

STATE OF TEXAS §

COUNTY OF BRAZOS §

CITY OF BRYAN
BRYAN HOME FOUNDATION INITIATIVE
HOMEOWNER BUYOUT AGREEMENT

This Agreement is entered into by and between the City of Bryan, Texas (“City”) a home rule municipal corporation and Rafael A. Hernandez-Gaytan and Maria D. Hernandez, the undersigned property owner (“Owner”) on this the ____ day of November, 2020.

WHEREAS, the City Council has recently followed the recommendation of the Planning and Zoning Commission to eliminate the MU-1 Mixed Use Residential zoning district designation with the understanding that existing mobile or manufactured homes will be permitted to remain in place until such time as they are no longer safe to occupy; and

WHEREAS, the City Council has created an affordable housing program to partner with builders and lenders to provide safer and low cost affordable housing, otherwise known as the Bryan Home Foundation Initiative (“Initiative”); and

WHEREAS, Owner currently resides in a manufactured or mobile home that they own on a property they own which was formerly zoned MU-1 Mixed Use Residential District and Owner desires to exchange the mobile or manufactured home for \$10,000 and the ability to participate in the Initiative; and

WHEREAS, the Owner has applied for a grant under the Initiative, and qualifies in accordance with the rules set forth by City;

NOW THEREFORE IT IS AGREED BY THE PARTIES

1. Owner is either the record owner of Lot One (1), Block Five (5), Unit No. 1 of Woodville Acres No. 3, City of Bryan, according to the plat thereof recorded in Volume 176, Page 123, Deed Records, Brazos County, Texas, also known as 3700 Elaine Drive, Bryan, Brazos County, Texas, or in the alternative, has a legal or equitable interest in the Property and agrees to work with City and/or lender partners to resolve any title issues within sixty (60) days of execution of this Agreement. Owner is the owner of and currently resides in a manufactured or mobile home on the Property, and has been for the past five (5) years. There are no liens on the manufactured or mobile home. Property is free of all City liens and tax liens, or must be under a payment plan for same. Owner has applied to participate in the Initiative and the City has determined Owner meets the other requirements for qualification to participate in the Initiative as set by City. If Owner fails, or is unable, to resolve any title issues within sixty (60) days and become record owner of the Property, this Agreement shall terminate and neither party shall have any further obligations hereunder.
2. Owner agrees to sell the manufactured or mobile home to City, and will execute a bill of sale at the closing for the construction financing loan for the new home (“Closing”). City may demolish in place or remove the manufactured or mobile home from Property after Closing. Owner agrees to have vacated the home, along with any other residents, and will have removed all personal property from Property at or before Closing. Owner agrees to be responsible for relocating all residents and personal property from the home for the duration of the Construction.
3. Owner agrees, as a condition of this Agreement, to enter into an agreement with a builder partner within City’s Initiative, to construct a stick built house in accordance with designs pre-approved by City as a part of the Initiative. Owner may choose from certain options approved for each design. Owner is required to agree to the terms of its agreement to pay for the construction.

4. Owner agrees, as a condition of this Agreement, to obtain financing through a lender partner, or some other lender, to pay for the construction. Owner may also seek down payment assistance from the City of Bryan Community Development Department in addition to seeking a grant under the Initiative.
5. At Closing, City agrees to provide a grant of \$10,000.00 ("Grant") to be used for the purchase of a new stick built house on the Property in accordance with the Initiative. The Grant is consideration for the purchase of the manufactured or mobile home but must be used to pay for closing costs and/or reduce the principal amount owed to a lender for a construction loan. The Grant will be paid directly to a title company that will act as escrow agent for the construction loan. If Owner fails to comply with the requirements set forth herein, or otherwise ceases to meet the requirements of the Initiative, and Closing is not successfully completed, the City may terminate this Agreement and have no further obligations hereunder.
6. Owner is voluntarily agreeing to participate in this Initiative in exchange for Grant. Owner understands and acknowledges that they are not required to sell their mobile or manufactured home and/or relocate. Owner is agreeing to these terms in order to qualify for the additional Grant above and beyond any Down Payment Assistance from Community Development.
7. Owner hereby releases, waives, holds harmless, and indemnifies City, as well as its representatives, agents, officers, and employees, from any and all suits, claims, or causes of action in any way related to the Initiative, except with respect to City's agreement to comply with terms expressly set forth herein. City is not party to any agreement, contract, or understanding between Owner, builder partners, or lender partners, and City makes no warranties, guaranties, or covenants of any kind with respect to same.
8. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. Owner shall not assign this Agreement without the written approval of the City Manager. An assignment to a subsidiary or affiliate company of Owner shall not be prohibited under the section.
9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added as part of this Agreement a provision that is legal, valid and enforceable and that is as similar as possible in terms and substance as possible to the deleted provision.
10. Texas law to apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas and the obligations of the parties created hereunder are performable by the parties in the City of Bryan, Texas. Venue for any litigation arising under this Agreement shall be in a court of appropriate jurisdiction in Brazos County, Texas.
11. Sole Agreement. This Agreement constitutes the sole and only Agreement of the Parties hereto respecting the subject matter covered by this Agreement, and supersedes any prior understandings or written or oral agreements between the parties.
12. Amendments. No amendment, modification, or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.
13. Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are

cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any and all other legal remedies. Said rights and remedies are provided in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

14. No 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 anyway affect the validity of this Agreement, any part hereof, or the right of either 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.
15. Incorporation of Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.
16. Legal Construction. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural and vice versa, unless the context requires otherwise. Each party to this Agreement has had an opportunity to review the terms contained herein with counsel and therefore neither party shall be deemed to be the author and any ambiguities contained herein shall not be construed more or less favorably between the parties by reason of authorship or origin of language.

Executed to be effective on this the _____ day of _____, 2020.

OWNER

CITY OF BRYAN

Rafael A. Hernandez-Gaytan

Kean Register, City Manager

ATTEST

Maria D. Hernandez

Mary Lynne Stratta, City Secretary

APPROVED AS TO FORM

Janis K. Hampton, City Attorney