



**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS    MARCH 17, 2015    1:30 P.M.**

**CONSENT AGENDA**

\*      Approval of minutes – February 17, 2015

\*      Confirmation of committee appointments

Ramona Hutchinson, County Historical Commission Representative, will fill the unexpired term of Jef Russell, III on the Historic Landmark Commission. The term will commence March 17, 2015 and expire January 15, 2016. (Mayor Becky Ames)

Pastor Dwight Benoit would be reappointed to the Police Department Community Advisory Board. The current term would expire January 10, 2017. (Mayor Becky Ames)

Jesus Abrego would be reappointed to the Police Department Community Advisory Board. The current term would expire January 10, 2017. (Mayor Becky Ames)

Dwaine K. Augustine would be reappointed to the Police Department Community Advisory Board. The current term would expire January 24, 2017. (Councilmember Bill Sam)

Dr. John Falgout, City Veterinarian, would be reappointed to the Animal Health Advisory Committee. The current term would expire December 13, 2016. (Mayor Becky Ames)

Frank Messina would be reappointed to the Convention and Tourism Advisory Board. The current term would expire February 10, 2017. (Mayor Becky Ames)

Ann Rothkamm would be reappointed to the Convention and Tourism Advisory Board. The current term would expire February 10, 2017. (Mayor Becky Ames)

Pat Anderson would be reappointed to the Community Development Advisory Committee. The current term would expire February 18, 2017. (Councilmember W.L. Pate)

Joey Hilliard would be reappointed to the Board of Adjustment (Zoning). The current term would expire February 17, 2017. (Mayor Becky Ames)

Sina Nejad-Engineer Representative, would be reappointed to the Construction Board of Appeals (Building). The current term would expire January 24, 2017. (Mayor Becky Ames)

- A) Approve a contract with Texas Liqua Tech Services for the installation of a new roof for Fire Station #8 located at 6297 Highway 105
- B) Approve the purchase of folding chairs from Virco Manufacturing Corporation of Conway, Arkansas for use by the Event Facilities Department
- C) Authorize the City Manager to apply for and receive grant funds, and to enter into an agreement with the Texas A&M Forest Service-Texas Interstate Fire Mutual Aid System for a Type III Fire Apparatus
- D) Approve the award of a primary contract for the publication of legal notices to The Examiner and a secondary contract to the Beaumont Enterprise
- E) Approve a resolution accepting the donation of property for the Northwest Parkway Project
- F) Authorize the City Manager to apply for and receive funding through the Ford Foundation for a library exhibit
- G) Authorize the City Manager to submit an application to the Texas Department of Transportation for temporary use of State of Texas right-of-way for the Neches River Festival Parade
- H) Authorize the acceptance of a ten foot wide Exclusive Water Line Easement located at 3585 North Major Drive
- I) Authorize the City Manager to execute a Lease Agreement with David Derharoutian (Landlord) to house EMS Unit No. 4 at 8155 Phelan
- J) Authorize the City Manager to execute all documents necessary to accept additional funding from the Texas Department of State Health Services awarded to the Beaumont Public Health Department's WIC Division
- K) Authorize an agreement with Langley Productions related to the filming of the Beaumont Police Department for the television show COPS

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF BEAUMONT:

THAT the following reappointments be made:

<u>Reappointment</u>	<u>Commission</u>	<u>Beginning of Term</u>	<u>Expiration of Term</u>
Pastor Dwight Benoit	Police Department Community Advisory Board	03/17/15	01/10/17
Jesus Abrego	Police Department Community Advisory Board	03/17/15	01/10/17
Dwaine K. Augustine	Police Department Community Advisory Board	03/17/15	01/24/17
Dr. John Falgout	Animal Health Advisory Committee	03/17/15	12/13/16
Frank Messina	Convention and Tourism Advisory Board	03/17/15	02/10/17
Ann Rothkamm	Convention and Tourism Advisory Board	03/17/15	02/10/17
Pat Anderson	Community Development Advisory Committee	03/17/15	02/18/17
Joey Hilliard	Board of Adjustment	03/17/15	02/17/17
Sina Nejad	Construction Board of Appeals	03/17/15	01/24/17

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of  
March, 2015.

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- Mayor Becky Ames -

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT Ramona Hutchinson is appointed to the Historic Landmark Commission to fill the unexpired term of Jef Russell III. The term will commence March 17, 2015 and expire January 15, 2016.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

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- Mayor Becky Ames -

# BEAUMONT

TEXAS

**TO:** City Council  
**FROM:** Kyle Hayes, City Manager  
**PREPARED BY:** Keith Folsom, Facilities Maintenance Superintendent  
**MEETING DATE:** March 17, 2015  
**REQUESTED ACTION:** Council consider a resolution approving a contract with Texas Liqua Tech Services, Inc. in the amount of \$77,266.00 for the installation of a new roof for Fire Station #8 located at 6297 Highway 105.

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## **BACKGROUND**

Pricing was obtained from Liqua Tech Services, Inc. utilizing the Choice Partners Cooperative Contract procurement process. Choice Partners Cooperative provides municipalities with the means to purchase construction services at competitive prices contracted under the procurement statutes of the State of Texas.

Fire Station #8 was originally constructed in 1962 and the current roof system was installed in 1992. The current roof system is twenty-three (23) years old and is experiencing several roof leaks due to the age of the materials. The roof system has exceeded the anticipated 20 year life expectancy, therefore it must be replaced. The new two-ply modified bitumen roof system will provide a higher insulation value, windstorm rating, and protect the building for a minimum of twenty years.

The new roof system will have a twenty (20) year manufacturer's No Dollar Limit Warranty.

## **FUNDING SOURCE**

Capital Reserve Fund.

## **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Council hereby approves the award of a contract to Texas Liqua Tech Services, Inc, of Houston, Texas, in the estimated amount of \$77,266 through the Choice Partners Purchasing Cooperative Program administered by the Harris County Department of Education for the purchase of a new two-ply modified bitumen membrane roof system for Fire Station #8 located at 6297 Highway 105; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a contract with Texas Liqua Tech Services, Inc., of Houston, Texas, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

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- Mayor Becky Ames -



**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Laura Clark, Chief Financial Officer

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution approving the purchase of one thousand (1000) folding chairs from Virco Manufacturing Corporation of Conway, Arkansas in the amount of \$75,000 for use by the Event Facilities Department.

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**BACKGROUND**

The chairs utilized at the Civic Center are well worn and outdated. The chairs requested are the same brand as those currently being used but with a more formal shiny black finish and grey/black cloth bottoms. The older chairs needing to be disposed of due to their condition will be done so in accordance with the City's surplus property policy.

Pricing was obtained through U.S. Communities, a cooperative purchasing association providing cities and political subdivisions with the means to purchase equipment at volume pricing. U.S. Communities complies with State of Texas procurement statutes.

**FUNDING SOURCE**

Capital Reserve Fund.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the City Council hereby approves the purchase of one thousand (1,000) folding chairs for use by Event Facilities from Virco Manufacturing Corporation, of Conway, Arkansas, in the amount of \$75,000 through the U.S. Communities Cooperative Purchasing Program.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

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- Mayor Becky Ames -



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Anne Huff, Fire Chief

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to apply for and receive grant funds, and to enter into an agreement with the Texas A&M Forest Service (TFS)—Texas Interstate Fire Mutual Aid System (TIFMAS) for a Type III Fire Apparatus.

### **BACKGROUND**

This grant request is for a standardized Type III fire apparatus that would replace a 1985 reserve fire engine. The Type III apparatus is a 150 gallon per minute fire pumper that can be used in either structural or interface firefighting applications. The objective of the TIFMAS apparatus grant program is to strategically place standardized firefighting assets within each of seven TFS administrative units. The grant-funded apparatus are staffed and managed by local fire departments and may be mobilized by the State for regional and statewide emergencies. Use of the apparatus will be governed by the terms set forth in the Supplemental Terms and Responsibilities Agreement between the TFS and the City.

### **FUNDING SOURCE**

TFS—Texas Interstate Fire Mutual Aid System (TIFMAS), 100% grant funded, no cost to the City.

### **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to apply for and receive funding through the Texas A&M Forest Service (TFS)-Texas Interstate Fire Mutual Aid System (TIFMAS) for a Type III Fire Apparatus fire engine; and,

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute all documents necessary to apply for and accept said funding; and,

BE IT ALSO RESOLVED THAT the City Manager be and he is hereby authorized to execute a Supplemental Terms and Responsibilities Agreement with Texas A&M Forest Service for administration and the terms and responsibilities related to the TIFMAS fire engine. The Agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

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- Mayor Becky Ames -



CASE# \_\_\_\_\_

**SUPPLEMENTAL TERMS AND RESPONSIBILITIES AGREEMENT  
TEXAS INTRASTATE FIRE MUTUAL AID SYSTEM  
(TIFMAS) GRANT ASSISTANCE PROGRAM**

Mobilization of local resources to respond to statewide emergencies is of great concern. The 81st Texas State Legislature passed Senate Bill 1011 in 2009. The law amended portions of the statute governing the Texas Commission on Fire Protection ("TCFP"). One of the amendments changed the TCFP Fire Department Emergency Program (FDEP). By statute, the Fire Department Emergency Program was abolished effective January 1, 2010 and all funds and loan obligations of the former FDEP were transferred to the Texas A&M Forest Service, a member of The Texas A&M University System and an agency of the State of Texas ("Service"). The Service will use a portion of these funds to acquire fire and rescue apparatus to support the Texas Intrastate Fire Mutual Aid System ("TIFMAS").

Through the TIFMAS Grant Assistance Program (the "TIFMAS Grant Program"), the Service considers applications for participation in the TIFMAS Grant Program and will provide certain response apparatus ("TIFMAS Vehicle(s)") to cooperators in the TIFMAS Grant Program.

In consideration for the provision of TIFMAS Vehicle(s), \_\_\_\_\_ of \_\_\_\_\_ County, Texas, ("Cooperator"), agrees to the terms and conditions set forth herein.

This agreement describes the Service's statutorily required administration and the terms and responsibilities of Cooperator related to TIFMAS Vehicle grants under the TIFMAS Grant Program. The terms and responsibilities of Cooperator outlined in this agreement will be in effect for the entire time Cooperator owns the TIFMAS Vehicle. Upon grant award, the following shall apply:

**Service Authority and Responsibilities:**

1. Service shall provide a standardized TIFMAS Vehicle titled in the name of Cooperator under the following conditions:
  - a. TIFMAS Vehicle will be provided under a one-hundred percent grant administered by the Service. The vehicle will be acquired on behalf of the Cooperator from a vendor selected by the Service.
  - b. Specifications for TIFMAS Vehicle will be developed by Service.
  - c. TIFMAS Vehicle will include loose equipment per Service specifications.
2. Service will perform an inspection after the TIFMAS Vehicle has been purchased and delivered and will document the vehicle on a TIFMAS Vehicle Equipment List, signed by both parties.

3. Service will perform occasional inspections of the TIFMAS Vehicle to ensure the Cooperator is fulfilling its obligations in accordance with this agreement.

**Cooperator Responsibilities:**

1. Cooperator shall take possession of TIFMAS Vehicle at a time and location mutually decided on by Service and Cooperator.
2. Cooperator shall facilitate an initial inspection of the TIFMAS Vehicle by the Service and sign the TIFMAS Equipment Vehicle List provided by Service.
3. Cooperator may add additional loose equipment to the TIFMAS Vehicle, but may not alter or change the original specification of the TIFMAS Vehicle. All additional loose equipment added by Cooperator shall remain the property and responsibility of the Cooperator.
4. Cooperator may use the TIFMAS Vehicle only for the following:
  - a. Local and Regional Mutual Aid Incidents.
  - b. Local/Regional Multiple Alarm Incidents.
  - c. Emergency events threatening properties vital to National Defense, Critical Infrastructure or Important Military Installations.
  - d. Local community events (parades, displays).
  - e. Training of firefighters.
  - f. Temporary standby for Cooperator's regular apparatus while out of service for repairs. Cooperator shall notify the Service if the standby period is expected to exceed 90 days.
5. Cooperator shall house, maintain, operate, and repair the TIFMAS Vehicle in order to ensure a high state of readiness at all times.
  - a. Cooperator shall house the TIFMAS Vehicle on the property of the Cooperator and Cooperator shall provide reasonable protection against weather, vandalism, theft, or damage.
  - b. Cooperator is responsible for all costs of operating, maintaining, and repairing the TIFMAS Vehicle.
6. Cooperator shall staff TIFMAS Vehicle with trained and qualified personnel when dispatched to any regional or statewide assignment, and shall provide for personnel rotation or replacement when the TIFMAS Vehicle is needed on assignments of extended duration.
7. Cooperator shall carry vehicle liability insurance for the TIFMAS Vehicle And provide proof of insurance coverage to the Service annually. The insurance liability limits must be equal to or greater than the State of Texas minimum amounts.

8. Cooperator shall operate and maintain each TIFMAS Vehicle in a roadworthy and legal condition, with a current state inspection decal, and within the posted Gross Vehicle Weight Rating (GVWR) of the chassis as stated by the manufacturer.
9. Cooperator shall notify the Service if the TIFMAS Vehicle is not available and cannot respond to a TIFMAS authorized deployment.

**General Provisions:**

1. The TIFMAS Vehicle will be titled in the name of the Cooperator.
2. ***Service provides the TIFMAS Vehicle "as is" and disclaims any implied warranties, including any warranty of merchantability or fitness for a particular purpose.***
3. Cooperator grants the Service a first-priority security interest in the TIFMAS Vehicle and all equipment provided with the TIFMAS Vehicle and all related proceeds, including insurance payments.
4. If the Cooperator does not fulfill its obligations under the TIFMAS Grant Program, upon written demand from the Service, Cooperator shall immediately deliver the TIFMAS Vehicle and transfer its title to another fire department of the Service's choice. Cooperator shall promptly execute all title transfer documents and perform any other acts deemed necessary by the Service to transfer title to the TIFMAS Vehicle. If Cooperator fails to deliver the TIFMAS Vehicle as provided in this Agreement, the Service may, in addition to any other remedies provided by law, enter onto Cooperator's premises where the TIFMAS Vehicle is located and take possession of the TIFMAS Vehicle.
5. The Service shall have the right to inspect the TIFMAS Vehicle at any time.
6. Deployment and reimbursement for use of TIFMAS Vehicle under a TIFMAS deployment shall be in accordance with Appendix 6 – Annex F of the State of Texas Emergency Management Plan. There are no provisions for reimbursement from the Service to the Cooperator on any mutual aid assignment.
7. Cooperator may not assign, pledge, encumber, or hypothecate the TIFMAS Vehicle or grant any other security interest in the TIFMAS Vehicle.
8. If the Cooperator chooses to end its participation in the TIFMAS Grant Program, Cooperator shall give Service 14-days prior written notice. Upon termination of its participation, all TIFMAS Vehicles, equipment, and titles will be transferred to another fire department of the Service's choice. Cooperator shall not alter the TIFMAS Vehicle in any way prior to transferring the TIFMAS Vehicle. The Cooperator will be liable for all loss of or damage to the TIFMAS Vehicle, normal wear and tear excepted.
9. The primary points of contact for each party shall be as follows:

**Cooperator**

**Service**

Texas A&M Forest Service  
P.O. Box 310  
Lufkin, TX 75901  
Attn: Emergency Services Grants Unit  
Tel: (936) 639-8130  
Fax: (936) 639-8138

Contracting parties shall notify each other of any changes in the above. Any notices regarding violations or termination shall be made in writing to the point of contact.

10. Performance by the Service under this agreement is dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, the Service shall issue written notice to Cooperator and the Service may terminate this Agreement without further duty or obligation. Cooperator acknowledges that appropriation of funds is beyond the control of the Service.
11. Cooperator understands that pursuant to Section 51.9335(c) of the *Texas Education Code*, the state auditor may audit purchases of goods or services by an institution of higher education or by a component thereof that purchases goods and services. Cooperator shall cooperate with the state auditor in the conduct of an audit or investigation, including without limitation, providing all records requested.
12. Cooperator expressly acknowledges that the Service is an agency of the State of Texas and nothing in this Agreement waives or relinquishes by the Service of its right to claim such exemptions, privileges, and immunities as may be provided by law.
13. **This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**
14. Cooperator shall use the dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 to attempt to resolve any claim for breach of contract made by Cooperator that cannot be resolved in the ordinary course of

business. Cooperator shall submit written notice of a claim of breach of contract under this Chapter to the Associate Director for Finance and Administration of the Service, who shall examine Cooperator's claim and any counterclaim and negotiate with Cooperator in an effort to resolve the claim.

**Acceptance of Terms and Responsibilities**

**Cooperator**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title (Please Print)

\_\_\_\_\_  
Date



**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Laura Clark, Chief Financial Officer *LC*

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution approving the award of a primary contract for the publication of legal notices to The Examiner and a secondary contract to the Beaumont Enterprise.

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**BACKGROUND**

The publication of legal notices is utilized by various City departments and divisions, such as the City Clerk, Convention and Visitors Bureau, Housing, Finance, Engineering, Water Utilities and Planning and Zoning to meet various notification requirements as dictated by law.

City legal notices are currently posted on Thursdays with The Examiner. Legal notices that are required to be posted on other days of the week are posted with the Beaumont Enterprise. The cost per column line has remained the same as the previous contract for these services. Bid tab is attached.

**FUNDING SOURCE**

Department Operating Budget.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

WHEREAS, bids were received for a one (1) year contract for publication of legal notices by various City departments; and,

WHEREAS, The Examiner and the Beaumont Enterprise submitted bids as described and in the estimated amounts as shown in Exhibit "A," attached hereto; and,

WHEREAS, City Council is of the opinion that the bids submitted by The Examiner and the Beaumont Enterprise should be accepted as primary and secondary contracts, respectively;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the bids submitted by The Examiner and the Beaumont Enterprise for a one (1) year contract for the publication of legal notices for use by various City departments as described and in the estimated amounts as shown in Exhibit "A," attached hereto, be accepted by the City of Beaumont as primary and secondary contracts, respectively; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute contracts with The Examiner and the Beaumont Enterprise for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

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- Mayor Becky Ames -

Bid Name: Annual Contract for Publication of Legal Notices

Bid Number: PF0215-09

Bid Opening: March 5, 2015

Contact Person: Patrick Bardwell

pbardwell@ci.beaumont.tx.us

409-880-3175

Description	The Examiner Beaumont, Tx	Beaumont Enterprise * Beaumont, Tx
<b>Newspaper with circulation under 50,000</b>	<b>Per column line</b>	<b>Per column line</b>
Daily Rate	NA	\$2.15
Sunday Rate	NA	\$2.59
Weekly	\$1.00	NA
<b>Description</b>	<b>Answer</b>	<b>Answer</b>
Current Circulation Total	39,999 or less	39,999 or less
Classified Advertisement day(s) of publication	Thursday	M, T, W, Th, F, Sa, Su

\* Additional Charges:

\$2.00 per tear sheet

\$0.20 per affidavit

\$1.00 per day for border

\$0.25 per day for bold

\$2.00 per day for underline

EXHIBIT "A"

**BEAUMONT**  
— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director *JM*

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution accepting the donation of property for the Northwest Parkway Project.

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**BACKGROUND**

As part of the Northwest Parkway Project, the City of Beaumont has acquired five (5) of the seven (7) parcels of land needed for this project. The owner of the property listed below, has agreed to donate their property to the City:

Parcel #2 4.380 acre situated in W. B. Dyches Survey, Abstract No. 17  
Owner: Weston Trails Property, Ltd

Drainage Easement: 4.062 acre parcel of land situated in the W. B. Dyches Survey,  
Abstract No. 17  
Owner: Weston Trails Property, Ltd

**FUNDING SOURCE**

None.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

WHEREAS, Weston Trails Property, Ltd. has agreed to donate 4.380 acres of land and 4.062 acres of land situated in the W. B. Dyches Survey, Abstract No. 17, as described in Exhibits "A" and "C" and shown on Exhibits "B" and "D," attached hereto, to the City of Beaumont for the Northwest Parkway Project and,

WHEREAS, the City Council has considered the donation of said tracts of land and is of the opinion that the delivery and receipt of said tracts are necessary and desirable and that same should be accepted;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the donation of the above described properties donated by Weston Trails Property, Ltd. is hereby in all things accepted; and,

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to execute all documents necessary to accept said donations.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

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- Mayor Becky Ames -

PROPERTY DESCRIPTION OF PARCEL 2

**METES AND BOUNDS DESCRIPTION OF 4.380 ACRES OF LAND  
SITUATED IN AND A PART OF THE  
A. W.B. DYCHES SURVEY, ABSTRACT NO. 17  
JEFFERSON COUNTY, TEXAS**

Being a 4.380 acre tract or parcel of land, a portion of that certain tract of land (called 85.710 acres) as conveyed by deed to Brian Brett Martin as recorded in Clerk's File No. 2012017083, Jefferson County, Texas as situated in and a part of the W. B. Dyches Survey, Abstract No. 17, of said County and being more particularly described by metes and bounds as follows:

Beginning at a concrete monument marked G.S.U. found marking the Northeast corner of that certain tract of land (called 0.703 acres) conveyed by deed to Gulf States Utilities Company as recorded in Volume 1651, Page 451 of the Deed Records of said County, a point in the West line of Old Dowlen Road, a publicly dedicated Right-of-Way and being the Southeast corner and the **PLACE OF BEGINNING** of the herein described tract of land:

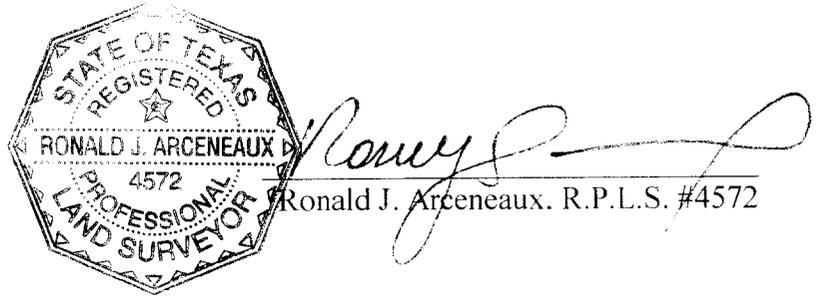
**THENCE** South 86 deg. 57 min. 51 sec. West along and with the North line of said 0.703 acre tract of land at 175.00 feet passing the Northwest corner of said 0.703 acre tract of land and continuing a total distance of 1466.62 feet to a ½" steel rod with cap marked Arceneaux & Gates set in the West line of said 85.710 acre tract of land and in the East line of that certain tract of land (called Tract 2-C and containing 7.57 acres) conveyed by deed to Jefferson County Drainage District No. 6 in County Clerk's Film File Code 104-01-0353 of the Official Public Records of said County marking the Southwest corner of the herein described tract of land;

**THENCE** North 04 deg. 03 min. 16 sec. West along and with the East line of said 85.710 acre tract of land and the West line of said 7.57 acre tract of land a distance of 130.02 feet to a ½" steel rod with cap marked Arceneaux & Gates set for the Northwest corner of the herein described tract of land;

**THENCE** North 86 deg. 57 min. 51 sec. East a distance of 1468.92 feet to a ½" steel rod with cap marked Arceneaux & Gates set in the East line of said 85.710 acre tract of land and the West line of said Old Dowlen Road marking the Northeast corner of the herein described tract of land;

**THENCE** South 03 deg. 02 min. 33 sec. East along and with the East line of said 85.710 acre tract of land and the West line of said Old Dowlen Road a distance of 130.00 feet to the **PLACE OF BEGINNING** of the herein described tract of land and containing 4.380 acres of land more or less.

Surveyed: December 2013



**Notes:**

Bearings, distances and coordinates referenced to the Texas State Plane Coordinate System,  
South Central Zone, NAD 83

An Exhibit of even date is being submitted with and being made a part of this Metes and Bounds  
Description.



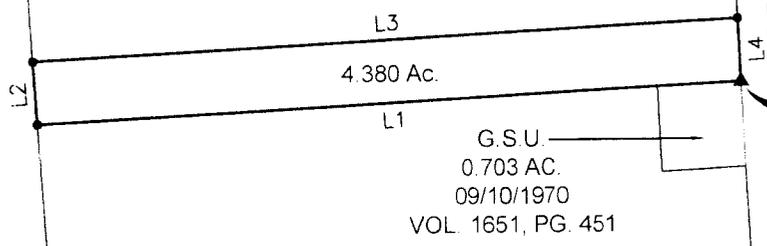
AMOCA PRODUCTS CO.  
TO  
D.D.#6 TRACT 2-C  
7.57Ac.  
11/05/2001  
9141104  
F.F. 104-01-0353

PAULA RENE MARTIN  
TO BRIAN BRETT MARTIN  
85.710 AC.  
05/22/2012  
#2012017083

APSHV INVESTMENT.  
TO  
VR PRESERVE LIMITED  
15.00 AC.  
02/16/2011  
CF# 2011005829  
OPRJC

AMOCO PRODUCTS CO.  
TO  
NORTHWEST BEAUMONT  
DEVELOPMENT, LTD  
294.8436 AC  
01/02/2002  
#200200092  
000127923

20' UTILITY EASEMENT  
TO  
CITY OF BEAUMONT  
VOL. 2396, PG. 41



RESIDUE OF  
AMOCO PRODUCTS CO.  
TO  
LATEX INVESTORS. LP  
46.70 AC.  
11/21/2001  
#2001041210  
000140628

WALMART REPLAT  
26.774 AC.  
11/21/2001  
VOL. 15, PG. 277  
9440813

W.B. DYCHES SURVEY  
A-17

OLD DOWLEN ROAD

**LEGEND**

- ▲ FOUND CORNER
  - SET 1/2" STEEL ROD W/CAP MARKED ARCENEUX & GATES
- POB** POINT OF BEGINNING

DATE OF SURVEY: DECEMBER 2013



**ARCENEUX & GATES**  
Consulting Engineers, Inc.  
Engineers Surveyors Planners  
3501 Turtle Creek Drive, Suite 102  
Port Arthur, Texas 77642  
(409) 724-7888  
A Burrow Global Company

TEXAS REGISTERED ENGINEERING FIRM F-30  
TEXAS LICENSED SURVEYING FIRM 100142-00

PARCEL PLAT		PAGE <b>3</b> OF <b>4</b>
PARCEL 2		
NORTHWEST PARKWAY		
BEAUMONT, JEFFERSON COUNTY, TX		
DATE: DECEMBER 2013	SCALE: SHOWN	DRAWN: BJB
PROJ. No.: CAI-040	DESIGN:	CHECKED: RJA

EXHIBIT "B"

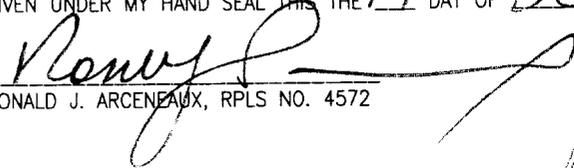
Parcel Line Table		
Line #	Length	Direction
L1	1466.62'	S86° 57' 51"W
L2	130.02'	N04° 03' 16"W
L3	1468.92'	N86° 57' 51"E
L4	130.00'	S03° 02' 33"E

NOTES:  
 COORDINATES, BEARINGS AND DISTANCES REFERENCED  
 TO THE TEXAS STATE PLANE COORDINATE SYSTEM,  
 SOUTH CENTRAL ZONE, NAD 83.  
 GRID SCALE: 0.999958339

I, RONALD J. ARCENEUX, REGISTERED PROFESSIONAL LAND SURVEYOR NO.  
 4572 IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THE ABOVE PLAT  
 CORRECTLY REFLECTS AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY  
 SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE LIMITS,  
 BOUNDARIES AND CORNERS ARE TRULY SHOWN JUST AS FOUND AT THE TIME  
 OF THIS SURVEY.

THIS PLAT IS BEING SUBMITTED ALONG WITH METES AND BOUNDS  
 DESCRIPTION OF EVEN DATE BASED ON THIS SURVEY.

GIVEN UNDER MY HAND SEAL THIS THE 19 DAY OF Dec, 2013.

  
 RONALD J. ARCENEUX, RPLS NO. 4572

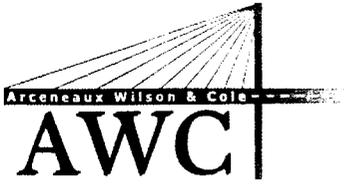


**ARCENEUX & GATES**  
**Consulting Engineers, Inc.**  
 Engineers Surveyors Planners  
 3501 Turtle Creek Drive, Suite 102  
 Port Arthur, Texas 77642  
 (409) 724-7888  
 A Burrow Global Company

TEXAS REGISTERED ENGINEERING FIRM F-30  
 TEXAS LICENSED SURVEYING FIRM 100142-00

PARCEL PLAT		PAGE <b>4</b> OF <b>4</b>
PARCEL 2		
NORTHWEST PARKWAY		
BEAUMONT, JEFFERSON COUNTY, TX		
DATE: DECEMBER 2013	SCALE: SHOWN	DRAWN: BJB
PROJ. No.: CAI-040	DESIGN:	CHECKED: RJA

12/19/2013 10:00 AM C:\Users\rceneux\Documents\130142-00\130142-00.dwg



## ARCENEAUX WILSON & COLE LLC

Engineering • Surveying • Planning

### PROPERTY DESCRIPTION OF DRAINAGE EASEMENT

#### **METES AND BOUNDS DESCRIPTION OF 4.062 ACRES OF LAND SITUATED IN AND A PART OF THE W. B. DYCHES SURVEY, ABSTRACT NO. 17 JEFFERSON COUNTY, TEXAS**

Being a 4.062 acres tract or parcel of land, a portion of that certain tract of land (called "85.710 acres") described in that certain instrument to Brian Brett Martin, recorded in Clerk's File No. 2012017083, Jefferson County, Texas as situated in and a part of the W. B. Dyches Survey, Abstract No. 17, of said County and being more particularly described by metes and bounds as follows:

**FOR LOCATIVE PURPOSES COMMENCING** at a concrete monument marked "G.S.U." found marking the Northeast corner of that certain tract of land (called "0.703 acre") described in that certain instrument to Gulf States Utilities Company, recorded in Volume 1651, Page 451 of the Deed Records of said County, and being a point in the West line of Old Dowlen Road, a publicly dedicated Right-of-Way, and having a State Plane Coordinate of N 13,988,498.11 and E 3,495,321.053:

**THENCE** North 03 deg. 02 min. 33 sec. West, along and with the East line of said 85.710 acres tract of land and the West line of said Old Dowlen Road, a total distance of 380.00 feet to a 1/2" steel rod with cap marked "AWC LLC" set for the southeast corner and the **POINT OF BEGINNING** of the herein described tract of land, and having a State Plane Coordinate of N 13,988,877.57 and E 3,495,300.884;

**THENCE** South 86 deg. 57 min. 51 sec. West, over and across said 85.710 acres tract of land, a total distance of 1473.33 feet to a 1/2" steel rod with cap marked "AWC LLC" set in the West line of said 85.710 acres tract of land and in the East line of that certain tract of land (called "Tract 2-C" and containing 7.57 acres) described in that certain instrument to Jefferson County Drainage District No. 6, recorded in County Clerk's Film File Code 104-01-0353 of the Official Public Records of said County for the Southwest corner of the herein described tract of land;

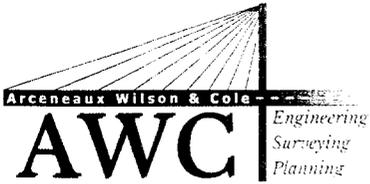
**THENCE** North 04 deg. 03 min. 16 sec. West, along and with the West line of said 85.710 acres tract of land and the East line of said 7.57 acres tract of land a distance of 120.02 feet to a 1/2" steel rod with cap marked "AWC LLC" set for the Northwest corner of the herein described tract of land;

**THENCE** North 86 deg. 57 min. 51 sec. East, , over and across said 85.710 acres tract of land, a total distance of 1475.45 feet to a 1/2" steel rod with cap marked "AWC LLC" set in the East

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[www.awceng.com](http://www.awceng.com)

**EXHIBIT "C"**

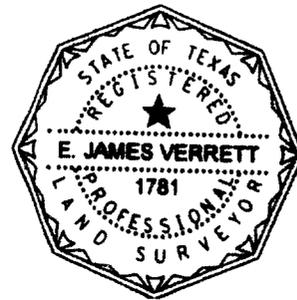


line of said 85.710 acres tract and hereinbefore said West line of Old Dowlen Road for the Northeast corner of the herein described tract of land;

**THENCE** South 03 deg. 02 min. 33 sec. East, along and with the said East line of the 85.710 acres tract of land and West line of Old Dowlen Road a distance of 120.00 feet returning back to the **POINT OF BEGINNING** of the herein described tract of land and containing 4.062 acres of land, more or less.

See Accompanying Plat.

Surveyed: January, 2015



  
E. James Verrett, R.P.L.S. #1781

**Notes:**

Bearings, distances and coordinates referenced to the Texas State Plane Coordinate System, South Central Zone (4204), NAD 83

Job No. LS15-004



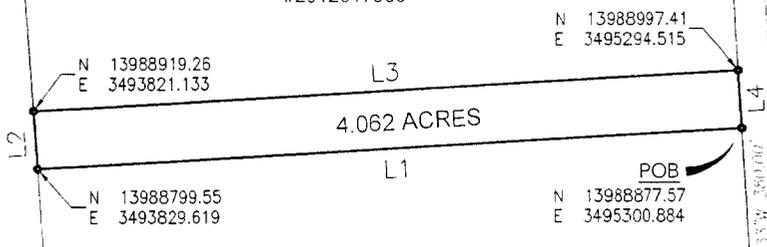
AMOCA PRODUCTS CO.  
TO  
D.D.#6 TRACT 2-C  
7.57Ac.  
11/05/2001  
9141104  
F.F. 104-01-0353

20' UTILITY EASEMENT  
TO  
CITY OF BEAUMONT  
VOL. 2396, PG. 41

APSHV INVESTMENT.  
TO  
VR PRESERVE LIMITED  
15.00 AC.  
02/16/2011  
CF# 2011005829  
OPRJC

PAULA RENE MARTIN  
TO BRIAN BRETT MARTIN  
85.710 AC.  
05/22/2012  
#2012017083

AMOCO PRODUCTS CO.  
TO  
NORTHWEST BEAUMONT  
DEVELOPMENT, LTD  
294.8436 AC.  
01/02/2002  
#200200092  
000127923



G.S.U.  
0.703 AC.  
09/10/1970  
VOL. 1651, PG. 451

POC  
N 13988498.11  
E 3495321.053

RESIDUE OF  
AMOCO PRODUCTS CO  
TO  
LATEX INVESTORS, LP  
46.70 AC.  
11/21/2001  
#2001041210  
000140628

WALMART REPLAT  
26.774 AC.  
11/21/2001  
VOL. 15, PG. 277  
9440813

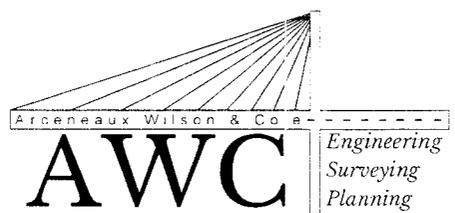
M.B. DYCHES SURVEY  
4-17

OLD DOWLEN ROAD

**LEGEND**

- △ FOUND CORNER
- SET 1/2" STEEL ROD W/CAP MARKED ARCENEAUX & GATES
- POC POINT OF COMMENCING
- POB POINT OF BEGINNING

DATE OF SURVEY: JANUARY 2015



2901 Turtle Creek Drive Suite 320 • Port Arthur, TX 77642  
Office 409-724-7888 • Fax: 409-724-1447 • www.awceng.com

TEXAS REGISTERED ENGINEERING FIRM F-16194  
TEXAS LICENSED SURVEYING FIRM 10194049

PARCEL PLAT DRAINAGE EASEMENT		PAGE <b>3</b>
NORTHWEST PARKWAY BEAUMONT, JEFFERSON COUNTY, TX		OF <b>4</b>
DATE: JANUARY 2015	SCALE: SHOWN	DRAWN: BJB
PROJ. No.: L315-004	DESIGN:	CHECKED: EJV

EXHIBIT "D"

2015-01-15 10:42 AM C:\Users\jwilson\Documents\Projects\150115\150115-004\150115-004.dwg  
 2015-01-15 10:42 AM C:\Users\jwilson\Documents\Projects\150115\150115-004\150115-004.dwg  
 2015-01-15 10:42 AM C:\Users\jwilson\Documents\Projects\150115\150115-004\150115-004.dwg



# BEAUMONT

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Bart Bartkowiak, Chief Technology Officer BB

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to apply for and receive funding in the amount of \$10,076 through the Ford Foundation for a library exhibit.

---

## **BACKGROUND**

The Ford Foundation was established in 1936, by Edsel Ford, whose father Henry, founded the Ford Motor Company. The Mission of the Ford Foundation is to encourage initiatives by those living and working closest to where problems are located; to promote collaboration among the nonprofit, government and business sectors; and to ensure participation by men and women from diverse communities and all levels of society.

The “*Women of a New Tribe*” project is a photographic study of the spiritual and physical beauty of the black woman. The women in the portraits represent the Black American Woman in many of her social and physical manifestations. The subjects come from all walks and stages of life; they are mothers and daughters, artists, professionals, and community activists to name a few. The artist, Jerry Taliaferro, plans to visit Beaumont and photograph African American women in the community to add to the exhibit. The exhibit in the library will highlight and celebrate the African American woman during Black History Month – February, 2016.

## **FUNDING SOURCE**

Not applicable.

## **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to apply for and receive funding for the City of Beaumont through the Ford Foundation in the amount of \$10,076 for "*The Women of a New Tribe*" photographic library exhibit.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -

**BEAUMONT**  
— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to submit an application to the Texas Department of Transportation for temporary use of State of Texas right-of-way for the Neches River Festival Parade.

---

**BACKGROUND**

The Neches River Festival is planned for April 18, 2015 and will require full closure along much of the route. Portions of the event route are located within the Texas Department of Transportation's roadway system. If approved, the application will allow the City of Beaumont to close state roadways for the purpose of the event.

**FUNDING SOURCE**

Not applicable.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to submit an application to the Texas Department of Transportation for temporary use of State of Texas right-of-way for the Neches River Festival Parade. The agreement is substantially in the form attached hereto as Exhibit "A "

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -

STATE OF TEXAS §

COUNTY OF TRAVIS §

**AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY**

**THIS AGREEMENT** is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Beaumont, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "City."

**WITNESSETH**

**WHEREAS**, the State owns and operates a system of highways for public use and benefit, including SPUR 380(MLK PKWY), in Jefferson, County; and

**WHEREAS**, the City has requested the temporary closure of SPUR 380 (MLK PKWY) from Bowie St. to Calder Ave. for the purpose of Neches River Parade on April 18, 2015 from 7AM to 11AM, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

**WHEREAS**, the Event will be located within the City's incorporated area; and

**WHEREAS**, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right-of-way will be performed within the State's requirements; and

**WHEREAS**, on the 17 day of March, 2015, the      City Council passed Resolution / Ordinance No.                     , attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the City to enter into this agreement with the State; and

**WHEREAS**, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

**WHEREAS**, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

**AGREEMENT**

**Article 1. CONTRACT PERIOD**

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

**Article 2. EVENT DESCRIPTION**

The description of the Event, including the proposed schedule of start and stop times, approximate number of people attending the Event, and equipment involved shall be attached hereto and identified as "Exhibit C."

**Article 3. OPERATIONS OF THE EVENT**

**A.** The City shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

**B.** The City shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right-of-way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State.

**C.** The City will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

**D.** The City will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right-of-way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The City will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the City shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

**E.** The City hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the City's traffic control plan.

**F.** The City will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right-of-way and restore or repair the State's right-of-way, including roadway and drainage structures, signs, and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural environment, including landscape features.

**Article 4. OWNERSHIP OF DOCUMENTS**

Upon completion or termination of this agreement, all documents prepared by the City will remain the property of the City. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use.

**Article 5. TERMINATION**

**A.** This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right-of-way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

**B.** The termination of this agreement shall extinguish all rights, duties, obligations and liabilities of the State and City under this agreement. If the potential termination of this

agreement is due to the failure of the City to fulfill its contractual obligations as set forth herein, the State will notify the City that possible breach of contract has occurred. The City must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the City does not remedy the breach to the satisfaction of the State, the City shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

**Article 6. DISPUTES**

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

**Article 7. RESPONSIBILITIES OF THE PARTIES**

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**Article 8. INSURANCE**

**A.** Prior to beginning any work upon the State's right-of-way, the City and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the City and/or its contractors are encroaching upon the State right-of-way.

**B.** In the event the City is a self-insured entity, the City shall provide the State proof of its self-insurance. The City agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

**Article 9. AMENDMENTS**

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the City and the State.

**Article 10. COMPLIANCE WITH LAWS**

The City shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right-of-way.

**Article 11. LEGAL CONSTRUCTION**

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**Article 12. NOTICES**

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

<p><b>City:</b></p> <p>City of Beaumont</p> <hr/> <hr/> <hr/>	<p><b>State:</b></p> <p>Texas Department of Transportation</p> <hr/> <hr/> <hr/>
---	--

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

**Article 13. SOLE AGREEMENT**

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

**IN TESTIMONY WHEREOF**, the parties hereto have caused these presents to be executed in duplicate counterparts.

**THE CITY OF** \_\_\_\_\_

Executed on behalf of the City by:

By \_\_\_\_\_ Date \_\_\_\_\_  
 City Official

Typed or Printed Name and Title \_\_\_\_\_ Kyle Hayes  
 \_\_\_\_\_ City Manager

**THE STATE OF TEXAS**

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By \_\_\_\_\_ Date \_\_\_\_\_  
 District Engineer

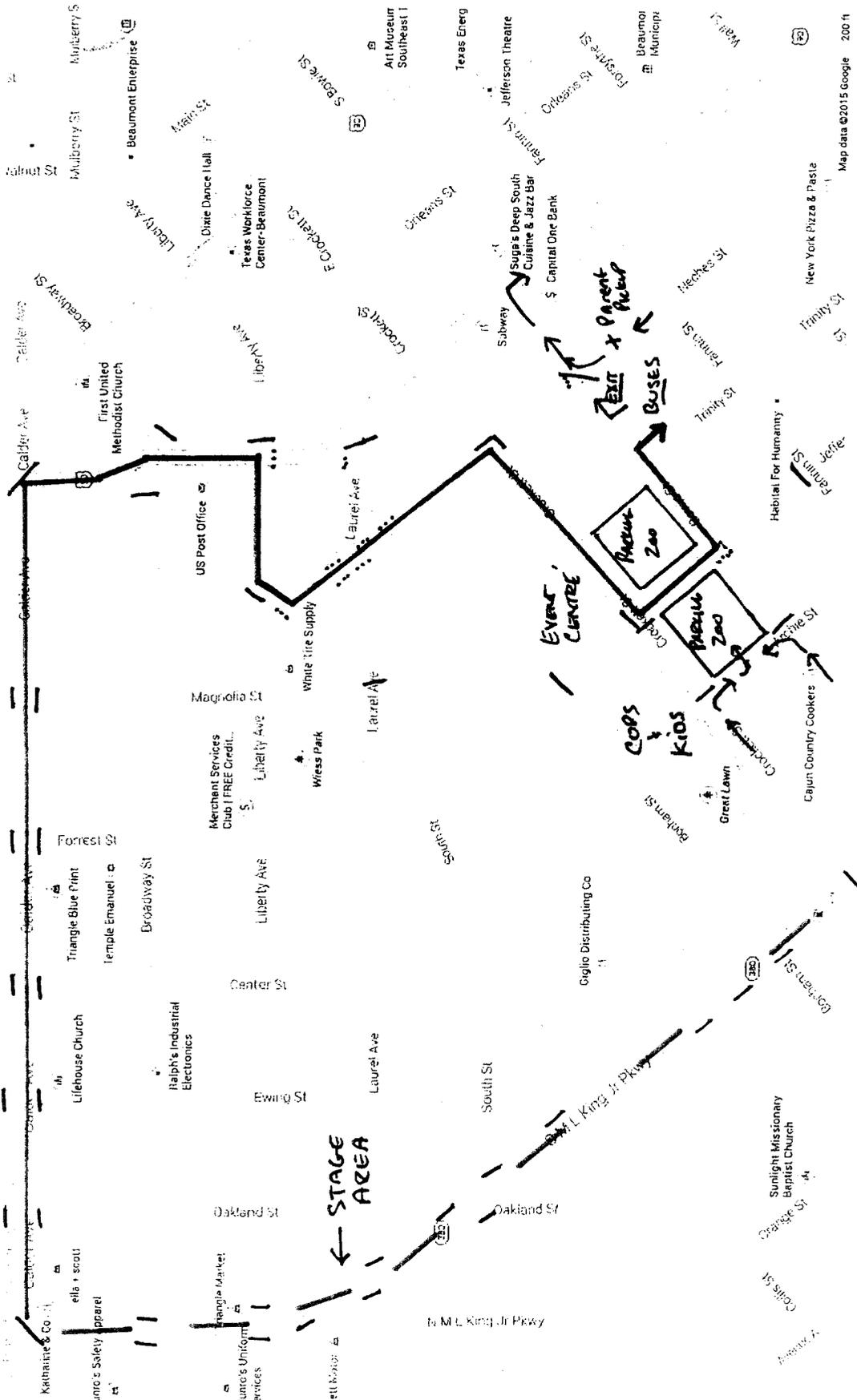
Agreement No. \_\_\_\_\_

**Exhibit A**

**Exhibit B**

Agreement No. \_\_\_\_\_

### Exhibit C



*NRF / COPS & KIDS 2015*

**BEAUMONT**  
— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director *JM*

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the acceptance of a ten foot (10') wide Exclusive Water Line Easement.

---

**BACKGROUND**

Beaumont Providence, LP has agreed to convey a ten foot (10') wide exclusive Water Line Easement to the City of Beaumont. The easement is described as being a 0.3448 acre tract out of the A. Hudson Survey, Abstract No. 33. The water line easement is for the construction of new apartments located at 3585 North Major Drive.

**FUNDING SOURCE**

Not applicable.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

WHEREAS, Beaumont Providence, LP has agreed to convey one (1) ten foot (10') wide exclusive water line easement, said easement being a 0.3448 acre tract out of the A. Hudson Survey, Abstract No. 33, as described and shown in Exhibit "1," attached hereto, to the City of Beaumont for the construction of new apartments located at 3585 North Major Drive; and,

WHEREAS, the City Council has considered the purpose of said conveyance and is of the opinion that the acceptance of said conveyance is necessary and desirable and that same should be accepted;

NOW, THEREFORE, BE IT RESOLVED BY THE  
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT one (1) ten foot (10') exclusive water line easement conveyed by Beaumont Providence, LP, being a 0.3448 acre tract out of the A. Hudson Survey, Abstract No. 33, as described and shown in Exhibit "1," attached hereto, be and the same is hereby, in all things, accepted for the stated purpose.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -



GRANTOR agrees not to place any structures or appurtenances within the Easement Property that will interfere with Grantee's ability to exercise the Easement Rights.

Grantee shall not be responsible for the repair and replacement of any paving or other structures within the Easement Property.

TO HAVE AND TO HOLD the above described easement and right-of-way unto the said CITY OF BEAUMONT, its successors and assigns forever.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

GRANTOR:

BEAUMONT PROVIDENCE, LP

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A, PAGE 1 OF 3  
CENTERLINE DESCRIPTION  
FOR A  
10' WIDE EXCLUSIVE WATER LINE EASEMENT  
OUT OF THE  
A. HUSTON SURVEY, ABSTRACT 33  
JEFFERSON COUNTY, TEXAS  
JANUARY 8, 2015**

That certain centerline description for a 10' wide exclusive water line easement out of the A. Huston Survey, Abstract 33, Jefferson County, Texas, being across a called 11.200 acre tract conveyed to Beaumont Providence, LP as recorded in Clerks File No. 2014008926 of the Official Public Records of Jefferson County, Texas, said centerline description being more particularly described by the following courses and distances;

Note: Bearings are referenced to the east line of the said 11.200 acre tract having been called South 02°52'54" East 485.94 feet.

**COMMENCING** at a 1 ¼" pinched pipe found in the west right-of-way line of FM Highway 364 (aka N. Major Drive) for the southeast corner of a called 100 acre tract conveyed to Boys Haven of America Foundation as recorded in Clerks File No. 2007017637 of the Official Public Records of Jefferson County, Texas and the northeast corner of the said 11.200 acre tract from which a capped iron rod found for the northwest corner of the said 11.200 acre tract bears South 87°03'21" West 1004.24 feet (called South 87°04'36" West 1003.95 feet);

THENCE South 02°52'54" East along the said west right-of-way line of FM Highway 364 (aka N. Major Drive) and the east line of the said 11.200 acre tract a distance of 86.28 feet (called South 02°52'54" East) to a point for the **POINT OF BEGINNING** of the said centerline of the 10' wide exclusive water line easement;

THENCE along the centerline of the said 10' wide exclusive water line easement with the following courses and distances:

South 87°04'36" West, at a distance of 241.57 feet pass the **POINT OF BEGINNING** of **TAP A** from which the **POINT OF TERMINATION** of said **TAP A** bears South 02°55'24" East 10.00 feet, and continuing a total distance of 544.72 feet to an angle point;

**Fittz & Shipman, Inc.**

Page 1 of 2

Project No. 1302502T4WtrLineEsmt

Plat & Description

EXHIBIT A, PAGE 2 OF 3

South 02°55'24" East a distance of 379.20 feet to an angle point;  
North 87°04'36" East, at a distance of 303.15 feet pass the **POINT OF BEGINNING** of **TAP B** from which the **POINT OF TERMINATION** of said **TAP B** bears North 02°55'24" West 33.38 feet, and continuing a total distance of 544.45 feet to a point in the said west right-of-way line of FM Highway 364 (aka Major Drive) and the said east line of the 11.200 acre tract for the **POINT OF TERMINATION** of the said 10' wide exclusive water line easement from which a capped iron rod found for the southeast corner of the said 11.200 acre tract bears South 02°52'54" East 20.42 feet (called South 02°52'54" East).

This description is based on a survey made by Fittz & Shipman, Inc. on April 22, 2014.



Joe A. Mattox  
Registered Professional Land Surveyor No. 5535



**Fittz & Shipman, Inc.**

Page 2 of 2

Project No. 1302502T4WtrLineEsmt

Plat & Description

EXHIBIT "A", PAGE 3 OF 3

NUMBER	DIRECTION	DISTANCE
L1	S 02°55'24" E	10.00
L2	N 02°55'24" W	33.36

C:\PROJECTS\13025 - Providence on Major\13025\_0002\TASK 4\1302502wresmt.dwg Jan 08, 2015 09:38am

NOW OR FORMERLY  
MCNEILL GP, LLC  
CLERKS FILE NO. 2010044439, O.P.R.J.C.  
(CALLED 476.635 ACRES)

NOW OR FORMERLY  
BOYS HAVEN OF AMERICA  
FOUNDATION  
CLERKS FILE NO. 2007017637, O.P.R.J.C.  
(CALLED 100 ACRES)

(CALLED S 87°04'36" W 1003.95)  
S 87°03'21" W 1004.24

N 02°54'33" W 486.00  
(CALLED N 02°52'52" W 485.94)

BEAUMONT PROVIDENCE, LP  
CLERKS FILE NO. 2014008926, O.P.R.J.C.  
(CALLED 11,200 ACRES)

SURVEYOR'S CERTIFICATION:  
I DO HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF  
THAT THIS IS AN ACCURATE PLAT OF A SURVEY & DESCRIPTION MADE  
ON THE GROUND UNDER MY SUPERVISION ON APRIL 22, 2014.



JOE A. MATTOX  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5535

COMMERCING  
POINT  
FOUND 1 1/4"  
PINCHED PIPE

S 02°52'54" E 485.89  
(CALLED S 02°52'54" E 485.94)  
FM HIGHWAY 364  
(AKA MAJOR DRIVE)

FOUND  
CAPPED  
IRON ROD

S 87°04'36" W 544.72

POINT OF  
BEGINNING  
10' WIDE  
EXCLUSIVE  
WATER LINE  
EASEMENT

10' WIDE  
EXCLUSIVE  
WATER LINE  
EASEMENT

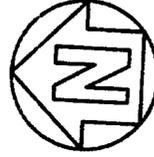
POINT OF  
TERMINATION  
10' WIDE  
EXCLUSIVE  
WATER LINE  
EASEMENT

N 87°04'36" E 644.45  
303.15

S 87°02'59" W 1004.01  
(CALLED S 87°04'36" W 1003.95)

REMAINDER OF  
PARET INTERESTS, L.L.C.  
CLERKS FILE NO. 2010043851, O.P.R.J.C.  
(CALLED TRACT TWO-44-787 ACRES)

FOUND  
CAPPED  
IRON ROD



**Fittz & Shipman**  
INC.

Consulting Engineers and Land Surveyors

1405 CORNERSTONE COURT, BEAUMONT, TEXAS  
(409) 832-7238 FAX (409) 832-7303

10' WIDE EXCLUSIVE WATER LINE EASEMENT

PROJECT NAME: BEAUMONT PROVIDENCE, LP  
A. HUSTON SURVEY, A-33  
BEAUMONT, TEXAS

DATE: 1-8-15

SHEET NO

3

PROJECT NO.  
13025.0002  
TASK 4

# BEAUMONT

TEXAS

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Laura Clark, Chief Financial Officer 

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to execute a Lease Agreement with David Derharoutian (Landlord) for EMS Med 4.

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## **BACKGROUND**

EMS Med No. 4 has operated at 8155 Phelan Blvd., an 800 square foot facility, since April 2004. The current lease of \$1,292.72 per month will expire on March 31, 2015. The Landlord has proposed a new three (3) year lease with the rental rate increasing approximately 5% to \$1,357.08 per month, or \$16,284.96 annually. The Landlord states the increase is due to increased taxes and insurance. The new lease will begin on April 1, 2015 and end on March 31, 2018.

All other provisions of the lease will remain the same. All utilities will be paid by the City, and minor maintenance of the facility, such as the air conditioning filter replacement and grounds maintenance, will be the responsibility of the City. The lease includes a provision that allows either party to terminate the lease with thirty (30) days' written notice. Sherry Ulmer, Public Health Director, approves of the terms of the proposed new lease.

A copy of the proposed lease in its substantial form is attached for your review.

## **FUNDING SOURCE**

General Fund - EMS Division's operating budget.

## **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVE/D BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute a three (3) year Lease Agreement, substantially in the form attached hereto as Exhibit "A," in the amount of \$1,357.08 per month with David Derharoutian (Landlord) for the use of property located at 8155 Phelan Boulevard, Beaumont, Texas, for EMS Med No. 4. The new lease would begin April 1, 2015, and end on March 31, 2018.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -





TEXAS ASSOCIATION OF REALTORS®  
**COMMERCIAL LEASE**

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.  
©Texas Association of REALTORS®, Inc. 2014

1. **PARTIES:** The parties to this lease are:

Landlord: DAVID DERHAROUTIAN \_\_\_\_\_ ; and

Tenant: CITY OF BEAUMONT \_\_\_\_\_  
att: BRENDA DEAN \_\_\_\_\_

2. **LEASED PREMISES:**

A. Landlord leases to Tenant the following described real property, known as the "leased premises," along with all its improvements (Check only one box):

(1) Multiple-Tenant Property: Suite or Unit Number \_\_\_\_\_ containing approximately \_\_\_\_\_ square feet of rentable area in \_\_\_\_\_ (project name) at \_\_\_\_\_ (address) in \_\_\_\_\_ (city), \_\_\_\_\_ (county), Texas, which is legally described on attached Exhibit \_\_\_\_\_ or as follows: \_\_\_\_\_

(2) Single-Tenant Property: The real property containing approximately \_\_\_\_\_ square feet of rentable area at: 8155 PHELAN \_\_\_\_\_ (address) in BEAUMONT (city), JEFFERSON (county), Texas, which is legally described on attached Exhibit C. WILLIAMS or as follows: ABSTRACT 59 TR 72-A SP-6 BLOCK18

B. If Paragraph 2A(1) applies:  
(1) "Property" means the building or complex in which the leased premises are located, inclusive of any common areas, drives, parking areas, and walks; and  
(2) the parties agree that the rentable area of the leased premises may not equal the actual or useable area within the leased premises and may include an allocation of common areas in the Property. The rentable area  will  will not be adjusted if re-measured.

3. **TERM:**

A. Term: The term of this lease is 36 months and -0- days, commencing on: APRIL 1, 2015 (Commencement Date) and ending on MARCH 31, 2018 (Expiration Date).

B. Delay of Occupancy: If Tenant is unable to occupy the leased premises on the Commencement Date because of construction on the leased premises to be completed by Landlord that is not substantially

complete or a prior tenant's holding over of the leased premises, Landlord will not be liable to Tenant for such delay and this lease will remain enforceable. In the event of such a delay, the Commencement Date will automatically be extended to the date Tenant is able to occupy the Property and the Expiration Date will also be extended by a like number of days, so that the length of this lease remains unchanged. If Tenant is unable to occupy the leased premises after the 90th day after the Commencement Date because of construction on the leased premises to be completed by Landlord that is not substantially complete or a prior tenant's holding over of the leased premises, Tenant may terminate this lease by giving written notice to Landlord before the leased premises become available to be occupied by Tenant and Landlord will refund to Tenant any amounts paid to Landlord by Tenant. This Paragraph 3B does not apply to any delay in occupancy caused by cleaning or repairs.

C. Certificate of Occupancy: Unless the parties agree otherwise, Tenant is responsible for obtaining a certificate of occupancy for the leased premises if required by a governmental body.

**4. RENT AND EXPENSES:**

A. Base Monthly Rent: On or before the first day of each month during this lease, Tenant will pay Landlord base monthly rent as described on attached Exhibit N/A or as follows:

Dates		Rate per rentable square foot (optional)		Base Monthly Rent \$
From	To	\$ Monthly Rate	\$ Annual Rate	
04/01/2015	03/31/2018	/ rsf / month	/ rsf / year	1,357.08
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	

B. Additional Rent: In addition to the base monthly rent, Tenant will pay Landlord all other amounts, as provided by the attached (*Check all that apply.*):

- (1) Commercial Lease Addendum for Expense Reimbursement (TAR-2103)
- (2) Commercial Lease Addendum for Percentage Rent (TAR-2106)
- (3) Commercial Lease Addendum for Parking (TAR-2107)
- (4) \_\_\_\_\_

All amounts payable under the applicable addenda are deemed to be "rent" for the purposes of this lease.

C. First Full Month's Rent: The first full monthly rent is due on or before APRIL 1, 2015

D. Prorated Rent: If the Commencement Date is on a day other than the first day of a month, Tenant will pay Landlord as prorated rent, an amount equal to the base monthly rent multiplied by the following fraction: the number of days from the Commencement Date to the first day of the following month divided by the number of days in the month in which this lease commences. The prorated rent is due on or before the Commencement Date.

E. Place of Payment: Tenant will remit all amounts due to Landlord under this lease to the following person at the place stated or to such other person or place as Landlord may later designate in writing:

Name: DAVID DERHAROUTIAN c/o STACY TYWATER  
 Address: BEAUMONT AREA FEDERAL CREDIT UNION

F. Method of Payment: Tenant must pay all rent timely without demand, deduction, or offset, except as permitted by law or this lease. If Tenant fails to timely pay any amounts due under this lease or if any

check of Tenant is returned to Landlord by the institution on which it was drawn, Landlord after providing written notice to Tenant may require Tenant to pay subsequent amounts that become due under this lease in certified funds. This paragraph does not limit Landlord from seeking other remedies under this lease for Tenant's failure to make timely payments with good funds.

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

~~G. Late Charges: If Landlord does not actually receive a rent payment at the designated place of payment within 5 days after the date it is due, Tenant will pay Landlord a late charge equal to 10% of the amount due. In this paragraph, the mailbox is not the agent for receipt for Landlord. The late charge is a cost associated with the collection of rent and Landlord's acceptance of a late charge does not waive Landlord's right to exercise remedies under Paragraph 20.~~ Shall be controlled by Chapter

2251 et.seq. of the Texas Government Code.

H. Returned Checks: Tenant will pay \$ 25.00 for each check Tenant tenders to Landlord which is returned by the institution on which it is drawn for any reason, plus any late charges until Landlord receives payment.

**5. SECURITY DEPOSIT:**

- A. Upon execution of this lease, Tenant will pay \$ N/A to Landlord as a security deposit.
- B. Landlord may apply the security deposit to any amounts owed by Tenant under this lease. If Landlord applies any part of the security deposit during any time this lease is in effect to amounts owed by Tenant, Tenant must, within 10 days after receipt of notice from Landlord, restore the security deposit to the amount stated.
- C. Within 60 days after Tenant surrenders the leased premises and provides Landlord written notice of Tenant's forwarding address, Landlord will refund the security deposit less any amounts applied toward amounts owed by Tenant or other charges authorized by this lease.

**6. TAXES:** Unless otherwise agreed by the parties, Landlord will pay all real property ad valorem taxes assessed against the leased premises.

**7. UTILITIES:**

A. The party designated below will pay for the following utility charges to the leased premises and any connection charges for the utilities. (Check all that apply.)

	<u>N/A</u>	<u>Landlord</u>	<u>Tenant</u>
(1) Water	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Electric	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Gas	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) Telephone	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6) Internet	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7) Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(8) Trash	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(9) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(10) All other utilities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. The party responsible for the charges under Paragraph 7A will pay the charges directly to the utility service provider. The responsible party may select the utility service provider except that if Tenant selects the provider, any access or alterations to the Property or leased premises necessary for the utilities may be made only with Landlord's prior consent, which Landlord will not unreasonably withhold. If Landlord incurs any liability for utility or connection charges for which Tenant is responsible to pay

and Landlord pays such amount, Tenant will immediately upon written notice from Landlord reimburse Landlord such amount

C. **Notice:** Tenant should determine if all necessary utilities are available to the leased premises and are adequate for Tenant's intended use.

D. **After-Hours HVAC Charges:** "HVAC services" means heating, ventilating, and air conditioning of the leased premises. (Check one box only.)

(1) Landlord is obligated to provide the HVAC services to the leased premises only during the Property's operating hours specified under Paragraph 9C.

(2) Landlord will provide the HVAC services to the leased premises during the operating hours specified under Paragraph 9C for no additional charge and will, at Tenant's request, provide HVAC services to the leased premises during other hours for an additional charge of \$ \_\_\_\_\_ per hour. Tenant will pay Landlord the charges under this paragraph immediately upon receipt of Landlord's invoice. Hourly charges are charged on a half-hour basis. Any partial hour will be rounded up to the next half hour. Tenant will comply with Landlord's procedures to make a request to provide the additional HVAC services under this paragraph.

(3) Tenant will pay for the HVAC services under this lease.

8. **INSURANCE:** City is self insured. See Attachment "A".

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

~~A. During all times this lease is in effect, Tenant must, at Tenant's expense, maintain in full force and effect from an insurer authorized to operate in Texas:~~

~~(1) public liability insurance naming Landlord as an additional insured with policy limits on an occurrence basis in a minimum amount of: (check only (a) or (b) below)~~

~~(a) \$1,000,000; or~~

~~(b) \$2,000,000.~~

~~If neither box is checked the minimum amount will be \$1,000,000.~~

~~(2) personal property damage insurance for the business operations being conducted in the leased premises and contents in the leased premises in an amount sufficient to replace such contents after a casualty loss; and~~

~~(3) business interruption insurance sufficient to pay 12 months of rent payments;~~

~~B. Before the Commencement Date, Tenant must provide Landlord with a copy of insurance certificates evidencing the required coverage. If the insurance coverage is renewed or changes in any manner or degree at any time this lease is in effect, Tenant must, not later than 10 days after the renewal or change, provide Landlord a copy of an insurance certificate evidencing the renewal or change.~~

~~C. If Tenant fails to maintain the required insurance in full force and effect at all times this lease is in effect, Landlord may:~~

~~(1) purchase insurance that will provide Landlord the same coverage as the required insurance and Tenant must immediately reimburse Landlord for such expense; or~~

~~(2) exercise Landlord's remedies under Paragraph 20.~~

~~D. Unless the parties agree otherwise, Landlord will maintain in full force and effect insurance for: (1) fire and extended coverage in an amount to cover the reasonable replacement cost of the improvements of the Property; and (2) any public liability insurance in an amount that Landlord determines reasonable and appropriate.~~

E. If there is an increase in Landlord's insurance premiums for the leased premises or Property or its contents that is caused by Tenant, Tenant's use of the leased premises, or any improvements made by or for Tenant, Tenant will, for each year this lease is in effect, pay Landlord the increase immediately

after Landlord notifies Tenant of the increase. Any charge to Tenant under this Paragraph 8E will be equal to the actual amount of the increase in Landlord's insurance premium.

**9. USE AND HOURS:**

- A. Tenant may use the leased premises for the following purpose and no other: EMERGENCY MEDICAL SERVICE for the CITY OF BEAUMONT INCLUDING STORAGE OF EMERGENCY UNITS AND LIVING QUARTERS for EMPLOYEES
- B. Unless otherwise specified in this lease, Tenant will operate and conduct its business in the leased premises during business hours that are typical of the industry in which Tenant represents it operates.
- C. The Property maintains operating hours of (specify hours, days of week, and if inclusive or exclusive of weekends and holidays): 24 (TWENTY-FOUR) HOURS A DAY- 7 (SEVEN) DAYS A WEEK

**10. LEGAL COMPLIANCE:**

- A. Tenant may not use or permit any part of the leased premises or the Property to be used for:
  - (1) any activity which is a nuisance or is offensive, noisy, or dangerous;
  - (2) any activity that interferes with any other tenant's normal business operations or Landlord's management of the Property;
  - (3) any activity that violates any applicable law, regulation, zoning ordinance, restrictive covenant, governmental order, owners' association rules, tenants' association rules, Landlord's rules or regulations, or this lease;
  - (4) any hazardous activity that would require any insurance premium on the Property or leased premises to increase or that would void any such insurance;
  - (5) any activity that violates any applicable federal, state, or local law, including but not limited to those laws related to air quality, water quality, hazardous materials, wastewater, waste disposal, air emissions, or other environmental matters;
  - (6) the permanent or temporary storage of any hazardous material; or
  - (7) \_\_\_\_\_
- B. "Hazardous material" means any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, solvent, or oil as defined by any federal, state, or local environmental law, regulation, ordinance, or rule existing as of the date of this lease or later enacted.
- C. Landlord does not represent or warrant that the leased premises or Property conform to applicable restrictions, zoning ordinances, setback lines, parking requirements, impervious ground cover ratio requirements, and other matters that may relate to Tenant's intended use. Tenant must satisfy itself that the leased premises may be used as Tenant intends by independently investigating all matters related to the use of the leased premises or Property. Tenant agrees that it is not relying on any warranty or representation made by Landlord, Landlord's agent, or any broker concerning the use of the leased premises or Property.

**11. SIGNS:**

- A. Tenant may not post or paint any signs or place any decoration outside the leased premises or on the Property without Landlord's written consent. Landlord may remove any unauthorized sign or decorations, and Tenant will promptly reimburse Landlord for its cost to remove any unauthorized sign or decorations.

- B. Any authorized sign must comply with all laws, restrictions, zoning ordinances, and any governmental order relating to signs on the leased premises or Property. Landlord may temporarily remove any authorized sign to complete repairs or alterations to the leased premises or the Property.
- C. By providing written notice to Tenant before this lease ends, Landlord may require Tenant, upon move-out and at Tenant's expense, to remove, without damage to the Property or leased premises, any or all signs or decorations that were placed on the Property or leased premises by or at the request of Tenant. Any signs or decorations that Landlord does not require Tenant to remove and that are fixtures, become the property of the Landlord and must be surrendered to Landlord at the time this lease ends.

**12. ACCESS BY LANDLORD:**

- A. During Tenant's normal business hours Landlord may enter the leased premises for any reasonable purpose, including but not limited to purposes for repairs, maintenance, alterations, and showing the leased premises to prospective tenants or purchasers. Landlord may access the leased premises after Tenant's normal business hours if: (1) entry is made with Tenant's permission; or (2) entry is necessary to complete emergency repairs. Landlord will not unreasonably interfere with Tenant's business operations when accessing the leased premises.
- B. During the last 30 days of this lease, Landlord may place a "For Lease" or similarly worded sign on the leased premises.

**13. MOVE-IN CONDITION:** Tenant has inspected the leased premises and accepts it in its present (as-is) condition unless expressly noted otherwise in this lease or in an addendum. Landlord and any agent have made no express or implied warranties as to the condition or permitted use of the leased premises or Property.

**14. MOVE-OUT CONDITION AND FORFEITURE OF TENANT'S PERSONAL PROPERTY:**

- A. At the time this lease ends, Tenant will surrender the leased premises in the same condition as when received, except for normal wear and tear. Tenant will leave the leased premises in a clean condition free of all trash, debris, personal property, hazardous materials, and environmental contaminants.
- B. If Tenant leaves any personal property in the leased premises after Tenant surrenders possession of the leased premises, Landlord may: (1) require Tenant, at Tenant's expense, to remove the personal property by providing written notice to Tenant; or (2) retain such personal property as forfeited property to Landlord.
- C. "Surrender" means vacating the leased premises and returning all keys and access devices to Landlord. "Normal wear and tear" means deterioration that occurs without negligence, carelessness, accident, or abuse.
- D. By providing written notice to Tenant before this lease ends, Landlord may require Tenant, upon move-out and at Tenant's expense, to remove, without damage to the Property or leased premises, any or all fixtures that were placed on the Property or leased premises by or at the request of Tenant. Any fixtures that Landlord does not require Tenant to remove become the property of the Landlord and must be surrendered to Landlord at the time this lease ends.

**15. MAINTENANCE AND REPAIRS:**

- A. Cleaning: Tenant must keep the leased premises clean and sanitary and promptly dispose of all garbage in appropriate receptacles.  Landlord  Tenant will provide, at its expense, janitorial services to the leased premises that are customary and ordinary for the property type. Tenant will maintain any grease trap on the Property which Tenant uses, including but not limited to periodic

emptying and cleaning, as well as making any modification to the grease trap that may be necessary to comply with any applicable law.

- B. Repairs of Conditions Caused by a Party: Each party must promptly repair a condition in need of repair that is caused, either intentionally or negligently, by that party or that party's guests, patrons, invitees, contractors or permitted subtenants.
- C. Repair and Maintenance Responsibility: Except as otherwise provided by this Paragraph 15, the party designated below, at its expense, is responsible to maintain and repair the following specified items in the leased premises (if any). The specified items must be maintained in clean and good operable condition. If a governmental regulation or order requires a modification to any of the specified items, the party designated to maintain the item must complete and pay the expense of the modification. The specified items include and relate only to real property in the leased premises. Tenant is responsible for the repair and maintenance of its personal property. *(Check all that apply.)*

	N/A	Landlord	Tenant
(1) Foundation, exterior walls, roof, and other structural components....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Glass and windows.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Fire protection equipment .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Fire sprinkler systems .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) Exterior & overhead doors, including closure devices, molding, locks, and hardware .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6) Grounds maintenance, including landscaping and irrigation systems .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7) Interior doors, including closure devices, frames, molding, locks, and hardware .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(8) Parking areas and walks.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(9) Plumbing systems, drainage systems and sump pumps .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(10) Electrical systems, mechanical systems .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(11) Ballast and lamp replacement .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(12) Heating, Ventilation and Air Conditioning (HVAC) systems .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(13) HVAC system replacement .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(14) Signs and lighting: .....			
(a) Pylon.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Facia.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Monument.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Door/Suite.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) Other: .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(15) Extermination and pest control, excluding wood-destroying insects.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(16) Fences and Gates .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(17) Storage yards and storage buildings.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(18) Wood-destroying insect treatment and repairs .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(19) Cranes and related systems.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(20) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(21) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(22) All other items and systems.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- D. Repair Persons: Repairs must be completed by trained, qualified, and insured repair persons.

- E. HVAC Service Contract: If Tenant maintains the HVAC system under Paragraph 15C(12), Tenant  is  is not required to maintain, at its expense, a regularly scheduled maintenance and service contract for the HVAC system. The maintenance and service contract must be purchased from a HVAC maintenance company that regularly provides such contracts to similar properties. If Tenant fails to maintain a required HVAC maintenance and service contract in effect at all times during this lease, Landlord may do so and Tenant will reimburse Landlord for the expense of such maintenance and service contract or Landlord may exercise Landlord's remedies under Paragraph 20.
- F. Common Areas: Landlord will maintain any common areas in the Property in a manner as Landlord determines to be in the best interest of the Property. Landlord will maintain any elevator and signs in the common area. Landlord may change the size, dimension, and location of any common areas, provided that such change does not materially impair Tenant's use and access to the leased premises. Tenant has the non-exclusive license to use the common areas in compliance with Landlord's rules and regulations. Tenant may not solicit any business in the common areas or interfere with any other person's right to use the common areas. This paragraph does not apply if Paragraph 2A(2) applies.
- G. Notice of Repairs: Tenant must promptly notify Landlord of any item that is in need of repair and that is Landlord's responsibility to repair. All requests for repairs to Landlord must be in writing.
- H. Failure to Repair: Landlord must make a repair for which Landlord is responsible within a reasonable period of time after Tenant provides Landlord written notice of the needed repair. If Tenant fails to repair or maintain an item for which Tenant is responsible within 10 days after Landlord provides Tenant written notice of the needed repair or maintenance, Landlord may: (1) repair or maintain the item, without liability for any damage or loss to Tenant, and Tenant must immediately reimburse Landlord for the cost to repair or maintain; or (2) exercise Landlord's remedies under Paragraph 20.

**16. ALTERATIONS:**

- A. Tenant may not alter (including making any penetrations to the roof, exterior walls or foundation), improve, or add to the Property or the leased premises without Landlord's written consent. Landlord will not unreasonably withhold consent for the Tenant to make reasonable non-structural alterations, modifications, or improvements to the leased premises.
- B. Tenant may not alter any locks or any security devices on the Property or the leased premises without Landlord's consent. If Landlord authorizes the changing, addition, or rekeying of any locks or other security devices, Tenant must immediately deliver the new keys and access devices to Landlord.
- C. If a governmental order requires alteration or modification to the leased premises, the party obligated to maintain and repair the item to be modified or altered as designated in Paragraph 15 will, at its expense, modify or alter the item in compliance with the order and in compliance with Paragraphs 16A and 17.
- D. Any alterations, improvements, fixtures or additions to the Property or leased premises installed by either party during the term of this lease will become Landlord's property and must be surrendered to Landlord at the time this lease ends, except for those fixtures Landlord requires Tenant to remove under Paragraph 11 or 14 or if the parties agree otherwise in writing.

- 17. LIENS:** Tenant may not do anything that will cause the title of the Property or leased premises to be encumbered in any way. If Tenant causes a lien to be filed against the Property or leased premises, Tenant will within 20 days after receipt of Landlord's demand: (1) pay the lien and have the lien released of record; or (2) take action to discharge the lien. Tenant will provide Landlord a copy of any release Tenant obtains pursuant to this paragraph.

- 18. LIABILITY:** To the extent permitted by law, Landlord is NOT responsible to Tenant or Tenant's employees, patrons, guests, or invitees for any damages, injuries, or losses to person or property caused by:

A. an act, omission, or neglect of: Tenant; Tenant's agent; Tenant's guest; Tenant's employees; Tenant's patrons; Tenant's invitees; or any other tenant on the Property;

B. fire, flood, water leaks, ice, snow, hail, winds, explosion, smoke, riot, strike, interruption of utilities, theft, burglary, robbery, assault, vandalism, other persons, environmental contaminants, or other occurrences or casualty losses.

19. **INDEMNITY:** Each party <sup>will be responsible for</sup> ~~will indemnify, defend, and hold the other party harmless from any property damage, personal injury, suits, actions, liabilities, damages, cost of repairs or service to the leased premises or Property, or any other loss caused, negligently or otherwise, by that party or that party's employees, patrons, guests, or invitees.~~

caused

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

20. **DEFAULT:**

A. If Landlord fails to comply with this lease within 30 days after Tenant notifies Landlord of Landlord's failure to comply, Landlord will be in default and Tenant may seek any remedy provided by law. If, however, Landlord's non-compliance reasonably requires more than 30 days to cure, Landlord will not be in default if the cure is commenced within the 30-day period and is diligently pursued.

B. If Landlord does not actually receive at the place designated for payment any rent due under this lease within 5 days after it is due, Tenant will be in default. If Tenant fails to comply with this lease for any other reason within 10 days after Landlord notifies Tenant of its failure to comply, Tenant will be in default.

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

C. If Tenant is in default, Landlord may, ~~with at least 3 days written notice to Tenant: (i) terminate this lease, or (ii) terminate Tenant's right to occupy the leased premises without terminating this lease and~~ seek remedies as provided by Texas law. ~~may accelerate all rents which are payable during the remainder of this lease or any renewal period. Landlord will attempt to mitigate any damage or loss caused by Tenant's breach by using commercially reasonable means. If Tenant is in default, Tenant will be liable for:~~

- ~~(1) any lost rent;~~
- ~~(2) Landlord's cost of reletting the leased premises, including brokerage fees, advertising fees, and other fees necessary to relet the leased premises;~~
- ~~(3) repairs to the leased premises for use beyond normal wear and tear;~~
- ~~(4) all Landlord's costs associated with eviction of Tenant, such as attorney's fees, court costs, and prejudgment interest;~~
- ~~(5) all Landlord's costs associated with collection of rent such as collection fees, late charges, and returned check charges;~~
- ~~(6) cost of removing any of Tenant's equipment or fixtures left on the leased premises or Property;~~
- ~~(7) cost to remove any trash, debris, personal property, hazardous materials, or environmental contaminants left by Tenant or Tenant's employees, patrons, guests, or invitees in the leased premises or Property;~~
- ~~(8) cost to replace any unreturned keys or access devices to the leased premises, parking areas, or Property; and~~
- ~~(9) any other recovery to which Landlord may be entitled under this lease or under law.~~

21. **ABANDONMENT, INTERRUPTION OF UTILITIES, REMOVAL OF PROPERTY, AND LOCKOUT:** Chapter 93 of the Texas Property Code governs the rights and obligations of the parties with regard to: (a) abandonment of the leased premises; (b) interruption of utilities; (c) removal of Tenant's property; and (d) "lock-out" of Tenant.

22. **HOLDOVER:** If Tenant fails to vacate the leased premises at the time this lease ends, Tenant will become a tenant-at-will and must vacate the leased premises immediately upon receipt of demand from Landlord. No holding over by Tenant, with or without the consent of Landlord, will extend this lease. Tenant will

Commercial Lease concerning: BEAUMONT

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

indemnify Landlord and any prospective tenants for any and all damages caused by the holdover. Rent for any holdover period will be ~~150%~~ <sup>100%</sup> of the base monthly rent plus any additional rent calculated on a daily basis and will be immediately due and payable daily without notice or demand.

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

~~23. LANDLORD'S LIEN AND SECURITY INTEREST: To secure Tenant's performance under this lease, Tenant grants to Landlord a lien and security interest against all of Tenant's nonexempt personal property that is in the leased premises or on the Property. This lease is a security agreement for the purposes of the Uniform Commercial Code. Landlord may file a financing statement to perfect Landlord's security interest under the Uniform Commercial Code.~~

24. **ASSIGNMENT AND SUBLETTING:** Landlord may assign this lease to any subsequent owner of the Property. Tenant may not assign this lease or sublet any part of the leased premises without Landlord's written consent. An assignment of this lease or subletting of the leased premises without Landlord's written consent is voidable by Landlord. If Tenant assigns this lease or sublets any part of the leased premises, Tenant will remain liable for all of Tenant's obligations under this lease regardless if the assignment or sublease is made with or without the consent of Landlord.

25. **RELOCATION:**

- A. By providing Tenant with not less than 90 days advanced written notice, Landlord may require Tenant to relocate to another location in the Property, provided that the other location is equal in size or larger than the leased premises then occupied by Tenant and contains similar leasehold improvements. Landlord will pay Tenant's reasonable out-of-pocket moving expenses for moving to the other location. "Moving expenses" means reasonable expenses payable to professional movers, utility companies for connection and disconnection fees, wiring companies for connecting and disconnecting Tenant's office equipment required by the relocation, and printing companies for reprinting Tenant's stationary and business cards. A relocation of Tenant will not change or affect any other provision of this lease that is then in effect, including rent and reimbursement amounts, except that the description of the suite or unit number will automatically be amended.
- B. Landlord may not require Tenant to relocate to another location in the Property without Tenant's prior consent.

26. **SUBORDINATION:**

- A. This lease and Tenant's leasehold interest are and will be subject, subordinate, and inferior to:
  - (1) any lien, encumbrance, or ground lease now or hereafter placed on the leased premises or the Property that Landlord authorizes;
  - (2) all advances made under any such lien, encumbrance, or ground lease;
  - (3) the interest payable on any such lien or encumbrance;
  - (4) any and all renewals and extensions of any such lien, encumbrance, or ground lease;
  - (5) any restrictive covenant affecting the leased premises or the Property; and
  - (6) the rights of any owners' association affecting the leased premises or Property.
- B. Tenant must, on demand, execute a subordination, attornment, and non-disturbance agreement that Landlord may request that Tenant execute, provided that such agreement is made on the condition that this lease and Tenant's rights under this lease are recognized by the lien-holder.

~~27. ESTOPPEL CERTIFICATES & FINANCIAL INFORMATION:~~

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

~~A. Within 10 days after receipt of a written request from Landlord, Tenant will execute and deliver to Landlord an estoppel certificate that identifies the terms and conditions of this lease.~~

~~B. Within 30 days after receipt of a written request from Landlord, Tenant will provide to Landlord Tenant's current financial information (balance sheet and income statement). Landlord may request the financial information no more frequently than once every 12 months.~~

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

**28. CASUALTY LOSS:**

- A. Tenant must immediately notify Landlord of any casualty loss in the leased premises. Within 20 days after receipt of Tenant's notice of a casualty loss, Landlord will notify Tenant if the leased premises are less than or more than 50% unusable, on a per square foot basis, and if Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty loss.
- B. If the leased premises are less than 50% unusable and Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty, Landlord will restore the leased premises to substantially the same condition as before the casualty. If Landlord fails to substantially restore within the time required, Tenant may terminate this lease.
- C. If the leased premises are more than 50% unusable and Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty, Landlord may: (1) terminate this lease; or (2) restore the leased premises to substantially the same condition as before the casualty. If Landlord chooses to restore and does not substantially restore the leased premises within the time required, Tenant may terminate this lease.
- D. If Landlord notifies Tenant that Landlord cannot substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty loss, Landlord may: (1) choose not to restore and terminate this lease; or (2) choose to restore, notify Tenant of the estimated time to restore, and give Tenant the option to terminate this lease by notifying Landlord within 10 days.
- E. If this lease does not terminate because of a casualty loss, rent will be reduced from the date Tenant notifies Landlord of the casualty loss to the date the leased premises are substantially restored by an amount proportionate to the extent the leased premises are unusable.

**29. CONDEMNATION:** If after a condemnation or purchase in lieu of condemnation the leased premises are totally unusable for the purposes stated in this lease, this lease will terminate. If after a condemnation or purchase in lieu of condemnation the leased premises or Property are partially unusable for the purposes of this lease, this lease will continue and rent will be reduced in an amount proportionate to the extent the leased premises are unusable. Any condemnation award or proceeds in lieu of condemnation are the property of Landlord and Tenant has no claim to such proceeds or award. Tenant may seek compensation from the condemning authority for its moving expenses and damages to Tenant's personal property.

~~**30. ATTORNEY'S FEES:** Any person who is a prevailing party in any legal proceeding brought under or related to the transaction described in this lease is entitled to recover prejudgment interest, reasonable attorney's fees, and all other costs of litigation from the nonprevailing party.~~ A party's entitlement to attorney fees shall be controlled by Texas law.

**31. REPRESENTATIONS:**

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_

- A. Tenant's statements in this lease and any application for rental are material representations relied upon by Landlord. Each party signing this lease represents that he or she is of legal age to enter into a binding contract and is authorized to sign the lease. If Tenant makes any misrepresentation in this lease or in any application for rental, Tenant is in default.
- B. Landlord is not aware of any material defect on the Property that would affect the health and safety of an ordinary person or any environmental hazard on or affecting the Property that would affect the

health or safety of an ordinary person, except: \_\_\_\_\_

C. Each party and each signatory to this lease represents that: (1) it is not a person named as a Specially Designated National and Blocked Person as defined in Presidential Executive Order 13224; (2) it is not acting, directly or indirectly, for or on behalf of a Specially Designated and Blocked Person; and (3) is not arranging or facilitating this lease or any transaction related to this lease for a Specially Designated and Blocked Person. Any party or any signatory to this lease who is a Specially Designated and Blocked person will indemnify and hold harmless any other person who relies on this representation and who suffers any claim, damage, loss, liability or expense as a result of this representation.

**32. BROKERS:**

A. The brokers to this lease are:

Principal Broker: G.W. PROPERTIES Cooperating Broker: \_\_\_\_\_

Agent: KELLI MANESS Agent: \_\_\_\_\_

Address: 1102 LONGFELLOW DRIVE, SUITE 2 Address: \_\_\_\_\_

Phone & Fax: (409) 673-6333 (409) 892-5454 Phone & Fax: \_\_\_\_\_

E-mail: kmaness@hotmail.com E-mail: \_\_\_\_\_

License No.: 418588 License No.: \_\_\_\_\_

Principal Broker: (Check only one box) Cooperating Broker represents Tenant.  
 represents Landlord only.  
 represents Tenant only.  
 is an intermediary between Landlord and Tenant.

B. Fees:

(1) Principal Broker's fee will be paid according to: (Check only one box).  
 (a) a separate written commission agreement between Principal Broker and:  
 Landlord  Tenant.  
 (b) the attached Commercial Lease Addendum for Broker's Fee (TAR-2102).

(2) Cooperating Broker's fee will be paid according to: (Check only one box).  
 (a) a separate written commission agreement between Cooperating Broker and:  
 Principal Broker  Landlord  Tenant.  
 (b) the attached Commercial Lease Addendum for Broker's Fee (TAR-2102).

**33. ADDENDA:** Incorporated into this lease are the addenda, exhibits and other information marked in the Addenda and Exhibit section of the Table of Contents. If Landlord's Rules and Regulations are made part of this lease, Tenant agrees to comply with the Rules and Regulations as Landlord may, at its discretion, amend from time to time.

**34. NOTICES:** All notices under this lease must be in writing and are effective when hand-delivered, sent by mail, or sent by facsimile transmission to:

Landlord at: DAVID DERHAROUTIAN  
Address: 8114 HIGH TERRACE, SUGAR LAND, TEXAS 77479

Commercial Lease concerning: BEAUMONT,

Phone: (409) 351-9255 Fax: \_\_\_\_\_

and a copy to: DAVID DERHAROUTIAN

Address: e-mail: david.derharoutian@t-online.de

Phone: (281) 343-5866 Fax: \_\_\_\_\_

Landlord also consents to receive notices by e-mail at: \_\_\_\_\_

Tenant at the leased premises,  
and a copy to: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Tenant also consents to receive notices by e-mail at: \_\_\_\_\_

**35. SPECIAL PROVISIONS:**

Monthly Rents to be mailed to:

Stacy Tywater  
Beaumont Area Educators Federal Credit Union  
P.O. Box 751  
Beaumont, Texas 77704

ALL IMPROVEMENTS to 8155 PHELAN will stay with property.

Tenant responsible for carpet and electricity to carport.

If existing carpet removed it is to be replaced.

Either party may terminate lease by providing thirty (30) day written notice.

**36. AGREEMENT OF PARTIES:**

- A. Entire Agreement: This lease contains the entire agreement between Landlord and Tenant and may not be changed except by written agreement.
- B. Binding Effect: This lease is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, successors, and permitted assigns.
- C. Joint and Several: All Tenants are jointly and severally liable for all provisions of this lease. Any act or notice to, or refund to, or signature of, any one or more of the Tenants regarding any term of this lease, its renewal, or its termination is binding on all Tenants.
 

Tenant Initials: \_\_\_\_\_  
Landlord Initials: \_\_\_\_\_
- D. Controlling Law: The laws of the State of Texas govern the interpretation, performance, and enforcement of this lease. Venue and jurisdiction for all disputes shall be exclusively in Jefferson County and none other.
- E. Severable Clauses: If any clause in this lease is found invalid or unenforceable by a court of law, the remainder of this lease will not be affected and all other provisions of this lease will remain valid and enforceable.
- F. Waiver: Landlord's delay, waiver, or non-enforcement of acceleration, contractual or statutory lien, rental due date, or any other right will not be deemed a waiver of any other or subsequent breach by Tenant or any other term in this lease.

Commercial Lease concerning: BEAUMONT,

- G. Quiet Enjoyment: Provided that Tenant is not in default of this lease, Landlord covenants that Tenant will enjoy possession and use of the leased premises free from material interference.
- H. Force Majeure: If Landlord's performance of a term in this lease is delayed by strike, lock-out, shortage of material, governmental restriction, riot, flood, or any cause outside Landlord's control, the time for Landlord's performance will be abated until after the delay.
- I. Time: Time is of the essence. The parties require strict compliance with the times for performance.

**Brokers are not qualified to render legal advice, property inspections, surveys, engineering studies, environmental assessments, tax advice, or compliance inspections. The parties should seek experts to render such services. READ THIS LEASE CAREFULLY. If you do not understand the effect of this Lease, consult your attorney BEFORE signing.**

Landlord: DAVID DERHAROUTIAN

Tenant: CITY OF BEAUMONT

By: \_\_\_\_\_

att: BRENDA DEAN

By: Kyle Hayes

By (signature): \_\_\_\_\_

By (signature): \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: Kyle Hayes

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

Title: City Manager Date: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

By (signature): \_\_\_\_\_

By (signature): \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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



## *City of Beaumont*

Attachment "A"

March 10, 2015

To Whom It May Concern:

The City of Beaumont is currently self-insured for all lines of coverage normally made available under the Texas Business Auto Policy. Comprehensive and collision accidents are paid as normal operating expenses. The City has a self-insured trust fund from which it pays all auto and general liability claims. The City currently purchases insurance for real and personal property. All real and personal property are protected by all risk type coverage including flood. Real and personal property are subject to a \$50,000 deductible.

If we can be of further assistance to you or provide you with additional information, please do not hesitate to contact us.

Very truly yours,

Matthew Martin, AIC, ARM  
Liability Administrator

MM:ss

# **BEAUMONT**

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Sherry Ulmer, <sup>*mu*</sup>Public Health Director

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution approving the City Manager to execute all documents necessary to accept additional funding from the Texas Department of State Health Services (DSHS) in the amount \$26,629.00 awarded to the Beaumont Public Health Department's WIC Division.

---

## **BACKGROUND**

The Texas Department of State Health Services has awarded the Beaumont Public Health Department's WIC Division an additional \$26,629.00 in grant funds due to a rate increase which requires additional funding than initially established. The contract date will remain the same beginning 10/01/2014 and will end on 09/30/15.

## **FUNDING SOURCE**

Not applicable.

## **RECOMMENDATION**

Approval of the resolution.

DEPARTMENT OF STATE HEALTH SERVICES



Amendment

The Department of State Health Services (DSHS) and CITY OF BEAUMONT (Contractor) agree to amend the Program Attachment # 001 (Program Attachment) to Contract # 2015-047276 (Contract) in accordance with this Amendment No. 001A : NSS/WIC LOCAL AGENCY, effective 01/01/2015.

The purpose of this Amendment is due to rate increase which also requires additional funding than initially established.

**Therefore, DSHS and Contractor agree as follows:**

Change Program Attachment Number as follows:

PROGRAM ATTACHMENT NO. ~~001~~ 001A

SECTION VII. BUDGET, is revised as follows:

SOURCE OF FUNDS: CFDA # 10.557.001; 10.557.013

DUNS NUMBER: 073901118

All categories of costs billed to DSHS WIC Program, and allocation of such costs, shall be in accordance with the "Plan to Allocate Direct Costs" (PADC) submitted by Contractor and approved by the DSHS WIC Program. This document is incorporated herein by reference and made a part of this Program Attachment.

Total reimbursements will not exceed: ~~\$844,582.00~~ \$871,211.00.

SECTION VIII. SPECIAL PROVISIONS:

PARTICIPANTS SERVED PER MONTH MAXIMUM REIMBURSEMENT is revised as follows:

During the term of the Program Attachment, Contractor shall earn administrative funds at the rate of ~~\$13.31~~ \$13.86 for each participant served as defined above.

All other terms and conditions not hereby amended are to remain in full force and effect. In the event of a conflict between the terms of this contract and the terms of this Amendment, this Amendment shall control.

**Department of State Health Services**

**Contractor**

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Signature of Authorized Official

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

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

Evelyn Delgado

Name: \_\_\_\_\_

Assistant Commissioner for Family and  
Community Health Services

Title: \_\_\_\_\_

1100 WEST 49TH STREET  
AUSTIN, TEXAS 78756

Address: \_\_\_\_\_

512.776.7321

\_\_\_\_\_  
Phone: \_\_\_\_\_

Evelyn.Delgado@dshs.state.tx.us

Email: \_\_\_\_\_

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute all documents necessary to accept additional grant funding from the Texas Department of State Health Services (DSHS) for the benefit of the Beaumont Public Health Department's Women, Infants and Children (WIC) Division in the amount of \$26,629.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -

# BEAUMONT

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** James P. Singletary, Chief of Police

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing an agreement with Langley Productions related to the filming of the Beaumont Police Department for the television show COPS.



---

**BACKGROUND**

Langley Productions is a company that is responsible for filming episodes for the TV show COPS. They will film for eight to nine weeks in our city with one or two crews. The crew will consist of a cameraman and a soundman. The crew shows up at roll call and rides the entire shift with an officer, filming the calls he or she is dispatched to. This is a pro-law enforcement show, with the intent of showcasing officers in a highly professional manner doing a job that is demanding, stressful, and sometimes dangerous on a national level. There are also several benefits to having this show film our police agency. It is great for morale and a positive recruiting tool. This show not only entertains its viewers, but allows the community to connect with the officers that keep them safe everyday. The Beaumont Police Department would retain full editorial approval of all material filmed and no footage would be aired without the department's prior approval. This will be the second year that Langley Productions has filmed in the City of Beaumont. They were previously here in 2013.

**FUNDING SOURCE**

Not Applicable.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute an agreement with Langley Productions related to the filming of the Beaumont Police Department for the television show COPS. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -

# LANGLEY

PRODUCTIONS

March 09, 2015

James P. Singletary, Chief of Police  
Beaumont Police Department  
255 College Street  
Beaumont, TX 77704

Chief Singletary,

This letter will confirm our understanding of conditions under which Langley Productions, Inc. ("LP") will produce episodes of COPS with the cooperation of the **Beaumont, Texas Police Department** ("Department").

1. The Department will be fully consulted in advance of LP filming, after which the Department will allow LP reasonable access to officers and situations such officers encounter, subject to the individual officer's consent to the filming. All LP film activity will be subject to and under control of the Department officer in charge. LP recognizes that some officers and citizens may refuse to be filmed and that the Department has no obligation to compel them to do so.
2. LP hereby grants Department the right to review and approve all completed segments prior to "on-lining" with final effects and sound prior to broadcast. LP agrees to provide the Department's Designated Officer with approval copies of each segment no less than twenty (20) working days prior to segment on-lining. In consideration of the time-sensitive nature of LP delivery requirements, Department agrees to provide any notes regarding substantive segment content no less than ten (10) working days prior to segment on-lining.
3. LP agrees that it shall indemnify, defend and hold harmless, the Department, its officers, agents, employees and administrators from and against any and all claims for damage and liability for injury to or death of persons; and for damage to or destruction of property occurring during and arising out of the acts or omissions of LP, its employees and/or agents with regard to LP's filming; and shall pay the reasonable cost of defending lawsuits resulting therefrom, including, but not limited to, reasonable attorneys fees, court costs and any judgment awarded to a third party as the result of such suit. In accordance with the foregoing, LP also agrees to indemnify, defend and hold harmless the Department from and against all claims related to intellectual property claims arising out LP's filming activities.

# LANGLEY

PRODUCTIONS

Pg 1 of 2

4. The City Of Beaumont, Texas shall be named an additional insured on LP's Comprehensive General Liability Insurance Policy, which shall be written up to a minimum of \$1,000,000.00 in coverage. LP's insurance coverage shall be primary insurance with respect to the Department, its officers, agents, employees and administrators. Any insurance or self-insurance maintained by the Department, its officers, agents, employees or administrators shall be in excess of LP's insurance, and shall not contribute with it.

  
03/09/2015  
Zach Ragsdale  
Producer, COPS  
LANGLEY PRODUCTIONS, INC

Kyle Hayes  
City Manager  
City of Beaumont, Texas  
801 Main Street, Ste 325  
Beaumont, Texas 77701

Pg 2 of 2

1111 BROADWAY, SANTA MONICA, CA 90401  
310. 449. 5300 FAX 310. 449. 5330



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/9/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> DeWitt Stern of California Insurance Services 801 N. Brand Boulevard Ste 650 Glendale, CA 91203	<b>CONTACT NAME:</b> Your Account Representative <b>PHONE (A/C, No, Ext):</b> 818-623-5400 <b>FAX (A/C, No):</b> 818-623-5500 <b>E-MAIL ADDRESS:</b> sc_receptionist@dewittstern.com
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b> <b>INSURER A:</b> Atlantic Specialty Insurance Company <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>
<b>INSURED</b> Langley Productions, Inc. 1111 Broadway Santa Monica CA 90401	

**COVERAGES**

CERTIFICATE NUMBER: 23759082

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		CP0039306	12/31/2014	12/31/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> ANY AUTO ALL OWNED AUTOS      SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		CP0039306	12/31/2014	12/31/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ *Non-Owned Phys. Damage \$ Physical Damage: Actual Cash Value Ded: 10% of loss with \$2,500min & \$7,500 max
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> CLAIMS-MADE DED      RETENTION \$		EX0224200	12/31/2014	12/31/2015	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N y N/A	4060291250006	6/24/2014	6/24/2015	<input checked="" type="checkbox"/> PER STATUTE      OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Props/Sets/Wardrobe Third Party Property Damage Misc. Equipment		MP0004606	12/31/2014	12/31/2015	\$1,000,000 / \$2,500 ded. \$1,000,000 / \$2,500 ded. \$1,000,000 / \$3,500 ded.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is included as an Additional Insured and/or Loss Payee as their interest may appear but only as respects to claims arising out of the operations of the Named Insured in connection with the production entitled: "Cops"

**CERTIFICATE HOLDER****CANCELLATION**

The City of Beaumont, Texas  
 and the Beaumont, Texas Police Department  
 801 Main Street  
 Beaumont TX 77701

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Charles R. Johnson, Jr.

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ACORD 25 (2014/01)

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**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS    MARCH 17, 2015    1:30 P.M.**

**AGENDA**

**CALL TO ORDER**

- \*    Invocation                      Pledge                      Roll Call
- \*    Presentations and Recognition
- \*    Public Comment: Persons may speak on scheduled agenda items 2-7/Consent Agenda
- \*    Consent Agenda

**GENERAL BUSINESS**

1.    Consider a request for a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization - Historic) District at 2305, 2307, 2315 North Street and 637 7<sup>th</sup> Street
2.    Consider a resolution authorizing the execution of an Amended and Restated Feedstock Supply and Fuel Processing Agreement with Fair Energy Operations-Beaumont, LLC to purchase municipal solid waste from the City of Beaumont
3.    Consider a resolution authorizing the City Manager to execute Amendments No. 2, to the General Land Office (the "GLO") Round 2.1 Contract No. 12-214-000-5514 and Round 2.2 Contract No. 13-239-000-7429 related to the South Park Drainage Project and the Avenue A Project
4.    Consider a resolution authorizing the award of a contract to LD Construction of Beaumont for the Delaware Street Asphalt Resurfacing Project – Phase II from US 69 to Concord Road
5.    Consider a resolution authorizing the City Manager to submit an application for grant funding to the Texas Water Development Board for the Master Drainage Plan Project and accept the funds if awarded
6.    Consider a resolution awarding an annual contract to Martin Asphalt, Inc., of Houston, for the purchase of asphalt, road oil and emulsions utilized in the Streets and Drainage Division



**TO:** City Council

**FROM:** Kyle Hayes, City Manager  
CJB

**PREPARED BY:** Chris Boone, Planning & Community Development Director

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider an ordinance approving a request for a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization - Historic).

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**BACKGROUND**

Rebecca Bates Pitre, on behalf of NAI Wheeler, is requesting permission for uses such as, but not limited to, real estate, insurance, advertising agencies, legal, investment, engineering, and accounting. This property is located in the Oaks Historic District and has been occupied by such uses for over thirty (30) years. To avoid each office space needing a specific use permit every time a tenant leaves, Ms. Pitre hopes this request will encompass all uses similar to those listed.

At a Joint Public Hearing held February 16, 2015, the Planning Commission recommended 6:00 to approve a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization - Historic) District at 2305, 2307, 2315 North Street and 637 7th Street, subject to the following condition:

1. The parking lot be restriped and provide a one-way traffic circulation pattern from 7th Street and include handicapped parking.

**FUNDING SOURCE**

Not applicable.

**RECOMMENDATION**

Approval of ordinance, subject to the following condition:

1. The parking lot be restriped and provide a one-way traffic circulation pattern from 7th Street and include handicapped parking.

**SPECIFIC USE PERMIT APPLICATION  
BEAUMONT, TEXAS**

(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME: NAI Wheeler  
APPLICANT'S ADDRESS: 470 Orleans St, 12<sup>th</sup> Floor Beaumont, TX 77701  
APPLICANT'S PHONE #: 409-899-3300 FAX #: \_\_\_\_\_  
NAME OF OWNER: Demarshan, LLC  
ADDRESS OF OWNER: 125 BeVan Circle, Sourlake, TX 77659  
LOCATION OF PROPERTY: 2305, 2307, 2315 North St. & 6377<sup>th</sup> St.  
Beaumont, TX 77702

LEGAL DESCRIPTION OF PROPERTY:  
LOT NO. Attached OR TRACT \_\_\_\_\_  
BLOCK NO. \_\_\_\_\_ PLAT \_\_\_\_\_  
ADDITION \_\_\_\_\_ SURVEY \_\_\_\_\_  
NUMBER OF ACRES 1.744 NUMBER OF ACRES \_\_\_\_\_

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed for a specific use permit, and a complete legal field note description.  
PROPOSED USE: General Business office ZONE: RCP-H

- ATTACH A LETTER describing all processes and activities involved with the proposed uses.
- ATTACH A SITE PLAN drawn to scale with the information listed on the top back side of this sheet.
- ATTACH A REDUCED 8 1/2" X 11" PHOTOCOPY OF THE SITE PLAN.

THE EIGHT CONDITIONS listed on the back side of this sheet must be met before City Council can grant a specific use permit. PLEASE ADDRESS EACH CONDITION IN DETAIL.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by City Council.  
SIGNATURE OF APPLICANT: Leticia Pitre / NAI Wheeler DATE: 1-28-15  
SIGNATURE OF OWNER: \_\_\_\_\_ DATE: \_\_\_\_\_

PLEASE TYPE OR PRINT AND SUBMIT TO: CITY OF BEAUMONT  
PLANNING DIVISION  
801 MAIN STREET, ROOM 201  
BEAUMONT, TX 77701  
Phone - (409) 880-3764  
Fax - (409) 880-3133

FILE NUMBER: 2222e-P  
DATE RECEIVED: \_\_\_\_\_

\*\*\*\*\*

PLEASE MAKE NOTE ON REVERSE SIDE OF CONDITIONS TO BE MET REGARDING THE SITE PLAN AND LETTER OF PROPOSED USES AND ACTIVITIES.

January 29, 2015

To Whom It May Concern:

In accordance with the comprehensive plan of the city of Beaumont zoning ordinance SECTION 28.04.001, the property located at 2305 North Street has met all requirements and we ask to be issued a specific use permit.

You will find the use of this location for office space and small businesses will not in any way be injurious to the location, neighbors, or impede any neighborhood improvements. All utilities, access roads, drainage, driveways and parking spaces, lighting, and landscaping are currently in place and do not in any way affect the general public or adjacent development. The property has operated as an office building for 20 plus years and no change of operations are anticipated. The businesses at this location are small business operations and have very little or any customer traffic. Several of the tenants have been at this location for 20 plus years and to our knowledge, there have not been any complaints on record.

As the construction of the intersection of 7<sup>th</sup> St. and North was being done over the past year by the city, we also worked on improvements of the curb appeal of our property so that it would look nice for the new intersection. We respectfully ask that this permit be granted.

Sincerely,



Rebecca Bates Pitre  
Property Manger

ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW PROFESSIONAL OFFICES ON PROPERTY ZONED RCR-H (RESIDENTIAL CONSERVATION REVITALIZATION-HISTORIC) DISTRICT AT 2305, 2307, 2315 NORTH STREET AND 637 7TH STREET IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, NAI Wheeler has applied for a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization-Historic) District at 2305, 2307, 2315 North Street and 637 7th Street, being Lots 1-4 and the east 1/3 of Lot 5, Block 20, Averill Addition, Beaumont, Jefferson County, Texas, containing 0.172 acres, more or less, as shown on Exhibit "A," attached hereto; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the request and is recommending approval of a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization-Historic) District at 2305, 2307, 2315 North Street and 637 7th Street, subject to the following condition:

- The parking lot be restriped and provide a one-way traffic circulation pattern from 7th Street and include handicapped parking.

; and,

WHEREAS, the City Council is of the opinion that the issuance of such specific use permit is in the best interest of the City of Beaumont and its citizens;

NOW, THEREFORE, BE IT ORDAINED

BY THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this ordinance are hereby, in all things, approved and adopted; and,

Section 1.

That a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization-Historic) District at 2305, 2307, 2315 North Street and 637 7th Street, being Lots 1-4 and the east 1/3 of Lot 5, Block 20, Averill Addition, Beaumont, Jefferson County, Texas, containing 0.172 acres, more or less, as shown on Exhibit "A," is hereby granted to NAI Wheeler, its legal representatives, successors and assigns, as shown on Exhibit "B," attached hereto and made a part hereof for all purposes, subject to the following condition:

- The parking lot be restriped and provide a one-way traffic circulation pattern from 7th Street and include handicapped parking.

Section 2.

That the specific use permit herein granted is expressly issued for and in accordance with each particular and detail of the site plan attached hereto as Exhibit "B" and made a part hereof for all purposes.

Section 3.

Notwithstanding the site plan attached hereto, the use of the property herein above described shall be in all other respects subject to all of the applicable regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended, as well as comply with any and all federal, state and local statutes, regulations or ordinances which may apply.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of  
March, 2015.

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- Mayor Becky Ames -

**File 2226-P: Request for a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization - Historic).**  
**Location: 2305-2315 North Street & 637 7th Street**  
**Applicant: NAI Wheeler**

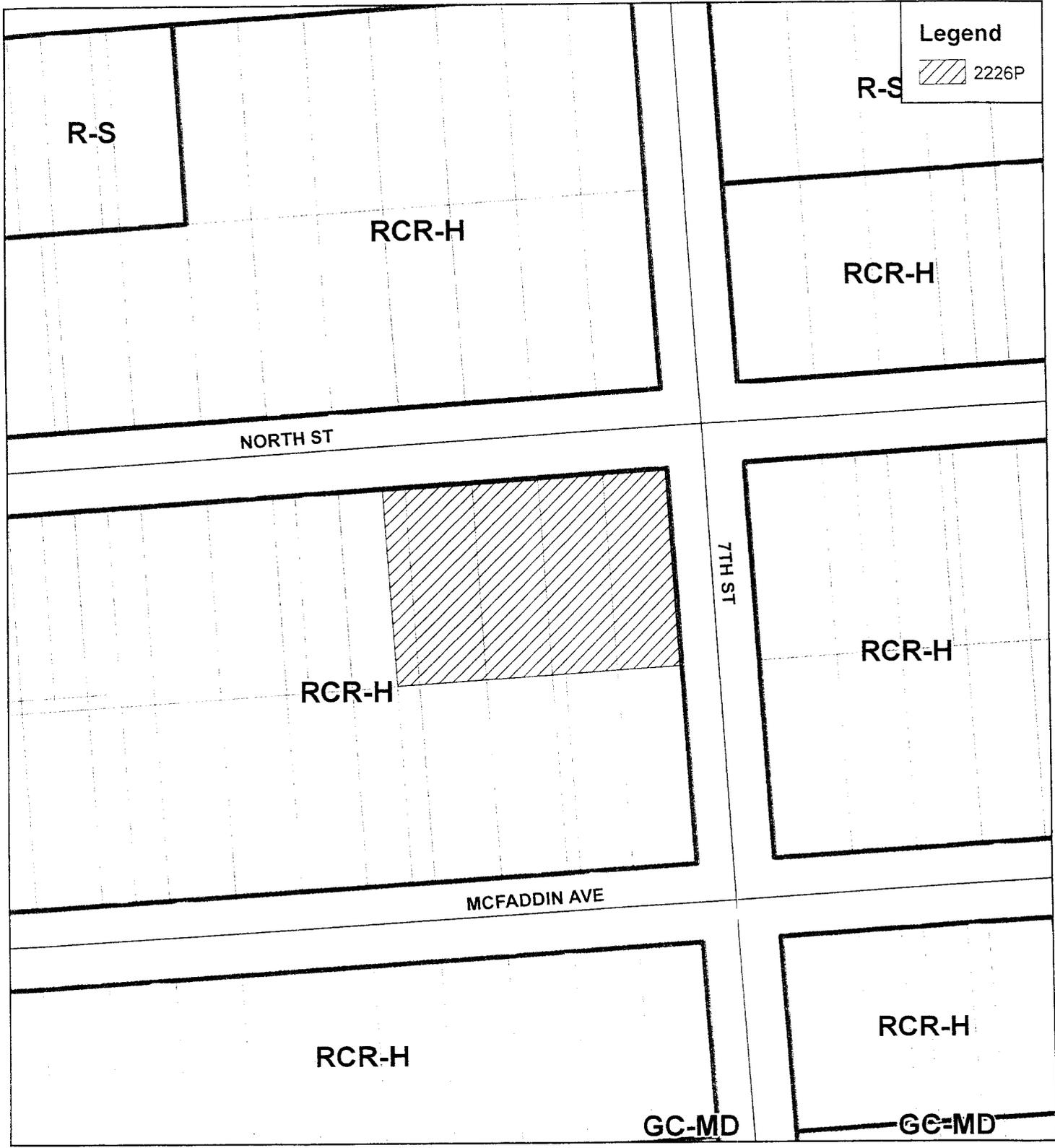
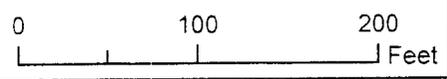
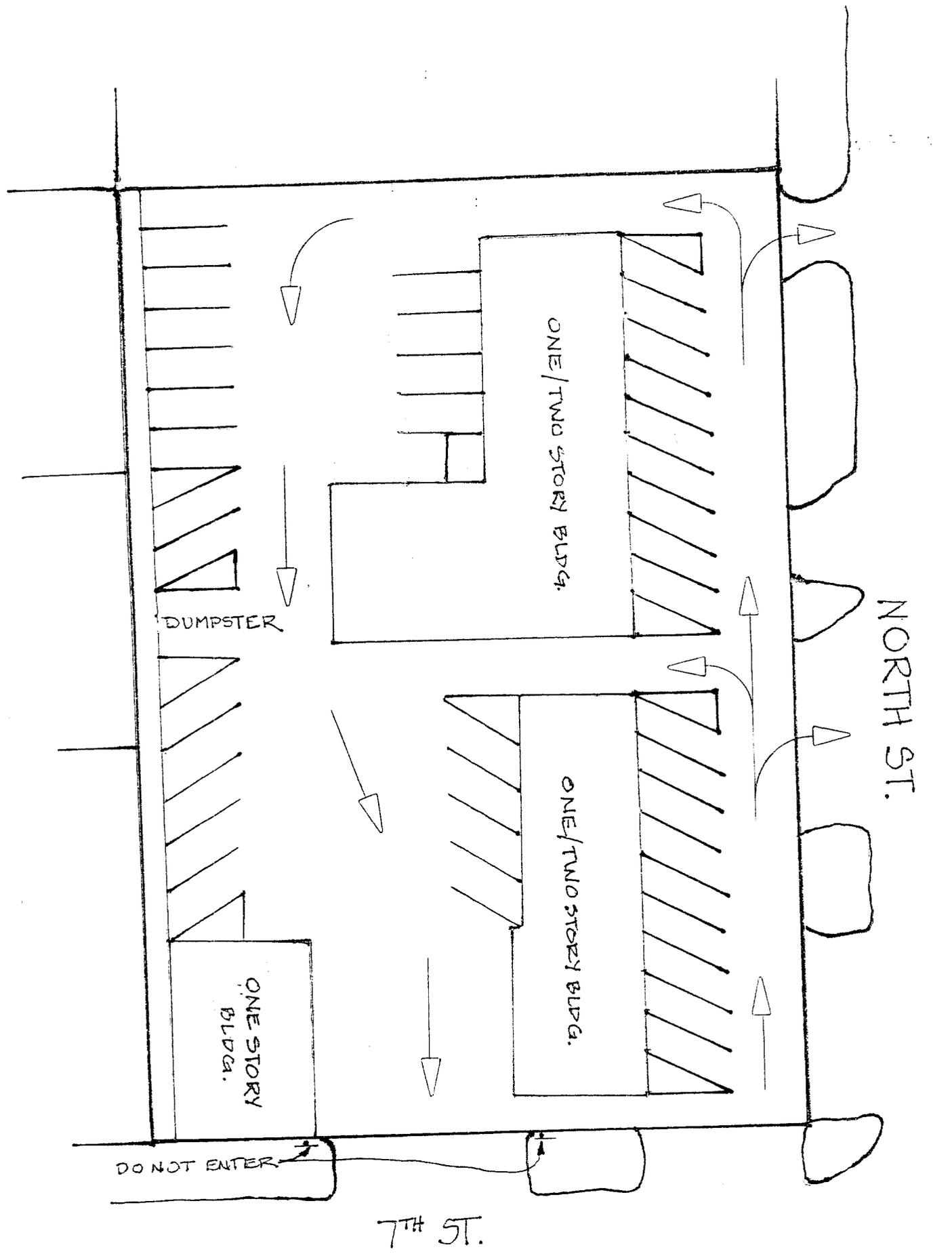


EXHIBIT "A"

11,734 FT. SQ.



NORTH ST.

7<sup>TH</sup> ST.

DO NOT ENTER

DUMPSTER

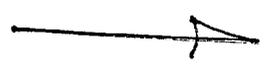
ONE/TWO STORY BLDG.

ONE/TWO STORY BLDG.

ONE STORY BLDG.

1" = 30'

EXHIBIT "B"



**March 17, 2015**

Consider a resolution authorizing the execution of an Amended and Restated Feedstock Supply and Fuel Processing Agreement with Fair Energy Operations-Beaumont, LLC to purchase municipal solid waste from the City of Beaumont

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**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Tyrone E. Cooper, City Attorney

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the execution of an Amended and Restated Feedstock Supply and Fuel Processing Agreement with Fair Energy Operations-Beaumont, LLC to purchase municipal solid waste from the City of Beaumont.

**BACKGROUND**

On December 18, 2012 the City Council authorized the execution of an Agreement with Fair Energy Operations-Beaumont, LLC to purchase and process municipal solid waste into diesel fuel and other recyclables. Since that time, Fair Energy has requested an amendment to the agreement to reflect certain changes in the processes and byproducts to be produced. The company anticipates that it will not only process the municipal solid waste into diesel fuel as originally indicated, but has also identified certain other recyclables such as bio-oil, bio-char, plastics, syn-gas, aluminum, ferrous and non-ferrous metals, cardboard, and other related products. The other changes reflected are the expected quantities of Feedstock to be delivered to the company and the amount of the payment to be made to the City. The anticipated amount of Feedstock to be delivered to the company is reduced from 1,400 to 1,100 tons per week. As a result, the payment to the City is to be reduced from a bi-annual payment of \$200,000 to \$162,500 bi-annually.

Additionally, in order to secure financing of its operation, Fair Energy is requesting the City to grant consent to the terms of a Collateral Assignment of the Beaumont Supply Agreement as amended assigning a continuing security interest in all rights, title, interest and claims of Fair Energy in the Amended and Restated Feedstock Supply and Processing Agreement to Wilmington Trust, National Association, as trustee. Under this collateral assignment, Fair Energy will continue to be responsible for the exercise of all of the rights, benefits and privileges under the Supply Agreement so long as it is not in default under the terms of the assignment. In the event of a default, Wilmington Trust would assume all responsibilities and obligations under the Amended and Restated Feedstock Supply Agreement with the City of Beaumont. By this action the Council is being asked to consider an amendment to the agreement and consent to its assignment as collateral.

**FUNDING SOURCE**

Not applicable.

**RECOMMENDATION**

Approval of resolution.

## RESOLUTION NO.

WHEREAS, on December 18, 2012, City Council of the City of Beaumont, Texas approved Resolution No. 12-296 authorizing the City Manager to execute a twenty (20) year Agreement with Fair Energy Operations-Beaumont, LLC to purchase and process municipal solid waste into diesel fuel and other recyclables; and,

WHEREAS, Fair Energy Operations-Beaumont, LLC has requested an Amended and Restated Feedstock Supply and Processing Agreement to reflect certain changes in the processes and byproducts to be produced; and,

WHEREAS, in order to secure financing of its operation, Fair Energy Operations-Beaumont, LLC is requesting the City to grant consent to the terms of a Collateral Assignment of the Beaumont Supply Agreement as amended assigning a continuing security interest in all rights, title, interest and claims of Fair Energy in the Amended and Restated Feedstock Supply and Processing Agreement to Wilmington Trust, National Association, as trustee; and,

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute an Amended and Restated Feedstock Supply and Fuel Processing Agreement between Fair Energy Operations-Beaumont, LLC and the City of Beaumont to purchase municipal solid waste from the City of Beaumont. The Amended and Restated Feedstock Supply and Fuel

Processing Agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a Collateral Assignment of Beaumont Supply Contract between Fair Energy Operations-Beaumont, LLC and the City of Beaumont assigning a continuing security interest in all rights, title, interest and claims of Fair Energy in the Amended and Restated Feedstock Supply and Processing Agreement to Wilmington Trust, National Association, as trustee. The Collateral Assignment of Beaumont Supply Contract is substantially in the form attached hereto as Exhibit "B" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

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- Mayor Becky Ames -

**AMENDED AND RESTATED**  
**FEEDSTOCK SUPPLY AND FUEL PROCESSING AGREEMENT**

THIS AMENDED AND RESTATED FEEDSTOCK SUPPLY AND FUEL PROCESSING AGREEMENT (the "Agreement") is made effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015 by and between the City of Beaumont, Texas a home rule municipality ("Supplier"), and Fair Energy Operations-Beaumont, LLC, a Texas limited liability company (the "Company").

**RECITALS:**

WHEREAS, the Supplier and the Company entered into that certain Feedstock Supply and Fuel Processing Agreement, dated effective as of January 7, 2013 (the "Original Agreement");

WHEREAS, the Supplier and the Company desire to amend, restate and replace the Original Agreement to effectuate certain changes as enumerated herein;

WHEREAS, Company and its affiliates are engaged in certain business activities, including the obtaining and contracting for municipal solid waste, including any and all solid wastes and other carbonaceous materials (including but not limited to garbage, rubbish, trash, refuse, paper, glass, plastic, cardboard, plant and grass clippings and leaves) collected or received from residential, commercial, industrial or other sources (the "Feedstock"); and

WHEREAS, the Company and its affiliates have the right to install and operate improvements and equipment that generate renewable and alternative energy and byproducts thereof, as described below, which requires a dependable source of Feedstock in connection with such business activities; and

WHEREAS, the Company desires to obtain Feedstock from Supplier, and Supplier desires to supply the Feedstock to the Company, which the Company will process into diesel and/or Bio-Oil (as defined below) and other products and by-products, and the recycling and sale of bio-char, plastics, aluminum, ferrous and non-ferrous metals, cardboard and other related products and by-products and subject to the terms and conditions set forth herein; and

NOW THEREFORE, for and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. Supply Agreement. Subject to the terms and conditions of this Agreement, Supplier covenants and agrees to deliver to or cause to be delivered to the Company not less than 1,100 tons of Feedstock per week (on average), as long as it is available to the Supplier, at the designated location within the Company's processing facility to be located at or in the immediate proximity of 4900 Lafin Rd., Beaumont, Texas 77705 (the "Company Facility"), and the Company agrees to accept the Feedstock from Supplier on a daily basis, Monday through Thursday, during Supplier's normal hours of operation, during the term of this Agreement. All the Feedstock will be delivered by Supplier or its subcontractors, as the case may be, to the

Company Facility located near Supplier's landfill. The Company intends to operate the facility a minimum of two hundred fifty (250) and a maximum of three hundred forty (340) days per year. Supplier agrees to supply the Feedstock to the Company at the Company Facility in accordance with the terms and conditions set forth in this Agreement. Any Feedstock that the Company is unable to process, unless it is deemed to be a hazardous substance, shall be landfilled at the Supplier's landfill if permitted by the Supplier's permit as mutually agreed upon by the Company and Supplier. In the event hazardous substances contained in the Feedstock, and not produced by the Company, are not permitted to be delivered from the Company Facility to Supplier's landfill, then the Company shall be responsible for disposing of such unacceptable substances in accordance with all applicable laws, rules and regulations. Feedstock not processable by the Company, and that is not hazardous substances, will be delivered by the Company to the Supplier's landfill in accordance with all applicable laws, rules and regulations.

(a) The Company is responsible for obtaining all required State and Federal permits and licenses to operate the facility contemplated hereunder and for sorting and processing any recyclable material in accordance with all applicable laws, rules, regulations and ordinances, including environmental and clean air laws governing the waste to energy processing under this Agreement.

(b) The Company shall use reasonable commercial efforts to operate the waste to energy facilities in accordance with the processes generally described on Exhibit "A" attached hereto.

(c) The volume of Feedstock may be increased upon mutual written agreement of the parties hereto.

(d) The Company may use portions of the Feedstock for production organic fertilizer and mulch and process and sell scrap metals and other products and byproducts referenced above.

2. Non-Exclusivity. Provided that Supplier is fully and timely satisfying its Feedstock delivery obligations pursuant to Section 1 hereunder, the parties acknowledge and agree that nothing in this Agreement shall prevent Supplier from selling or supplying Feedstock to any other operator or party which desires to contract with Supplier for the disposal of said Feedstock. Subject to the delivery obligations set forth herein, Supplier is also allowed to process its buried waste into methane gas making use of other technologies. Notwithstanding any other provision in this Agreement, nothing in this Agreement shall limit Company's right to solicit, seek to obtain or obtain Feedstock from other sources for any shortfall in the amount of Feedstock delivered by Supplier hereunder or to the extent the Company desires to acquire additional Feedstock.

3. Facilities. All facilities constructed will require approval of Supplier in order to assure compliance with any applicable regulations of all local, state and/or federal environmental agencies, which approval will not be unreasonably withheld, conditioned or delayed.

4. Pricing and Payment Terms. Supplier agrees to provide and supply the Feedstock to the Company at the Company Facility, Monday through Thursday during Supplier's normal

hours of business at no additional cost to the Company except as provided in Section 7. The Company shall be responsible for storage of Feedstock during the days and times when Supplier is not operating. Supplier agrees to pay the Company no tipping fee (disposal). During Supplier's normal hours of operation, or more often as mutually agreed upon by the parties, Supplier will use Supplier's current infrastructure, including trucks and personnel, to deliver the Feedstock to the Company's facility to be weighed and processed in accordance with the terms and conditions set forth herein and further written procedures to be established and agreed upon by the parties hereto in the form attached hereto as Exhibit "B." The garbage trucks operated by the Supplier or their subcontractors, as the case may be, shall go directly from their respective routes to the Company's site rather than the landfill. No Feedstock shall be presorted by the Supplier but shall be directly delivered to the Company's facility. In the event the Company is overloaded and unable to receive Feedstock, the Company will notify Supplier as soon as it is aware of its inability to receive Feedstock.

5. Term of Agreement. The initial term of this Agreement shall be twenty (20) years from the date of commencement of operations. For purposes hereof, "commencement of operations" means the date upon which the Company opens the Company Facility for commercial operations and accepts Feedstock from Supplier for processing in accordance with the terms and conditions set forth herein. Provided that there is no current event of default by the Company hereunder; this Agreement may be renewed by the Company for two (2) additional periods of ten (10) years each upon delivery of one hundred eighty (180) days prior written notice to Supplier. Each option requires the prior approval of the governing body of Supplier before the Agreement is renewed. The governing body of Supplier reserves the right to exercise the right of prior approval in a reasonable and prudent manner in the best interest of the City of Beaumont.

6. Additional Obligations of Supplier.

(a) Supplier will assist the Company in obtaining economic incentives and obtaining all required governmental permits (Building, Waste, Water, Air and Wetlands) relating to the construction, operation, environment and maintenance of the facility contemplated herein. Supplier does not guarantee the success in securing any incentives or permits.

(b) The Company will be entitled to all carbon credits, RINs (Renewable Identification Numbers) and the like arising from the production and/or blending of renewable fuel into diesel and other fuel derived from the Company Facility. Supplier shall use reasonable commercial efforts to assist the Company in this regard.

(c) The Company shall be entitled to any and all diversion credits arising out of the diversion of Feedstock from landfills into Feedstock, consistent with state and federal law.

(d) The Company shall be entitled to receive and retain all revenues derived from the sale or use of all outputs from the Company Facility, including, without limitation, Bio-Oil, bio-char, syn-gas, metals, papers and other organic or inorganic materials, except only as may be specifically otherwise provided herein.

7. Payment. In consideration for the delivery of Feedstock and support of the Company's business, including waste-to-energy technology, the Company will make a bi-annual payment of \$162,500.00 to the Supplier. Such payments will start at the end of the sixth month after the commencement of operations and will continue through the term of the Agreement. For bi-annual periods (January 1-June 30 and July 1-July 31 in which the price (NYMEX) of West Texas Intermediate (WTI) Crude Oil, as set forth in *The Wall Street Journal*, is over \$80.00 per barrel for the entire bi-annual period, such bi-annual payment shall be increased to \$200,000.00. Commencing with the bi-annual payment following the fourth anniversary from the first payment made under this Section 7, the bi-annual payment shall be increased by three percent (3%) per annum based upon a \$162,500.00 bi-annual payment.

8. Force Majeure. The obligations of each party shall be subject to force majeure, including without limitation, severe weather, floods, earthquakes and other natural disasters, strikes, work stoppages and slowdowns, riots and other civil disturbances, shortages, rationing or unavailability of supplies and raw materials, terrorism, and other unforeseeable matters outside the control of the party claiming such intervention. The party suffering from such force majeure shall notify the other party within thirty (30) days of the onset of the force majeure event. Upon any claim of force majeure, the time for performance of the obligation interfered with shall be extended without additional charges and the parties will cooperate to mitigate the effect of the force majeure event. In the event of a force majeure event which prevents Supplier from supplying the Feedstock in accordance with the terms hereof, the Company shall be relieved of its minimum annual processing obligation, on a proportionate and equitable basis, for so long as the force majeure event exists.

9. Indemnification. Subject to the Supplier's obligations enumerated in Section 1, the Company shall indemnify, defend, and hold harmless Supplier, its affiliates, and their respective members, managers, officers, employees, and agents, from and against any and all claims, demands, suits, losses and damages, including, but not limited to, claims, demands, suits, losses and damages for bodily injury, illness, disease or death and expenses, including reasonable attorneys' fees (collectively "Claims") that may be brought against them, individually or jointly, or in which they may be named a party defendant, in any way arising out of or relating to the operations of the Company Facility hereunder, including without limitation the obligations set forth in Sections 1, 2 or 3 hereof. The obligations of the Company pursuant to this Section 9 shall survive any termination of this Agreement.

10. Miscellaneous.

(a) Complete Agreement. This Agreement, together with the written procedures, constitutes and contains the entire and only agreements between the parties respecting the subject matter hereof. This Agreement supersedes and cancels all pre-existing agreements and understandings between the parties as to the subject matter hereof.

(b) Severability. If any provision of this Agreement is held to be unenforceable, invalid, or void to any extent for any reason by a court of competent jurisdiction, the remaining provisions of this Agreement shall not be affected thereby and shall continue in effect as though such invalid provisions were deleted.

(c) Governing Law. This Agreement shall for all purposes be governed by and construed in accordance with the laws of the State of Texas.

(d) Assignment. This Agreement may not be assigned by either party, nor any duty hereunder be delegated by a party, without the prior written consent of the other party in the event of a proposed sale by Company of all or substantially all of its assets or capital stock to an operator that has a net worth and similar operating experience of a facility of this type greater or equal to that of the Company as of the effective date of this Agreement. The governing body of Supplier does, however, in the best interest of the citizens of Beaumont, reserve the right to exercise its right to withhold consent should it reasonably determine that a prospective operator does not satisfy the requirements established herein.

(e) Confidentiality. The parties hereto covenant and agree to keep proprietary information (i.e. technology, waste management process, etc.) of this Agreement confidential and will not disclose the same to any third party, except as required by law or as relates to the sale or financing of either party's business. Notwithstanding the foregoing, a copy of this Agreement shall be included in the offering materials pertaining to the issuance by the Mission Economic Development Corporation of its Solid Waste Disposal Revenue Bonds (Fair Energy Operations, LLC Project) (the "Bonds") and thereby provided to prospective investors in the Bonds.

(f) Company Non-Performance. This Agreement shall terminate in the event the Company is in default under the terms of this Agreement, but only following receipt by the Company and its lender of ninety (90) days prior written notice, which period shall be reasonably extended in the event the Company (or any assignee of the Company) commences curative action within said 90-day period and continues to diligently pursue the completion of same.

(g) Insurance.

(i) The Company, at the Company's sole cost and expense, agrees to keep the Company's trade fixtures, equipment, and improvements on the site insured against loss or damage by fire and such other risks as are from time to time included in broad form extended coverage endorsements.

(ii) The Company agrees to maintain a commercial general liability insurance policy covering the Company's operations, including, without limitation, the Company possession, use and operations on the property that is used for the Company's operation. The general liability insurance policy shall provide for (1) bodily injury and property damage coverage of at least \$1,000,000 for any one occurrence, (2) automobile liability coverage of at least \$1,000,000, and (3) general aggregate coverage of at least \$2,000,000. The Company shall also carry an umbrella excess liability insurance policy of at least \$11,000,000. A duplicate original or a certificate of each policy shall be delivered to Supplier within ten (10) days before the commencement of operations on the site, and thereafter at the request of Supplier. Each policy shall (a) contain an environmental endorsement

for a maximum of \$1,000,000 covering any corrective action necessitated by accidental releases of hazardous materials on the property by the Company or its agents, employees, contractors, or invitees, (b) contain a provision that the underwriter will give Supplier at least thirty (30) days prior written notice of any cancellation or lapse of the insurance, and (c) name Supplier as an additional insured.

(h) Notices and Requests. Any notice shall be deemed to have been given hereunder if and when given by hand delivery or sent by telex, telecopy, telefax or other telecommunications device capable of creating a written record (confirmed by registered or certified mail or by overnight courier) or sent by United States certified mail, return receipt requested, with proper postage prepaid, addressed as follows, or as set forth in any notice of change of address previously given in writing by the addressee to the addresser:

If to Supplier:           City Manager  
                                  City of Beaumont, Texas  
                                  801 Main Street, Suite 300  
                                  Beaumont, Texas 77701  
                                  Telephone: (409) 880-3708  
                                  Fax: (409) 880-3112

With copy to:           Office of the City Attorney  
                                  City of Beaumont, Texas  
                                  801 Main Street, Suite 300  
                                  Beaumont, Texas 77701  
                                  Telephone: (409) 880-3715  
                                  Fax: (409) 880 3121

If to Company:           Attn: Kyle Fair  
                                  5609 Cradlerock  
                                  Plano, TX 75093  
                                  Telephone: (972) 867-5904  
                                  Fax: (972) 867-5410

With copy to:           Sussman & Moore, LLP  
                                  Attn: Ronald L. Sussman  
                                  4645 N. Central Expressway, Suite 300  
                                  Dallas, Texas 75205  
                                  Telephone: (214) 378-8270  
                                  Fax: (214) 378-8290

A copy of each notice given hereunder by one party to the other shall be provided to the Company's lender, Wilmington Trust, N.A., as Trustee, 15950 North Dallas Parkway, Suite 550, Dallas, Texas 75248: Attention: Corporate Trust

A notice delivered by regular or certified U.S. Mail will be deemed to have been delivered on the third business day after the post-mark, if affixed by the U.S. Postal

Service. Any other notice will be deemed to have been received on the date and time of the signed receipt or confirmation of delivery or transmission thereof, unless that receipt or confirmation date and time is not a business day or is after 5:00 p.m. local time on a business day, in which case such notice will be deemed to have been received on the next succeeding business day.

*[Signature page follows]*

IN WITNESS WHEREOF, the parties have executed this Supply Agreement as of the day and year first above written.

FAIR ENERGY OPERATIONS-BEAUMONT,  
LLC, a Texas limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SUPPLIER:

CITY OF BEAUMONT, TEXAS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Exhibit "A"

### ANNEX- COMPANY PLANT TECHNOLOGY AND OPERATIONS

Plants will receive, pre-treat, and transform the municipal solid waste from the collection operation into Bio-Oil and other products and by-products, and the recycling and sale of bio-char, plastics, aluminum, ferrous and non-ferrous metals, cardboard and other related products and by-products and subject to the terms and conditions set forth herein. The process for the transformation of waste into energy is as follows:

*[PROCESS BELOW TO BE UPDATED]*

*Receive MSW.* Process consistency starts with weighing the inbound municipal solid waste ("MSW" or "Feedstock"). Recorded weights will be used over time in the creation of a waste characterization that will enable the facility to predict seasonal volumes and production values. The manual sorting removes everything from hazards such as old propane cylinders to automobile wheels and tires, etc. Size sorting will remove other items physically too large to process. These items will undergo further sorts to determine if they will be retained for recycling or moved back to the landfill. The Company's strong preference is to recycle or process to oil as much waste as is practical. There will be no charge for sending anything back to the Beaumont landfill as the City of Beaumont will have received payment in the form of tipping fees for the waste.

*Separate Recyclables and Processable Fractions.* Recyclable materials have value and capturing that value makes up a small portion of the overall economies of the Facility. To capture those economies, the Company will employ several automated tools that are typically found in recycling facilities. Ferrous materials or steel will be removed with a combination of magnetic separators. Typically there is a separator suspended over the material conveyor and another drum type magnet built into the conveyor itself. Non-ferrous materials such as aluminum and brass or copper are removed or sorted using eddy current separators. Glass and other ceramic materials will be removed with optical separation equipment. Small portions of these do find their way into the process stream and end up in the bio-char material. The actual arrangement and order of the equipment is subject to the characterization of the waste brought into the facility and will be further detailed during front end engineering design.

Plastic waste makes up a high Btu value portion of the waste to oil equation. Resin Identification Codes found on most plastic materials determine what will be used and what must be discarded. For example, used PVC pipes and fittings (typically a 3 within the recycle emblem) will not be sent to the pyrolysis step. All other plastics will convert effectively to the bio-crude product. Paper and cardboard typically remain with the plastics in the waste stream. These will be combined proportionately and moved into the next processing step.

There is a possibility that the Company might need to purchase plastics or other inputs to affect the quality of the feedstock. The pyrolysis units may also run wood waste, tires and a variety of other combustible materials. The yield for these other materials may not be as high in terms of bio-oil output but this material is essentially free. Therefore purchasing feedstock materials would only be considered if necessary and economics were to justify such a purchase.

The Company hope to commercialize the value of the recyclable products generated from the feedstock introduced into the process. These products may include plastics, aluminum, ferrous metals and cardboard. The recycling operations will remove saleable materials as described above. The Company expects that several companies in the area will place roll off dumpsters on site and regularly trade out full dumpsters for empties. The full dumpsters will run across the scales where the weight is recorded and a ticket for the weight transported is provided to the purchaser and to the business office. Payment will be made to the Company based on the contracted value of the items and the weight transported.

*Process Paper and Plastics.* The mixed paper and plastics are moved through a shredder process to reduce the size, create uniformity and to enhance the effectiveness of the drying operation. The shredded waste is conveyed into a forced air dryer to reduce the moisture content down to a range acceptable to the pyrolysis process. This is typically in the 8 to 10% range. This range may be modified slightly as actual oil production values are established. The size requirements are driven by the pelletization equipment. The end goal is to create uniformity in the feedstock that will enable the Company to tune the production process around known values for the various types of waste we may run in the future.

*Pelletize Processed Paper and Plastics.* Process consistency is the key to efficiency in handling, storing and converting the processed paper and plastics. In the pelletizing operation, the processed paper and plastics materials are compressed or pressed through small holes or extruded and then cut into small uniform cylinders or pellets. The benefits to pelletizing are greater than process consistency alone. The pellets enable fairly precise measurement of volumes, weights, storage and production metrics. These metrics are important as the Company establishes continuous flow in the production operations.

*Convert Processed Paper and Plastics Pellets into Bio-Crude Oil and Bio-Char.* The conversion technology to be employed in the Facility is pyrolysis and, specifically, Auger type slow pyrolysis. Pyrolysis involves thermochemical conversion or heating of the processed paper and plastic pellets (sometimes referred to as refused derived fuel or “RDF”) in the absence of oxygen, which produces bio-char, liquid bio-oil and syn-gas. This thermochemical transformation changes the product’s structure by applying heat in a totally controlled atmosphere, breaking the carbon chain into those elements.

Pyrolysis typically operates between 400°C and 900°C, but the upper limit of the process that the Company will employ is approximately 600°C; this reduces the energy consumed in the conversion process. The energy so consumed is sometimes referred to as the parasitic load. High temperature pyrolysis also produces high quantities of high calorific value with methane (CH<sub>4</sub>) concentration up to 50% depending on the composition of the processed paper and plastics. The Company believes that the simplicity of this process will result in high reliability combined with low maintenance and operating costs as well as energy efficiency ratios up to 91%.

The specifications for the feedstock going into the pyrolysis process fall into several categories: The desired feedstock is a blend of plastics (already a petrochemical product) and paper. The range of values for this feedstock is fairly forgiving and the goal is a btu value between 10,000 and 14,000 btu’s. Confirming the values requires a simple lab test that yields

data including btu and caloric values. Measuring the mix of plastics and papers at the blending and shredding operation creates the consistency and uniformity required.

The process produces three products: bio-oil, bio-char and syn-gas. The bio-oil will be sold to refiners or in the spot market. Bio-char may be sold for use as fuel, carbon black, or a soil enhancer. The bio-char has similar characteristics to coal and may also be sold for use as a coal substitute in the firing of kilns and in the purification of frac water. If the bio-char can't be sold, bio-char is a non-hazardous substance and can be returned to the landfill if allowed by the Supplier's landfill permit.

The process is a closed-loop process with respect to syn-gas in that the syn-gas produced during the pyrolysis is largely consumed as the internal temperatures exceed the flash point of the combustible gases within the pyrolyzer and any syn-gas that is not consumed during the pyrolysis process is pumped back into the pyrolyzer to be used as fuel for maintaining the auger operating temperature. The Company anticipates that the process will not generate any gas emissions.

*Disposition of Water.* The quantities of wastewater produced in the process are very small as there is no process water required by any of the recycling or conversion operations. The water that is produced by either the drying or the condenser operations must meet the local limits of the Public Owned Treatment Works (POTW) prior to discharge into the wastewater collection system.

**Exhibit “B”**

**Feedstock Quality and Delivery Procedures**

H:\Fair\Fair Energy\Beaumont\Am. Rest. Supp. Agr. 031215.docx

## COLLATERAL ASSIGNMENT OF BEAUMONT SUPPLY CONTRACT

THE undersigned, FAIR ENERGY OPERATIONS-BEAUMONT, LLC, a Texas limited liability company (“**Assignor**”), in consideration of the issuance of the Solid Waste Disposal Revenue Bonds (Fair Energy Operations Project) Series 2015 (the “**Bonds**”) issued by the Mission Economic Development Corporation (the “**Issuer**”) pursuant to an Indenture of Trust dated as of January 1, 2015 (the “**Indenture**”) between the Issuer and Wilmington Trust, National Association, as Trustee (together with any successor Trustee under the Indenture, the “**Assignee**”), the proceeds of which are being loaned to Assignor pursuant to a Loan Agreement dated as of January 1, 2015 (the “**Loan Agreement**”) between the Issuer and Assignor (and Fair Energy Operations- Angleton, LLC), does hereby collaterally assign, transfer and set over unto Assignee and grant to the Assignee, a continuing security interest in all right, title, interest and claim of Assignor in, the Amended and Restated Feedstock Supply and Fuel Processing Agreement dated as of \_\_\_\_\_ (the “**Supply Agreement**”), between Assignor and the City of Beaumont, Texas (“**Beaumont**”) and all amendments, supplements and additions thereto, (all of the foregoing right, title and interest hereby assigned and in which a security interest is hereby granted being hereinafter collectively referred to as the “**Collateral**”).

The assignment and security interest herein granted and provided for are made and given to secure and shall secure (i) the payment in full of all principal of, premium, if any, and interest under the Loan Agreement and under the \$\_\_\_\_\_ Promissory Note dated January \_\_, 2015 (the “**Note**”) issued by the Assignor and Fair Energy Operations-Angleton, LLC under the Loan Agreement payable to the order of the Issuer and assigned to the Assignee, in the original principal amount equal to the principal amount of the Bonds, and any notes issued in extension or renewal thereof or in substitution therefor (collectively, the “**Debt Service Obligations**”), (ii) the payment in full of all principal of, premium, if any, and interest on the Bonds, (iii) the performance of all obligations, covenants, promises and agreements contained herein or in that certain Deed of Trust (with Security Agreement, Assignment of Proceeds and Contracts and Financing Statement) bearing even date herewith from Assignor to the Assignee, as amended, supplemented and restated from time to time (the “**Deed of Trust**”), conveying and mortgaging the Mortgaged Property (as defined therein) as security for the Debt Service Obligations and the Bonds and any and all other indebtedness intended to be secured thereby, (iv) the performance of all obligations, covenants, promises and agreements of Assignor under the Loan Agreement and the Deed of Trust, and (v) the payment of all expenses and charges, legal or otherwise, paid or incurred by the Assignee in realizing upon or protecting the indebtedness referred to in the foregoing clauses (i), (ii), (iii) and (iv) or any security therefor, including this Assignment (all of the foregoing being hereinafter collectively referred to as the “**indebtedness hereby secured**”).

1. Assignor represents and warrants that (a) a true, correct and complete copy of the Supply Agreement has been delivered to the Assignee (or will so immediately upon execution thereof) as of the date hereof, and is attached hereto as **Exhibit A**; (b) Assignor’s interest therein is not subject to any claim, defense, counter-claim, lien, consent, set-off or encumbrance of any nature except as provided in the Supply Agreement; (c) the Supply Agreement has not been modified, amended or otherwise changed; (d) the Supply Agreement is in full force and effect and free from default; (e) Assignor has all necessary right, power and authority to enter into the Supply Agreement and perform its obligations thereunder; (f) Assignor is in compliance with all

of the terms and conditions of the Supply Agreement; and (g) Assignor shall promptly provide the Assignee with a copy of all amendments, modifications, additions and waivers of any provisions of the Supply Agreement.

2. Assignor hereby irrevocably constitutes and appoints Assignee its true and lawful attorney in fact, such power of attorney coupled with an interest, with full power of substitution for it and in its name, place and stead to ask, demand, collect, receive, enforce, receipt for, sue for, compound and give acquittance for any and all sums, payments and distributions which may be or become due or payable to Assignor, its successors and assigns, under the Supply Agreement or on account of the Collateral and/or which constitute a part of the Collateral with full power to settle, adjust or compromise any claim thereunder or therefor as fully as Assignor could itself do and to endorse the name of Assignor on all commercial paper given in payment or part payment of such sums and, in the discretion of the Assignee, to cure any default of Assignor under the Supply Agreement, to file any claim or to take any other action or proceeding, either in its own name or in the name of Assignor, or otherwise, which the Assignee may deem necessary or reasonably appropriate to collect any and all sums, payments and distributions which may be or become due or payable to Assignor under the Supply Agreement and/or in respect or on account of the Collateral and/or which constitute a part of the Collateral or which the Assignee may deem necessary or reasonably appropriate to protect and preserve the right, title and interest of Assignor or Assignee in and to the Collateral and the security intended to be afforded thereby; *provided*, that the Assignee agrees, not as a limitation or condition hereon, but as a personal covenant available only to Assignor, that it will not exercise any of the aforesaid rights under this paragraph prior to the occurrence of an Event of Default under the Loan Agreement, the Indenture or the Deed of Trust.

3. Assignor hereby further covenants that it will upon request of the Assignee execute and deliver such further instruments and do and perform such other acts and things as the Assignee may deem necessary or reasonably desirable to more effectively vest in and secure to the Assignee the Collateral, including but not limited to obtaining an acknowledgment of this assignment from Beaumont.

4. Assignor hereby authorizes any party at any time holding sums, payments or distributions due Assignor and constituting part of the Collateral to pay all such sums, payments and distributions directly to the Assignee and Assignor agrees that such payments to the Assignee as aforesaid shall be a good receipt and acquittance against Assignor to the extent so made. Notwithstanding the foregoing, the Assignee agrees with Assignor, not as a limitation or condition hereon, but as a personal covenant available only to Assignor, that except during the continuance of an Event of Default, Assignor may collect all sums due or to become due in respect of the Collateral and use the same in a manner which is not inconsistent with the requirements of the Loan Agreement, provided that any party to the Supply Agreement shall have no obligation to determine whether or not the Assignee has complied with the foregoing covenant and shall be fully protected in paying sums due in respect of the Collateral directly to the Assignee upon its written demand therefor.

5. Assignor agrees that without the written consent of the Assignee, (i) it will not consent or agree to any amendment, modification, addition to or termination of the Supply

Agreement which shall decrease the quantities of Feedstock to be delivered by Beaumont thereunder, the entitlement of Assignor to carbon credits or the commercial use of the output, increase the amount payable by Assignor under Section 3.1 or impose any charges or fees payable by Assignor for the Feedstock, shorten the term of the Agreement, limit the ability of Assignor to collaterally assign the Agreement to its lender, or provide for any other amendment which materially increases the obligations of the Assignor thereunder, and (ii) it will not assign, transfer or grant liens on any of the Collateral. Assignor agrees to perform all of its obligations under the Supply Agreement within the time limitations therein provided for. In the event Assignor fails to pay or perform any of its obligations under the Supply Agreement within any applicable period of grace, the Assignee may, but need not, pay or perform such obligation at the expense and for the account of Assignor (and the Assignee will send Assignor a notice of its election to so pay or perform describing the obligation of Assignor which the Assignee intends to perform) and all funds expended for such purposes shall constitute so much additional indebtedness hereby secured which Assignor promises to pay upon demand together with interest thereon at a rate per annum equal at all times to the highest rate per annum then applicable pursuant to the Loan Agreement (the “**Default Rate**”).

6. Upon the occurrence of any Event of Default under the Indenture, the Deed of Trust or the Loan Agreement and unless and until the same shall be cured, the Assignee may (i) exercise all remedies available to it under applicable law, (ii) enforce the rights of Assignor under the Supply Agreement or any of them, (iii) collect and receive all sums due or to become due with respect of the Collateral and apply same to the indebtedness hereby secured in such order and manner as it may elect, and (iv) have all the rights and remedies of a secured party upon default as provided for in the Uniform Commercial Code (the “**Code**”). Subject to the notice requirements set forth in the Indenture, the Deed of Trust or the Loan Agreement, any requirement of said Code for reasonable notice shall be satisfied if such notice is personally served or mailed (certified mail, return receipt requested) to Assignor at the address set forth above, at least ten (10) days before the time of the sale, disposition or other event or thing giving rise to the requirement for such notice. The reasonable expenses of collecting all sums due or to become due in respect to the Collateral and/or in connection with protecting, preserving or realizing upon the rights of the Assignee in and to the Collateral, including, without limitation, court costs and reasonable attorneys’ fees, shall constitute so much additional indebtedness hereby secured which Assignor hereby promises to pay upon demand with interest thereon at the Default Rate from the date of expenditure.

7. This instrument is given as additional security for the obligations of Assignor incurred and to be incurred under the Deed of Trust, the Debt Service Obligations, the Loan Agreement and related documents and Assignor may continue to receive and exercise all of the rights, benefits and privileges under the Supply Agreement so long as an Event of Default is not in existence under the Deed of Trust, the Loan Agreement or the Indenture. This instrument constitutes an assignment of rights only and not an assignment of any of the duties and obligations of Assignor under the Supply Agreement and by its acceptance hereof the Assignee undertakes to perform any of such duties and responsibilities and shall incur no liability for any action taken or omitted to be taken by it or on its behalf. Assignor shall continue to be liable for all its obligations under the Supply Agreement.

8. All provisions hereof are intended to be severable and if any term, condition and provision hereof shall be held invalid or unenforceable, the validity and enforceability of the remaining terms, conditions or provisions hereof shall in no way be affected thereby. This instrument may only be amended or modified by an agreement in writing signed by the party against whom enforcement of the amendment or modification is sought. This instrument, including matters of interpretation and construction, and the rights of the Assignee and the duties and obligations of Assignor hereunder, shall be determined in accordance with the internal laws of the State of Texas without regard to principles of conflicts of law. This instrument shall be of no further force and effect at such time as Assignor shall have fulfilled or caused to have been fulfilled each and every of the covenants, agreements and obligations contained in the Loan Agreement, the Deed of Trust and the related documents.

9. Assignor hereby agrees, upon request of the Assignee, that Assignor shall promptly provide to the Assignee a copy of all amendments, modifications, additions or waivers of any provision of the Supply Agreement. Assignor shall not terminate, cancel, or amend or waive any provisions of, suffer or permit the termination, cancellation, or waiver of any provision of, or expiration of any of the Supply Agreement to which Assignor is a party, or in or to which Assignor has rights, except as expressly permitted by and in accordance with the terms of the Loan Agreement; *provided, however*, that the foregoing shall not operate to prevent Assignor from terminating the Supply Agreement if the contractor thereunder is in default of its obligations thereunder and, in Assignor's sound business judgment, such termination is in Assignor's best interest and if the Assignee has consented in writing to such termination.

10. This instrument shall inure to the benefit of the Assignee and its successors and assigns, and be binding upon Assignor and its successors and assigns. Assignor hereby acknowledges that all obligations of Assignor and all payments under the Supply Agreement are subordinated in all respects to Assignor's obligations owed to the Assignee under the Loan Agreement.

Executed and delivered as of this \_\_\_\_ day of January, 2015.

**FAIR ENERGY OPERATIONS-BEAUMONT, LLC,**  
a Texas limited liability company

By: Fair Energy Operations, LLC,  
a Texas limited liability company,  
its Manager

By: \_\_\_\_\_  
Kyle T. Fair

**EXHIBIT A**

**COPY OF SUPPLY AGREEMENT**

## EXHIBIT B

### CONSENT OF CITY OF BEAUMONT, TEXAS

Wilmington Trust, National Association, as Trustee  
Dallas, Texas

Re: Amended and Restated Feedstock Supply and Fuely Processing Agreement dated as of \_\_\_\_\_ (the “**Supply Agreement**”) between Fair Energy Operations-Beaumont, LLC (the “**Assignor**”) and the City of Beaumont, Texas, (“**Beaumont**”).

Ladies and Gentlemen:

We hereby consent to the provisions of that certain Collateral Assignment of Beaumont Supply Agreement dated as of \_\_\_\_\_, 2015 (the “**Assignment**”) between the Assignor and Wilmington Trust, National Association, as Trustee (the “**Assignee**”), providing for the collateral assignment of the Supply Agreement to the Trustee. All initially capitalized terms used herein which are not otherwise defined shall have the meanings set forth in the Assignment. We acknowledge that the Assignment shall not, in the absence of an affirmative assumption in writing by the Assignee of Assignor’s obligations thereunder, be deemed to impose any liability or obligation upon the Assignee. We agree that we shall give to the Assignee a copy of all notices of default by the Assignor under the Supply Agreement simultaneously with the delivery of any such notice to the Assignor, and the Assignee shall have the right, but not the obligation, during any cure period provided for in the Supply Agreement (but in no event less than 30 days) to cure such default. We agree that upon the occurrence of an Event of Default (as defined in the Assignment), we shall at your written request continue performance on your behalf or on behalf of your designee under the Supply Agreement in accordance with the terms thereof, provided we are paid and you perform in accordance with the Supply Agreement; *provided, further*, that any designee of the Assignee shall have the exact same rights as the Assignee hereunder and under the Agreement.

We hereby represent to the Assignee that the Supply Agreement constitutes our obligation, and is enforceable against us in accordance with its terms.

We hereby represent to the Assignee that all covenants, conditions and agreements pertaining to us contained in the Supply Agreement have been performed as required therein except for those which are not due to be performed until after the date of this letter and further confirm that no breach by Assignor under the Supply Agreement has occurred and is continuing as of the date of this letter.

This Consent shall inure to the benefit of the respective successors and assigns of the Assignee and shall bind our successors, assigns, heirs and personal representatives.

This Consent shall be governed by and construed under the laws of the State of Texas.

Very truly yours,

CITY OF BEAUMONT, TEXAS

By \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

**March 17, 2015**

Consider a resolution authorizing the City Manager to execute Amendments No. 2, to the General Land Office (the "GLO") Round 2.1 Contract No. 12-214-000-5514 and Round 2.2 Contract No. 13-239-000-7429 related to the South Park Drainage Project and the Avenue A Project

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# BEAUMONT

TEXAS

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director JM

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to execute Amendments No. 2, to The General Land Office (the "GLO") Round 2.1 Contract No. 12-214-000-5514 and Round 2.2 Contract No. 13-239-000-7429.

---

## BACKGROUND

On December 4, 2011, the City of Beaumont was awarded funding through the 2008 Texas Community Development Block Grant Ike Disaster Recovery Fund for Round 2.1 for the South Park Drainage Improvement Project. In December 20, 2012, the City of Beaumont was also awarded funding by The General Land Office (the "GLO") for Round 2.2 for the Avenue A, Magnolia Avenue from E. Lucas to Gill Street, Fire Station No. 2 and the Beaumont Health Department Projects.

For the Round 2.1 Amendment No. 2, the City plans to reduce the scope of the South Park Drainage Improvement Project while asking that additional funds be made available for the project. The issues that have contributed to these changes are due to the rising cost of construction and changes to the project to avoid conflict with a 72" water line that was discovered under the Kansas City Southern Railway Company tracks. If approved, \$2,376,853.00 will be shifted from the Avenue A Project to the South Park Drainage Project. In addition, Round 2.2 Amendment No. 2, the City is reducing the scope of the Avenue A Project. The Reductions are necessary to pay for the increased cost of the South Park project already under construction.

## FUNDING SOURCE

The General Land Office of the State of Texas and the Capital Program.

## RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute Amendment No. 2 for General Land Office Contract No. 12-214-000-5514, Community Development Block Grant Disaster Recovery Program Round 2.1 Non-Housing Grant Agreement between the City of Beaumont and the General Land Office to reduce the scope of the South Park Drainage Improvement Project and to request that additional funds be made available for the project. The Amendment is attached hereto as Exhibit "A" and made a part hereof for all purposes; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute Amendment No. 2 for General Land Office Contract No. 13-239-000-7429, Community Development Block Grant Disaster Recovery Program Round 2.2 Non-Housing Grant Agreement between the City of Beaumont and the General Land Office to reduce the scope of the Avenue A Project. The Amendment is attached hereto as Exhibit "B" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -



SIGNATURE PAGE FOR AMENDMENT NO. 2 TO  
GLO CONTRACT NO. 12-214-000-5514 ROUND 2.1 FUNDING

GENERAL LAND OFFICE

CITY OF BEAUMONT

\_\_\_\_\_  
Larry L. Laine, Chief Clerk/  
Deputy Land Commissioner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date of execution: \_\_\_\_\_

Date of execution: \_\_\_\_\_

<sup>DS</sup> **ARRJ** LEGAL <sup>DS</sup> **AAH**  
PM <sup>DS</sup> **JB**  
Deputy <sup>DS</sup> **JP**  
AGC <sup>DS</sup> **AK**  
GC <sup>DS</sup> **ALI**

**ATTACHED TO THIS AMENDMENT:**

**ATTACHMENT A-1:** Revised Performance Statement and Implementation Schedule

**ATTACHMENT B-1:** Revised Project Budget

**ATTACHMENTS FOLLOW**

## Revised Performance Statement and Implementation Schedule

### City of Beaumont

Grantee shall carry out the following activities in the target area identified in its 2008 Texas CDBG Disaster Recovery Supplemental Grant application to aid areas most impacted and distressed by Hurricanes Ike or Dolly. The persons to benefit from the activities described in this Performance Statement must be receiving service or a benefit from the use of the new or improved facilities and activities for the contract obligations to be fulfilled. Grantee shall ensure that the amount of funds expended for each activity described does not exceed the amount specified for such activity in Attachment B, Budget.

As a result of Hurricane Ike on September 13, 2008, the city sustained flooding that resulted in drainage infrastructure failure. The existing drainage system and roadway infrastructure failed to function because the current drainage system was unable to convey the volume of water generated during Hurricane Ike. The failure of the drainage system to function threatened the public health, safety, and welfare of all served by this facility due to flooding, including roads and homes. The city is in need of adequately-sized drainage infrastructure to reduce flooding.

#### Flood and Drainage Facilities-5

##### South Park Drainage Improvements

The South Park drainage area is located in the Southeast portion of the City of Beaumont and is composed of three major sub areas: Moore Street, South Park, and Threadneedle watersheds. The project will install additional storm sewer boxes and pipes and connect them to the existing system. These interconnects will allow for the re-direction of flow to the Neches River and relieve the current outfall, and allow for the interconnect of the three main sub areas. The existing asphalt roads and ditches will be reconstructed to a concrete road with curb and gutter, including a new storm sewer system. The existing roadway, approximately twenty feet (20 ft.) wide and will be widened to approximately twenty-seven feet (27 ft.).

Grantee shall install new a storm sewer system, including concrete box culverts at major road crossings, headwalls, storm sewer pipe, manholes, inlets, adjust manholes and inlets, cement stabilized backfill, and perform excavation. Roadway items include dense graded hot mix asphalt for roadway transitions, concrete paving six inches in depth with curb and gutter, cement stabilized backfill, driveways (repair), sidewalks, removing stabilized base and asphalt, signing, and pavement markings. Other miscellaneous items include preparing right of way, removing concrete and concrete structures, sodding for erosion control, excavation for structures, railroad crossing repair, utility repair, upgrade and relocation, and performing site work associated with construction. Construction shall take place in southeast Beaumont (South Park Drainage Area), including the following roadway corridors:

ROAD:	FROM:	TO:
-------	-------	-----

Reed Street	E. Threadneedle Street	E. Lavaca Street
Grandberry Street	E. Lavaca Street	E. Woodrow Street
Adams Street	Reed Street	MLK Parkway
MLK Parkway	Adams Street	E. Lavaca Street
E. Lavaca Street	MLK Parkway	Existing Ditch at Olin Road
E. Woodrow Street	Grandberry Street	Maddox Street
Maddox Street	E. Woodrow Street	E. Virginia Street
E. Lavaca Street	Grandberry Street	Reed Street

Construction of the culvert crossing will take place at Spur 380 (MLK Parkway) north of Lavaca Street, and at the railroad crossing.

Proposed improvements will significantly increase the capacity of the drainage system and reduce flooding.

These activities shall benefit five thousand six hundred sixty (5,660) persons, of which three thousand six hundred sixty-seven (3,667), or sixty-four percent (64%), are of low to moderate income.

#### Engineering-30

Grantee shall ensure the amount of the funds expended for all eligible project-related engineering services, including preliminary and final design plans and specifications, all interim and final inspections, and all special services, does not exceed the amount specified for engineering in Attachment B, Budget.

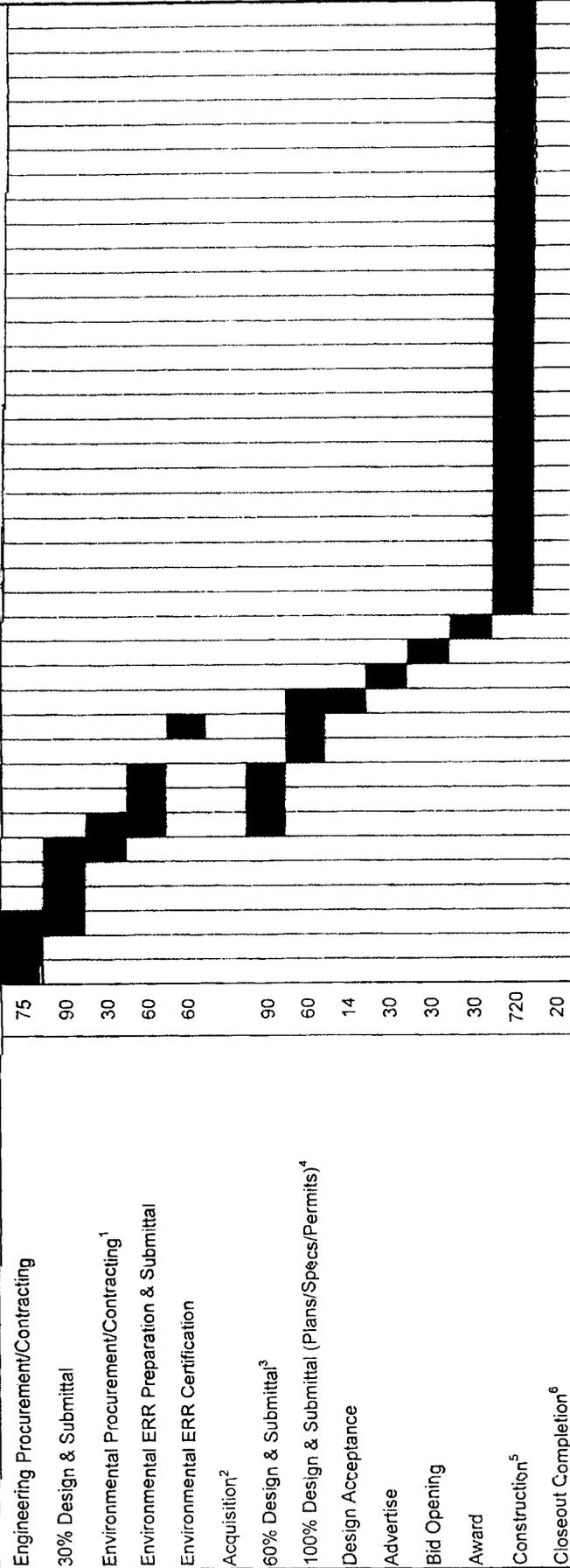
#### Planning / Project Delivery-33

Grantee shall ensure the amount of the funds expended for all eligible project-related "planning / project delivery" administration activities, including the required annual program compliance and fiscal audit, does not exceed the amount specified for Planning / Project Delivery in Attachment B, Budget.

Project Implementation Schedule

Grantee: Beaumont

Activity: 5 Project: South Park Drainage Improvements The proposed work includes storm sewer installation.



<sup>1</sup> Environmental procurement/contracting is assumed to start the day following the 30% design submittal.

<sup>2</sup> Acquisition is assumed to start the day following the 30% design submittal.

<sup>3</sup> 60% design is assumed to start two (2) weeks after the 30% design submittal for review.

<sup>4</sup> 100% design is assumed to start two (2) weeks after the 60% design submittal for review.

<sup>5</sup> Construction is assumed to start four (4) weeks after construction award or four (4) weeks after design completion if bidding/award is not applicable.

<sup>6</sup> Closeout completion is assumed to occur 30 calendar days after closeout documents are submitted for review/approval.

**REVISED PROJECT BUDGET**

**CITY OF BEAUMONT**

<u>LINE CATEGORIES</u>	<u>CONTRACT FUNDS</u>	<u>OTHER FUNDS</u>	<u>TOTAL</u>
5. Flood and Drainage Facilities	\$ 12,493,687	\$ <sup>1</sup> 364,062	\$ 12,857,749
30. Engineering/Architectural Serv. (Total for all construction accounts)	\$ 807,029	\$	\$ 807,029
33. Planning / Project Delivery	\$ <u>415,538</u>	\$ _____	\$ <u>415,538</u>
TOTALS	\$ 13,716,254	\$ <sup>1</sup> 364,062	\$ 14,080,316

<sup>1</sup>City of Beaumont Capital Improvements Program - \$364,062

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**SIGNATURE PAGE FOR AMENDMENT NO. 2  
TO GLO CONTRACT NO. 13-239-000-7429**

**GENERAL LAND OFFICE**

**CITY OF BEAUMONT**

\_\_\_\_\_  
Larry L. Laine, Chief Clerk/  
Deputy Land Commissioner

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date of execution: \_\_\_\_\_

Date of execution: \_\_\_\_\_

<sup>DS</sup> **ARJ** LEGAL <sup>DS</sup> **AWI**

PM <sup>DS</sup> **[Signature]** \_\_\_\_\_

Deputy <sup>DS</sup> **JP** \_\_\_\_\_

AGC <sup>DS</sup> **[Signature]** \_\_\_\_\_

GC <sup>DS</sup> **ALI** \_\_\_\_\_

**ATTACHED TO THIS AMENDMENT:**

**ATTACHMENT A-2:** Revised Performance Statement and Implementation Schedule

**ATTACHMENT B-2:** Revised Project Budget

**ATTACHMENTS FOLLOW**

## REVISED PERFORMANCE STATEMENT AND IMPLEMENTATION SCHEDULE

### CITY OF BEAUMONT

Grantee shall carry out the following activities in the target area identified in its 2008 Texas CDBG Disaster Recovery Supplemental Grant application to aid areas most impacted and distressed by Hurricanes Ike or Dolly. The persons to benefit from the activities described in this Performance Statement must be receiving service or a benefit from the use of the new or improved facilities and activities for the contract obligations to be fulfilled. Grantee shall ensure that the amount of funds expended for each activity described does not exceed the amount specified for such activity in the Budget.

As a result of Hurricane Dolly on July 23, 2008 and Hurricane Ike on September 13, 2008, the City sustained flooding that resulted in drainage infrastructure failure. The existing roadways and storm sewer/drainage system infrastructure failed to function because the current system was unable to transport the volume of water generated during the storms. The failure of the drainage system to function threatened the public health, safety, and welfare of all served by these facilities due to flooding and compromised emergency services. The City is in need of roadway and drainage infrastructure improvements to reduce flooding.

Additionally, the City's Fire Station failed to function as a fire protection facility and shelter. The failure to function was due to high winds, heavy rainfall for several days, and outdated/inadequate facilities. The failure of the facility to function threatened the public health, safety and welfare of all served by this facility due to compromised emergency services and use as a shelter. The City is in need of a new fire station that will be relocated to provide adequate fire protection and emergency services during future storm events.

The City's Public Health Facility failed to function due to water intrusion, structural instability as result of the storm, lack of accessibility by the disabled, and outdated facilities. The failure of this facility to function threatened the public health, safety, and welfare of all served by this facility due to the lack of basic human health services. The City is in need of a new Public Health Clinic to provide human health services.

#### Flood and Drainage Facilities - 5

##### Avenue A - Washington Boulevard to Elgie Street

Grantee shall remove the existing three-lane roadway and construct a new curb and gutter roadway to its original width with ADA compliant sidewalks. Work includes: constructing stabilized sub-grade, base, and concrete surface; construct curb and gutter, sidewalks with ADA compliant ramps, concrete island(s), driveways, roadside protection (guardrails and barrier walls), and remove existing miscellaneous items as needed; install signage and pavement

markings; provide other related roadway items; and perform site work associated with construction.

Drainage work includes installing a new storm sewer system, inlets, manholes, headwalls, concrete lined ditches, construct erosion control features, and install other associated appurtenances.

Grantee shall also make water and sewer line improvements including replacement of existing lines, sanitary sewer line replacement via pipe burstings, adjust manholes, install new fire hydrant assemblies, and install other associated appurtenances.

Proposed improvement will restore and ensure the function of the road for primary access and emergency vehicle use, and reduce flooding. Construction shall take place at the following location in Beaumont, Texas:

<u>Flood and Drainage Facilities:</u>	<u>Location:</u>	<u>HUD Performance Measure:</u>	<u>Approximate Units:</u>
On: Avenue A	From: Washington Boulevard To: Elgie Street	Linear Feet	1,650

These activities shall benefit six thousand four hundred seventy-two (6,472) persons, of which three thousand nine hundred fifty-five (3,955), or sixty-one percent (61%), are of low to moderate income.

Magnolia Avenue (East Lucas to Gill Street)

Grantee shall remove the existing four-lane roadway and construct a new curb and gutter roadway to its original width with ADA compliant sidewalks. Work includes constructing stabilized sub-grade, base, and concrete surface; construct curb and gutter, sidewalks with ADA compliant ramps, driveways, roadside protection (guardrails and barrier walls) and remove existing miscellaneous items as needed; install signage and pavement markings; provide other related roadway items; and perform site work associated with construction.

Drainage work includes installing a new storm sewer system, inlets, manholes, construct erosion control features, and install other associated appurtenances.

Grantee shall also make water and sewer line improvements including replacement of existing lines, sanitary sewer line replacement via pipe burstings, adjust manholes, install new fire hydrant assemblies, and install other associated appurtenances.

Proposed improvement will restore and ensure the function of the road for primary access and emergency vehicle use, and reduce flooding. Construction shall take place at the following location in Beaumont, Texas:

<u>Flood and Drainage Facilities:</u>	<u>Location:</u>	<u>HUD Performance Measure:</u>	<u>Approximate Units:</u>
On: Magnolia Avenue	From: East Lucas To: Gill Street	Linear Feet	3,500

These activities shall benefit six thousand one hundred seventy-eight (6,178) persons, of which four thousand two hundred thirty-six (4,236), or sixty-eight percent (68%), are of low to moderate income.

### Fire Protection Facilities and Equipment - 10

#### Fire Station No. 2

Grantee shall construct a new fire station. The new facility will include a reinforced concrete slab; garage bay and doors designed for modern emergency services and equipment, and vehicle exhaust system; tower and related training equipment; porch; plumbing system; electrical system including site lighting; telecommunications system and alarm system; heating, ventilating and air conditioning (energy star-HVAC) system; fire personnel kitchen and restroom facilities with showers; sleeping quarters; interior finish out; perimeter security fence and operable gates; detached onsite lawn equipment storage building; provide other associated appurtenances; and perform site work associated with construction. Grantee shall also purchase and install one (1) permanently-affixed generator ranging in size from one hundred to three hundred kilowatts (100 kW - 300 kW) with transfer switch and pad. Proposed Fire Station will ensure adequate fire protection and emergency services for the City. Construction shall take place at the following location in Beaumont, Texas:

<u>Fire Protection Facilities and Equipment:</u>	<u>Location:</u>	<u>HUD Performance Measure:</u>	<u>Approximate Units:</u>
Fire Station No.2	4990Helbig Road	Public Facility	1

These activities shall benefit fifteen thousand eight hundred eighty-one (15,881) persons, of which ten thousand six hundred eighty-two (10,682), or sixty-seven percent (67%), are of low to moderate income.

Specially Authorized Public Facilities and Improvements - 14Beaumont Public Health Facility

Grantee shall demolish the existing structure on new site and construct an approximately twenty-eight thousand to thirty three thousand square foot (28,000 - 33,000 s.f.) public health complex on land owned by the City and adjacent to a medical hospital complex. Work includes construction of a new building including site utilities; parking lot and driveways; plumbing system; electrical system including site lighting; telecommunications and alarm system; heating, ventilating and air conditioning (energy star-HVAC) system; ADA compliant restroom facilities with and without showers; interior finish out; perimeter fence; detached vehicle bays for emergency service vehicles; other associated appurtenances; and perform site work associated with construction. Grantee shall also purchase and install one (1) permanently-affixed generator ranging in size from two hundred fifty to five hundred kilowatts (250 kW - 500 kW) with transfer switch and pad. Installation of this new facility will ensure availability of a variety of health services for City residents. Construction shall take place at the following location in Beaumont, Texas:

<u>Specially Authorized Public Facilities and Equipment:</u>	<u>Location:</u>	<u>HUD Performance Measure:</u>	<u>Approximate Units:</u>
Beaumont Public Health Clinic	3040 College Street	Public Facility	1

These activities shall benefit sixty-one thousand six hundred one (61,601) persons, of which thirty-seven thousand six hundred sixty-two (37,662), or sixty-one percent (61%), are of low to moderate income.

Acquisition - 24

Grantee shall acquire easements as needed to accommodate the flood and drainage improvements. Grantee shall carry out all acquisition of needed real property, easements, and/or rights-of-way in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and HUD implementing regulations (24 CFR Part 42).

Engineering - 30

Grantee shall ensure the amount of the funds expended for all eligible project-related engineering services, including preliminary and final design plans and specifications, all interim and final inspections, and all special services, does not exceed the amount specified for Engineering in the Budget.

Project Delivery - 33

Grantee shall ensure the amount of the funds expended for all eligible project-related “project delivery” administration activities, including the required annual program compliance and fiscal audit, does not exceed the amount specified for Project Delivery in the Budget.

Project Delivery (Environmental) - 35

Grantee shall ensure the amount of the funds expended for all eligible project-related “project delivery” environmental activities does not exceed the amount specified for Environmental in the Budget.

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Grantee:	City of Beaumont		Description:
Activity:	5	Project: Flood and Drainage (Avenue A)	Work includes remove exist roadway, construct curb and gutter, ditches, sidewalks, new roadway, driveways, signing and pavement markings; storm sewer system; and perform site work. Grantee shall also make water and sewer line improvements and install new fire hydrants.
Engineering Procurement/Contracting	30		
30% Design & Submittal	30		
Environmental Procurement/Contracting <sup>1</sup>	30		
Environmental ERR Preparation & Submittal	60		
Environmental ERR Certification	60		
Acquisition <sup>2</sup>	180		
60% Design & Submittal <sup>3</sup>	60		
100% Design & Submittal (Plans/Specs/Permits) <sup>4</sup>	45		
Design Acceptance	14		
Advertise	543		
Bid Opening	28		
Award	28		
Construction <sup>5</sup>	390		
Closeout Completion <sup>6</sup>	30		

<sup>1</sup> Environmental procurement/contracting is assumed to start the day following the 30% design submittal.

<sup>2</sup> Acquisition is assumed to start the day following the 30% design submittal.

<sup>3</sup> 60% design is assumed to start two (2) weeks after the 30% design submittal for review.

<sup>4</sup> 100% design is assumed to start two (2) weeks after the 60% design submittal for review.

<sup>5</sup> Construction is assumed to start four (4) weeks after construction award or four (4) weeks after design completion if bidding/award is not applicable.

<sup>6</sup> Closeout completion is assumed to occur 30 calendar days after closeout documents are submitted for review/approval.

Grantee: <b>City of Beaumont</b>		Activity	Days
		<b>Activity 5 Project: Flood and Drainage (Magnolia Avenue)</b>	
Work includes remove existing roadway, construct curb and gutter roadway, and sewer system. Also, sidewalks with ramps, driveways, roadside protection, remove existing items as needed; signing and pavement markings; provide other related roadway items and perform site work.			
Engineering Procurement/Contracting		30	
30% Design & Submittal		30	
Environmental Procurement/Contracting <sup>1</sup>		30	
Environmental ERR Preparation & Submittal		60	
Environmental ERR Certification		60	
Acquisition <sup>2</sup>		60	
60% Design & Submittal <sup>3</sup>		45	
100% Design & Submittal (Plans/Specs/Permits) <sup>4</sup>		14	
Design Acceptance		20	
Advertise		28	
Bid Opening		28	
Award		390	
Construction <sup>5</sup>		30	
Closeout Completion <sup>6</sup>			

<sup>1</sup> Environmental procurement/contracting is assumed to start the day following the 30% design submittal.

<sup>2</sup> Acquisition is assumed to start the day following the 30% design submittal.

<sup>3</sup> 60% design is assumed to start two (2) weeks after the 30% design submittal for review.

<sup>4</sup> 100% design is assumed to start two (2) weeks after the 60% design submittal for review.

<sup>5</sup> Construction is assumed to start four (4) weeks after construction award or four (4) weeks after design completion if bidding/award is not applicable.

<sup>6</sup> Closeout completion is assumed to occur 30 calendar days after closeout documents are submitted for review/approval.

Grantee: <b>City of Beaumont</b>		Cal Day
<b>Activity:</b> 10 <b>Project:</b> Fire Station No. 2		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35
Grantee shall construct a new fire station to include garage bay and doors; generator; porch; plumbing and electrical system; telecom system; HVAC system; kitchen and restroom facilities; sleeping quarters; interior finish out; fence; other associated appurtenances; and perform site work.		
Engineering Procurement/Contracting		
30% Design & Submittal		30
Environmental Procurement/Contracting <sup>1</sup>		30
Environmental ERR Preparation & Submittal		30
Environmental ERR Certification		60
Acquisition <sup>2</sup>		60
60% Design & Submittal <sup>3</sup>		90
100% Design & Submittal (Plans/Specs/Permits) <sup>4</sup>		45
Design Acceptance		14
Advertise		20
Bid Opening		28
Award		273
Construction <sup>5</sup>		360
Closeout Completion <sup>6</sup>		30

<sup>1</sup> Environmental procurement/contracting is assumed to start the day following the 30% design submittal.

<sup>2</sup> Acquisition is assumed to start the day following the 30% design submittal.

<sup>3</sup> 60% design is assumed to start two (2) weeks after the 30% design submittal for review.

<sup>4</sup> 100% design is assumed to start two (2) weeks after the 60% design submittal for review.

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<sup>6</sup> Closeout completion is assumed to occur 30 calendar days after closeout documents are submitted for review/approval.



**REVISED PROJECT BUDGET****CITY OF BEAUMONT**

<b><u>HUD Activity</u></b>	<b><u>Categories</u></b>	<b><u>Grant Funds to Grantee</u></b>	<b><u>Grant Funds to Service Providers Contracted by GLO</u></b>	<b><u>Other Funds</u></b>	<b><u>Total Funds</u></b>
5	Flood and Drainage Facilities	\$6,243,509	\$0		\$6,243,509
10	Fire Protection Facilities and Equipment	\$2,724,920	\$0	\$0	\$2,724,920
14	Specially Authorized Public Facilities and Improvements	\$ 5,866,600	\$0	\$22,400 <sup>2</sup>	\$5,889,000
24	Acquisition				
30	Engineering/Architectural Services	\$0	\$ 713,400	\$1,974,517	\$2,687,917
33	Project Delivery	\$0	\$500,000	\$0	\$500,000
35	Environmental	\$0	\$28,000	\$0	\$28,000
	<b>Total</b>	<b>\$14,835,029</b>	<b>\$ 1,241,400<sup>1</sup></b>	<b>\$1,996,917<sup>2</sup></b>	<b>\$18,073,346</b>

<sup>1</sup>Total Grant Funds = \$16,076,429<sup>2</sup>City of Beaumont Capital Program = \$1,996,917**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

**March 17, 2015**

Consider a resolution authorizing the award of a contract to LD Construction of Beaumont for the Delaware Street Asphalt Resurfacing Project – Phase II from US 69 to Concord Road

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**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director *JM*

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the award of a contract to LD Construction of Beaumont in the amount of \$342,414.02 for the Delaware Street Asphalt Resurfacing Project – Phase II.

---

**BACKGROUND**

The section of Delaware Street from US 69 Frontage Roads to Concord Road is a heavily traveled, four (4) lane/two (2) lane roadway. The existing roadway has experienced numerous failures and after continual repair efforts now requires resurfacing to extend the life of the roadway. Phase II will provide an asphalt overlay from US 69 Frontage Roads to Concord Road.

On Thursday, February 26, 2015, bids were solicited for furnishing all labor, materials, equipment and supplies for the project. Three (3) bids were received as follows:

<b>Contractor</b>	<b>Location</b>	<b>Bid</b>
LD Construction	Beaumont, Texas	\$342,414.02
APAC	Beaumont, Texas	\$368,197.90
Allco	Beaumont, Texas	\$605,406.39

A total of 90 calendar days are allocated for the completion of the project. LD Construction is a Certified MBE/HUB company.

**FUNDING SOURCE**

Capital Program.

**RECOMMENDATION**

Approval of resolution.

**BID TAB  
 BID NUMBER: PW0115-02**

**For Delaware Street Rehab Project Phase-II**

For the City of Beaumont, Texas

Spec. No.	Item No.	Estimated Quantity	Unit	Description	Allco		APAC		LD Construction	
					UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
247	2003	700	SY	FLEXIBLE BASE (DRIVEWAYS)	\$ 31.50	\$ 22,050.00	\$ 15.00	\$ 10,500.00	\$ 15.25	\$ 10,675.00
276	2001	687.24	CY	CEMENT TREATMENT (PLANT - MIXED)(18")	\$ 127.00	\$ 87,279.48	\$ 149.00	\$ 102,398.76	\$ 150.00	\$ 103,086.00
340	2001	9,311.22	SY	1 1/2" TY D ASPH CONC LEVEL-UP	\$ 14.00	\$ 130,357.08	\$ 7.60	\$ 70,765.27	\$ 8.50	\$ 79,145.37
340	2002	8612.86	SY	1" TY F ASPH CONC SURFACE COURSE	\$ 12.00	\$ 103,354.32	\$ 5.35	\$ 46,078.80	\$ 5.25	\$ 45,217.52
340	2003	4566.61	SY	2" TY F ASPH CONC SURFACE COURSE	\$ 17.00	\$ 77,632.37	\$ 9.15	\$ 41,784.48	\$ 7.90	\$ 36,076.22
354	2021	7849.13	SY	PLANE ASPH CONC PAV (1" TO 3")	\$ 9.50	\$ 74,566.74	\$ 1.40	\$ 10,988.78	\$ 1.25	\$ 9,811.41
361	2001	240	SY	FULL-DEPTH CONC PAV REPAIR W/ ASB	\$ 111.00	\$ 26,640.00	\$ 235.00	\$ 56,400.00	\$ 125.00	\$ 30,000.00
500	2001	1	L.S	MOBILIZATION	\$ 23,750.00	\$ 23,750.00	\$ 15,500.00	\$ 15,500.00	\$ 10,000.00	\$ 10,000.00
502	2001	3	MON	BARRICADES SIGNS AND TRAFFIC HANDLING	\$ 9,340.00	\$ 28,020.00	\$ 1,350.00	\$ 4,050.00	\$ 4,000.00	\$ 12,000.00
712	2001	5.122	L.F	JOINT SEAL	\$ 6.20	\$ 31,756.40	\$ 1.90	\$ 9,731.80	\$ 1.25	\$ 6,402.50

**Total Estimated Construction Cost**

\$ 605,406.39

\$ 368,197.90

\$ 342,414.02

RESOLUTION NO.

WHEREAS, bids were solicited for a contract for the Delaware Street Asphalt Resurfacing Project - Phase II to include all labor, materials, equipment and supplies to provide an asphalt overlay of Delaware Street from Concord Road to US 69; and,

WHEREAS, LD Construction, of Beaumont, Texas, submitted a bid in the amount of \$342,414.02; and,

WHEREAS, City Council is of the opinion that the bid submitted by LD Construction, of Beaumont, Texas, should be accepted;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the bid submitted by LD Construction, of Beaumont, Texas, in the amount of \$342,414.02 for a contract for the Delaware Street Asphalt Resurfacing Project - Phase II be accepted by the City of Beaumont; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a contract with LD Construction, of Beaumont, Texas, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -

**March 17, 2015**

Consider a resolution authorizing the City Manager to submit an application for grant funding to the Texas Water Development Board for the Master Drainage Plan Project and accept the funds if awarded

---



**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to submit an application for grant funding, and accept the funds if awarded, to the Texas Water Development Board for the Master Drainage Plan Project.

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**BACKGROUND**

On November 12, 2014, by Resolution No. 14-244, City Council authorized the City Manager to execute an agreement with Lockwood, Andrews, Newnam, Inc. (LAN) of Houston, Texas in an amount not to exceed \$500,000 to fund the first phase of a Master Drainage Plan for the City of Beaumont.

The Texas Water Development Board (TWDB) is currently offering grants to political subdivisions of the State of Texas for the evaluation of structural and non-structural solutions to flooding issues. The City of Beaumont Master Drainage Plan project meets the qualifying project requirements. The City will apply for grant funds in the amount of \$250,000 which would be used to expand the scope of the Master Drainage Plan.

**FUNDING SOURCE**

Not applicable.

**RECOMMENDATION**

Approval of resolution.



Application for Flood Protection Planning Grant  
**Texas Water Development Board**

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# Phase 1 Master Drainage Plan

Applicant: City of Beaumont

February 25, 2015



## *City of Beaumont*

February 25, 2015

Mr. David Carter  
Texas Water Development Board  
P.O. Box 13231 – Capitol Station  
Austin, Texas 78711-3231

RE: Flood Protection Planning Grant for the City of Beaumont, Texas

Dear Mr. Carter:

The City of Beaumont is pleased to submit a grant application to the Texas Water Development Board (TWDB) for the Phase 1 Master Drainage Plan planning study. The proposed planning study will include an assessment of both open channel and closed conduit drainage systems, provide guidelines for future development, and serve as the City's guide for future drainage improvements.

The proposed planning effort does not duplicate any existing or future planning projects, and the City of Beaumont confirms our participation in the National Flood Insurance Program and fully intends to contribute \$500,000 cash to this study.

The attached application includes general information, planning information, and existing system information for the proposed planning study. A signed Resolution authorizing the City to apply for TWDB grant funding, enter into a contract with TWDB, and stating the intent to commit local matching funds will be provided after the next City Council meeting on March 10, 2015. A draft resolution is included in Appendix E.

We look forward to partnering with the TWDB on this important project to provide the City of Beaumont the critical infrastructure to improve public safety and reduce flood risk to property. If you have any questions regarding this application, please contact me at (409) 880-3708.

Sincerely,

Kyle Hayes  
City Manager

# Table of Contents

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**Tab A Grant Application**

- I. General Information
- II. Planning Information
- III. Written Assurances
- IV. Proof of Notification
- V. Resolution

**APPENDIX**

**Tab B Exhibit B**

Proposed Planning Area Map

**Tab C Exhibit C**

Written Assurance

**Tab D Exhibit D**

Notification Letters  
Certified Mail Receipts

**Tab E Exhibit E**

Draft Resolution  
Resolution 14-244 Project Authorization



# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

### APPLICATION FOR TEXAS WATER DEVELOPMENT BOARD FLOOD PROTECTION PLANNING GRANT BEAUMONT MASTER DRAINAGE PLAN

#### I. General Information

**1. Legal Name of Applicant.**

City of Beaumont

**2. DUNS Number.**

073901118

**3. Participating political subdivisions.**

Not applicable

**4. Authority of law under which each political subdivision was created.**

The City of Beaumont, Texas is a municipal corporation, having been incorporated pursuant to the provisions of Article II Section 5 of the Texas Constitution, and having adopted a home rule charter by a duly called and held election on December 6, 1947, pursuant to the provisions of Articles 1165 through 1169 of Vernon's Texas Civil Statutes.

**5. Applicants official representative, Name, Title, Mailing Address, Phone number, Fax number, if available, E-mail Address, and Vendor ID number.**

Kyle Hayes  
City Manager  
801 Main Street  
Beaumont, Texas 77701  
Phone: (409) 880-3708  
Fax: (409) 880-3132  
E-mail: khayes@ci.beaumont.tx.us  
Vendor ID: 74-6000278

**6. Citations of applicant's legal authority to plan for and implement flood protection measures for the study watershed or if authority to plan is by interlocal agreement, attach agreement to application.**

City Council passed a Resolution on March 3, 1970 granting the City authority to plan for and implement flood protection measures as a participating community in the National Flood Insurance Program.

**7. Is this application in response to a published Request for Proposals list Texas Register?**

Yes

# Application for Flood Protection Planning Grant Master Drainage Plan, City of Beaumont

**8. If yes to number 7 above, list document number and date of publication.**

*Texas Register* – Volume 39, November 7, 2014

**9. Total proposed planning cost.**

\$750,000

**10. Total grant funds requested from the Texas Water Development Board.**

\$250,000

**11. Applicant cash contribution to the study.**

\$500,000

**12. Source of Cash Contribution to the study, explanation of source of local cash contribution and attach list of sources.**

\$500,000, City of Beaumont

**13. Applicant In-kind contribution, including a description of in-kind services to be provided.**

Not applicable

**14. Detailed description of why proposed planning is needed.**

The purpose of the Phase 1 Master Drainage Plan (MDP) is to develop a comprehensive understanding of the City of Beaumont's (the City) current drainage infrastructure in a seamless manner in order to develop a strategic Capital Improvement Plan (CIP) designed to reduce flooding risk.

The MDP study will build upon and update the current City of Beaumont Master Drainage Plan completed in 1981 by Kohler & Kohler Engineers, commonly referred to as the Kohler Study. The current plan is over 30 years old and no longer accurately depicts the flood risk within the City. The goal of this MDP is to develop an accurate and current understanding of the City's drainage infrastructure and potential solutions to problem areas. This understanding will include a comprehensive asset inventory, condition assessment, accurate simulation, problem area identification and problem source/cause, and a comprehensive list of Capital Improvement Projects designed to address the system deficiencies.

The Master Drainage Plan will serve as the City's guide for future drainage improvements. It will include an assessment of both open channel and closed conduit drainage systems, and will provide guidelines for future development.

**15. Detailed description of why state funding assistance is needed.**

State funding is necessary to further leverage City of Beaumont spending in order to further reduce flood risks within the City. A successful partnership between the City of Beaumont and the State would allow for additional spending for implementation of identified flood risk reduction projects that would have previously been spent on the Master Drainage Plan.

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

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**16. Identify potential sources and amounts of funding available for implementation of viable flood protection measures resulting from proposed planning.**

Implementation of viable flood protection measures that result from the City of Beaumont Master Drainage Plan will be implemented and scheduled by the City of Beaumont. Funding will be provided through:

- Property Taxes
- Capital Improvement Funds
- General Operating Funds
- TWDB and FEMA Grant programs

## II. Planning Information

**17. Describe the geographical planning area (specify river basins, counties, cities, districts, etc. and provide explanation for selecting planning boundaries).**

As shown in **Exhibit B** in the Appendix, the proposed planning area covers the City of Beaumont and portions of Jefferson County. The overall City is primarily drained by the Neches River and Hildebrandt Bayou watersheds. The City of Beaumont is located within the Northeast corner of Jefferson County and is the county seat. The focus of the proposed Phase 1 planning study is to develop a comprehensive analysis of all of the open channels and storm sewers within the eastern portion of the City as shown in **Exhibit B**. A comprehensive approach was selected in order to understand the full interaction between open channels, storm sewers, and the associated flood risk.

The Phase 1 planning area is located within Beaumont city limits east and south of IH-10 and bound on the east by the Neches River. The planning boundary was selected to coincide with known watershed boundaries and major grade breaks within the City, while covering one of the most populated areas of the City. A majority of the Phase 1 planning area was constructed prior to current development criteria, and includes the downtown area and many vital City and County offices. The aged stormwater conveyance systems and outdated flood risk information indicate this is an ideal area for a current study.

The proposed planning area covers approximately 16 square miles and encompasses more than 8 miles of open channel ditches, 170 miles of storm sewer, and 80 miles of roadside ditch.

**18. A map of the proposed planning area.**

Reference **Exhibit B** in the Appendix.

**19. A description of the existing or potential flood hazard that this planning is intended to address and the way in which the proposed planning will address the problem.**

The majority of the City of Beaumont is not located within mapped FEMA floodplains. These floodplains were developed, mapped, and studied a number of years ago prior to recent LiDAR data collection. Additionally, the City of Beaumont is served by numerous interconnected and unmapped channels that significantly influence the drainage performance of the City of Beaumont. The current level of floodrisk within the City and the phase one study area is not well understood.

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

**20. A description of the historical flooding and flood damage in the proposed planning area.**

Recent, large rainfall events within the City of Beaumont are common. Significant rainfall events in 1998, 2001, 2002, 2003, 2004, and 2005 dropped more than 10 inches of rain during each event. The City of Beaumont was also impacted by Hurricane Rita in 2005 and Hurricane Ike in 2008.

**21. A description of how the planning will address public safety and welfare.**

The City of Beaumont Master Drainage plan will address safety and welfare for the public and citizens of Beaumont by developing a better understanding of the current flood risk within the City. The last comprehensive study was developed more than 30 years ago and no longer appropriately depicts flood risk within the City, due to widespread development and changes since the study was developed. A detailed, city-wide study such as this will allow a better understanding of current flood risks to properties. Secondly, the study will develop recommended improvement projects to actually reduce flood risk for the City, resulting in increased safety and an overall decrease in flood damages. The proposed improvement projects will be prioritized according to cost benefit, risk, and other economic factors to schedule the most beneficial projects for construction as soon as possible.

**22. Current unemployment rate in the proposed planning area.**

The current unemployment rate for the City of Beaumont is 6.4% (Bureau of Labor Statistics, 2014); Jefferson County is 6.5%. (Bureau of Labor Statistics, 2014)

**23. Current per-capita income in the proposed planning area.**

Location	Median Per Capita Income <sup>1</sup>
City of Beaumont	\$39,526
Jefferson County	\$42,568

<sup>1</sup>2009-2013 ACS 5-Year Estimates

**24. Current population in the proposed planning area.**

Location	Current <sup>1</sup>	2010 <sup>2</sup>	2000 <sup>2</sup>
City of Beaumont (Phase 1 Study Area)	N/A	36,775	38,155
City of Beaumont (City-wide)	117,796	118,296	113,866
Jefferson County	252,358	252,273	252,051

<sup>1</sup>2013 American Community Survey estimate      <sup>2</sup>2010 and 2000 US Census, respectively

**25. Current population residing in the 100-year flood plain in the planning area.**

Number of People Residing in the 100-year Floodplain <sup>1</sup>			
Area	Hillebrandt Bayou Watershed	Tenmile Creek-Neches River Watershed	Total
City of Beaumont	232	3	235

<sup>1</sup>Based on 2010 Census statistics

# Application for Flood Protection Planning Grant Master Drainage Plan, City of Beaumont

**26. Estimated value of property in the 100-year flood plain in the planning area.**

Population in 100-year floodplain	235
Assumed persons per household	2.7
Estimated homes	87
Average value per home	\$138,635
<b>Estimated value at risk in 100-year floodplain</b>	<b>\$12,061,245</b>

**27. Does the applicant participate in the National Flood Insurance Program Community Rating System?**

Yes.

**28. If yes to number 27 above, at what level of participation in the Community Rating System.**

The City of Beaumont is currently operating as a Class 7 community.

The City of Beaumont became a Community Rating System (CRS) community in October 2008, with its current effective membership dated October 2013.

Jefferson County is not a CRS participant.

**29. Number of National Flood Insurance Program policies in effect in the proposed planning area.**

The planning area policies in effect for the Phase 1 study area are listed in the table below. These values were estimated from total area of the City within the Phase 1 study area.

<b>Phase 1 Study Area Policies<sup>1</sup></b>	
<b>NFIP Statistics (as of November 2014)</b>	<b>Phase 1 Study Area</b>
Policies in effect	1,817
Insurance in-force	\$517,356,343
Written premium in-force	\$963,052
Total number of losses (city only)	1,227
Total payments (city only)	\$12,663,805

<sup>1</sup>Source: FEMA Policy & Claim Statistics for Flood Insurance

The policies in effect for the City of Beaumont are listed in the table below:

<b>City of Beaumont Policies<sup>2</sup></b>	
<b>NFIP Statistics (as of November 2014)</b>	<b>City of Beaumont</b>
Policies in effect	7,217
Insurance in-force	\$2,054,863,000
Written premium in-force	\$3,825,104
Total number of losses (city only)	4,874
Total payments (city only)	\$50,299,772

<sup>2</sup>Source: FEMA Policy & Claim Statistics for Flood Insurance

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

### 30. Method for determination of potential cost effectiveness of proposed flood protection solutions.

Project cost effectiveness will be determined through proven methods based on methodology originally developed by the United States Army Corps of Engineers (USACE). A GIS-based approach will integrate the output of the hydrologic and hydraulic model (flooding extents and depths) coupled with structural footprints, elevation estimates, and property values. This GIS-based approach will estimate flood depths at the individual parcel level linked with the USACE depth-damage curves will determine flood damage values at an individual parcel level. The damage values will be determined for pre-project and post-project conditions. Reductions in damage values from pre-project to post-project will constitute the financial benefits of the recommended projects. The project construction costs will be estimated with the best available information. A cost benefit value for projects will be developed through determining average annual damages for multiple storm return periods and compared with the project cost annualized over the project life span. Typical project life spans are usually estimated at 50 years. Other project factors such as downstream impacts, environmental considerations, environmental restraints, constructability, reduction in flooding duration, funding availability, and project partnerships will also be considered.

### 31. The date(s) and description(s) of the most recent flood protection planning in proposed planning area.

The most recent and complete comprehensive flood protection planning study was completed in 1981 by Kohler & Kohler Engineers. Since that time, the City of Beaumont has not performed any comprehensive planning studies. Additionally, the current FIS was adopted in 2002 by Jefferson County and the City of Beaumont.

### 32. A description of how the proposed planning will coordinate with other flood protection plans or facilities in the planning area, surrounding regions, and the State.

The City of Beaumont Master Drainage Plan will be frequently coordinated with representatives of Jefferson County, Jefferson County Drainage District 6, and the Texas Department of Transportation (TxDOT). These entities will be made aware of the results of the planning study, allowed to provide input, and asked to coordinate future and planned projects in order to better reduce flood risk in the area.

The City of Beaumont will coordinate with statewide entities such as FEMA Region VI, TWDB, TxDOT, and TCEQ on any portion of the project that may impact state owned facilities.

### 33. A detailed scope of work for proposed planning.

The following describes the scope of work for the Phase 1 proposed planning area located within the City of Beaumont east and south of IH-10 and bound by the Neches River.

#### 1. General Project Management and Communication

**a. General Project Management and Administration:** General project management and administration will be ongoing through the period of the contract and include items such as participation in the development of a Project Management Plan (PMP), developing and updating the project schedule, preparing contract correspondence, transmitting deliverables, documenting the quality control process, and other project oversight activities.

**b. Project Coordination and Status Meetings:** Regularly scheduled meetings with City staff shall be held to discuss study related issues, review the progress of the work effort, or to address issues which may arise.

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

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### 2. Data Collection, Organization and Initial Assessment

**a. City of Beaumont:** The Engineer will collect, review and organize the relevant information related to storm water within the City. City provided as-builts, available reports, GIS data, and existing models will all be reviewed and accounted for.

**b. Drainage District 6:** The Engineer will collect, review and organize the relevant information related to storm water within Drainage District 6 (DD6) as it pertains to the City of Beaumont. Drainage District 6 provided as-builts, available reports, GIS data, and existing models will all be reviewed and incorporated into the Master Drainage Plan.

**c. Other Data Sources:** Available drainage related data will be requested from FEMA, United States Army Corps of Engineers (USACE), and local TxDOT Districts. It is anticipated that available information, models, and future improvement plans will be incorporated or planned around in the MDP.

### 3. Digital Drainage Inventory Development

The digital drainage inventory will form the basis of the analysis portion of the MDP. The information gathered during this process will be directly utilized during hydraulic modeling in order to determine storm sewer performance and further the City's goal of developing enterprise class GIS data.

**a. Schema Development and Coordination with City:** The Engineer will develop a GIS schema to store the City stormwater infrastructure included pipes, manholes, inlet, and road side ditches.

**b. Inventory, Organize and Assess As-Builts and Record Drawings:** The Engineer will inventory, organize, and assess City and DD6 provided as-builts and record drawings in order to determine their usefulness for populating the City wide storm sewer schematic.

**c. Inventory Related Site Visits:** The Engineer will perform site visits in the early stages of the project to verify and clarify portions of the information collected as part of the data collection process.

**d. Schematic Population:** The Engineer will develop existing system schematics for the storm sewer and roadside ditches within the City. System schematics will be developed to include pertinent modeling information for inlets, manholes, and pipes such as type, length, size, material, flowlines, slope, etc. Schematics will be produced in GIS and the data stored in a geodatabase. The schematic is to be populated based on City provided CAD line work, as-built information, and supplemented with LiDAR, aerial imagery, and surveyed information and will be validated according to field conditions.

### 4. Condition Assessment

**a. Develop Condition Assessment Evaluation Forms:** The Engineer will generate condition assessment evaluation forms for capturing the field condition of stormwater assets. It is expected that these forms will capture readily available information while in the field such as general condition, siltation, clogging factors, and photos.

**b. Develop Digital Collection Method:** The Engineer will develop and determine a digital collection workflow for condition assessment. It is anticipated that this workflow will include tablets or other equivalent electronic devices with ArcGIS, ArcCollector, or equivalent data collection applications.

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

**c. Evaluate Asset and Work Order Management System:** The Engineer will evaluate the asset and work order management software employed by the City for applicability in identifying potential problem area locations within the City. It is anticipated that this effort will involve reviewing data available within the asset and work order software and if this data can be translated into useful spatial data.

**d. Intentional Condition Assessment Field Data Collection (BUDGETARY AND LOOSELY DEFINED TASK):** The Engineer will identify specific areas within the City for intentional condition assessment. These will be areas previously identified by the City and will include tunnels and historically older stormwater assets within the downtown area.

### 5. Initial Analysis

An initial, high-level analysis will be performed to: assist with setting modeling boundaries for analysis areas within the City; identify likely overland flowpaths; delineate rough drainage areas; and to prioritize study order by problem area severity.

**a. Process Arc-Hydro Overland Flow and Drainage Areas:** The Engineer will develop overland sheet flow areas, flow directions, and ponding depths using the 2006 LiDAR data. The purpose of this task is to determine the watershed boundaries for each study area and determine the potential overland flow system boundaries. These results will be based the 2006 LiDAR data and the “hydraulically enhanced” data that takes out the bridges and culverts that cross open channels.

**b. Initial High-Level Watershed 2-Dimensional (2D) Analysis:** The Engineer will develop an initial high level watershed 2D analysis in order to define study priority. It is anticipated that areas of higher flood risk and potentially more severe system deficiencies will be analyzed in more detail ahead of lower risk areas.

### 6. Survey

**a. Survey:** The Engineer will identify survey needs based on the previously collected City data and determine survey necessary to fill in gaps, missing information, and bring all of the system to a common vertical datum. It is anticipated that between 5-25% of the City’s stormwater assets will be surveyed for this effort.

### 7. Existing Conditions Evaluation

**a. Existing Hydrology:** The Engineer will develop the existing conditions hydrology including drainage areas, rainfall hyetographs, and hydrologic parameters. It is anticipated that the majority of the modeling for the City will be addressed with 2D stormwater modeling with rainfall applied directly to the 2D surface. This approach will be verified with traditional hydrology and the workflow adjusted as necessary to generate generally expected results. Delineations will be based on the LiDAR data, as-built, survey, and site visit information. Hydrologic parameters for drainage areas will be confirmed and modified as necessary from previous studies for runoff volume determination and routing. This effort will involve using City standards, soils data, aerial imagery, and field visits. The time of concentrations from previous studies will be confirmed and determined as necessary for each drainage area. Time of concentration will be calculated according to City design standards. Using the drainage areas, runoff hydrographs will be confirmed and developed as necessary. The runoff hydrographs will be developed according to City drainage criteria for 2-, 5-, 10-, 25- and 100-year storm events.

**b. Existing Hydraulics:** The Engineer will develop an existing conditions hydraulic network including modeling nodes, open channels, and conduits to represent culverts, cross culverts, bridges, storm sewer inlets,

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

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and storm sewer conduits within the City. The hydraulic network will be based on the previously developed GIS schematic, survey data, City GIS information, field visit data, and previously provided modeling data.

**c. Hydraulic Analysis – Run Model:** The Engineer will develop, run and debug the existing conditions models for the 2-, 5-, 10-, 25- and 100-year storm frequencies. Model errors and warnings will be reviewed and addressed as necessary. Model stability will be evaluated and instabilities reduced in order to provide a highly quality numeric representation of field conditions. In some cases, additional data may be necessary such as additional survey or site visits to develop enhanced data that could improve the function of the models.

**d. Model Validation and Verification:** The Engineer will evaluate the MDP-developed hydraulic model for one City-determined historic storm event and refine the model to the extent possible. The model will be checked for reasonableness and compared to the known drainage complaints of the City-selected storm event. It is anticipated that this historic storm event will have readily available rainfall hyetograph information, flooding reports, photos, high water marks, and stage-time gage information.

**e. System Level of Service:** The Engineer will determine a system level of service for the stormwater system based on the results of the existing conditions modeling.

**f. Problem Area Identification:** The Engineer will evaluate problem areas based on the outcome of the existing conditions modeling and identify the infrastructure deficiencies that cause the problems.

**g. Problem Area Ranking/Prioritization:** The Engineer will prioritize and rank problem areas by their severity. Severity will be determined with reference to the number of potentially flooded structures, estimated damage values, and the number of passable intersections in order to determine overall problem area severity. Problem area severity will dictate the order in which improvement alternatives are developed.

**h. Quality Assurance/ Quality Control:** Quality Assurance/Quality Control (QA/QC) Plan: hydrologic data will be reviewed by the Engineer for consistency with City requirements and methodology.

### **8. Capital Improvement Identification**

**a. Design Criteria Establishment:** The Engineer will establish target design criteria for improvements. This task will involve coordination with City staff in order to identify target design criteria and what year level of service will be targeted for improvement alternatives.

**b. Alternative Refinement and Evaluation:** The Engineer will refine the improvement alternatives within the dynamic modeling software in order to optimize system performance and maximize reduction in flooding extents. A recommended alternative will be documented that defines proposed improvements to roadway and drainage infrastructure.

**c. Planning Level Cost Estimates:** The Engineer will develop planning level cost estimates will be prepared for each of the recommended alternatives. The Engineer will develop an Estimate of Probable Construction Cost (EPCC) for each alternative.

**d. Project Benefit Determination:** The Engineer will determine the benefits of the improvement projects in a GIS based approach in order to determine reduction in flooded areas, reduction in flooded structures, passable intersections, and other categories determined by the City.

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

**e. Recommended Project Prioritization:** Improvement projects will be prioritized and ranked according to reduction in flooded structures, reduction in overall damage, benefit/cost ratios, passable intersections, and other categories as determined by the City. This task also includes effort for developing and refining the prioritization categories and scoring criteria.

**f. Quality Assurance/Quality Control (QA/QC):** QA/QC review process will be documented at major milestones.

**9. Final Report**

**a. Report Text:** The Engineer will develop and create a report documenting the process for the MDP. The MDP report will include a discussion of the work performed, general methodology, assumptions applied during the course of study, a discussion of the study goal, the reported drainage problems, possible structural flooding, system capacity issues, a discussion of deviations from general methodology, and a discussion of findings and recommendations. The overall format and organization of the report will be submitted to the City ahead of report development for approval. Improvement alternatives will be documented and an assessment of prioritized project need, benefit, and potential challenges such as ROW or environmental impacts will be addressed. A draft report will be compiled to include text, model output, exhibits, and appendices for the City's review.

**b. Quality Assurance/Quality Control (QA/QC):** QA/QC review process will be documented at major milestones.

**34. A task budget for detailed scope of work by task.**

<b>Detailed Scope of Work Task Budget</b>			
<b>Item</b>	<b>Task</b>	<b>Estimated Effort</b>	<b>Estimated Value</b>
1	General Project Management	13.1%	\$98,250
2	Data Collection	2.1%	\$15,750
3	Digital Drainage Inventory Development	25.0%	\$187,500
4	Condition Assessment	4.0%	\$30,000
5	Initial Analysis	3.0%	\$22,500
6	Survey	15.2%	\$114,000
7	Existing Conditions Evaluation	24.8%	\$124,000
8	Capital Improvement Identification	7.5%	\$56,250
9	Final Report	5.0%	\$37,500
10	Direct Costs & Reimbursable Expenses	0.3%	\$2,250
<b>Year 1 TOTAL</b>		<b>100%</b>	<b>\$750,000</b>

**35. A time schedule for completing detailed scope of work by task.**

Please see the following page.

# Application for Flood Protection Planning Grant Master Drainage Plan, City of Beaumont

<b>Item 35: Time Schedule, Phase 1 Master Drainage Plan</b>														
<b>Item</b>	<b>Task</b>	<b>2015</b>					<b>2016</b>							
		<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>
1	General Project Management													
2	Data Collection													
3	Digital Drainage Inventory Development													
4	Condition Assessment													
5	Initial Analysis													
6	Survey													
7	Existing Conditions Evaluation													
8	Capital Improvement Identification													
9	Final Report													

**36. An expense budget by category for detailed scope of work.**

<b>Expense Budget</b>	
<b>Category</b>	<b>Total Budget</b>
Salaries and Wages <sup>1</sup>	\$485,250
Fringe <sup>2</sup>	\$0
Travel <sup>3</sup>	\$1,500
Subcontract Services	\$262,500
Other Expenses <sup>4</sup>	\$750
Overhead <sup>5</sup>	\$0
Profit	\$0
<b>TOTAL</b>	<b>\$750,000</b>

<sup>1</sup> Salaries and Wages is defined as the cost of salaries of engineers, stenographers, surveyors, clerks, laborers, etc. for time directly chargeable to this contract.

<sup>2</sup> Fringe is defined as the cost of social security contributions, unemployment, excise, payroll taxes, workers' compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation, and holiday pay acceptable thereto.

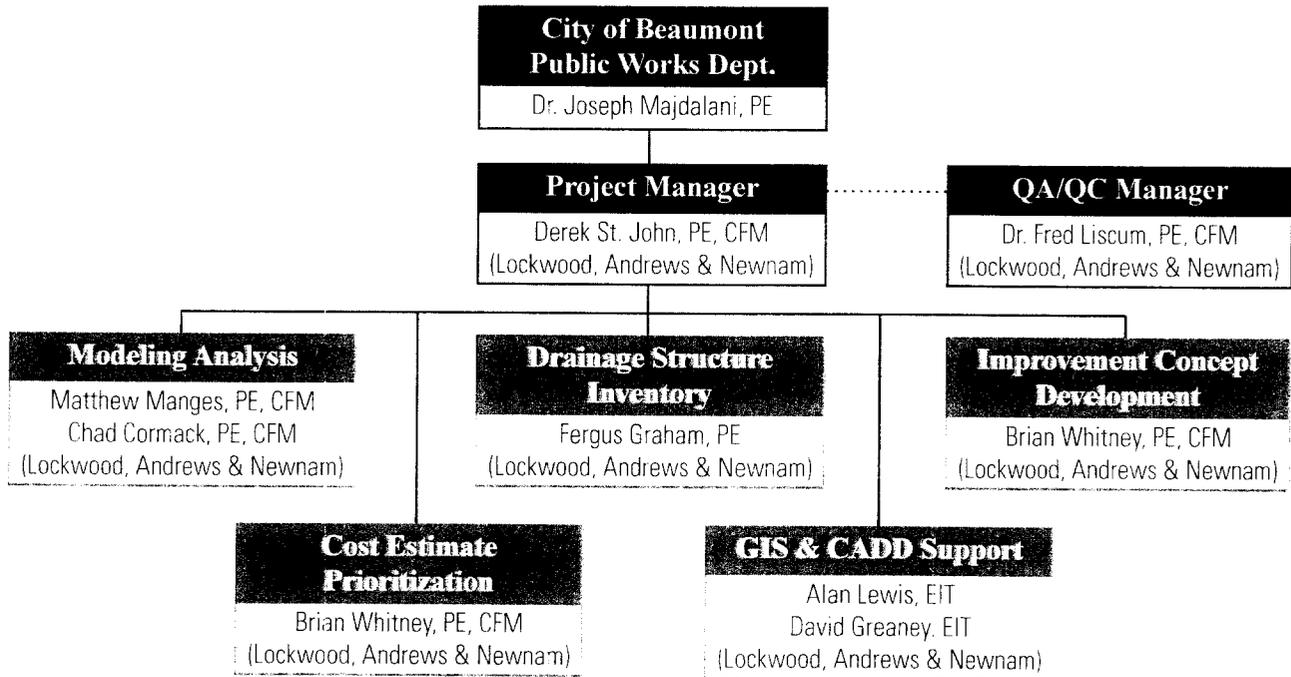
<sup>3</sup> Travel is limited to the maximum amounts authorized for state employees by the General Appropriations Act, Tex. Leg. Regular Session, 2011, Article IX, Part 5, as amended or superseded.

<sup>4</sup> Other expenses is defined to include expendable supplies, communications, reproduction, and postage directly chargeable to this contract.

<sup>5</sup> Overhead is defined as the costs incurred in maintaining a place of business and performing professional services similar to those specified in this contract. These costs shall include the following: indirect salaries, including that portion of the salary of principals and executives that is allocable to general supervision; indirect salary fringe benefits; accounting and legal services related to normal management and business operations; travel costs incurred in the normal course of overall administration of the business; equipment rental; depreciation of furniture, fixtures, equipment, and vehicles; dues, subscriptions, and fees associated with trade, business, technical, and professional organizations; other insurance; Rent and utilities; and Repairs and maintenance of furniture, fixtures, and equipment.

# Application for Flood Protection Planning Grant Master Drainage Plan, City of Beaumont

## 37. Qualifications and direct experience of proposed project staff.



### Dr. Joseph Majdalani, PE, CFM – Public Works Director, City of Beaumont

#### **License**

Texas Professional Engineer No. 73380

#### **Education**

Doctor of Engineering, Lamar University, 2010

Master of Science, Civil Engineering, University of Southwestern Louisiana, 1984

Bachelor of Science, Civil Engineering, University of Southwestern Louisiana, 1983

#### **Qualifications**

Dr. Majdalani is an accomplished engineer and public works manager with more than 31 years of experience. As Senior Assistant Director of Public Utilities for the City of Houston Public Works and Engineering Department, he managed \$112 million annual operating budget, \$156 million capital improvement projects budget, and more than 700 wastewater operations facilities.

As Public Works Director for the City of Beaumont, he manages the Engineering Department and oversees all aspects of capital improvement projects, city drainage systems, street rehabilitation, and pretreatment programs. He is responsible for coordinating with other City and County departments, as well as external consultants and in-house engineers for various design and planning projects to improve public safety and livelihood.

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

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### Derek St. John, PE, CFM – Project Manager, Lockwood, Andrews & Newnam, Inc.

#### **License**

Texas Professional Engineer No. 96623  
Certified Flood Plain Manager No. 0169-04

#### **Education**

Bachelor of Science, Civil Engineering, Texas A&M University, 2001

#### **Qualifications**

Mr. St. John has 15 years of civil engineering experience, and leads LAN's Stormwater Management team specializing in hydrology and hydraulics (H&H) analysis and design. He has managed numerous regional mitigation planning and design efforts for a variety of improvement projects, including drainage system master planning, watershed level H&H studies, and flood damage reduction feasibility studies.

He has managed numerous master drainage plans over the last five years using traditional and advanced modeling applications. He is highly skilled in the latest H&H GIS-related technologies and is recognized as an industry leader in this fast-growing area.

Mr. St. John has utilized the skill sets and tools described above to manage, lead, and perform several successful 2D drainage improvement initiatives within the last several years. He has utilized 2D modeling from the concept and feasibility project phase through design and construction, and has witnessed the performance of the improved system in an extreme event.

### Matthew Manges, PE, CFM – Modeling Analysis Lead, Lockwood, Andrews & Newnam, Inc.

#### **License**

Texas Professional Engineer No. 108735  
Certified Flood Plain Manager No. 1623-09N

#### **Education**

Master of Civil Engineering, Water Resources, Texas A&M University, 2008  
Bachelor of Science, Civil Engineering, Texas A&M University, 2007

#### **Qualifications**

Mr. Manges is one of the top urban stormwater modeling engineers in southeast Texas specializing in dynamic and 2D modeling. In the last three years, he has performed five complex drainage master plans using advanced 2D modeling. He is responsible for engineering services relating to H&H analysis for watershed master planning, preliminary engineering reports, and floodplain delineation. His career to this point is highlighted by the creation and development of one of the largest 2D InfoWorks models in North America. Through his efforts, this Texas CEC Engineering Excellence Silver Award winning project has brought understanding and feasible/cost-effective improvement projects to an area needing solutions.

### **38. Identify the watershed(s) for which flood protection needs will be addressed.**

Flood protection needs will be addressed for portions of the Nueces River and portions of the Hildebrant Bayou Watersheds.

# Application for Flood Protection Planning Grant

## Master Drainage Plan, City of Beaumont

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### 39. A description of how flood protection needs of the entire watershed will be considered.

Flood protection needs for the entire watershed will be evaluated through the comprehensive analysis methodology that will allow objective prioritization of flood risk and implementation of flood risk reduction projects. Structural and non-structural improvements will be considered to reduce flood risk throughout the watershed. Future development will be addressed through future planning and accounting for areas prior to development.

### 40. Method of monitoring study progress.

Study progress will be monitored through monthly meetings with City staff. Each meeting will discuss deliverables and works in progress.

## III. Written Assurances

The proposed planning effort does not duplicate any existing planning or implementation projects and is necessary to ensure the welfare and safety of the citizens of Beaumont. A letter of assurance for this information is included in **Exhibit C** in the Appendix.

## IV. Proof of Notification

Letters of notification to political subdivisions in the planning area, as well as certified mail receipts are included in **Exhibit D** in the Appendix.

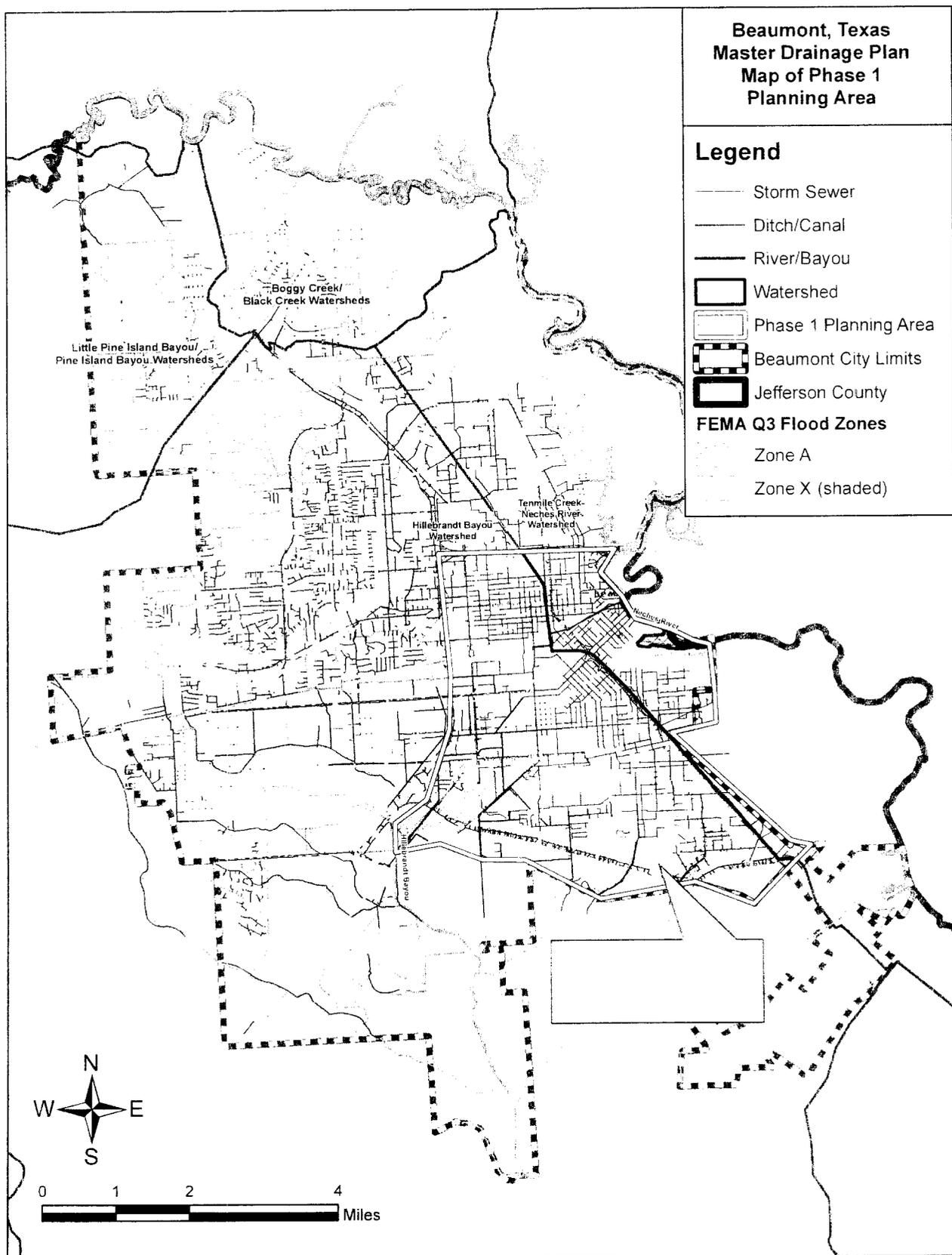
## V. Resolution

A Draft Resolution granting the City of Beaumont authority to apply for this TWDB grant, enter into a contract with the TWDB, and commit local matching funds is included in **Exhibit E** of the Appendix. A signed Resolution will be provided to the TWDB following the March 10, 2015 City Council meeting.

In addition, a signed copy of Resolution 14-244 authorizing the development of a Master Drainage Plan is included in **Exhibit E**.

# Application for Flood Protection Planning Grant

## Exhibit B: Proposed Planning Area Map



Application for Flood Protection Planning Grant  
Exhibit C: Written Assurance

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*City of Beaumont*

February 25, 2015

Mr. David Carter  
Texas Water Development Board  
P.O. Box 13231 – Capitol Station  
Austin, Texas 78711-3231

RE: Flood Protection Planning Grant for the City of Beaumont, Texas

Dear Mr. Carter:

The City of Beaumont is pleased to submit a grant application to the Texas Water Development Board (TWDB) for a city-wide flood protection planning study. The proposed planning study will provide flood protection solutions to reduce risk to property, public safety, and critical infrastructure for future flood events.

The proposed planning effort does not duplicate any existing or future planning projects for the City. One or more of the potential funding sources listed in Section I, Part 16 of this application will be pursued to implement viable structural and non-structural solutions identified through this proposed planning effort. The City of Beaumont confirms our participation in the National Flood Insurance Program and fully intends to contribute City funding in the amount of \$500,000 to this study.

If you have any questions regarding this application, please contact me at (409) 880-3708.

Sincerely,

Kyle Hayes  
City Manager

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Office of the City Manager • (409) 880-3708 • Fax (409) 880-3112  
P.O. Box 3827 • Beaumont, Texas 77704-3827

# Application for Flood Protection Planning Grant

## Exhibit D: Notification Letters



February 16, 2015

Don Rao  
Director  
Jefferson County Engineering Department  
1149 Pearl Street, 5<sup>th</sup> Floor  
Beaumont, Texas 77701

RE: Notification of a Proposed Texas Water Development Board Flood Protection Planning Study for the City of Beaumont, Texas

Dear Mr. Rao:

The City of Beaumont (City) is submitting a grant application to the Texas Water Development Board (TWDB) for a city-wide flood protection planning study. The planning area for the study covers the entire 80 square miles of the city limits consisting of 525 miles of open channel and 800 miles of storm sewer.

The purpose of the study is to develop an accurate and current understanding of the City's drainage infrastructure and areas prone to flood risk. This understanding will include a comprehensive asset inventory, condition assessment, electronic model simulations, problem area identification as well as its source/cause, and a comprehensive list of Capital Improvement Projects designed to address the system deficiencies. The study will serve as the City's guide for future drainage improvements. It will include an assessment of both open channel and closed conduit drainage systems, and will provide guidelines for future development.

The City of Beaumont is required to notify surrounding and affected entities within the planning area that an application for financial assistance to develop a flood protection plan is being submitted to the TWDB. Any comments concerning the referenced application for grant funds must be filed with the TWDB and City within 30 days of receipt of this transmittal. Comments and correspondence can be directed to the following:

Texas Water Development Board  
P.O. Box 13231 - Capitol Station  
Austin, Texas 78711-3231  
Attn: Kevin Patteson, Executive Administrator

With a copy to:

City of Beaumont  
P.O. Box 3827  
Beaumont, Texas 77704-3827  
Attn: Dr. Joseph Majdalani, PE, CFM, Public Works Director

If you have any questions or need additional information, please contact me at (409) 880-3725.

Sincerely,

  
Dr. Joseph Majdalani, PE, CFM  
Public Works Director, City of Beaumont

CC : Chace Mann, Project Manager  
Zheng Tan, City Engineer

# Application for Flood Protection Planning Grant

## Exhibit D: Notification Letters



February 16, 2015

Mr. Doug Canant, PE, RPLS, CFM  
District Engineer  
Jefferson County Drainage District No. 6  
6550 Walden Road  
Beaumont, Texas 77707

RE: Notification of a Proposed Texas Water Development Board Flood Protection Planning Study for the City of Beaumont, Texas

Dear Mr. Canant:

The City of Beaumont (City) is submitting a grant application to the Texas Water Development Board (TWDB) for a city-wide flood protection planning study. The planning area for the study covers the entire 80 square miles of the city limits consisting of 525 miles of open channel and 800 miles of storm sewer.

The purpose of the study is to develop an accurate and current understanding of the City's drainage infrastructure and areas prone to flood risk. This understanding will include a comprehensive asset inventory, condition assessment, electronic model simulations, problem area identification as well as its source/cause, and a comprehensive list of Capital Improvement Projects designed to address the system deficiencies. The study will serve as the City's guide for future drainage improvements. It will include an assessment of both open channel and closed conduit drainage systems, and will provide guidelines for future development.

The City of Beaumont is required to notify surrounding and affected entities within the planning area that an application for financial assistance to develop a flood protection plan is being submitted to the TWDB. Any comments concerning the referenced application for grant funds must be filed with the TWDB and City within 30 days of receipt of this transmittal. Comments and correspondence can be directed to the following:

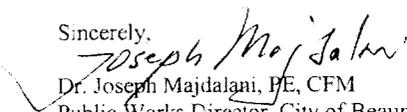
Texas Water Development Board  
P.O. Box 13231 – Capitol Station  
Austin, Texas 78711-3231  
Attn: Kevin Patteson, Executive Administrator

With a copy to:

City of Beaumont  
P.O. Box 3827  
Beaumont, Texas 77704-3827  
Attn: Dr. Joseph Majdalani, PE, CFM, Public Works Director

If you have any questions or need additional information, please contact me at (409) 880-3725.

Sincerely,

  
Dr. Joseph Majdalani, PE, CFM  
Public Works Director, City of Beaumont

CC : Chace Mann, Project Manager  
Zheng Tan, City Engineer

# Application for Flood Protection Planning Grant

## Exhibit D: Notification Letters



February 16, 2015

Adam Jack, P.E.  
Area Engineer  
Texas Department of Transportation  
8450 Eastex Freeway  
Beaumont, Texas 77708

RE: Notification of a Proposed Texas Water Development Board Flood Protection Planning Study for the City of Beaumont, Texas

Dear Mr. Jack:

The City of Beaumont (City) is submitting a grant application to the Texas Water Development Board (TWDB) for a city-wide flood protection planning study. The planning area for the study covers the entire 80 square miles of the city limits consisting of 525 miles of open channel and 800 miles of storm sewer.

The purpose of the study is to develop an accurate and current understanding of the City's drainage infrastructure and areas prone to flood risk. This understanding will include a comprehensive asset inventory, condition assessment, electronic model simulations, problem area identification as well as its source/cause, and a comprehensive list of Capital Improvement Projects designed to address the system deficiencies. The study will serve as the City's guide for future drainage improvements. It will include an assessment of both open channel and closed conduit drainage systems, and will provide guidelines for future development.

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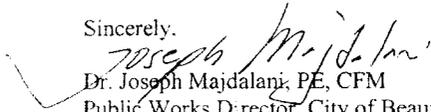
Texas Water Development Board  
P.O. Box 13231 – Capitol Station  
Austin, Texas 78711-3231  
Attn: Kevin Patteson, Executive Administrator

With a copy to:

City of Beaumont  
P.O. Box 3827  
Beaumont, Texas 77704-3827  
Attn: Dr. Joseph Majdalani, PE, CFM, Public Works Director

If you have any questions or need additional information, please contact me at (409) 880-3725.

Sincerely,

  
Dr. Joseph Majdalani, PE, CFM  
Public Works Director, City of Beaumont

CC : Chace Mann, Project Manager  
Zheng Tan, City Engineer

# Application for Flood Protection Planning Grant

## Exhibit D: Notification Letters



February 16, 2015

Shaun P. Davis  
Executive Director  
Southeast Texas Regional Planning Commission  
2210 Eastex Freeway  
Beaumont, Texas 77703

RE: Notification of a Proposed Texas Water Development Board Flood Protection Planning Study for the City of Beaumont, Texas

Dear Mr. Davis:

The City of Beaumont (City) is submitting a grant application to the Texas Water Development Board (TWDB) for a city-wide flood protection planning study. The planning area for the study covers the entire 80 square miles of the city limits consisting of 525 miles of open channel and 800 miles of storm sewer.

The purpose of the study is to develop an accurate and current understanding of the City's drainage infrastructure and areas prone to flood risk. This understanding will include a comprehensive asset inventory, condition assessment, electronic model simulations, problem area identification as well as its source/cause, and a comprehensive list of Capital Improvement Projects designed to address the system deficiencies. The study will serve as the City's guide for future drainage improvements. It will include an assessment of both open channel and closed conduit drainage systems, and will provide guidelines for future development.

The City of Beaumont is required to notify surrounding and affected entities within the planning area that an application for financial assistance to develop a flood protection plan is being submitted to the TWDB. Any comments concerning the referenced application for grant funds must be filed with the TWDB and City within 30 days of receipt of this transmittal. Comments and correspondence can be directed to the following:

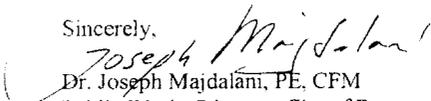
Texas Water Development Board  
P.O. Box 13231 – Capitol Station  
Austin, Texas 78711-3231  
Attn: Kevin Patteson, Executive Administrator

With a copy to

City of Beaumont  
P.O. Box 3827  
Beaumont, Texas 77704-3827  
Attn: Dr. Joseph Majdalani, PE, CFM, Public Works Director

If you have any questions or need additional information, please contact me at (409) 880-3725.

Sincerely,

  
Dr. Joseph Majdalani, PE, CFM  
Public Works Director, City of Beaumont

CC : Chace Mann, Project Manager  
Zheng Tan, City Engineer

# Application for Flood Protection Planning Grant

## Exhibit D: Certified Mail Receipts

7013 2250 0002 1173 8778

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*  
 For delivery information visit our website at [www.usps.com](http://www.usps.com)

BEAUMONT TX 77708

Postage	\$0.49
Delivery Fee	\$3.30
Priority Mail™ Fee	\$0.00
Postage and Fees on Return Receipt	\$0.00
<b>Total Postage and Fees</b>	<b>\$3.79</b>

0057  
 BEAUMONT POST OFFICE  
 FEB 17 2015  
 06217201502

To: TEXAS DEPARTMENT OF TRANSPORTATION  
 Street, Apt. No. 49150 EASTEX FREEWAY  
 City, State, ZIP+4® BEAUMONT, TX 77708

PS Form 3800, August 2006 See Reverse for Instructions

Label Number: 70132250000211738778  
 Expected Delivery Date: February 19, 2015  
 Service Type: Certified Mail™

Shipment Activity	Location	Date & Time
Delivered	BEAUMONT, TX 77708	February 19, 2015 9:35 am
Departed USPS Facility	BEAUMONT, TX 77707	February 19, 2015 6:50 am
Arrived at USPS Origin Facility	BEAUMONT, TX 77707	February 19, 2015 2:37 am
Arrived at USPS Origin Facility	NORTH HOUSTON, TX 77315	February 18, 2015 1:08 am
Departed Post Office	HOUSTON, TX 77042	February 17, 2015 7:44 pm
Acceptance	HOUSTON, TX 77042	February 17, 2015 8:40 am

7013 2250 0002 1173 8754

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*  
 For delivery information visit our website at [www.usps.com](http://www.usps.com)

BEAUMONT TX 77707

Postage	\$0.49
Delivery Fee	\$3.30
Priority Mail™ Fee	\$0.00
Postage and Fees on Return Receipt	\$0.00
<b>Total Postage and Fees</b>	<b>\$3.79</b>

0057  
 BEAUMONT POST OFFICE  
 FEB 17 2015  
 06217201502

To: JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6  
 Street, Apt. No. 6550 WALDEN ROAD  
 City, State, ZIP+4® BEAUMONT, TX 77707

PS Form 3800, August 2006 See Reverse for Instructions

Label Number: 70132250000211738754  
 Expected Delivery Date: February 19, 2015  
 Service Type: Certified Mail™

Shipment Activity	Location	Date & Time
Delivered	BEAUMONT, TX 77707	February 19, 2015 8:58 am
Departed USPS Facility	BEAUMONT, TX 77707	February 19, 2015 6:50 am
Arrived at USPS Origin Facility	BEAUMONT, TX 77707	February 19, 2015 2:37 am
Arrived at USPS Origin Facility	NORTH HOUSTON, TX 77315	February 18, 2015 1:06 am
Departed Post Office	HOUSTON, TX 77042	February 17, 2015 7:44 pm
Acceptance	HOUSTON, TX 77042	February 17, 2015 8:43 am

7013 2250 0002 1173 8785

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*  
 For delivery information visit our website at [www.usps.com](http://www.usps.com)

BEAUMONT TX 77701

Postage	\$0.49
Delivery Fee	\$3.30
Priority Mail™ Fee	\$0.00
Postage and Fees on Return Receipt	\$0.00
<b>Total Postage and Fees</b>	<b>\$3.79</b>

0057  
 BEAUMONT POST OFFICE  
 FEB 17 2015  
 06217201502

To: JEFFERSON COUNTY ENGINEERING DEPARTMENT  
 Street, Apt. No. 1149 PEARL STREET, 5th FLOOR  
 City, State, ZIP+4® BEAUMONT, TX 77701

PS Form 3800, August 2006 See Reverse for Instructions

Label Number: 70132250000211738785  
 Expected Delivery Date: February 19, 2015  
 Service Type: Certified Mail™

Shipment Activity	Location	Date & Time
Delivered	BEAUMONT, TX 77701	February 19, 2015 11:18 am
Departed USPS Facility	BEAUMONT, TX 77707	February 19, 2015 6:50 am
Arrived at USPS Origin Facility	BEAUMONT, TX 77707	February 19, 2015 2:37 am
Arrived at USPS Origin Facility	NORTH HOUSTON, TX 77315	February 18, 2015 1:06 am
Departed Post Office	HOUSTON, TX 77042	February 17, 2015 7:44 pm
Acceptance	HOUSTON, TX 77042	February 17, 2015 8:41 am

7013 2250 0002 1173 8723

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*  
 For delivery information visit our website at [www.usps.com](http://www.usps.com)

BEAUMONT TX 77703

Postage	\$0.49
Delivery Fee	\$3.30
Priority Mail™ Fee	\$0.00
Postage and Fees on Return Receipt	\$0.00
<b>Total Postage and Fees</b>	<b>\$3.79</b>

0057  
 BEAUMONT POST OFFICE  
 FEB 17 2015  
 06217201502

To: SOUTHEAST TEXAS REGIONAL PLANNING COMMISSION  
 Street, Apt. No. 210 EASTEX FREEWAY  
 City, State, ZIP+4® BEAUMONT, TX 77703

PS Form 3800, August 2006 See Reverse for Instructions

Label Number: 70132250000211738723  
 Expected Delivery Date: February 19, 2015  
 Service Type: Certified Mail™

Shipment Activity	Location	Date & Time
Delivered	BEAUMONT, TX 77703	February 19, 2015 2:07 pm
Departed USPS Facility	BEAUMONT, TX 77707	February 19, 2015 6:50 am
Arrived at USPS Origin Facility	BEAUMONT, TX 77707	February 19, 2015 1:49 am
Arrived at USPS Origin Facility	NORTH HOUSTON, TX 77315	February 18, 2015 1:24 am
Departed Post Office	HOUSTON, TX 77042	February 17, 2015 7:44 pm
Acceptance	HOUSTON, TX 77042	February 17, 2015 8:43 am

# Application for Flood Protection Planning Grant

## Exhibit E: Draft Resolution

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### RESOLUTION NO.

WHEREAS, the Texas Water Development Board (TWDB) published a request for applications for flood protection planning on November 7, 2014; and,

WHEREAS, TWDB offers grants to political subdivisions of the State of Texas for the evaluation of structural and non-structural solutions to flooding problems with consideration of flood protection needs of the entire watershed(s); and,

WHEREAS, the City of Beaumont has the authority to apply for a grant, enter into a contract, and participate in a study with the TWDB for this planning grant program; and,

WHEREAS, the proposed planning study would be conducted in order to develop an accurate and current understanding of the City's drainage infrastructure and areas prone to flood risk. The study would include the following: comprehensive asset inventory, condition assessment; accurate simulation; and, problem area identification and its source/cause; and,

WHEREAS, on November 12, 2014, City Council of the City of Beaumont, Texas approved Resolution No. 14-244 authorizing the City Manager to execute an Agreement with Lockwood, Andrews, Newnam, Inc. (LAN), of Houston, Texas, in an amount not to exceed \$500,000, as the City's local matching fund which is the current year expenditure of a planned three (3) year project, for the development of a Master Drainage Plan for the drainage infrastructure within the City limits, identifying areas prone to flood, and update the current City of Beaumont Master Drainage Plan;

NOW, THEREFORE, BE IT RESOLVED BY

THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in

# Application for Flood Protection Planning Grant

## Exhibit E: Draft Resolution

---

all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to apply for and receive grant funding for the City of Beaumont through the TWDB in the amount of \$250,000 for an expansion of the scope of the first year of a three (3) year study, within the City's limits, of its current drainage infrastructure and areas prone to flood risk.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 10th day of March, 2015.

\_\_\_\_\_  
- Mayor Becky Ames -

# Application for Flood Protection Planning Grant Exhibit E: Resolution 14-244 Project Authorization

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RESOLUTION NO. 14-244

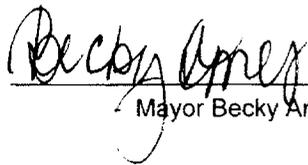
BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute an Agreement with Lockwood, Andrews, Newnam, Inc. (LAN), of Houston, Texas, in an amount not to exceed \$500,000 to develop a Master Drainage Plan for the drainage infrastructure within the City limits and update the current City of Beaumont Master Drainage Plan. The Agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 12th day of November, 2014.



  
\_\_\_\_\_  
- Mayor Becky Ames -

## RESOLUTION NO.

WHEREAS, the Texas Water Development Board (TWDB) published a request for applications for flood protection planning on November 7, 2014; and,

WHEREAS, TWDB offers grants to political subdivisions of the State of Texas for the evaluation of structural and non-structural solutions to flooding problems with consideration of flood protection needs of the entire watershed(s); and,

WHEREAS, the City of Beaumont has the opportunity to apply for a grant, enter into a contract, and participate in a study with the TWDB for this planning grant program; and,

WHEREAS, the proposed planning study would be conducted in order to develop an accurate and current understanding of the City's drainage infrastructure and areas prone to flood risk. The study would include the following: comprehensive asset inventory; condition assessment; accurate simulation; and, problem area identification and its source/cause; and,

WHEREAS, on November 12, 2014, City Council of the City of Beaumont, Texas approved Resolution No. 14-244 authorizing the City Manager to execute an Agreement with Lockwood, Andrews, Newnam, Inc. (LAN), of Houston, Texas, in an amount not to exceed \$500,000, in satisfaction of the City's local matching fund which is the current year expenditure of a planned three (3) year project, for the development of a Master Drainage Plan for the drainage infrastructure within the City limits, identifying areas prone to flood, and update the current City of Beaumont Master Drainage Plan;

NOW, THEREFORE, BE IT RESOLVED BY

THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in

all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to apply for and receive grant funding for the City of Beaumont through the TWDB in the amount of \$250,000 for an expansion of the scope of the first year of a three (3) year study, within the City's limits, of its current drainage infrastructure and areas prone to flood risk.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

---

- Mayor Becky Ames -

**March 17, 2015**

Consider a resolution awarding an annual contract to Martin Asphalt, Inc., of Houston, for the purchase of asphalt, road oil and emulsions utilized in the Streets and Drainage Division

---

# BEAUMONT

TEXAS

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Laura Clark, Chief Financial Officer 

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution awarding an annual contract to Martin Asphalt, Inc., of Houston, for the purchase of asphalt, road oil and emulsions in the estimated amount of \$140,400.

**BACKGROUND**

Bids were requested for an annual contract to provide asphalts, road oils and emulsions for use by the Streets and Drainage Division for repair and maintenance of city streets. In addition to repair, these materials are used in the Street Rehabilitation Program. Bid notices were provided to three (3) vendors; two (2) responded with pricing reflected below.

Product	Qty (Gal)	Cleveland Asphalt		Martin Asphalt	
		Unit Price	Total Bid	Unit Price	Total Bid
SS-1 Slow Set Oil Base	12,000	\$2.25	\$27,000	\$2.20	\$26,400
AE-P Prime	40,000	\$2.80	\$112,000	\$2.85	\$114,000
<b>Total Bid</b>			<b>\$139,000</b>		<b>\$140,400</b>

Although Cleveland Asphalt, Inc. was the low bid, it is recommended that the bid from Martin Asphalt, Inc. be accepted as the best value to the City.

The contract calls for City pickup of materials not vendor delivery. The Cleveland Asphalt plant is located north of Shepherd, Texas which is 160 miles, round trip, from Beaumont. The cost of sending City trucks and drivers on the three to four hour round trip is not economically justifiable. The Martin Asphalt facility is in Port Neches and has held this contract for several years.

**FUNDING SOURCE**

Capital Program and General Fund-Public Works Department.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

WHEREAS, bids were solicited for a contract for the purchase of asphalt, road oil and emulsions for use by the Public Works Department, Streets and Drainage Division; and,

WHEREAS, Martin Asphalt, Inc., of Houston, Texas, submitted a bid in the estimated amount of \$140,400 in the unit amounts shown below:

Product	Qty (Gal)	Cleveland Asphalt		Martin Asphalt	
		Unit Price	Total Bid	Unit Price	Total Bid
SS-1 Slow Set Oil Base	12,000	\$2.25	\$27,000	\$2.20	\$26,400
AE-P Prime	40,000	\$2.80	\$112,000	\$2.85	\$114,000
<b>Total Bid</b>			<b>\$139,000</b>		<b>\$140,400</b>

; and,

WHEREAS, City Council is of the opinion that the bid submitted by Martin Asphalt, Inc., of Houston, Texas, provided the best value for the City and should be accepted;

NOW, THEREFORE, BE IT RESOLVED BY THE  
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the bid submitted by Martin Asphalt, Inc., of Houston, Texas, for a contract to purchase asphalt, road oil and emulsions for use by the Public Works Department, Streets and Drainage Division in the unit amounts as shown above for an annual estimated amount of \$140,400 be accepted by the City of Beaumont; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a contract with Martin Asphalt, Inc., of Houston, Texas, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of  
March, 2015.

---

- Mayor Becky Ames -

**March 17, 2015**

Consider a resolution approving a change order to the contract with Brystar Contracting, Inc., for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (from Amarillo to MLK Parkway)

---

# BEAUMONT

TEXAS

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director *JM*

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council consider a resolution approving a change order to the contract with Brystar Contracting, Inc., for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (from Amarillo to MLK Parkway).

---

## **BACKGROUND**

On March 25, 2014, by Resolution No. 14-067, City Council awarded Brystar Contracting, Inc. the contract for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (Amarillo St. to ML King Parkway) in the amount of \$16,478,838.95. The project consists of reconstructing the existing dilapidated asphalt roadway pavement, upgrading the storm water and sanitary sewer mains.

During the course of construction, it was determined that minor changes to the design were needed to better accommodate field conditions that would also provide a cost savings to the City. The change order will result in a net decrease of \$99,838.41.

## **FUNDING SOURCE**

Not applicable.

## **RECOMMENDATION**

Approval of resolution.

CITY OF BEAUMONT

DATE: 25 FEBRUARY 2015  
 PROJECT: WASHINGTON BOULEVARD PAVEMENT AND DRAINAGE IMPROVEMENT PROJECT PHASE 1  
 OWNER: CITY OF BEAUMONT  
 CONTRACTOR: BRYSTAR CONTRACTING, INC.  
 CHANGE ORDER NO.: 01

THE FOLLOWING CHANGES IN THE PLANS AND/OR SPECIFICATIONS ARE HEREBY MADE:

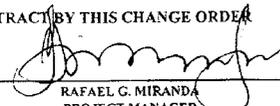
Add/Delete Construction Items and/or quantities to the Contract:

Item No.	Item Code	Description	Unit	Original Quantity	New Quantity	Unit Price	Amount
PAVING AND DRAINAGE							
DEDUCTION:							
247	003	FLEX BASE (TY A)(GR 2K6)WDC(COMP IN PLACE)(BASE)	SY	79,720	0.00	\$13.50	(\$1,076,220.00)
276	001	CEM TRT (PPT MAX)(CL N)(750 PSI)(TY A)(GR 2K6)	SY	79,720	0.00	\$16.00	(\$1,275,520.00)
400	002	CEMENT STABILIZED BACKFILL (2 SK CY SAND)	CY	32,423	0.00	\$33.00	(\$1,069,959.00)
464	001	RCP 18" (CL III)	LF	637	524	\$50.00	(\$5,650.00)
464	009	RCP 66" (CL III)	LF	1,630	-	\$246.00	(\$400,980.00)
465	002	MAHOLES (TY J)(COMPLETE)	EA	13	3	\$9,000.00	(\$90,000.00)
465	005	MAHOLES (TY A)(COMPLETE)	EA	60	58	\$3,750.00	(\$7,500.00)
531	003	CONC. WHEELCHAIR RAMP (4") TYPE 9	EA	18	10	\$1,100.00	(\$8,800.00)
531	004	CONC. WHEELCHAIR RAMP (4") TYPE 10	EA	5	-	\$1,150.00	(\$5,750.00)
9002	001	TUBE FILTER	EA	91	89	\$70.00	(\$140.00)
TOTAL AMOUNT DEDUCTED							(\$3,940,519.00)
ADDITION:							
100	001	PREP ROW (WASHINGTON, SABINE PASS, ENILE & HOUSTON)	STA	98.30	110.60	\$3,200.00	\$39,360.00
132	002	EMBANKMENT (TY A)(FINAL)(DENSITY CONTROLLED)	CY	-	3,023	\$18.00	\$54,414.00
247	004	FLEX BASE (TY A)(GR 2K12)WDC(COMP IN PLACE)(SUBGRADE)	SY	-	81,537	\$27.00	\$2,201,499.00
314	001	EMULSIFIED ASPHALT (PRIME COAT)(A-E-P)(0.20 GAL/SY)	GAL	-	500	\$14.38	\$7,190.00
402	001	TRENCH PROTECTION	LF	5,606	5,655	\$1.00	\$5,655.00
400	001	EXCAVATION & BACKFILL FOR STRUCTURES (PIPES)(BOX)	CY	53,973	53,766	\$7.80	(\$416,614.00)
400	003	CEMENT STABILIZED BACKFILL (1.5 SK CY SAND)	CY	-	31,302	\$32.00	\$1,001,664.00
464	002	RCP 24" (CL III)	LF	2,954	3,010	\$53.00	\$161,760.00
464	003	RCP 30" (CL III)	LF	1,114	1,139	\$77.00	\$87,813.00
464	005	RCP 42" (CL III)	LF	349	361	\$115.00	\$42,015.00
464	006	RCP 48" (CL III)	LF	653	665	\$140.00	\$93,420.00
464	012	5' X 5' RC BOX	LF	-	1,640	\$345.00	\$565,800.00
465	011	MAHOLES (MH-M)(COMPLETE)	EA	-	2	\$3,750.00	\$7,500.00
465	012	CURB INLET TY B (MODIFIED) (COMPLETE)	EA	-	7	\$6,250.00	\$43,750.00
496	001	REMOVE STR. (PIPE) 8" - 48" RCP	LF	8,185	9,495	\$10.00	\$13,100.00
502	001	BARRICADES, SIGNS, AND TRAFFIC HANDLING	MO	30	33	\$2,400.00	\$7,920.00
531	006	CONC. WHEELCHAIR RAMP (4") TYPE 11	EA	-	14	\$1,150.00	\$16,100.00
TOTAL AMOUNT ADDED							\$3,996,764.40
WATER & SANITARY SEWER UTILITIES							
DEDUCTION:							
4020	003	18" HDPE SDR-17 PIPE BURST SANITARY SEWER	LF	1,883	-	\$220.00	(\$414,260.00)
TOTAL AMOUNT DEDUCTED							(\$414,260.00)
ADDITION:							
801	026	FURNISH & INSTALL 8" CAP	EA	-	2	\$330.00	\$660.00
801	027	FURNISH & INSTALL 8" SLEEVE	EA	-	2	\$425.00	\$850.00
801	028	FURNISH & INSTALL 8" HY-MAX COUPLER	EA	-	1	\$440.00	\$440.00
801	029	FURNISH & INSTALL 6" SLEEVE	EA	-	3	\$350.00	\$1,050.00
801	030	FURNISH & INSTALL 6" HY-MAX COUPLER	EA	-	3	\$400.00	\$1,200.00
801	031	FURNISH & INSTALL 1" CURB STOP	EA	-	2	\$475.00	\$950.00
801	032	FURNISH & INSTALL 12" HY-MAX COUPLER	EA	-	1	\$800.00	\$800.00
801	033	FURNISH & INSTALL 12" SLEEVE	EA	-	1	\$650.00	\$650.00
801	034	FURNISH & INSTALL 18" HY-MAX COUPLER	EA	-	1	\$2,100.00	\$2,100.00
801	035	FURNISH & INSTALL 18" SLEEVE	EA	-	1	\$1,600.00	\$1,600.00
801	036	FURNISH & INSTALL 3" HY-MAX COUPLER	EA	-	1	\$255.00	\$255.00
2505	006	FURNISH & INSTALL METER BOX (OLD CASTLE) FOR 1' SERVICE CONN (COMP IN PL)	EA	-	187	\$525.32	\$98,234.84
2505	006	FURNISH & INSTALL METER BOX (OLD CASTLE) FOR 2' SERVICE CONN (COMP IN PL)	EA	-	10	\$687.52	\$6,875.20
4020	004	CLEAN AND TV EXISTING 18" SANITARY SEWER PIPE(1883 LF)	LS	-	1	\$39,452.11	\$39,452.11
4020	005	18" HDPE SDR-17 SANITARY SEWER PIPE (1800 LF)(MATERIALS) (INCL. CONTRACTOR OVERHEAD AND 15% PROFIT)	LS	-	1	\$71,162.19	\$71,162.19
4020	006	20" HDPE SDR-17 SANITARY SEWER PIPES (450 LF)(MATERIALS) (RETURN AND RESTOCKING TO SUPPLIER)	LS	-	1	\$6,851.85	\$6,851.85
4020	007	CLEAN AND TV EXISTING 6" SANITARY SEWER PIPE	LF	-	2,380	\$4.50	\$10,710.00
4020	008	CLEAN AND TV EXISTING 8" SANITARY SEWER PIPE	LF	-	420	\$5.00	\$2,100.00
4020	009	CLEAN AND TV EXISTING 10" SANITARY SEWER PIPE	LF	-	407	\$5.00	\$2,035.00
4020	010	CLEAN AND TV EXISTING 12" SANITARY SEWER PIPE	LF	-	350	\$6.00	\$2,100.00
4020	011	TV EXISTING 36" SANITARY SEWER PIPE (SABINE PASS)	LF	-	900	\$9.00	\$8,100.00
TOTAL AMOUNT ADDED							\$258,176.19
CHANGE ORDER TOTAL AMOUNT DEDUCTED							(\$99,838.41)

ORIGINAL CONTRACT AMOUNT: \$16,478,838.95  
 NET FROM PREVIOUS CHANGE ORDERS: \$16,478,838.95  
 TOTAL AMOUNT OF THIS CHANGE ORDER: -\$99,838.41  
 PERCENT OF THIS CHANGE ORDER: -0.61%  
 TOTAL PERCENT CHANGE ORDER TO DATE: -0.61%  
 NEW CONTRACT AMOUNT: \$16,379,000.54

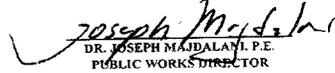
450 CALENDAR DAYS HAVE BEEN ADDED IN THE CONTRACT BY THIS CHANGE ORDER

ACCEPTED BY:  PREPARED BY:  
 BRYAN PHELPS, BRYSTAR CONTRACTING, INC.

  
 RAFAEL G. MIRANDA  
 PROJECT MANAGER

APPROVED BY:   
 ZHENG TAN, P.E.  
 CITY ENGINEER

  
 AMALIA VILLAREAL, P.E.  
 CITY UTILITIES ENGINEER

  
 DR. JOSEPH MAJDALANI, P.E.  
 PUBLIC WORKS DIRECTOR

ATTESTED BY:

KYLE HAYES, CITY MANAGER

TINA BROUSSARD, CITY CLERK

RESOLUTION NO.

WHEREAS, on March 25, 2014, the City Council of the City of Beaumont, Texas, passed Resolution No.14-067 awarding a contract in the amount of \$16,478,838.95 to Brystar Contracting, Inc., of Beaumont, Texas, for the Washington Boulevard Pavement and Drainage Improvement Project - Phase 1 (Amarillo to Martin Luther King Parkway); and,

WHEREAS, Change Order No. 1, in the amount of (\$99,838.41), is required for minor design changes to better accommodate field conditions, thereby decreasing the contract amount to \$16,379,000.54;

NOW, THEREFORE, BE IT RESOLVED BY THE  
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute Change Order No. 1 for minor design changes to better accommodate field conditions, in the amount of (\$99,838.41), thereby decreasing the contract amount to \$16,379,000.54 for the Washington Boulevard Pavement and Drainage Improvement Project - Phase I (Amarillo to Martin Luther King Parkway).

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.

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- Mayor Becky Ames -

# **PUBLIC HEARING**

- \* Receive comments on the Public Services and Public Facilities and Improvements line items of the Consolidated Grant Program's 2015 Annual Action Plan



**TO:** City Council

**FROM:** Kyle Hayes, City Manager  
CS

**PREPARED BY:** Chris Boone, Planning & Community Development Director

**MEETING DATE:** March 17, 2015

**REQUESTED ACTION:** Council conduct a Public Hearing to receive comments on the Public Services and Public Facilities and Improvements line items of the Consolidated Grant Program's 2015 Annual Action Plan.

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**BACKGROUND**

As mandated by the U. S. Department of Housing and Urban Development (HUD), City Council has conducted public hearings and work sessions in previous years prior to adopting the City's Annual Action Plan. Community Development Staff, along with the Community Development Advisory Committee (CDAC), hosted Public Hearings in order to receive public comments on the process and activities related to the Preliminary 2015 Annual Action Plan. Attached is the proposed Preliminary Budget for the 2015 Program Year.

The proposed Preliminary Budget reflects allocations of \$1,292,249 in Community Development Block Grant (CDBG) funding, an estimated \$100,000 in Program Income and \$362,648 in HOME funding. Prior to its submission to HUD for approval, City Council will consider adopting the final Annual Action Plan on or about April 28, 2015.

**FUNDING SOURCE**

U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant and HOME Investment Partnership Grant funds.

**RECOMMENDATION**

Council conduct the Public Hearing.

2015 HUD CONSOLIDATED GRANT PROGRAM

Preliminary

<b>COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)</b>	<b>2015 <u>Budget</u></b>
<b>HOUSING</b>	
Minor Repair Administration	50,000
Funds will be used for personnel and operating expenses necessary for compliance with the planning, execution, and regulatory requirements associated with the implementation of the Minor Repair grant program.	
Minor Repair	49,249
Funds will be used for the minor repair of homes at a maximum of \$6,500 each. Funding will be used to assist low/moderate income persons, primarily elderly and disabled.	
<b>CLEARANCE AND DEMOLITION</b>	70,000
Funds will be used to demolish unsafe, unsanitary and uninhabitable residential structures located in low to moderate income areas.	
<b>PUBLIC FACILITY &amp; IMPROVEMENT</b>	800,000
<b>Section 108 Loan Repayment for:</b>	
Hotel Beaumont; Crocket Street; Jefferson Theater; Theodore R. Johns, Jr. Library; L.L. Melton YMCA	
<b>PUBLIC SERVICES</b>	65,000
<b>Public Service Organizations</b>	
Funds will be used for administrative and operating costs for various public service organizations that provide services to low/moderate income citizens.	
<b>ADMINISTRATION</b>	258,000
Funds will be used for personnel and operating expenses necessary for compliance with the planning, execution, and regulatory requirements associated with the implementation of the HUD Consolidated Grant Program.	
<b>TOTAL ENTITLEMENT</b>	<b>1,292,249</b>
<b>Program Income</b>	<b>100,000</b>
Small Business Loan	
Historic Preservation Loan Fund	
Clearance and Demolition	
*Program Income is Estimated	
<b>TOTAL CDBG</b>	<b><u>1,392,249</u></b>

<b>HOME</b>	<b>2015 Budget</b>
<b>AFFORDABLE HOUSING PROGRAM</b>	
Funds will be awarded to a non-profit housing development organization that will assist low/moderate income families in the process of acquiring a home (down payments assistance/closing costs, and mortgage buy downs).	
<b>HOME ADMINISTRATION</b>	<b>36,265</b>
<b>CHDO OPERATING (5%)</b> (Community Housing Development Organization Operating)	<b>18,132</b>
<b>CHDO RESERVE (15%)</b> (Community Housing Development Organization Reserve)	<b>54,397</b>
<b>ENTITLEMENT (70%)</b>	<b>253,854</b>
<b>TOTAL HOME</b>	<b>362,648</b>