

**TEMPORARY FACILITY USE AGREEMENT BETWEEN THE CITY OF SUGAR LAND, TEXAS (CITY)
AND FORT BEND COUNTY (COUNTY)**

Whereas, the City is a municipality incorporated under the laws of the State of Texas, and

Whereas, the County is a political subdivision incorporated under the laws of the State of Texas.

Whereas, on March 13, 2020, a Declaration of State of Disaster was issued by Governor Abbott to take additional steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of Texans, and

Whereas, identification and testing of individuals infected with COVID-19 will enable prompt treatment of the individuals and reduce the spread of COVID-19 in the community, and

Whereas, the County has the equipment necessary to conduct medical testing to identify infected individuals, and

Whereas, the City and the County agree that it is in the best interests of the citizens of the City and the County to enter into this Agreement to provide a location to conduct medical testing related to COVID-19, and

Whereas, the City of Sugar Land, Texas owns a parking lot located at 18111 Lexington Blvd., Sugar Land, Texas, adjacent to the Smart Financial Centre (Facility), and

Whereas, the City deems it essential to the health, safety, and welfare of its citizens to allow the County to use the Facility as a testing site.

Therefore, the City and the County agree as follows:

1. Incorporation of Recitals. The recitations stated above are hereby incorporated into this Agreement.
2. Term. City will allow the County to use the Facility commencing on April 25, 2020, and continuing for an initial period of 30 days, unless earlier terminated by either party. The initial period may be extended by mutual written agreement of the parties for a second term of 30 days.
3. Termination. This Agreement may terminate prior to the initial term if (a) the County determines that the Facility is no longer needed for testing purposes or (b) the Texas Governor terminates his State of Disaster declaration for Texas.
4. Site Plan. The County will utilize the temporary testing facility in accordance with the site plan attached as Exhibit A.
5. Traffic Control Plan. The County will adhere to the traffic control plan attached as Exhibit A. The City will provide traffic officers necessary to enforce such plan at no cost to the County.
6. Hours. Medical testing at the Facility will occur Monday through Saturday and begin no earlier than 8 a.m. and end no later than 5 p.m. on weekdays and begin no earlier than 10 a.m. and end no later than 2 p.m. on Saturday each day that the County conducts testing at the Facility. The County may access the site prior to the start of the daily testing and may remain on the site after daily testing to conduct activities necessary and related to the daily testing.

7. Waiver of Rent. Considering the importance of conducting the testing and the health, safety and welfare benefits to its residents, the City will waive any rental payment that it may be due for the use of the Facility.

8. Indemnity. As an additional consideration for the City's waiver of rental payments, and the agreement that the City has no participation in the testing other than providing the Facility, **THE COUNTY AGREES, TO THE EXTENT ALLOWED BY TEXAS LAW, TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, AND JUDGMENTS FOR (A) DAMAGES TO THE LOSS OF PROPERTY OF ANY PERSON; AND/OR (B) DEATH, BODILY INJURY, ILLNESS, DISEASE, LOSS OF SERVICES, OR LOSS OF INCOME OR WAGES TO ANY PERSON, ARISING OUT OF INCIDENT TO, CONCERNING OR RESULTING FROM THE NEGLIGENT OR WILLFUL ACT OR OMISSIONS OF THE COUNTY, ITS AGENTS, OFFICERS, AND OR EMPLOYEES IN THE PERFORMANCE OF ACTIVITIES OF DUTIES PURSUANT TO THIS AGREEMENT.**

9. Insurance. The County will furnish certificates of insurance to the City evidencing compliance with the insurance requirements contained in Exhibit B. Certificates will include the name of the insurance company, policy number, term of coverage and limits of coverage. The County will cause its insurance companies to provide the City with at least 30 days' prior written notice of any reduction in the limit of liability by endorsement of the policy, cancellation or non-renewal of the insurance coverage required under this Agreement. The County will obtain such insurance written on an Occurrence form from companies having Best rating of A/VII or better, licensed or approved to transact business in the State of Texas. The City and The Ambassador Theatre Group must be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability. All Liability policies written on behalf of the County must contain a waiver of subrogation in favor of the City and The Ambassador Theatre Group.

10. Effective Date. This Agreement is effective on April 25, 2020.

CITY OF SUGAR LAND, TEXAS



Michael W. Goodrum
City Manager

FORT BEND COUNTY, TEXAS



KP George
County Judge & Emergency Management Director

EXHIBIT B
INSURANCE REQUIREMENTS

The Contractor shall comply with each and every condition contained herein. The Contractor shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City. Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City of Sugar Land accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Contractor shall specifically endorse applicable insurance policies as follows:

- A.** The City of Sugar Land shall be named as an Additional Insured with respect to General Liability and Automobile Liability and must be provided **on an endorsement(s)**.
- B.** A waiver of subrogation in favor of the City of Sugar Land shall be contained in the Workers Compensation and all liability policies and must be provided **on an endorsement(s)**.
- C.** All insurance policies, which name the City of Sugar Land as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
- D.** **Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Endorsements must be provided for each of the above.**
- E.** All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
- F.** Required limits may be satisfied by any combination of primary and umbrella liability insurances.
- G.** Contractor may maintain reasonable and customary deductibles, subject to approval by the City of Sugar Land.
- H.** Insurance must be purchased from insurers having a minimum AmBest rating of B+.
- I.** All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2010/05) Coverage must be written on an occurrence form.
- J.** Contractual Liability must be maintained covering the Contractors obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
- K.** Upon request, Contractor shall furnish the City of Sugar Land with certified copies of all insurance policies.
- L.** A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Sugar Land immediately after contract is approved and prior to starting any work by the successful contractor's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Sugar Land, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Sugar Land. The certificate of insurance and endorsements shall be sent to:

City of Sugar Land
Risk Management
Faxed to: 281 275-2760
P. O. Box 110
Sugar Land, TX 77487-0110
OR emailed to: riskmanagement@sugarlandtx.gov

INSURANCE REQUIREMENTS-PROJECT SPECIFIC

Items marked "X" are required to be provided with this agreement.

Coverages Required & Limits (Figures Denote Minimums)

X Workers' Compensation Statutory limits, State of TX.
X Employers' Liability \$500,000 per employee per disease / \$500,000 per employee per
accident / \$500,000 by disease aggregate

X Commercial General Liability:

	<u>X</u> Very High/High Risk	___ Medium Risk	___ Low Risk
Each Occurrence	\$1,000,000	\$500,000	\$300,000
Fire Damage	\$300,000	\$100,000	\$100,000
Personal & ADV Injury	\$1,000,000	\$1,000,000	\$600,000
General Aggregate	\$2,000,000	\$1,000,000	\$600,000
Products/Compl Ops	\$2,000,000	\$500,000	\$300,000

X Automobile Liability: (Owned, Non-Owned, Hired and Injury & Property coverage for all)

<u>___</u> Very High/ High Risk	<u>X</u> Medium Risk	___ Low Risk
Combined Single Limits	Combined Single Limits	Combined Single Limits
\$1,000,000 Bodily	\$500,000 Bodily	\$300,000 Bodily

X Umbrella each-occurrence with respect to primary Commercial General Liability, Automobile Liability, and Employers Liability policies at minimum limits as follows:

- Contract value less than \$1,000,000: **not required**
- Contract value between \$1,000,000 and \$5,000,000: **\$4,000,000 is required**
- Contract value between \$5,000,000 and \$10,000,000: **\$9,000,000 is required**
- Contract value between \$10,000,000 and \$15,000,000: **\$15,000,000 is required**
- Contract value above \$15,000,000: **\$20,000,000 is required**

Excess coverage over \$10,000,000 can be provided on "following form" type to the underlying coverages to the extent of liability coverage as determined by the City.

X Professional Liability, including, but not limited to services for Accountant, Appraiser, Architecture, Consultant, Engineering, Insurance Broker, Legal, Medical, Surveying, construction/renovation contracts for engineers, architects, constructions managers, including design/build Contractors.
Minimum limits of \$5,000,000 per claim/aggregate. This coverage must be maintained for at least two (2) years after the project is completed.

___ Builder's Risk (if project entails vertical construction, including but not limited to bridges and tunnels or as determined by the City of Sugar Land) Limit is 100% of insurable value, replacement cost basis.

___ Pollution Liability for property damage, bodily injury and clean up (if project entails possible contamination of air, soil or ground or as determined by the City of Sugar Land)
\$1,000,000 each occurrence

\$2,000,000 aggregate

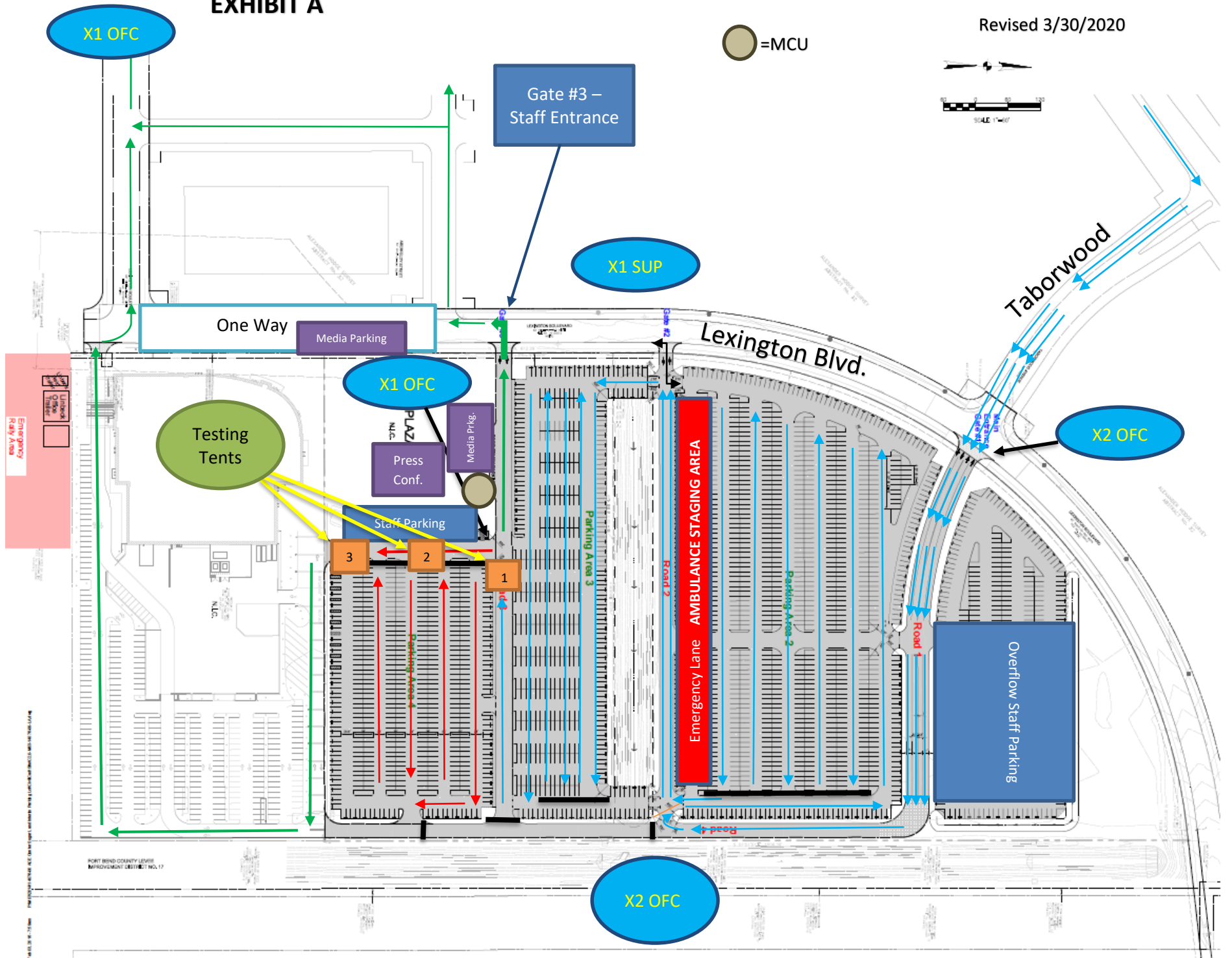
___ Other Insurance Required: _____

NOTE: The nature/size of a contract/agreement may necessitate higher limits than shown above. These requirements are only meant as a guide, but in any event, should cover most situations. Check with Purchasing & Risk Management if you need assistance or need additional information.

EXHIBIT A

Revised 3/30/2020

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FORT BEND COUNTY LEVISE
IMPROVEMENT DISTRICT NO. 17

**TEMPORARY FACILITY USE AGREEMENT BETWEEN THE CITY OF SUGAR LAND, TEXAS (CITY)
AND FORT BEND COUNTY (COUNTY)
EXTENSION NO. 1**

Whereas, the City and the County entered into an Agreement to use the parking lot adjacent to the Smart Financial Centre (Facility) as a temporary testing site for the County to conduct testing related to the COVID-19 virus; and

Whereas, the Agreement is set to expire on May 24, 2020; and

Whereas, Paragraph 2 of the Agreement allows the City and the County to extend the initial 30-day period by mutual written agreement for a second term of 30 days; and

Whereas, the City deems it essential to the health, safety, and welfare of its citizens to allow the County to continue to use the Facility as a testing site.

Therefore, the City and the County agree to as follows:

1. The City will allow the County to continue using the Facility for a second term of 30 days commencing on May 25, 2020. The second period may be extended by mutual written agreement of the parties for a third term of 30 days.
2. The remainder of the Agreement remains in force with no amendments.
3. This extension is effective on May 25, 2020.

CITY OF SUGAR LAND, TEXAS



Michael W. Goodrum
City Manager

FORT BEND COUNTY, TEXAS



KP George
County Judge & Emergency Management Director