

**AMENDED AND RESTATED
BRAZORIA COUNTY
SECTION 115 POST-EMPLOYMENT
BENEFITS TRUST**

Effective as of May 26, 2026

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This Amended and Restated Trust Agreement for the Brazoria County Section 115 Post-Employment Benefits Trust (the “Trust”), which governs the operation of such Trust, is hereby adopted by Brazoria County (the “County”) effective as of May 26, 2026 (the “Effective Date”), amending and restating in its entirety the Trust Agreement originally adopted effective as of October 8, 2019 (the “Original Effective Date”). The Trust Agreement is intended to be operated and interpreted in all respects in accordance with all applicable requirements of Chapter 172 of the Texas Local Government Code (“Chapter 172”).

RECITALS

WHEREAS, the County sponsors the Plans;

WHEREAS, the Plans have been established and are operated in accordance with Chapter 157 of the Local Government Code;

WHEREAS, pursuant to Chapter 172, the County desires to establish a risk pool for the purpose of funding certain benefits under the Plan, including health benefits for eligible retirees of the County and their dependents;

WHEREAS, each Plan’s administrator is responsible for administering the Plan, consistent with the terms of the applicable governing Plan documents;

WHEREAS, the County desires that benefits under the Plans which are intended to be funded through the Risk Pool will be paid by the Trust and that the Risk Pool Trustees will have the authority to appoint investment manager(s) or trustee(s) to invest Risk Pool assets, including through the Trust, as deemed necessary and appropriate and in accordance with Chapter 172;

WHEREAS, the County and the Risk Pool intend that the Trust shall be part of the Risk Pool, that the Trust shall be classified as an ordinary trust pursuant to Treasury Regulation section 301.7701-4(a), and that the income of the Trust shall be excluded from the gross income of the Risk Pool and the Employer pursuant to Code section 115(1); and

WHEREAS, the County and the Risk Pool Trustees wish the applicable Section 115 Trustee to hold and administer the Trust Fund;

NOW, THEREFORE, the County and the Risk Pool hereby adopt the following terms to govern operation and administration of the Trust:

ARTICLE I. DEFINITIONS AND INTERPRETATION

1.01 Definitions

- (a) “**Affiliate**” means an agency or instrumentality constituting an integral part of the County, an organization described in Code section 501(c)(3) which is affiliated with the County and whose income is excluded from gross income under Code section 115(1), or a separate political subdivision (within the meaning of Treasury Regulation section 1.103-1(b)) which is affiliated with the County; provided that no entity shall be considered an Affiliate if such entity’s participation in a Plan would cause the Plan to cease to be a “governmental plan” as defined by section 3(32) of ERISA or if such entity’s participation in the portions of the Plan funded by the Trust would cause any income of the Trust not to be excludable from gross income under section 115(1) of the Code.
- (b) “**Chapter 172**” means Chapter 172 of the Texas Local Government Code, as it may be amended from time to time.
- (c) “**Code**” means the Internal Revenue Code of 1986, as it may be amended from time to time.
- (d) “**County**” means Brazoria County, Texas.
- (e) “**Commissioners Court**” means the Commissioners Court of the County.
- (f) “**Contracts**” means the group annuity contracts, insurance policies, funding agreements, or other similar arrangements issued to the County with respect to Plan administration, as applicable and as they may be amended from time to time.
- (g) “**Employer**” means the County and each Participating Employer, if any.
- (h) “**ERISA**” means the Employee Retirement Income Security Act of 1974, as it may be amended from time to time.
- (i) “**Investment Manager**” means an investment manager appointed by the Risk Pool Trustees in accordance with Section 4.04.
- (j) “**Participant**” means a “Participant” in one or more of the Plans that are funded through the Trust.
- (k) “**Participating Employer**” means a “Participating Employer” as such term is defined by the applicable Plan document(s).
- (l) “**Plans**” means the Retiree Medical Plan and the Retired Life Reserve Plan, as each may be amended from time to time.
- (m) “**Plan Administrator**” means the applicable “Plan Administrator” of the Plans that are funded through the Trust. As of the Effective Date, the “Plan Administrator” is

the County; provided, however, that the County may delegate certain administrative duties in accordance with the terms of the Plans and the Contracts.

- (n) **“Retired Life Reserve Plan”** means the Brazoria County Retired Life Reserve Plan, as may be amended from time to time.
- (o) **“Retiree Medical Plan”** means the Retiree Medical Plan for Brazoria County Employees, as may be amended from time to time.
- (p) **“Risk Pool”** means the risk pool (as defined by Chapter 172) established by the County through this Trust Agreement.
- (q) **“Risk Pool Trustees”** mean the trustees of the Risk Pool who are appointed by the County. As of the Effective Date, the Risk Pool Trustees are the Commissioners Court.
- (r) **“Section 115 Trustee”** means the trustee(s) responsible for holding funds of the Trust, effective as of the dates set forth in such agreement, and any successors to such trustee. To the extent that a third party is retained to perform this role, the Section 115 Trustee will be responsible for handling Trust funds in accordance with a separate trust or custodial agreement, as it may be amended from time to time, including without limitation as provided in the Contracts, as applicable.
- (s) **“Trust”** means the Brazoria County Section 115 Post-Employment Benefits Trust as established effective October 8, 2019, as it may be amended from time to time.
- (t) **“Trust Agreement”** means this document governing operation of the Trust, as it may be amended from time to time.
- (u) **“Trust Fund”** means all money and property, of every kind and character, including principal and income, held by the Section 115 Trustee under the Trust.
- (v) **“Year”** means each year beginning on October 1 through the following September 30.

1.02 Interpretation

- (a) All references herein to “Article” or “Section” shall mean the appropriate Article or Section of this Trust Agreement, unless otherwise required by the context.
- (b) Words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other genders as the context requires. The terms “hereof,” “herein,” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Trust Agreement as a whole (including all schedules and appendices hereto) and not to any particular provision of the Trust Agreement. The word “including” and words of similar import when used in this Trust Agreement shall mean “including, without limitation,” unless the context

otherwise requires or unless otherwise specified. The word “or” shall not be exclusive.

- (c) The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of the Trust, nor in any way shall affect this Trust Agreement or the construction of any provision thereof.
- (d) If there is no Risk Pool or if the Risk Pool terminates or is dissolved, all references herein to the Risk Pool shall be deemed to refer to the County, and all references herein to the Risk Pool Trustees shall be deemed to refer to the Commissioners Court of the County.
- (e) The County intends that the Trust shall be a trust created under the Texas Trust Code and under the authority of IRS Revenue Ruling 90-74, so that all income shall be excludable from federal income taxation under Section 115 of the Internal Revenue Code.
- (f) All contributions to the Trust are irrevocable, except as may otherwise be provided herein or permitted by applicable law.
- (g) All assets of the Trust are protected from the creditors of the County, as applicable.

ARTICLE II. CONTRIBUTIONS TO THE TRUST FUND

2.01 Receipt of Contributions

The Employer shall deliver to the Section 115 Trustee the amounts of money, and the property other than money, that are contributed to the Trust Fund by the Employer and, if applicable, by Participants. The County in its sole discretion shall determine when such deliveries occur (but shall endeavor to deliver any such contributions, if any, not later than the end of the Trust’s Year following the Trust Year in which the amounts are segregated from the general assets of the Employer and designated as contributions to the Trust Fund). Nothing herein shall be construed to require the Employer or the Risk Pool to fund benefits under the Plans through the Trust or to contribute any particular amount to the Trust Fund, and the amount of any such contributions, if any, shall be determined in the sole discretion of the County.

2.02 Obligations of the Section 115 Trustee

The Section 115 Trustee shall be accountable for all contributions delivered to it pursuant to Section 2.01. All contributions so received, together with the income therefrom and any other increment thereon shall be held, invested, reinvested, and administered by the Section 115 Trustee pursuant to the terms of the Trust Agreement without distinction between principal and income. The Section 115 Trustee shall be responsible for Trust property received by the Section 115 Trustee under the Trust Agreement.

ARTICLE III. PAYMENTS FROM THE TRUST FUND

3.01 Payments Directed by the Plan Administrator

Payments shall be made from the Trust Fund by the Section 115 Trustee only by written direction of the Plan Administrator or by written direction of one or more of the persons authorized in writing by the Plan Administrator to give such instructions.

3.02 Essential Government Function

The income of the Trust shall accrue to the benefit of the Risk Pool and the Employer for the purpose of performing an essential government function (or an exempt function, to the extent a Participating Employer is an eligible Code section 501(c)(3) organization): providing benefits under the Plans to Participants. Notwithstanding anything herein to the contrary, except for benefits payable to Participants in accordance with the Plans or related incidental benefits, no part of the net earnings of the Trust shall inure to the benefit of any private person.

3.03 Impossibility of Diversion

Except as provided below or in Section 8.03, no portion of the principal or the income of the Trust Fund shall revert to or be recoverable by the Employer or ever be used or diverted to any purpose other than for the expenses of administering the Plans or the Trust Fund, in accordance with Sections 5.02 and 5.03, or for the exclusive benefit of Participants in the Plans and persons claiming under or through them pursuant to the Plans. Notwithstanding the above:

- (a) If the income of the Trust is not or ceases to be excludable under Code section 115(1), then upon receipt of written directions from the Risk Pool Trustees to do so, the Section 115 Trustee shall pay over to the Employer the net assets then held under the Trust Fund, after having first deducted therefrom all expenses, fees and taxes then accrued. The immediately preceding sentence shall be void and have no effect if it would, in and of itself, cause the income of the Trust to fail to be excludable under Code section 115(1).
- (b) If a contribution is made to the Trust Fund based on a mistake of fact, the Section 115 Trustee shall, upon written notification from the Employer which made such contribution, return such contribution to the Employer; provided, however, that earnings attributable to such excess contribution may not be returned to the Employer but losses attributable thereto shall reduce the amount to be so returned.

ARTICLE IV. INVESTMENT OF THE TRUST FUND

4.01 Investment Authority

The Trust Fund may be invested and reinvested without distinction between principal and income. In accordance with state law, the Section 115 Trustee, at the direction of the Risk Pool Trustees (or Investment Manager(s) appointed by the Risk Pool Trustees, as

applicable), may invest the Trust Fund in any investment authorized by the Texas Trust Code (Subtitle B, Title 9, Property Code), and is not limited to making Trust Fund investments in accordance with the Texas Public Funds Investment Act of 1987 (Subchapter A, Chapter 2256, of the Texas Government Code). All investments are intended to comply with Chapter 172. Subject to the foregoing and the Section 115 Trustee's obligations under Sections 4.03 and 4.04:

- (a) the Section 115 Trustee is authorized to retain or sell property contributed to the Trust Fund and to invest and maintain investment of part or all of the Trust Fund in any common or preferred stocks, bonds (including United States retirement plan bonds), common or pooled stock funds or mutual funds, whether managed by the Section 115 Trustee or others, insurance contracts, notes, debentures, mortgages, or any other property, whether real, personal or mixed and regardless of where located, in the same manner that a prudent man would do under similar circumstances with due regard for the purposes of the portion of the Plans funded by the Trust;
- (b) without limiting the authority of the Section 115 Trustee or any Investment Manager as set forth herein, the Section 115 Trustee has the authority to invest all or any part of the Trust Fund over which it has responsibility in a (i) collective investment fund or (ii) group trust that meets all of the conditions of IRS Revenue Ruling 81-100, as clarified and modified by IRS Revenue Ruling 2004-67 and as further modified by IRS Revenue Rulings 2011-1 and 2014-24 (collectively, a "Group Trust"), provided that the making of such investment is evidenced by a written document executed by the Section 115 Trustee or such Investment Manager. To the extent that any portion of the Trust Fund is so invested in a Group Trust, that Group Trust is made a part of the Plan and is hereby incorporated by reference into this Trust Agreement;
- (c) the Section 115 Trustee may hold a reasonable portion of the Trust Fund in cash pending investment or payment of expenses or benefits; and
- (d) the Section 115 Trustee shall keep cash, other than cash held under subsection (c) above, earning a reasonable interest rate in accounts in any banking or similar financial institution which is supervised by the United States or a State or in demand notes and interests in demand notes, Treasury Bills, short-term negotiable commercial paper, or similar short-term investment funds.

4.02 Establishment of Trust Funding Policy

With respect to the portions of the Plans funded by the Trust, the Risk Pool Trustees shall establish and carry out a funding policy consistent with the purposes of such portions of the Plans and the requirements of applicable law. The funding policy may be changed by the Risk Pool Trustees as appropriate. As part of the funding policy, the Risk Pool Trustees shall direct the Section 115 Trustee and any applicable Investment Manager(s) to exercise its investment discretion to provide sufficient cash assets in an amount determined by the Plan Administrator and the Risk Pool Trustees, under the funding policy then in effect, to

be necessary to meet the liquidity requirements for the administration of the portions of the Plans funded by the Trust.

4.03 Section 115 Trustee's Adherence to Trust Funding Policy

To the extent all investment responsibility for the Trust Fund has not been delegated to Investment Manager(s), the discretion of the Section 115 Trustee in investing and reinvesting the principal and income of the Trust Fund shall be subject to the funding policy, and any changes in the funding policy that the Risk Pool Trustees may adopt in accordance with Section 4.02. It is the duty of the Section 115 Trustee to act strictly in accordance with the funding policy, and any changes in the funding policy, that are communicated to the Section 115 Trustee by the Risk Pool Trustees in writing.

4.04 Investment Manager

The Risk Pool Trustees may appoint, in writing, one or more Investment Manager(s) to whom is delegated the authority to manage, acquire, invest, or dispose of all or any part of the Trust Fund. Such appointment and delegation shall be evidenced by a written agreement pursuant to which the Investment Manager agrees to assume fiduciary responsibility for the investment of all or a portion of the Trust Fund and to comply with the funding policy established in accordance with Section 4.02. With regard to the assets entrusted to the care of an Investment Manager, the Investment Manager shall provide written instructions and directions to the Section 115 Trustee regarding the investment of such assets, and, notwithstanding anything herein to the contrary, the Section 115 Trustee shall be entitled to rely upon in good faith and shall invest such assets in accordance with such direction. The Section 115 Trustee shall have no power to invest, acquire, hold, dispose of, borrow or exercise any rights incident to the ownership of assets entrusted to the care of an Investment Manager except at the direction of the Investment Manager.

ARTICLE V. POWERS OF TRUSTEE

5.01 Powers

The Section 115 Trustee, in addition to all powers and authorities under common law, statutory authority, and other provisions of the applicable Trust Agreement, shall have the following powers and authorities. Subject to the provisions of Section 4.04, such powers and authorities shall be exercised in the Section 115 Trustee's sole discretion.

- (a) Acquire and hold property. To purchase, or subscribe for, any securities or other property and to retain the same in trust.
- (b) Dispose of property. To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Section 115 Trustee, by private contract or at public auction. Any sale or other disposition may be made for cash or upon credit, or partly for cash and partly upon credit. No person dealing with the Section 115 Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any sale or other disposition by the Section 115 Trustee.

- (c) Exercise rights under securities. To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights, or other options, and to make any incidental payments; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any related assessments or charges; and generally to exercise any of the powers of an owner of the stock, bonds, securities, or other property held as part of the Trust Fund.
- (d) Hold securities through nominees. To cause any securities or other property held as part of the Trust Fund to be registered in the Section 115 Trustee's own name(s) or in the name of one or more of the Section 115 Trustee's nominees, and to hold any investments in bearer form, but the books and records of the Section 115 Trustee shall at all times show that all the investments are part of the Trust Fund.
- (e) Borrow funds. To borrow or raise money for the purposes of the Trust in the amount, and upon the terms and conditions, that the Section 115 Trustee deem advisable. For any borrowed sum, the Section 115 Trustee may issue a promissory note as Section 115 Trustee, and may secure the repayment of any borrowed funds by pledging all, or any part, of the Trust Fund. No person lending money to the Section 115 Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing.
- (f) Hold cash. To keep any portion of the Trust Fund in cash or cash balances that the Section 115 Trustee may, at various times, deem to be in the best interests of this Trust, without liability for interest on the cash, notwithstanding that the Section 115 Trustee or an affiliate of the Section 115 Trustee may benefit directly or indirectly from such uninvested amounts. It is acknowledged that the Section 115 Trustee's handling of such amounts is consistent with usual and customary banking and fiduciary practices, and any earnings realized by the Section 115 Trustee or its affiliates will be compensation for its bank services in addition to its regular fees.
- (g) Hold certain property temporarily. To accept and retain, for a period of time that the Section 115 Trustee deem advisable, any securities or other property received or acquired by it as Section 115 Trustee, whether or not the securities or other property would normally be purchased as investments under this Trust.
- (h) Execute instruments. To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted in this Trust.
- (i) Settle claims. To settle, compromise, or submit to arbitration any claims, debts, or damages to or owing to or from the Trust Fund, to commence or defend suits or legal or administrative proceedings, and to represent the Trust Fund in all suits and legal and administrative proceedings.

- (j) Employ agents. To employ suitable agents, attorneys, accountants, custodians and financial counsel, and other persons (any of whom may also render services to the Plans and any Participating Employer) reasonably necessary for the proper administration of the Trust Fund, and to pay their reasonable expenses and compensation.
- (k) Acquire foreclosed real estate. To acquire real estate by purchase, exchange, or as the result of any foreclosure, liquidation, or other salvage of any investment previously made under this Trust (“foreclosed real estate”); to hold the foreclosed real estate in the manner and upon the terms that the Section 115 Trustee deem advisable; and to manage, operate, repair, develop, improve, partition, mortgage, or lease for any term or terms of years the foreclosed real estate or any other real estate constituting a part of the Trust Fund, upon the terms and conditions that the Section 115 Trustee deem proper, using other trust assets for any of the purposes if deemed advisable.
- (l) Invest in savings accounts. To invest funds of the Trust Fund in night deposits or savings accounts bearing a reasonable rate of interest.
- (m) Invest in government obligations. To invest in Treasury Bills and other forms of United States government obligations.
- (n) Exercise conversion and subscription rights. If any bonds, notes, stocks, or other securities held by the Section 115 Trustee shall entitle the holder to an option or privilege to convert it into bonds, notes, stocks, or other securities, or if the right or privilege is given to the holder to subscribe for additional or other bonds, notes, stocks, or other securities, the Section 115 Trustee is authorized to exercise the options, rights and privileges from time to time and to make the conversions and subscriptions, to make the required payment, and to hold the acquired securities as investments of the Trust Fund.
- (o) Invest in certificates of deposit. To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations.
- (p) Necessary and implied powers. To do all acts, take all actions, and exercise all rights and privileges, although not specifically mentioned in this section, that the Section 115 Trustee deem necessary to administer the Trust Fund, and to carry out the purposes of this Trust.

5.02 Compensation and Expenses

- (a) The Section 115 Trustee shall be entitled to reasonable compensation for services rendered under the Trust Agreement as trustee of the Trust.
- (b) The Plan Administrator shall be entitled to reasonable compensation for services rendered with respect to the Plans that are funded through the Trust and to reimbursement of all reasonable and necessary taxes and expenses (including reasonable fees for agents, attorneys, accountants, custodians and other persons

rendering services to the Plan Administrator) incurred in connection with the discharge of its responsibilities with respect to such Plans. The Risk Pool Trustees shall determine whether the compensation and expenses of the Plan Administrator are payable hereunder and shall provide written direction to the Section 115 Trustee with respect to such payments.

- (c) Each Investment Manager, if any, shall be entitled to reasonable compensation for services rendered with respect to the Trust, in accordance with the written appointment agreement for such Investment Manager.
- (d) An individual serving as Section 115 Trustee and/or Plan Administrator who already receives full-time compensation from the Employer shall not receive compensation from the Trust except for reimbursement of expenses properly and actually incurred.
- (e) Any compensation and/or reimbursement payable in accordance with the foregoing shall be paid from the Trust Fund unless first paid by the Employer without reservation of a right of reimbursement from the Trust.

5.03 Taxes Paid from Trust Fund

All taxes of any and all kinds that may be levied or assessed under any applicable State or Federal laws upon the Trust Fund or its income (excluding taxes, if any, upon benefits paid to Participants or their beneficiaries, heirs, executors, administrators or assigns) shall be paid from the Trust Fund.

ARTICLE VI. TRUSTEE DUTIES

6.01 Standard of Care

The Section 115 Trustee shall discharge its duties under this Trust solely in the interest of Participants and their beneficiaries and for the exclusive purpose of providing benefits to such persons and defraying reasonable expenses of administering the Plans and the Trust, with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the Trust Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. Nothing contained in this Trust shall, nor shall be construed to, reduce the standard of care or any responsibility, obligation, or duty imposed on the Section 115 Trustee under Chapter 172 or any other applicable law.

6.02 Accounts and Records

- (a) Maintenance of accounts and records. The Section 115 Trustee shall maintain accurate and detailed records and accounts of all properties of the Trust Fund and all investments, receipts, disbursements, and other transactions under this Trust. The Section 115 Trustee shall take all necessary steps to secure such records and

accounts from the risk of fire, storm, theft, unauthorized access, or any other potential casualty or misappropriation.

- (b) Inspection and audit. All the accounts, books, and records of the Trust shall be open at all reasonable time to inspection and audit by the Risk Pool Trustees or a representative thereof properly designated by the Risk Pool Trustees. The Section 115 Trustee shall, at the written direction of the Risk Pool Trustees, submit the accounts, books, and records of the Trust to auditors designated by the Risk Pool Trustees.
- (c) Submission of quarterly reports. Within a reasonable time following the close of each calendar quarter, the Section 115 Trustee will provide the Risk Pool Trustees (with copies to the Plan Administrator and the County) a written report setting forth all investments, receipts, disbursements, and other transactions carried out by the Trust during the period. Transactions may be reported on a settlement basis provided settlement occurs within the normal period required by the Financial Industry Regulatory Authority (“FINRA”) or other applicable regulatory authority. The report shall include a listing of the Trust Fund assets and the fair market value of the Trust Fund assets at the end of the period and any other information required under Chapter 172 and other applicable laws.
- (d) Approval of quarterly reports. The Risk Pool Trustees may approve any quarterly accounting by the Section 115 Trustee by giving the Section 115 Trustee written notice of the approval. Failure by the Risk Pool Trustees to disapprove the quarterly accounting within ninety (90) days after its receipt shall be deemed an approval. The Section 115 Trustee shall have the right at its own expense to have the accounts settled by judicial proceedings if so elected.
- (e) Attendance at periodic meetings. The Section 115 Trustee shall attend periodic meetings (which, in the sole discretion of the Risk Pool Trustees, may be by telephone conference) with the Risk Pool Trustees or their designated staff to discuss the Trust and coordination with any designated Investment Managers for the Trust.

6.03 Limitation on Section 115 Trustee’s Liability

The Plan Administrator shall administer the Plans as provided therein (including making all determinations as to the right of any person to benefits under the Plans), and the Section 115 Trustee shall not be responsible in any respect for administering the Plans, nor shall the Section 115 Trustee be responsible for the adequacy of contributions to the Trust Fund to meet or discharge any payments or liabilities under the Plans or for the investment of any portion of the Trust Fund for which an Investment Manager is appointed. The Section 115 Trustee shall be entitled to rely in good faith upon any notice, instruction, direction, or other communication of the Employer, the Plan Administrator, the Investment Manager(s), and/or the Risk Pool Trustees.

6.04 Indemnification and Release

The Section 115 Trustee shall indemnify and hold harmless the Employer, the Plans, the Risk Pool, and the Risk Pool Trustees from and against any and all loss, damage, penalty, liability, cost, and expense (including reasonable attorneys' fees and disbursements) that may be incurred by, imposed upon, or asserted against any of the foregoing by reason of any claim, regulatory proceeding, or litigation arising from the Section 115 Trustee's negligence, bad faith, error, mistake, breach of fiduciary duty, or material breach of this Agreement, which causation shall be determined without regard to the characterization of a claim by the applicable court or agency. To the extent permitted by law, the Employer, the Risk Pool, and the Risk Pool Trustees may agree to provide a reasonable release for the Section 115 Trustee with respect to losses, damages, penalties, liabilities, costs, and expenses (including reasonable attorneys' fees and disbursements) that may be incurred by, imposed upon, or asserted against the Section 115 Trustee by reason of its taking action in good faith pursuant to a direction, notice, writing or consent contemplated herein or its failing to act in the absence of such a direction, notice, writing or consent, unless such action or failure to act constitutes negligence of the Section 115 Trustee.

6.05 Insurance

For the duration of the applicable Trust Agreement, the Section 115 Trustee shall procure and maintain insurance, a bond, or other assurance satisfactory to the Risk Pool Trustees for the faithful performance of its duties under the Trust Agreement and, as applicable, shall provide to the Risk Pool Trustees a certificate of insurance, bond, or other documentation showing the Risk Pool and Trust as additional insureds or beneficiaries under such coverage.

6.06 No Prohibited Interest

The Section 115 Trustee must agree to abide by any applicable prohibited interest requirements under state or local law, such as any code of conduct applicable to the County and its officers, employees, or agents.

ARTICLE VII. TRUSTEE APPOINTMENT, REMOVAL, AND RESIGNATION

7.01 Removal

The Risk Pool Trustees may remove the Section 115 Trustee and appoint a new Section 115 Trustee, as deemed appropriate by the Risk Pool Trustees in their sole discretion. The terms for terminating a Trust Agreement will be set forth in the applicable Trust Agreement.

7.02 Resignation

If the Section 115 Trustee resigns, the Risk Pool Trustees will appoint a new Section 115 Trustee and enter into a new Trust Agreement with such Section 115 Trustee. The terms for the Section 115 Trustee's resignation will be set forth in the applicable Trust Agreement.

7.03 Report by Section 115 Trustee

On the removal or resignation of the Section 115 Trustee, the Section 115 Trustee shall, within a reasonable period of time following the effective date of the removal or resignation, but in no event more than ninety (90) days from such effective date, file with the Risk Pool Trustees (and provide copies to the Plan Administrator and the County) (a) a written statement of accounts and proceedings concerning the acts of the Section 115 Trustee with respect to the Trust Fund since the date of the last annual statement and report of the Section 115 Trustee and (b) any other report or information required by Chapter 172 or other applicable law.

7.04 Successor Section 115 Trustee

- (a) Appointment and powers. In accordance with Section 7.01 and 7.02 above, on the removal or resignation of the Section 115 Trustee, a successor shall be appointed by the Risk Pool Trustees. The successor Section 115 Trustee shall have the same rights, duties, powers (including, but not limited to, discretionary powers), and immunities as the predecessor Section 115 Trustee being succeeded. Any resigning or removed Section 115 Trustee shall execute all documents and do all acts necessary to vest the rights, duties, and powers in the successor Section 115 Trustee.
- (b) Limitation on liability. In no event shall any such successor Section 115 Trustee be liable on account of any act or failure to act of any predecessor Section 115 Trustee or have any duty to make any inquiry or investigation as to any act or omission occurring prior to the appointment of the successor Section 115 Trustee. Each successor Section 115 Trustee shall demonstrate acceptance of this Trust by executing an appropriate Trust Agreement or an addendum to the existing Trust Agreement at that time.
- (c) Transfer and statement of expenses. A resigning or removed Section 115 Trustee shall transfer and deliver all of the assets of the Trust Fund to the successor Section 115 Trustee, and shall promptly forward to the Risk Pool Trustees an itemized statement setting forth any expenses and other sums that it is entitled to be paid under the provisions of the Trust Agreement.
- (d) Corporate trustee. If a corporate Section 115 Trustee at any time merges or consolidates with, or sells or transfers substantially all of its assets and business to, another corporation, the corporation resulting from or surviving the merger or consolidation or the transferee corporation, as the case may be, shall then become the successor Section 115 Trustee without necessity for appointment to the position.

ARTICLE VIII. AMENDMENT AND TERMINATION

8.01 Amendment

The County may amend this Trust Agreement from time to time, in whole or in part, in compliance with applicable state law, without notice to any party by a majority vote of the Commissioners Court.

8.02 Termination

The County may terminate this Trust at any time by a majority vote of the Commissioners Court. The County shall provide written notice of the termination to the Section 115 Trustee, provided that failure to provide such notice shall not affect the termination effective date.

8.03 Payment of Funds on Liquidation

- (a) Priority of payment. Upon the termination of the Trust, the affairs of the Trust shall be wound up as soon as may be reasonably practicable and the Trust Fund, or the liquidation proceeds of the Trust Fund, shall be paid out and distributed by the Section 115 Trustee in the following order unless a judgment or decree of a court of competent jurisdiction or any applicable law shall mandate a contrary application or unless a contrary application is required for the income of the Trust to be excluded under Code section 115(1).
- (i) Administration expenses. First, to the payment of all compensation, expenses, and taxes payable in accordance with Sections 5.02 and 5.03.
 - (ii) Payment of benefits. Second, to the payment of Plan benefits to Participants and their beneficiaries and to other eligible recipients of Plan benefits as the Plan Administrator shall direct the Section 115 Trustee in writing.
 - (iii) Distribution to Participating Employers. Third, if there are other Participating Employers in the Plans, to the County and the Participating Employers in proportion to their respective contributions (as the Risk Pool Trustees shall direct the Section 115 Trustee in writing) for a public purpose (or for an exempt purpose in the case of a Participating Employer which is an organization described in Code section 501(c)(3) whose income is excluded from gross income under Code section 115(1)).
 - (iv) Distribution to eligible recipients. Fourth, any remaining Trust Fund assets, if any, shall be distributed to one or more Affiliates or other political subdivisions (as the Risk Pool Trustees shall direct the Section 115 Trustee in writing) for a public purpose (or for an exempt purpose in the case of an organization described in Code section 501(c)(3) whose income is excluded from gross income under Code section 115(1)).
- (b) Limitation on liability. Upon making the payments in accordance with subsection (a), the Section 115 Trustee shall be relieved from all further liability for all amounts paid under this Section.

8.04 Liquidation Powers

From and after the date of the termination of the Trust and until the final distribution of the Trust Fund has been completed, the Section 115 Trustee shall continue to have all of the powers provided under this Trust and the applicable Trust Agreement that may be necessary

or expedient for the orderly liquidation and distribution of the Trust Fund. The Section 115 Trustee shall be deemed removed upon the completion of the final distribution of the Trust Fund and shall provide the report required by Section 7.03 within ninety (90) days after such deemed removal.

ARTICLE IX. OTHER PROVISIONS

9.01 Limited Effect of Plans and Trust

Neither the establishment of the Plans nor the Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any Participant or any other person any legal or equitable right against the Section 115 Trustee, the Plan Administrator, the Risk Pool, the Employer, or any officer, employee, or representative thereof, except as may otherwise be specifically provided in the Plans or in the Trust.

9.02 Protective Clause

None of the Section 115 Trustee, Plan Administrator, Employer, or Risk Pool shall be responsible for the validity of any contract of insurance issued in connection with the Plans or Trust or for the failure on the part of the insurer to make payments provided by such contract, or for the action of any person which may delay payment or render a contract null and void or unenforceable in whole or in part. None of the Section 115 Trustee, Plan Administrator, Employer, or Risk Pool in any way guarantees the payment of any benefit which may be or become due to any person under the Plans.

9.03 Nonalienation

The benefits payable from this Trust under the Plans are intended for the payment of benefits for the persons entitled to them under the Plans, and, except as specifically provided in the Plans, (a) shall not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, or seizure and (b) shall not be subject in any manner to attachment, lien, or other process to secure payment of the debts and obligations of the persons to whom they are or may become payable, including but not limited to any debts or obligations having their origin in matters relating to marital relationships, alimony, or child support.

9.04 Governing Law

The validity and effect of the Trust and the rights and obligations of the Section 115 Trustee, Risk Pool, County, Employer, Plan Administrator, and all other persons affected by this Trust shall be construed and determined in accordance with the laws of the State of Texas without giving effect to the conflicts of laws principles thereof.

9.05 Severability

If any provision of this Trust is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provision of the Trust, and the Trust shall be

construed and enforced as if such invalid or unenforceable provision had not been included herein. In the event that the making of any payment or the provision of any other benefit required under the Trust is held to be in conflict with or in violation of any State or Federal statute, rule, or decision or otherwise invalid or unenforceable, such conflict, violation, invalidity, or unenforceability shall not prevent any other payment or benefit from being made or provided under the Trust, and in the event that the making of any payment in full or the provision of any other benefit required under the Trust in full would be in conflict with or in violation of any State or Federal statute, rule or decision or otherwise invalid or unenforceable, then such conflict, violation, invalidity or unenforceability shall not prevent such payment or benefit from being made or provided in part, to the extent that it would not be in conflict with or in violation of any State or Federal statute, rule or decision or otherwise invalid or unenforceable, and the maximum payment or benefit that would not be in conflict with or in violation of any State or Federal statute, rule or decision or otherwise invalid or unenforceable, shall be made or provided under the Trust.

9.06 Notices and Writing Requirement

Notices, reports, and statements sent by regular mail shall be deemed duly given, made or delivered, when deposited in the mail, addressed to the recipient’s last known address. Any writing contemplated herein shall include a writing by electronic means, including e-mail, electronic data transfer and facsimile.

9.07 Binding Effect

This Trust shall be binding upon all persons having or claiming to have any interest under the Plans or this Trust, their heirs, executors, administrators, conservators and assigns, and upon the Employer, the Risk Pool, the Section 115 Trustee, and their respective successors and assigns.

* * * * *

IN WITNESS WHEREOF, the County (in its capacity as the Plan’s sponsor and Plan Administrator) and the Risk Pool have caused this Trust Agreement to be executed by their respective duly authorized representatives on this ___ day _____, 20__.

BRAZORIA COUNTY

By: _____
L. M. “Matt” Sebesta, Jr.
Brazoria County Judge

RISK POOL

By: _____
L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

By: _____
Jay Burrige
Brazoria County Commissioner Precinct 1

By: _____
Ryan Cade
Brazoria County Commissioner Precinct 2

By: _____
Stacy L. Adams
Brazoria County Commissioner Precinct 3

By: _____
David Linder
Brazoria County Commissioner Precinct 4