

THE STATE OF TEXAS

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COUNTY OF FORT BEND

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**FIRST AMENDMENT TO THE LEASE AGREEMENT FOR THE FORT BEND COUNTY  
LIBRARY LOCATED IN THE CITY OF MISSOURI CITY, TEXAS**

This amendment (the "Amendment") is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791, of the Texas Government Code, by and between the City of Missouri City, a Texas home-rule municipal corporation (the "CITY"), and Fort Bend County, a body corporate and politic under the laws of the State of Texas ("COUNTY"), parties to the Lease Agreement, dated on or about November 1, 1990 (the "Agreement"), attached hereto as Exhibit A and incorporated by reference herein as if set forth verbatim.

For and in consideration of the mutual obligations and benefits derived hereunder, the CITY and the COUNTY agree as follows:

1. Section 3.01, Construction, of Article III, Construction of Library on Leased Premises, is hereby amended as follows:

**"Section 3.01 Construction.** The County agrees, without cost to the City, except as provided in Section 3.04 hereof, to commence construction of a public library facility within one year after the Effective Date of this Lease and to diligently proceed with construction until the facility is completed. The library shall contain not less than fifteen thousand (15,000) square feet of usable floor space.

The County agrees to erect, build, and equip the library in a good and workmanlike manner. Prior to commencement of construction, the County shall procure all necessary and requisite approval of the plans and specifications for the library and obtain any and all requisite building or construction permits or approvals regarding the construction. Except as provided by Section 3.06 (relating to signage), such construction shall also meet the applicable requirements of the City's zoning ordinance."

2. Section 3.06, Signage, of Article III, Construction of Library on Leased Premises, is hereby amended as follows:

**"Section 3.06 Signage.** The County, upon the prior written approval of the City Manager, shall be entitled to construct, maintain, and use signs (including directional signs) with respect to the library within the perimeter of the Municipal Complex. The City shall decide any and all questions which may arise as to such signage, including, but not limited to, the applicability of the City's zoning ordinance and the acceptability of such signage. The County agrees to assume all risk of damage to such signs and to indemnify and save the City harmless from any and all loss, cost, damage, liability, or expense arising or resulting from the existence, construction, maintenance, or removal of any such sign or signs."

3. Section 8.01 of Article VIII, Notices, is hereby amended as follows:

"Section 8.01 All notices which the City or County may be required, or may desire, to serve on the other shall be in writing and shall be served by personal delivery or by depositing the same with the U.S. Postal Service, registered or certified mail, return receipt requested, and addressed to the respective party at the addresses set forth below. The addresses stated shall be effective for all notices to the respective parties until written notice of any change of address is given pursuant to the provisions hereof.

City

City of Missouri City

1522 Texas Parkway

Missouri City, Texas 77489

Attn: City Manager

County

Fort Bend County

401 Jackson Street, 1<sup>st</sup> Floor

Richmond, Texas 77469

Attn: County Judge."

4. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Amendment and the Agreement, the terms of this Amendment will prevail.

**FORT BEND COUNTY**

\_\_\_\_\_  
Robert E. Hebert, County Judge

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

ATTEST:

\_\_\_\_\_  
Laura Richard, County Clerk

**CITY OF MISSOURI CITY, TEXAS**

\_\_\_\_\_  
Allen Owen, Mayor

Date: June 5, 2017

ATTEST:

\_\_\_\_\_  
Maria Jackson, City Secretary



11/1/90

LEASE AGREEMENT

STATE OF TEXAS  
COUNTY OF FORT BEND

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This Lease Agreement (the "Lease") is made and entered into as of this 1st day of November, 1990 (the "Effective Date"), between the City of Missouri City, Texas (the "City"), and Fort Bend County (the "County").

Whereas, the City owns a "Municipal Complex" situated within the City of Missouri City, Fort Bend County, Texas; and

Whereas, the City and County have determined that it is beneficial, convenient, and necessary that there be constructed and operated upon the City's Municipal Complex a public library facility for the use and benefit of the citizens of the City and County; and

Whereas, the City desires to lease to the County, and the County desires to lease from the City, the premises hereinafter described, for the construction and operation of a public library at the Municipal Complex on the terms and conditions herein provided;

Now, therefore, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

Article ILeased Premises and Term

Section 1.01 Leased Premises. For and in consideration of the mutual covenants and agreements set forth in this Lease, and other good and valuable consideration, the City hereby

leases to the County and the County hereby leases from the City, on the terms and conditions hereafter set forth, that certain tract of land comprising approximatey 2.045 acres situated in Fort Bend County, Texas, and more particularly described on Exhibit "A" attached hereto. This tract of land, together with all improvements to be constructed thereon in accordance with this Lease are herein collectively referred to as the "Leased Premises."

Section 1.02 Term. This Lease is for a term of seventy-five (75) years, commencing on November 1, 1990, and ending on October 30, 2065. The County is hereby granted an option to extend the term of this Lease for an additional period of twenty-five (25) years from the expiration of the original term of the Lease under the same terms, covenants, restrictions, and conditions, as far as applicable, as contained in this Lease. The option shall be exercised by written notice setting forth the County's election to exercise the option delivered to the City in accordance with the notice provisions set forth in Section 8.01 hereof, not later than one year prior to the expiration of the original term of this Lease.

Section 1.03 Consideration. In addition to the consideration of the mutual covenants and agreements contained herein, the County agrees to pay the sum of One and no/100 Dollars (\$1.00) per year for each year of the term of this agreement.

Article II

Occupancy and Use

Section 2.01. The Leased Premises shall be occupied and used by the County solely for the purpose of constructing and operating a public library.

Article III

Construction of Library on Leased Premises

Section 3.01 Construction. The County agrees, without cost to the City except as provided in Section 3.04 hereof, to commence construction of public library facility within one year after the Effective Date of this Lease and to diligently proceed with construction until the facility is completed. The library shall be a structure in height of no more than one story and contain not less than fifteen thousand (15,000) square feet of usable floor space.

The County agrees to erect, build, and equip the library in a good and workmanlike manner. Prior to commencement of construction, the County shall procure all necessary and requisite approval of the plans and specifications for the library and obtain any and all requisite building or construction permits or approvals regarding the construction. Such construction shall also meet the applicable requirements of the City's zoning ordinance.

Section 3.02 Architectural Design. The architectural design of the library shall be in general conformity with the architectural design of the existing buildings in the Municipal Complex. The architectural design of the library shall be

submitted to the City for review and comments prior to commencement of construction.

Section 3.03 Temporary Use of Adjacent Land. During the period of construction of the library, the City shall make available to the County, its contractors and subcontractors, such vacant adjacent land as the City Manager of the City considers necessary and useful to provide ingress or egress to the Leased Premises during construction, temporary parking facilities, and temporary storage space for building material and equipment. Upon completion of construction of the library, the County shall remove or cause to be removed any such temporary construction facilities and debris, and clean and restore such area to its original condition. The County shall be liable to the City for any damage arising out of the use of the temporary area by it or its contractors or subcontractors, and the County covenants and agrees to indemnify and save the City harmless against any claims of third persons and any judgments and costs obtained against the City by reason of use of such area.

Section 3.04 City's Contribution. The City agrees to participate in the construction of amenities or appurtenances on or adjacent to the Leased Premises which are incidental to or necessary for the library construction. Such amenities or appurtenances may include, but are not limited to, the adjustment of underground utilities or pipelines, the construction of joint use parking facilities on or adjacent to the Leased Premises, the construction of signage, and the

installation of landscaping. The City agrees to construct or install or cause the construction or installation of such ammenities or appurtenances at a cost to the City not to exceed One Hundred Seventy Five Thousand Dollars (\$175,000.00).

Section 3.05 Utilities. The County, at its sole cost and expense, shall extend utility lines to the library and make all connections with utility facilities and cause to be installed all meters necessary for the measurement of the quantities of utilities provided. Any existing sanitary sewer line or other utility line situated under the proposed library building location shall be relocated so as not to be located under any proposed building. Any and all utility construction and connections shall be at points and over routes approved by the City Manager.

It is further agreed by the parties that the City has a commitment from Blue Ridge West Municipal Utility District reserving capacity in its water supply and wastewater treatment plants for the acreage included in the City's "Municipal Complex" which includes the Leased Premises. The City hereby agrees to allocate a portion of such reserved capacity to the County, subject to the terms and conditions of such commitment.

Section 3.06 Signage. The County, upon the prior written approval of the City Manager, shall be entitled to construct, maintain, and use signs (including directional signs) with respect to the library within the perimeter of the Municipal Complex. The County agrees to assume all risk of damage to such signs and to indemnify and save the City harmless from any

and all loss, cost, damage, liability, or expense arising or resulting from the existence, construction, maintenance, or removal of any such sign or signs.

Section 3.07 Title to Improvements Upon Termination of Lease. It is expressly understood and agreed that upon the expiration of the term of this Lease, or any extension thereof, or upon the termination of the Lease in accordance with Section 7.01 or 7.02, title to all buildings, structures, and other permanent improvements constructed or placed on the Leased Premises shall vest in and become the property of the City, as part of the real estate and the Leased Premises, without additional compensation for it. However, the foregoing shall not be applicable to furniture, furnishings, and the inventory of books and library materials which shall be and at all times remain the property of the County.

Section 3.08 City Operation of Library Upon Expiration of Lease. It is expressly understood and agreed that upon the expiration of the term of this Lease, or any extension thereof, in the event the County conveys to the City all furnishings and equipment that have been customarily used in the operation of the public library together with an adequate inventory of books and other appropriate library materials, the City shall continue the operation of a public library on the Leased Premises for at least a period of twenty-five (25) years.

#### Article IV

##### Maintenance, Repair, and Alteration

Section 4.01 Maintenance and Repair. During the term of

this Lease or any extension thereof, the County agrees to keep and maintain the Leased Premises and the furniture and furnishings therein, in good repair and condition.

Section 4.02 Alterations. The County shall have the right to make such alterations to the Leased Premises as the County may elect, provided that the County shall not make structural alterations without the prior written consent of the City building permit department, which consent shall not be unreasonably withheld, and provided further, that all alterations to the Leased Premises as the County shall elect to make, shall be in conformity with the general architectural design of the existing buildings in the Municipal Complex and shall be in keeping with the design criteria of the library building.

## Article V

### Insurance and Indemnification

Section 5.01 Property Insurance. The County shall, at its own expense, during the term of this Lease, keep all buildings, improvements, fixtures, equipment, furnishings, and the inventory of books and other library materials insured against loss or damage by fire or theft with extended coverage to include direct loss by windstorm, hail, explosion, riot, riot attending a strike, civil commotion, damage from aircraft and vehicles, and smoke damage in the aggregate amounts of not less than the full fair insurable value of the premises and items insured. Any proceeds from such insurance shall be used for repair, replacement or restoration of the building,

improvements of item lost or damaged to ensure the County's continued operation of the library.

Section 5.02 Liability Insurance. The County shall, at its own expenses, provide and maintain comprehensive public liability insurance, naming both the City and County as assurds, against claims for personal injury or death or property damage occuring upon, in or about the Leased Premises or upon, in or about the adjoining streets and passageways, the liability insurance to afford protection to the limit of not less than One Hundred Thousand Dollars (\$100,000.00) with respect to bodily injury or death to any one person, not less than Three Hundred Thousand Dollars (\$300,000.00) with respect to bodily injury or death to any number of persons in any one accident or occurence, and not less than One Hundred Thousand Dollars (\$100,000.00) with respect to property damage in any one accident or occurence.

Section 5.03 Indemnity. Except for the City's negligence, wilful misconduct, or other tortious conduct, or that of its officers, employees, agents, or representatives, or the City's breach of this Lease, the County covenants that the City shall not be liable for any damage or liability of any kind, or for any injury to or death of persons or damage to property of the County or any other person during the term or any extension thereof, from any cause whatsoever by reason of the use, occupancy, or enjoyment of the Leased Premises by the County. To the extent permitted by law, the County hereby agrees to indemnify and hold the City harmless from all liens,

claims, actions, demands, costs, and expenses, including reasonable attorneys' fees, arising during the term of this Lease or any extension thereof, out of the County's use, occupancy, or enjoyment of the Leased Premises up to the limits of insurance required in Section 5.02 hereof. Such indemnity and hold harmless on the part of the County shall not apply in instances of negligence, willful misconduct, or other tortious conduct on the part of the City, its officers, employees, agents, or representatives, or the City's breach of the Lease.

Section 5.04 Waiver of Subrogation. The City and County hereby waive any rights each may have against the other, on account of any loss or damage occasioned by the City or County, as the case may be, their respective property, the Leased Premises or its contents, arising from any risk covered by valid and enforceable fire and extended coverage insurance, to the extent of such coverage. The City and County each agree to cause an endorsement to be furnished to their respective applicable insurance policies recognizing this waiver of subrogation.

## Article VI

### Assignment and Subletting

Section 6.01. The County may not sublet, assign, encumber, or otherwise transfer this Lease or any right or interest in this Lease, or in the Leased Premises or the improvements on the Lease Premises, without the written consent of the City. If the County sublets, assigns, encumbers, or otherwise transfers its right or interests in this Lease, or in the

Leased Premises or the improvements on the Leased Premises, without the written consent of the City, City may, at its option, declare this Lease terminated, provided however, it is understood and agreed that the improvements constructed on the Leased Premises by the County will be constructed with County bond funds. In the event the City consents in writing to an assignment, sublease, or other transfer of all or any of the County's rights under this Lease, the assignee or sublessee must assume all of the County's obligations under this Lease.

#### Article VII

##### Default and Remedies

Section 7.01 Default by County. If the County shall fail to commence construction of the public library facilities within the time required by this Lease, or for any reason cease to operate a public library facility contemplated herein, or fail to perform, keep, or fulfill any of the other covenants, obligation, or conditions of this Lease to be performed, kept, or fulfilled by the County and any such default shall continue for a period of sixty (60) days after written notice of it by the City to the County specifying the nature of the default, the City may, upon written notice to the County, terminate this Lease, or in the alternative, the City may reenter and take possession of the Leased Premises and remove all persons and property without being deemed guilty of any manner of trespass.

Section 7.02 Default by City. If the City shall fail to perform, keep, or fulfill any of the covenants, obligations, or conditions of this Lease to be performed, kept, or fulfilled by

th City, and any such default shall continue for a period of sixty (60) days after written notice of it by the County to the City specifying the nature of the default, the County may, upon written notice to the City, terminate this Lease, or in the alternative, the County may remedy such default by any necessary action and, in connection with such remedy, may pay expenses and employ counsel, and all reasonable sums expended or reasonable obligations incurred by the County in connection with remedying the City's default shall be paid by the City to the County on demand.

Section 7.03 Title to Improvements Upon Termination. It is expressly understood and agreed that in the event this Lease is terminated under the provisions of Section 7.01 and 7.02, title to all buildings, structures, and other permanent improvements constructed or placed on the Leased Premises shall vest in and become the property of the City, as part of the real estate and the Leased Premises, without additional compensation for it. However, the foregoing shall not be applicable to furniture, furnishings, and the inventory of books and other library materials which shall be and at all times remain the property of the County.

Section 7.04 Cumulative Remedies. Pursuit of any of the remedies provided in this Lease by either the City or the County shall not preclude pursuit of any other remedies provided in this Lease. Pursuit of any remedy provided in this Lease or by law by either party shall not constitute a forfeiture or waiver of any damages accruing to either party by

reason of the violation of any of the terms, provisions, and covenants contained in this Lease.

Section 7.05 Waiver of Breach. No waiver by either party of any default or violation or breach of any of the terms, provisions, and covenants contained in this Lease shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants of the Lease. Forbearance by either party to enforce one or more of the remedies provided in this Lease or by law upon an event of default shall not be deemed or construed to constitute a waiver of such default.

Article VIII

Notices

Section 8.01. All notices which the City or County may be required, or may desire, to serve on the other shall be in writing and shall be served by personal delivery or by depositing the same with the U.S. Postal Service, registered or certified mail, postage prepaid, return receipt requested, and addressed to the respective party at the addresses set forth below. The addresses stated shall be effective for all notices to the respective parties until written notice of any change of address is given pursuant to the provisions hereof.

City

City of Missouri City  
P.O. Box 666  
Missouri City, Texas 77459

Attn: Mr. John Milford  
City Manager

County

Fort Bend County  
P.O. Box 520  
Richmond, Texas 77469

Attn: County Judge

Article IX

Miscellaneous Provisions

Section 9.01 Parties Bound. This Lease shall be binding upon, and inure to the benefit of, the parties to this Lease and their respective legal representatives, successors, and assigns when permitted by this Lease.

Section 9.02 Texas Law to Apply. This Lease shall be construed under, and in accordance with, the laws of the State of Texas, and all obligations of the parties created by this Lease are performable in Fort Bend County, Texas.

Section 9.03 Prior Agreements Superseded. This Lease constitutes the sole and only agreement of the parties to the Lease and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Lease.

Section 9.04 Amendment. No amendment, modification, or alteration of the terms of this Lease shall be binding unless it is in writing, dated subsequent to the date of this Lease, and duly executed by the parties to this Lease.

Section 9.05 Force Majeure. Neither the City nor the County shall be required to perform any term, condition, or covenant in this Lease so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of the City or County and which by the exercise of due diligence the City or County


is unable, wholly or in part, to prevent or overcome.

Section 9.06 Time of Essence. Time is of the essence of this Lease.

Section 9.07 Authority. The City and County each represent to the other that they are validly existing and operating under the laws of the State of Texas, each has full requisite power and authority to perform their respective obligation under the Lease, and that this Lease is a valid, binding, and enforceable obligation of the City and County.

This Lease is executed in multiple copies, each of which shall be deemed to be an original for all purposes.


CITY OF MISSOURI CITY

  
\_\_\_\_\_  
John B. Knox, Mayor

ATTEST:

  
\_\_\_\_\_  
Sondra Abarr, City Secretary

FORT BEND COUNTY

  
\_\_\_\_\_  
Jodie Stavinoha, County Judge

11-19-90

ATTEST:


  
\_\_\_\_\_  
Dianne Wilson, County Clerk

Exhibit A

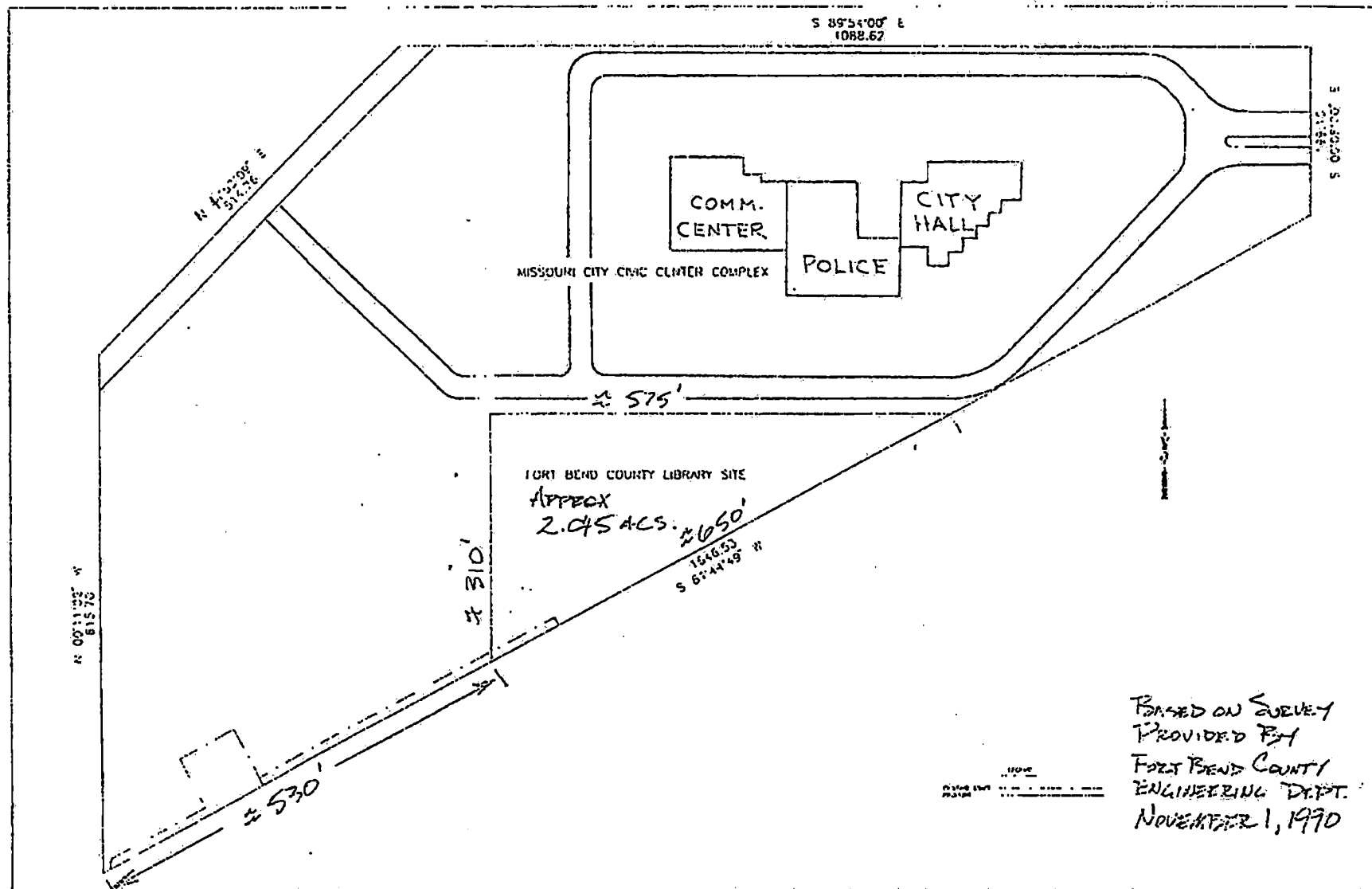


Exhibit "A"

RESOLUTION NO. R-90-24


A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MISSOURI CITY, TEXAS, AS LESSOR AND FORT BEND COUNTY, TEXAS, AS LESSEE, FOR THE LEASE OF PART OF THE MISSOURI CITY MUNICIPAL COMPLEX FOR THE CONSTRUCTION AND OPERATION OF A PUBLIC LIBRARY.

\* \* \* \* \*

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

Section 1. That the Mayor of the City of Missouri City, Texas, be, and he is hereby, authorized to execute for and in behalf of the City of Missouri City, Texas, and the City Secretary be, and she is hereby, authorized to attest a lease agreement by and between the City of Missouri City, Texas, and Fort Bend County, Texas for the lease of part of the Missouri City Municipal Complex for the construction and operation of a public library in the City of Missouri City, Texas. A copy of such lease agreement is attached hereto and made a part hereof for all purposes.

PASSED and APPROVED this 5th day of November, 1990.

  
\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

W-A O-L  
\_\_\_\_\_  
City Attorney