City of Windcrest

AGENDA
CITY COUNCIL MEETING @ 6 P.M.
NOVEMBER 6, 2023

CITY COUNCIL CHAMBERS @ 8601 MIDCROWN **CCM @ 6 P.M.**

NOTICE IS HEREBY GIVEN THAT THE CITY OF WINDCREST CITY COUNCIL WILL HOLD A REGULAR CITY COUNCIL MEETING AT WINDCREST CITY HALL LOCATED AT 8601 MIDCROWN, WINDCREST, TEXAS ON THE 6th DAY OF NOVEMBER 2023, STARTING AT 6 P.M.

THE CITY COUNCIL RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF NOVEMBER 6, 2023, AND TO RECONVENE THE MEETING ON THE FOLLOWING BUSINESS DAY, NOVEMBER 7, 2023 AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE AND INVOCATION

IV. CITIZENS TO BE HEARD/CITIZEN PARTICIPATION

- Citizens may address the City Council on topics not on the agenda for no more than three (3) minutes.
- Citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes.
- A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR COUNCIL MEETING:

V. RESOLUTION

a) The City Council will review, discuss, and may take action on Resolution 2023-547(R), a resolution approving authorization of the WEDC mixed use commercial, business, industrial, & retail development project with Industrial Commercial Properties, LLC ("ICP"). 1st Reading [Rafael Castillo Jr., City Manager]

b) The City Council will review, discuss, and may take action on Resolution 2023-548(R), a resolution approving the authorization of the City Manager to execute the termination agreement (MEIA) with Rackspace US, Inc. [Rafael Castillo Jr., City Manager]

c) The City Council will review, discuss, and may take action on Resolution 2023-549(R), a resolution approving funding for an initial performance agreement between the WEDC and Industrial Commercial Properties, LLC ("ICP") within the City of Windcrest and other economic incentives provided by the City of Windcrest. [Rafael Castillo Jr., City Manager]

d) The City Council will review, discuss, and may take action on Resolution 2023-550(R), a resolution creating a bank account for the purpose of depositing the funds received from the termination of the MEIA and Lease Agreement with Rackspace US, Inc. [Rafael Castillo Jr., City Manager]

e) The City Council will review, discuss, and may take action on Resolution 2023-551(R), a resolution approving and authorizing the City Manager to enter into a contract with Bexar County for the administration of project and county funds for the Industrial Commercial Properties, LLC ("ICP") project. [Rafael Castillo Jr., City Manager]

VI. DISCUSSION AND ACTION

a) City Council will review, discuss, and may act on an amendment to the Windcrest Code of Ordinances, Chapter 103, Article III - FENCES [Rafael Castillo, Jr., City Manager]

VII. EXECUTIVE SESSION

The City Council of the City of Windcrest reserves the right to adjourn into executive session at any time during course of the meeting to discuss any matter listed below:

a) Pursuant to Govt. Code §551.087 (economic development) and §551.071 (consultation with attorney) for deliberation and discussion on the legal issues associated with the Master Economic Incentive Agreement and Rackspace property.

VIII. CITY MANAGER'S REPORT

Any oral report provided by the city manager will be informational only and not for council action. The city manager may provide updates on community and upcoming city events, the status of the operation of individual departments, any unusual activity from any specific department which has occurred since the posting of the agenda, or to provide potential topics of discussion which may appear on a future agenda.

IX. GENERAL ANNOUNCEMENTS & FUTURE AGENDA ITEMS REQUESTED

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

X. ADJOURNMENT

DECORUM REQUIRED: *Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.*

ACTION BY COUNCIL AUTHORIZED: *The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code § 551.072 (Deliberations about Real Property); § 551.073 (Deliberations about Gifts & Donations); § 551.076 (Deliberations about Security Devices); §551.087 (Economic Development); §551.074 (Personnel Matters) and, § 551.071to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.*

EXECUTIVE SESSIONS APPROVED BY CITY ATTORNEY: *This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.*

ATTENDANCE BY OTHER ELECTED OR APPOINTED OFFICIALS:
It is anticipated that members of other city boards, commissions and committees may attend the meeting in numbers that may constitute a quorum of such other city boards, commissions, and committees, so that notice is hereby given that the meeting is also a meeting of the other city boards, commissions, and committees whose members are in attendance. The members of the other city boards, commissions and committees may participate in discussions which occur at the meeting, but no action will be taken by the other boards, commissions, and committees whose members are in attendance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two (72) hours prior to the meeting on November 6, 2023.

BY: _____
Rachel C. Dominguez, City Secretary

RESOLUTION 2023-547(R)

A RESOLUTION OF THE CITY OF WINDCREST, TEXAS, CITY COUNCIL AUTHORIZING WINDCREST ECONOMIC DEVELOPMENT CORPORATION ("WEDC") THE INDUSTRIAL COMMERCIAL PROPERTIES MIXED USE COMMERCIAL, BUSINESS, INDUSTRIAL & RETAIL DEVELOPMENT PROJECT.

WHEREAS, the City Council for the City of Windcrest determines that it is in the best interests of the citizens of the City of Windcrest to plan and facilitate a transition of ownership and business operations from the property currently occupied by Rackspace to Industrial Commercial Properties, LLC ("ICP"); and

WHEREAS, the Windcrest Economic Development Corporation ("WEDC") authorizes the use of WEDC funds for the Industrial Commercial Properties Mixed Use Commercial, Business, Industrial & Retail Development Project (hereinafter "ICP Project") is a proper and valid use of WEDC funds; and

WHEREAS, the Windcrest City Council approves the project in its current form for the WEDC to spend said funds; and

WHEREAS, the Windcrest City Council authorizes the ICP Project, which shall be the same or substantially similar to the draft MEIA regarding the project, which has been provided to the City Council for consideration. While ICP and the City of Windcrest and the Windcrest Economic Development Corporation may agree to such other or additional terms as needed to help ensure the success of the Project, ICP agrees to the essential terms of the draft Master Economic Incentive Agreement ("MEIA"); and

WHEREAS, the Windcrest City Council approves the ICP Project, but notes the final MEIA must be submitted to the City Council for final approval. The WEDC may proceed forward with final discussions on the ICP project before submitting the final MEIA to the City Council for consideration and approval; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the City Council of the City Windcrest authorizes both City funds and the Windcrest Economic Development Corporation funds to be contributed towards the Industrial Commercial Properties, LLC Project in its current form. The City Manager is authorized to execute such documents as are required to fulfill the intent of this resolution .

DULY PASSED ON FIRST READING, on the day of , 2023 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

Pending CC Approval

DULY PASSED AND APPROVED, on the ___ day of , 2023 at a special meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

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Dan Reese, Mayor

ATTEST:

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Rachel Dominguez, City Secretary

APPROVED:

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Ryan S. Henry, City Attorney

Pending CC Approval

RESOLUTION 2023-548 (R)

A RESOLUTION OF THE CITY OF WINDCREST, TEXAS, CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE THE TERMINATION AGREEMENT WITH RACKSPACE US, INC.

WHEREAS, Rackspace US, Inc. ("Rackspace") has announced it will be leaving the location 1 Fanatical Place, Windcrest, Texas, its corporate headquarters; and

WHEREAS, the Windcrest City Council finds Rackspace is not entitled to terminate its lease for the location or the MEIA and only the City can terminate the MEIA and lease agreement; and

WHEREAS, the Windcrest City Council determines that it is in the best interests of the citizens of the City of Windcrest to plan and facilitate a transition of ownership and business operations from the property currently occupied by Rackspace to Industrial Commercial Properties, LLC ("ICP"); and

WHEREAS, the Windcrest City Council and Rackspace have agreed upon the proper terms of termination.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the City Council approves the City Manager to execute the termination agreement that has been created for the company Rackspace US, INC. in order to properly transition ownership and business operations to Industrial Commercial Properties, LLC.

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of , Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

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Dan Reese, Mayor

ATTEST:

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Rachel Dominguez, City Secretary

APPROVED:

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Ryan S. Henry, City Attorney

Pending CC Approval

RESOLUTION 2023-549(R)

A RESOLUTION AUTHORIZING A COMMITMENT OF THE CITY OF WINDCREST TO ENTER INTO AN AGREEMENT WITH INDUSTRIAL COMMERCIAL PROPERTIES, LLC ("ICP") AND THE CITY OF WINDCREST OR TO APPROVE AN AGREEMENT BETWEEN THE WINDCREST ECONOMIC DEVELOPMENT CORPORATION ("WEDC") AND PROVIDE FUNDING FOR A SPECIFIC ECONOMIC DEVELOPMENT PROJECT INVOLVING ICP

WHEREAS, the City Council for the City of Windcrest determines that it is in the best interests of the citizens of the City of Windcrest to plan and facilitate a transition of ownership and business operations from the property currently occupied by Rackspace to Industrial Commercial Properties, LLC ("ICP"); and

WHEREAS, the City Council for the City of Windcrest finds that to minimize the transition time period and "downtime" from the cessation of business operations of Rackspace to the initiation of business operations of ICP on the property, the City needs to provide certain incentives to ICP; and

WHEREAS, the City Council for the City of Windcrest finds that ICP requested certain commitments in order to move forward; and

WHEREAS, Bexar County has indicated it will contribute up to $2,850,000.00 towards the project; and

WHEREAS, the City Council for the City of Windcrest hereby agrees to commit, from various sources, which includes Bexar County's contribution, certain incentives to ICP, which includes but is not limited to providing an initial grant of funds totaling $4,850,000.00 from the combined resources of the City of Windcrest, the Windcrest Economic Development Corporation, and Bexar County; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the City of Windcrest commits to entering into an economic development agreement with ICP which would include, but not be limited to initial grant funds totaling amounts not to exceed $4,850,000.00, from the combined resources of the City of Windcrest and the Windcrest Economic Development Corporation. The City Manager is authorized to prepare or have prepared such documents as are reasonably necessary to fulfill the intent of this resolution.

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Pending City Council Approval

DULY PASSED AND APPROVED, on the day of , 2023 at a regular meeting of the City Council of the City of Windcrest, Texas, which meeting was held in compliance with the Open Meetings Act, Tex. Gov't. Code, §551.001, et. seq. at which meeting a quorum was present and voting.

City of Windcrest, Texas

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Dan Reese, Mayor

Attest:

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Rachel C. Dominguez, City Secretary

Approved:

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Ryan S. Henry, City Attorney

Pending City Council Approval

RESOLUTION 2023-550(R)

A RESOLUTION TO AUTHORIZE THE CREATION OF A BANK ACCOUNT FOR THE PURPOSE OF DEPOSITING THE FUNDS RECEIVED FROM RACKSPACE US, INC. RESULTING FROM THE TERMINATION OF THE MEIA AND LEASE AGREEMENT

WHEREAS, the City of Windcrest had a Master Economic Incentive Agreement ("MEIA") with Rackspace US, Inc. ("Rackspace"). The City has expressed the intent to terminate the MEIA and lease agreement with Rackspace based on Rackspace's announcement that it will cease doing business with its corporate headquarters within the City of Windcrest; and

WHEREAS, under the MEIA, upon termination by the City, Rackspace owes payment of a specific dollar amount which is to be provided to the City of Windcrest within a set number of days from the date of the termination; and

WHEREAS, under the MEIA, the City must distribute specific funds from the Rackspace payment to various entities; and

WHEREAS, the City of Windcrest currently utilizes a bank account at its depository, Frost Bank; and

WHEREAS, the City Council of Windcrest finds it is necessary to create a bank account specific for the purpose of depositing the funds from the termination of the MEIA with Rackspace to Frost Bank and managing such funds consistent with state law and under the terms of the MEIA.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Windcrest, Texas, that the City Manager and City's Finance Director are authorized, jointly or separately, to execute such documents on behalf of the City of Windcrest necessary to create an appropriate type of bank account at the City's depository, Frost Bank, which is to be used for depositing and management of funds from the termination of the MEIA with Rackspace. The City Manager shall determine whether the City Manager or the Finance Director shall be responsible for executing this authority with Frost Bank. The City Manager is instructed to execute or see that such necessary documents are executed in a timely manner. This Resolution shall continue in full force and effect until amended or revoked by the City, and until the Bank receives a copy of any such amendment or revocation.

Pending City Council Approval

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DULY PASSED AND APPROVED, on the ___ day of _____, 2023 at a regular meeting of the City Council of the City of Windcrest, Texas, which meeting was held in compliance with the Open Meetings Act, Tex. Gov't. Code, §551.001, et. seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

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Dan Reese, Mayor

ATTEST:

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Rachel Dominguez, City Secretary

APPROVED:

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Ryan S. Henry, City Attorney

Pending City Council Approval

RESOLUTION 2023-551(R)

A RESOLUTION OF THE CITY OF WINDCREST, TEXAS, CITY COUNCIL TO AUTHORIZE THE WINDCREST CITY MANAGER TO ENTER INTO CONTRACT WITH BEXAR COUNTY REGARDING ADMINISTRATION OF PROJECT AND COUNTY FUNDS FOR INDUSTRIAL COMMERCIAL PROPERTIES, LLC ("ICP") PROJECT

WHEREAS, the City of Windcrest and the County of Bexar had previously entered into economic development agreements, and amendments, which specifically apply to real property located in the City of Windcrest, Bexar County, Texas, and any improvements and renovations described as approximately 67 acres and 1.2 million square feet of commercial retail space formerly known as the Windsor Park Mall and subsequently known as Rackspace Corporate Headquarters located at 1 Fanatical Place, Windcrest, Texas; and

WHEREAS, the commercial entity, Rackspace US, Inc., placed its corporate headquarters at 1 Fanatical Place, Windcrest, Texas, as part of the economic development project and later announced it would be leaving its location in Windcrest, Texas, which leaves an economic void at the location; and

WHEREAS, the Windcrest City Council determines that it is in the best interests of the citizens of the City of Windcrest to plan and facilitate a transition of ownership and business operations from the property currently occupied by Rackspace to Industrial Commercial Properties, LLC ("ICP"); and

WHEREAS, the Windcrest Economic Development Corporation ("WEDC") authorized the use of WEDC funds for the Industrial Commercial Properties Mixed Use Commercial, Business, Industrial & Retail Development Project (hereinafter "ICP Project") is a proper and valid use of WEDC funds; and

WHEREAS, the Windcrest City Council approves the project in its current form for the WEDC to spend said funds; and

WHEREAS, the County of Bexar is allowed to use funds in connection with land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements to promote new or expanded business development; and

WHEREAS, the County of Bexar is permitted to fund such economic development projects and allow for such projects to be administered by another governmental entity; and

WHEREAS, the City, Bexar County, and the WEDC have determined that granting the economic incentives in accordance with the project will: (i) further the objectives of the City, Bexar County and the WEDC; (ii) benefit the City, Bexar County, and its residents and businesses; and (iii) promote new or expanded business development in Bexar County and the City; and

Pending City Council Meeting

WHEREAS, ICP agrees to enter into a project agreement with performance requirements required under Section 501.158 of the Development Corporation Act, as amended, Chapters 501 and 505 of the Texas Local Government Code (the "Act"), and subject to the express requirements, terms and conditions of the Act; and

WHEREAS, Bexar County wishes to contribute funding to the project, but have the City of Windcrest manage the project as part of its adopted economic development project to help ensure the continued commercial operations at located at 1 Fanatical Place, Windcrest, Texas; and

WHEREAS, to the extent that Bexar County wishes to contribute its funds to the City to administer the project as part of the City's ICP Project the City agrees to administer such funds according to the MEIA entered into between the City and ICP; and

WHEREAS, the City of Windcrest and Bexar County wish to enter into an interlocal agreement such that Bexar County will contribute funds to the ICP Project to the City and the City shall administer those funds exclusively and only as part of the ICP Project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the City Council authorizes the City Manager to enter into contract with Bexar County regarding the administration of Bexar County's portion of economic development funds towards the ICP Project. The City Manager is also authorized to enter into such other documents, including any lease agreements with ICP on behalf of the City, County, or EDC, in order to fulfill the intent of this resolution.

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

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Dan Reese, Mayor

ATTEST:

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Rachel Dominguez, City Secretary

APPROVED:

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Ryan S. Henry, City Attorney

Pending City Council Meeting