$500,000

Such insurance shall contain a waiver of subrogation provision in favor of Tenant and its employees and agents.

Tenant's contractor's insurance shall be primary and not contributory to that carried by Tenant, Tenant, their agents, or Lender. Tenant and Tenant shall be named as additional insureds on Tenant's contractor's insurance policies.

## 14. CASUALTY

14.01. Damage to Improvements. Should the Improvements or any other fixtures on the Premises be wholly or partially destroyed or damaged by fire or any other casualty whatsoever during the Term, Tenant shall commence the work of repair, reconstruction, or replacement of the damaged or destroyed Improvements and fixtures and prosecute the same with reasonable diligence to completion, so that the same shall, at the sole expense of Tenant, be restored to substantially the same size, function, and value as existed prior to the damage. If Landlord fails to complete the portion of the Improvements for which Landlord is responsible within ninety (90) days from the date of written notification by Tenant to Landlord of the casualty, Tenant may terminate this lease by written notice delivered to Landlord before Landlord completes Landlord's restoration obligations.

14.02. No Abatement of Rental. In no event shall Tenant be entitled to any abatement, allowance, reduction, or suspension of Rent or other charges herein reserved.

## 15. CONDEMNATION

15.01. Condemnation.

a. Definitions. The following definitions apply in construing provisions of this Lease relating to a taking of all or any part of the Premises or the Improvements or any interest in them by eminent domain or inverse condemnation:

i. Taking means any taking by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning authority or entity under threat of condemnation in avoidance of an exercise of eminent domain. The Taking shall be considered to take place as of the later of (x) the date actual physical possession is taken by the condemnor or (y) the date on which the right to compensation and damages accrues under the law applicable to the Premises.

ii. Total Taking means the Taking of the fee title to all the Premises and the Improvements.

iii. Substantial Taking means the Taking of so much of the Premises or Improvements or both that the remaining Premises would not be economically and feasibly usable, in Tenant's reasonable opinion, by Tenant, or the Improvements would be, in Tenant's reasonable opinion, other than reasonably efficient or economic for Tenant's use.

b. Notice to Other Party. The party receiving any notice of the kinds specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

i. Notice of intended Taking.

ii. Service of any legal process relating to condemnation of the Premises or Improvements.

iii. Notice in connection with any proceedings or negotiations with respect to such condemnation.

iv. Notice of intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of condemnation.

c. Representative of Each Party; Effectuation. Tenant and Landlord shall each have the right to represent its respective interests in each proceeding or negotiation with respect to a Taking or intended Taking and to make full proof of his or its claims. Tenant and Landlord each agree to execute and deliver to the other any instruments that may be required to effectuate or facilitate the provisions of this Lease relating to condemnation.

d. Total or Substantial Taking. On a total Taking, Tenant's obligation to pay Rent shall terminate on the day of Taking. If Tenant determines that the Taking

is substantial under the definition appearing in Subsection 15.01.a.iii., Tenant may, by notice to Landlord given within one hundred twenty (120) days after Tenant receives notice of intended Taking, elect to treat the Taking as a Substantial Taking. If Tenant does not so notify Landlord, the Taking shall be deemed a Partial Taking. A Substantial Taking shall be treated as a Total Taking if (1) Tenant delivers notice to Landlord within one hundred twenty (120) days after Tenant receives notice of intended Taking, as provided above, and (2) Tenant is not in default under this Lease and has complied with all Lease provisions concerning apportionment of the award. If these conditions are not met, the Taking shall be treated as a Partial Taking.

e. Delivery of Possession. So long as Tenant is not in Default under this Lease, Tenant may continue to occupy the Premises and Project Improvements until the day of Taking.

f. Award for Total Taking. On a Total Taking, the award therefor shall be distributed and paid to Tenant and Landlord as their respective interests under this Lease (as if the same had not been terminated) may appear. In determining their respective interests:

i. The interest of Landlord shall be based on the value of Landlord's reversionary interest in the Premises and Improvements taking into account the leasehold estate created by this Lease, the amount of rental paid by Tenant and the value of non-monetary consideration, if any, to Tenant hereunder, and all of the other terms and provisions of this Lease; and

ii. The interest of Tenant shall be based on the value of Tenant's interest in the Premises and Improvements, including the value of the improvements for the Term and the value of Tenant's leasehold estate and interests under this Lease.

g. Partial Taking. In the event of a Partial Taking, Landlord shall be entitled to a portion of the award equal to the value of the fee simple title to the portion of the Premises taken, exclusive of the value of the Improvements and Tenant shall be entitled to the balance of the award. In such event, this Lease shall remain in full force and effect covering the remaining portion of the Premises. Tenant shall, subject to the rights of each Lender, promptly commence reconstruction of the Improvements damaged by such Partial Taking to as near the condition as existed prior to such Taking as is reasonably practicable and diligently prosecute the same to completion.

h. Taking of Less than Fee Title. On any Taking of the temporary use of all or any part or parts of the Premises or Improvements or both for a period, or of any estate less than the fee, ending on or before the expiration date of the Term, neither the Term nor the Rent shall be reduced or affected in any way, and Tenant shall be entitled to any and all awards for the use or estate taken. If any such Taking is for a period extending beyond the expiration date of the Term, the Taking shall be treated under the foregoing provisions for Total, Substantial and Partial Takings.

## 16. DEFAULT; REMEDIES

16.01. Tenant's Default. Each of the following events shall be a default by Tenant and a breach of this Lease:

a. Failure to timely and fully perform Tenant's obligations under Article 9 of this Lease or under the FTA Agreements.

b. Failure or refusal to pay when due the Rent as provided in Article 5 of this Lease.

c. Failure or refusal to pay when due any other sum required by this Lease to be paid by Tenant if such failure to pay is not cured within twenty (20) days after written notice thereof is provided to Tenant.

d. Failure by Tenant to perform as required any other covenant, agreement, or obligation (other than the payment of a liquidated sum of money) of Tenant under this Lease if the same is not cured within thirty (30) days after notice of such failure from Landlord to Tenant; provided, that, if such default is of a nature that cannot reasonably be expected to be cured within said thirty (30) days, then for such longer time as may be reasonably necessary so long as Tenant commences the cure within said thirty (30) days and thereafter diligently prosecutes the same to completion.

e. The taking by execution of Tenant's leasehold estate for the benefit of any person other than a Lender or purchaser at a foreclosure under a Mortgage.

f. The filing of a petition for relief against Tenant, as debtor, under the Federal Bankruptcy Code (the "Code"), as now or hereafter constituted, or any other applicable federal or state law of similar import, or the entry of a decree or order by a court having jurisdiction over the Premises, appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of or for Tenant or any substantial part of the properties of Tenant or ordering the winding up or liquidation of the affairs of Tenant, and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days.

g. The commencement by Tenant of a voluntary case under the Code, as now or hereafter constituted, or any other applicable federal or state law of similar import, or the consent or acquiescence by Tenant to the commencement of a case under the Code or such similar law or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of or for Tenant or any substantial part of the property of Tenant.

16.02. Landlord's Remedies. Upon default hereunder by Tenant, Landlord has the following remedies in addition to all other rights and remedies provided by law or equity, to which Landlord may resort cumulatively or in the alternative:

a. Landlord may, at Landlord's election, terminate this Lease by giving Tenant notice of termination. On the giving of the notice, all of Tenant's rights in the Premises and in all Improvements shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Premises and all Improvements and Landlord may re-enter and take possession of the Premises and all Improvements and eject all parties in possession or eject some and not others or eject none. Termination under this Section 16.02.a. shall not relieve Tenant from the payment of any sum then due to Landlord or from any claim for damages previously accrued or then accruing against Tenant.

b. Landlord may, at Landlord's election, re-enter the Premises, and, without terminating this Lease, at any time and from time to time relet the Premises and improvements or any part or parts of them for the account and in the name of Landlord or otherwise. Landlord may, at Landlord's election, eject all persons or eject some and not others or eject none. Landlord shall apply all rents from reletting, if any, first to the reasonable costs and expenses incurred by Landlord in reletting the Premises, then to the reasonable costs and expenses incurred by Landlord in operating and maintaining the Improvements, and the balance to rents and other sums payable by Tenant to Landlord. Landlord shall have no duty to remit any sums thus collected to Tenant. Any reletting may be for the remainder of the term or for a longer or shorter period. Landlord may execute any leases made under this provision either in Landlord's name or in Tenant's name and shall be entitled to all rents from the use, operation, or occupancy of the Premises or Improvements or both. No act by or on behalf of Tenant under this provision shall constitute a termination of this Lease unless Landlord gives notice of termination. Nothing contained herein shall be deemed to place any obligation on Landlord to relet the Premises.

16.03. Mitigation of Damages. If Tenant abandons the Premises or vacates the Premises, or if Landlord terminates Tenant's right to possession of the Premises as a result of a default by Tenant, Landlord shall not have any obligation to relet or attempt to relet the Premises, or any portion thereof, unless applicable law imposes such an obligation on Landlord and prohibits a waiver of that obligation. To the fullest extent allowed by law, Tenant hereby waives any obligation on the part of Landlord to mitigate damages. If applicable law requires Landlord to mitigate damages under any circumstances and prohibits a waiver by Tenant of that obligation, the parties hereby agree that Landlord shall have taken objectively reasonable efforts to so mitigate if Landlord has done either of the following within one hundred twenty (120) days after Tenant no longer occupies the Premises: (a) announce the availability of the Premises for lease in a suitable trade journal or Galveston County, Texas newspaper once a month, or request proposals for lease of the Premises by a request for proposals process as determined by Landlord; or (b) show the Premises to prospective Tenants. Landlord acknowledges the unique nature of the Premises and agrees that Tenant

shall have no obligation to lease the Premises to any willing Tenant. Rather, the Tenant must be suitable under the circumstances and in Landlord's sole discretion, considering such factors, among others, as financial responsibility, the identity and business reputation of the proposed Tenant, and the experience of the proposed Tenant in operating similar projects.

16.04. Notice of Landlord's Default. Each of the following events will constitute a default by Landlord: Landlord shall not be considered to be in default under this Lease unless (a) Tenant has given written notice specifying the default and (b) Landlord has failed for sixty (60) days after receipt of such notice to cure the default or to commence cure within such time and then pursue the same diligently.

a. Landlord's failure, at the expiration of five (5) business days following Tenant's notice to Landlord of Landlord's failure to have responded timely to reviews of submittals of plans and specifications, or other timely reviews required through this lease, may result in damages to Tenant to the extent that Tenant incurs increased design and construction costs directly attributable to Landlord's delay as indicated herein. The foregoing shall not apply, however, to Landlord's obligations in this Lease to respond to submittals of the Plans and Specifications until the expiration of five (5) business days following Tenant's notice to Landlord of Landlord's failure to have responded timely

b. Landlord's failure to fulfill its ground lease obligation to Tenant prior to the expiration of the term of the initial lease, or any extension thereof, thereby preventing Tenant from fulfilling its responsibilities to the FTA to provide for "continuing control of use of project facilities and equipment" throughout the useful life of the project, and thereby precluding public transportation services from the federally financed facility.

16.05. Tenant's Remedies – Tenant's remedies for Landlord's default are to sue for damages. However, before the commencement of any suit for damages, Tenant shall notify Landlord in writing of such default and Landlord shall have thirty (30) days to cure such default. In the event Landlord has not cured said default within thirty (30) days of receiving Tenant's written notification, Tenant may remediate such default at his own expense and shall be entitled to deduct such expense from the next rental payment due to Landlord, or Tenant may terminate this lease, releasing Tenant from any and all of Tenant's obligations herein.

16.06. Unavoidable Default or Delay; Waiver. Any prevention, delay, nonperformance, or stoppage due to any of the following causes shall excuse nonperformance for the period of any such prevention, delay, nonperformance, or stoppage, except the obligations imposed by this Lease for the payment of Rent, Additional Rent, Impositions, Taxes, insurance premiums, or obligations to pay money that are treated as Rent or Additional Rent. The causes referred to above are strikes, lockouts, labor disputes, failure of power, acts of God, acts of public enemies of this State or of the United States, riots, insurrections, civil commotion, inability to obtain

labor or materials or reasonable substitutes for either, governmental restrictions or regulations or controls, casualties, or other causes beyond the reasonable control of the party obligated to perform (collectively, "Force Majeure").

No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel, or otherwise. If either party brings any action or proceeding to enforce, protect, or establish any right or remedy, the prevailing party shall be entitled to recover reasonable attorney's fees; provided, however, that Tenant shall be so obligated only to the extent permitted under the laws and Constitution of the State of Texas and Tenant's attorney's fees for Tenant's attorneys shall be the actual amount paid or an amount calculated at a rate equal to the average rate charged by attorneys for comparable services in law firms offering similar services with at least twenty (20) partners, shareholders, or members with offices in Houston, Texas, whichever is greater.

## 17. REPRESENTATIONS AND WARRANTIES

17.01. Tenant's Representations and Warranties. Tenant represents and warrants that:

a. As of the execution date of this Lease, Tenant is a political subdivision duly organized and validly existing under the laws of the State of Texas and is duly qualified to transact business under the laws of the State of Texas and has the power and authority to carry on its business as presently conducted and as contemplated to be conducted on the Premises by this Lease and to enter into and perform its obligations under this Lease; and the execution, delivery, and performance by Tenant of this Lease has been duly authorized by all necessary procedures of the City of Texas City..

b. As of the execution date of this Lease, the execution, delivery, and performance of this Lease by Tenant will not violate any law or Tenant's organizational documents.

17.02. Landlord's Representations and Warranties. Landlord represents and warrants that:

a. Except as disclosed to Tenant, as of the execution date of this Lease, Landlord is the record owner of the Premises and Landlord has all power and authority necessary to "enter into" this Lease.

b. As of the execution date of this Lease, to Landlord's current actual knowledge, there is no pending or threatened condemnation action pertaining to the Premises.

c. Except as disclosed to Tenant, Landlord has not executed any lease covering the Premises that has not been terminated or the term of which has not expired.

## 18. EXPIRATION; TERMINATION

18.01. Tenant's Duty to Surrender. At the expiration or earlier termination of this Lease, Tenant shall surrender to Landlord possession of the Premises and all portions of the Project located on or over the Premises, together with all fixtures, trade fixtures, equipment, and personal property located on the portions of the Premises owned by Landlord and used in connection with the operation of the Project, but specifically excluding Tenant's inventory, computers, maintenance equipment, furniture, furnishings, and other office equipment, all of which Tenant shall have the right and option to remove. Tenant shall leave the surrendered Premises, improvements, and any other property reasonably necessary to operate the Premises and portions of the Project located on or over the Premises in good condition. All property that Tenant is required to surrender shall become Landlord's property at the expiration or earlier termination of this Lease without compensation to Tenant. All property that Tenant is not required to surrender but that remains on the Premises for thirty (30) days following the expiration or earlier termination of this Lease shall, at Landlord's election, become Landlord's property at the expiration or earlier termination of this Lease without compensation to Tenant.

If Tenant fails to surrender as aforesaid at the expiration or sooner termination of this Lease, Tenant shall, to the extent permitted by law, defend and indemnify Landlord from all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding Tenant founded on or resulting from Tenant's failure to surrender.

18.02. Holding Over. This Lease shall terminate without further notice at the expiration of the Term. Any holding over by Tenant after expiration shall not constitute a renewal or extension or give Tenant any rights in or to the Premises and/or the improvements located on or over either, except as otherwise expressly provided in this Lease, and Tenant shall pay, as liquidated damages, the then current fair market rental value of the Premises and the improvements located on or over both, calculated on a per diem basis, multiplied by two (2) for the period during which Tenant possesses such property beyond the expiration hereof.

18.03. Transit Need. The Landlord reserves the right to terminate this agreement if use of the leased space is necessary for a public transportation purpose which cannot otherwise be accommodated within the remainder of the facility. This request shall be made in writing by the Landlord to the Tenant in a manner which describes the transit need and how the space shall be utilized. The Tenant shall be given the opportunity, via a 180-day cure period, to provide for an alternate arrangement to accommodate the need of the Landlord. If the alternate arrangement is

not acceptable to the Landlord, the Tenant will be given up to 365 days to vacate the premises and to find other accommodations.

## 19. GENERAL CONDITIONS; MISCELLANEOUS PROVISIONS

### 19.01. Transactions Between Parties.

a. Approval of Ancillary Agreements. Tenant agrees that if it becomes necessary or desirable for Landlord to approve in writing any ancillary agreements or documents concerning the Premises or concerning the construction, operation, or maintenance of the Project Improvements or to alter or amend any such ancillary agreements between Tenant and Landlord or to give any approval or consent of Landlord required under the terms of this Lease, Tenant hereby authorizes, designates, and empowers the Mayor of the City of Texas City or successors in function, as empowered to execute such documents; however, any approval of "ancillary agreements" may require the City of Texas City Commission and Gulf Coast Center Board of Trustees approval.

b. Notice. As used in this Lease, notice includes but is not limited to the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, and appointment. No notice of the exercise of any option or election is required unless the provision giving the election or option expressly requires notice. All notices must be in writing. Notice is considered given either (a) when delivered in person or by facsimile transmission (however, if a facsimile transmission is received after 5:00 p.m. Central Time, it shall be deemed received the following business day) to the recipient named as below, or (b) three (3) days after deposit in the United States mail in a sealed envelope, wrapper, or container, either registered or certified mail, return receipt requested, postage and postal charges prepaid, addressed by name and address to the party or person intended as follows:

#### Notice to Tenant:

Mayor  
City of Texas City  
1801 9th Avenue North  
City of Texas City, Texas 77592

#### Notice to Landlord:

Chief Executive Officer  
Gulf Coast Center  
Administrative Office  
10000 Emmett F Lowry, Suite 1220  
Texas City, Texas 77591

Facsimile notices shall be followed by delivery by first class mail as provided above. Either party may, by notice given at any time or from time to time, require subsequent notices to be given to another person whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

c. Nonmerger of Fee and Leasehold Estates. Notwithstanding any other provision of this Lease to the contrary, if both Tenant's and Landlord's estates in the Premises or the Improvements or both become vested in the same owner, this Lease shall nevertheless not be destroyed by application of the doctrine of merger or any contrary provision of this Lease except at the express written election of the owner.

d. Estoppel Certificates. At any time and from time to time, within thirty (30) days after notice of request by Tenant or Landlord, the other party shall execute, acknowledge, and deliver to the other or to such recipient as the notice shall direct, a statement certifying that this Lease is unmodified and in full force and effect, or, if there have been modifications, that it is in full force and effect as modified in the manner specified in the statement. The statement shall also state the dates to which the Rent and any other charges have been paid in advance and that there are no defaults hereunder, or if there are, specifying those defaults with particularity. The statement shall be such that it can be relied on by any auditor, creditor, commercial banker, and investment banker and by any prospective purchaser or encumbrancer of the Premises or all or any part or parts of Tenant's or Landlord's respective interests under this Lease.

e. Joint and Several Obligations. If either Tenant or Landlord consists of more than one person, the obligation of all such persons is joint and several.

#### 19.02. Interpretation of Lease.

a. Captions, Table of Contents. The table of contents, if any, of the Lease and the captions of the various Articles, Sections, and Subsections of this Lease are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Lease or of any part or parts of this Lease.

b. Gender. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the neuter, and each includes corporation, partnership, or other legal entity when the context so requires.

c. Singular and Plural. The singular number includes the plural whenever the context so requires. References herein to "person", means one or more persons, or one or more entities, or any combination of persons and entities.

d. Exhibits, Addenda. The following **Exhibits A-B** are incorporated herein for all purposes, "whether or not" they are attached, provided that, if not attached, have been signed or initialed by the parties:

No promise, representation, warranty or covenant not included in this Lease has been or is relied on by either party. Each party has relied on his own examination of this Lease, the counsel of his own advisors and the warranties, representations, and covenants in this Lease. The failure or refusal of either party to inspect the Premises, to read the Lease or to obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection, or advice. This Lease may not be changed except by written instrument signed by both Tenant and Landlord.

e. Severability. The invalidity or illegality of any provision shall not affect the remainder of the Lease.

f. No Partnership, Joint Venture, or Principal-Agent Relationship. Nothing in this Lease or any acts of the parties hereto shall be construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between the parties.

g. Time of Essence. Time is of the essence with respect to the performance of each of the terms, provisions, covenants, and conditions contained in this Lease.

h. Texas Law to Apply. This Lease shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Galveston County, Texas.

19.03. Successors. Each and all covenants and conditions of this Lease shall be binding on and shall inure to the benefit of the heirs, successors, executors, administrators, assigns, and personal representatives of the respective parties. References herein to "Landlord" shall mean the person who is the owner at the time in question of the Premises, whether singular or plural in number, and whether named in this Lease as Landlord or having become the successor in interest of the named Landlord, or the successor of a successor, whether by assignment, foreclosure, or other transfer, and whether intentional or inadvertent or by operation of law. References herein to "Tenant" shall mean the person named as Tenant in this Lease, whether singular or plural in number, or the person who at the time in question is the successor in interest of Tenant, or the successor of a successor, whether by assignment, foreclosure, or other transfer, and whether intentional or inadvertent or by operation of law. It does not, however, include any person claiming under any assignment or sublease or other transfer prohibited by this Lease, and this definition does not alter the provisions of this Lease relating to assignment or subletting.

19.04. Nondiscrimination. Any impermissible discrimination by Tenant or its agents or employees "on the basis of" race, color, sex, age, religion, national origin, veteran's status, or disability in employment practices or in the performance of the terms, conditions, covenants and obligations of this Lease is prohibited. Accordingly, Tenant will exercise its reasonable efforts in good faith, consistent with prudent business practices, to include women-owned and minority-owned small business enterprises as material suppliers, as contractors, and/or as subcontractors in planning, designing, developing, constructing, operating, and maintaining the Premises during construction and following completion.

19.05. Conflict of Interest. Tenant acknowledges that it is informed that Texas law prohibits contracts between Tenant and its officers, and that the prohibition extends to contracts with any partnership, corporation, or other organization in which any such officer has an interest. Tenant certifies (and this Lease is made in reliance thereon) that neither Tenant nor any person having an interest in this Lease by, or under Tenant is an officer of Tenant.

19.06. No Broker. Tenant and Landlord each indemnifies and agrees to hold the other harmless from any claims for real estate leasing commissions or finders fees in respect to the transaction entered into under this Lease alleged to be due because of any act of the indemnifying party and from any loss, liability, damage, cost, or expense (including attorney's fees) of defending or settling such claims. Tenant's obligation to indemnify Landlord shall apply to the extent permitted by law and/or authorized by the Constitution and laws of the State of Texas.

## 20. EXECUTION

20.01. Execution in Counterparts. This Lease is executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

This Lease is executed on the dates shown below, to be effective for all purposes on the date first written above.

Date: \_\_\_\_\_, 2019

By: \_\_\_\_\_  
Mayor  
City of Texas City  
"Tenant"

Date: 09-03, 2019

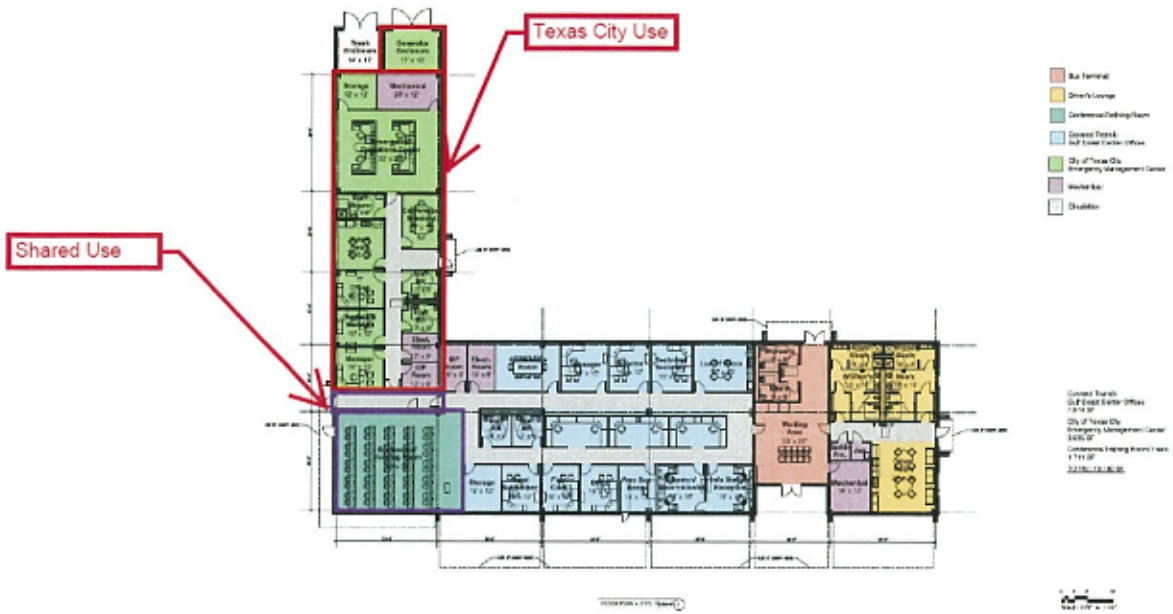
By: [Signature]  
Chief Executive Officer  
Gulf Coast Center  
"Landlord"

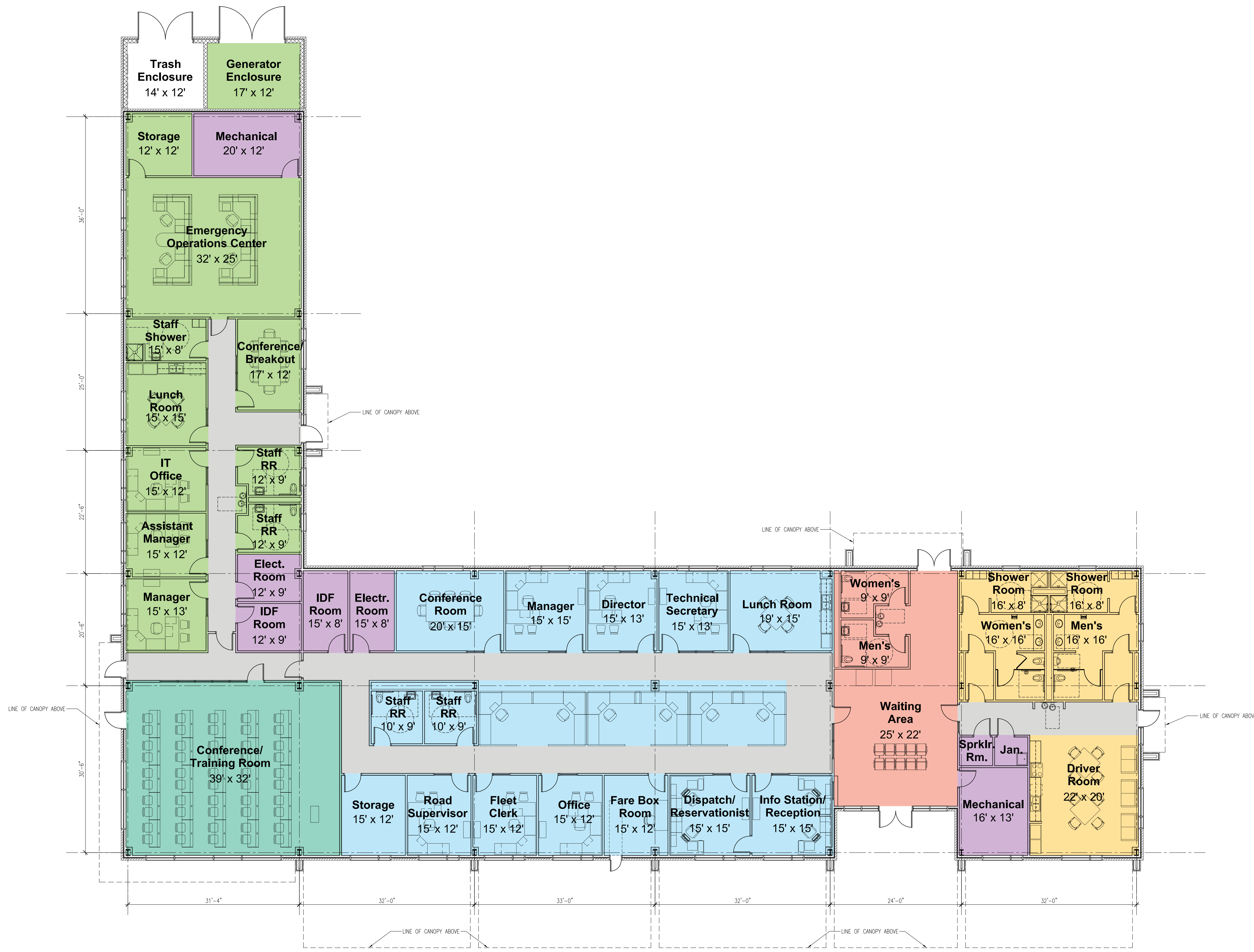
Exhibits



# EXHIBIT B

## Lease Space





- Bus Terminal
- Driver's Lounge
- Conference/Training Room
- Connect Transit/  
Gulf Coast Center Offices
- City of Texas City  
Emergency Management Center
- Mechanical
- Circulation

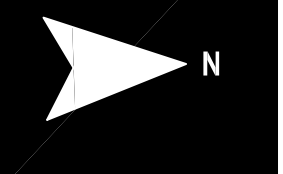
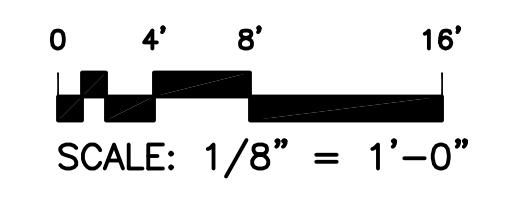
Connect Transit/  
Gulf Coast Center Offices:  
7,874 SF

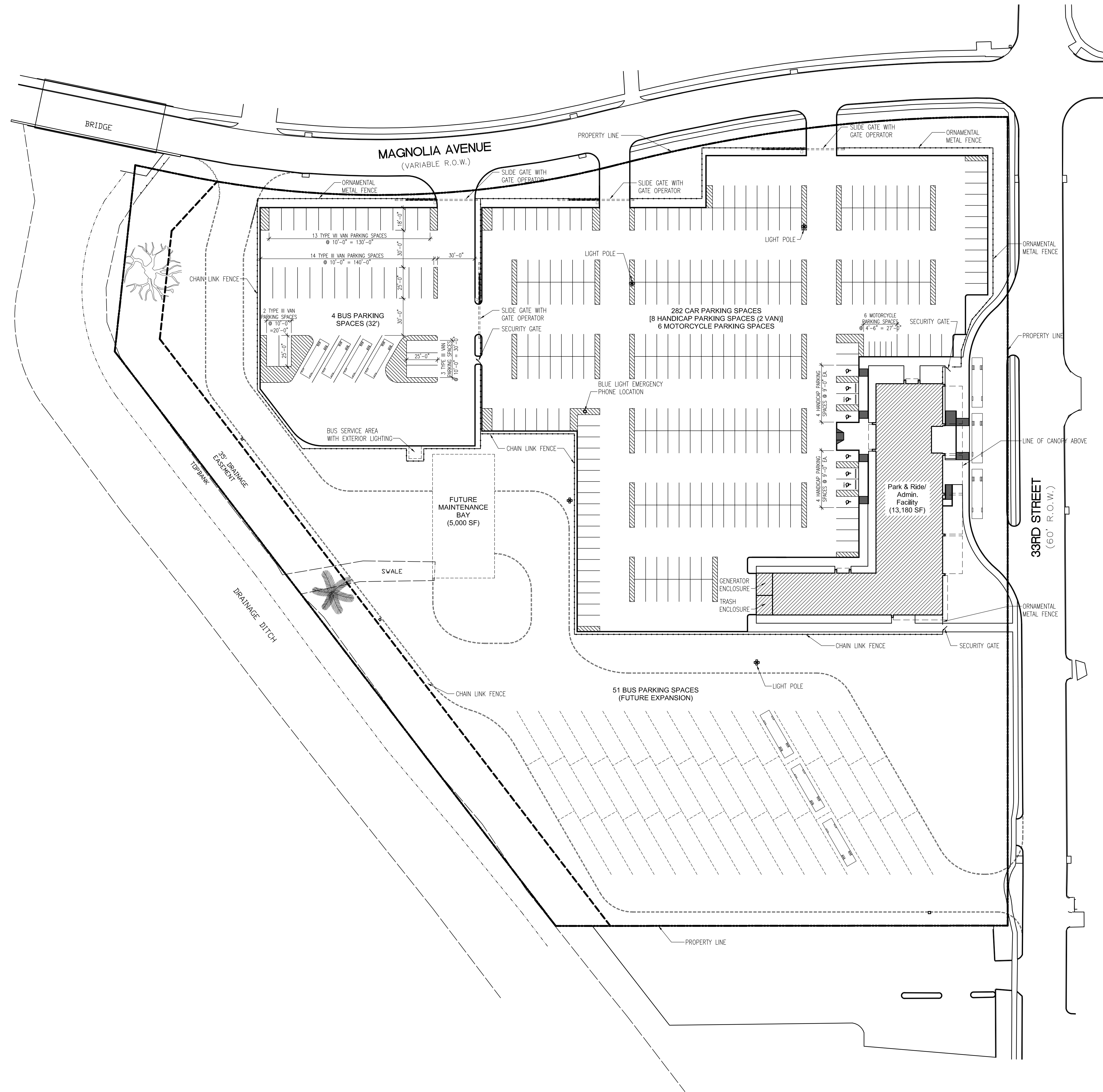
City of Texas City  
Emergency Management Center:  
3,595 SF

Conference/Training Room/Trash:  
1,711 SF

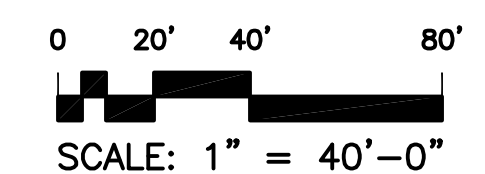
**TOTAL: 13,180 SF**

FLOOR PLAN - LEVEL 1 1





SITE PLAN 1" = 40'-0" 1



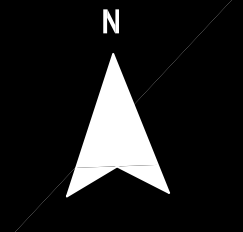
Alexandria | Atlanta | Austin | Boca Raton | Boston | Dallas | Houston | Las Vegas | Los Angeles | New Orleans | Mexico City | Pierce Goodwin Alexander & Linville

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 [F] 713 968 9333  
 WWW.PGAL.COM

NOT FOR REGULATORY  
 APPROVAL, PERMITTING,  
 OR CONSTRUCTION  
 TEXAS REGISTERED  
 ARCHITECT  
 DAVID L. ANDREWS  
 8183

**TEXAS CITY PARK & RIDE /  
 ADMINISTRATION FACILITY - OPTION D**  
 TEXAS CITY, TEXAS

03.22.2016



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**CITY COMMISSION REGULAR MTG**

**(9) (i)**

**Meeting Date:** 10/16/2019

Approval of InterLocal Contract between Texas City and Gulf Coast Center

**Submitted For:** Doug Kneupper, Transportation and Planning

**Submitted By:** Doug Kneupper, Transportation and Planning

**Department:** Transportation and Planning

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider approval of an InterLocal Contract between the City and Gulf Coast Center that will support and continue the public transportation services provided by Gulf Coast Center and Connect Transit.

**BACKGROUND**

The Gulf Coast Center, working through their transportation dept., Connect Transit, provides public transportation services to the cities of Texas City, La Marque and Dickinson. The services include fixed-route bus service, ADA Para-transit, and Demand Response services. The funding for the public transportation services is allocated to the Gulf Coast Center from the Federal Transit Administration and Texas Department of Transportation based on a three-year plan. However, the funding does require a local match from the cities utilizing the services.

Exhibit B in the Contract demonstrates how the required local match is divided between Texas City, La Marque and Dickinson. There are 4 factors that are averaged and shows that Texas City's share is \$121,228. Approval of this Contract keeps the public transportation services in place for three more years with each city contributing a fair share of the local match.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Interlocal Contract

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June 26, 2019

Mayor Matthew Doyle  
City of Texas City  
1801 9<sup>th</sup> Avenue North  
Texas City, TX 77592

Dear Mayor Doyle:

The Gulf Coast Center (GCC) has drafted an Interlocal Agreement (ILA) between GCC and each Texas City/La Marque UZA city for the continuing support of Connect Transit fixed route, complementary ADA Paratransit, demand response, and commuter services. Connect Transit management continues to focus on improving services and will be replacing its fleet and improving its dispatching software. The draft ILA is a three-year agreement (FY 2020 – FY 2022). Exhibit A illustrates the Texas City, La Marque, and Dickinson fixed route system and Exhibit B outlines GCC's request for each city's annual financial contribution. Local funds are extremely important to Connect Transit; they directly increase how much funding we receive from TxDOT and they are a very critical match to our FTA funds.

I'd also like to take this opportunity to inform you about the Transit Evaluation Committee (TEC). The purpose of the TEC will be to consider information and requests related to transit priorities and make recommendations to the GCC Board of Trustees. The TEC will be composed of representatives from the cities, counties, and transit stakeholders contributing to and receiving transit services and will meet quarterly. I'd like to request that you please consider assigning a representative from the City of Texas City to serve on the TEC. Improving the dialogue between Connect Transit and the communities it serves will be an important outcome of the TEC.

A representative from The Goodman Corporation (TGC) will contact the City soon to arrange a meeting to further discuss the proposed Interlocal Agreement and local funding plan.

Thank you for your loyalty to the GCC and Connect Transit.

Sincerely,

Rick Elizondo

Cc: Nick Finan, Executive Director of Management Services



10000 Emmett F Lowry,  
Suite 1220  
Texas City, TX 77591

409.763.2373

Toll Free- 1-800-643-0967

FAX 409.763-5538

[www.GulfCoastCenter.org](http://www.GulfCoastCenter.org)

*Better community healthcare promoting healthy living.*

**STATE OF TEXAS** §

**COUNTY OF GALVESTON** §

**INTERLOCAL CONTRACT**

This Interlocal Contract ("Agreement") is made and entered into and effective as of the \_\_\_\_ day of \_\_\_\_\_, 2019 ("Effective Date") pursuant to the Texas Interlocal Cooperation Act, Chapter 791 of the Texas Government Code (the "Act"), by and between the **Gulf Coast Center (Center)**, established pursuant to provisions of Chapter 534 of the Texas Health & Safety Code Ann. (Vernon 1992), and the **City of Texas City (City)**, a political subdivision of the State of Texas incorporated pursuant to Chapter 43 of the Local Government Code.

**RECITALS**

**WHEREAS**, pursuant to the Act, the Center and City are authorized to contract with eligible entities to perform governmental functions and services, including governmental functions in which the contracting parties are mutually interested;

**WHEREAS**, the Center, through its public transportation department Connect Transit, operates a fixed route public transportation service in the Galveston County municipalities of Texas City, La Marque, and Dickinson (Texas City/La Marque UZA), (see System Map - Exhibit A);

**WHEREAS**, the Center also provides ADA Para-transit, Commuter and Demand Response services within the Texas City/La Marque UZA;

**WHEREAS**, the Texas Department of Transportation (TxDOT) is the “designated recipient” for federal formula funding distributed annually by the Federal Transit Administration (FTA) to small urbanized areas to support the planning, capital, and operation of public transportation services;

**WHEREAS**, the Center, through an agreement with the “designated recipient” is the “direct recipient” to receive and expend Federal Transit Administration (FTA) Section 5307 formula funds, apportioned to the Texas City/La Marque UZA, to support transit services;

**WHEREAS**, the Center receives State of Texas public transportation funds to operate transit services, to pay for transit capital needs in the Texas City/La Marque UZA, and to provide a local share match for FTA Section 5307 formula funds;

**WHEREAS**, the Center has developed a three (3) year funding plan (Exhibit B) to fund transit services which support the municipalities of Texas City, La Marque, and Dickinson. This plan will be reviewed on an annual basis to reflect adjustments based on changes in service levels;

**WHEREAS**, the Center may construct pedestrian-transit sidewalk improvements and other capital improvements over the three (3) year duration of this agreement. If these projects are agreed upon by the Center and the City, these capital construction projects will be executed under separate Interlocal Agreements between the Center and City.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Center agree to the following terms, covenants, and conditions:

#### **ARTICLE 1 – TEXAS CITY/LA MARQUE/DICKINSON TRANSIT PLAN**

The Center and City agree that the continuation and improvement to fixed route transit services and associated complimentary ADA paratransit services will be in accordance with the proposed system map in Exhibit A, and that the Center will provide such services in accordance with all state and federal requirements. The initial operating plan may from time to time be adjusted in the interest of providing the most cost-effective transit services, in accordance with the provisions of Article 2.

#### **ARTICLE 2 – TRANSIT SERVICES COMMITTEE**

The City agrees to participate in the “Transit Services Committee”, to be created after Interlocal Agreements are executed. The Transit Services Committee will be composed of one representative from each organization as referred to within this Interlocal Agreement (Exhibit B), a representative of the Center, and other stakeholders as identified by the Transit Services Committee. Meetings of the Transit Services Committee will occur, at a minimum, on a quarterly basis, and will be coordinated by the Center.

#### **ARTICLE 3 – FINANCIAL COMMITMENT OF STAKEHOLDERS**

The City agrees to contribute its local share as indicated in Exhibit B and to provide these funds to the Center on a timely basis, subject to invoices from the Center. Should routes and schedules change significantly, the local contribution may be adjusted, subject to approval by the Center and City.

The City may provide its annual local share contribution directly, or through the lease or use of other Gulf Coast Center resources which benefit Texas City.

The Center agrees to establish an escrow account for local share funds from Texas City, La Marque, and Dickinson. Funds within the account will be used solely to support the transit services described herein.

#### **ARTICLE 4 - TERM OF AGREEMENT**

This Agreement is for a three (3) year period but may be renewed thereafter on a yearly basis, subject to confirmation by the City and Center, and the continuing commitment by other stakeholders to their respective local share responsibilities.

#### **ARTICLE 5 – SUCCESSOR IN INTEREST**

The Center and TxDOT are considering the benefits of creating a Bi-County Transit District (District), which would assume responsibility for Connect Transit services provided within Galveston and Brazoria counties. The City and Center agree that if a Bi-County Transit District is created pursuant to Chapter 458 of the Texas Transportation Code, this Agreement may be assigned to the new District with the written consent of both parties.

#### **ARTICLE 6 - CANCELLATION OF AGREEMENT**

This agreement may be cancelled at any time by either party through the provision of a sixty (60) day notice of intent to terminate.

#### **ARTICLE 7 – INDEMNIFICATION**

To the extent authorized by the Constitution and laws of the State of Texas, and without waiving any defenses or consequences whatever, under the same, The Center shall indemnify and hold harmless the City, its Council, employees and agents from all suits, actions, claims, costs or liability of any character, type or description, including attorneys' fees and legal expenses, brought, made for or on account of any death, injury or damage received or sustained by any person or property arising out of or occasioned by the acts or omissions, including the negligence, of Center or Center's agents or employees in the execution or performance of this Contract.

It is understood by Center that this “hold harmless” clause means that if the Center is negligent in any of its duties and any damage, death or injury occurs as a result of this negligence, the Center will be responsible for any costs resulting from the damage, death or injury, to the extent allowable by law.

#### **ARTICLE 8 – LIABILITY**

Section 8.01 - No Personal Liability of Center. To the extent allowed by law the Center's officers, either singularly or collectively, are not personally liable on this Agreement or for any breach thereof.

Section 8.02 - No Personal Liability of the City. To the extent allowed by law, the City's officers, agents and employees, either singularly or collectively, are not personally liable on this Agreement or for any breach thereof.

## **ARTICLE 9 – MISCELLANEOUS**

Section 9.01 - Laws. The parties hereto agree to abide with all applicable laws, regulations, and grant provisions of the United States, the State of Texas, and any other lawful authorities having jurisdiction.

Section 9.02 - Notices. All notices, demands, or requests from one party to another shall be in writing and shall be personally delivered, sent by mail, certified, registered, express or overnight, postage prepaid, or sent by facsimile transmission, to the addresses stated in this Section, or to such other address as the party may request in writing, and are deemed to have been given at the time of delivery:

Gulf Coast Center, 10000 Emmett F Lowry Expressway, Suite 1220, Texas City, Texas 77591 to the attention of the Chief Executive Officer.

City of Texas City, 1801 9<sup>th</sup> Avenue North, Texas City, Texas 77592 to the attention of the Mayor.

Section 9.03 - Texas Law to Apply and Venue. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Galveston County, Texas.

Section 9.04 - Legal Construction. In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability does not affect any other provision hereof and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein, if consistent with the overall intent of this Agreement.

Section 9.05 - Amendment. No amendment, modification, or alteration of the terms of this Agreement is binding unless in writing, dated subsequent to the Effective Date and executed by the City and the Center or their successors and permitted assigns.

Section 9.06 - Exhibits. All Exhibits attached to this Agreement are incorporated by reference.

Section 9.07 - Counterparts. This Agreement may be executed in any number of counterparts, and each counterpart is deemed to be an original instrument, but all such counterparts together constitute but one Agreement. A photocopy or facsimile reproduction of an original signature of a party on this Agreement binds that party to the terms, covenants and conditions of this Agreement.

Section 9.08 - Time is of the Essence. Time is of the essence in this Agreement.

Section 9.09 - Headings. The headings, captions, and arrangements used in this Agreement are for convenience only and do not affect the interpretation of this Agreement.

THIS AGREEMENT has been executed by the parties on the date and year first above written.

**GULF COAST CENTER**

By: \_\_\_\_\_  
Melissa Tucker,  
Chief Executive Officer

Approved as to form:

\_\_\_\_\_  
General Counsel to the Gulf Coast Center

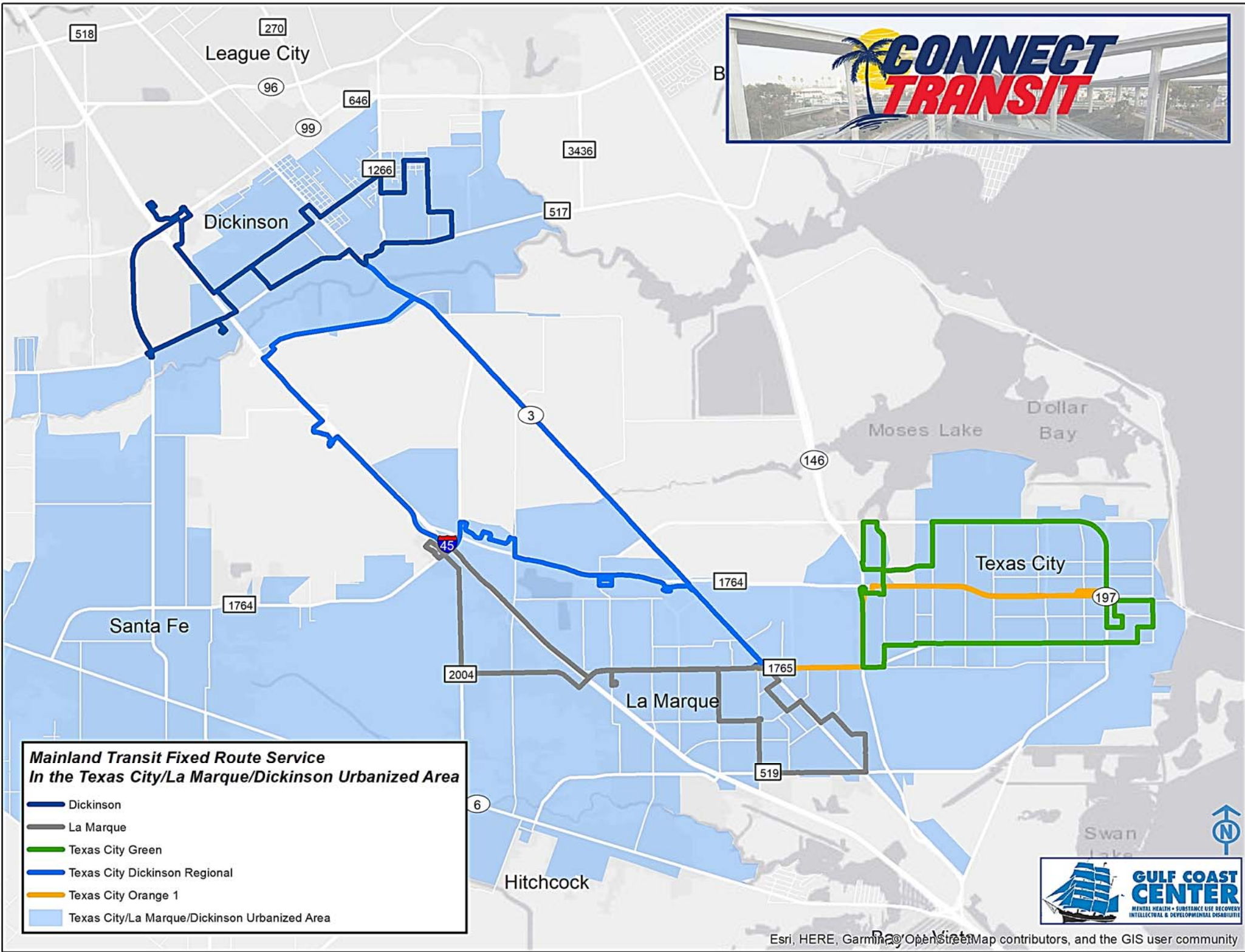
**CITY OF TEXAS CITY, TEXAS**

By: \_\_\_\_\_  
Matthew Doyle, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

- Exhibit A: Texas City, La Marque, Dickinson Fixed Route System Map**
- Exhibit B: Three (3) Year Local Share Responsibility**



**Mainland Transit Fixed Route Service  
In the Texas City/La Marque/Dickinson Urbanized Area**

- Dickinson
- La Marque
- Texas City Green
- Texas City Dickinson Regional
- Texas City Orange 1
- Texas City/La Marque/Dickinson Urbanized Area





**CITY COMMISSION REGULAR MTG**

**(9) (j)**

**Meeting Date:** 10/16/2019

AMAZON BUSINESS

**Submitted For:** Debbie Gurka, Administration

**Submitted By:** Debbie Gurka,  
Administration

**Department:** Finance

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**Information**

**ACTION REQUEST (Brief Summary)**

Approve using OMNIA Partners Public Sector Purchasing Cooperative contract " R-TC-17006 Online Marketplace for the Purchase of Products and Services" expires 01/01/2028 for Amazon purchases.

**BACKGROUND**

City departments use Amazon.com for purchases. In the past Amazon orders were charged to a City MasterCard. Amazon Business allows invoicing which opens up benefits such as receiving three (3) quotes on items over \$3000.00, spend analysis, no fees for service, etc. We have utilized the benefits.

Amazon is currently under contract with OMNIA Partners Cooperative Purchasing titled "Online Marketplace for the Purchases of Products and Service" The City's OMNIA Partners membership number is 1181306.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**CITY COMMISSION REGULAR MTG**

**(9) (k)**

**Meeting Date:** 10/16/2019

approving updated Patron Behavior Policy

**Submitted For:** Luke Alvey, Library

**Submitted By:** Luke Alvey, Library

**Department:** Library

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-107, approving updated Rules of Behavior Policy for Moore Memorial Public Library. (Library)

**BACKGROUND**

The library is updating our Rules of Behavior policy to reflect that "approved food and covered beverages" will be allowed in "designated areas. The change also allows cell phone use "non-prohibited areas at an acceptable volume." The policy was accepted by the Library Board at the September meeting.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**Attachments**

Resolution

Patron Behavior Policy

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**RESOLUTION NO. 19-107**

**A RESOLUTION APPROVING UPDATES TO THE MOORE MEMORIAL PUBLIC LIBRARY'S RULES OF BEHAVIOR POLICY; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

---

**WHEREAS**, the Library Board of the Moore Memorial Public Library has considered and approved the following update to the Rules of Behavior Policy:

“Approved food and covered beverages” will be allowed in “designated areas”

“Cell phone use is allowed in “non-prohibited areas at an acceptable volume.”

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas, hereby approves the updates to the Moore Memorial Public Library's Rules of Behavior Policy as set out in **Exhibit “A”**, attached hereto and made a part hereof.

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 16th day of October 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

---

Nicholas J. Finan  
City Secretary

---

Russell F. Plackemeier  
City Attorney

CITY OF TEXAS CITY  
MOORE MEMORIAL PUBLIC LIBRARY  
RULES OF BEHAVIOR FOR LIBRARY PATRONS  
(DRAFT)

For the safety, health and comfort of all Library patrons and staff and for the protection of Library property, the following rules of behavior have been adopted by the Moore Memorial Library Board of Trustees and will be strictly enforced. Violators shall be subject to expulsion from the Library property, loss of Library privileges and/or reported to the Texas City Police Department for prosecution.

1. Patrons shall conform to socially acceptable hygiene and wear proper attire and shoes at all times while on Library property.
2. Approved food and covered beverages are permissible only in designated areas. Meals or messy, noisy or strong-smelling foods are not permitted. Snacks and covered beverages are permitted in most areas. Meals or messy, noisy or strong-smelling foods are not permitted.
3. Smoking and using any other tobacco products inside the Library is prohibited.
4. Service animals for disabled persons are welcome. Other animals are prohibited inside the Library unless authorized by the Library Director.
5. Soliciting, petitioning, panhandling, advertising and political campaigning are prohibited on Library property unless authorized by the Library Director.
6. Skateboarding and roller skating are prohibited on Library property. Bicycles are prohibited inside the Library but may be stored in the bicycle rack outside the Library.
7. Cell phones may be used in non-prohibited areas at an acceptable volume.
8. Theft, damage, misuse or defacement of Library materials, equipment, furniture, facilities, etc. is prohibited.
9. Entering nonpublic or "Staff Only" areas and sleeping or loitering on Library property are prohibited.
10. Children ages 8-9 may be in the Children's Department by themselves if a responsible individual at least 14 years of age or older is in the library with them. Children under the age of eight must be accompanied (within line of sight) by a responsible individual at least 14 years of age or older at all times. Disruptive children shall be expelled from the Library. See **City of Texas City Moore Memorial Library Children's Department Policy**.
11. Patrons are expected to be courteous and respectful to staff and other patrons at all times. Abusive or obscene language or gestures, verbal or physical threats or harassments, any form of stalking, offensive touching, staring, or obscene acts or any disruptive behavior including but not limited to loud talking, laughing or noises of any kind, throwing objects, fighting, spitting, horse playing, etc. are prohibited.
12. Standing, climbing, playing, lying down, etc. on Library furniture, counters, shelving or fixtures are prohibited.
13. Using the public restrooms for bathing, changing clothes, etc. is prohibited. Intentionally soiling the restrooms is also prohibited.
14. Refusing to cooperate or comply with staff's instructions or enforcement of these rules is prohibited. Patrons must obey all approved library policies.

(The Director or his/her designee reserves the right to make changes to any library policy or procedure as the need arises for health, safety and public interest concerns.)

**CITY COMMISSION REGULAR MTG**

**(9) (I)**

**Meeting Date:** 10/16/2019

approving Library Study Room Policy

**Submitted For:** Luke Alvey, Library

**Submitted By:** Luke Alvey, Library

**Department:** Library

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-108, approving a new Study Room Policy for Moore Memorial Public Library. (Library)

**BACKGROUND**

The library has created a new Study Room Policy to properly regulate the use of the new private and group study rooms. This policy was developed based on research of similar institutions and with a focus on the library's specific needs. This policy was accepted by the Library Board at the September meeting.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**Attachments**

Resolution

Study Room Policy MMPL

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**RESOLUTION NO. 19-108**

**A RESOLUTION APPROVING THE CREATION OF A NEW MOORE MEMORIAL PUBLIC LIBRARY STUDY ROOM POLICY; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

---

**WHEREAS**, the Library Board of the Moore Memorial Public Library has considered and approved the creation of a new Study Room Policy to properly regulate the use of the new private and group study room.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas, hereby approves the creation of a new Moore Memorial Public Library Study Room Policy as set out in **Exhibit "A"**, attached hereto and made a part hereof.

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 16th day of October 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

---

Nicholas J. Finan  
City Secretary

---

Russell F. Plackemeier  
City Attorney

CITY OF TEXAS CITY  
MOORE MEMORIAL PUBLIC LIBRARY  
STUDY ROOM POLICY  
(DRAFT)

The small and group study rooms may be used by the general public during the regular hours that the library is open.

1. Advance registration requests can be submitted no more than one (1) week in advance.
2. Rooms may be reserved for two (2) hour blocks, with an option to extend if the room is not booked.
3. To ensure equitable use of library facilities, the library reserves the right to limit usage to no more than three (3) hours per day.
4. To ensure equitable use of library facilities, the library reserves the right to limit advance registration to no more than two (2) days per week.
5. Depending on demand for Library Study Rooms, further usage limits may be applied.
6. Registration requires a **current** photo ID, Moore Memorial Library card, or student ID.
7. Use must not exceed the maximum occupancy for the study room.
8. If the representative of the group who has reserved a room fails to check in with the library staff within fifteen (15) minutes of the start of the reservation, the library may, at its discretion, cancel the reservation.
9. The Study Room facilities may not be used for any commercial purposes, including, but not limited to, the sale of goods or services, executing fee-for-service agreements or contracts to perform services elsewhere, accepting membership dues, selling raffle tickets, and collecting fees for tutoring. Fundraising activities conducted by the Friends of the Library group is allowed.
10. Any activities listed or presented as informational, educational, or instructional must remain so, and Study Room users shall make no direct solicitation of attendees to secure clients or customers for commercial purposes.
11. Patron(s) must be fifteen (15) years of age or older to reserve a Study Room.
12. Patron(s) using a Study Room shall remain present in the room at all times during use of the room, and any minors fourteen (14) years of age and younger using a Study Room must be accompanied by an adult guardian at all times.
13. Patrons may reserve a room with no advance notice if the room is not otherwise occupied or reserved.
14. Library staff shall have unrestricted access to Study Rooms at all times.
15. Study Room doors shall remain unlocked during use. Personal belongings should not be left unattended. The Library is not responsible for items lost, damaged, or stolen.
16. Study Rooms must be vacated at least fifteen (15) minutes before Library closing.
17. Individuals using Library Study Rooms must also adhere to the Library's Patron Code of Conduct.
18. The patron(s) reserving the Study Room accepts financial responsibility for any and all damage to Moore Memorial Public Library property resulting from patron's use of the Study Room, normal wear and tear excepted. Excessive damage or destruction to the Study Room will result in permanent loss of Study Room privileges.

(The Director or his/her designee reserves the right to make changes to any library policy or procedure as the need arises for health, safety and public interest concerns.)