



**SEABROOK CITY COUNCIL
NOTICE OF REGULAR CITY COUNCIL MEETING
TUESDAY, MARCH 6, 2018 - 7:00 PM**

For city information visit www.seabrooktx.gov
For SH 146 updates visit www.sh146.com

NOTICE IS HEREBY GIVEN THAT THE SEABROOK CITY COUNCIL WILL MEET ON **TUESDAY MARCH 6, 2018 AT 7:00 PM** IN THE CITY HALL CITY COUNCIL CHAMBERS, 1700 FIRST STREET, SEABROOK, TEXAS, **TO DISCUSS, CONSIDER, AND IF APPROPRIATE, TAKE ACTION** WITH RESPECT TO THE ITEMS LISTED BELOW.

THIS FACILITY IS WHEELCHAIR ACCESSIBLE AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR OTHER ACCOMMODATIONS OR INTERPRETIVE SERVICES, MUST BE MADE, 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE CITY SECRETARY'S OFFICE AT (281) 291-5600 OR FAX (281) 291-5690 FOR FURTHER INFORMATION.

PLEDGE OF ALLEGIANCE

1. PUBLIC COMMENTS AND ANNOUNCEMENTS

At this time we would like to listen to any member of the audience on any subject matter, whether or not that item is on the agenda. All comments are limited to a maximum of four minutes for each speaker, shall be limited to city business or city-related business or matters of general public interest, and shall not include any personal attacks. In accordance with the Open Meetings Act, members may not discuss or take action on any item that has not been posted on the agenda. When your name is called, please come to the podium and state your name and address clearly into the microphone before making your comments. Thank you.

1.1 Mayor, City Council and/or members of the city staff may make announcements about city/community events. (Council)

2. BID AWARDS

2.1 Consider and take all appropriate action on a Bid Award for RFP 2018-105-1 for Pine Gully Pier Repairs to the only bidder to submit a complete proposal, Crawley Shoreline Construction, Inc., and authorize the execution of a contract between the City of Seabrook and Crawley Shoreline Construction, Inc., in an amount not to exceed \$66,420.00. This is not a budgeted item. This work may be eligible for FEMA reimbursement. The 1295 form has been submitted and certified. (Padgett)

ATTACHMENTS: [Agenda Briefing](#) [Bid Tabulation](#) [Contract](#) [1295 form](#)

2.2 Consider and take all appropriate action on a Bid Award for RFP 2018-

106-1 for Red Bluff and Todville Water Meter and Valve Vault Repairs to the only bidder, Environmental Improvements, Inc., and authorize the execution of a contract between the City of Seabrook and Environmental Improvements, Inc., in an amount not to exceed \$84,848.95. This is not a budgeted item. This work may be eligible for FEMA reimbursement. The 1295 form has been submitted and certified. (Padgett)

ATTACHMENTS: [Agenda Briefing](#) [Bid Tabulation](#) [Contract](#) [1295 form](#)

3. CONSENT AGENDA

3.1 Approve on second reading proposed Ordinance 2018-07, "Readopting Curfew Regulations for Minors". (Wright)

ATTACHMENTS: [Ordinance 2018-07](#) [Exhibit A](#)

AN ORDINANCE READOPTING THE CURRENT CURFEW REGULATIONS FOR MINORS CONTAINED IN THE SEABROOK CITY CODE, CHAPTER 44, SECTION 44-95 "CURFEW FOR MINORS" PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$500 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR NOTICE

3.2 Approve the Annual Racial Profiling Report as mandated by the State of Texas. (Wright)

ATTACHMENT: [Report](#)

3.3 Approve an excused absence for Robert Llorente and Glenna Adovasio for the February 20, 2018 regular City Council meeting. (Hicks)

4. NEW BUSINESS

4.1 Consider and take all appropriate action on a Funding Agreement between the City of Seabrook and the Seabrook Economic Development Corporation for the Acquisition and Funding of Real Property for Economic Development of "Old Seabrook". (Cook / Chavez)

ATTACHMENTS: [Funding Agreement](#)

4.2 Consider and take all appropriate action on proposed Resolution 2018-12, "Authorization for Acquisition of Property for further development of Old Seabrook - 1209 Main Street. (Cook)

ATTACHMENTS: [Agenda Briefing](#) [Resolution 2018-12](#) [Exhibit A](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEABROOK, AUTHORIZING PROCEEDING FOR THE ACQUISITION OF CERTAIN REAL PROPERTY FOR FURTHER DEVELOPMENT OF "OLD SEABROOK"; CONSISTING OF LAND LOCATED AT 1209 MAIN STREET, LOTS 1 AND 2, BLOCK 23, MAP OF SEABROOK, HARRIS COUNTY, TEXAS (THE "PROPERTY"); DETERMINING THE PUBLIC NECESSITY AND JUST COMPENSATION FOR THE PROPERTY FOR SUCH PROJECT; AUTHORIZING APPROVAL/ EXECUTION OF THE "CONTRACT FOR SALE OF REAL PROPERTY", ("CONTRACT") ATTACHED HERETO AS EXHIBIT "A"; AUTHORIZING THE CITY MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE PROPERTY, INCLUDING IDENTIFYING FUNDS FOR PURCHASE/PAYMENT, INCLUDING ALL ASSOCIATED COSTS FOR DUE DILIGENCE AND CLOSING IN ACCORDANCE WITH THE CONTRACT AND IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS AND CHARTER; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

4.3 Consider and take all appropriate action on first of two readings of proposed Resolution 2018-14, "EDC Project Designation for Mario's Pizza, Inc (DBA Mario's Pizza & Pasta) and Approval of SEDC Expenditures for Retention,

Relocation, Construction of New Restaurant pursuant to Performance Agreement. (Chavez)

ATTACHMENTS: [Agenda Briefing](#) [Resolution 2018-14](#) [EDC Agreement](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS, APPROVING A PROJECT OF THE SEABROOK ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE BUSINESS INCENTIVES TO MARIO'S PIZZA, INC IN AN AMOUNT NOT TO EXCEED \$109,767.48 FOR RETENTION, RELOCATION, CONSTRUCTION AND IMPROVEMENT OF A NEW RESTAURANT, PURSUANT TO THE TERMS AND CONDITIONS OF THE "ECONOMIC DEVELOPMENT AGREEMENT", ATTACHED HERETO

4.4 Consider and take all appropriation action on a contract renewal between the City of Seabrook and Sprint Waste Services, LP for Disposal of Municipal Sludge at a price of \$427 per dry ton, an increase from \$388.48 per dry ton. This renewal is the first of two optional twelve month extensions. (Padgett)

ATTACHMENTS: [Agenda Briefing](#) [Renewal Letter](#) [Bid Tab](#) [Renewal Contract](#)

4.5 Consider and take all appropriate action on Election Communication Guidelines. (Dearman / Hicks)

ATTACHMENTS: [Agenda Briefing](#) [Guidelines](#)

5. ROUTINE BUSINESS

5.1 Update on Hurricane Harvey expenses and claims, and all other associated items. (Galyean)

5.2 Approve the Action Items Checklist which is attached and made a part of this Agenda. (Council)

ATTACHMENT: [Action Items Checklist](#)

5.3 Establish future meeting dates and agenda items. (Council)

6. CLOSED EXECUTIVE SESSION

6.1 Section 551.072

Discuss the purchase, lease, or exchange of real property in closed session due to potential detrimental effect on City in negotiations with third party if conducted in open session, as provided by Section 551.072 of the Texas Government Code. (Cook)

7. OPEN SESSION

Council will reconvene in open session to allow for possible action on any of the agenda items listed above under "Executive Session."

THE CITY COUNCIL RESERVES THE RIGHT TO HEAR ANY OF THE ABOVE DESCRIBED AGENDA ITEMS THAT QUALIFY FOR AN EXECUTIVE SESSION IN AN EXECUTIVE SESSION BY PUBLICLY ANNOUNCING THE APPLICABLE SECTION NUMBER OF THE OPEN MEETINGS ACT, (CHAPTER 551 OF THE TEXAS GOVERNMENT CODE) THAT JUSTIFIES EXECUTIVE SESSION TREATMENT.

I certify that this notice was posted on the bulletin board on or before Friday, March 2, 2018 no later than 5:00 p.m. and that this notice will remain posted until the meeting has ended.

Robin Hicks, TRMC
City Secretary

***SPEAKER REGISTRATION
FOR PUBLIC COMMENTS AND/OR PUBLIC HEARINGS***

Please complete this form before the Council Meeting begins.
PLEASE PRINT CLEARLY.

Meeting date: **March 6, 2018**

[illegible]



To: Seabrook City Council

From: LeaAnn Dearman and Amanda Alvarado

CC: Robin Hicks, Stephanie Martinez, Gayle Cook

Date: March 6, 2018

Re: Upcoming Events & Happenings

Please take a note and mention the upcoming Seabrook events

- **CCISD Spring Break**
March 12-16

- **Lucky Trail Marathon, Half Marathon & 5K Fun Runs**
When: March 16, 17 and 18
Where: Meador Park (Seabrook Trails)
Time: Race times vary, check www.seabrookmarathon.org for details and to sign up

- **Trash Bash 2018**
When: March 24
Where: Bay Elementary
Time: 8:30 a.m. to 1:30 p.m.

- **City Easter Egg Hunt**
When: March 31
Where: Meador Park
Time: 10 a.m. to noon

- **Last Day to Register to Vote for May 5 City Council Election**
Thursday, April 5 - Register online at TexasVotes.gov

- **Earlier Voting for May 5 City Council Election**
April 23 - May 1 (Days and times may vary during this period check seabrooktx.gov/elections for details)

Special Event Permits in Progress or Approved

- Houston Symphony League Bay Area's Home Tour: In Progress
- Bike Around the Bay October 21: In Progress



Agenda Briefing

Date of Meeting: 03/06/2018

Submitting Department: Purchasing

Date Submitted: 02/26/2018

Prepared By: Liz Lopresti

Presenter: Kevin Padgett

Will there be a guest/visitor presenter who is not an employee?: ☐ Yes ☒ No
What is this person's first and last name and affiliation to this item?:

Subject: 2018-105-1 Pine Gully Pier Repairs

Type of Item: ☐ Ordinance ☐ Resolution ☒ Contract/Agreement ☐ Public Hearing ☐ Discussion & Direction

Executive Summary: Pine Gully Pier sustained damage during Hurricane Harvey. As a result, it is currently closed to the public, until repairs can be completed. Due to FEMA regulations, an RFP was issued and awarded to the lowest reasonable bidder. Crawley Shoreline Construction, Inc was not the low bidder. However, they were the only bidder to submit a complete bid packet. Due to this being a FEMA reimbursable project, a bid bond for 5% of the total bid is required. Texas Local Government Code does not allow changes to be made to a bid submission after they have been opened. Crawley Shoreline Construction was the only vendor to submit the required bid bond, even though the requirement for the bid bond was clearly stated in the bid packet.

Background/Issue (What prompted this need?): Pine Gully Pier sustained damage during Hurricane Harvey. As a result, it is currently closed to the public until repairs can be completed. Due to FEMA regulations, an RFP was issued and awarded to the lowest reasonable bidder.

Budget Analysis/Funding Comments: These repairs are not budgeted, but it is believed to be a FEMA reimbursable project.

Expenditure Required: \$66,420.00

Budgeted Amount: \$ **Source of Funds/Funding Account:** 900-5180

Not Budgeted: If approved, the following will be included in the next Budget Amendment and \$ will be added to Revenue Account: and \$ added to Expenditure Account:

1295 Form Required? ☒ Yes ☐ No

Name of Applicant (if applicable) :

Legal Description/Location (if applicable):

Supporting Materials Attached:

1. Contract Signed by Vendor
2. Form 1295
3. Bid Tab
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Recommended Placement on Agenda: Bid Awards

Recommended Action: Approve award of RFP 2018-105-1 Pine Gully Pier Repairs to Crawley Shoreline Construction.

Reviewed by Department Director, if applicable ☐

Reviewed by Finance Director, if applicable ☐

Reviewed by City Attorney, if applicable ☐

Reviewed by City Manager ☒

**Construction Agreement
Pine Gully Pier Repairs**

THE STATE OF TEXAS

COUNTY OF HARRIS

THIS AGREEMENT, made and entered into this 6 day of March A.D., 2018, by and between Crawley Shoreline Construction, Inc., a Texas Corporation, of the County of Harris and State of Texas. "Contractor" and the City of Seabrook, a home-rule municipal corporation, organized and existing under the laws of the State of Texas, acting through its City Manager or other duly authorized designee Texas, hereinafter termed "City."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by City and Contractor, Contractor hereby agrees to commence and complete performance of the work specified below:

Repair Pine Gully Pier

Remove and replace existing pier bolts (approximately 800) and replace with $\frac{3}{4}$ hot dipped galvanized bolts, washers and nuts, including those that are currently missing and places where nails were used rather than bolts; replace damaged Cross Members and Splice with treated boards. Work shall be in compliance with the terms and specifications of City of Seabrook Notice to Bidders, Sealed Bid Project #2018-105-1, Pine Gully Pier Repairs,

and all work/additional work in connection therewith, under the terms and conditions as stated in this Agreement, and at his (or their) own proper cost and expense to furnish all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the work specified above, in accordance with the conditions and prices stated in the Notice, Proposal, and in accordance with this Agreement, and in accordance with the plans, which includes all maps, plats, blueprints, and other drawings and printed or written explanatory matter thereof, and the Specifications therefore (all collectively referred to herein as "the Contract Documents"), as prepared by City and Contractor all of which are made a part hereof and collectively evidence and constitute the entire contract.

Contractor agrees to perform the work and City agrees to pay Contractor the total of sixty-six thousand four hundred and twenty dollars (\$66,420.00) for completed and accepted work as set forth and adjusted in accordance with the terms of this Agreement.

City and Contractor hereby agree to the following additional terms and conditions:

1. Prior to Performance of Work

(a) Examination of Contract and Site. Contractor specifically represents that it has carefully examined the plans, the geotechnical report, if any, and the site of the proposed work and is thoroughly familiar with the nature and location of the work, the confirmation of the ground and soil, the nature of any structures, the character quality, and quantity of the material to be utilized, the character of equipment and facilities for and during the prosecution of the work, the time needed to complete the work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, and all other matters that in any way affect the work under this Agreement, having had the opportunity to conduct any and all additional inquiry, tests and investigation that he/she deems necessary and proper.

(b) Performance and Payment Bonds. Pursuant to federal procurement standards, 2 C.F.R. 200.325, prior to beginning work, Contractor will provide to City a Performance Bond for 100% of the Contract Price to secure fulfillment of all Contractor Obligations under this agreement. Prior to beginning work, Contractor will provide to City a Payment Bond for 100% of the Contract Price to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. The Bonds shall be in favor of City and shall be executed by an approved surety company authorized to do business in the State of Texas.

(c) Continuing Obligation. Before undertaking each part of the work, Contractor shall carefully study the Contract Documents to check and verify pertinent figures shown thereon compare accurately to all applicable field measurements. Contractor shall promptly report in writing to City's representative any conflict, error, ambiguity or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from City's Representative before proceeding with any Work affected thereby. Contractor shall be liable to City for failure to report any conflict, error, ambiguity or discrepancy in the Contract Documents of which Contractor knew or reasonably should have known.

(d) City will not be responsible for additional expenses incurred by Contractor to perform extra work necessitated by conditions which were discoverable by Contractor prior to beginning work and which Contractor failed to include in its proposal.

2. Construction Responsibilities

(a) Commencement and Completion Dates. Contractor hereby agrees to commence work on or

after the date established for the start of work as set forth in the notice to proceed and complete all work within the time stated in this Agreement. The notice to proceed shall be given in writing by the City, and no work shall commence prior to the City issuance of a notice to proceed. The work embraced by this Agreement shall be completed no more than 45 days after issuance of a notice to proceed.

(b) Specifications. Contractor shall construct the improvements required by the description of work set out in the Contract Documents ("the Improvements") in a competent and efficient manner in accordance with the procedures, specifications and standards contained in the Contract Documents and all regulations, ordinances or specifications applicable to such Improvements, such specifications, standards, regulations and ordinances being expressly incorporated herein by reference and being made a part of the agreement as though written herein.

(c) Unforeseen Conditions. Contractor must notify City in writing as soon as reasonably possible, but no later than three (3) calendar days, if unforeseen conditions are encountered at the site which are unknown physical conditions of an unusual nature, that differ materially from those normally encountered in the type of work being performed under this Agreement. If it is determined by City that such conditions differ materially and cause an increase or decrease in the cost of or time required for performance of any part of the work, City's representative will determine whether or not an equitable adjustment in the price or time for performance will be made, taking into consideration Section 1 and other applicable provisions of this Agreement. If it is determined that such conditions are not materially different from those indicated in the Contract Documents, the price and time period will not be adjusted.

(d) Protection of Lines. Notwithstanding any other provision of this Agreement, Contractor is solely responsible for the location and protection of any and all public utility lines and utility customer service lines in the work area. **Contractor shall indemnify or reimburse such expenses or costs (including fines that may be levied against City) that may result from unauthorized or accidental damage to all public lines and utility customer service lines in the work area.** City reserves the right to repair any damage Contractor causes to such utilities at Contractor's expense. If a public line and/or customer service line is damaged by Contractor, Contractor shall give verbal notice within one (1) hour and written notice within twenty-four (24) hours to City's representative.

(e) Good and Workmanlike Manner. All work on the Improvements shall be performed in a good and workmanlike manner and to the satisfaction of the City or its representative. City shall decide all questions which arise as to the quality and acceptability of materials furnished, work performed, and the interpretation of specifications.

(f) *Facilitate Inspection.* Contractor shall furnish City or City's representative with every reasonable facility for ascertaining whether or not the work performed was in accordance with the specifications applicable thereto. Any work done or materials used without suitable inspection by City may be ordered removed and replaced at Contractor's expense. Upon failure of the Contractor to allow for inspection, to test materials furnished, to satisfactorily repair, remove or replace, if so directed, rejected, unauthorized or condemned work or materials, or to follow any other request or order of City or City's representative, City shall notify the Contractor of such failure and may suspend inspections of such work until such failure is remedied. If such failure is not remedied to the satisfaction of City, City shall have no obligation under this agreement to approve or accept the Improvements.

(g) *Means and Methods of Construction.* Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents. City may reject any of the Improvements for which, in the judgment of the City, the Improvements were not constructed in accordance with City specifications.

(h) *Work Stoppage.* The City shall have the right to order the work of the Contractor wholly or partially stopped:

- (1) if any of the materials furnished or the work being done is not in strict accordance with this Agreement;
- (2) until any objectionable person or material is removed from the premises; or
- (3) if any portion of the work is being performed so as to create a hazardous condition.

Such stoppage or suspension shall neither invalidate any of Contractor's performance obligations under this Agreement, including the time of performance and deadlines therefore, nor will extra charges be allowed the Contractor by reason of such stoppage or suspension.

(i) *Permits and Licenses.* The Contractor shall secure and pay for all necessary permits and licenses, governmental fees, and inspections necessary for the proper execution and completion of the work. During this Agreement term and/or period during which the Contractor is working, it shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work.

(j) *Royalties and Licensing Fees.* The Contractor shall pay all royalties and licensing fees. The Contractor shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of patents, materials and methods used in the project. It shall defend all suits or claims for infringement of any patent rights.

(k) Safety Precautions. Safety precautions at the site are a part of the construction techniques and processes for which the Contractor shall be solely responsible. The Contractor is solely responsible for handling and use of hazardous materials or waste, and informing employees of any such hazardous materials or waste. The Contractor shall provide copies of all hazardous materials and waste data sheets to the Fire Department and City Code Enforcement.

(l) Warn of Hazards. The Contractor has the sole obligation to protect or warn any individual of potential hazards created by the performance of the work set forth herein. The Contractor shall, at its own expense, take such precautionary measures for the protection of persons, property, and the work as may be necessary.

(m) Failure of Safety Devices. The Contractor shall be held responsible for all damages to property, personal injuries and/or death due to failure of safety devices of any type or nature that may be required to protect or warn any individual of potential hazards created by the performance of the work set forth herein; and when any property damage is incurred, the damaged portion shall immediately be replaced or compensated for by the Contractor at its own cost and expense.

(n) Indemnity for Safety Failure. **The Contractor shall indemnify City from any liability caused by the Contractor's failure to comply with applicable federal, state, or local regulations, that relate to or concern the maintenance of a safe and protected working environment and the safe use and operation of machinery and equipment in that working environment no matter where fault or responsibility lies. Such indemnity shall indemnify and protect the City from the consequences of the City's own negligence, whether that negligence is the sole or concurring cause of the injury, death, or damages.**

3. Insurance and Indemnification

(a) Insurance. Contractor shall keep and maintain during the term of this Contract, a comprehensive general liability policy, with the City named as Additional Named Insured, with limits of:

1. Workers' Compensation and employer's liability in amounts required by law;
2. Commercial General Liability of not less than \$1,000,000.00 (combined single limit bodily injury and property damage per occurrence).
3. Automobile Liability

Contractor shall furnish City with a Policy Endorsement evidencing such coverage. Such insurance shall include contractual liability insuring the indemnity agreements contained in the Contract. Thirty (30) days prior notice of policy cancellation shall be provided to the

City.

(b) Indemnification. Contractor shall INDEMNIFY, DEFEND, AND HOLD HARMLESS, City, its officers, agents and employees from and against any and all suits, actions, claims, damages, losses, and expenses of any character, name and description, including, but not limited to, attorney's fees, arising out of or resulting from the operations of Contractor, his agents, employees or subcontractors; or on account of any negligent act or fault of Contractor, his agents, employees or subcontractors in construction of the Improvements, including, but not limited to, any such claim, damage, loss or expense attributable to bodily or personal injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting there from, and shall pay any judgment, with costs, which may be obtained against the City growing out of such injury or damage. Nothing herein shall waive any governmental immunity available to the city under Texas law and any defenses of the parties under Texas law.

4. Acceptance and Payment

(a) Retainage, Final Payments. As security for the faithful completion of the Improvements, Contractor and City agree that City shall retain ten percent (10%) of the total dollar amount of the contract price until after final approval or acceptance of the Improvements by City. City shall thereafter pay Contractor the retainage, only after Contractor has furnished to the City satisfactory evidence that all indebtedness connected with the work and all sums of money due for labor, materials, apparatus, fixtures or machinery furnished for and used in performance of the work have been paid or otherwise satisfied.

(b) Encumbrances. Contractor shall promptly pay all workmen and material men and shall not allow liens to be placed on the Improvements. Upon completion and approval or acceptance of the Improvements by City, the Improvements shall become the property of City free and clear of all liens, claims, charges or encumbrances of any kind. If, after acceptance of the Improvements, any claim, lien, charge or encumbrance is made, or found to exist, against the Improvements, or land dedicated to the City, to which they are affixed, Contractor shall upon notice by City promptly cause such claim, lien, charge or encumbrance to be satisfied and released or promptly post a bond with City in the amount of such claim, lien, charge or encumbrance, in favor of the City, to insure payment of such claim, lien, charge or encumbrance.

(c) Payment. Upon proper completion of the Improvements in accordance with this Agreement and the Contract Documents, City agrees to accept the Improvements and pay Contractor from available current funds in accordance with the terms and pricing set forth in the proposal and the Contract Documents.

(d) Work Rejection. All work deemed not in conformity with this Agreement as determined by

City, in its sole discretion, may be subject to rejection by City. City may reject any work found or determined by it to be defective or not in accordance with this Agreement. City may reject said work or any portion thereof regardless of the stage of its completion or the time or place of discovery of such errors. Further, City may reject said work regardless of whether City has previously accepted the work through oversight or otherwise. Neither observations by City nor inspections, tests, certificates or approvals made by City shall relieve Contractor from its obligation to perform the work in accordance with the requirements of this Agreement and related documents.

(e) *Remedial Work.* If the work or any part thereof is rejected by City, it shall be deemed by City as not in conformity with the Agreement and related documents. Any remedial action required, as set forth herein, shall be at the Contractor's expense, as follows:

1. Contractor may be required, at City's option, after notice from City, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.
2. If City deems it expedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum shall be made by City at City's sole discretion.

(f) *Changes to work or price.* No changes shall be made, nor will bills for changes, alterations, modifications, deviations, and extra orders be recognized or paid except upon the prior written order from authorized personnel of the City.

5. Warranties, Remedies and Damages

(a) *Defects Appearing After Acceptance.* Neither the final payment nor any acceptance nor any provision of this Agreement shall relieve Contractor of any responsibility for faulty workmanship or materials. At the option of City, Contractor shall remedy any defects thereto and pay for any damage to other work resulting there from, which may appear after final acceptance of the work.

(b) *Warranty.* Upon final acceptance of the work by City, Contractor warrants for a period of one (1) year as follows:

(1) The Contractor warrants to the City that all materials provided to the City under this Agreement shall be new unless otherwise approved by the City and that all work will be of a good quality, free from faults and defects, and in conformance with this Agreement and related documents.

(2) All work not conforming to these requirements, including but not limited to substitutions not properly approved and authorized, may be considered defective.

(3) This warranty is in addition to any rights or warranties expressed or implied by law and consumer protection claims arising from misrepresentations by Contractor.

(c) Contractor to Correct. If within one (1) year after the final acceptance of the work by City or within such longer period as may be prescribed by law or the terms of any applicable special warranty, if any of the work is found or determined by City to be defective, including obvious defects, or otherwise not in accordance with this Agreement, Contractor shall correct it promptly.

(d) Not Exclusive Remedy. After receipt of written notice from City to begin corrective work, Contractor shall promptly begin the corrective work. The obligation shall survive the termination of this Agreement. The guarantee shall not constitute the exclusive remedy of the City, nor shall other remedies be limited to either the warranty or guarantee period.

(e) City may Correct. If within ten (10) days after City has notified Contractor of a defect, failure, or abnormality in the work, Contractor has not started to make the necessary corrections or adjustments, City is hereby authorized to make the corrections or adjustments, or to order the work done by a third party. The cost of the work shall be paid by Contractor.

(f) Contractor to Pay Costs. The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects, shall be paid by the Contractor.

(g) Liquidated Damages. The time for the final completion of the work described herein is a reasonable time, taking into consideration all conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadline for final completion are fixed and agreed upon by the Contractor because of the impracticality and extreme difficulty in fixing and ascertaining actual damages that the City in such event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment and from final payment.

(h) Delay Damages. If the Contractor should neglect, fail, or refuse to finally complete the work within the time herein specified, or any proper extension thereof granted by the City, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement, that City may withhold permanently from the Contractor's total compensation the sum of Two Hundred and Fifty Dollars (\$250.00) for each and every calendar day that the Contractor shall be in default after the time for finally completing the work, not as a penalty, but as liquidated

damages for the breach of this Agreement.

6. Termination

(a) Termination for Cause. Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law the City, upon giving the Contractor five (5) calendar days prior written notice, shall be entitled to terminate this Agreement in its entirety at any time for the following:

(1) If the Contractor becomes insolvent, commits any act of bankruptcy, makes a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors; or

(2) If a receiver trustee or liquidator of any of the property or income of the Contractor shall be appointed; or

(3) If the Contractor shall fail to prosecute the work or any part thereof with diligence necessary to insure its progress and completion as prescribed by the time schedules; or

(4) If the Contractor shall fail to remedy any default within ten (10) days after written notice thereof from City; or

(5) If the Contractor commits a default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

(b) Termination for Convenience. The performance of the work may be terminated at any time in whole or, from time to time, in part, by the City for its convenience. Any such termination shall be effected by delivery to the Contractor of a written notice (notice of termination) specifying the extent to which performance of the work is terminated, and the date upon which termination becomes effective.

(c) Payment on Termination For Convenience. In the event of termination for convenience, the Contractor shall only be paid its reimbursable costs incurred prior to the effective date of the termination notice and shall not be entitled to receive any further fixed fee payments hereunder and shall be further subject to any claim the City may have against the Contractor under other provisions of this Agreement or as a matter of law, including the refund of any overpayment of reimbursable costs and/or fixed fee.

(d) Right To Complete. If this Agreement is terminated, the City shall have the right but shall not be obligated to complete the work itself or by others; and to this end, the City shall be entitled to take possession of and use such equipment and materials as may be on the job site,

and to exercise all rights, options, and privileges of the Contractor under its subcontracts, purchase orders, or otherwise; and the Contractor shall promptly assign such rights, options, and privileges to City. If the City elects to complete the work itself or by others, pursuant to the foregoing, then the Contractor will reimburse City for all costs incurred by the City (including, without limitation, applicable, general, and administrative expenses, and field overhead, and the cost of necessary equipment, materials, and field labor) in correcting work by the Contractor which fails to meet agreement requirements.

(e) Close Out. After receipt of a notice of termination, whether for cause or convenience, unless otherwise directed by City, the Contractor shall, in good faith and to the best of its ability, do all things necessary in the light of such notice to assure the efficient and proper closeout of the terminated work (including the protection of City's property). Among other things, the Contractor shall, except as otherwise directed or approved by City, do the following:

- (1) Stop the work on the date and to the extent specified in the notice of termination;
- (2) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the work as is not terminated;
- (3) Terminate all orders and subcontracts to the extent that they relate to the performance of the work terminated by the notice of termination;
- (4) Assign to City, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (5) With the approval of City, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;
- (6) Deliver to City, when directed by City, all documents and all property, which if the work had been completed, Contractor would have been required to account for or deliver to City and transfer title to such property to City to the extent not already transferred; and/or
- (7) In the event of such termination, there shall be an equitable reduction of the fixed fee to reflect the reduction in the work. Costs incurred after the effective date of the notice of termination shall not be treated as reimbursable costs unless they relate to carrying out the non-terminated portion or taking closeout measures approved by the City.

(f) *Breach of Contract.* The City shall have the right to declare the Contractor in breach of this Agreement for cause when the City determines that this Agreement is not being performed according to its understanding of the intent and meaning of this Agreement. Such breach shall not in any way invalidate, abrogate or terminate the Contractor's obligations under this Agreement.

(g) *Completion of Work.* Wherein the Contractor has abandoned the project or the City has terminated the contract for cause, then the City at its option may provide for completion of the work in the following manner:

- (1) The City may employ such force of workers and use of instruments, machinery, equipment, tools, materials, and supplies as said the City may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials, and supplies to said the Contractor, and the expense so charged shall be deducted and paid by the City out of such monies as may be due or that may thereafter at any time become due to the Contractor.
- (2) Should the cost to complete the work exceed this Agreement price and the Contractor fails to pay the amount due to the City within the time designated hereinabove, and there remains any machinery, equipment, tools, materials, or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City to exercise ordinary care to protect such property. After fifteen (15) days from the date of said notice, City may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City may elect. City shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.
- (3) In the event the account shows that the cost to complete the work is less than that which would have been the cost to City had the work been completed by the Contractor under the terms of this Agreement, or when the Contractor shall pay the balance shown to be due by them to the City, then all machinery, equipment, tools, materials, or supplies left on the site of the work shall be turned over to the Contractor.

(h) *Damages.* Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to damages for breach of contract, upon but not limited to the following occurrences:

- (1) If the Contractor shall fail to remedy any default after written notice thereof from City, as City shall direct; or
- (2) If the Contractor shall fail for any reason, other than the failure by City, to make payments called upon when due; or
- (3) If the Contractor commits a default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

7. Special Provisions

1) PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS:

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 etseq., "Administrative Remedies for False Claims and Statements," apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

2) ACCESS TO RECORDS AND REPORTS:

The contractor agrees to provide the City of Seabrook, and any regulatory agency/authority, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract.

3) EQUAL EMPLOYMENT OPPORTUNITY:

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

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or

purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4) DAVIS-BACON ACT AND COPELAND ANTI-KICKBACK ACT

In accordance with the Davis Bacon act, and Texas Government Code Section 2258, pay rates under this agreement must be not less than the current prevailing wage for Harris County, Texas for each craft or type of work as determined by the United States Department of Labor. Current prevailing wages can be found online, on the Department of Labor Website, <https://www.wdol.gov/wdol/scafiles/davisbacon/tx.html>.

Compliance with the Copeland "Anti -Kickback" Act.

- Contractor. The contractor shall comply with 18 U.S.C. § 874, 40U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

5) GOVERNMENT-WIDE SUSPENSION AND DEBARMENT:

- A. This contract is a covered transaction for purposes of 2 C.F.R. pt.180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

- C. This certification is a material representation of fact relied upon by (insert name of sub recipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of sub recipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The bidder or proposer agrees to comply with the requirements of 2C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

6) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:

- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- c. Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities

of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

7) LOBBYING:

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

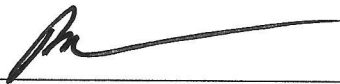
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Robert Crowley - PRESIDENT

Name and Title of Contractor's Authorized Official

2/23/2018

Date

8) PROCUREMENT OF RECOVERED MATERIALS 42 U.S.C 6962:

"(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract

performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

9) DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, AND FLAGS:

By signing this contract, the contractor agrees it shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

10) COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS:

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

11) NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

7. General Provisions

(a) Agreement Controlling. The provisions of this Agreement shall control over any conflicting provision of any contract between City and Contractor as to the construction of the Improvements.

(b) Venue. The parties herein agree that this Agreement shall be enforceable in Harris County, Texas, and if legal action is necessary in connection therewith, exclusive venue shall lie in Harris County, Texas.

(c) Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

(d) Independent Status. It is mutually understood and agreed by and between City and Contractor that Contractor is an independent contractor and shall not be deemed to be or considered an employee of the City of Seabrook, Texas, for the purposes of income tax,

withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other. City shall not have supervision and control of Contractor or any employee of Contractor.

(d) Tax Exemption. This Agreement is entered into by an organization which qualifies for exempt revisions pursuant to the Texas Tax Code, Sections 151.301, 151.307 and 151.309. The Contractor must divide the price for materials that will be incorporated into the capital improvement project and the price for skill and labor into separated contracts. Therefore, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate which shall enable the Contractor to buy the materials to be incorporated into the completed capital project and then resale the aforementioned materials for the City without paying the tax on the materials at the time of purchase.

(e) Amendment. No amendments to this Agreement shall be effective and binding until it is reduced to writing and signed by duly authorized representatives of both parties.

(f) Litigation Costs. In the event of litigation, the Contractor agrees to pay and shall pay all of the attorney's fees, court costs and other litigation costs of City.

(g) Texas Law. This Agreement has been made under and shall be governed by the laws of the State of Texas.

(h) Authority to Enter Contract. Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations or other legal entity.

(i) Waiver. Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of the City party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

(j) Headings. The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or Intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation.

(k)Invalidity. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

(l)Written Notice. Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to any officer of the corporation for whom it is intended or if it is delivered or sent certified mail to the last business address as listed herein. Each party will have the right to change its business address by at least ten (10) days written notice to the other parties in writing of such change.

(m)Entire Agreement. It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the City, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

CITY OF SEABROOK, TEXAS:

Thomas G. Kolupski
Mayor

ATTEST:

Robin Hicks
City Secretary

CRAWLEY SHORELINE CONSTRUCTION, INC. – CONTRACTOR


By: Print Robert Crawley
Title: PRESIDENT

ATTEST:


By: Print JEREMY BENT CRAWLEY
Title: Print OFFICE MANAGER



Bid Open
Project 2018-105-01
Pine Gully Pier Repairs
Date: February 5, 2018

Company Name	Bid Bond	Total Price
Crawley Shoreline Construction	✓	66,420.00
Lozano	Not submitted	36,800.00

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2018-309811

Date Filed:
02/05/2018

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Crawley Shoreline Construction, Inc
Baytown, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Seabrook, Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2018-105-1
Pine Gully Pier Repairs

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is Robert Crawley / Crawley Shoreline Construction, Inc. and my date of birth is 04/10/1954.

My address is 225 Jordan Rd (street), Baytown (city), Tx (state), 77522 (zip code), usa (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Chambers County, State of Tx, on the 5th day of Feb., 20 18.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)



Agenda Briefing

Date of Meeting: 03/06/2018

Submitting Department: Purchasing

Date Submitted: 02/26/2018

Prepared By: Liz Lopresti

Presenter: Kevin Padgett

Will there be a guest/visitor presenter who is not an employee?: ☐ Yes ☒ No

What is this person's first and last name and affiliation to this item?:

Subject: 2018-106-1 Red Bluff and Todville Water Meter and Valve Vault Repairs

Type of Item: ☐ Ordinance ☐ Resolution ☒ Contract/Agreement ☐ Public Hearing ☐ Discussion & Direction

Executive Summary: Due to damage sustained during Hurricane Harvey, the Water Meter and Valve Vaults on Red Bluff and Todville require repairs. Due to FEMA requirements, an RFP was issued for these repairs. Environmental Improvements, Inc was the only bidder on this project.

Background/Issue (What prompted this need?): Damage sustained during Hurricane Harvey to the Water Meter and Valve vaults on Red Bluff and Todville caused a need for repairs.

Budget Analysis/Funding Comments: This not a budgeted project, but we believe it will be FEMA reimbursable.

Expenditure Required: \$84,848.95

Budgeted Amount: \$ **Source of Funds/Funding Account:** 910-5180

Not Budgeted: If approved, the following will be included in the next Budget Amendment and \$ will be added to Revenue Account: and \$ added to Expenditure Account:

1295 Form Required? ☒ Yes ☐ No

Name of Applicant (if applicable) :

Legal Description/Location (if applicable):

Supporting Materials Attached:

1. Contract Signed by Vendor
2. Form 1295
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Recommended Placement on Agenda: Bid Awards

Recommended Action: Approve award of RFP 2018-106-1 Red Bluff and Todville Water Meter and Valve Vault Repairs to Environmental Improvements, Inc.

All requests must be submitted to the City Secretary's Office no later than 12:00 p.m. on the Monday, one week prior to the regular Tuesday Council Meeting. All required attachments are to be submitted with the request. Incomplete items cannot be placed on the agenda.

Reviewed by Department Director, if applicable ☐

Reviewed by Finance Director, if applicable ☐

Reviewed by City Attorney, if applicable ☐

Reviewed by City Manager ☒

Construction Agreement
Red Bluff and Todville Water Meter And Valve Vault Repairs

THE STATE OF TEXAS

COUNTY OF HARRIS

THIS AGREEMENT, made and entered into this ____ day of March A.D., 2018, by and between Environmental Improvements Inc., a Texas Corporation, of the County of Harris and State of Texas hereinafter termed "Contractor" and the City of Seabrook, a home-rule municipal corporation, organized and existing under the laws of the State of Texas, acting through its City Manager or other duly authorized designee Texas, hereinafter termed "City."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by City and Contractor, Contractor hereby agrees to commence and complete performance of the work specified below:

Repair Red Bluff Water Meter Vault, Red Bluff Water Valve Vault, Todville Water Meter Vault and Todville Water Valve Vault.

- **Red Bluff Water Vaults**

- Removal of existing flanged butterfly valves and replacement with 16" Dezurik BAW Flanged Butterfly Valves with Gear or equivalent.
- Removal of existing Flanged Globe Style Silent Check Valve and replacement with 16" APCO #600 Flanged Globe Style Silent Check Valve or equivalent.
- Removal of existing Flanged Full Port, Single Chamber, Hydraulically Operated Valve with Solenoid Control, Position Indicator and replacement with 16" Singer Model # 106RP-R Flanged Full Port, Single Chamber, Hydraulically Operated Valve with Solenoid Control, Position Indicator or equivalent.
- Removal of existing Flanged Butterfly Valves with Gear & 2" Nut and replacement with 8" Dezurik BAW Flanged Butterfly Valves with Gear & 2" Nut or equivalent
- Removal of existing Flanged Pressure Reducing Valve, Position Indicator and replacement with 8" Singer Model # 106-PR Flanged Pressure Reducing Valve, Position Indicator or equivalent

- **Todville Water Vaults**

- Removal of existing Flanged Globe Style Silent Check Valve and replacement with 8" APCO #600 Flanged Globe Style Silent Check Valve or equivalent.

- Removal of existing Flanged Pressure Reducing / Sustaining Valve and replacement with 8" Flanged Singer Model # 106 RPS Pressure Reducing / Sustaining Valve, Position Indicator or equivalent.
- Remove and replace 8" Flanged AWWA RW Gate Valves NRS with Hand wheel (meter vault)
- Remove and replace 8" Flanged AWWA RW Gate Valves NRS with Hand wheel (Valve Vault)
- Remove and replace 4" Flanged AWWA RW Gate Valves NRS with Hand wheel

and all work/additional work in connection therewith, under the terms and conditions as stated in this Agreement, and at his (or their) own proper cost and expense to furnish all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the work specified above, in accordance with the conditions and prices stated in the Notice, Proposal, and in accordance with this Agreement, and in accordance with the plans, which includes all maps, plats, blueprints, and other drawings and printed or written explanatory matter thereof, and the Specifications therefore (all collectively referred to herein as "the Contract Documents"), as prepared by City and Contractor, all of which are made a part hereof and collectively evidence and constitute the entire contract.

Contractor agrees to perform the work and City agrees to pay Contractor the total of eighty-four thousand eight hundred and forty-eight dollars and ninety-five cents (\$84,848.95) for completed and accepted work as set forth and adjusted in accordance with the terms of this Agreement.

City and Contractor hereby agree to the following additional terms and conditions:

1. Prior to Performance of Work

(a) Examination of Contract and Site. Contractor specifically represents that it has carefully examined the plans, the geotechnical report, if any, and the site of the proposed work and is thoroughly familiar with the nature and location of the work, the confirmation of the ground and soil, the nature of any structures, the character quality, and quantity of the material to be utilized, the character of equipment and facilities for and during the prosecution of the work, the time needed to complete the work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, and all other matters that in any way affect the work under this Agreement, having had the opportunity to conduct any and all additional inquiry, tests and investigation that he/she deems necessary and proper.

(b) Performance and Payment Bonds. Pursuant to federal procurement standards, 2 C.F.R. 200.325, prior to beginning work, Contractor will provide to City a Performance Bond for 100% of the Contract Price to secure fulfillment of all Contractor Obligations under this agreement. Prior to beginning work, Contractor will provide to City a Payment Bond for 100% of the Contract Price to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. The Bonds shall be in favor of City and shall be executed by an approved surety company authorized to do business in the State of Texas.

(c) Continuing Obligation. Before undertaking each part of the work, Contractor shall carefully study the Contract Documents to check and verify pertinent figures shown thereon compare accurately to all applicable field measurements. Contractor shall promptly report in writing to City's representative any conflict, error, ambiguity or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from City's Representative before proceeding with any Work affected thereby. Contractor shall be liable to City for failure to report any conflict, error, ambiguity or discrepancy in the Contract Documents of which Contractor knew or reasonably should have known.

(d) City will not be responsible for additional expenses incurred by Contractor to perform extra work necessitated by conditions which were discoverable by Contractor prior to beginning work and which Contractor failed to include in its proposal.

2. Construction Responsibilities

(a) Commencement and Completion Dates. Contractor hereby agrees to commence work on or after the date established for the start of work as set forth in the notice to proceed and complete all work within the time stated in this Agreement. The notice to proceed shall be given in writing by the City, and no work shall commence prior to the City issuance of a notice to proceed. The work embraced by this Agreement shall be completed no more than one hundred and twenty (120) days after issuance of a notice to proceed.

(b) Specifications. Contractor shall construct the improvements required by the description of work set out in the Contract Documents ("the Improvements") in a competent and efficient manner in accordance with the procedures, specifications and standards contained in the Contract Documents and all regulations, ordinances or specifications applicable to such Improvements, such specifications, standards, regulations and ordinances being expressly incorporated herein by reference and being made a part of the agreement as though written herein.

(c) Unforeseen Conditions. Contractor must notify City in writing as soon as reasonably possible, but no later than three (3) calendar days, if unforeseen conditions are encountered at

the site which are unknown physical conditions of an unusual nature, that differ materially from those normally encountered in the type of work being performed under this Agreement. If it is determined by City that such conditions differ materially and cause an increase or decrease in the cost of or time required for performance of any part of the work, City's representative will determine whether or not an equitable adjustment in the price or time for performance will be made, taking into consideration Section 1 and other applicable provisions of this Agreement. If it is determined that such conditions are not materially different from those indicated in the Contract Documents, the price and time period will not be adjusted.

(d) Protection of Lines. Notwithstanding any other provision of this Agreement, Contractor is solely responsible for the location and protection of any and all public utility lines and utility customer service lines in the work area. **Contractor shall indemnify or reimburse such expenses or costs (including fines that may be levied against City) that may result from unauthorized or accidental damage to all public lines and utility customer service lines in the work area.** City reserves the right to repair any damage Contractor causes to such utilities at Contractor's expense. If a public line and/or customer service line is damaged by Contractor, Contractor shall give verbal notice within one (1) hour and written notice within twenty-four (24) hours to City's representative.

(e) Good and Workmanlike Manner. All work on the Improvements shall be performed in a good and workmanlike manner and to the satisfaction of the City or its representative. City shall decide all questions which arise as to the quality and acceptability of materials furnished, work performed, and the interpretation of specifications.

(f) Facilitate Inspection. Contractor shall furnish City or City's representative with every reasonable facility for ascertaining whether or not the work performed was in accordance with the specifications applicable thereto. Any work done or materials used without suitable inspection by City may be ordered removed and replaced at Contractor's expense. Upon failure of the Contractor to allow for inspection, to test materials furnished, to satisfactorily repair, remove or replace, if so directed, rejected, unauthorized or condemned work or materials, or to follow any other request or order of City or City's representative, City shall notify the Contractor of such failure and may suspend inspections of such work until such failure is remedied. If such failure is not remedied to the satisfaction of City, City shall have no obligation under this agreement to approve or accept the Improvements.

(g) Means and Methods of Construction. Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents. City may reject any of the Improvements for which, in the judgment of the City, the Improvements were not constructed in accordance with City specifications.

(h) Work Stoppage. The City shall have the right to order the work of the Contractor wholly or partially stopped:

- (1) if any of the materials furnished or the work being done is not in strict accordance with this Agreement;
- (2) until any objectionable person or material is removed from the premises; or
- (3) if any portion of the work is being performed so as to create a hazardous condition.

Such stoppage or suspension shall neither invalidate any of Contractor's performance obligations under this Agreement, including the time of performance and deadlines therefore, nor will extra charges be allowed the Contractor by reason of such stoppage or suspension.

(i) Permits and Licenses. The Contractor shall secure and pay for all necessary permits and licenses, governmental fees, and inspections necessary for the proper execution and completion of the work. During this Agreement term and/or period during which the Contractor is working, it shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work.

(j) Royalties and Licensing Fees. The Contractor shall pay all royalties and licensing fees. The Contractor shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of patents, materials and methods used in the project. It shall defend all suits or claims for infringement of any patent rights.

(k) Safety Precautions. Safety precautions at the site are a part of the construction techniques and processes for which the Contractor shall be solely responsible. The Contractor is solely responsible for handling and use of hazardous materials or waste, and informing employees of any such hazardous materials or waste. The Contractor shall provide copies of all hazardous materials and waste data sheets to the Fire Department and City Code Enforcement.

(l) Warn of Hazards. The Contractor has the sole obligation to protect or warn any individual of potential hazards created by the performance of the work set forth herein. The Contractor shall, at its own expense, take such precautionary measures for the protection of persons, property, and the work as may be necessary.

(m) Failure of Safety Devices. The Contractor shall be held responsible for all damages to property, personal injuries and/or death due to failure of safety devices of any type or nature that may be required to protect or warn any individual of potential hazards created by the

performance of the work set forth herein; and when any property damage is incurred, the damaged portion shall immediately be replaced or compensated for by the Contractor at its own cost and expense.

(n) Indemnity for Safety Failure. The Contractor shall indemnify City from any liability caused by the Contractor's failure to comply with applicable federal, state, or local regulations, that relate to or concern the maintenance of a safe and protected working environment and the safe use and operation of machinery and equipment in that working environment no matter where fault or responsibility lies. Such indemnity shall indemnify and protect the City from the consequences of the City's own negligence, whether that negligence is the sole or concurring cause of the injury, death, or damages.

3. Insurance and Indemnification

(a) Insurance. Contractor shall keep and maintain during the term of this Contract, a comprehensive general liability policy, with the City named as Additional Named Insured, with limits of:

1. Workers' Compensation and employer's liability in amounts required by law;
2. Commercial General Liability of not less than \$1,000,000.00 (combined single limit bodily injury and property damage per occurrence).
3. Automobile Liability

Contractor shall furnish City with a Policy Endorsement evidencing such coverage. Such insurance shall include contractual liability insuring the indemnity agreements contained in the Contract. Thirty (30) days prior notice of policy cancellation shall be provided to the City.

(b) Indemnification. Contractor shall INDEMNIFY, DEFEND, AND HOLD HARMLESS, City, its officers, agents and employees from and against any and all suits, actions, claims, damages, losses, and expenses of any character, name and description, including, but not limited to, attorney's fees, arising out of or resulting from the operations of Contractor, his agents, employees or subcontractors; or on account of any negligent act of fault of Contractor, his agents, employees or subcontractors in construction of the Improvements, including, but not limited to, any such claim, damage, loss or expense attributable to bodily or personal injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting there from, and shall pay any judgment, with costs, which may be obtained against the City growing out of such injury or damage. Nothing herein shall waive any governmental immunity available to the city under Texas law and any defenses of the parties under Texas law.

4. Acceptance and Payment

- (a) *Retainage, Final Payments.* As security for the faithful completion of the Improvements, Contractor and City agree that City shall retain ten percent (10%) of the total dollar amount of the contract price until after final approval or acceptance of the Improvements by City. City shall thereafter pay Contractor the retainage, only after Contractor has furnished to the City satisfactory evidence that all indebtedness connected with the work and all sums of money due for labor, materials, apparatus, fixtures or machinery furnished for and used in performance of the work have been paid or otherwise satisfied.
- (b) *Encumbrances.* Contractor shall promptly pay all workmen and material men and shall not allow liens to be placed on the Improvements. Upon completion and approval or acceptance of the Improvements by City, the Improvements shall become the property of City free and clear of all liens, claims, charges or encumbrances of any kind. If, after acceptance of the Improvements, any claim, lien, charge or encumbrance is made, or found to exist, against the Improvements, or land dedicated to the City, to which they are affixed, Contractor shall upon notice by City promptly cause such claim, lien, charge or encumbrance to be satisfied and released or promptly post a bond with City in the amount of such claim, lien, charge or encumbrance, in favor of the City, to insure payment of such claim, lien, charge or encumbrance.
- (c) *Payment.* Upon proper completion of the Improvements in accordance with this Agreement and the Contract Documents, City agrees to accept the Improvements and pay Contractor from available current funds in accordance with the terms and pricing set forth in the proposal and the Contract Documents.
- (d) *Work Rejection.* All work deemed not in conformity with this Agreement as determined by City, in its sole discretion, may be subject to rejection by City. City may reject any work found or determined by it to be defective or not in accordance with this Agreement. City may reject said work or any portion thereof regardless of the stage of its completion or the time or place of discovery of such errors. Further, City may reject said work regardless of whether City has previously accepted the work through oversight or otherwise. Neither observations by City nor inspections, tests, certificates or approvals made by City shall relieve Contractor from its obligation to perform the work in accordance with the requirements of this Agreement and related documents.
- (e) *Remedial Work.* If the work or any part thereof is rejected by City, it shall be deemed by City as not in conformity with the Agreement and related documents. Any remedial action required, as set forth herein, shall be at the Contractor's expense, as follows:
1. Contractor may be required, at City's option, after notice from City, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.

2. If City deems it expedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum shall be made by City at City's sole discretion.

(f) *Changes to work or price.* No changes shall be made, nor will bills for changes, alterations, modifications, deviations, and extra orders be recognized or paid except upon the prior written order from authorized personnel of the City.

5. Warranties, Remedies and Damages

(a) *Defects Appearing After Acceptance.* Neither the final payment nor any acceptance nor any provision of this Agreement shall relieve Contractor of any responsibility for faulty workmanship or materials. At the option of City, Contractor shall remedy any defects thereto and pay for any damage to other work resulting there from, which may appear after final acceptance of the work.

(b) *Warranty.* Upon final acceptance of the work by City, Contractor warrants for a period of one (1) year as follows:

(1) The Contractor warrants to the City that all materials provided to the City under this Agreement shall be new unless otherwise approved by the City and that all work will be of a good quality, free from faults and defects, and in conformance with this Agreement and related documents.

(2) All work not conforming to these requirements, including but not limited to substitutions not properly approved and authorized, may be considered defective.

(3) This warranty is in addition to any rights or warranties expressed or implied by law and consumer protection claims arising from misrepresentations by Contractor.

(c) *Contractor to Correct.* If within one (1) year after the final acceptance of the work by City or within such longer period as may be prescribed by law or the terms of any applicable special warranty, if any of the work is found or determined by City to be defective, including obvious defects, or otherwise not in accordance with this Agreement, Contractor shall correct it promptly.

(d) *Not Exclusive Remedy.* After receipt of written notice from City to begin corrective work, Contractor shall promptly begin the corrective work. The obligation shall survive the termination of this Agreement. The guarantee shall not constitute the exclusive remedy of the City, nor shall other remedies be limited to either the warranty or guarantee period.

(e) *City may Correct.* If within ten (10) days after City has notified Contractor of a defect, failure, or abnormality in the work, Contractor has not started to make the necessary corrections or adjustments, City is hereby authorized to make the corrections or adjustments, or to order the work done by a third party. The cost of the work shall be paid by Contractor.

(f) *Contractor to Pay Costs.* The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects, shall be paid by the Contractor.

(g) *Liquidated Damages.* The time for the final completion of the work described herein is a reasonable time, taking into consideration all conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadline for final completion are fixed and agreed upon by the Contractor because of the impracticality and extreme difficulty in fixing and ascertaining actual damages that the City in such event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment and from final payment.

(h) *Delay Damages.* If the Contractor should neglect, fail, or refuse to finally complete the work within the time herein specified, or any proper extension thereof granted by the City, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement, that City may withhold permanently from the Contractor's total compensation the sum of Two Hundred and Fifty Dollars (\$250.00) for each and every calendar day that the Contractor shall be in default after the time for finally completing the work, not as a penalty, but as liquidated damages for the breach of this Agreement.

6. Termination

(a) *Termination for Cause.* Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law the City, upon giving the Contractor five (5) calendar days prior written notice, shall be entitled to terminate this Agreement in its entirety at any time for the following:

(1) If the Contractor becomes insolvent, commits any act of bankruptcy, makes a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors; or

(2) If a receiver trustee or liquidator of any of the property or income of the Contractor shall be appointed; or

(3) If the Contractor shall fail to prosecute the work or any part thereof with diligence necessary to insure its progress and completion as prescribed by the time schedules; or

(4) If the Contractor shall fail to remedy any default within ten (10) days after written notice thereof from City; or

(5) If the Contractor commits a default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

(b) Termination for Convenience. The performance of the work may be terminated at any time in whole or, from time to time, in part, by the City for its convenience. Any such termination shall be effected by delivery to the Contractor of a written notice (notice of termination) specifying the extent to which performance of the work is terminated, and the date upon which termination becomes effective.

(c) Payment on Termination For Convenience. In the event of termination for convenience, the Contractor shall only be paid its reimbursable costs incurred prior to the effective date of the termination notice and shall not be entitled to receive any further fixed fee payments hereunder and shall be further subject to any claim the City may have against the Contractor under other provisions of this Agreement or as a matter of law, including the refund of any overpayment of reimbursable costs and/or fixed fee.

(d) Right To Complete. If this Agreement is terminated, the City shall have the right but shall not be obligated to complete the work itself or by others; and to this end, the City shall be entitled to take possession of and use such equipment and materials as may be on the job site, and to exercise all rights, options, and privileges of the Contractor under its subcontracts, purchase orders, or otherwise; and the Contractor shall promptly assign such rights, options, and privileges to City. If the City elects to complete the work itself or by others, pursuant to the foregoing, then the Contractor will reimburse City for all costs incurred by the City (including, without limitation, applicable, general, and administrative expenses, and field overhead, and the cost of necessary equipment, materials, and field labor) in correcting work by the Contractor which fails to meet agreement requirements.

(e) Close Out. After receipt of a notice of termination, whether for cause or convenience, unless otherwise directed by City, the Contractor shall, in good faith and to the best of its ability, do all things necessary in the light of such notice to assure the efficient and proper closeout of the terminated work (including the protection of City's property). Among other things, the Contractor shall, except as otherwise directed or approved by City, do the following:

(1) Stop the work on the date and to the extent specified in the notice of termination;

(2) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the work as is not terminated;

(3) Terminate all orders and subcontracts to the extent that they relate to the performance of the work terminated by the notice of termination;

(4) Assign to City, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(5) With the approval of City, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;

(6) Deliver to City, when directed by City, all documents and all property, which if the work had been completed, Contractor would have been required to account for or deliver to City and transfer title to such property to City to the extent not already transferred; and/or

(7) In the event of such termination, there shall be an equitable reduction of the fixed fee to reflect the reduction in the work. Costs incurred after the effective date of the notice of termination shall not be treated as reimbursable costs unless they relate to carrying out the non-terminated portion or taking closeout measures approved by the City.

(f) Breach of Contract. The City shall have the right to declare the Contractor in breach of this Agreement for cause when the City determines that this Agreement is not being performed according to its understanding of the intent and meaning of this Agreement. Such breach shall not in any way invalidate, abrogate or terminate the Contractor's obligations under this Agreement.

(g) Completion of Work. Wherein the Contractor has abandoned the project or the City has terminated the contract for cause, then the City at its option may provide for completion of the work in the following manner:

- (1) The City may employ such force of workers and use of instruments, machinery, equipment, tools, materials, and supplies as said the City may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials, and supplies to said the Contractor, and the expense so charged shall be deducted and paid by the City out of such monies as may be due or that may thereafter at any time become due to the Contractor.

(2) Should the cost to complete the work exceed this Agreement price and the Contractor fails to pay the amount due to the City within the time designated hereinabove, and there remains any machinery, equipment, tools, materials, or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City to exercise ordinary care to protect such property. After fifteen (15) days from the date of said notice, City may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City may elect. City shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

(3) In the event the account shows that the cost to complete the work is less than that which would have been the cost to City had the work been completed by the Contractor under the terms of this Agreement, or when the Contractor shall pay the balance shown to be due by them to the City, then all machinery, equipment, tools, materials, or supplies left on the site of the work shall be turned over to the Contractor.

(h) Damages. Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to damages for breach of contract, upon but not limited to the following occurrences:

- (1) If the Contractor shall fail to remedy any default after written notice thereof from City, as City shall direct; or
- (2) If the Contractor shall fail for any reason, other than the failure by City, to make payments called upon when due; or
- (3) If the Contractor commits a default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

7. Special Provisions

- 1) PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND

RELATED ACTS:

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 etseq., "Administrative Remedies for False Claims and Statements," apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

2) ACCESS TO RECORDS AND REPORTS:

The contractor agrees to provide the City of Seabrook, and any regulatory agency/authority, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract.

3) EQUAL EMPLOYMENT OPPORTUNITY:

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

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive

considerations for employment without regard to race, color, religion, sex, or national origin.

- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4) DAVIS-BACON ACT AND COPELAND ANTI-KICKBACK ACT

In accordance with the Davis Bacon act, and Texas Government Code Section 2258, pay rates under this agreement must be not less than the current prevailing wage for Harris County, Texas for each craft or type of work as determined by the United States Department

of Labor. Current prevailing wages can be found online, on the Department of Labor Website, <https://www.wdol.gov/wdol/scafiles/davisbacon/tx.html>.

Compliance with the Copeland "Anti -Kickback" Act.

- Contractor. The contractor shall comply with 18 U.S.C. § 874, 40U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

5) GOVERNMENT-WIDE SUSPENSION AND DEBARMENT:

- A. This contract is a covered transaction for purposes of 2 C.F.R. pt.180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by (insert name of sub recipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of sub recipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The bidder or proposer agrees to comply with the requirements of 2C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

6) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:

- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics

shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.

- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- c. Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

7) LOBBYING:

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or

employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

M. Lyle Milstead
Signature of Contractor's Authorized Official

M. LYLE MILSTEAD, PRESIDENT
Name and Title of Contractor's Authorized Official

2/21/18
Date

8) PROCUREMENT OF RECOVERED MATERIALS 42 U.S.C 6962:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site,
<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

9) DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, AND FLAGS:

By signing this contract, the contractor agrees it shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

11) NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

7. General Provisions

(a) Agreement Controlling. The provisions of this Agreement shall control over any conflicting provision of any contract between City and Contractor as to the construction of the Improvements.

(b) Venue. The parties herein agree that this Agreement shall be enforceable in Harris County, Texas, and if legal action is necessary in connection therewith, exclusive venue shall lie in Harris County, Texas.

(c) Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

(d) Independent Status. It is mutually understood and agreed by and between City and Contractor that Contractor is an independent contractor and shall not be deemed to be or considered an employee of the City of Seabrook, Texas, for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other. City shall not have supervision and control of Contractor or any employee of Contractor.

(d) Tax Exemption. This Agreement is entered into by an organization which qualifies for exempt revisions pursuant to the Texas Tax Code, Sections 151.301, 151.307 and 151.309. The Contractor must divide the price for materials that will be incorporated into the capital improvement project and the price for skill and labor into separated contracts. Therefore, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate which shall enable the Contractor to buy the materials to be incorporated into the completed capital project and then resale the aforementioned materials for the City without paying the tax on the materials at the time of purchase.

(e) Amendment. No amendments to this Agreement shall be effective and binding until it is reduced to writing and signed by duly authorized representatives of both parties.

(f)*Litigation Costs.* In the event of litigation, the Contractor agrees to pay and shall pay all of the attorney's fees, court costs and other litigation costs of City.

(g)*Texas Law.* This Agreement has been made under and shall be governed by the laws of the State of Texas.

(h)*Authority to Enter Contract.* Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations or other legal entity.

(i)*Waiver.* Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of the City party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

(j)*Headings.* The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or Intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation.

(k)*Invalidity.* If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

(l)*Written Notice.* Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to any officer of the corporation for whom it is intended or if it is delivered or sent certified mail to the last business address as listed herein. Each party will have the right to change its business address by at least ten (10) days written notice to the other parties in writing of such change.

(m)*Entire Agreement.* It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings,

(m) *Entire Agreement.* It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the City, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

CITY OF SEABROOK, TEXAS:

Thomas G. Kolupski
Mayor

ATTEST:

Robin Hicks
City Secretary

ENVIRONMENTAL IMPROVEMENTS INC. – CONTRACTOR

M. Lyle Milstead
By: Print M LYLE MILSTEAD
Title: PRESIDENT

ATTEST:

By: Print _____
Title: Print _____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2018-313916

Date Filed:
02/14/2018

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Environmental Improvements Inc.
Humble, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Seabrook

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2018-106-1
Red Bluff and Todville Water Meter and Valve Repairs

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Environmental Improvements Inc.	Humble, TX United States	X	

5 Check only if there is NO Interested Party. ☐

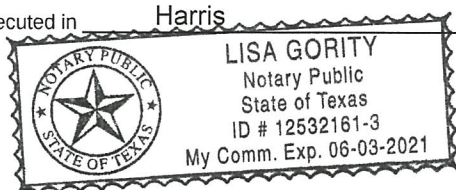
6 UNSWORN DECLARATION

My name is Lisa Gority, and my date of birth is 09/15/1975.

My address is 2920 Shadowbriar Drive Apt. 125, Houston, TX, 77082, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 19 day of February, 20 18.
(month) (year)



Lisa Gority
Signature of authorized agent of contracting business entity
(Declarant)

**CITY OF SEABROOK
ORDINANCE NO. 2018-07**

READOPTING CURFEW REGULATIONS FOR MINORS

AN ORDINANCE READOPTING THE CURRENT CURFEW REGULATIONS FOR MINORS CONTAINED IN THE SEABROOK CITY CODE, CHAPTER 44, SECTION 44-95 “CURFEW FOR MINORS” PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$500 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR NOTICE.

WHEREAS, the City of Seabrook has had a curfew ordinance for many years; and

WHEREAS, state law requires that such ordinances be renewed at least once every three (3) years; and

WHEREAS, Seabrook last approved its curfew ordinance, No. 2015-05 on March 17, 2015, (Prior Ordinance); and

WHEREAS, Seabrook wishes to maintain a curfew for minors; and

WHEREAS, the Chief of Police has not recommended any changes to the current curfew regulations; and

WHEREAS, as a result of the public hearings on the need to continue the curfew ordinance the City Council of Seabrook did review the Prior Ordinance as to its effect on the community and on the problems said Ordinance was intended to remedy and determined that the substance of such Ordinance should be reinitiated and continued in the Seabrook Code of Ordinances; and

WHEREAS, the City Council finds and determines that in the best interests of the health, safety and welfare of all residents, curfew regulations are necessary; and

WHEREAS, the City Council of the City of Seabrook finds and determines that there remains a significant community need for curfew regulations in that without such regulations there is a substantial likelihood of increased juvenile arrests and/or incidents resulting from unsupervised juvenile activities; and

WHEREAS, all requirements have been met and the required public hearings have been scheduled and held before the City Council.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SEABROOK, STATE OF, TEXAS:

SECTION 1. FINDINGS

That the City Council of the City of Seabrook adopts the preceding preamble paragraphs as if repeated verbatim herein and find them as matters of fact. The City Council of the City of Seabrook finds and determines that there is a continuing need for a juvenile curfew and that without such regulations there is a substantial likelihood of increased juvenile arrests and/or incidents resulting from unsupervised juvenile activities and that accordingly the existing juvenile curfew ordinance should be extended and readopted in accordance with Section 370.002 of the Texas Local Government Code as provided hereafter.

SECTION 2. READOPTION OF CURFEW REGULATIONS FOR MINORS.

The Seabrook City Code, Chapter 44, "Law Enforcement and Offenses", Article III. "Offenses", Division 2. "Minors", Section 44-95 "Curfew for Minors" is hereby reaffirmed and readopted without any changes. A copy of this section of the Code, as shown on Exhibit A, is made a part of this ordinance.

SECTION 3. PENALTY CLAUSE.

Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not more than Five Hundred Dollars (\$500.00) per offense or as otherwise provided by law.

SECTION 4. SEVERABILITY.

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

SECTION 5. NOTICE.

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

PASSED AND APPROVED on first reading with a quorum present, by an affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City Charter Section 2.10 on this 20th day of February, 2018.

PASSED, APPROVED, AND ADOPTED on final reading with a quorum present, by an affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City Charter Section 2.10 on this 6th day of March, 2018.

By: _____
Thomas G. Kolupski
Mayor

ATTEST:

By: _____
Robin Hicks, TRMC
City Secretary

APPROVED AS TO FORM:

By: _____
Steven L. Weathered
City Attorney

Seabrook, TX PD

Jan 1, 2017 - Dec 31, 2017

Racial Profile Tier 1 HB3389

PLEASE NOTE: The official form does not allow for Other and Unknown in the Race or Ethnicity boxes on the TCOLE website. Please contact TCOLE for instructions on how to resolve these issues. This report only includes traffic stops resulting in a citation, traffic stops resulting in a citation with an arrest, traffic stops resulting in a warning with an arrest, and field interviews that resulted in an arrest. This report does not include any stops from traffic collisions.

Number of motor vehicle stops	
21	ARREST ONLY
344	CITATION AND ARREST
905	CITATION ONLY
1270	Total

Race or Ethnicity:	
111	African
14	Asian
903	Caucasain
227	Hispanic
11	Middle Eastern
4	Native American
1270	Total

Race or Ethnicity known prior to stop?	
13	Y
1257	N
1270	Total

Search conducted?	
255	Y
1015	N
1270	Total

Was search consented?	
44	Y

Seabrook, TX PD

Jan 1, 2017 - Dec 31, 2017

Racial Profile Tier 1 HB3389

PLEASE NOTE: The official form does not allow for Other and Unknown in the Race or Ethnicity boxes on the TCOLE website. Please contact TCOLE for instructions on how to resolve these issues. This report only includes traffic stops resulting in a citation, traffic stops resulting in a citation with an arrest, traffic stops resulting in a warning with an arrest, and field interviews that resulted in an arrest. This report does not include any stops from traffic collisions.

Was search consented?	
211	N
255	Total



Agenda Briefing

Date of Meeting: 3-6-18

Submitting Department: Building Department

Date Submitted: 2-26-18

Prepared By: Pat Patel

Presenter: Paul Chavez

Will there be a guest/visitor presenter who is not an employee?: ☐ Yes ☒ No

What is this person's first and last name and affiliation to this item?:

Subject: Resolution for EDC Project Designation and Mario's Pizza Economic Development Agreement

Type of Item: ☐ Ordinance ☐ Resolution ☒ Contract/Agreement ☐ Public Hearing ☐ Discussion & Direction

Executive Summary: EDC approved relocation/business development incentive for Mario's Pizza for building permit, grease trap, dumpster housing, and storefront façade all for total of \$59,767.48. EDC also approved sales tax reimbursement for a period of 5 years or \$50,000, which ever comes first.

Background/Issue (What prompted this need?): Mario's Pizza has decided to stay in Seabrook and is relocating the business to 2100 Nasa Parkway.

Budget Analysis/Funding Comments:

Expenditure Required: \$109,767.48

Budgeted Amount: \$ **Source of Funds/Funding Account:**

Not Budgeted: If approved, the following will be included in the next Budget Amendment and \$ will be added to Revenue Account: and \$ added to Expenditure Account:

1295 Form Required? ☐ Yes ☐ No

Name of Applicant (if applicable) : Mario's Pizza

Legal Description/Location (if applicable): 2100 Nasa Parkway

Supporting Materials Attached:

1. Resolution 2018-14 with EDC Agreement attached
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Recommended Placement on Agenda: New Business

Recommended Action: To approve the Project Designation Resolution and the EDC Agreement between Mario's Pizza and SEDC in an amount not to exceed \$109,767.48

Reviewed by Department Director, if applicable ☐

Reviewed by Finance Director, if applicable ☐

Reviewed by City Attorney, if applicable ☐

Reviewed by City Manager ☒

**CITY OF SEABROOK
RESOLUTION NO. 2018-14**

EDC PROJECT DESIGNATION FOR
MARIO'S PIZZA, INC (DBA MARIO'S PIZZA & PASTA)
AND APPROVAL OF SEDC EXPENDITURES FOR RETENTION, RELOCATION,
CONSTRUCTION OF NEW RESTAURANT PURSUANT TO PERFORMANCE
AGREEMENT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS, APPROVING A PROJECT OF THE SEABROOK ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE BUSINESS INCENTIVES TO MARIO'S PIZZA, INC IN AN AMOUNT NOT TO EXCEED \$109,767.48 FOR RETENTION, RELOCATION, CONSTRUCTION AND IMPROVEMENT OF A NEW RESTAURANT, PURSUANT TO THE TERMS AND CONDITIONS OF THE "ECONOMIC DEVELOPMENT AGREEMENT", ATTACHED HERETO

WHEREAS, on January 18, 1992, the voters of the City of Seabrook authorized the City of Seabrook to adopt a one-half cent sales and use tax to pay for the costs of projects authorized by Section 4B of Article 5190.6, V.T.C.S., as amended, and to pay for the principal and interest of bonds or other obligations issued to pay the costs of such designated projects; and

WHEREAS, the Seabrook Economic Development Corporation ("EDC") was established to oversee the expenditures of tax monies, and bylaws were established for the operation of the EDC; and

WHEREAS, the EDC has analyzed potential projects that will meet the enabling legislation's purposes and assist it in attracting new businesses, expanding existing businesses, creating jobs, and assisting in other statutorily authorized economic development programs; and

WHEREAS, the EDC has determined to undertake a project for economic development by providing funding from EDC sales tax revenue, to assist the retention, relocation, construction and improvement of a new restaurant, to promote or develop new or expanded business enterprises and/or create or retain primary jobs in or near the City of Seabrook, in a total amount not to exceed \$109,767.48 for Mario's Pizza, Inc. doing business as Mario's Pizza & Pasta by reimbursing EDC tax paid, not to exceed 5 years or \$50,000.00, reimbursement of City permit fees paid in an amount not to exceed \$4,605, and specified improvements in an amount not to exceed \$55,162.48, all as provided and controlled in the "Economic Development Agreement", ("Agreement"), attached hereto and incorporated by reference, as generally authorized under Texas Local Government Code, Chapters 501, 505, including Sections 505.158, 505.302 and related provisions, and is an authorized project of the EDC being submitted for City Council approval; and

WHEREAS, the EDC met on February 22, 2018, and at that time took formal action to support and approve funding of incentives for Mario's Pizza, Inc., for the relocation and its construction of a new 3,250 square foot restaurant located at 2100 E. Nasa Parkway, Suite #100, Seabrook, Texas 77586 pursuant to the Performance Agreement, attached hereto and incorporated by reference, ("Agreement"), employing a minimum of 13 full time and 34 part time employees ("Project"); and

WHEREAS, a public hearing was conducted by the EDC on January 18, 2018 to receive public input for such Project; and

WHEREAS, the EDC has determined to proceed with the subject Project, subject to City Council approval of the Agreement and approval/City acceptance of the Easement in accordance with law; and

WHEREAS, the City Council ("City") desires to encourage the development or redevelopment within the city limits of the City of Seabrook, by specifically approving the EDC funding, as provided herein of Project incentives for Mario's Pizza, Inc., ("Applicant") pursuant to the Agreement, attached hereto, as approved by the EDC and submitted to City Council for final approval; and

WHEREAS, the City Council finds that the funding incentives by the EDC pursuant to the Agreement, as provided herein will be reasonably likely to contribute to new or expanded business enterprises and the potential of the creation or retention of primary jobs, as provided by Chapters 501 and 505 of the Texas Local Government Code;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEABROOK, STATE OF TEXAS:

Section 1. That the facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. That the funding through SEDC sales tax revenue for this Project to assist Mario's, for its construction of a new 3,250 square foot commercial building for relocation of its existing restaurant located at 1304 Bayport Blvd, Seabrook, Texas 77586, and to be relocated to 2100 E. Nasa Parkway, Suite 100, Seabrook, Texas 77586 employing a minimum of 13 full time and 34 part time employees, promotes or develops new or expanded business enterprises and/or the creation or retention of primary jobs.

THIS SPACE INTENTIONALLY LEFT BLANK

Section 3. The incentive funding by the SEDC to Mario's Pizza, Inc. reimbursing SEDC tax paid, permit fees and specified improvement, not to exceed \$109,767.48, as specifically provided by the "Economic Development Agreement" ("Agreement"), as approved by the Seabrook Economic Development Corporation ("SEDC"), attached hereto and incorporated by reference, is hereby approved by the City Council of the City of Seabrook.

ADOPTED AND APPROVED on first reading this the 6th day of March, 2018.

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

CITY OF SEABROOK, TEXAS

BY: _____
Thomas G Kolupski
Mayor

ATTEST:

Robin Hicks, TRMC
City Secretary

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of _____, 2018, by and between the **Seabrook Economic Development Corporation**, situated in Harris County, Texas ("**SEDC**"), and **Mario's Pizza, Inc.**, a Texas corporation with registered office at 1304 Bayport Blvd, Seabrook, Texas 77586, **doing business herein as Mario's Pizza & Pasta**, at 2100 E. Nasa Parkway, Seabrook, Texas 77586, ("**Owner**" or "**Developer**"). SEDC and Owner are sometimes collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS, Developer/Owner has filed an application and supporting documentation with the SEDC for economic incentives and proposes to make site improvements to relocate its restaurant from its prior location and construct a new restaurant at 2100 E. Nasa Parkway, Suite #100, Seabrook, Texas 77586, as more specifically described in Exhibit "A", attached hereto and incorporated by reference (the "Project Facilities"); and

WHEREAS, Developer/Owner proposes to construct new site improvements for the Project Facilities, representing that the estimated improvement value after its completion would total \$450,000 for a 3,250 square foot site at the subject location, and has requested estimated incentives from SEDC totaling \$155,649.09, including as request for reimbursements of building permit fees, (\$4,605), grease trap (\$32,450), dumpster housing (\$37,778.41), signage (\$6,002.48) and EDC sales tax reimbursement over a 10 year term (\$74,813.20) for a total incentive request of \$155,649.09, ("Incentive Requests") as referenced in its application. Developer/Owner has submitted its plans, (as depicted in the attached final Site Plan, a true and correct copy of which is attached hereto and incorporated within the exhibits included in Exhibit "B"), and has represented that after completion of construction/improvements represented in the Site Plan the new restaurant, when completed, will generate \$1,600,000 of annual gross revenue that will employ 13 full time and 34 part time employees. The Site Plan, Application, filed supporting documents and the above representations of Developer/Owner are collectively referenced herein as the "Project"; and

WHEREAS, Developer/Owner has applied to the SEDC for a business incentive grant to help defray a portion of the costs of construction for the Project referred to above, a copy of which Application, specifically including the final Site Plan (all such documents collectively referred to herein as the "Application") which are attached hereto and made a part hereof as Exhibit "B", and are incorporated by reference. The representations contained in the Application, as well as Owners representations before the SEDC are being specifically relied upon by the SEDC as true and correct in considering Developers/Owners Application for the Project and subject incentives for relocation of the subject restaurant; and

WHEREAS, at the SEDC meeting on November 16, 2017, Developer/Owner, through its authorized representative discussed its applications submitted to the SEDC and requested SEDC to fund the Incentive Request based upon its representations, which the SEDC is relying upon for evaluation; and

WHEREAS, pursuant to the Texas Local Government Code, Chapters 501 and 505 together with related authority, Economic Development Corporations of municipalities are authorized to establish programs to promote the creation or retention of jobs and/or that promote or develop new or expanded business enterprises in the municipality and in accordance with such enabling laws; and

WHEREAS, in accordance with such enabling laws, SEDC has adopted an "Economic Development Incentive Programs" ("Program"), as provided for in SEDC Resolution 2016-1," and related incentives as provided by law; and

WHEREAS, SEDC hereby finds and determines that Developer's/Owner's proposed Project, together with the proposed Project Facilities, as set forth in the Application/Incentive Requests, presentation before SEDC on November 16, 2017, Site Plan, and related documentation, meets the minimum eligibility requirements for an economic incentive grants pursuant to the Program, and legal requirements, subject to the terms and conditions contained in this Agreement; and

WHEREAS, SEDC hereby finds and determines that the Project, as depicted by Developer/Owner in the Application, related correspondence, and presentation as reflected by the minutes of the SEDC, encourages the creation or retention of jobs and/or promotes or develops new or expanded business enterprises in the municipality and can be reasonably

anticipated to act as a catalyst for further economic development, particularly tourism in the City of Seabrook; and

WHEREAS, SEDC, in strict reliance upon Developer's/Owner's representations, desires to provide an economic development incentive grant under the Program, as provided hereafter, to induce Developer/Owner to proceed with the implementation of the represented Project; now therefore,

FOR AND IN CONSIDERATION of the mutual promises, covenants, and agreements herein, the Parties agree as follows:

I. Inducement by SEDC. Conditioned upon: the findings of the above preamble being true and correct; Developer's/Owners' representations as being true and correct; Owners compliance with the guidelines of the Program, City Code of Ordinances, statutes/related law, and this Agreement; approval of this Project and Agreement by the Seabrook City Council; and completion of the Project/Project Facilities in accordance with the final approved Site Plan, as determined solely by SEDC; SEDC will provide, in the form of a reimbursement to Mario's, an economic incentive grant ("Grant"), for the Project Facilities/Project, a total amount not to exceed **\$109,767.48** as provided hereafter in accordance with the Project Application/Site Plan:

(a) Reimbursement of the amount of SEDC tax paid by Mario's relating to the new restaurant/Project, not to exceed a term of 5 years or an amount exceeding **\$50,000** of the total SEDC reimbursement payments, (whichever comes first – under no circumstances will the reimbursement amount exceed \$50,000), which shall be payable by SEDC to Mario's within 30 days after Mario's payment of same to City, in accordance with the reporting requirements included hereafter, (II.c);

(b) Reimbursement of City building permit fees paid in an amount not to exceed **\$4,605** which shall be payable by SEDC to Mario's within 30 days after payment of same to City; and

(c) Reimbursement of costs expended for grease trap in an amount not to exceed **\$22,715** which shall be payable by City within 30 days after Mario's submitting satisfactory evidence to City of subject payment; and

(d) Reimbursement of costs expended for construction of dumpster housing in an

amount not to exceed **\$26,445** which shall be payable by City within 30 days after Mario's submitting satisfactory evidence to City of subject payment; and

(e) Reimbursement of costs expended for storefront façade improvements (signage) in an amount not to exceed **\$6,002.48**, which shall be payable by City within 30 days after Mario's submitting satisfactory evidence to City of subject payment.

II. Performance by Developer.

A. Improvements to Project Facilities. Developer/Owner shall provide for the timely completion of the Project as delineated in Application and this Agreement/Site Plan, and shall timely submit documentation as requested by the City of Seabrook in relation to the Project and components as provided herein. Construction shall be substantially complete on or before 6 months after final approval of this Agreement by the Seabrook City Council and Developer/Owner shall obtain as certificate of occupancy within this time unless extended by SEDC. The failure to obtain a certificate of occupancy for the new restaurant development shall constitute a fundamental breach of contract and default, requiring Owner/Developer to refund all payments received from SEDC pursuant to this Agreement.

B. Employment. Owner/Developer, pursuant to the Application and its representations shall, collectively employ not less than 47 full and part time employees after proposed development is constructed and a certificate of occupancy has been issued. This amount of employees shall be maintained during the term of this Agreement.

C. SEDC Sales Tax. Owner/Developer Mario's shall provide the City, on a monthly basis, a copy of any financial report that Owner will submit to the Comptroller of the State of Texas ("Comptroller") relating to Mario's remission of sales taxes collected in City as a result of the operation of the restaurant Project/Project Facilities above, (the "Report"), and shall consent to the State of Texas releasing these monthly reported figures along with any State audit adjustments to the City, and other documents provided to facilitate same with Comptroller.

D. Funding. Grant funds provided hereunder by SEDC shall be contingent on compliance with the provisions of Sections I and II herein.

III. Recapture for Default. This Agreement may be terminated if Developer/Owner refuses, fails or neglects to substantially comply with any of the terms of this

Agreement or, if any representation made by Owner is false or misleading in any material aspect. Termination of this Agreement may be effected if any such default is not cured within thirty (30) days after written notice by the City to Owner.

(a) If the City terminates this Agreement as a result of default by Owner for failure to continue and operate the Project/restaurant for the five year term as provided in this Agreement, the reimbursement of the amount of SEDC tax paid by Mario's/Owner will be immediately abolished and sales tax will be due for the entire tax year in which termination occurred, with interest payable on the amount of sales tax abated by the SEDC at the time of default at the maximum legal rate as provided by law, and no rebate shall accrue for all tax years thereafter.

(b) If during the term of this Agreement, Owner, or a subsequent owner should discontinue the Project Facilities and/or Project, as described herein, then the City shall have the right to recapture all waived permits and inspections fees, and for the SEDC's rebated amount, for the entire tax year in which such discontinuance occurs and to terminate this Agreement. In the event of such recapture by the City, the SEDC shall be reimbursed by the City from the funds recaptured from Owner for the amount of sales tax rebated by the SEDC for the tax year in which such discontinuance occurs.

(c) In the event of termination, a bill for the total amounts due will be sent to Owner, and Owner hereby agrees to pay the total amounts due within forty-five (45) days after receipt of the bill. Statutory penalties, interest and attorney's fees will accrue if Owner fails to timely pay the bill. Nothing in this Agreement shall preclude Owner from disputing the bill.

IV. Jurisdiction. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas. Venue for any action arising out of this Agreement shall be exclusively in Harris County, Texas.

V. Notices. Any notice hereunder shall be given in writing to the party for whom it is intended, in person or by certified mail, at the following addresses or such future addresses as may be designated in writing:

If to Owner/Developer:

Mario's Pizza, Inc.
2100 E. NASA Parkway, Suite 100
Seabrook, TX 77586

If to SEDC:

City Manager
City of Seabrook
1700 First St.
Seabrook, Texas 77586

Notice shall be deemed received upon actual receipt or upon refusal of receipt.

VI. Assignment and Succession. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, affiliates, administrators, executors, and assigns of the respective parties. All rights hereunder may be assigned by Developer/Owner without restriction to any wholly owned subsidiary or affiliate of Developer/Owner or other entity controlled by Developer/Owner or by a subsidiary or affiliate of Developer/Owner, provided that notice of each assignment shall be given in writing to SEDC, but no other assignment shall be effective without the SEDC's written approval and consent. Provided further, no assignment hereunder shall be effective without the written acknowledgment and acceptance by the assignee of the duties and obligations of Developer/Owner set forth in this Agreement. Such approval shall not be unreasonably withheld.

VII. Time of Essence. Time is of the essence of this Agreement. However, in the event the date specified or computed under this Agreement for the performance of an obligation by any party, or for the occurrence of any event provided herein, shall be a Saturday, Sunday or "legal holiday" (defined for purposes hereof as any holiday observed by the City), then the date of such performance or occurrence shall automatically be extended to the next calendar day that is not a Saturday, Sunday or legal holiday.

VIII. Modification/Entire Agreement Expressed. No modification of this Agreement shall be valid or binding unless such modification is in writing, duly dated, and signed by the Parties. This Agreement constitutes the entire agreement between the parties. No party shall be bound by any term, conditions, statement, or representations, oral or written, not herein contained.

IX. Severability. If any term or provision of this Agreement is held to be illegal, invalid, or unenforceable, the legality, validity, or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby; and in lieu of such illegal, invalid, or unenforceable term or provision, there shall be added automatically to this Agreement, a legal,

valid, or enforceable term or provision, as similar as possible to the term or provision declared illegal, invalid, or unenforceable.

X. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraph contained herein.

XI. Operations. It is expressly agreed that nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, to either commence the operation of a business or thereafter continuously operate a business in the Project Facilities. The SEDC and Developer/Owner acknowledge and agree that Developer/Owner may, at its sole discretion and at any time cease the operation of its business in the Project Facilities, and SEDC hereby waives any legal action for damages or for equitable relief which might be available because of such cessation of business activity by Developer/Owner *except for the recapture of Grant funds as specifically set forth in this Agreement*. Provided, however, if Developer/Owner fails to construct the improvements to the Project Facilities as set forth herein, Developer/Owner agrees to reimburse SEDC for all costs expended by SEDC or for which it is legally obligated to expend, as a result of its performance of this Agreement. Nothing contained in this Agreement shall be construed as creating a partnership, joint venture, or other entity between SEDC and Developer/Owner, with regard to the Project, and SEDC shall have no right hereunder to control the operation of Developer/Owner or the Project. Provided, however, nothing contained herein shall be construed as waiving or limiting the power and authority of SEDC or the City of Seabrook to exercise its police powers, or exempt Developer/Owner from complying with lawfully adopted rules, regulations, ordinances, or laws of the State of Texas or SEDC.

XII. Agreement Product of Negotiation. The Parties agree that this Agreement is the product of negotiation, that each Party has been represented by counsel of their own choosing, that each has freely entered into this Agreement after consulting with their counsel, and that this Agreement contains the terms and conditions requested and required by each. This Agreement shall be construed as having been drafted by all Parties and no term or provision shall be construed either in favor of or against a party on the basis that a party did or did not author this Agreement.

XIII. Limit Of Appropriation. Prior to the execution of this Agreement,

Owner/Developer has been advised by the SEDC and Owner/Developer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the SEDC shall have available as a condition for payment, only those sums as expressly provided for under this Agreement for this fiscal year to discharge any and all liabilities which may be incurred by the SEDC. The total compensation that Owner/Developer may become entitled to hereunder and the total sum that the SEDC shall become liable to pay to Owner/Developer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

The Parties specifically acknowledge that the funds allocated for payment to Owner/Developer by SEDC are derived from sales tax revenues, and that SEDC has only estimated the anticipated tax revenues to be collected during the term of this Agreement in its budget for Fiscal Year 2017-18, and that no estimates have been made of tax revenues for future fiscal years. Owner/Developer further understands, acknowledges, and agrees that if the tax revenues actually collected in any fiscal year are estimated to be or are actually less than the estimated tax revenues anticipated to be collected during the term of this Agreement, SEDC shall be under no obligation to reimburse Owner/Developer for the amount set forth in Section I. Owner/Developer further acknowledges that this Agreement could be anticipated to extend into future fiscal years, and funds may not be available or budgeted in future fiscal years, and that any anticipation of extension may not be enforceable under the Constitution and laws of the State of Texas.

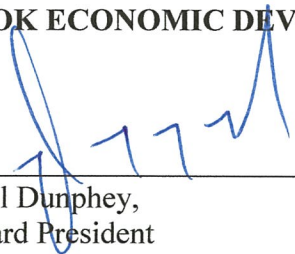
XIV. Employment of Undocumented Workers. Owner/Developer acknowledges prior notice provided by SEDC/City, that all Agreements related to the construction of the Project shall contain notifications required by Texas Govt. Code Section 2264, such as the following: During the term of this Agreement, the Owner/Developer agrees not to knowingly employ any undocumented workers as defined in Tex. Govt. Code Sec. 2264.001. If convicted of a violation under 8 U.S.C. § 1324a(f), the Owner/Developer shall repay the amount of the Grants/incentives and any other funds received by the Owner/Developer from the City as of the date of such violation not later than 120 days after the date the Owner/Developer is notified by the City of a violation of this section, plus interest from the date the Grant/incentive was paid to the Owner/Developer, at the rate periodically announced by the Wall Street Journal as the prime

or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the City) as its prime or base commercial lending rate. The payment of interest shall be as if it had been accruing from the date the Grants/incentives were paid to the Owner/Developer until the date the Grants/incentives are repaid to the City.

IN WITNESS WHEREOF, and as authorized respectively by the SEDC, City Council of Seabrook and Mario's Pizza, Inc., a Texas corporation, doing business herein as Mario's Pizza & Pasta, Owner, by and through their respective authorized agents, the parties have executed this Agreement effective the day and year first written above.

[INTENTIONALLY LEFT BLANK]

SEABROOK ECONOMIC DEVELOPMENT CORPORATION



BY: Paul Dumphrey,
Board President

DATE: 2/22/18, 2018

ATTEST:



Ernie Davis,
Board Secretary

MARIO'S PIZZA, INC



BY: William Whitney
President/Authorized Representative

DATE: February 15th, 2018

CITY OF SEABROOK, TEXAS

BY: Thomas G. Kolupski
Mayor

DATE: _____, 2018

ATTEST:

Robin Hicks, TRMC
City Secretary



Agenda Briefing

Date of Meeting: 03/06/2018

Submitting Department: Public Works

Date Submitted: 02/22/2018

Prepared By: Liz Lopresti

Presenter: Kevin Padgett

Will there be a guest/visitor presenter who is not an employee?: ☐ Yes ☒ No

What is this person's first and last name and affiliation to this item?:

Subject: 2017-08 Disposal of Municipal Sludge Contract Renewal.

Type of Item: ☐ Ordinance ☐ Resolution ☒ Contract/Agreement ☐ Public Hearing ☐ Discussion & Direction

Executive Summary: The contract for Disposal of Municipal Sludge with Sprint Waste Services, LP expires on May 2, 2018. This is the first of 2 optional 12 month extensions, at a price of \$427 per dry ton, increased from \$388.48. This price is still lower than the next closest bidder, and is under budget. Historically, after storms such as Hurricane Harvey, the price of sludge disposal increases; therefore, staff believes that this is a reasonable increase.

Background/Issue (What prompted this need?): The Contract dated May 2, 2017 is up for renewal as of that date. Sludge dewatering and hauling to approved landfill is a major process for the Waste Water Treatment Plant, as part of daily operations. This service helps keep the City TCEQ Compliant.

Budget Analysis/Funding Comments: The RFP was submitted for an estimated 300 dry tons hauled per year, which is reflected in the contract and renewal documents. Actual usage is estimated at 283 dry tons. With the price increase to \$427 per dry ton, the full year expenditure would be approximately \$120,841, which is still below the budgeted \$125,000.

Expenditure Required: \$120,841 full year

Budgeted Amount: \$125,000 **Source of Funds/Funding Account:** 912-5455

Not Budgeted: If approved, the following will be included in the next Budget Amendment and \$ will be added to Revenue Account: and \$ added to Expenditure Account:

1295 Form Required? ☐ Yes ☒ No

Name of Applicant (if applicable) :

Legal Description/Location (if applicable):

Supporting Materials Attached:

1. Renewal Document Signed by Vendor
2. Renewal offer letter
3. 2017-08 Bid Tab
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Recommended Placement on Agenda: Bid Awards

Recommended Action: Approve the contract renewal for Disposal of Municipal Sludge with Sprint Waste Services for \$427.00 per dry ton.

Reviewed by Department Director, if applicable ☒

Reviewed by Finance Director, if applicable ☒

Reviewed by City Attorney, if applicable ☐

Reviewed by City Manager ☒



Sprint Waste Services

February 14, 2018

Elizabeth LoPresti
Purchasing Coordinator
City of Seabrook
ELopresti@seabrooktx.gov

Dear Ms. LoPresti:

We appreciate the opportunity to provide this service to the City of Seabrook over the last year. We do wish to renew this contract for another term. However, due to a number of factors beyond our control which are outlined below, we respectfully ask that you consider our proposal for a price change in Year 2 of the contract.

- Disposal costs are one of our single largest expenses on this type of contract, and landfill tip fees have risen sharply in the Houston area over the last year, with rate increases being from 7% - 45%.
- Due to very thin sludge solids at the WWTP (about half the industry standard), the dry ton sludge volume, which is our unit of payment, is half of what we projected. Our revenue is determined not by the work we perform, but by the characteristics (thickness) of the sludge the City provides to us. With less available solids to remove from the volume of wastewater we must process each event, revenues do not always cover our operational costs for each dewatering event.

For these reasons we are requesting a renewal at the rate of \$427 per dry ton. This still maintains our contract rate at 30% below the second lowest bid. Thank you for your consideration of our request to maintain a contract rate that is mutually beneficial to both parties. Please contact me if you would like to discuss the matter in more detail.

Sincerely,

Jonathan Hill
General Manager



CONTRACT EXTENSION

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS

THIS AGREEMENT, made and entered into this ____ day of _____ A.D., 2018, by and between City of Seabrook of the State of Texas, acting through the City Mayor, thereunto duly authorized so to do, Party of the First Part, hereinafter termed CITY, and Sprint Waste Services LP, a Texas company with registered office at 16011 West Bellfort, Sugarland, Texas, Party of the Second Part, hereinafter termed VENDOR, pursuant to the contract extension contained in the Contract dated May 2, 2017.

WITNESSETH: That for and in consideration for the payments and agreements hereinafter mentioned, to be made and performed by the Party of the First Part (CITY), and under the conditions expressed herein, the said Party of the Second Part (VENDOR), hereby agrees with the said Party of the First part (CITY) to commence and complete the services described below:

Dispose of the City of Seabrook's Aerobic Non-Hazardous Municipal Sludge (Project 2017-08) located at 715 Main Street and agrees to comply with all terms and conditions below, attached specifications, and notes in the bid package. The contract price of Four Hundred twenty seven dollars (\$427.00) per dry ton for an annual estimated total of One Hundred Twenty-Eight Thousand One Hundred Dollars (\$128,100.00) will be held constant for one year from the end of the initial term.

IN WITNESS THEREOF, the parties to these present have executed this agreement in the year and day first above written.

Party, First Part (CITY)

Party, Second Part (VENDOR)

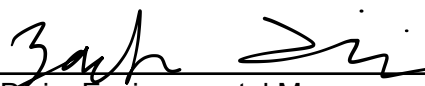
By: _____
Thom Kolupski, Mayor

By: 
Jonathan Hill, General Manager

ATTEST:

ATTEST:

Robin Hicks, City Secretary
(SEAL)


Zach Devin, Environmental Manager
(SEAL)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/27/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Alpha Omega Insurance Group(Dean & Draper Ins) 3131 West Alabama Suite 150 Houston TX 77098	CONTACT NAME: Shannon Newell PHONE (A/C, No, Ext): 713-586-4385 E-MAIL ADDRESS: snewell@deandraper.com	FAX (A/C, No): 713-527-0457
INSURED Sprint Waste Services LP P.O. Box 940820 Houston TX 77094-7820		INSURER(S) AFFORDING COVERAGE INSURER A : Indian Harbor Insurance Co. INSURER B : Greenwich Insurance Company INSURER C : Berkley National Insurance Company INSURER D : Texas Mutual Ins. Co. INSURER E : Argonaut Insurance Company INSURER F : XL SPECIALITY INSURANCE COMPANY
		NAIC # 22945

COVERAGES**CERTIFICATE NUMBER:** 1124492390**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ xcu exc not on ☒ policy GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC ☒ OTHER: \$5K Deductible				7/1/2017	7/1/2018	EACH OCCURRENCE \$ \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ \$100,000 MED EXP (Any one person) \$ \$5,000 PERSONAL & ADV INJURY \$ \$1,000,000 GENERAL AGGREGATE \$ \$2,000,000 PRODUCTS - COMP/OP AGG \$ \$2,000,000 Employee Benefit \$ \$1,000,000
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY ☒ Primary ☒ MCS-90				7/1/2017 7/1/2017	7/1/2018 7/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$ \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Cargo Pollution \$ \$1,000,000
C	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$				7/1/2017	7/1/2018	EACH OCCURRENCE \$ \$10,000,000 AGGREGATE \$ \$10,000,000 Excess \$ \$25,000,000
D	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A		7/1/2017 7/1/2017	7/1/2018 7/1/2018	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$ \$1,000,000 E.L. DISEASE - POLICY LIMIT \$ \$1,000,000
F	Leased/Rented Equipment				7/1/2017	7/1/2018	Limit \$1,000,000 Deductible \$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Contractors Environmental Liability Policy Effective Date 07/01/2017-07/01/2018 Limit: \$10,000,000 Per Occurrence Aggregate Limit: \$10,000,000 Tokio Marine Specialty Ins. Co. The Contractors Environmental Liability contains coverage for sudden and Accidental Pollution.
Contractors Professional Liability Policy Effective Date 07/01/2017-07/01/2018 Limit: \$1,000,000 Per Incident Tokio Marine Specialty Ins. Motor Truck Cargo Policy Effective Date 07/01/2017-07/01/2018 Limit: \$500,000 Per Vehicle Ded: \$1,000 XL Specialty Ins. Trailer Interchange Policy Effective Date 07/01/2017-07/01/2018 Limit: \$40,000 Ded: \$1,000 XL Specialty Ins.
Ins. Trailer Interchange Policy#AEC0044155 (Phys Dam policy) as follows: Trailer interchange Coverage, Hired Car Physical Damage 10: Only those "autos" you lease, hire, rent or borrow own that are that are that are 20,000 lbs or less, including trailers. In addition the HCPD limit for trailers will be \$80,000, \$10,000/10,000 deductibles apply.
See Attached...

CERTIFICATE HOLDER**CANCELLATION**

City of Seabrook 1700 First Street Seabrook TX 77586	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Alpha Omega Insurance Group(Dean & Draper Ins)		NAMED INSURED Sprint Waste Services LP P.O. Box 940820 Houston TX 77094-7820	
POLICY NUMBER			
CARRIER	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

Management Liability Policy [REDACTED] Effective Dates: 07/01/2017-07/01/2018 Limit: \$1,000,000- CNA
 Excess Liability Policy [REDACTED] Effective Dates: 07/01/2017-07/01/2018 Aggregate: \$25,000,000 Per Occurrences: \$25,000,000- Starr Surplus Lines Ins. Co.
 Excess Automobile Liability Policy [REDACTED] Effective Dates: 07/01/2017-07/01/2018 Aggregate: \$25,000,000 Per Occurrences: \$25,000,000- Starr Surplus Lines Ins. Co.

The General Liability and Automobile Liability policies include a blanket automatic additional insured endorsement that provides additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status. The General Liability, Automobile Liability and Workers Compensation policies include a blanket automatic waiver of subrogation endorsement that provides this feature only when there is a written contract between the named insured and the certificate holder that requires such status. Leased/Rented Equipment policy includes a blanket automatic additional insured and loss payee endorsement that provides this feature only when there is a written contract between the named insured and the certificate holder that requires such status. Umbrella/Excess Follow Form.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT – AUTOMATIC STATUS WHEN REQUIRED IN LEASE AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Section II – Who Is An Insured** is amended to include as an additional insured any person(s) or organization(s) from whom you lease equipment when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

- B.** With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
- C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Any person or organization that you are required in a written contract or written agreement to include as an additional insured provided the "bodily injury" or "property damage" occurs subsequent to the execution of the written contract or written agreement.	Various as required per written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Any person or organization that you are required in a written contract or written agreement to include as an additional insured provided the "bodily injury" or "property damage" occurs subsequent to the execution of the written contract or written agreement.	Various as required per written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

POLICY NUMBER [REDACTED]

COMMERCIAL GENERAL LIABILITY
CG 24 04 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Where required by written contract or agreement executed prior to loss (except where not permitted by law).

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV – COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

POLICY NUMBER: [REDACTED]

COMMERCIAL GENERAL LIABILITY
CG 25 03 05 09

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Project(s): Each "project" for which you have agreed, in a written contract which is in effect during this policy period, to provide a separate general aggregate limit; provided that, the contract is signed and executed prior to any loss for which coverage is sought.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage C regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 3. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
 4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E. The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., July 1, 2017, forms a part of

Policy No. [REDACTED] issued to Sprint Waste Services, LP

by Indian Harbor Insurance Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY INSURANCE CLAUSE ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS COVERAGE PART

It is agreed that to the extent that insurance is afforded to any Additional Insured under this policy, this insurance shall apply as primary and not contributing with any insurance carried by such Additional Insured, as required by written contract.

All other terms and conditions of this policy remain unchanged.

ENDORSEMENT

This endorsement, effective 12:01 a.m., July 1, 2017 forms a part of
Policy No. [REDACTED] issued to SPRINT WASTE SERVICES, LP
by Greenwich Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CANCELLATION NOTIFICATION TO OTHERS ENDORSEMENT

In the event coverage is cancelled for any statutorily permitted reason, other than nonpayment of premium, advanced written notice will be mailed or delivered to person(s) or entity(ies) according to the notification schedule shown below:

Name of Person(s) or Entity(ies)	Mailing Address:	Number of Days Advanced Notice of Cancellation:
Any person(s) or entity(ies) requiring by written contract that the Named Insured provide advanced written notice of cancellation.	The person or entity must be listed on a spreadsheet from the broker that includes the person's or Entity's name and a valid mailing address. This spreadsheet must be received by the Company within five (5) five days of the company's request to the broker. Otherwise the Company will bear no liability or responsibility for such advanced written notice of cancellation.	30

All other terms and conditions of the Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY INSURANCE AND NON-CONTRIBUTORY

This endorsement modifies and is subject to the insurance provided under the following:

CONTRACTOR ENVIRONMENTAL AND PROFESSIONAL COVERAGE

It is hereby agreed that solely with respect to your professional services or your contracting operations performed under written contracts requiring you to maintain insurance that is primary and non-contributory, Section X. GENERAL CONDITIONS, H. Other Insurance is amended to include:

Primary and Non-contributory

1. This policy will be primary and without right of contribution from any other insurance for liability arising out of your professional services or your contracting operations but only if
2. The contract requiring primary and non-contributory coverage, under which your professional services or your contracting operations are performed, was executed prior to the rendering of such services or operations;

All other policy terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION – 120 DAYS

This endorsement modifies and is subject to the insurance provided under the following:

CONTRACTOR ENVIRONMENTAL AND PROFESSIONAL COVERAGE

It is hereby agreed that **Section X. GENERAL CONDITIONS, E. Cancellation or Non-Renewal** is deleted in its entirety and replaced with the following:

E. Cancellation or Non-Renewal

You may cancel this policy by surrendering it to us or one of our authorized agents or by mailing written notice to us and providing to us a future date when cancellation shall be effective. If you cancel this policy, we shall retain the customary short-rate portion of the premium less the minimum earned premium, if applicable.

We may cancel the policy by mailing to you at the address stated in the Declarations written notice stating when, not less than one hundred twenty (120) days thereafter; or ten (10) days in the case of cancellation for non-payment of premium or deductible, such cancellation shall become effective. If we cancel the policy, earned premium shall be computed pro-rata. The mailing of Notice of Cancellation as aforementioned shall be sufficient notice of the intent to cancel. The effective date of cancellation specified in the notice shall terminate this policy period.

This policy may only be cancelled by us for:

1. Non-payment of premium or deductible;
2. Change in your operations that materially increase risks covered under this policy;
3. Fraud or material misrepresentation by you; or
4. Your failure to comply with terms and conditions or your contractual obligations under this policy. You shall have a right of sixty (60) days from the date of notice of cancellation to remedy such non-compliance. If the remedy is satisfactory to us, we shall rescind such notice in writing and the policy shall remain in force.

All other policy terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF SUBROGATION – BLANKET

This endorsement modifies and is subject to the insurance provided under the following:

CONTRACTOR ENVIRONMENTAL AND PROFESSIONAL COVERAGE

It is hereby agreed that Section X, **GENERAL CONDITIONS, A. Subrogation** shall not apply to any rights of recovery the insured may have against a client of the named insured or other entity when:

1. Required in a written contract for your contracting operations or your professional services with such client or entity; and
2. The request for a Waiver of Subrogation is made prior to the date your contracting operations or your professional services for such contract first commenced; and
3. A Certificate of Insurance evidencing a Waiver of Subrogation has been issued by your authorized insurance agent or broker.

In any event, a waiver of rights of recovery against a client of the named insured or entity that satisfies the above terms does not impair any rights we possess to seek and obtain indemnity, contribution, payment or reimbursement from any other insurance carrier affording coverage to such client of the named insured.

All other policy terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED SCHEDULE
CONTRACTING OPERATIONS**

This endorsement modifies and is subject to the insurance provided under the following:

CONTRACTOR ENVIRONMENTAL AND PROFESSIONAL COVERAGE

It is hereby agreed that the following individual(s), entity(ies) or organization(s) scheduled below are scheduled as **additional insured(s)**. The **additional insured** shall have coverage under this policy, but solely with regard to the **Coverage B - Contracting Environmental Liability**.

The scheduled entity is included as an **insured** under this policy solely to the extent that:

1. The scheduled entity is liable as result of **your contracting operations, transportation or completed operations** performed by or on behalf an **insured**, other than a client who qualifies as an insured by Definition A. **Additional Insured**, sub- paragraph 2.; and
2. Up to and not exceeding the amount required by the written contract with you or subject to the applicable Coverage B Limit of Insurance, whichever is lesser.

Additional Insured

Blanket where required by written contract, executed prior to the loss

All other policy terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLLUTION LIABILITY – BROADENED COVERAGE FOR COVERED AUTOS – BUSINESS AUTO AND MOTOR CARRIER COVERAGE FORMS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Covered Autos Liability Coverage is changed as follows:

1. Paragraph a. of the **Pollution Exclusion** applies only to liability assumed under a contract or agreement.
2. With respect to the coverage afforded by Paragraph A.1. above, Exclusion B.6. **Care, Custody Or Control** does not apply.

B. Changes In Definitions

For the purposes of this endorsement, Paragraph D. of the **Definitions** Section is replaced by the following:

- D. "Covered pollution cost or expense" means any cost or expense arising out of:
1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
 2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraphs a. and b. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

ENDORSEMENT #005

This endorsement, effective 12:01 a.m., July 1, 2017, forms a part of Policy No. [REDACTED] issued to SPRINT WASTE SERVICES LP by Greenwich Insurance Company.

In consideration of the premium charged, it is hereby understood and agreed that:

On form CA 20 01 LESSOR – ADDITIONAL INSURED AND LOSS PAYEE

Additional Insured (Lessor) on the Schedule is amended to include:

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT TO INCLUDE AS AN ADDITIONAL INSURED, PROVIDED THE "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURS SUBSEQUENT TO THE EXECUTION OF THE WRITTEN CONTRACT OR WRITTEN AGREEMENT.

Designation or Description of "Leased Autos" on the Schedule is amended to include:

Any "Leased Auto"

All other terms and conditions remain the same.

(Authorized Representative)

POLICY NUMBER: [REDACTED]

COMMERCIAL AUTO
CA 20 01 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LESSOR – ADDITIONAL INSURED AND LOSS PAYEE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: SPRINT WASTE SERVICES LP

Endorsement Effective Date: July 1, 2017

SCHEDULE

Insurance Company: Greenwich Insurance Company

Policy Number: [REDACTED]

Effective Date: July 1, 2017

Expiration Date: July 1, 2018

Named Insured: SPRINT WASTE SERVICES LP

Address: P.O. BOX 940820

HOUSTON, TX 770947820

Additional Insured (Lessor): See Endorsement # 005

Address:

Designation Or Description Of "Leased Autos": See Endorsement # 005

Coverages	Limit Of Insurance
Covered Autos Liability	\$ Each "Accident"
Comprehensive	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"
Collision	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"
Specified Causes Of Loss	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

- Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.
- For a "leased auto" designated or described in the Schedule, the Who Is An Insured provision under Covered Autos Liability Coverage is changed to include as an "insured" the lessor named in the Schedule. However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
 - You;
 - Any of your "employees" or agents; or
 - Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.
- The coverages provided under this endorsement apply to any "leased auto" described in the Schedule until the expiration date shown in the Schedule, or when the lessor or his or her agent takes possession of the "leased auto", whichever occurs first.

B. Loss Payable Clause

- We will pay, as interest may appear, you and the lessor named in this endorsement for "loss" to a "leased auto".

- The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
- If we make any payment to the lessor, we will obtain his or her rights against any other party.

C. Cancellation

- If we cancel the policy, we will mail notice to the lessor in accordance with the Cancellation Common Policy Condition.
- If you cancel the policy, we will mail notice to the lessor.
- Cancellation ends this agreement.

- The lessor is not liable for payment of your premiums.

E. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

POLICY NUMBER: [REDACTED]

XIC 411 1013

ENDORSEMENT #006

This endorsement, effective 12:01 a.m., July 1, 2017, forms a part of Policy No. [REDACTED] issued to SPRINT WASTE SERVICES LP by Greenwich Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMATIC ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
AUTO DEALERS COVERAGE FORM

A. **COVERED AUTOS LIABILITY COVERAGE, Who is An Insured**, is amended to include as an "insured" any person or organization you are required in a written contract to name as an additional insured, but only for "bodily injury" or "property damage" otherwise covered under this policy caused, in whole or in part, by the negligent acts or omissions of:

1. You, while using a covered "auto"; or
2. Any other person, except the additional insured or any employee or agent of the additional insured, operating a covered "auto" with your permission;

Provided that:

- a. The written contract is in effect during the policy period of this policy;
- b. The written contract was signed by you and executed prior to the "accident" causing "bodily injury" or "property damage" for which liability coverage is sought; and
- c. Such person or organization is an "insured" solely to the extent required by the contract, but in no event if such person or organization is solely negligent.

B. The Limits of Insurance provided for the Additional Insured shall not be greater than those required by contract and, in no event shall the Limits of Insurance set forth in this policy be increased by the contract.

C. **General Conditions, Other Insurance** is amended as follows:

Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether such insurance is primary, excess, contingent or on any other basis unless the contract specifically requires that this policy be primary.

All terms, conditions, exclusions and limitations of this policy shall apply to the liability coverage provided to any additional insured, and in no event shall such coverage be enlarged or expanded by reason of the contract.

All other terms and conditions of this policy remain unchanged.

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POLICY NUMBER: [REDACTED]

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: SPRINT WASTE SERVICES LP

Endorsement Effective Date: July 1, 2017

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED IN A
WRITTEN CONTRACT OR WRITTEN AGREEMENT TO WAIVE ANY RIGHT OF
RECOVERY WE MAY HAVE AGAINST THE PERSON OR ORGANIZATION
PROVIDED THE "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURS
SUBSEQUENT TO THE EXECUTION OF THE WRITTEN CONTRACT OR
AGREEMENT.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**The Transfer Of Rights Of Recovery Against
Others To Us** condition does not apply to the
person(s) or organization(s) shown in the Schedule,
but only to the extent that subrogation is waived prior
to the "accident" or the "loss" under a contract with
that person or organization.

ENDORSEMENT

This endorsement, effective 12:01 a.m., July 1, 2017 forms a part of
Policy No. [REDACTED] issued to SPRINT WASTE SERVICES, LP
by Greenwich Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CANCELLATION NOTIFICATION TO OTHERS ENDORSEMENT

In the event coverage is cancelled for any statutorily permitted reason, other than nonpayment of premium, advanced written notice will be mailed or delivered to person(s) or entity(ies) according to the notification schedule shown below:

Name of Person(s) or Entity(ies)	Mailing Address:	Number of Days Advanced Notice of Cancellation:
Any person(s) or entity(ies) requiring by written contract that the Named Insured provide advanced written notice of cancellation.	The person or entity must be listed on a spreadsheet from the broker that includes the person's or Entity's name and a valid mailing address. This spreadsheet must be received by the Company within five (5) five days of the company's request to the broker. Otherwise the Company will bear no liability or responsibility for such advanced written notice of cancellation.	30

All other terms and conditions of the Policy remain unchanged.

ENDORSEMENT #005

This endorsement, effective 12:01 a.m., July 1, 2017 forms a part of Policy No. [REDACTED] issued to SPRINT WASTE SERVICES, LP by Greenwich Insurance Company.

In consideration of the premium charged, it is hereby understood and agreed that:

On form CA 20 01 LESSOR – ADDITIONAL INSURED AND LOSS PAYEE

Additional Insured (Lessor) on the Schedule is amended to include:

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT TO INCLUDE AS AN ADDITIONAL INSURED, PROVIDED THE "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURS SUBSEQUENT TO THE EXECUTION OF THE WRITTEN CONTRACT OR WRITTEN AGREEMENT

Designation or Description of "Leased Autos" on the Schedule is amended to include:

Any "Leased Auto"

All other terms and conditions remain the same.

(Authorized Representative)

POLICY NUMBER: [REDACTED]

COMMERCIAL AUTO
CA 20 01 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LESSOR – ADDITIONAL INSURED AND LOSS PAYEE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: SPRINT WASTE SERVICES, LP
Endorsement Effective Date: July 1, 2017

SCHEDULE

Insurance Company: Greenwich Insurance Company	
Policy Number: [REDACTED]	Effective Date: July 1, 2017
Expiration Date: July 1, 2018	
Named Insured: SPRINT WASTE SERVICES, LP	
Address: P.O. BOX 940820 HOUSTON, TX 770947820	
Additional Insured (Lessor): See Endorsement # 005	
Address:	
Designation Or Description Of "Leased Autos": See Endorsement # 005	

Coverages	Limit Of Insurance
Covered Autos Liability	\$ Each "Accident"
Comprehensive	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"
Collision	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"
Specified Causes Of Loss	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.
2. For a "leased auto" designated or described in the Schedule, the Who Is An Insured provision under Covered Autos Liability Coverage is changed to include as an "insured" the lessor named in the Schedule. However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
 - a. You;
 - b. Any of your "employees" or agents; or
 - c. Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.
3. The coverages provided under this endorsement apply to any "leased auto" described in the Schedule until the expiration date shown in the Schedule, or when the lessor or his or her agent takes possession of the "leased auto", whichever occurs first.

B. Loss Payable Clause

1. We will pay, as interest may appear, you and the lessor named in this endorsement for "loss" to a "leased auto".

2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

C. Cancellation

1. If we cancel the policy, we will mail notice to the lessor in accordance with the Cancellation Common Policy Condition.
2. If you cancel the policy, we will mail notice to the lessor.
3. Cancellation ends this agreement.

- D. The lessor is not liable for payment of your premiums.**

E. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

POLICY NUMBER: [REDACTED]

XIC 411 1013

ENDORSEMENT #006

This endorsement, effective 12:01 a.m., July 1, 2017 forms a part of Policy No. [REDACTED] issued to SPRINT WASTE SERVICES, LP by Greenwich Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMATIC ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
AUTO DEALERS COVERAGE FORM

A. **COVERED AUTOS LIABILITY COVERAGE, Who Is An Insured**, is amended to include as an "insured" any person or organization you are required in a written contract to name as an additional insured, but only for "bodily injury" or "property damage" otherwise covered under this policy caused, in whole or in part, by the negligent acts or omissions of:

1. You, while using a covered "auto"; or
2. Any other person, except the additional insured or any employee or agent of the additional insured, operating a covered "auto" with your permission;

Provided that:

- a. The written contract is in effect during the policy period of this policy;
- b. The written contract was signed by you and executed prior to the "accident" causing "bodily injury" or "property damage" for which liability coverage is sought; and
- c. Such person or organization is an "insured" solely to the extent required by the contract, but in no event if such person or organization is solely negligent.

B. The Limits of Insurance provided for the Additional Insured shall not be greater than those required by contract and, in no event shall the Limits of Insurance set forth in this policy be increased by the contract.

C. **General Conditions, Other Insurance** is amended as follows:

Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether such insurance is primary, excess, contingent or on any other basis unless the contract specifically requires that this policy be primary.

All terms, conditions, exclusions and limitations of this policy shall apply to the liability coverage provided to any additional insured, and in no event shall such coverage be enlarged or expanded by reason of the contract.

All other terms and conditions of this policy remain unchanged.

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POLICY NUMBER: [REDACTED]

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: SPRINT WASTE SERVICES, LP

Endorsement Effective Date: July 1, 2017

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED IN A
WRITTEN CONTRACT OR WRITTEN AGREEMENT TO WAIVE ANY RIGHT
OF RECOVERY WE MAY HAVE AGAINST THE PERSON OR ORGANIZATION
PROVIDED THE "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURS
SUBSEQUENT TO THE EXECUTION OF THE WRITTEN CONTRACT OR
AGREEMENT.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**The Transfer Of Rights Of Recovery Against
Others To Us** condition does not apply to the
person(s) or organization(s) shown in the Schedule,
but only to the extent that subrogation is waived prior
to the "accident" or the "loss" under a contract with
that person or organization.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

- B.** The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

A Federal Agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements for the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2126-0008. Public reporting for this collection of information is estimated to be approximately 2 minutes per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-RRA, Washington, D.C. 20550



U.S. Department of Transportation
Federal Motor Carrier
Safety Administration

**ENDORSEMENT FOR
MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC
LIABILITY UNDER SECTIONS 29 AND 30 OF THE MOTOR
CARRIER ACT OF 1980**

Issued to **Sprint Waste Services, L.P.** of 16011 W. Bellfort St., Sugar Land, TX 77498

Dated at **New York, New York** this 1st day of July 2017

Amending Policy No. [REDACTED]

Effective Date **7/1/2017**

Name of Insurance Company

Starr Surplus Lines Insurance Company

Countersigned by

Authorized Representative

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "[X]," for the limits shown:

☐ This insurance is primary and the company shall not be liable for amounts in excess of \$_____ for each accident.

☒ This insurance is excess and the company shall not be liable for amounts in excess of \$ **25,000,000.** for each accident in excess of the underlying limit of \$ **1,000,000.** for each accident.

Whenever required by the Federal Motor Carrier Safety Administration (FMCSA), the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is: (215) 399-2939

Cancellation of this endorsement may be effected by the company of the insured by giving:

(1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the FMCSA's registration requirements under 49 U.S.C. 13901, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, D.C.).

DEFINITIONS AS USED IN THIS ENDORSEMENT

Accident includes continuous or repeated exposure to conditions or which results in bodily injury, property damage, or environmental damage which the insured neither expected nor intended.

Motor Vehicle means a land vehicle, machine, truck, tractor, trailer, or semi-trailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

Bodily Injury means injury to the body, sickness, or disease to any person, including death resulting from any of these.

Property Damage means damage to or loss of use of tangible property.

Environmental Restoration means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

Public Liability means liability for bodily injury, property damage, and environmental restoration.

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Motor Carrier Safety Administration (FMCSA).

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

THE SCHEDULE OF LIMITS SHOWN ON THE REVERSE SIDE DOES NOT PROVIDE COVERAGE. The limits shown in the schedule are for information purposes only.

SCHEDULE OF LIMITS--PUBLIC LIABILITY

Type of carriage	Commodity transported	Jan. 1, 1985
(1) For-hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Property (nonhazardous)	\$ 750,000
(2) For-hire and Private (In interstate, foreign or intrastate commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Division 1.1., 1.2, and 1.3 materials. Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR 173.403.	\$5,000,000
(3) For-hire and Private (In interstate or foreign commerce, in any quantity, or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,000 or more pounds).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	\$1,000,000
(4) For-hire and Private (In interstate or foreign commerce, with a gross vehicle weight rating of less than 10,000 pounds).	Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group 1, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403.	\$5,000,000



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

ENDORSEMENT FOR MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

FORM APPROVED
OMB No.: 2126-0608

Issued to Sprint Waste Services LP of Sugarland, TX 77498

Dated at 505 Eagleview Blvd., Exton, PA 19341 this 16th day of June 2017

Amending Policy No. [REDACTED] Effective Date 07/01/2017

Name of Insurance Company Greenwich Insurance Company

Countersigned by

Authorized Company Representative

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "[X]," for the limits shown:

X This insurance is primary and the company shall not be liable for amounts in excess of \$ 1,000,000 CSL for each accident.

[] This insurance is excess and the company shall not be liable for amounts in excess of \$ _____ for each accident in excess of the underlying limit of \$ _____ for each accident.

Whenever required by the Federal Motor Carrier Safety Administration (FMCSA), the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is (800) 688-1840.

Cancellation of this endorsement may be effected by the company or the Insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the Insured is subject to the FMCSA's registration requirements under 49 U.S.C. 13901, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, D.C.).

DEFINITIONS AS USED IN THIS ENDORSEMENT

Accident includes continuous or repeated exposure to conditions or which results in bodily injury, property damage, or environmental damage which the Insured neither expected nor intended.

Motor Vehicle means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

Bodily Injury means injury to the body, sickness, or disease to any person, including death resulting from any of these.

Property Damage means damage to or loss of use of tangible property.

Environmental Restoration means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

Public Liability means liability for bodily injury, property damage, and environmental restoration

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Motor Carrier Safety Administration (FMCSA). In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the Insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the

company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the Insured. However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the Insured and the company. The Insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the Insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

THE SCHEDULE OF LIMITS SHOWN DOES NOT PROVIDE COVERAGE. The limits shown in the schedule are for information purposes only.

SCHEDULE OF LIMITS—PUBLIC LIABILITY		
Type of carriage	Commodity transported	Jan. 1, 1985
(1) For-hire (in interstate or foreign commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Property (nonhazardous).....	\$ 750,000
(2) For-hire and Private (in interstate, foreign, or intrastate commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Division 1.1, 1.2, and 1.3 materials, Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR 173.403	\$5,000,000
(3) For-hire and Private (in interstate or foreign commerce, in any quantity; or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,000 or more pounds).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	\$1,000,000
(4) For-hire and Private (in interstate or foreign commerce, with a gross vehicle weight rating of less than 10,000 pounds).	Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403.	\$5,000,000



U.S. Department
of Transportation
Federal Motor Carrier
Safety Administration

ENDORSEMENT FOR MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

FORM APPROVED
OMB No.: 2126-0008

Issued to Sprint Waste Services LP of Sugarland TX 77498
 Dated at 505 Eagleview Blvd., Exton, PA 19341 this 16th day of June 2017
 Amending Policy No. [REDACTED] Effective Date 07/01/2017
 Name of Insurance Company Greenwich Insurance Company

Countersigned by

Authorized Company Representative

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "[X]" for the limits shown:

X This insurance is primary and the company shall not be liable for amounts in excess of \$ 1,000,000 CSL for each accident.

[] This insurance is excess and the company shall not be liable for amounts in excess of \$ _____ for each accident in excess of the underlying limit of \$ _____ for each accident.

Whenever required by the Federal Motor Carrier Safety Administration (FMCSA), the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is (800) 688-1840.

Cancellation of this endorsement may be effected by the company or the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the FMCSA's registration requirements under 49 U.S.C. 13901, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, D.C.).

DEFINITIONS AS USED IN THIS ENDORSEMENT

Accident includes continuous or repeated exposure to conditions or which results in bodily injury, property damage, or environmental damage which the insured neither expected nor intended.

Motor Vehicle means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

Bodily Injury means injury to the body, sickness, or disease to any person, including death resulting from any of these.

Property Damage means damage to or loss of use of tangible property.

Environmental Restoration means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

Public Liability means liability for bodily injury, property damage, and environmental restoration

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Motor Carrier Safety Administration (FMCSA). In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the

company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

THE SCHEDULE OF LIMITS SHOWN DOES NOT PROVIDE COVERAGE. The limits shown in the schedule are for information purposes only.

SCHEDULE OF LIMITS—PUBLIC LIABILITY		
Type of carriage	Commodity transported	Jan. 1, 1985
(1) For-hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Property (nonhazardous).....	\$ 750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Division 1.1, 1.2, and 1.3 materials, Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR 173.403	\$5,000,000
(3) For-hire and Private (In interstate or foreign commerce, in any quantity; or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,000 or more pounds).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	\$1,000,000
(4) For-hire and Private (In interstate or foreign commerce, with a gross vehicle weight rating of less than 10,000 pounds).	Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403.	\$5,000,000



**WORKERS' COMPENSATION AND
EMPLOYERS LIABILITY POLICY**

WC 42 03 04 B
Agent Copy

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule; but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule

1. ☐ Specific Waiver
Name of person or organization

☒ Blanket Waiver
Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:

3. Premium:

The premium charge for this endorsement shall be 2.00 percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: INCLUDED, SEE INFORMATION PAGE.

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 07/01/2017 at 12:01 a.m. standard time, forms a part of;

Policy No. [REDACTED] of Texas Mutual Insurance Company effective on 07/01/2017

Issued to: SPRINT WASTE SERVICES LP

Premium:

NCCI Carrier Code: 29939

Authorized Representative

06/21/2018



WORKERS' COMPENSATION AND
EMPLOYERS LIABILITY POLICY

WC 42 06 01
Agent Copy

TEXAS NOTICE OF MATERIAL CHANGE ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

In the event of cancellation or other material change of the policy, we will mail advance notice to the person or organization named in the Schedule. The number of days advance notice is shown in the Schedule.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

1. Number of days advance notice: 30
2. Notice will be mailed to: PER LIST ON FILE

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 07/01/2017 at 12:01 a.m. standard time, forms a part of:

Policy No. [REDACTED] of Texas Mutual Insurance Company effective on 07/01/2017

Issued to: SPRINT WASTE SERVICES LP

Premium:

NCCI Carrier Code: 29939

Authorized Representative

06/21/2018



WORKERS' COMPENSATION AND
EMPLOYERS LIABILITY POLICY

TM-LHW-2001
Agent Copy

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT COVERAGE ENDORSEMENT

IMPORTANT NOTICE!

THE INSURANCE PROVIDED BY THIS ENDORSEMENT IS LIMITED.

This coverage applies only to persons under your contract of hire, whether express or implied, oral or written, and includes employees employed in the usual course and scope of your business who are directed by you temporarily to perform services outside the usual course and scope of your business. An employee who is injured while working in another jurisdiction or the employee's legal beneficiary is entitled to all rights and remedies if the injury would be compensable if it had occurred in this state and the employee has significant contacts with this state or the employment is principally located in this state. An employee has significant contacts with this state if the employee was hired or recruited in this state and the employee was injured not later than one year after the date of hire or has worked in this state for at least ten working days preceding the date of injury.

This endorsement applies only to work subject to the Longshore and Harbor Workers' Compensation Act in a state shown in the Schedule.

General Section C. Workers' Compensation Law is replaced by the following:

C. Workers' Compensation Law

Workers' Compensation law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal workers or workmen's compensation law, other federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

Part Two (Employers Liability Insurance), C. Exclusions., exclusion 8, does not apply to work subject to the Longshore and Harbor Workers' Compensation Act.

This endorsement does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

Schedule

State
TEXAS

Longshore and Harbor Workers'
Compensation Act Coverage Percentage
61%

The rates for classifications with code numbers not followed by the letter "F" are rates for work not ordinarily subject to the Longshore and Harbor Workers' Compensation Act. If this policy covers work under such classifications, and if the work is subject to the Longshore and Harbor Workers' Compensation Act, those non-F classification rates will be increased by the Longshore and Harbor Workers' Compensation Act Coverage Percentage shown in the Schedule.

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 07/01/2017 at 12:01 a.m. standard time, forms a part of:

Policy No. [REDACTED] of Texas Mutual Insurance Company effective on 07/01/2017

Issued to: SPRINT WASTE SERVICES LP

Premium:

NCCI Carrier Code: 29939


Authorized Representative

05/21/2016

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Blanket - LA

Where required by written contract.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 07/01/2017

Policy No. [REDACTED]

Endorsement No.

Policy Effective Date: 07/01/2017

Premium \$

Insured: SPRINT WASTE SERVICES LP

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13

Countersigned by _____

(Ed. 4-84)

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Blanket - VA

Where Required By Written Contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 07/01/2017

Policy No.

Endorsement No.

Policy Effective Date: 07/01/2017

Premium \$

Insured: SPRINT WASTE SERVICES LP

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13

Countersigned by _____

(Ed. 4-84)

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Blanket - OK

Where required by written contract.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 07/01/2017

Policy No.

Endorsement No.

Policy Effective Date: 07/01/2017

Premium \$

Insured: SPRINT WASTE SERVICES LP

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13

Countersigned by _____

(Ed. 4-84)

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Blanket - NM

Where required by written contract.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 07/01/2017

Policy No.

Endorsement No.

Policy Effective Date: 07/01/2017

Premium \$

Insured: SPRINT WASTE SERVICES LP

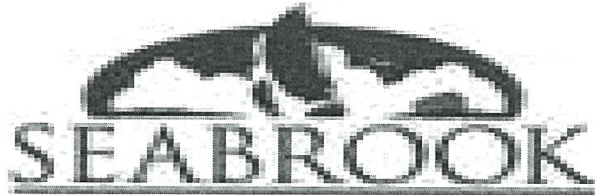
DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13

Countersigned by _____

(Ed. 4-84)



Bid List
Project 2017-08
Disposal of Municipal Sludge
Date: April 18, 2017, 2:00 PM

Company Name	Bid Bond	Price Per Ton	Extended Price
C & R	yes	\$625	\$187,500
Magna Flow			
Merrell Bros., Inc			
Synagro	yes	\$595	\$178,500
Solids Recover Services			
Sprint Waste	yes	\$388.48	\$116,544

House Bill 89 VERIFICATION

I hereby affirm that I am an authorized agent of Sprint Waste Services, LP hereafter referred to as company, do hereby affirm that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract/agreement if awarded under this Request for Proposal.

Pursuant to Section 2270.001, Texas Government Code:

1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

2/22/18

DATE



SIGNATURE OF COMPANY REPRESENTATIVE



Agenda Briefing

Date of Meeting: March 6, 2018

Submitting Department: Legislative

Date Submitted: 03/01/18

Prepared By: Robin Hicks

Presenter: Robin Hicks / LeaAnn Dearman

Will there be a guest/visitor presenter who is not an employee?: ☐ Yes ☒ No

What is this person's first and last name and affiliation to this item?:

Subject: Election Communications Guidelines

Type of Item: ☐ Ordinance ☐ Resolution ☐ Contract/Agreement ☐ Public Hearing ☒ Discussion & Direction

Executive Summary: In order to communicate Election information to citizens while at the same time remaining neutral with regard to candidates or propositions, the Communications Department drafted a set of guidelines to ensure that all communications/notifications for all elections are following the same format.

Background/Issue (What prompted this need?):

Budget Analysis/Funding Comments:

Expenditure Required: \$

Budgeted Amount: \$ **Source of Funds/Funding Account:**

Not Budgeted: If approved, the following will be included in the next Budget Amendment and \$ **will be added to Revenue Account:** **and**
\$ **added to Expenditure Account:**

1295 Form Required? ☐ **Yes** ☐ **No**

Name of Applicant (if applicable) :

Legal Description/Location (if applicable):

Supporting Materials Attached:

1. Agenda Briefing
2. Guidelines
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Recommended Placement on Agenda: New Business

Recommended Action: Recommend Approval of the Election Communications Guidelines

Reviewed by Department Director, if applicable ☒

Reviewed by Finance Director, if applicable ☐

All requests must be submitted to the City Secretary's Office no later than 12:00 p.m. on the Monday, one week prior to the regular Tuesday Council Meeting. All required attachments are to be submitted with the request. Incomplete items cannot be placed on the agenda.

Reviewed by City Attorney, if applicable ☐

Reviewed by City Manager ☐



Election Outreach Guidelines

Texas Election Code prohibits governmental agencies and/or the agency employees from advocating for or against an item on a City Election Ballot including but not limited to city council candidates, bond propositions and/or charter revisions. The spending of public funds to advocate for or against a ballot item is not allowed.

The City of Seabrook will utilize the following communication mediums and channels to only inform Seabrook voters of items and candidates listed on General and Special Election Ballots. Candidates running for office will be asked to provide informational materials that will be used to inform voters.

Website

The City of Seabrook will post election related information on its website at www.seabrooktx.gov/elections. Information on this page will include, but will not be limited to:

- Notice of Deadline to File for Place on Ballot
- Election Date and Voting Times
- Early Voting Dates and Times
- Instructions on Voting by Mail
- Voter Registration Information and Deadline
- Voter Identification Requirements
- Candidate Photos (provided by candidate)
- Candidate Bios (provided by candidate, not to exceed 150 words - city staff WILL NOT edit the provided bio)
- Proposition and/or Charter Revision Information
- Election Calendar if applicable

External links to promotional websites on this page or on any other publication are prohibited.

Public Notice and Outreach

The Office of the City Secretary will post public notices for all election related items per statutory requirements. The Office of Communications will utilize social media, the City's website and email/media listservs to inform voters about election related items and dates. This will include but will not be limited to:

- Social Media Post “Deadline to File for Place on Ballot” 30 days prior to filing date.
- Social Media Post, Website News Post and Email/Media Listserv announcement on filing period once open.
- Social Media Post two days before filing period ends.
- Social Media Post of candidates, listed in ballot order with a link to www.seabrooktx.gov/elections for biographical information.
- When applicable, informational Social Media Posts, Website News Posts and Email/Media Listserv announcements regarding bond propositions and/or Charter revisions items.
- Social Media Post on “How to Vote by Mail”.
- Social Media Post for Early Voting - One per week starting one week prior to the early voting period with final post on last day of early voting.
- Social Media Post, Website News Post and Email/Media Listserv announcement regarding Election Day information. Published the week of Election Day with a social media post reminder on Election Day.
- Social Media Post, Website News Post and Email/Media Listserv announcement regarding Election Results.
- Election information, including candidate bios and photos that are posted to the www.seabrooktx.gov/elections website, may also be printed in the City’s bi-annual City Review publication. Printing election information in this publication will be at the discretion of the of the City Secretary, the City Manager and the Director of Communications.

All outreach on City of Seabrook communication channels is provided for informational purposes only. The City’s social media networks currently include Facebook, Twitter, Nextdoor and Instagram. Additional social media networks may be added or removed as technology changes.

Restrictions on City Logo

Candidates and/or groups who are advocating for or against a ballot item or candidate MAY NOT USE the CITY’S LOGO on any publication, website, social media post, signage and/or other types of promotional items.

This document serves as a recommendation on communicating with voters prior to, during and after an election. Candidates and/or members of staff or Council are not advised to ask for additional and/or less community outreach. Election information is not required by state law to be posted or published on social media communication channels.

These guidelines may be subject to change as communication technology advances are made.

**AGREEMENT REGARDING THE ACQUISITION AND FUNDING OF REAL
PROPERTY FOR ECONOMIC DEVELOPMENT OF 'OLD SEABROOK'**

1209 Main Street, Seabrook, TX 77586

THE STATE OF TEXAS
COUNTY OF HARRIS

§
§

This Agreement regarding the Acquisition of Real Property for Economic Development (the "Agreement") is entered into as of the 6th day of March, 2018, between the CITY SEABROOK, TEXAS, a home rule municipality situated in Harris County, Texas (the "City") and the SEABROOK ECONOMIC DEVELOPMENT CORPORATION, a non-profit economic development corporation (the "Corporation") created and operating as a Type B corporation pursuant to the provisions of Chapters 501 and 505, Texas Local Government Code, as amended (the "Act").

RECITALS

At an election held within the City on January 18, 1992 (the "Election"), the voters approved a proposition authorizing the levy and collection of a sales and use tax within the City at the rate of one-half of one cent (the "Additional Sales Tax") as authorized by the Act for economic development purposes.

The Corporation was formed pursuant to the Act for the purpose of the payment of costs of "Projects" authorized by Section 4B of Article 5190.6 V.A.T.C.S., (now recodified in the Texas Local Government Code Section, 501.001 et. seq. and more specifically Section 505 relating to Type B corporations), to pay for the promotion of economic development, including the principal and interest on bonds or other obligations, issued to pay the costs of such "Projects" as authorized by the Act and the Election.

Pursuant to the provisions of the Act, the City collects the Additional Sales Tax and pays it to the Corporation.

The Corporation hereby finds, determines and declares, pursuant to its Project Notice published April 13, 2017 for the Project entitled "Old Seabrook" that expenditures to promote or develop new or expanded business enterprises and/or that create or retain primary jobs in or near the City of Seabrook, including but not limited to: targeted infrastructure (streets, transportation, utilities, drainage, site and related improvements); acquisition of land, buildings, equipment, and facilities; demolition of aging or substandard buildings to improve the quality of commercial zones; general municipally owned improvements, parking facilities; or any other expenditures consistent with the purposes and duties as a Type B corporation for "Old Seabrook" is an authorized project of the Corporation under the Act, in accordance with Sections 505.101, 501.103, 505.152, 505.155, 505.158, and 505.302, and related authority, ("Authorized Project").

The Corporation additionally finds that notice and hearing for the Authorized Project has been provided, and that conditioned upon the City approval of a Resolution authorizing the

acquisition of the subject real property, after two separate readings, and that upon compliance with the legal prerequisites for undertaking the Authorized Project under the Act, the City and the Corporation now wish to proceed with the Authorized Project.

The City and the Corporation have determined that the acquisition of real property located at 1209 Main Street, Lots One (1) and Two (2), Seabrook, Harris County, Texas (the "Land") provides an appropriate site for future municipal improvements that is consistent with the goals of the Authorized Project.

The Corporation hereby finds that this Agreement is for the benefit of the Corporation and that payment made hereunder is for Authorized Project costs under the Act.

The City and the Corporation hereby find, determine, and declare that the respective meetings of the City Council of the City and the Board of Directors of the Corporation at which this Agreement was approved were open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at said meeting, including this Agreement, was given, all as required by the applicable provisions of Chapter 551, Texas Government Code, as amended.

AGREEMENT

For and in consideration of the respective promises and mutual covenants and benefits hereinafter set forth, the City and the Corporation agree as follows:

ARTICLE I

THE PROJECTS

Section 1.01 Definitions, Declarations, Findings and Determinations. The definitions, declarations, determinations and findings contained in the recitals to this Agreement are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.02 Construction of the Project.

(a) The City in consultation with the Corporation agrees to acquire or cause to be acquired the Land required for the improvements, and associated costs/expenses for the Authorized Project, which costs shall be payable from funds to be paid by the Corporation as provided herein.

(b) The City agrees to contract with all individuals or entities necessary to acquire the Land for the Authorized Project for administration by the City.

Section 1.03 Use of Additional Sales Tax.

(a) The Corporation agrees to use the Additional Sales Tax, and any interest earned thereon, to make payments to the City in amounts of \$160,000.00 for the Land, and associated expenses for the Authorized Project; and that it is appropriate for title to the Land to be held in the name of the City.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01 Representations and Warranties of the City. (a) The City hereby confirms the earlier levy by the City of the Additional Sales Tax, and hereby warrants and represents that the City has duly and lawfully ordered the imposition and collection of the Additional Sales Tax upon all sales, uses and transactions as are permitted by and described in the Act throughout the boundaries of the City as such boundaries existed on the date of said election and as they may be expanded from time to time pursuant to applicable law.

(b) The City agrees to take and pursue all action permissible under applicable law to cause the Additional Sales Tax to be collected and remitted and deposited with the Corporation as required by the Act, at the earliest and most frequent times permitted by applicable law.

(c) The City agrees to do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the City under this Agreement.

Section 2.02 Representations and Warranties of the Corporation. (a) The Corporation represents and warrants that it is and will be authorized by applicable law and by its articles of incorporation and bylaws to enter into this Agreement and make the payment to the City in the manner and to the extent provided in this Agreement.

(b) The Corporation represents and warrants that the Project is an authorized project of the Corporation under the Act, and that the Corporation has taken all action and obtained all approvals required by law and the Corporation's bylaws in order to proceed with this Project and to undertake its obligations under this Agreement.

(c) The Corporation agrees to do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Corporation under this Agreement.

(d) The Corporation represents and warrants that this Agreement constitutes a valid, legal and binding obligation of the Corporation enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting creditors' rights, and that the execution and delivery of this Agreement will not conflict with or constitute a material breach of or a default under any agreement or instrument to which the Corporation is a party.

ARTICLE III

MISCELLANEOUS PROVISIONS

Section 3.01 Term. This Agreement shall be in force and effect from the date of execution hereof.

Section 3.02 Amendments and Supplements. This Agreement may be amended, supplemented or extended by mutual agreement of the parties hereto.

Section 3.03 Merger. This Agreement embodies the entire understanding between the parties hereto and there are no prior effective representations, warranties, or agreements between the parties hereto.

Section 3.04 Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original instrument and each will have the force and effect of an original and all of which together constitute, and will be deemed to constitute, one and the same instrument.

Section 3.05 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

Section 3.06 Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application hereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

[Execution Page Follows]

EXECUTED in multiple counterparts as of the date first written above.

CITY OF SEABROOK, TEXAS

By: Thomas G. Kolupski
Thomas G. Kolupski, Mayor

ATTEST:

By: Robin Hicks
Robin Hicks, City Secretary

The seal of the City of Seabrook, Texas, is a circular emblem. It features a central illustration of a lighthouse on an island, surrounded by water. The words "THE CITY OF" are arched at the top, "SEABROOK" is written across the middle, and "TEXAS" is at the bottom.

SEABROOK ECONOMIC
DEVELOPMENT CORPORATION

By: Paul Dunphey
Paul Dunphey, President

ATTEST:

By: Ernie Davis
Ernie Davis, Secretary

**CITY OF SEABROOK
RESOLUTION 2018-12
AUTHORIZATION FOR ACQUISITION OF PROPERTY FOR FURTHER
DEVELOPMENT OF OLD SEABROOK – 1209 MAIN STREET**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEABROOK, AUTHORIZING PROCEEDING FOR THE ACQUISITION OF CERTAIN REAL PROPERTY FOR FURTHER DEVELOPMENT OF “OLD SEABROOK”; CONSISTING OF LAND LOCATED AT 1209 MAIN STREET, LOTS 1 AND 2, BLOCK 23, MAP OF SEABROOK, HARRIS COUNTY, TEXAS (THE “PROPERTY”); DETERMINING THE PUBLIC NECESSITY AND JUST COMPENSATION FOR THE PROPERTY FOR SUCH PROJECT; AUTHORIZING APPROVAL/ EXECUTION OF THE “CONTRACT FOR SALE OF REAL PROPERTY”, (“CONTRACT”) ATTACHED HERETO AS EXHIBIT “A”; AUTHORIZING THE CITY MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE PROPERTY, INCLUDING IDENTIFYING FUNDS FOR PURCHASE/PAYMENT, INCLUDING ALL ASSOCIATED COSTS FOR DUE DILIGENCE AND CLOSING IN ACCORDANCE WITH THE CONTRACT AND IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS AND CHARTER; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Seabrook has considered the need for the acquisition of certain property within the City of Seabrook to further enhance development of “Old Seabrook”, a zoning district designed to enhance the special characteristics of Seabrook, its small town character, waterfront, and to create a unique place; and

WHEREAS, in accordance with such referenced goals for “Old Seabrook”, the City has targeted a site to improve the quality of commercial development, including general municipally owned improvements, parking facilities for infrastructure/parking and related city needs (the “Project”), and has identified a tract of land for such purposes located at 1209 Main Street, Lots 1 and 2, Block 23 of the Map of Seabrook, as recorded in Volume 1, Page 50 of the Map Records in Seabrook, Harris County, Texas together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts, or parcels of land as provided above, (the “Property”), and has determined that a public necessity exists for proceeding to acquire the necessary improvements and certain property rights for the Project; and

WHEREAS, the Seabrook Economic Development Corporation on April 13, 2017 published a Notice of Project relating to proposed expenditure of its funds for the redevelopment of “Old Seabrook” to promote or develop new or expanded business enterprises and/or that create or retain primary jobs in or near the City of Seabrook, including but not limited to targeted infrastructure (streets, transportation, utilities, drainage, site and related improvements);

acquisition of land, buildings, equipment, and facilities; demolition of aging or substandard buildings to improve the quality of commercial zones; general municipally owned improvements, parking facilities; or any other expenditures consistent with the purposes and duties as a Type B corporation, in an amount not to exceed \$750,000.00; and

WHEREAS, the City Council of the City of Seabrook has considered the need for the acquisition of certain property within the City of Seabrook for further development of “Old Seabrook”, consistent with the referenced goals of the Project, identified the Property, and has determined that a public necessity exists for proceeding to acquire same as provided herein; and

WHEREAS, the City Council of the City of Seabrook finds and determines it is necessary that the acquisition of the subject Property, should be done expeditiously by authorizing the City Manager of the City of Seabrook, Texas to expend funds to obtain a legal survey, obtain a title commitment, and such other due diligence determined necessary to purchase and acquire fee title property rights for the Project; and

WHEREAS, the City Council by and through its City Manager has accordingly negotiated with Property owner representatives, Kay Cernoch and Penny Simoneau for agreement of the just compensation for the Property, to be purchased for \$160,000, as provided for in the “Contract for Sale of Real Property”, which is attached hereto as Exhibit “A” (the “Contract”); and

WHEREAS, the City Council of the City of Seabrook finds and determines that the sum of One Hundred Sixty Thousand Dollars (\$160,000) is just compensation and the fair market value for acquisition of the Property and that such Property is appropriate for funding by the Seabrook Economic Development Corporation “Old Seabrook” Project; and

WHEREAS, the City Council for the City of Seabrook finds and determines the said Property is necessary for improvements in or around the municipal Project and that unless the property rights in the Property are now obtained, it will be a substantial detriment and disadvantage to the City of Seabrook; and

WHEREAS, it is the specific intent of the City Council of the City of Seabrook to comply with all legal requirements for acquisition and funding by the Seabrook Economic Development Corporation/City of the subject Property for the Project, specifically including the Seabrook Charter; and

WHEREAS, the City Council of the City of Seabrook finds and determines that providing authorization to the City Manager, as provided herein, to immediately expend funds for acquisition and associated due diligence and closing costs for the Property, is now appropriate; and that the Property should be acquired as provided for in the attached Contract in the form attached hereto and incorporated by reference:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS:

Section 1. That the City Council of Seabrook hereby officially finds and determines that the meeting at which this Resolution is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. A public purpose and necessity exists for the City of Seabrook to acquire the Property for the Project for the City of Seabrook for the purposes expressed herein, for development of "Old Seabrook", pursuant to the terms in the attached Contract, Exhibit "A", incorporated by reference.

Section 3. The Mayor/City Manager is hereby authorized to execute the Contract for the acquisition of the Property for the sum of \$160,000 and the Mayor or City Manager is authorized to execute any documentation necessary to accept, acquire, document, facilitate, and record the conveyance of the subject Property as provided for in the Contract, together with the appropriate expenditure of funds for associated due diligence and closing costs commensurate with this Resolution. The City Manager is immediately authorized and directed to expend such additional funds for payment of the earnest money fee, legal survey, appraisal, and such other due diligence determined necessary for the Project.

Section 4. The City Council finds that proceeding to acquire the Property, identified in the attached Contract, as provided herein, is in compliance with the requisites of law, is not to confer, or is a pretext to confer, a private benefit on a particular party, and is not primarily for economic benefit, but that such Property is necessary for a needed municipal project.

PASSED AND APPROVED this ____ day of _____, 2018.

Thomas G Kolupski
Mayor

ATTEST:

Robin Hicks, TRMC
City Secretary

Resolution for Property Acquisition for Old Seabrook Project (Cernoch Tract) 021218

APPROVED AS TO FORM:

Steven L. Weathered
City Attorney

CONTRACT FOR SALE OF REAL PROPERTY

COUNTY OF HARRIS §
STATE OF TEXAS §

THIS CONTRACT FOR SALE ("Contract") is between Kay L. Cernoch and Penny Simoneau 3702 September Dr, Baytown, Texas 77521 (referred to collectively in this Contract as "Seller") and the City of Seabrook, 1700 First Street, Harris County, Texas, 77586, a home rule municipality, (referred to in this Contract as "Buyer"), on the terms set forth in this Contract. This Contract shall be effective on the date approved by the Seabrook City Council.

ARTICLE I.

PURCHASE AND SALE

1.01 Seller sells and agrees to convey, and Buyer purchases and agrees to pay for, the tract(s) of land as follows: **land located at 1209 Main Street, Seabrook, Texas, Harris County.** The correct legal description will be determined from the survey provided for in this Contract which, upon completion and approval, shall be attached to this Contract as Exhibit "A" and incorporated into it by this reference.

This sale and purchase include all rights and appurtenances pertaining to the property, including any right, title or interest of Seller in adjacent streets, alleys or rights-of-way, together with any improvements, fixtures, and personal property situated on and attached to the Property.

The real property described above, and any rights or appurtenances are referred to in this Contract as the "Property."

ARTICLE II.

SALES PRICE

Amount of Sales Price

2.01. The sales price for the Property will be the sum of:

- | | | |
|----|--|---------------------|
| A. | Cash portion of sales price payable by Buyer at Closing: | <u>\$150,000.00</u> |
| B. | Sum of all financing described below: | <u>N/A</u> |
| C. | Sales Price (Sum of A and B): | <u>\$150,000.00</u> |

Payment of Sales Price

2.02. The Sales Price will be payable as follows:

The full amount of the Sales Price will be payable in cash at the closing.

ARTICLE III.

BUYER'S OBLIGATIONS

Conditions to Buyer's Obligations

3.01 It shall be a condition precedent to Buyer's obligation hereunder that this Contract be finally approved by the City Council of the City of Seabrook. The Buyer's obligations under this Contract are subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Buyer at or before the closing).

Preliminary Title Report

3.02 Within 30 days after the date of the approved execution of this Contract, Buyer, at Buyer's expense, will obtain for the Buyer from a title company approved by Buyer a preliminary title report (the "Title Report"), accompanied by copies of all recorded documents relating to easements, rights-of-way, etc., affecting the Property, as determined appropriate by Buyer. Buyer will give Seller written notice on or before the expiration of ten (10) business days after Buyer received the Title Report that the condition of title as set forth in the title binder is or is not satisfactory. In the event that Buyer states that the condition is not satisfactory, Seller may promptly undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of Buyer. In the event that Seller chooses not to do so within ten (10) days after receipt of written notice, this Contract will be terminated, and the Escrow Deposit will be returned by the title company to Buyer. Otherwise, this condition will be deemed acceptable and any objection by the Buyer will be deemed waived.

Survey

3.03. Within 30 days from the date of this Contract, Buyer, at Buyer's expense, as determined appropriate by Buyer, will obtain a current plat of survey of the Property, prepared by a licensed Texas land surveyor acceptable to Buyer. The survey will be staked on the ground, and the plat will show the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, easements, and rights-of-way on or adjacent to the Property, if any, as acceptable to Buyer. The survey will contain the surveyor's certification that there are no encroachments on the property and will set forth the number of total acres and the

blc
prc

number of net acres comprising the Property, together with a metes and bounds description acceptable to Buyer. The term net acres will mean the number of acres contained in the Property, exclusive of any land lying within the right-of-way lines of public roads, streets, alleys, or railroads, or within the boundaries of utility easements or creeks, rivers, or other water courses and will be calculated to the nearest 100th of an acre.

Buyer will have 10 business days after receipt of the survey to review and approve it. In the event any portion of the survey or the matters included therein is unacceptable to Buyer, Buyer must, within the 10 day period, give Seller written notice of this fact. Seller may, at Seller's option, promptly undertake to eliminate or modify all the unacceptable portions to the reasonable satisfaction of Buyer. In the event Seller chooses not to do so within 10 calendar days after receipt of written notice, Buyer may terminate this Contract, and the Escrow Deposit will be returned by the title company to Buyer. Buyer's failure to give Seller this written notice will be deemed to be Buyer's acceptance of the survey.

Net Surveys and Tests

3.04. Within thirty (30) days after the date of this Contract, Buyer may conduct an engineering survey and feasibility study of the property. Buyer or Buyer's agents may enter on the premises for purposes of soil analysis, core drilling, or other tests, as required. If, in Buyer's judgment, the property is not suitable for Buyer's intended purposes, on written notice to Seller received before 45 calendar days from the date of this Contract, Buyer may terminate this Contract. If the Contract is terminated, the Escrow Deposit will be returned by the title company to Buyer. If the written notice is not received within this thirty-day period, the condition will be deemed acceptable and any objection will be deemed waived.

Estoppel Letter

3.05. Seller will deliver to Buyer an "estoppel letter" signed by the holders of any existing indebtedness secured by the Property, stating that (i) as of the closing date, no default exists under either the deed of trust or mortgage notes or any instruments securing the payment of these instruments; (ii) all installments of principal and interest payable to the date of closing have been paid; (iii) the amount of the unpaid balance of the note; and (iv) there have been no modifications or amendments to these deed of trust or mortgage instruments.

3.06 Seller will have complied with all of the covenants, agreements, and conditions required by this Contract by the closing.

plc
p/s

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer, as of the closing date, as follows:

- (1) There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers;
- (2) There is no pending or threatened condemnation or similar proceeding or assessment affecting the Property, or any part of it, nor to the best knowledge of Seller is any proceeding or assessment contemplated by any governmental authority;
- (3) Seller has complied with all applicable laws, ordinances, regulations, and restrictions relating to the Property, or any part of it and has authority to enter into this Contract;
- (4) There are water, sewer, and electricity lines to the Property that are available for "tap in" by the Buyer and that are sufficient for service on the Property; and
- (5) The Property has free access to and from public highways, streets or roads and, to the Seller's best knowledge, there is no pending or threatened governmental proceeding that would impair or result in the termination of this access.

ARTICLE V.

CLOSING

The closing will be held at the office of Old Republic Title, 777 Post Oak Blvd, Suite 100, Houston, Texas 77056 on or before _____ "closing date") or at the time, date, and place agreed on by Seller and Buyer. At the closing Seller will:

- (1) Deliver to Buyer a properly executed and acknowledged General Warranty Deed conveying marketable title in fee simple to all of the Property, free of all liens, encumbrances, conditions, easements, assessments, and restrictions, except for the following:
 - (a) General real estate taxes for the year of closing and subsequent years not yet due;
 - (b) Any exceptions approved by Buyer in accordance with Article III of this Contract; and
 - (c) Any exceptions approved by Buyer in writing.
- (2) Deliver to Buyer a Texas Owner's Title Policy, at Buyer's expense, issued by Old Republic National Title Insurance Company, (or other insurer that may be selected by Buyer in its sole determination), 777 Post Oak Blvd, Suite 100, Houston, TX 77056, in Buyer's favor in

the full amount of the sales price, insuring Buyer's fee simple title to the Property subject to the title exceptions listed in Article V of this Contract, to any other exceptions approved in writing by Buyer, and to the standard printed exceptions contained in the usual form of Texas Owner's Title Policy, with the following exceptions:

- (a) The boundary and survey exceptions will be deleted;
 - (b) The exception as to restrictive covenants will be endorsed "None of Record"; and
 - (c) The exception as to the lien for taxes will be limited to the year of closing and will be endorsed "Not Yet Due and Payable."
- (3) Deliver to Buyer possession of the property.

Buyer will pay the cash portion of the sales price.

General real estate taxes for the current year relating to the Property, interest on any existing indebtedness, and rents if any will be prorated as of the closing date and will be adjusted in cash at the closing. If the closing occurs before the tax rate is fixed for the current year, the apportionment of taxes will be on the basis of the tax rate for the preceding year applied to the latest assessed valuation. All special taxes or assessments to the closing date will be paid by Seller.

All costs and expenses of closing in consummating the sale and purchase of the Property will be paid as follows:

Owner's Title Policy paid by Buyer

Mortgagee's Title Policy paid by Buyer

Escrow fee paid by Buyer

Documentary stamp or other transfer taxes paid by Buyer

Survey paid by Buyer

Filing fees paid by Buyer

Preparation of General Warranty Deed paid by Seller

Attorney's fees will be paid by the party, Buyer or Seller, incurring same.

Each party acknowledges that there have been no brokers involved in the negotiation and consummation of this Contract, and that it has not incurred and will not incur any liability for brokerage fees or agent's commissions in connection with this Contract. Buyer shall not be responsible for payment of any such fees.

ARTICLE VI
ESCROW DEPOSIT

For the purpose of securing the performance of Buyer under the terms of this Contract, Buyer has delivered to Republic National Title Insurance Company, the sum of \$10,000, the **Escrow Deposit**, which will be paid by the title company to Seller in the event Buyer breaches this Contract as provided in Article VII of this Contract. At the closing, the Escrow Deposit will be paid over to Seller and applied to the cash portion of the sales price, provided, however, that in the event the Buyer has given written notice to the title company that one or more of the conditions to its obligations set forth in Article III have not been met, or, in the opinion of Buyer, cannot be satisfied, as provided for in Article III, then the Escrow Deposit will be immediately returned by the title company to Buyer.

ARTICLE VI
BREACH BY SELLER

If Seller fails to fully and timely perform any of its obligations under this Contract or fails to consummate the sale of the Property for any reason, except Buyer's default, Buyer may: (1) enforce specific performance of this Contract; (2) request that the Escrow Deposit be returned by the title company to Buyer; or (3) bring suit for damages against Seller.

ARTICLE VII
BREACH BY BUYER

In the event Buyer fails to consummate the purchase of the Property, if Seller is not in default under this Contract, Seller will have the right to receive the Escrow Deposit from the title company, as liquidated damages for the failure of Buyer to perform the duties imposed on it by the terms of this Contract as total damages and as Seller's only remedy under this Contract in the event of Buyer's default.

ARTICLE VIII
MISCELLANEOUS
Survival of Covenants

(a) Any of the representations, warranties, covenants, and agreements of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the closing of the transactions contemplated by this Contract, will survive the closing.

blc
prc

Notice

(b) Any notice required or permitted to be delivered under this Contract will be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to either Seller or Buyer, as appropriate, at the address set forth opposite the signature of that party.

Texas Law to Apply

(c) This contract will be construed in accordance with the laws of the State of Texas, and all obligations of the parties created under this Contract are performable exclusively in Harris County, Texas, which shall be the exclusive venue for any litigation or proceeding hereunder.

Parties Bound

(d) This contract will be binding on and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns, as permitted by this Contract.

Legal Construction

(e) In case any one or more of the provisions contained in this contract for any reason is held invalid, this invalidity will not affect any other provision of this Contract, which will be construed as if the invalid or unenforceable provision had never existed.

Prior Contracts Superseded

(f) This contract constitutes the only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

Time of Essence

(g) Time is of the essence in this contract.

Memorandum of Contract

(h) On request of either party, both parties will promptly execute a memorandum of this Contract suitable for filing of record.

Compliance

(i) In accordance with the requirements of Section 20 of the Texas Real Estate License Act, Buyer is advised that it should be furnished with or obtain a policy of title insurance

or Buyer should have the abstract covering the Property examined by an attorney of Buyer's own choosing.

Time Limit

(j) In the event a fully executed copy of this Contract has not been returned to Buyer by January 29, 2018, at 5:00 P.M., Buyer will have the right to terminate this contract on written notice to Seller.

Date: January 9, 2018

SELLER:

By: Kay Cernoch
Name: Kay Cernoch
Title: Owner/Seller/Authorized Representative

SELLER:

By: Penny Simoneau
Name: Penny Simoneau
Title: Owner/Seller/Authorized Representative

BUYER:

CITY OF SEABROOK

By: Gavle Cook
Name: Gavle Cook
Title: City Manager
City of Seabrook, Texas

blc
p/s



Agenda Briefing

Date of Meeting: February 20, 2018

Submitting Department: City Manager's Office

Date Submitted: February 12, 2018

Prepared By: Gayle Cook, City Manager

Presenter: Gayle Cook, City Manager

Will there be a guest/visitor presenter who is not an employee?: ☐ Yes ☒ No

What is this person's first and last name and affiliation to this item?:

Subject: Resolution 2018-12 Acquisition of Property at 1209 Main Street, for Further Development of Old Seabrook

Type of Item: ☐ Ordinance ☒ Resolution ☐ Contract/Agreement ☐ Public Hearing ☐ Discussion & Direction

Executive Summary: The City of Seabrook City Council developed a multi-year strategic plan in 2016, which identified the Old Town Seabrook or Old Seabrook District as a priority goal. The plan identified action steps for improving walkability and new amenities within the District.

Background/Issue (What prompted this need?):

Budget Analysis/Funding Comments: The Seabrook Economic Development Corporation will consider a Reimbursement Resolution. The expenditure required accounts for the purchase price and all associated closing costs as agreed to Buyer.

Expenditure Required: \$160,000.00

Budgeted Amount: \$Reimbursement Resolution will considered by Seabrook Economic Development Corporation **Source of Funds/Funding Account:**

Not Budgeted: If approved, the following will be included in the next Budget Amendment and \$ will be added to Revenue Account: and \$ added to Expenditure Account:

1295 Form Required? ☐Yes ☒No

Name of Applicant (if applicable) :

Legal Description/Location (if applicable):

Supporting Materials Attached:

1. Resolution 2018-12
2. Earnest Money Contract
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Recommended Placement on Agenda: New Business

Recommended Action: To approve Resolution 2018-12, Authorizing for Acquisition of Property at 1209 Main Street for further development of Old Seabrook in an amount not to exceed \$160,000.00 to include closing and associated costs as an unbudgeted item from unreserved balance and direct City Manager to prepare a budget amendment.

Reviewed by Department Director, if applicable ☐

Reviewed by Finance Director, if applicable ☐

Reviewed by City Attorney, if applicable ☐

Reviewed by City Manager ☒

ACTION ITEM CHECK LIST

#	STATUS	DATE ASSIGNED	RESPONSIBLE ORGANIZATION	AGENDA ITEM NUMBER	DESCRIPTION OF ACTION ITEM
23	OPEN/IN WORK	11/4/2014	Mayor / City Mgr.	5.1	Provide periodic updates on TxDOT's progress to improve/widen SH 146.
32	OPEN/IN WORK	2/17/2015	Staff	6.1	Provide periodic project updates
33	OPEN/IN WORK	9/26/17	Staff	3.3	Provide periodic updates on grant admin