



**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS OCTOBER 28, 2014 1:30 P.M.**

CONSENT AGENDA

- * Approval of minutes – October 14, 2014
- * Confirmation of committee appointments
- A) Authorize the City Manager to execute a new lease agreement with the Texas Energy Museum
- B) Authorize the City Manager to execute all documents necessary to accept funding from The Texas Department of State Health Services awarded to the Beaumont Public Health Department's WIC Division
- C) Authorize the City Manager to amend a contract with the Texas Department of Housing and Community Affairs for FY 2013 Emergency Solutions Grant (ESG) funds
- D) Approve a change order to the contract with Allco, LLC, related to the Grit Pump Replacement – Wastewater Treatment Plant Project
- E) Approve a resolution accepting the Certified Tax Roll Summary for the tax year 2014 (fiscal year 2015)
- F) Approve a resolution terminating a contract with CIMA Utility of Beaumont for mowing privately-owned developed and vacant properties and awarding a contract to Texas Institute of the Blind and Handicapped Industries for the same
- G) Approve the payment of \$650 to settle outstanding liens for litter and weed abatement on property at 2400 Rusk Street, legally described as Oaks L18 B14

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Jarmon, Executive Assistant to the City Manager

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute a new lease agreement with the Texas Energy Museum.

BACKGROUND

The City of Beaumont owns the property that is leased and utilized by the Texas Energy Museum. The City has been leasing these premises to the Texas Energy Museum since 1988. The new lease better defines the maintenance responsibilities of both parties and describes under what conditions the museum may alter or make modifications to the building.

The new 20-year lease would commence on December 30, 2014 and would terminate on December 29, 2034. The Texas Energy Museum would continue to pay the City of Beaumont \$1 per year in exchange for operating the leased premises as an Energy Museum to be used for educational, civic, and other purposes.

The City's annual operating agreement with the Texas Energy Museum is included as well. Council approved the funding portion of the operating agreement on September 30, 2014 via resolution 14-210.

The lease agreement and operating agreement are attached for your review.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of the 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 a twenty (20) year Lease Agreement with Texas Energy Museum, Inc. for the lease of the land and building utilized as a public energy museum at an annual rental fee of \$1.00 commencing on December 30, 2014. The Lease 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 28th day of October, 2014.

- Mayor Becky Ames -

LEASE AGREEMENT

STATE OF TEXAS §

COUNTY OF JEFFERSON §

WHEREAS, the City of Beaumont, a municipal corporation of the State of Texas, and the Texas Energy Museum, Inc., a Texas non-profit corporation, entered into an Lease Agreement on the 30th day of June 1988 wherein the City of Beaumont, hereinafter referred to as "Landlord", and the Texas Energy Museum, Inc., hereinafter referred to as "Tenant", agreed to a forty (40) year lease on the land and building to be used as an energy museum; and,

WHEREAS, Landlord and Tenant desire to amend such lease in its entirety to read as follows:

WITNESSETH:

ARTICLE 1 - Description of Lease Premises

For and in consideration of payment by Tenant of the rental hereinafter reserved to Landlord and the performance by Tenant of the covenants and agreements hereinafter contained to be performed by Tenant, and in accordance with all of the provisions hereinafter set forth, Landlord does hereby lease and let unto Tenant, and Tenant does hereby take and lease from Landlord, the following described real property and premises (the "leased premises");

That certain land more fully described in Exhibit "A", attached hereto and made a part hereof by this reference, hereinafter called the "Land", and the energy museum building, parking facilities, landscaping, and other improvements as may be constructed on the Land by Tenant, which improvements are hereinafter called the "Building" or "Facilities."

EXHIBIT "A"

ARTICLE 2 - Term of Lease

The term of this lease shall be for twenty (20) years commencing on the 30th day of December, 2014, and terminating at 11:59 p.m. on the 29th day of December, 2034, if not sooner terminated as hereinafter provided.

ARTICLE 3 - Rental

Tenant shall pay to Landlord as rent hereunder the sum of ONE DOLLAR (\$1.00) per year payable on the 30th day of December, 2014 and on the same day of each calendar year of the term of this Lease commencing on the 30th day of December, 2014.

ARTICLE 4 - Use and Occupancy

4.1 Tenant shall use and occupy the leased premises as an energy museum open to the public, for the promotion of energy and for related purposes, including, but not limited to, education purposes, civic purposes, fund raising purposes, and entertainment purposes. Tenant agrees to operate the leased premises as an energy museum during the full term of this Lease.

4.2 Tenant will comply with any and all laws, ordinances, rules, orders and regulations of any governmental authority which are applicable to Tenant's operations in and on the leased premises.

4.3 Nothing contained herein shall prevent Tenant from charging an admission price for persons to visit the energy museum located on the leased premises. City Administration shall be allowed to use facilities when available at no charge for official City of Beaumont business.

ARTICLE 5 -Alterations, Additions or Improvements

Tenant shall not, without first obtaining the written consent and approval of Landlord,

make any alterations, additions or improvements in, to or about the leased premises; provided, however, that such consent shall not be unreasonably withheld. Any work done by Tenant in, to or about the leased premises shall be done in a good and workmanlike manner and without impairing the structural integrity of the Building, and no liens shall attach to the leased premises or to the Building of which same are a part. Similarly, during the term of this Lease, City will not, make any alterations, additions or improvements in, to or about the facilities without first giving notice to Tenant of Landlord's intent.

ARTICLE 6 -Activities Increasing Fire Insurance Rates

Tenant shall not do or suffer anything to be done in or about the leased premises which will increase the rate for the fire insurance on the leased premises.

ARTICLE 7 -Assignment or Sublease

Tenant shall not, without first obtaining the written consent of City Manager of Landlord, which consent shall not be unreasonably withheld, assign, mortgage, pledge or encumber this Lease, in whole or in part, or sublet the leased premises or any part thereof. This covenant shall be binding upon the Tenant and every person to whom Tenant's interest under this Lease passes by operation of law. However, Tenant may rent a portion, but not all, of the leased premises for periods not to exceed 72 hours without first obtaining the written consent of the City Manager of Landlord.

ARTICLE 8 - Damage to Building

8.1 If the Facilities are damaged by fire or any other casualty, all insurance proceeds for such casualties shall be paid to either Tenant or City, as their interest may appear and as their loss may be allocated. Either City or Tenant may elect to terminate this Lease under the terms hereof should a fire or other casualty loss result in damage to

the Facilities in excess of fifty percent (50%) of the replacement cost of such Facilities immediately prior to such casualty. Should either party elect such termination, then the other party shall have the option for sixty (60) days after the date of such election to terminate the Lease or to elect to rebuild the Facilities. Any rebuilding or reconstruction for the Facilities shall restore such premises to substantially the same condition as existed prior to such casualty loss. Should either party elect to rebuild, such insurance proceeds as shall have been paid to both parties shall be deposited in a state or federal bank with offices located in the City of Beaumont, Jefferson County, Texas. Such insurance proceeds shall be held in escrow by such bank as a trust fund for the purpose of paying for the cost of rebuilding and repairing the Facilities and the cost of making temporary repairs of doing such work as may be necessary to protect the Facilities against further injury. Such proceeds shall be disbursed in accordance with the provisions of paragraph 8.2 hereof. The bank shall be entitled to a reasonable compensation payable out of such fund. If insurance proceeds held by the bank as provided in this paragraph shall exceed such costs, such excess shall belong to and be paid over to the parties who deposited said amounts in proportion to their interest in the account. If rebuilding of the Facilities is undertaken by Tenant under this Article, the construction shall be made subject to the approval of City.

8.2 Any monies paid out of the trust fund established under the terms of paragraph 8.1 hereof shall be paid as the work progresses, upon the request of the party performing the reconstruction, and against the certificates of the architect or engineer in charge of such reconstruction showing that the amount stated in the particular certificate has been paid or is due in respect to such work together with the names and addresses

of the person, if any, to whom such amounts are due. Payments hereunder shall be subject to normal retainage applicable to construction contracts entered in by home-rule cities in accordance with the laws of the State of Texas.

8.3 If the damage to the leased premises is less than fifty per cent (50%) of the replacement cost of the leased premises (exclusive of foundations and the Land) immediately prior to such casualty, then Tenant shall promptly after such casualty commence to repair the damage to the leased premises and restore same to substantially the same condition as existed prior to such casualty. In such event Landlord shall pay to Tenant the proceeds of the insurance paid to Landlord for such casualty loss.

8.4 Notwithstanding anything contained herein to the contrary, if any casualty occurs to the leased premises repair of which shall cost Twenty Thousand and No/100 Dollars (\$20,000.00) in excess of the insurance proceeds available for such casualty or which is not covered by insurance (either of such events being hereinafter called an "uninsured loss"), Tenant shall have one hundred eight (180) days after the date of an uninsured loss to elect by written notice to Landlord to either repair an uninsured loss or to terminate this Lease. If Tenant elects to repair the uninsured loss, Tenant shall commence to repair the uninsured loss promptly after the exercise of its election to repair hereunder and shall restore the leased premises to substantially the same condition as existed prior to the uninsured loss. If Tenant elects to terminate this Lease as set forth above on such uninsured loss, then Landlord shall have the option for a period of sixty (60) days after notice of such election to terminate by Tenant to elect to repair the uninsured loss and to continue the lease in full force and effect. If Landlord elects to repair the uninsured loss under the terms of this Paragraph, then Landlord shall promptly proceed

to make such repairs as are needed to restore such uninsured loss to the leased premises. If the Tenant and Landlord elect not to repair as provided above, Landlord shall demolish any remaining structures on the leased premises. Tenant upon such demolition shall pay Landlord the cost thereof out of any insurance proceeds up to the full amount thereof. Any cost in excess of the insurance proceeds shall be paid by Landlord.

8.5 Upon any termination of this Lease under any provisions of this Lease other than on a default on the part of Tenant, Tenant shall be entitled to remove all of its furniture, furnishings, and other property of Tenant located on the leased premises.

ARTICLE 9 - Insurance and Waivers of Subrogation

9.1 Subject to all limits, deductibles and limitations of its policies chosen by City, City shall procure and maintain Texas multi-peril form hazard insurance coverage on the Facilities in not less than the full insurable value thereof. Such insurance shall be obtained in the name of City.

9.2 Tenant shall procure and maintain all insurance which it deems necessary for its protection against loss of or damage to any of its property in or on the leased premises.

ARTICLE 10 - Eminent Domain

10.1 If the whole or any part of the leased premises shall be taken under the power of eminent domain, this Lease shall terminate as to the part so taken on the date, hereinafter called the "date of taking", that Tenant is required to yield possession of the whole or part of the leased premises so taken. The term date of taking shall also mean and refer to the date of any other transfer of possession of any part or all the leased premises to a condemning authority under power of eminent domain. On any taking of all of the leased premises by power of eminent domain this Lease shall terminate on the date

of taking and the rent reserved herein shall abate. If less than all of the leased premises shall be taken by power of eminent domain, then Tenant shall have one hundred eight (180) days after the date of such taking to exercise an option to terminate this Lease or to keep this Lease in full force and effect. Such option shall be exercised by written notice to Landlord.

10.2 All compensation awarded for any taking of the leased premises under power of eminent domain shall be the property of Landlord and Tenant hereby assigns its interest therein to Landlord.

10.3 The term "eminent domain" as used herein shall include the exercise of any similar governmental power and any purchases or other acquisition in lieu of condemnation.

ARTICLE 11 - Landlord's Remedies on Default

If Tenant defaults in the payment of rent payable hereunder, or either party hereto defaults in the performance of any of the other covenants or conditions hereof, such non defaulting party may give the other party notice of such default; and if Tenant does not cure any default covering the payment of Rent or other sums of money hereunder within thirty (30) days, or other default within sixty (60) days, after the receipt of such notice (or if the default is of such nature that it cannot be completely cured within such period of time, if Tenant does not commence curing such default within such sixty [60] days and thereafter proceeds with reasonable diligence to cure such default), then Landlord may terminate this Lease by written notice to Tenant, or in the alternative Landlord may reenter and take possession of the leased premises and remove all persons and property therefrom, without being deemed guilty of any manner of trespass. If this Lease shall have been terminated

by Landlord, Landlord may at any time thereafter resume possession of the leased premises by any lawful means and remove Tenant or other occupants and their belongings and property therefrom.

ARTICLE 12 - No Waiver of Covenants or Conditions

The failure of either party to insist on strict performance of any covenant or condition thereof, or to exercise any option or election herein contained, shall not be construed as a waiver of such covenant, condition, option or election in any other instance. This Lease cannot be changed, amended or terminated orally.

ARTICLE 13 - Quiet Enjoyment

Landlord covenants that if, and so long as, Tenant pays the rent herein reserved and performs the covenants hereof, Tenant shall peaceably and quietly have, hold and enjoy the leased premises for the term of this Lease, subject to each and all of the covenants and provisions of this Lease.

ARTICLE 14 - Headings

The headings of the several Articles in this Lease are intended for convenience and reference purposes only and shall not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.

ARTICLE 15 - Binding Effect

The provisions of this Lease shall apply to, bind, and inure to the benefit of the Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns; provided, however, that the inclusion of assigns in this sentence shall not be construed to permit any assignment in violation of the covenants herein contained.

ARTICLE 16 - Construction

16.1 This Lease, and any and all amendments, modifications or other writings pertaining thereto, shall be construed under and pursuant to the laws of the State of Texas.

16.2 In the event that any provision hereof, or the application thereof to any person or circumstance, shall be adjudged invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

16.3 In construing this Lease, masculine or feminine pronouns shall be substituted for those neuter in form, and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

16.4 Any notice or demand required or permitted to be given by the terms of this Lease shall be in writing and shall be deemed to have been duly given only if delivered personally or sent by registered or certified United States mail, return receipt requested, in a postpaid envelope properly addressed to the party entitled to receive such notice. Notices shall be addressed to the parties at their respective addresses set forth above, or to such other address as the parties may later designate by written notice given as provided herein. Notice shall be to have been duly given, if delivered personally, upon the delivery thereof, and if mailed, upon the earlier of (a) the actual receipt thereof, or (b) three (3) business days after the mailing thereof, provided that such notices, if mailed, are addressed and transmitted as herein required, with full postage prepaid.

ARTICLE 17 - Maintenance

During the term of this lease agreement Tenant shall be responsible for all

general upkeep of the Facilities. City will be responsible for the general structural maintenance of the building, HVAC system operation including annual checks and replacement of filters, pest control inspections and treatment, roof, exterior windows, and major repair of the elevator. City will also be responsible for grass cutting and trimming in accordance with the City's regular schedule. Tenant will be responsible for all utilities, including gas, electrical, water and garbage collection costs, telephone and cable television or other communication devices. Tenant will also be responsible for routine maintenance, routine plumbing, janitorial service, replacement of luminaries, interior painting and inspection and general maintenance of the elevator. Tenant will be responsible for the maintenance and repair of the fire alarm system and security systems. Tenant is also responsible for the monitoring of these systems.

IN WITNESS WHEREOF, Landlord and Tenant have executed (or caused to be executed by their duly authorized officers or agents) this Lease, all as of the day and year first above written.

CITY OF BEAUMONT

TEXAS ENERGY MUSEUM, INC.

By: _____

By: _____

AGREEMENT FOR THE OPERATION OF AN ENERGY MUSEUM

WHEREAS, the Texas Energy Museum, Inc., a Texas non-profit corporation, hereinafter referred to as "Museum", and the City of Beaumont, a municipal corporation of the State of Texas, hereinafter referred to as "City", agree as follows:

1.

City hereby hires and engages Museum to operate an energy museum open to the public on the premises leased from the City and described in Exhibit "A" attached hereto and made a part hereof for all purposes (herein "the premises"). Museum agrees to accept such hiring and hereby agrees to operate such energy museum.

2.

So long as Museum operates an energy museum upon the premises City agrees to pay museum the sum of Twenty-Three Thousand Seven Hundred Fifty and no/100 dollars (\$23,750.00) per quarter an amount approved by the City Council each fiscal year commencing on the _____ day of _____, 2014. Payments hereunder shall be subject to adjustment upon agreement of Museum and City.

3.

City or Museum may terminate this Agreement for cause if either party defaults in the performance of any covenant or condition of this Agreement. Prior to such termination City or Museum must provide the other party with written notice of such default and if the party does not cure the default within fifteen (15) days after the giving of notice the party giving such notice may terminate the Agreement by written notice.

IN WITNESS, WHEREOF City and Museum have executed or caused to be executed by their authorized officers or agents this Agreement on the _____ day of _____, 2014.

CITY OF BEAUMONT

TEXAS ENERGY MUSEUM, INC.

By: _____

By: _____

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Sherry Ulmer, Public Health Director

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute all documents necessary to accept funding from The Texas Department of State Health Services (DSHS) in the amount of \$844,542.00 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 grant funds in the amount of \$844,582.00. The contract will begin 10/01/2014 and end on 09/30/15.

The Special Supplemental Nutrition for Women, Infants, and Children Program (WIC) is a nutrition education and supplemental food program for pregnant and postpartum women, breast-feeding women, infants, and children up to the age five. The program also provides information on healthy eating and referrals to health care. WIC is a federal grant program for which Congress authorizes a specific amount of funds each year for the program.

FUNDING SOURCE

Not Applicable.

RECOMMENDATION

Approval of the resolution.

DEPARTMENT OF STATE HEALTH SERVICES



This contract, number 2015-047276 (Contract), is entered into by and between the Department of State Health Services (DSHS or the Department), an agency of the State of Texas, and CITY OF BEAUMONT (Contractor), a Government Entity, (collectively, the Parties).

1. **Purpose of the Contract.** DSHS agrees to purchase, and Contractor agrees to provide, services or goods to the eligible populations as described in the Program Attachments.
2. **Total Amount of the Contract and Payment Method(s).** The total amount of this Contract is \$844,582.00, and the payment method(s) shall be as specified in the Program Attachments.
3. **Funding Obligation.** This Contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or health and human services agencies, amendment to the Appropriations Act, health and human services agency consolidation, or any other disruptions of current appropriated funding for this Contract, DSHS may restrict, reduce, or terminate funding under this Contract.
4. **Term of the Contract.** This Contract begins on 10/01/2014 and ends on 09/30/2015. DSHS has the option, in its sole discretion, to renew the Contract as provided in each Program Attachment. DSHS is not responsible for payment under this Contract before both parties have signed the Contract or before the start date of the Contract, whichever is later.
5. **Authority.** DSHS enters into this Contract under the authority of Health and Safety Code, Chapter 1001.
6. **Documents Forming Contract.** The Contract consists of the following:
 - a. Core Contract (this document)
 - b. Program Attachments:

2015-047276-001 NSS/WIC LOCAL AGENCY
 - c. General Provisions (Sub-recipient)
 - d. Solicitation Document(s), and
 - e. Contractor's response(s) to the Solicitation Document(s).
 - f. Exhibits

Any changes made to the Contract, whether by edit or attachment, do not form part of the Contract unless expressly agreed to in writing by DSHS and Contractor and incorporated herein.

7. **Conflicting Terms.** In the event of conflicting terms among the documents forming this Contract, the order of control is first the Core Contract, then the Program Attachment(s), then the General Provisions, then the Solicitation Document, if any, and then Contractor's response to the Solicitation Document, if any.

8. **Payee.** The Parties agree that the following payee is entitled to receive payment for services rendered by Contractor or goods received under this Contract:

Name: CITY OF BEAUMONT
Address: PO BOX 3827
BEAUMONT, TX 77704
Vendor Identification Number: 17460002789023

9. **Entire Agreement.** The Parties acknowledge that this Contract is the entire agreement of the Parties and that there are no agreements or understandings, written or oral, between them with respect to the subject matter of this Contract, other than as set forth in this Contract.

By signing below, the Parties acknowledge that they have read the Contract and agree to its terms, and that the persons whose signatures appear below have the requisite authority to execute this Contract on behalf of the named party.

DEPARTMENT OF STATE HEALTH SERVICES CITY OF BEAUMONT

By: _____
Signature of Authorized Official

By: _____
Signature

Date

Date

Evelyn Delgado

Printed Name and Title

Assistant Commissioner for Family and
Community Health Services

Address

1100 WEST 49TH STREET
AUSTIN, TEXAS 78756

City, State, Zip

512.776.7321

Telephone Number

Evelyn.Delgado@dshs.state.tx.us

E-mail Address for Official Correspondence

2015-047276-001

Categorical Budget:

PERSONNEL	\$844,582.00
FRINGE BENEFITS	\$0.00
TRAVEL	\$0.00
EQUIPMENT	\$0.00
SUPPLIES	\$0.00
CONTRACTUAL	\$0.00
OTHER	\$0.00
TOTAL DIRECT CHARGES	\$844,582.00
INDIRECT CHARGES	\$0.00
TOTAL	\$844,582.00
DSHS SHARE	\$844,582.00
CONTRACTOR SHARE	\$0.00
OTHER MATCH	\$0.00

Total reimbursements will not exceed \$844,582.00

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 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 \$844,542 effective October 1, 2014 through September 30, 2015.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of October, 2014.

- Mayor Becky Ames -



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Planning & Community Development Director

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to amend a contract with the Texas Department of Housing and Community Affairs (TDHCA) for FY 2013 Emergency Solutions Grant (ESG) funds.

BACKGROUND

Given the extent of the homeless problem within our community, the City partnered with the Texas Department of Housing and Community Affairs (TDHCA) to receive \$215,493 in Emergency Solutions Grant (ESG) funds. The City acts as the lead agency, providing the funding to local homeless service providers for such activities as shelter operations and rental assistance.

As the program nears its completion, it will be necessary to extend the contract deadline to December 31, 2014 in order to expend the remaining funds. A copy of the current contract as well as the proposed amendment is attached for your review.

FUNDING SOURCE

U.S. Department of Housing and Urban Development (HUD), administered through the Texas Department of Housing and Community Affairs (TDHCA).

RECOMMENDATION

Approval of resolution.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 42130001767 FOR THE
FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
CFDA NO. 14.231

SECTION 1. PARTIES TO THE CONTRACT

This Emergency Solutions Grants Contract No. 42130001767 (herein the "Contract") is made by and between the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, (hereinafter the "Department") and City of **Beaumont**, a political subdivision of the State of Texas (hereinafter the "Subrecipient")

SECTION 2. CONTRACT TERM

This Contract shall commence on **October 01, 2013**, and, unless earlier terminated, shall end on **September 30, 2014** (herein the "Contract Term")

SECTION 3. SUBRECIPIENT PERFORMANCE

Subrecipient shall develop and implement an Emergency Solutions Grants Program ("ESG") in accordance with the terms of this Contract and the Exhibits attached to this Contract incorporated herein for all relevant purposes. Subrecipient shall develop and implement the ESG to assist homeless individuals or persons at risk of homelessness to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness. Subrecipient shall implement ESG in accordance with, but not limited to, the provisions of the Homeless Emergency Assistance and Rapid Transition to Housing Act, as amended (42 USC 11302 et. seq.) (hereinafter the "Federal Act"); the U.S. Department of Housing and Urban Development (hereinafter "HUD") regulations codified in 24 C.F.R. Parts 85, 91, 576, 582 and 583 (hereinafter the "Federal Regulations"); the implementing State rules under Title 10, PART 1, Chapter 5, Subchapters A and K of the Texas Administrative Code, as amended or supplemented from time to time (hereafter the "ESG State Rules"); and any applicable Office of Management and Budget (OMB) Circulars. Subrecipient shall perform all activities in accordance with the terms of the Performance Document (hereinafter "Exhibit A"), the Budget (hereinafter "Exhibit B"), the Match Requirements Document (hereinafter "Exhibit C"); the Applicable Laws and Regulations (hereinafter "Exhibit D"); the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements (hereinafter "Exhibit E"); the assurances, certifications, and other statements made by Subrecipient in its ESG application, and with all other terms of this Contract. If the persons to benefit from the activities described in Exhibit A are not receiving a service or benefit, the Subrecipient is liable to repay the Department any associated disallowed costs.

- A. Subrecipient shall not expend funds on any activity requiring a new procurement under this Contract prior to November 3, 2013.
- B. During the Contract Term until November 2, 2013, Subrecipient shall implement ESG in accordance with the requirements of the current ESG State Rules adopted to be effective September 30, 2012. Beginning November 3, 2013, Subrecipient shall implement ESG in accordance with the requirements of the ESG State Rules, as amended to be effective November 2, 2013.
- C. Performance related to established targets will be reported in the ESG monthly performance report and accomplishment in meeting targets may be considered in applications for future funding opportunities with the Department.
- D. All funds must be fully expended within the Contract Term and must be expended at a rate acceptable to the Department and as indicated in Exhibit A. The Department reserves the right to request an expenditure plan if it appears funds will not be expended within the Contract Term.

SECTION 4. DEPARTMENT FINANCIAL OBLIGATIONS

- A. In consideration of Subrecipient's ongoing and satisfactory performance of this Contract, Department shall reimburse Subrecipient for the actual allowable costs incurred during the Contract Term by Subrecipient in the amount specified in the "Budget" attached hereto as Exhibit B of this Contract.
- B. Any decision to obligate additional funds or deobligate funds shall be made in writing by Department in its sole discretion based upon the status of funding under grants to Department and Subrecipient's overall compliance with the terms of this Contract.
- C. Department's obligations under this Contract are contingent upon the actual receipt of adequate ESG funds from HUD. If sufficient funds are not available to make payments under this Contract, Department shall notify Subrecipient in writing within a reasonable time after such fact is determined. Department shall then terminate this Contract and will not be liable for the failure to make any payment to Subrecipient under this Contract.
- D. Subrecipient shall refund to Department any sum of money which has been paid to Subrecipient by Department, which Department determines has resulted in an overpayment, which the Department has determined was from activity under a newly procured contract or subcontract procured on or before November 2, 2013, or which Department determines has not been spent strictly in accordance with the terms of this Contract. Subrecipient shall make such refund within fifteen (15) days after the Department's request.
- E. Notwithstanding any other provision of this Contract, Department shall only be liable to Subrecipient for eligible costs incurred or performances rendered for activities specified in 24 C.F.R. §576 of the Federal Regulations.

SECTION 5. METHOD OF PAYMENT/CASH BALANCES

- A. Subrecipients may request a one time working capital advance for thirty (30) days cash needs or an advance of \$5,000, whichever is greater. In order to request an advance payment, Subrecipient must submit to Department a properly completed expenditure report that includes a request for advance funds (Projected Expenses). Thereafter, the Subrecipient will be reimbursed for the amount of actual cash disbursements, a reimbursement basis.
- B. Subrecipient shall establish procedures to minimize the time elapsing between the transfer of funds from Department to Subrecipient and the disbursement of such funds by Subrecipient.
- C. Section 5(A) notwithstanding, Department reserves the right to use a modified cost reimbursement method of payment whereby reimbursement of costs incurred by a Subrecipient is made only after the Department has reviewed and approved backup documentation provided by the Subrecipient to support such costs for all funds if at any time (1) Department determines that Subrecipient has maintained cash balances in excess of need, (2) Department identifies any deficiency in the cash controls or financial management system used by Subrecipient, or (3) Subrecipient fails to comply with the reporting requirements of Section 12 of this Contract.
- D. All funds paid to Subrecipient pursuant to this Contract are for the exclusive benefit of the eligible recipients of ESG services and for the payment of allowable expenditures.
- E. Department may offset or withhold any amounts otherwise owed to Subrecipient under this Contract against any amount owed by Subrecipient to Department arising under this Contract.

SECTION 6. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. Except as expressly modified by law or the terms of this Contract, Subrecipient shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant Management Standards, 10 T.A.C. §510 et seq (hereinafter "Uniform Grant Management Standards"); All references therein to "local government" shall be construed to mean Subrecipient.
- B. Uniform cost principles for governments are set forth in OMB Circular A-87 as implemented by 2 C.F.R. Part 225. Uniform administrative requirements for governments are set forth in OMB Circular A-102. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," sets forth audit standards for governmental organizations and other organizations expending Federal funds. The expenditure threshold requiring an audit under Circular A-133 is \$500,000 of Federal funds or \$500,000 of State funds.

C. Department shall not be liable to Subrecipient for certain costs, including but not limited to costs which

- (1) Have been reimbursed to Subrecipient or are subject to reimbursement to Subrecipient by any source other than Department;
- (2) Are not allowable costs;
- (3) Are incurred to involuntarily separate a family;
- (4) For units of local government, is incurred to replace funds provided by the local government for street outreach and emergency shelter services during the preceding 12-month period without HUD exception;
- (5) Are incurred to provide certain legal services for immigration and citizenship matters and issues relating to mortgages;
- (6) Are incurred to provide certain substance abuse treatment services;
- (7) Are incurred to pay arrears for temporary storage fees;
- (8) Are incurred to pay or modify a debt;
- (9) Are incurred to acquire property or to construct new property;
- (10) Are incurred for the rehabilitation of structures to the extent that those structures are used for inherently religious activities;
- (11) Are expended on rehabilitation activities prior to the submission of a Request for Release of Funds and prior to the release of funds by HUD;
- (12) Are not strictly in accordance with the terms of this Contract, including the Exhibits;
- (13) Have not been reported to Department within sixty (60) days following termination of this Contract;
- (14) Are not incurred during the Contract Term, with the exception of travel costs to attend the September 17-18, 2013 ESG Implementation Workshop in Austin, Texas; or
- (15) Are incurred under a new contract or subcontract procured on or before November 2, 2013.

SECTION 7. TERMINATION AND SUSPENSION

- A. Pursuant to §5.17 of the ESG State Rules, Department may terminate or suspend this Contract, in whole or in part, at any time Department determines that there is cause for termination. Cause for termination includes, but is not limited to, Subrecipient's failure to comply with any term of this Contract or reasonable belief that Subrecipient cannot or will not comply with the requirements of this Contract. If the Department determines that an Subrecipient has failed to comply with the terms of the Contract, or to provide services that meet appropriate standards, goals, or other requirements established by the Department, the Department will notify Subrecipient of the deficiencies to be corrected and require the deficiencies be corrected prior to implementing suspension.
- B. Nothing in this Section shall be construed to limit Department's authority to withhold payment and immediately suspend this Contract if Department identifies possible instances of fraud, abuse, waste, fiscal mismanagement, or other deficiencies in Subrecipient's performance. Suspension shall be a temporary measure pending either corrective action by Subrecipient or a decision by Department to terminate this Contract.
- C. Department shall not be liable for any costs incurred by Subrecipient after termination of this Contract.
- D. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this Contract by Subrecipient.

SECTION 8. MATCH REQUIREMENT

- A. Subrecipient shall provide an amount of funds equal to the amount of funds provided by Department under this Contract (herein "Subrecipient's Match"). Subrecipient's Match must be provided from July 17, 2013 through September 30, 2014 from sources including any Federal source other than the ESG program, as well as state, local, and private sources. Funds used to match a previous ESG award may not be used to match the award made under this Contract. Subrecipient's Match may include resources provided by any subcontractor or subgrantee to which Subrecipient provides funds under this Contract.

B Amounts may be counted towards Subrecipient's Match only if such amounts are costs or resources of a type specified in Exhibit C and only if such amounts are computed in accordance with this Section. In calculating the amount of Subrecipient's Match, Subrecipient may include, but is not limited to, cash donations; the value of any donated material or building; the value of any lease on a building; any salary paid to Subrecipient's staff (or that of its subcontractors) in carrying out the activities required under this Contract, and the time and services contributed by volunteers to carry out such activities. Services provided by volunteers must be valued at rates consistent with those ordinarily paid for similar work in the Subrecipient's organization or in the same labor market. Subrecipient shall determine the value of any donated material or building or any lease using any method reasonably calculated to establish a fair market value.

SECTION 9. ALLOWABLE EXPENDITURES

A The allowability of Subrecipient's costs incurred in the performance of this Contract shall be determined in accordance with the provisions of Section 6 and the regulations set forth in 10 TAC §5.2002 of the ESG State Rules and §576.100 through §576.109 of the Federal Regulations, subject to the limitations and exceptions set forth in this Section.

B ESG funds may be used for administrative activities as well as five program components as set forth in 24 C.F.R. §576.101 through 24 C.F.R. §576.107 of the Federal Regulations.

C Administrative costs incurred by Subrecipient in performing this Contract are to be based on actual programmatic expenditures and shall be allowed up to the amount outlined in Exhibit B of this Contract. Funds may be used to pay indirect costs in accordance with OMB Circular A-87. Eligible administrative costs include:

- (1) General management, oversight and coordination;
- (2) Training on ESG requirements; and
- (3) Environmental review.

SECTION 10. TERMINATING ASSISTANCE

A If a program participant violates program requirements, the Subrecipient may terminate the assistance in accordance with 24 C.F.R. §576.402 of the Federal Regulations.

B Termination under this Section 10 does not bar the Subrecipient from providing further assistance at a later date to the same family or individual.

SECTION 11. RECORD KEEPING REQUIREMENTS

A Subrecipient shall comply with all the record keeping requirements set forth in 24 C.F.R. §576.500 of the Federal Regulations and shall maintain fiscal and programmatic records and supporting documentation for all expenditures made under this Contract.

B *Open Records:* Subrecipient acknowledges that all information collected, assembled, or maintained by Subrecipient pertaining to this Contract is subject to the Texas Public Information Act, Chapter 552 of Texas Government Code and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

C *Access to Records:* Subrecipient shall give the HUD, the U.S. General Accounting Office, the Texas Comptroller, the State Auditor's Office, and Department, or any of their duly authorized representatives, access to and the right to examine and copy, on or off the premises of Subrecipient, all records pertaining to this Contract. Such right to access shall continue as long as the records are retained by Subrecipient.

D *Period of Record Retention:* Subrecipient agrees to maintain such records in an accessible location for the greater of five (5) years after the expenditure of all funds from the grant, or the period specified below:

- (1) Where funds from this Contract are used for the renovation of an emergency shelter involves costs charged to the ESG grant that exceed seventy-five percent (75%) of the value of the building before renovation, records must be retained until ten (10) years after the date that ESG funds are first obligated for the renovation;
- (2) Where funds from this Contract are used to convert a building into an emergency shelter and the costs charged to the ESG grant for the conversion exceed seventy-five percent (75%) of the value of the building after conversion, records must be retained until ten (10) years after the date that ESG funds are first obligated for the conversion.

- E. Exceptions to the record retention periods outlined above include: (i) if notified by the Department in writing, the date that the final audit is accepted with all audit issues resolved to the Department's satisfaction, (ii) if any litigation claim, negotiation, inspection, or other action has started before the expiration of the required retention period records must be retained until completion of the action and resolution of all issues which arise under it, (iii) a date consistent with any other period required by federal or state law or regulation. Subrecipient agrees to cooperate with any examination conducted pursuant to this Subsection E. Upon termination of this Contract, all records are property of the Department.
- F. Subrecipient shall include the substance of this Section 11 in all subcontracts

SECTION 12. REPORTING REQUIREMENTS

- A. Subrecipient shall submit to Department such reports on the performance of this Contract as may be required by Department including, but not limited to, the reports specified in this Section 12
- B. Subrecipient shall electronically submit to the Department no later than the fifteenth (15th) day of each month following the preceding month in the Contract Term a performance report listing required demographic information, the number of persons assisted, and the outcomes achieved in the previous month, and an expenditure report listing all expenditures of funds under this Contract during the previous month. These reports are due even if Subrecipient has no new activity to report during the month.
- C. Subrecipient must report client-level data in the Homeless Management Information System (HMIS). Victim service or legal service providers may use a comparable database and are only required to report aggregated data.
- D. Subrecipient shall submit a final performance report and a final expenditure report to the Department within thirty (30) days after the end of the Contract Term. The failure of Subrecipient to provide a full accounting of all funds expended under this Contract within sixty (60) days may be sufficient reason for Department to deny or terminate any future contracts with Subrecipient. If this Contract provides assistance for renovation, rehabilitation, or conversion, in addition to the electronic final report, Subrecipient shall submit cover photographs of the finished construction work, and verification of passed inspections in the form of certificate occupancy.
- E. Subrecipient shall submit to Department no later than sixty (60) days after the termination of this Contract a cumulative inventory report of all equipment having a unit acquisition cost of \$5,000 or more, acquired in whole or in part with funds received under this or previous ESG contracts.
- F. If Subrecipient fails to submit within forty-five (45) days of its due date, any report or response required by this Contract, including responses to monitoring reports, Department may, in its sole discretion, suspend payments, place Subrecipient on cost reimbursement method of payment, and initiate proceedings to terminate the Contract. If Subrecipient receives ESG funds from Department over two or more Contract Terms, termination proceedings may be initiated on this Contract for Subrecipient's failure to submit a report, including an audit report, past due from a prior contract.
- G. Subrecipient shall provide the Department with a Data Universal Numbering System (DUNS) number and a Central Contractor Registration (CCR) System number. The DUNS number must be provided in a document from Dun and Bradstreet; and the current CCR number must be submitted from a document retrieved from the <https://www.sam.gov> website. These documents must be provided to the Department prior to the processing first payment to Subrecipient. Subrecipient shall maintain a current DUNS number and CCR number for the entire Contract Term.

SECTION 13. CHANGES AND AMENDMENTS

- A. Any change, addition, or deletion to the terms of this Contract required by a change in state or federal law or regulation is automatically incorporated herein and is effective on the date designated by such law or regulations.
- B. Except as specifically provided otherwise in this Contract, any changes, additions, or deletions to the terms of this Contract shall be in writing and executed by both Parties to this Contract. If any Party returns an executed copy by facsimile machine or electronic transmission, the signing party intends the copy of its authorized signature printed by the receiving machine or the electronic transmission, to be its original signature.
- C. Written requests for Contract amendment must be received by the Department by no later than sixty (60) days prior to the end of the Contract Term.

SECTION 14. PROGRAM INCOME

- A. Program income shall have the meaning set forth in 24 C.F.R. §85.25 of the Federal Regulations which includes any gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period, which is during the Contract Term. Any security or utility deposits refunded from vendor should be treated as program income.
- B. In accounting for program income, the Subrecipient and Affiliate must accurately reflect the receipt of such funds separate from the receipt of federal funds and Subrecipient/Affiliate funds.
- C. Program income earned and expended during the Contract Term shall count toward meeting the Subrecipient's matching requirements during the Contract Term and should be reported as match, provided the costs are eligible ESG costs that supplement the Subrecipient's ESG program.
- D. Program income received by the Subrecipient and Affiliate during the Contract Term and not expended during the Contract Term along with program income received two (2) years following the end of the Contract Term must be returned to the Department. Program income must be returned within ten (10) working days of receipt by the Subrecipient.
- E. Program income received by the Subrecipient and Affiliate after the two (2) year period described in Subsection D of this Section 14 is no longer program income, and can be retained by the Subrecipient.

SECTION 15. INDEPENDENT SUBRECIPIENT

It is agreed that Department is contracting with Subrecipient as an independent contractor.

SECTION 16. PROCUREMENT STANDARDS

- A. Subrecipient shall comply with 24 C.F.R. Part 85, this Contract, and all applicable federal, state, and local laws, regulations, and ordinances for making procurements under this Contract.
- B. When the Subrecipient no longer needs equipment purchased with ESG grant funds, regardless of purchase price, or upon the termination of this Contract, Department may take possession and transfer title to any such property or equipment to the Department or to a third party or may seek reimbursement from Subrecipient of the current unit price of the item of equipment, in Department's sole determination. Subrecipient must request permission from the Department to transfer title or dispose of equipment purchased with ESG grant funds.
- C. Subrecipients and their contractors must comply with Section 6002 of the Solid Waste Disposal Act which requires procuring only items designated in the Environmental Protection Agency (EPA) guidelines that contain the highest percentage of recovered materials. Subrecipients must also:
 - (1) maintain a satisfactory level of competition if the purchase price of the item exceeds \$10,000, or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000;
 - (2) maximize energy and resource recovery when procuring solid waste management services; and
 - (3) establish an affirmative procurement program for recovered materials.

SECTION 17. SUBCONTRACTS

- A. Subrecipient may only subcontract or subaward the primary performance of this Contract to entities identified in its application as approved collaborative partners. Subrecipient may only enter into contractual agreements for consulting and other professional services if Subrecipient has received Department's prior written approval. Subrecipient may subcontract for the delivery of client assistance without obtaining Department's prior approval. Any subcontract or other agreement for the delivery of client assistance will be subject to monitoring by the Department as per Section 25 of this Contract.
- B. In no event shall any provision of this Section 17, specifically the requirement that Subrecipient obtain Department's prior written approval of a subcontractor or subgrantee, be construed as relieving Subrecipient of the responsibility for ensuring that the performances rendered under all subcontracts and other agreements are rendered so as to comply with all of the terms of this Contract, as if such performances rendered were rendered by Subrecipient. Department's approval under this Section 17 does not constitute adoption, ratification, or acceptance of Subrecipient's, subcontractor's or subgrantee's performance hereunder. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract. Department's approval under this Section does not waive any right of action which may exist or which may subsequently accrue to Department under this Contract.

SECTION 18. ENVIRONMENTAL REVIEW

Activities are subject to environmental review under 24 C.F.R. Part 58. The Subrecipient shall supply to the Department all available, relevant information necessary to perform any environmental review required for each property as required by 24 C.F.R. Part 58.

The Subrecipient, subgrantee or subcontractor may not commit or expend any ESG funds until an environmental review that meets the standards outlined in 24 C.F.R. Part 58 has been reviewed and approved in writing by the Department.

SECTION 19. WRITTEN STANDARDS

Subrecipient must establish and consistently apply written standards within its program. Subrecipient must provide TDHCA a copy of the written standards prior to contract execution. Required topics for written standards as listed on 24 C.F.R. §576.400(e).

SECTION 20. AUDIT

- A. Subrecipient shall submit to Department, within (3) three months after the end of each fiscal year, an Audit Certification Form as specified by Department for each fiscal year in which any month of the Subrecipient's fiscal year overlaps a month of the Contract Term. Unless otherwise directed by Department, Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Contract, subject to the following conditions and limitations:
- (1) Subrecipient shall have an audit conducted in accordance with 24 C.F.R. §85.26, OMB Circular A-133, and 31 U.S.C. 7501 for any of its fiscal years included within the Contract Term in which Subrecipient has expenses of more than \$500,000 in state funds or \$500,000 in federal financial assistance provided by a federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance or direct appropriations, but does not include direct federal cash assistance to individuals. The term federal financial assistance includes awards of financial assistance received directly from federal agencies, or indirectly through other units of State and local government.
 - (2) Subrecipient may utilize funds budgeted under this Contract to pay for that portion of the cost of such audit services properly allocable to the activities funded by Department under this Contract. The cost of auditing services for a Subrecipient expending less than \$500,000 in total Federal awards per fiscal year is not an allowable charge under Federal awards.
 - (3) Unless otherwise specifically authorized by Department in writing, Subrecipient shall submit one (1) copy of the audit report to the Department's Compliance and Asset Oversight Division within thirty (30) days after completion of the audit, but no later than nine (9) months after the end of each fiscal period included within the period of this Contract. Audits performed under this Section 20 are subject to review and resolution of findings by the Department or its authorized representative. Subrecipient shall submit such audit report to the federal clearinghouse designated by OMB in accordance with OMB Circular A-133.
 - (4) At the option of Subrecipient each audit required by this Section 20 may cover Subrecipient's entire operations or each department, agency, or establishment of Subrecipient which received, expended, or otherwise administered federal funds.
- B. Subsection A of this Section 20 notwithstanding, Department reserves the right to conduct an annual financial and compliance audit of funds received and performances rendered under this Contract. Subrecipient agrees to permit Department, or its authorized representative, to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit. Such financial and compliance audits may occur after the close of the Contract Term.
- C. Subrecipient understands and agrees that it shall be liable to Department for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Subrecipient further understands and agrees that reimbursement to Department of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this Contract.
- D. Subrecipient shall take such action to facilitate the performance of such audit or audits conducted pursuant to this Section 20 as Department may require of Subrecipient.
- E. All approved ESG audit reports shall be made available for public inspection within thirty (30) days after completion of the audit.

F. The Subrecipient shall include language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.

G. Department reserves the right to conduct additional audits of the funds received and performances rendered under this Contract. Subrecipient agrees to permit Department or its authorized representative to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit.

SECTION 21. MANAGEMENT OF EQUIPMENT AND INVENTORY

A. Subrecipient shall comply with OMB Circular A-102, 24 C.F.R. §§85.32 - 85.34 and 10 T.A.C. 5.09- 5.10.

B. Subrecipient may not use funds provided under this Contract to purchase personal property, equipment, goods, or services with a unit acquisition cost (the net invoice unit price of an item of equipment) of more than \$5,000.00 unless Subrecipient has received the prior written approval of Department for such purchase.

C. Upon the termination or non-renewal of this Contract, Department may transfer title to any such property or equipment having a useful life of one year or more or a unit acquisition cost (the net invoice unit price of an item of equipment) of \$5,000.00 or more to itself or to any other entity receiving Department funding.

SECTION 22. TRAVEL

Subrecipient shall adhere to OMB Circular A-87 and either its board-approved travel policy, or the State of Texas travel policies. Subrecipient's written travel policy shall delineate the rates which Subrecipient shall use in computing the travel and per diem expenses of its board members and employees.

SECTION 23. INSURANCE AND BONDING REQUIREMENTS

Subrecipient shall maintain adequate personal injury and property damage liability insurance or, if Subrecipient is a unit of local government, shall maintain sufficient reserves to protect against the hazards arising out of or in connection with the performance of this Contract. Subrecipient is encouraged to obtain pollution occurrence insurance in addition to the general liability insurance. Generally, regular liability insurance policies do not provide coverage for potential effects of many health and safety measures, such as lead disturbances and other pollution occurrence items. Subrecipient should review existing policies to determine if lead contamination is covered.

If Subrecipient will enter into a construction contract with a third party in the amount of \$100,000 or greater, Subrecipient must execute with the contractor a payment and a performance bond in the full amount of the contract. These bonds must be executed by a corporate surety authorized to do business in Texas, a list of which may be obtained from the State Insurance Department. Such assurances of completion will run to the Department as obligee and must be documented prior to the start of construction.

SECTION 24. LITIGATION AND CLAIMS

Subrecipient shall give Department immediate written notice of any claim or action filed with a court or administrative agency against Subrecipient and arising out of the performance of this Contract or any subcontract hereunder. Subrecipient shall furnish to Department copies of all pertinent papers received by Subrecipient with respect to such action or claim.

SECTION 25. TECHNICAL ASSISTANCE AND MONITORING

Department may issue technical guidance to explain the rules and provide directions on terms of this Contract. Department or its designee may conduct periodic on or off-site monitoring and evaluation of the efficiency, economy, and efficacy of Subrecipient's performance of this Contract. Department will advise Subrecipient in writing of any deficiencies noted during such monitoring. Department will provide technical assistance to Subrecipient and will require or suggest changes in Subrecipient's program implementation or in Subrecipient's accounting, personnel, procurement, and management procedures in order to correct any deficiencies noted. Department may conduct follow-up visits to review and assess the efforts Subrecipient has made to correct previously noted deficiencies. Department may place Subrecipient on a cost reimbursement method of payment, suspend or terminate this Contract, or invoke other remedies in the event monitoring or other reliable sources reveal material deficiencies in Subrecipient's performance or if Subrecipient fails to correct any deficiency within the time allowed by federal or state law or regulation or by the terms of this Contract.

SECTION 26. LEGAL AUTHORITY

- A. Subrecipient assures and guarantees that it possesses the legal authority to enter into this Contract, to receive and manage the funds authorized by this Contract, and to perform the services Subrecipient has obligated itself to perform hereunder. The execution, delivery, and performance of this Contract will not violate Subrecipient's constitutive documents or any requirement to which Subrecipient is subject and represents the legal, valid, and binding agreement of Subrecipient, enforceable in accordance with its terms.
- B. The person signing this Contract on behalf of Subrecipient hereby warrants that he/she has been duly authorized by Subrecipient's governing board to execute this Contract on behalf of Subrecipient and to validly and legally bind Subrecipient to the terms, provisions and performances herein.
- C. Department shall have the right to terminate this Contract if there is a dispute as to the legal authority of either Subrecipient or the person signing this Contract on behalf of Subrecipient to enter into this Contract or to render performances hereunder. Subrecipient is liable to Department for any money it has received from Department for performance of the provisions of this Contract, if the Department has terminated this Contract for reasons enumerated in this Section 26.

SECTION 27. COMPLIANCE WITH LAWS

- A. FEDERAL, STATE AND LOCAL LAW. Subrecipient shall comply with the McKinney-Vento Homelessness Assistance Act, the federal rules and regulations promulgated under 24 C.F.R. Parts 58, 84, 91, 576, 582 and 583, Title 10 of the Texas Administrative Code, and all federal, state, and local laws and regulations applicable to the performance of this Contract.
- B. DRUG-FREE WORKPLACE ACT OF 1988. The Subrecipient affirms by signing this contract that it is implementing the Drug-Free Workplace Act of 1988 (41 OSC 701, et seq.).
- C. LIMITED ENGLISH PROFICIENCY (LEP). Subrecipients must provide program applications, forms, and educational materials in English, Spanish, and any appropriate language, based on the needs of the service area and in compliance with the requirements in Executive Order 13166 of August 11, 2000 reprinted at 65 F.R. 50121, August 16, 2000 Improving Access to Services with Limited English Proficiency (LEP) at 67 F.R. 41455. To ensure compliance, the Subrecipient must take reasonable steps to insure that persons with Limited English Proficiency have meaningful access to the program. Meaningful access may entail provide language assistance services, including oral and written translation, where necessary.
- D. LEAD. Lead-based paint remediation and disclosure applies to all ESG-funded shelters and all housing occupied by ESG participants. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and the relevant subparts of the implementing regulations at 24 C.F.R. Part 35, Subparts A, B, H, J, K, M and R apply to activities under this grant program. The Subrecipient must also comply with the Lead, Renovation, Repair, and Painting Program Final Rule, 40 C.F.R. Part 745, where applicable.

SECTION 28. PREVENTION OF WASTE, FRAUD, AND ABUSE

- A. Subrecipient shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this Contract. The systems and procedures shall address possible waste, fraud, and abuse by Subrecipient, its employees, clients, vendors, subgrantee, subcontractors and administering agencies. Subrecipient's internal controls systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by Department.
- B. Subrecipient shall give Department complete access to all of its records, employees, and agents for the purpose of monitoring or investigating the ESG program. Subrecipient shall immediately notify Department of any discovery of waste, fraud, or abuse. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse.
- C. Subrecipient may not discriminate against any employee or other person who reports a violation of the terms of this Contract, or of any law or regulation, to Department or to any appropriate law enforcement authority, if the report is made in good faith.

SECTION 29. CERTIFICATION REGARDING UNDOCUMENTED WORKERS

Pursuant to Chapter 2264 of the Texas Government Code, by execution of this Contract, Subrecipient hereby certifies that Subrecipient, or a branch, division, or department of Subrecipient does not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Subrecipient or a branch, division, or department of Subrecipient is convicted of a violation under 8 U.S.C. Section 1324a (f), Subrecipient shall repay the public subsidy with interest, at the rate of five percent (5%) per annum, not later than the 120th day after the date the Department notifies Subrecipient of the violation.

SECTION 30. CONFLICT OF INTEREST/NEPOTISM

- A. Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. Failure to maintain written standards of conduct and to follow and enforce the written standards is a condition of default under this Contract and may result in termination of the Contract or deobligation of funds.
- B. No employee, officer, or agent of Subrecipient shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the Parties indicated herein, has a financial or other interest in the firm selected for an award. This also applies to the procurement of goods and services under 24 C.F.R. Part 85.36.
- C. The officers, employees, and agents of the Subrecipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. Subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient.
- D. Subrecipient who are local governmental entities shall, in addition to the requirements of this Section 30, follow the requirements of Chapter 171 of the Local Government Code regarding conflicts of interest of officers of municipalities, counties, and certain other local governments.
- E. The provision of any type or amount of ESG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the recipient, the Subrecipient, or a parent or subsidiary of the Subrecipient.
- F. No Subrecipient may, with respect to individuals or families occupying housing owned by the Subrecipient, or any parent or subsidiary of the Subrecipient, carry out the initial evaluation required under §576.401 of the Federal Regulations or administer homelessness prevention assistance under §576.103 of the Federal Regulations.

SECTION 31. POLITICAL ACTIVITY PROHIBITED

- A. None of the funds provided under this Contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Subrecipient from furnishing to any member of its governing body upon request, or to any other local or state official or employee or to any citizen information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.
- B. No funds provided under this Contract may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Subrecipient, the State of Texas, or the government of the United States.

SECTION 32. NON-DISCRIMINATION, FAIR HOUSING, EQUAL ACCESS AND EQUAL OPPORTUNITY

- A. A person shall not be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Contract, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief.
- B. Subrecipient agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- C. Subrecipient must meet the accessibility standards under (i) Section 504 of the Rehabilitation Act of 1973 (5 U.S.C. 794) and its implementing regulations at 24 C.F.R. Part 8, (ii) the Fair Housing Act (42 U.S.C. 3601 et seq.) as implemented by HUD at 24 C.F.R. Part 100-115, 24 C.F.R. §92.250, 24 C.F.R. §92.202 and 24 C.F.R. §5.105(a), (iii) Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189, 47 U.S.C. 155, 201, 218 and 255) as implemented by U. S. Department of Justice at 28 C.F.R. Parts 35 and 36, and (iv) the Equal Opportunity in Housing (Executive Order 11063 as amended by Executive Order 12259) and its implementing regulations at 24 C.F.R. Part 107.
- D. Subrecipients shall operate each program or activity receiving ESG financial assistance so that the program or activity, when viewed in its entirety, is readily accessible and usable by individuals with disabilities. Subrecipients are also required to provide reasonable accommodations for persons with disabilities.
- E. Subrecipient will include the substance of Section 32 in all subcontracts.

SECTION 33. CERTIFICATION REGARDING CERTAIN DISASTER RELIEF CONTRACTS

The Department may not award a Contract that includes proposed financial participation by a person who, during the five year period preceding the date of this Contract, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459 of the Texas Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005, or assessed a penalty in a federal, civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459 of the Texas Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

By execution of this Contract, the Subrecipient hereby certifies that it is eligible to participate in ESG and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

SECTION 34. CERTIFICATION REGARDING MAINTENANCE OF EFFORT

Funds provided to Subrecipient under this Contract may not be substituted for funds or resources from any other source or in any way serve to reduce the funds or resources which would have been available to or provided through Subrecipient had this Contract never been executed.

SECTION 35. DEBARRED AND SUSPENDED PARTIES

By signing this Contract, Subrecipient certifies that neither it nor its current principle parties are included in the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). Subrecipient also certifies that it will not award any funds provided by this Contract to any party that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. Subrecipient agrees that, prior to entering into any agreement with a potential subcontractor procured by Subrecipient or prior to awarding funds under this Contract to a potential subgrantee, that the verification process to comply with this requirement will be accomplished by checking the Excluded Parties List System at <https://www.sam.gov> or by collecting a certification from the potential subcontractor.

SECTION 36. SPECIAL CONDITIONS

- A. Department shall not release any funds under this Contract until Department has received a properly completed Direct Deposit Authorization form from Subrecipient.
- B. Subrecipient shall obligate (as such term is defined in 24 C.F.R. §576.203) all funds provided under this Contract within 120 days as of the date in Subrecipient's award letter. Department will recapture any funds not so obligated.
- C. Subrecipient shall ensure that any building rehabilitated with funds provided under this Contract is maintained as a shelter for the homeless for not less than a three (3)-year period or for not less than a ten (10)-year period if such funds are used for major rehabilitation or conversion of the building. The applicable period shall be calculated in accordance with 24 C.F.R. §576.103-(c).
- D. If Subrecipient uses funds received under this Contract to provide essential services, homeless prevention, or maintenance and operating costs, the activities must be carried out until all of the funds made available under this Contract for such activities are expended or for the Contract Term, whichever is shorter. Subrecipient may use one or more sites or structures to carry out the activities but it must serve the same general population. The "same general population" means the types of homeless persons originally served with the funds or persons in the same geographical area.
- E. Subrecipient shall make known that use of the facilities and services funded under this Contract are available to all on a nondiscriminatory basis. Subrecipient also must adopt and implement procedures designed to make available to interested persons information concerning the existence and location of services and facilities that are accessible to persons with a disability.
- F. Subrecipient shall administer, in good faith, a policy designed to ensure that its homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol.
- G. For any ESG activities that would result in the displacement of persons or businesses, Subrecipient must follow Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4201 - 4655) (URA) and its implementing regulations at 49 C.F.R. Part 24, Subpart B, and HUD Handbook 1378.
- H. Subrecipient shall, to the maximum extent practicable, involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovation, maintaining, and operating facilities assisted under this Contract, in providing services assisted under this Contract, and in providing services for occupants of facilities assisted under this Contract.
- I. Subrecipients utilizing ESG funds for renovation, repair, rehabilitation, or conversion of buildings are responsible for compliance with 24 C.F.R. Part 135, referred to as "Section 3," and shall include the clauses listed in §135.38 in all subcontracts covered by Section 3. Homeless individuals have priority over Section 3 residents.
- J. If Subrecipient intends to provide emergency shelter for homeless persons in hotels or motels, or other commercial facilities providing transient housing, Subrecipient must provide the Department with a certification that: (1) leases negotiated between Subrecipient and providers of such housing provide or will provide that the living space will be rented at substantially less than the daily room rate otherwise charged by the facility; and (2) the Subrecipient has considered other facilities as emergency shelter, and has determined that use of the facilities provides the most cost-effective means of providing emergency shelter in its service area.
- K. Subrecipient shall develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this Contract, and that the address or location of any family violence shelter project assisted will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.
- L. Subrecipient shall ensure that any building for which ESG amounts are used for renovation, conversion, or major rehabilitation must meet local government safety and sanitation standards and shelter and housing standards as outlined in §576.403 of the ESG Regulations.
- M. None of the funds provided under this Contract may be used in connection with any dwelling unit unless the unit is protected by a hard-wired or battery-operated smoke detector installed in accordance with National Fire Protection Association Standard 74.

SECTION 37. NO WAIVER

Any right or remedy given to Department by this Contract shall not preclude the existence of any other right or remedy, neither shall any action taken in the exercise of any right or remedy be deemed a waiver of any other right or remedy. The failure of Department to exercise any right or remedy on any occasion shall not constitute a waiver of Department's right to exercise that or any other right or remedy at a later time.

SECTION 38. ORAL AND WRITTEN AGREEMENTS

- A. All oral and written agreements between the parties to this Contract relating to the subject matter of this Contract have been reduced to writing and are contained in this Contract.
- B. The attachments enumerated and denominated below are a part of this Contract and constitute promised performances under this Contract:
1. Exhibit A - Performance Document
 2. Exhibit B - Budget
 3. Exhibit C - Match Requirements Document
 4. Exhibit D - Applicable Laws and Regulations
 5. Exhibit E - Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements

SECTION 39. SEVERABILITY

If any section or provision of this Contract is held to be invalid or unenforceable by a court or an administrative tribunal of competent jurisdiction, the remainder shall remain valid and binding.

SECTION 40. COPYRIGHT

Subrecipient may copyright materials developed in the performance of this Contract or with funds expended under this Contract. Department and HUD shall each have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the copyrighted work for government purposes.

SECTION 41. USE OF ALCOHOLIC BEVERAGES

Funds provided under this Contract may not be used for the payment of salaries to any Subrecipient's employees who use alcoholic beverages while on active duty, for travel expenses expended for alcoholic beverages, or for the purchase of alcoholic beverages.

SECTION 42. FAITH BASED AND SECTARIAN ACTIVITY

Funds provided under this Contract may not be used for sectarian or inherently religious activities such as worship, religious instruction or proselytization, and must be for the benefit of persons regardless of religious affiliation. Subrecipient shall comply with the regulations promulgated at 24 C.F.R. §576.406.

SECTION 43. FORCE MAJURE

If the obligations are delayed by the following, an equitable adjustment will be made for delay or failure to perform hereunder:

- A. Any of the following events: (i) catastrophic weather conditions or other extraordinary elements of nature or acts of God; (ii) acts of war (declared or undeclared); (iii) acts of terrorism, insurrection, riots, civil disorders, rebellion, or sabotage; and (iv) quarantines, embargoes and other similar unusual actions of federal, provincial, local, or foreign Governmental Authorities; and
- B. The non-performing party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

SECTION 44. TIME IS OF THE ESSENCE

Time is of the essence with respect to Subrecipient's compliance with all covenants, agreements, terms and conditions of this Contract.

SECTION 45. COUNTERPARTS AND FACSIMILE SIGNATURES

This Contract may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or other electronic transmission, and any such signature shall have the same legal effect as an original.

SECTION 46. NUMBER, GENDER

Unless the context requires otherwise, the words of the masculine gender shall include the feminine, and singular words shall include the plural.

SECTION 47. NOTICE

A. If notice is provided concerning this Contract, notice may be given at the following (herein referred to as "Notice Address"):

As to Department:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
P. O. Box 13941
Austin, Texas 78711-3941
Attention: Michael De Young
Telephone: (512) 475-2125
Fax: (512) 475-3955
michael.deyoung@tdhca.state.tx.us

As to Subrecipient:

City of Beaumont
PO Box 3827
BEAUMONT, TX 77704
Attention: Kyle Hayes, City Manager
Telephone: (409) 880-3716 Fax: (409) 880-3112 Email: khayes@ci.beaumont.tx.us

B. All notices or other communications hereunder shall be deemed given when delivered, mailed by overnight service, or five days after mailing by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address as defined in the above Subsection A of this Section 47.

SECTION 48. VENUE AND JURISDICTION

This Contract is delivered and intended to be performed in the State of Texas. For purposes of litigation pursuant to this Contract, venue shall lie in Travis County, Texas.

EXECUTED to be effective on **October 01, 2013**

City of Beaumont
a political subdivision of the State of Texas

By: **Kyle Hayes**
Title: **City Manager**
Date: **December 5, 2013 4:13 pm**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas

By:
Title: Its duly authorized officer or representative
Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 42130001767 FOR THE
FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
CFDA NO. 14.231

EXHIBIT A
PERFORMANCE DOCUMENT

City of Beaumont
a political subdivision of the State of Texas

Performance Statement
October 1, 2013 - September 30, 2014

FINANCIAL EXPENDITURE REQUIREMENTS:

To assure the timely and appropriate use of ESG funds, the Department has established the following expenditure benchmarks. The Department will review Subrecipient performance in expending program funds on a quarterly basis. Subrecipient is advised that failure to expend funds in a timely fashion may affect future funding opportunities.

Subrecipients must follow the following expenditure schedule:

Contract: 10% expended as provided in the Budget by the end of the first quarter-December 31, 2013.

Contract: 40% expended as provided in the Budget by the end of the second quarter-March 31, 2014.

Contract: 75% expended as provided in the Budget by the end of the third quarter-June 30, 2014.

Contract: 100% expended as provided in the Budget by the end of the Contract Term (fourth quarter)-September 30, 2014.

PROGRAMMATIC PERFORMANCE REQUIREMENTS:

To assure the timely and appropriate use of ESG funds, the Department has included the following performance schedule as part of the Contract. Subrecipient will establish targets for program activities and will report those targets to the Department via the Targets Spreadsheet Form supplement to this Contract which will be emailed separately to the Subrecipient. Subrecipient will report performance on a monthly basis to the Department through the Community Affairs Contract System, and the Department will review Subrecipient performance in meeting program targets on a quarterly basis. Subrecipient is advised that failure to provide program services in accordance with the targets established by the Subrecipient may affect future funding opportunities.

Subrecipient must follow the following performance schedule:

No less than 5% of all targets, as established by the Subrecipient met by the end of the first quarter-December 31, 2013.

No less than 35% of all targets, as established by the Subrecipient met by the end of the second quarter-March 31, 2014.

No less than 75% of all targets, as established by the Subrecipient met by the end of the third quarter-June 30, 2014.

100% of all targets, as established by the Subrecipient met by the end of the Contract Term (fourth quarter)-September 30, 2014.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
 CONTRACT NO. 42130001767 FOR THE
 FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
 CFDA NO. 14.231

EXHIBIT B
 BUDGET

City of Beaumont
 a political subdivision of the State of Texas

DEPARTMENT FINANCIAL OBLIGATIONS

<u>Budget Category</u>	<u>Category Totals</u>
Street Outreach	\$ 31,600.00
Shelter	\$ 33,760.00
Operations	\$ 33,760.00
Homelessness Prevention	\$ 65,918.00
Housing Relocation and Stabilization Services-HP Financial	\$ 1,200.00
Housing Relocation and Stabilization Services-HP Services	\$ 12,518.00
Tenant-based rental assistance-HP	\$ 52,200.00
Rapid Re-Housing	\$ 65,472.00
Housing Relocation and Stabilization Services-RRH Financial	\$ 6,249.00
Housing Relocation and Stabilization Services-RRH Services	\$ 6,460.00
Tenant-based rental assistance-RRH	\$ 52,763.00
Homeless Management Information System (HMIS)	\$ 9,500.00
Administrative Costs	\$ 9,243.00
TOTAL	\$ 215,493.00

Additional funds may be obligated via Amendment(s). Funds may only be obligated and expended during the current Contract Term. Unexpended fund balances will be recaptured.

FOOTNOTES TO BUDGET FOR AVAILABLE ALLOCATIONS:

Subrecipient must request in writing any adjustment needed to a budget category before TDHCA will make any adjustments to the budget categories. **Only those written request(s) from the Subrecipients received at least 60 days prior to the end of the Contract Term will be reviewed.** TDHCA may decline to review written requests received during the final 60 days of the Contract Term.

Maximum for administration based on 3.75% of the total allowable expenditures excluding travel for training.

Subrecipient may apply Administration funds to pay for travel costs incurred to attend the September 17-18, 2013 ESG Program Workshop held in Austin, Texas.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 42130001767 FOR THE
FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
CFDA NO. 14.231

EXHIBIT C
MATCH REQUIREMENTS DOCUMENT

City of Beaumont
a political subdivision of the State of Texas

<u>Type (Source of Match)</u>	<u>Dollar Value</u>
Other Non-ESG HUD Funds	\$ 14,783.00
Other Federal Funds	\$ 0.00
State Government	\$ 68,510.00
Local Government	\$ 24,000.00
Private Funds	\$ 31,728.00
Other	\$ 76,472.00
Fees	\$ 0.00
Program Income	\$ 0.00
MATCH TOTAL	\$ 215,493.00

Subrecipient shall match their award amount with an equal or greater amount of resources from other than ESG funds in accordance with the following requirements.

Eligible Sources of Match:

- o any source including any Federal source (except for ESG)
- o any state, local, and private sources

If using Federal sources, the following rules apply to Match Funds:

- o the laws governing any source to be used as match must not prohibit those funds from being used as match.
- o if ESG funds are to be used as match for another federal program, then that program may not be used as match for ESG

Recognition of Matching Contributions:

- o Match funds must meet all the requirements that apply to ESG funds (except expenditure limits)
- o Matching contributions must be provided from July 17, 2013 through September 30, 2014
- o Cash contributions must be expended within the expenditure deadline during the Contract Term
- o Non-cash contributions must be made within the expenditure deadline (above)
- o Contributions used to match a previous ESG grant may not be used to match a subsequent grant
- o Contributions used to match another federal grant may not be used to match ESG

Eligible Types of Matching Contributions:

1. **Cash Contributions**-Cash expended for allowable costs as defined in OMB Circulars A-87 (2 C.F.R. Part 225) and A-122 (2 C.F.R. Part 230) of the Subrecipient. Sources of cash contributions may include private donations, or grants, from foundations, nonprofits, or local, state and federal funds.
2. **Non-Cash contributions**-Non-cash contributions are the value of any real property, equipment, goods, or services contributed to the Subrecipient's ESG program, provided that they would be allowable if the Subrecipient had to pay for them.

Costs paid by **program income** during the grant period are to be considered as match provided they are eligible costs that supplement the ESG program.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 42130001767 FOR THE
FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
CFDA NO. 14.231

EXHIBIT E
CERTIFICATION REGARDING LOBBYING FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

City of Beaumont
a political subdivision of the State of Texas

The undersigned certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form -LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is material representation of fact on which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

City of Beaumont
a political subdivision of the State of Texas

By: **Kyle Hayes**
Title: **City Manager**
Date: **December 5, 2013 4:13 pm**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
AMENDMENT NO. 1 TO CONTRACT NUMBER 42130001767
FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM (CFDA NO. 14.231)

This Amendment No. 1 to Emergency Solutions Grants Program Contract Number 42130001767 by and between the The Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas ("Department"), and City of Beaumont, a political subdivision of the State of Texas ("Subrecipient"), hereinafter collectively referred to as "Parties", is executed on the respective dates indicated to ratify, confirm and acknowledge the execution date of this Amendment to be June 01, 2014.

RECITALS

WHEREAS, the Department and Subrecipient, respectively, executed that Emergency Solutions Grants Program Contract Number 42130001767 to be effective on June 01, 2014 ("Contract"), and

WHEREAS, the Parties desire to amend the Contract in the manner provided herein below.

AGREEMENTS

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows

SECTION 1.

Exhibit B. Budget, of this Contract is hereby deleted and replaced in its entirety with the attached Exhibit B.

SECTION 2.

Exhibit C. Match Requirements Document, of this Contract is hereby deleted and replaced in its entirety with the attached Exhibit C.

SECTION 3.

All of the remaining terms of the Contract shall be and remain in full force and effect as therein set forth and shall continue to govern except to the extent that said terms conflict with the terms of this Amendment. In the event this Amendment and the terms of the Contract are in conflict, this Amendment shall govern, unless it would make the Contract void by law.

SECTION 4.

Each capitalized term not expressly defined herein shall have the meaning given to such term in the Contract.

SECTION 5.

This Amendment may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on Parties, notwithstanding that all the Parties shall not have signed the same counterpart.

SECTION 6.

If any of the Parties returns a copy by facsimile machine or electronic transmission, the signing party intends the copy of its authorized signature printed by the receiving machine or the electronic transmission to be its original signature.

SECTION 7.

By signing this Amendment, the Parties expressly understand and agree that its terms shall become a part of the Contract as if it were set forth word for word therein.

SECTION 8.

This Amendment shall be binding upon the Parties hereto and their respective successors and assigns.

SECTION 9.

This Amendment shall be effective and memorializes an effective date of **June 01, 2014**.

WITNESS OUR HAND EFFECTIVE: **June 01, 2014**

SUBRECIPIENT:

City of Beaumont
a political subdivision of the State of Texas

By:
Title:
Date:

DEPARTMENT:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas

By:
Title: Its duly authorized officer or representative
Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
 AMENDMENT NO. 1 TO CONTRACT NUMBER 42130001767
 FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM (CFDA NO. 14.231)

EXHIBIT B
 BUDGET

City of Beaumont
 a political subdivision of the State of Texas

Contract Term: 10/01/2013 - 09/30/2014

DEPARTMENT FINANCIAL OBLIGATIONS

<u>Budget Category</u>	<u>Category Totals</u>
Street Outreach	\$ 14,700.00
Shelter	\$ 33,760.00
Operations	\$ 22,734.00
Major Rehab	\$ 11,026.00
Homelessness Prevention	\$ 97,792.17
Housing Relocation and Stabilization Services-HP Financial	\$ 3,052.17
Housing Relocation and Stabilization Services-HP Services	\$ 12,518.00
Tenant-based rental assistance-HP	\$ 82,222.00
Rapid Re-Housing	\$ 50,497.83
Housing Relocation and Stabilization Services-RRH Financial	\$ 6,862.83
Housing Relocation and Stabilization Services-RRH Services	\$ 6,460.00
Tenant-based rental assistance-RRH	\$ 37,175.00
Homeless Management Information System (HMIS)	\$ 9,500.00
Administrative Costs	\$ 9,243.00
TOTAL	\$ 215,493.00

Additional funds may be obligated via Amendment(s). Funds may only be obligated and expended during the current Contract Term. Unexpended fund balances will be recaptured.

FOOTNOTES TO BUDGET FOR AVAILABLE ALLOCATIONS:

Subrecipient must request in writing any adjustment needed to a budget category before TDHCA will make any adjustments to the budget categories. Only those written request(s) from the Subrecipients received at least 60 days prior to the end of the Contract Term will be reviewed. TDHCA may decline to review written requests received during the final 60 days of the Contract Term.

Maximum for administration based on 3.75% of the total allowable expenditures excluding travel for training.

Subrecipient may apply Administration funds to pay for travel costs incurred to attend the September 17-18, 2013 ESG Program Workshop held in Austin, Texas.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
AMENDMENT NO. 1 TO CONTRACT NUMBER 42130001767
FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM (CFDA NO. 14.231)

EXHIBIT C
MATCH REQUIREMENTS DOCUMENT

City of Beaumont
a political subdivision of the State of Texas

Contract Term: 10/01/2013 - 09/30/2014

<u>Type (Source of Match)</u>	<u>Dollar Value</u>
Other Non-ESG HUD Funds	\$ 14,783.00
Other Federal Funds	\$ 0.00
State Government	\$ 68,510.00
Local Government	\$ 0.00
Private Funds	\$ 82,797.00
Other	\$ 49,403.00
Fees	\$ 0.00
Program Income	\$ 0.00
MATCH TOTAL	\$ 215,493.00

Subrecipient shall match their award amount with an equal or greater amount of resources from other than ESG funds in accordance with the following requirements.

Eligible Sources of Match:

- o any source including any Federal source (except for ESG)
- o any state, local, and private sources

If using Federal sources, the following rules apply to Match Funds:

- o the laws governing any source to be used as match must not prohibit those funds from being used as match,
- o if ESG funds are to be used as match for another federal program, then that program may not be used as match for ESG.

Recognition of Matching Contributions:

- o Match funds must meet all the requirements that apply to ESG funds (except expenditure limits)
- o Matching contributions must be provided from July 17, 2013 through September 30, 2014
- o Cash contributions must be expended within the expenditure deadline during the Contract Term
- o Non-cash contributions must be made within the expenditure deadline (above)
- o Contributions used to match a previous ESG grant may not be used to match a subsequent grant
- o Contributions used to match another federal grant may not be used to match ESG

Eligible Types of Matching Contributions:

1. **Cash Contributions**-Cash expended for allowable costs as defined in OMB Circular A-122 (2 C.F.R. Part 230). Sources of cash contributions may include private donations, or grants, from foundations, nonprofits, or local, state and federal funds.
2. **Non-Cash contributions**-Non-cash contributions are the value of any real property equipment, goods, or services contributed to the Subrecipient's ESG program, provided that they would be allowable if the Subrecipient had to pay for them.

Costs paid by **program income** during the grant period are to be considered as match provided they are eligible costs that supplement the ESG program.

RESOLUTION NO.

WHEREAS, on November 19, 2013, City Council approved Resolution No. 13-265 approving the original and amended Texas Department of Housing and Community Affairs (TDHCA) budgets and authorizing the City Manager to enter into a contract with the Texas Department of Housing and Community Affairs (TDHCA), Some Other Place, Family Services of Southeast Texas and Catholic Charities of Southeast Texas for client outreach, emergency shelter and other homeless prevention services; and,

WHEREAS, on August 19, 2014 City Council approved Resolution No. 14-177 approving an amendment to the contract with Texas Department of Housing and Community Affairs (TDHCA) to amend the FY 2013 Emergency Solutions Grant (ESG) funds budget by modifying the line item categories in order to better align them with the needs of the local homeless services providers; and,

WHEREAS, Amendment No. 2 to the contract with Texas Department of Housing and Community Affairs (TDHCA) is required to extend the contract expiration date to December 31, 2014 in order to expend the remaining grant funds;

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 Amendment No. 2 to the contract between the City of Beaumont and Texas Department of Housing and Community Affairs (TDHCA) to extend the contract expiration date to December 31, 2014 in order to expend the remaining grant funds. The amendment 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 28th day of
October, 2014.

- Mayor Becky Ames -

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
AMENDMENT NUMBER 2 TO CONTRACT NUMBER 42130001767
FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
CFDA NO. 14.231

This Amendment Number 2 to Emergency Solutions Grants Program Contract Number 42130001767 by and between the Texas Department of Housing and Community Affairs ("Department"), a public and official agency of the State of Texas, and City of Beaumont ("Subrecipient"), a political subdivision of the State of Texas, hereinafter collectively referred to as "Parties", is executed to be October 1, 2014.

RECITALS

WHEREAS, the Department and Subrecipient, respectively, executed that Emergency Solutions Grants Program Contract Number 42130001767 to be effective on October 1, 2013 ("Contract"); and

WHEREAS, the Parties desire to amend the Contract in the manner provided herein below.

AGREEMENTS

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1.

Section 2, Contract Term, of this Contract is hereby amended and replaced in its entirety to read as follows:

"Section 2, Contract Term. This Contract shall commence on **October 01, 2013**, and, unless earlier terminated, shall end on **December 31, 2014** (herein the "Contract Term").

SECTION 2.

Exhibit A, Performance Document, of this Contract is hereby deleted and replaced in its entirety with the attached Exhibit A.

SECTION 3.

All of the remaining terms of the Contract shall be and remain in full force and effect as therein set forth and shall continue to govern except to the extent that said terms conflict with the terms of this Amendment. In the event this Amendment and the terms of the Contract are in conflict, this Amendment shall govern, unless it would make the Contract void by law.

SECTION 4.

Each capitalized term not expressly defined herein shall have the meaning given to such term in the Contract.

SECTION 5.

This Amendment may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on Parties, notwithstanding that all the Parties shall not have signed the same counterpart.

SECTION 6.

If any of the Parties returns a copy by facsimile machine or electronic transmission, the signing party intends the copy of its authorized signature printed by the receiving machine or the electronic transmission to be its original signature.

SECTION 7.

By signing this Amendment, the Parties expressly understand and agree that its terms shall become a part of the Contract as if it were set forth word for word therein.

SECTION 8.

This Amendment shall be binding upon the Parties hereto and their respective successors and assigns.

SECTION 9.

This Amendment shall be effective and memorializes an effective date of October 1, 2014.

AGREED TO AND EFFECTIVE BY: **October 01, 2014**

SUBRECIPIENT:

City of Beaumont

a political subdivision of the State of Texas

By

Title:

Date:

DEPARTMENT:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas

By

Title: Its duly authorized officer or representative

Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
AMENDMENT NUMBER 2 TO CONTRACT NUMBER 42130001767
FY 2013 EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
CFDA NO. 14.231

EXHIBIT A

PERFORMANCE DOCUMENT

City of Beaumont

a political subdivision of the State of Texas

Performance Statement

October 1, 2013- December 31, 2014

FINANCIAL EXPENDITURE REQUIREMENTS:

To assure the timely and appropriate use of ESG funds, the Department has established the following expenditure benchmarks. The Department will review Subrecipient performance in expending program funds on a quarterly basis. Subrecipient is advised that failure to expend funds in a timely fashion may affect future funding opportunities.

Subrecipients must follow the following expenditure schedule:

Contract 10% expended as provided in the Budget by the end of the first quarter-December 31, 2013.

Contract 40% expended as provided in the Budget by the end of the second quarter-March 31, 2014.

Contract 75% expended as provided in the Budget by the end of the third quarter-June 30, 2014.

Contract 100% expended as provided in the Budget by the end of the Contract Term-December 31, 2014.

PROGRAMMATIC PERFORMANCE REQUIREMENTS:

To assure the timely and appropriate use of ESG funds, the Department has included the following performance schedule as part of the Contract. Subrecipient will establish targets for program activities and will report those targets to the Department via the Targets Spreadsheet Form supplement to this Contract which will be emailed separately to the Subrecipient. Subrecipient will report performance on a monthly basis to the Department through the Community Affairs Contract System, and the Department will review Subrecipient performance in meeting program targets on a quarterly basis. Subrecipient is advised that failure to provide program services in accordance with the targets established by the Subrecipient may affect future funding opportunities.

Subrecipient must follow the following performance schedule:

No less than 5% of all targets, as established by the Subrecipient met by the end of the first quarter-December 31, 2013.

No less than 35% of all targets, as established by the Subrecipient met by the end of the second quarter-March 31, 2014.

No less than 75% of all targets, as established by the Subrecipient met by the end of the third quarter-June 30, 2014.

100% of all targets, as established by the Subrecipient met by the end of the Contract Term-December 31, 2014.

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Hani J. Tohme, P.E., Director of City Utilities

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider a resolution approving a change order to the contract with Allco, LLC, related to the Grit Pump Replacement – Wastewater Treatment Plant Project.

BACKGROUND

The City Council approved a contract with Allco, LLC, on August 16, 2011, in the amount of \$1,111,359.00. The contract will furnish all labor, materials, and equipment to remove and replace the existing belt press pumps at the Wastewater Treatment Plant at 4900 Lafin Road.

The proposed change order will increase the contract amount by \$40,514.00 to furnish the labor, equipment, and materials to lower the 45-degree angle portion of the belt press conveyor to 15-degrees and install a new conveyor belt.

The sludge pumps for the belt press and clarifiers have been in operation for more than 20 years. Sludge is generated from the sanitary sewer collection system and the solids from biological treatment. The sludge regularly varies in composition and thus requires pumps that can maintain continual operation. These deteriorated pumps are in need of replacement and the improvements to the sludge transportation system will greatly improve the efficiency of wastewater treatment.

Previous actions include:

Resolution 11-229 in the amount of \$1,111,359.00 was approved by the City Council on August 16, 2011.

Resolution 13-162 in the amount of -\$25,355.75 was approved by the City Council on August 6, 2013.

Resolution 14-053 in the amount of \$48,309.96 was approved by the City Council on March 4, 2014.



Page 2 of 2

Resolution 14-076 in the amount of \$168,098.00 was approved by the City Council on April 8, 2014.

FUNDING SOURCE

Capital Program.

RECOMMENDATION

Approval of resolution.

APPROVAL OF CONTRACT CHANGE

CHANGE ORDER No. Four (4)
Date: 10/14/2014

PROJECT: City of Beaumont, Texas
Wastewater Treatment Plant Improvements -
Sludge Pump Replacement and Miscellaneous Improvements

OWNER: City of Beaumont, Texas
801 Main Street
Beaumont, Texas 77704

CONTRACTOR: Allico
PO Box 3684
Beaumont, Texas 77704

TO THE OWNER: Approval of the following contract change is requested

Reason for Change: Rehabilitate the existing influent bar screen conveyor belt mechanism

ORIGINAL CONTRACT AMOUNT:	\$	1,111,359.00
CHANGE ORDER NO. 1	\$	(25,355.75)
CHANGE ORDER NO. 2	\$	48,309.96
CHANGE ORDER NO. 3	\$	168,098.00
THIS CHANGE ORDER		
<u>Description:</u>		<u>Net Change</u>

Rehabilitate the existing influent bar screen conveyor belt mechanism	\$	40,514.00
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TOTAL AMOUNT OF THIS CHANGE ORDER \$ 40,514.00

TOTAL REVISED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER: \$ 1,342,925.21

CONTRACT TIME

Original Contract Time:	240	Calendar Days
Previous Change Orders	255	Calendar Days
Additional Time requested for This Change Order	5	Calendar Days
Revised Contract Time per this Change Order:	500	Calendar Days

CONDITION OF CHANGE:

"Contractor acknowledges and agrees that the adjustments in contract price and contract time stipulated in this Change Order represents full compensation for all increases and decreases in the cost of, and the time required to perform the entire work under the Contract arising directly or indirectly from this Change Order and all previous Change Orders. Acceptance of this waiver constitutes an agreement between Owner and Contractor that the Change Order represents an all inclusive, mutually agreed upon adjustment to the Contract, and that Contractor will waive all rights to file a claim on this Change Order after it is properly executed."

Recommended by	Approved by	Accepted by:
_____	_____	_____
Schaumburg & Polk, Inc. Engineer	City of Beaumont Owner	Allico, Ltd. Contractor
Date: _____	Date: _____	Date: _____



P. O. Box 3684, Beaumont, Texas 77704 Phone: 409-860-4459 Fax: 409-860-3857
Email: allco@allco.com

October 08, 2014

City of Beaumont
P. O. Box 3827
Beaumont, Texas 77704

Attn: Dr. Hani Tohme, P.E.

Re: City of Beaumont
Wastewater Treatment Plant
Replace Conveyor Belt



Dear Dr. Tohme:

We propose to furnish labor, equipment and material to lower the 45 degree angle portion of the conveyor to 15 degrees and install a new conveyor belt.

Our estimated time for this project is 5 days.

Summary of Work.

1. Remove the 45degree angle brackets and install 15 degree angle brackets.
2. Re-adjusted the motor head and plum it up after lowering the frame work of the 45 degree conveyor.
3. Install a new conveyor belt.
4. Startup the conveyor and adjust and put in operation.

FOR THE SUM OF \$40,514.00

We hope this will meet with your approval as we are looking forward to complete this work for you.

Very truly yours,

ALLCO

Billy Patterson

Attachments



BRANCE-KRACHY CO., INC.

195 S. 4TH STREET
 BEAUMONT, TEXAS 77701
 PH. (409) 838-1641 FAX (409) 838-3623

QUOTATION

NAME	<u>Kerry Stantz</u>	QUOTATION #	<u>Beit</u>
ADDRESS	<u>Water Rec</u>	DATE	<u>2/1/2013</u>
CITY	<u>Beaumont</u>	REF:	
STATE	<u>Texas</u>	SHIP VIA	<u>TBD</u>
	ZIP <u>77705</u>	F.O.B.	<u>Dallas Tx</u>
ATTN:	<u>Kerry</u>	DELIVERY	<u>3 Weeks</u>
		TERMS	

QTY	DESCRIPTION	UNIT	NET
1	Scraper 18" With Spring Tensioner	850.99	850.99
1	Belt 4ply with 3" Corrugated Sidewalls and SS Fasteners 84' lg 24"wide w/ 1/4 Holes 35 Per Pattern on 18" Centers	10307.00	10307.00
18	UHMW Rollers	48.00	864.00
<p>Please let me know if you have any questions or concerns. And we appreciate the opportunity to earn your business.</p> <p>Clint Walker Brance-Krachy Company</p> <p>Cell 409-550-2754 Office-409-838-1641</p>		Total	12021.99

RESOLUTION NO.

WHEREAS, on August 16, 2011, the City Council of the City of Beaumont, Texas, passed Resolution No. 11-229 awarding a contract in the amount of \$1,111,359.00 to Allco, LLC, of Beaumont Texas, for the Wastewater Treatment Plant Sludge Pump Replacement Project to furnish all labor, materials, and equipment to remove and replace the existing belt press pumps at the Wastewater Treatment Plant located at 4900 Lafin Road; and,

WHEREAS, on August 6, 2013, the City Council of the City of Beaumont, Texas, passed Resolution No. 13-162 approving Change Order No. 1 in the amount of (\$25,355.75) to furnish all necessary labor, materials, and equipment to install a new concrete slab and pipe rail for the refurbished belt press conveyor; install access stairs and handrails for Junction Box No. 3; install a new 6-inch diameter force main from the grit cyclonic units to the grit classifiers; connect an existing 6-inch drain to the 12-inch main at the Influent Building; increase Bid Item 7.5 to provide six (6) additional pipe bollards at the Belt Press Canopy; and reduce Bid Item 5.2 amount to refurbish belt press conveyor, thereby decreasing the contract amount to \$1,086,003.25; and,

WHEREAS, on March 4, 2014, the City Council of the City of Beaumont, Texas, passed Resolution No. 14-053 approving Change Order No. 2 in the amount of \$48,309.96 to furnish and install new electrical equipment in MCC 1 for Pumps 1 and 3; reinstall VFD equipment in MCC 1 that was damaged by sewer gas corrosion; modify the Primary Sludge Pump belts and sheave size; provide the additional work required to perform the suction pipe connections due to existing underground electrical and piping conflicts uncovered once excavation work began; replace an existing concrete pump pad for Primary Pumps

1 & 3 that was damaged due to deterioration; replace secondary pump check valves; provide for a price adjustment for modifications of the Sludge Belt Conveyor based on actual supplied equipment, and delete the allowance for Bid Item 11, thereby increasing the contract amount to \$1,134,313.21; and,

WHEREAS, on April 8, 2014, the City Council of the City of Beaumont, Texas, passed Resolution No. 14-076 approving Change Order No. 3 in the amount of \$168,098.00 to replace the existing 10" secondary sludge force main, from the new Secondary Pump Station to the existing Cyclonic Degrit Units, with four (4) independent discharge lines made of 6" diameter PVC pipe, thereby increasing the contract amount to \$1,302,411.21; and,

WHEREAS, Change Order No. 4, in the amount of \$40,514.00, is required to furnish all labor, equipment, and materials to lower the 45-degree angle portion of the belt press conveyor to 15-degrees and to install a new conveyor belt, thereby increasing the contract amount to \$1,342,925.21;

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. 4 in the amount of \$40,514.00, thereby increasing the contract amount to \$1,342,925.21 for the Wastewater Treatment Plant Sludge Pump Replacement Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of
October, 2014.

- Mayor Becky Ames -



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider a resolution accepting the Certified Tax Roll Summary for the tax year 2014 (fiscal year 2015).

BACKGROUND

Pursuant to the Texas Property Tax Code, Section 26.09, the Certified Tax Roll Summary must be approved by the City Council. On September 23, 2014, Council approved the tax roll as certified by the Jefferson County Appraisal District with a taxable value of \$6,891,134,490. There is no change in the taxable value as certified by the Tax Assessor-Collector.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of resolution.

Tax Collection System - JEFFERSON COUNTY
 Certified Roll Jurisdiction Summary
 Processing For Tax Year: 2014

Jurisdiction: 21 CITY OF BEAUMONT

Total Parcels:	65,328	Tax Rate:	0.6900000	Opt Hom:	0.0000000
Market Value:	7,725,976,054	State Hom:	0	Opt O65:	17,500
		State O6S:	0	Opt Disabled:	0
		Disabled:	17,500		

AG Exclusion Count:	148	AG Exclusion Amt:	36,986,262		
Timber Exclusion Count:	74	Timber Exclusion Amt:	2,712,116		
HS Capped Count:	416	HS Capped Amt:	2,996,526		
Assessed Value:	7,683,281,150				

Prorated-Exxy Count/Amt:	3,638	519,458,900	EXXA Count/Amt:	8	1,509,710
100% Exempt Vet Count/Amt:	189	19,389,901	Pro Charitable Functions Count/Amt:	9	1,420,770
Pro Youth Associations Count/Amt:	12	2,560,350	Low Income Housing Count/Amt:	2	2,893,650
Prorated-Exxl Count/Amt:	3	1,362,060	Pollution Control Count/Amt:	2	1,342,350
Pro Misc Exempts Count/Amt:	100	43,557,780	Goods In Transit Count/Amt:	1	13,823,290
Pro Schools Count/Amt:	40	11,034,370	Hb366 Count/Amt:	65	17,820

State Homestead Count:	22,949	State Homestead Amt:	0
Local Homestead Count:	0	Local Homestead Amt:	0
State Over 65 Count:	0	State Over 65 Amt:	0
Local Over 65 Count:	7,947	Local Over 65 Amt:	136,935,030
Surviving Spouse Count:	57	Surviving Spouse Amt:	959,690
Disabled Count:	1,780	Disabled Amt:	29,908,700
Total VET Count:	612	Total VET Amt:	5,972,289
*VET Surviving Spouse Count:	17	*VET Surviving Spouse Amt:	148,000

Partial Exempt Values:	173,775,709
Taxable Value:	6,891,134,490
Total Levy Amt:	47,548,965.08
Late AG Penalty Count:	3
Frozen Account Count:	0
Frozen Homesite Value:	0
Frozen Taxable Value:	0
Unfrozen Levy Amt:	0.00
Frozen Levy Amt:	0.00
Frozen Levy Loss Amt:	0.00
Total Non-Exempt Parcel Count:	65,328

Late AG Penalty Amt:	106.36
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RESOLUTION NO.

WHEREAS, on September 23, 2014, City Council, by Ordinance No. 14-043, approved the tax roll as certified by the Jefferson County Tax Appraisal District with a taxable value of \$6,891,134,490; and,

WHEREAS, it has been determined and the Council so finds there is no change in the taxable value of the Grand Recap;

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 Council, pursuant to the Texas Property Tax Code, Section 26.09, hereby approves the Grand Recap of the appraisal roll for the tax year 2014 (FY 2015) with a taxable value of \$6,891,134,490, which shall constitute the City's tax roll.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of October, 2014.

- Mayor Becky Ames -

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider a resolution terminating a contract with CIMA Utility of Beaumont for mowing privately-owned developed and vacant properties and awarding a contract to Texas Institute of the Blind and Handicapped Industries (TIBH) for the same.

BACKGROUND

Privately owned, developed and vacant properties are in violation of the City's weed ordinance when uncultivated growth exceeds twelve (12) inches. Property owners are notified of the violation and given a specified time to bring the property into compliance. If property owners fail to comply with the ordinance, the City's contractor mows the property and the property owner is billed.

Council Resolution 12-181 awarded the contract to CIMA Utility (CIMA) on August 21, 2012. The contract is divided into four (4) sections and CIMA was awarded one (1) section. On December 10, 2013, with Resolution 13-275, Council suspended CIMA's contract with the City for three (3) months for failing to maintain current automobile liability insurance.

On April 22, 2014 and May 2, 2014, CIMA received a letter from the City stating the company was behind schedule and not performing according to specifications. On August 26, 2014, Code Enforcement stopped assigning any new work to CIMA so the company could focus on the large amount of work that was not completed.

On September 16, 2014, City Staff met with a CIMA representative to determine how to successfully eliminate the backlog of 216 cuts. The representative provided a copy of a letter from Mr. Moye, the owner, stating CIMA would complete twenty (20) lots per day until the backlog was completed. This plan was accepted by both parties. A letter was sent to CIMA documenting the meeting and explaining what was expected from the company. A weekly meeting with CIMA and City staff was scheduled on Tuesdays to discuss the previous weeks work and expectations for the next week until all the lots were completed.

Termination of Mowing Contract

October 28, 2014

Page 2

On September 19, 2014 a letter was sent to CIMA explaining that two CIMA employees contacted the Purchasing Division because they had not received payment for work that was completed. A hold was placed on all payments from the City until this issue was resolved to the satisfaction of all parties. The hold was released on September 24, 2014 after the two CIMA employees confirmed that they received all monies owed to them.

On Tuesday, October 7, 2014, Mr. Moyer did not attend a scheduled meeting with City Staff. Mr. Moyer was contacted that he would not receive any additional work from the City until he provided information that was requested for the meeting he did not attend. A meeting was then scheduled for the next day and Mr. Moyer attended that meeting.

From September 17, 2014 thru October 7, 2014, CIMA had submitted 110 lots as complete but upon inspection by City staff, eighty-eight (88) were accepted as complete and twenty-two (22) did not meet specifications. CIMA should have successfully completed 225 to 300 lots in the three week time frame.

On October 8, 2014, CIMA was notified that City Staff would be recommending termination of the contract and that the total backlog was one hundred eighty-two (182) lots. CIMA was told that they would not receive any additional lots until these were completed. As of October 21, 2014, eighty-two (82) lots were submitted as complete. Three (3) lots did not meet specifications and were rescheduled to be completed. According to the agreed-upon plan to reduce the backlog, CIMA should have successfully completed one hundred-fifty (150) to two hundred (200) lots in this time frame.

In summary, CIMA Utilities has struggled to meet specifications and complete cuts timely since April of 2014. As outlined above there have been other issues including insurance and payment of employees that have affected this contract. This has caused Code Enforcement scheduling issues, complaints from citizens in the neighborhood, and ultimately delays in enforcement of ordinance violations. Therefore, it is recommended that the contract be terminated.

The new cuts in Section 1 will be distributed among the current vendors doing work in the other sections during the non-growing season. When the growing season starts in 2015, Staff recommends the award of contract to the Texas Institute of the Blind and Handicapped Industries (TIBH). Any services provided by TIBH are exempt from competitive bidding. The price quote from TIBH is attached and is in line with the prices being paid under the current contracts. The contract will expire on August 26, 2015 with no renewal options.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of resolution.

INDUSTRIES

October 14, 2014

Mr. Patrick Bardwell
Mr. Terry Welch
City of Beaumont
Purchasing Division
801 Main Street, Suite 315
Beaumont, Texas 77701

*Re: City of Beaumont - Proposal Submission of Mowing Privately-Owned Developed
and Vacant Property/Lots – various lots and sizes*

Dear Mr. Bardwell and Mr. Welch:

On behalf of TIBH Industries, Inc. and Rucon, Inc., please consider this our written proposal to handle the requested services for the mowing of privately-owned developed and vacant properties. Our proposal is based upon the Scope of Work as provided, and as per our site inspections of various property/lots regarding the services. Our proposal is herein submitted for your review, and is as follows:

Price for Property:

Less than 6,500 sq. ft.
\$75.00/cutting

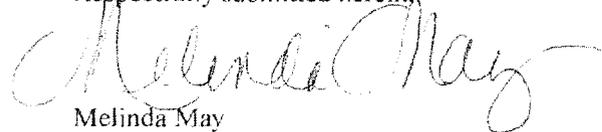
6,500 sq. ft. or greater up to one acre
\$.01/sq. ft.

One (1) acre of greater
\$200/acre

Thank you kindly for your review of the above submitted proposal regarding the requested services. Please do not hesitate to let us know if you need any additional information regarding our proposal submitted herein for your review.

Once again, we certainly appreciate the City of Beaumont's support of the State Use Program in the employment of individuals with disabilities.

Respectfully submitted herein,



Melinda May
TIBH Regional Marketing Manager



CITY OF BEAUMONT, BEAUMONT, TEXAS
PURCHASING DIVISION BID TABULATION

Annual Contract For Mowing Privately-Owned Developed and Vacant Property

TF0412-20

Thursday, August 2, 2011 2:00 P.M.

Bid Name:
Bid Number:
Bid Opening:
Contact Person:

Terry Welch Buyer II
twelch@ci.beaumont.tx.us
Phone: 409-880-3107

Vendor: City / State: Contact: Fax:	SECTION 3 Charlton Pollard	Section 1 NE	SECTION 4 SE	SECTION 2 MISCELLANEOUS
JLMB Properties, Inc. Beaumont, Tx 77726 Mark Bounds 832-288-6371	CIMA Utility Construction Co. Beaumont, Tx 77707 Falan Moye 972-575-8510	Yardboy Lawncare Service Beaumont, Tx 77701 Timothy Gregory 409-833-7980	Bulldog Excavating Inc. Vidor, Tx 77662 Wayne Armstrong 409-681-9248	
Previous Amount Cut	5,237,007 sq. ft.	18,092,960 sq. ft.	9,890,366 sq. ft.	7,618,653 sq. ft.
Bid Unit Cost	\$29/ Cutting	\$65 / Cutting	\$75 / Cutting	\$70 / Cutting
price for property - less than 6,500 sq. ft. Minimum Bid	\$0.0055 / sq. ft.	\$0.0089 / sq. ft.	\$0.009 / sq. ft.	\$0.1 / sq. ft.
price for property - 6,500 sq. ft. or greater up to one acre	\$200 / acre	\$125 / acre	\$140 / acre	\$175 / acre
price for property - one (1) acre or greater				
Estimated Total Annual Cost Per Section, Calculated with previous year cut numbers for each section.	\$39,883.00	\$159,100.00	\$99,886.00	\$385,685.00
	Total For All Sections			

As shown highlighted above, the four lowest qualified bidders are JLMB Properties, Inc., CIMA Utility Construction, Co., Yardboy Lawncare Service, and Bulldog Excavating, Inc. Sections chosen by vendors with lowest bidder choosing first.

RESOLUTION NO.

WHEREAS, on August 21, 2012, the City Council of the City of Beaumont, Texas, passed Resolution No. 12-181 awarding an annual contract for mowing privately-owned developed and vacant properties in an estimated amount of \$159,100 to CIMA Utility Construction Co., of Beaumont, Texas, for Section 1, North East; and,

WHEREAS, on December 10, 2013, the City Council of the City of Beaumont, Texas, passed Resolution No. 13-275 suspending the contract between the City of Beaumont and CIMA Utility Construction Co., of Beaumont, Texas, for a period of three (3) months effective January 1, 2014 for failing to maintain current automobile liability insurance; and,

WHEREAS, on May 2, 2014 and April 22, 2014, CIMA received notice from the City notifying them that they were behind schedule for mowing and was not performing according to specifications; and,

WHEREAS, on August 26, 2014, the City of Beaumont Code Enforcement ceased assigning any new work to CIMA due to a large amount of work that was not completed and assigned the work to other contract vendors; and,

WHEREAS, on September 17, 2014, City staff met with a CIMA representative at which time an acceptable time frame to complete the backlog was agreed upon by both parties and weekly meetings were scheduled to discuss the previous weeks work; and,

WHEREAS, on September 24, 2014, the City of Beaumont released the payment hold and the two CIMA employees stated that they received all monies owed to them from CIMA; and,

WHEREAS, On October 7, 2014, the CIMA representative did not attend the

scheduled weekly meeting with City staff. CIMA was notified that no additional work would be received until the City received all information that was requested for the meeting that was not attended; and,

WHEREAS, on October 8, 2014, CIMA was notified that City staff would be recommending termination of the contract; and,

WHEREAS, since April 2014, the entire growing season, CIMA has failed to complete mowing requirements and specifications; and,

WHEREAS, City Council is of the opinion that it is in the best interest of the City to terminate the current contract for mowing privately owned, developed and vacant properties with CIMA Utility Construction Co., of Beaumont, Texas, and to distribute the cuts in Section I, North East among the current vendors doing work in the other sections during the non-growing season; and,

WHEREAS, City Council is of the opinion that it is in the best interest of the City to award the contract to the Texas Institute of the Blind and Handicapped (TIBH), which is exempt from competitive bidding, as a provider for this service during the growing season commencing April 1, 2015 and expiring August 26, 2015 with no renewal options;

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 contract between the City of Beaumont and CIMA Utility Construction Co., of Beaumont, Texas, awarded to CIMA in Resolution No. 12-181, is hereby terminated; and,

BE IT FURTHER RESOLVED THAT the City will distribute the cuts in Section I, North East among the current vendors doing work in the other sections during the non-growing season; and,

BE IT ALSO RESOLVED THAT the City will award the contract to the Texas Institute of the Blind and Handicapped (TIBH), which is exempt from competitive bidding, as a provider for this service during the growing season commencing April 1, 2015 and expiring August 26, 2015 with no renewal options;

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of October, 2014.

- Mayor Becky Ames -

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider a resolution approving the payment of \$650 to settle outstanding liens for litter and weed abatement on property at 2400 Rusk Street, legally described as Oaks L18 B14, and waiving the remaining principle of \$5,653 and interest in the amount of \$497.62.

BACKGROUND

Torey Doucette, Sr. has offered to pay \$650 to settle the weed and litter liens assessed against the property described above from 2005 through 2014. Mr. Doucette's aunt purchased the property through owner financing in the seventies. A quitclaim deed was prepared in approximately 1997 but was never filed with Jefferson County. After searching for the family members of the original owners, Mr. Doucette has gotten a new quitclaim deed and has filed it with the County. He is now the owner of the property. The property is land only with a value of \$3,500. Back taxes amount to \$6,730.75 and the outstanding liens with interest amount to \$6,800.62 for a total of \$13,531.37 or almost four times the value. Mr. Doucette has entered into a payment plan for the back taxes and is requesting to settle the liens for \$650, which covers what the City has incurred in 2014 for mowing the property.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of resolution.

Torey Doucette, Sr
1375 Wooten Road
Beaumont, Texas 77707

The City of Beaumont
801 Main Street
Beaumont, Texas 77701

Attention: Laura Clark,

My aunt Ms. Joann Davis purchased a home in the late seventies at 2400 Rusk Street Beaumont, TX 77702. Through the course of years she managed to owner finance this home through Mr. Marshall Elswick. In 1993 Mr. Marshall Elswick passed away leaving all assets to his wife Diana Elswick.

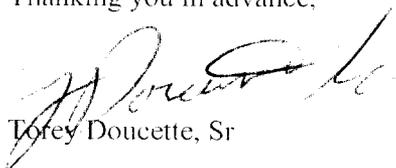
The next few years Ms. Elswick and Ms. Davis, which is my aunt, did a quick claim deed approximately in the year of 1997. This deed stated that she has a clear title to the property at 2400 Rusk Street, Beaumont, TX 77702. But after doing this quick claim deed through the Legal Aid Department my aunt Joann Davis fail to file this with Jefferson County due to illness and leg amputation. When my aunt took ill my grandmother, Erma Zachary took responsibility over the property in the year 2000. But after discovering that the quick claim deed was never filed my grandmother got frustrated and fail to follow through with the location of the deed. My grandmother did her best to reach the family and was unsuccessful, but after several years past, my grandmother and grandfather health failed also, so I, Torey Doucette, Sr. (Grandson of Erma Zachary) stepped in to assist her. I was recently able to find the family through social media. After locating the family we were able to determine that an actual quick claim deed was done in 1998-1999 but never filed. After speaking with Diane Elswick on several occasion she requested that the family do another quick claim deed so that we could file it and that's where we are today.

At no point in the past years did any of us, plan to leave the property/estate uncared for. The Elswick family was not aware that the deed was not filed and my grandmother did not know what steps to take after being unsuccessful in find the actual paperwork in my aunt's home. After the home was unattended to for years the condition of the home diminished.

We have reviewed the taxes and weed leans on the property and found that they are two times the value of the property. My plea to the City of Beaumont is be merciful and in agreement in honoring our request to settle the weed and lean charges in the sum of \$650.00. The property is of sentimental value to the family and is all we have left from my Aunt. So this is why we are asking you to be gracious to use in assisting with the sum of payoff. Again we are very sorry for the lack of actions taken to properly handle the situation. But look forward to settling this with the city of Beaumont as soon as possible.

I look forward to hearing from you, my contact information is, Torey Doucette, Sr. at (409) 7917076.

Thanking you in advance,


Torey Doucette, Sr

RESOLUTION NO.

WHEREAS, weed and litter liens exist against property described as 2400 Rusk Street, Oaks L18 B14; and,

WHEREAS, the City recommends approving payment in the amount of \$650.00 for weed and litter liens on property described as 2400 Rusk Street, Oaks L18 B14 and waiving the remaining principal of \$5,653.00 and interest in the amount of \$497.62;

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 lien payoff for 2400 Rusk Street, Oaks L18 B14, be and it is hereby approved in the amount of \$650.00, the remaining principal be and it is hereby waived in the amount of \$5,653.00 and interest be and it is hereby waived in the amount of \$497.62;

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to execute all documents necessary to evidence the release of the weed and litter liens for the above described property.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of October, 2014.

- Mayor Becky Ames -



**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS OCTOBER 28, 2014 1:30 P.M.**

AGENDA

CALL TO ORDER

- * Invocation Pledge Roll Call
- * Presentations and Recognition
- * Public Comment: Persons may speak on scheduled agenda items 6-7/Consent Agenda
- * Consent Agenda

GENERAL BUSINESS

1. Consider an ordinance for a zone change from A-R (Agricultural-Residential) to RM-H (Residential Multiple Family Dwelling-Highest Density) or a more restrictive zoning district at 4525 N. Major Drive
2. Consider an ordinance for a specific use permit to allow a gift shop and gaming room in an NC (Neighborhood Commercial) District at 3890 Highland Avenue
3. Consider an ordinance for a specific use permit to allow a behavioral and academic center/secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4960 Washington Boulevard
4. Consider an ordinance approving the revocation of a specific use permit to allow antique furniture restoration in an RCR-H (Residential Conservation and Revitalization-Historic) District at 1801 North Street

PUBLIC HEARING

- * Receive comments on allowing the Mission Economic Development Corporation in Mission, Texas to issue Solid Waste Disposal Revenue Bonds, Series 2014 in an estimated amount not to exceed \$100 million to finance waste to energy facilities to be located at or near the Beaumont city landfill

5. Consider an ordinance allowing the Mission Economic Development Corporation in Mission, Texas to issue Solid Waste Disposal Revenue Bonds, Series 2014 in an estimated amount not to exceed \$100 million to finance waste to energy facilities to be located at or near the Beaumont city landfill
6. Consider an ordinance denying the Entergy Texas Application for a Distribution Cost Recovery Factor rate increase on file with the City of Beaumont

WORK SESSION

- * Review and discuss proposed changes to rental rates charged at various Event Facilities

COMMENTS

- * Councilmembers/City Manager comment on various matters
- * Public Comment (Persons are limited to 3 minutes)

EXECUTIVE SESSION

- * Consider matters related to contemplated or pending litigation in accordance with Section 551.071 of the Government Code:

Joseph W. White vs. City of Beaumont, Texas and Officer Chase Welch; Case No. 1:14-cv-00082

7. Consider a resolution authorizing the settlement of the lawsuit styled Joseph W. White vs. City of Beaumont, Texas and Officer Chase Welch; Case No. 1:14-cv-00082

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

October 28, 2014

Consider an ordinance for a zone change from A-R (Agricultural-Residential) to RM-H Residential Multiple Family Dwelling-Highest Density) or a more restrictive zoning district at 4525 N. Major Drive



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Planning & Community Development Director

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider an ordinance approving a zone change from A-R (Agricultural-Residential) to RM-H (Residential Multiple Family Dwelling-Highest Density) or a more restrictive zoning district at 4525 N. Major Drive.

BACKGROUND

Phuc N. Le has applied for a zone change.

Mr. Le is purchasing the property from Ms. Linda Chester who represents the estate of Leroy Minton. The 4.981 acre tract is located at 4525 N. Major Drive. Once the property has been purchased, Mr. Le plans to construct a new apartment complex.

At a Joint Public Hearing held October 20, 2014, the Planning Commission recommended 5:0 to approve a zone change from A-R (Agricultural-Residential) to RM-H (Residential Multiple Family Dwelling-Highest Density) District at 4525 N. Major Drive.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance.

September 23, 2014

Phuc Nhat Le, MD
7925 Windmeadow St
Beaumont, TX 77713
901-283-9903
beaumontfamilycare@yahoo.com

ATTN: Planning and Zoning Division
Room 201, City Hall
Beaumont, TX 77701

Dear Zoning Committee Members,

My name is Phuc Nhat Le ("Nate") and I am writing this letter to request for permission to change the zoning of a property (land) being purchased located on 4525 North Major Drive. The completion of this purchase is based upon the contingent plan and agreement between me, the buyer, and the seller that the requested zone changes are approved. At this time, I would like to request the changes to be made from its current status of "agriculture" to "multi-family dwellings" with my sincere intention to use this land for future development of new apartment buildings. This property is located next to Breakwater Bay apartments and also directly across from the Stoneleigh on Major apartments.

As a new physician relocated to Beaumont in 2010, I can still remember how terribly home-sick I was and how I wanted nothing more than to just move back to my hometown in Tennessee, where I grew up since I was a child. Aside from that, the other social anxiety that nearly caused me to move back home was the exhausting quest for an ideal apartment, or the lack of its availability at that time. But with much patience and due time, I was able to find one that was close to my work and conveniently located in the center of town. Since then, I have grown very fond of this charming city and its wonderful residents.

If the permission is granted, I can foresee the local builders to begin construction of our beautiful and affordable apartment buildings as early as next year. It is reasonable to believe that in due time, Beaumont Texas, can become a place that anyone and everyone can call home. Beaumont is now my permanent home. Thank you so much for your consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Phuc Nhat Le', written in a cursive style.

Phuc Nhat Le, MD

ORDINANCE NO.

ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY CHANGING THE ZONING OF PROPERTY PRESENTLY ZONED A-R (AGRICULTURAL-RESIDENTIAL) DISTRICT TO RM-H (RESIDENTIAL MULTIPLE FAMILY DWELLING-HIGHEST DENSITY) DISTRICT FOR PROPERTY LOCATED AT 4525 N. MAJOR DRIVE, BEAUMONT, JEFFERSON COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE CITY OF BEAUMONT:

Section 1.

That Chapter 28 of the Code of Ordinances of Beaumont, Texas, and in particular the boundaries of the zoning districts, as indicated upon the Zoning Map of the City of Beaumont, referred to in Section 28.01.005(b) thereof, is hereby amended by changing the zoning of property presently zoned A-R (Agricultural-Residential) District to RM-H (Residential Multiple Family Dwelling-Highest Density) District for property located at 4525 N. Major Drive, being Plat RS-5, Tracts 5A and 6 of 70, D. Easley Survey, Abstract 20, City of Beaumont, Jefferson County, Texas, containing 4.981 acres, more or less, as shown on Exhibit "A," attached hereto, and the official zoning map of the City of Beaumont is hereby amended to reflect such changes.

Section 2.

That, in all respects, the use of the property herein above described shall be subject to all of the applicable regulations of the underlying zoning district as well as those regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as

amended.

Section 3.

That if any section, subsection, sentence, clause of phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance, and to such end, the various portions and provisions of this ordinance are declared to be severable.

Section 4.

That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

Section 5.

That any person who violates any provision of this ordinance shall, upon conviction, be punished, as provided in Section 1.01.009 of the Code of Ordinances of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of October, 2014.

- Mayor Becky Ames -

File 2218-Z: Request for a zone change from A-R (Agricultural - Residential) to RM-H (Residential Multiple Family Dwelling - Highest Density) or a more restrictive zoning district.
Location: 4525 N. Major Drive
Applicant: Phuc N. Le

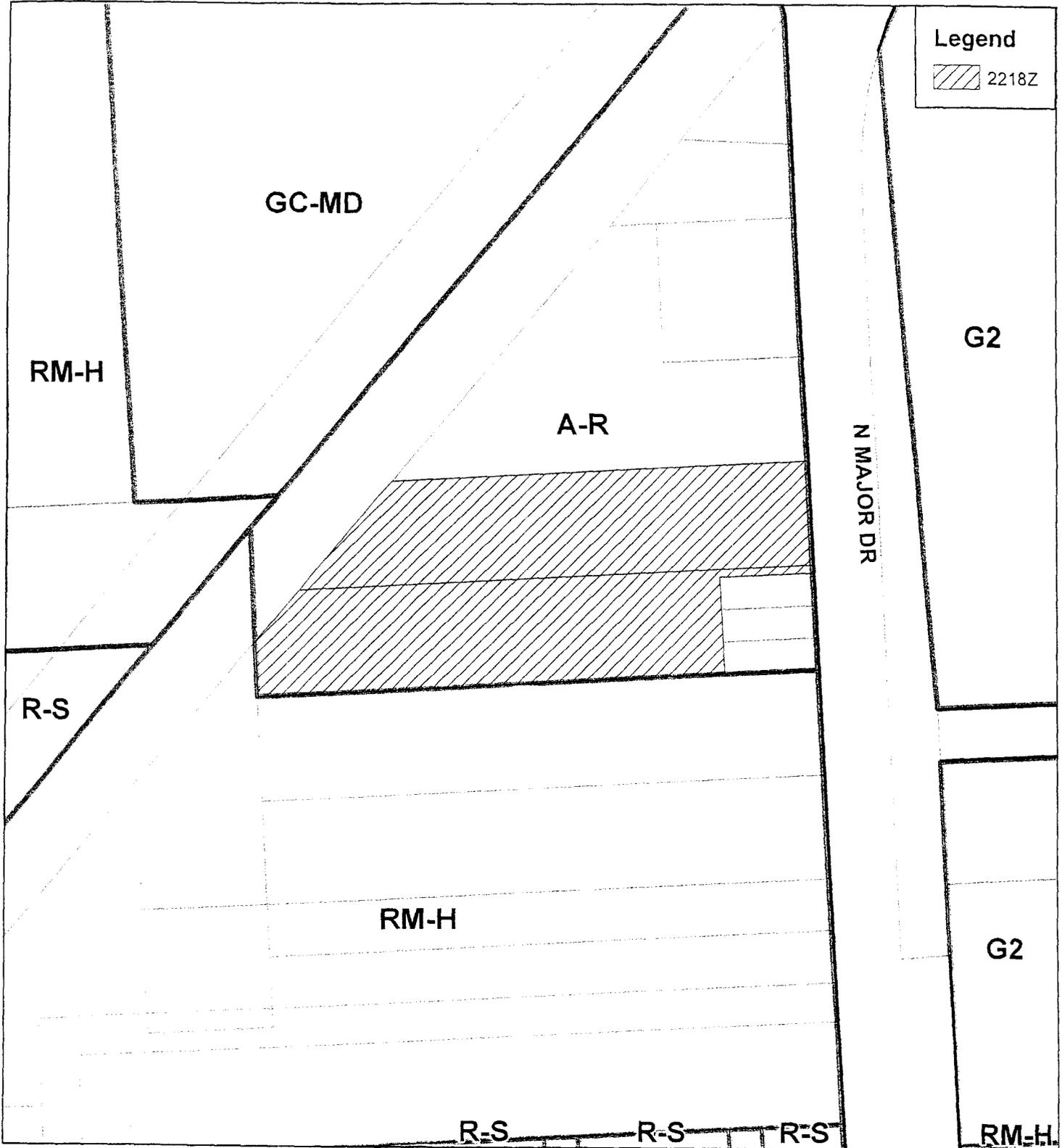
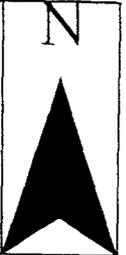
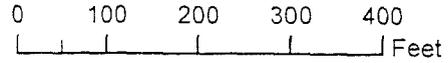


EXHIBIT "A"

Surveyor's Notes:

(1) This survey was made to reflect the title commitment issued by Stewart Title Guaranty Company on July 10, 2013, bearing GF Number 1324534784.

(2) According to FEMA Flood Insurance Rate Map Panel No. 4854570050 D, dated August 06, 2002, subject property appears to be located in Flood Zone "X"; Flood Zone location based on scale only.

(3) All bearings referenced hereon are based on the Texas State Plane Coordinate System - 4204 - Texas South Central Zone; all areas and distances are based on surface measurements.

(4) A field note description of even date accompanies this plot.

(5) SR = Set Capped Rod ("ACCESS SURVEYORS")

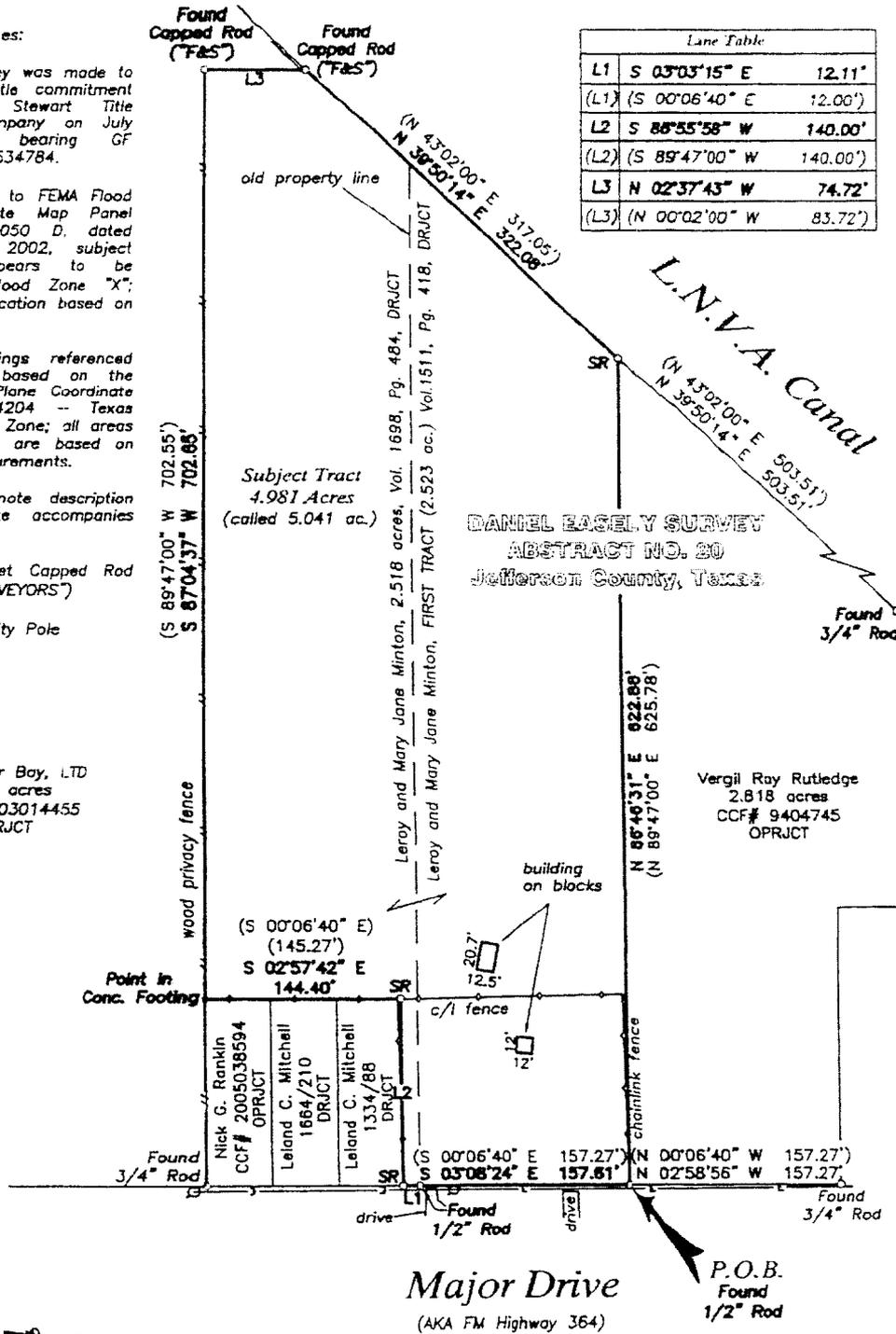
(6) \odot = Utility Pole

Lane Table		
L1	S 03°03'15" E	12.11'
(L1)	(S 00°06'40" E	12.00')
L2	S 88°55'58" W	140.00'
(L2)	(S 89°47'00" W	140.00')
L3	N 02°37'43" W	74.72'
(L3)	(N 00°02'00" W	83.72')

Breakwater Bay, LTD
7.368 acres
CCF# 2003014455
OPRJCT

DANIEL EAGELY SURVEY
ABSTRACT NO. 20
Jefferson County, Texas

Vergil Ray Rutledge
2.818 acres
CCF# 9404745
OPRJCT



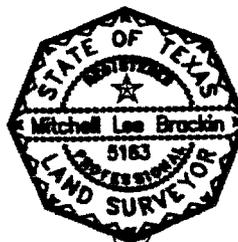
SCALE : 1" = 100'

PREPARED EXCLUSIVELY FOR

I, Mitchell Lee Brackin, Texas Registered Professional Land Surveyor No. 5163, do hereby certify that I have made a survey on the ground of the property legally described hereon, that the survey is correct, and that there are no discrepancies or conflicts, shortages in boundaries, intrusions, protrusions, or overlapping of improvements, or visible utility lines or roads in place, except as shown hereon, and that said property has access to and from a dedicated public roadway, unless otherwise shown hereon. Survey dated: July 15, 2013.

ACCESS
Surveyors

Registered Professional Land Surveyors
505 South Fourth Street - Beaumont, Texas 77701
Telephone (409) 838-6322 Fax 838-6122
www.accesssurveyors.com & rpls5163@aol.com
File: 15241.dwg Technician: SMB



M.L.B.
Mitchell Lee Brackin
Registered Professional Land Surveyor No. 5163

L.C.
[Signature]

October 28, 2014

Consider an ordinance for a specific use permit to allow a gift shop and gaming room in an NC (Neighborhood Commercial) District at 3890 Highland Avenue



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Planning & Community Development Director

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider an ordinance approving a specific use permit to allow a gift shop and gaming room in an NC (Neighborhood Commercial) District at 3890 Highland Avenue.

BACKGROUND

Andy D. Phan has applied for a specific use permit.

Mr. Phan would like to operate a gift shop and gaming facility containing 32 eight-liner machines at 3890 Highland Avenue. Customers would only be able to receive gifts under \$5 in value, as prizes. Hours of operation will be from 10 a.m. until 9 p.m., Monday through Friday and 12 p.m. through 6 p.m. on Sunday. The store will be closed on Saturday.

As long as the game room does not exceed 35% of the gross floor area, parking will be sufficient. If parking should exceed 35% of the gross floor area, parking will need to be increased for the use to be in compliance.

At a Joint Public Hearing held October 20, 2014, the Planning Commission recommended 4:1 to approve a specific use permit allowing a gift shop and gaming room in an NC (Neighborhood Commercial) District at 3890 Highland Avenue, subject to the following condition:

- 1) As long as the game room does not exceed 35% of the gross floor area, parking will be sufficient. If parking should exceed 35% of the gross floor area, parking will need to be increased for the use to be in compliance.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance.

SPECIFIC USE PERMIT APPLICATION
BEAUMONT, TEXAS
(Chapter 28, City Codes)

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

APPLICANT'S NAME: ANDY D PHAN

APPLICANT'S ADDRESS: 3890 HIGHLAND AVENUE BEAUMONT TEXAS 77705

APPLICANT'S PHONE #: 409-832-1115 FAX #: _____

NAME OF OWNER: ANDY D PHAN

ADDRESS OF OWNER: 3890 HIGHLAND AVENUE BEAUMONT TEXAS 77705

LOCATION OF PROPERTY: 3890 HIGHLAND AVENUE BEAUMONT TEXAS 77705

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. _____ OR TRACT A

BLOCK NO. 50 PLAT RECORD OF JEFFERSON COUNTY

ADDITION JEFF CHALSON 2ND SURVEY _____

NUMBER OF ACRES _____ NUMBER OF ACRES 0.55 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: GIFT SHOP AND GAME ROOM ZONE: NC

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: [Signature] DATE: 09/24/14

SIGNATURE OF OWNER: _____ (IF NOT APPLICANT) DATE: _____

PLEASE TYPE OR PRINT AND SUBMIT TO:

CITY OF BEAUMONT
PLANNING DIVISION
801 MAIN STREET, ROOM 201
BEAUMONT, TX 77701

FILE NUMBER: 2217-P

DATE RECEIVED: 9/24/14

Phone - (409) 880-3764
Fax - (409) 880-3133

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

Seashell Gift shop

Our store is called Seashell Gift shop. The business is set over a half an acre of land. Surrounded by a chain linked fence, the building is 2,922 square feet with moderate landscaping and a fairly sized parking lot. We are open Monday through Friday from 10 am to 9 pm and Sunday from 12 pm to 6 pm. We are closed Saturday.

For business, we sell all things pertaining to house décor, mainly sea shell related items. At our store, you can find an abundance of sea shell adorned mirrors, flower vases, and other trinkets, as well as sea shell statuettes. Our store also carries modern wood carvings and beautifully detailed wooden picture frames. In our display cases, we have depicted gorgeously made crystal figurines and pearl jewelry. On our walls, you will see for sale uniquely designed, gemstone embedded paintings showing various scenes of serene nature and the beauty of the outdoors. We accept cash, checks, credit cards, and debit cards.

Towards the back of the building, there is a room used for entertainment. The “game room” is located in a private room, which only customers with memberships are allowed access in. This is because of security reasons. The room itself is a confined enclosure with two doors on opposite sides for coming and going. With the doors closed, the playing members can enjoy their game without any disturbance from the shopping customers.

Store Owner

A handwritten signature in black ink, appearing to read 'Andy D Phan', with a long horizontal flourish extending to the right.

Andy D Phan

Andy Phan
3890 Highland Avenue
Beaumont, Texas 77705

September 23, 2014

City of Beaumont
Planning and Zoning
801 Main Street
Beaumont, Texas 77701

To Whom It May Concern:

Re: Specific Use Permit Application
3890 Highland Avenue, Beaumont

The items below are in response to Section 28.04.001, Zoning Ordinance.

- The specific use will be compatible with and not injurious to the use and enjoyment of other property, nor will it significantly diminish or impair property values within the immediate vicinity. The property to the north is occupied by a General Dollar store and there are other established businesses along Highland Avenue.
- The establishment at 3890 Highland Avenue will not impede the normal and orderly development and improvement of surrounding property.
- Adequate utilities, roads, drainage, and other necessary supporting facilities are already in place at this time.
- The subject property is located on a main, four lane street. Adequate driveways from the street to the property are in place. The subject property has more than sufficient parking and vehicle movement area. The subject property is large enough to provide safe separation and distance between vehicle movement, parking, and pedestrian traffic on the sidewalk and does not adversely affect the general public or adjacent development.
- The specific use of this property will not create offensive odors, fumes, dust, noise, or vibration.
- Lighting for the front of the building is provided by City of Beaumont street lights.

- There is sufficient landscaping and screening to insure harmony and compatibility with all adjacent property.
- The proposed use is in accordance with the Comprehensive Plan.

If you have any questions or need additional information, I may be reached by telephone at 409-832-1115.

Respectfully submitted,



Andy Phan

ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW A GIFT SHOP AND GAMING ROOM IN AN NC (NEIGHBORHOOD COMMERCIAL) DISTRICT AT 3890 HIGHLAND AVENUE IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, Andy D. Phan has applied for a specific use permit to allow a gift shop and gaming room in an NC (Neighborhood Commercial) District at 3890 Highland Avenue, being Tract A, Block 50, Jef Chaison 2nd, Beaumont, Jefferson County, Texas, containing 0.555 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 a gift shop and gaming room in an NC (Neighborhood Commercial) District at 3890 Highland Avenue, subject to the following condition:

- As long as the game room does not exceed 35% of the gross floor area, parking will be sufficient. If parking should exceed 35% of the gross floor area, parking will need to be increased for the use to be in compliance.

; 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 a gift shop and gaming room in an NC

(Neighborhood Commercial) District at 3890 Highland Avenue, being Tract A, Block 50, Jef Chaison 2nd, Beaumont, Jefferson County, Texas, containing 0.555 acres, more or less, as shown on Exhibit "A," attached hereto, is hereby granted to Andy D. Phan, his 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:

- As long as the game room does not exceed 35% of the gross floor area, parking will be sufficient. If parking should exceed 35% of the gross floor area, parking will need to be increased for the use to be in compliance.

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 28th day of October, 2014.

- Mayor Becky Ames -

File 2217-P: Request for a specific use permit to allow a gift shop and gaming room in an NC
(Neighborhood Commercial) District
Location: 3890 Highland Avenue
Applicant: Andy D. Phan

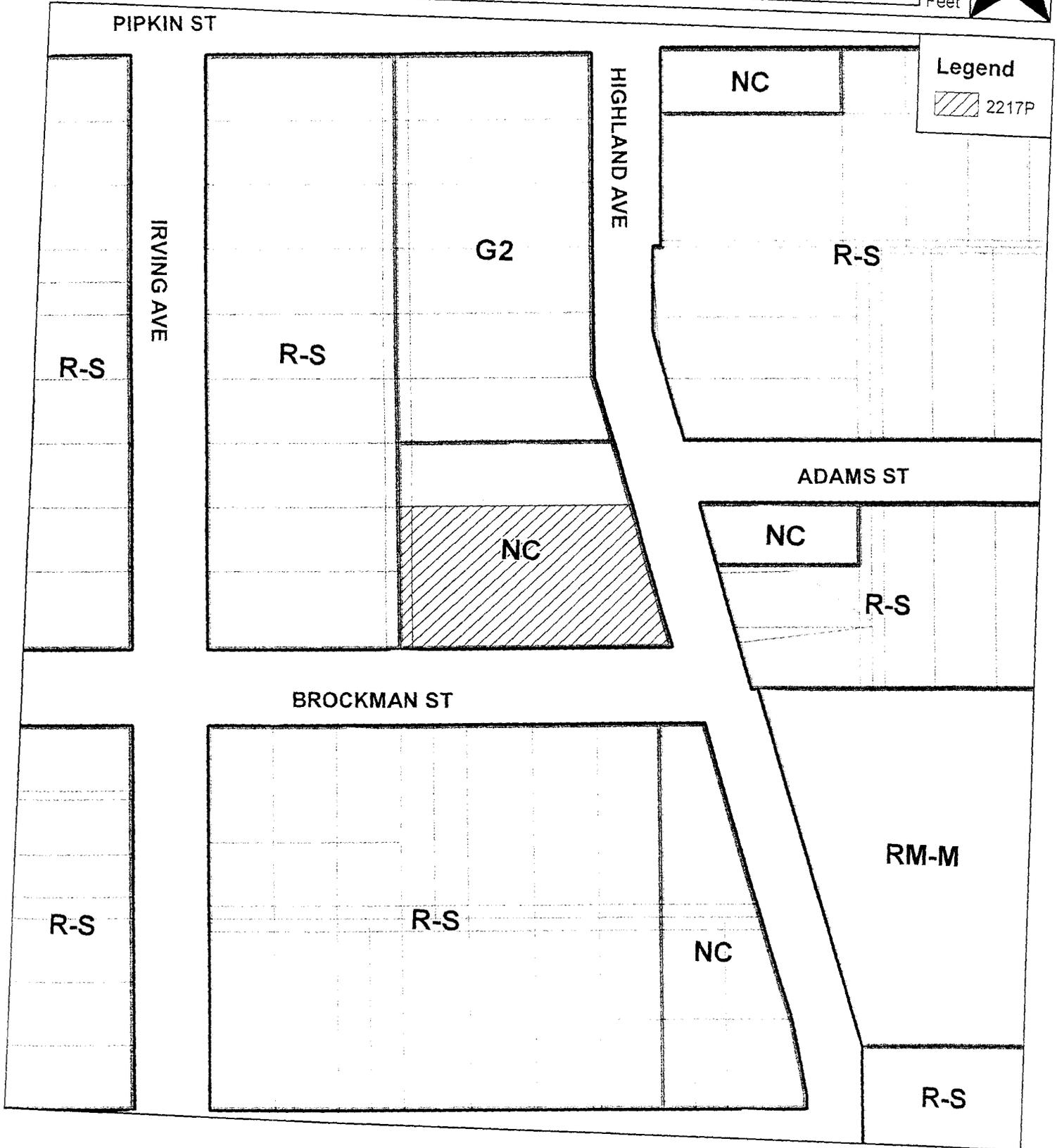
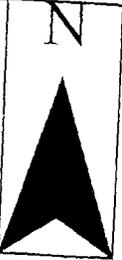
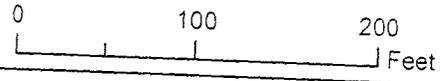


EXHIBIT "A"

October 28, 2014

Consider an ordinance for a specific use permit to allow a behavioral and academic center/secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4960 Washington Boulevard



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Planning & Community Development Director

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider an ordinance approving a specific use permit to allow a behavioral and academic center/secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4960 Washington Boulevard.

BACKGROUND

Jennifer Ford, C.E.O. of Starpoint Educational Enrichment Center, L.L.C., requested a specific use permit.

Ms. Ford would like to utilize the property as a behavioral and academic center/secondary school offering behavioral therapies for students ages 3-21 who are diagnosed with Autism Spectrum Disorder (ASD) and other neurological or cognitive syndromes, as well as a general education Pre-K Program. The proposed use will employ eight (8) teachers/teacher assistants, one (1) nurse and six (6) administrative staff. The facility will serve 112 students. Hours of operation will be 8 a.m. to 6 p.m. Monday through Friday.

At last months' meeting, a discussion arose regarding access and circulation of traffic. Further review of the parking lot has brought a concern to the efficient movement of vehicles in and out of the area. With the arrangement of parking stalls and the proposed parallel parking along the fence opposite the parking lot it would be very difficult and unsafe for 100 vehicles to enter and exit the property without a turnaround in place already. It is possible that the paved area beyond the gates could be utilized as such an area, however, this area has been designated as an outdoor play area for the school children, a use that conflicts permitting traffic to circulate within the property. A second concern would be congestion that could cause lines of vehicles parked along Washington Boulevard during peak traffic flow.

At a Joint Public Hearing held October 20, 2014, the Planning Commission recommended 5:0 to deny a specific use permit to allow a behavioral and academic center/secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4960 Washington Boulevard.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Denial of ordinance.

**SPECIFIC USE PERMIT APPLICATION
BEAUMONT, TEXAS**

(Chapter 28, City Codes)

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

APPLICANT'S NAME: Jennifer Ford

APPLICANT'S ADDRESS: PO Box 7709 Beaumont, Tx 77726

APPLICANT'S PHONE #: 409-779-6730 FAX #: 409-422-4866

NAME OF OWNER: Blue Crow Properties, LTD

ADDRESS OF OWNER: 2708 S. Lamar Blvd Suite 200H Austin Tx 7870

LOCATION OF PROPERTY: 4960 Washington Blvd Beaumont, Tx 77707

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. Tract 6 (out of tract 3) OR TRACT _____

BLOCK NO. A PLAT _____

ADDITION Washington Place SURVEY _____

NUMBER OF ACRES .6885 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: Behavioral & Academic Enrichment Center ZONE: GC-MD

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: Jennifer Ford DATE: 7-21-2014

SIGNATURE OF OWNER: _____ (IF NOT APPLICANT) DATE: 7/23/14

PLEASE TYPE OR PRINT AND SUBMIT TO:
CITY OF BEAUMONT
PLANNING DIVISION
801 MAIN STREET, ROOM 201
BEAUMONT, TX 77701

FILE NUMBER: 2212-P

DATE RECEIVED: 7/25/14

Phone - (409) 880-3764
Fax - (409) 880-3133

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



StarPoint

Educational Enrichment Center, LLC

July 25, 2014

City of Beaumont
Planning Division
801 Main Street, Room 201
Beaumont, TX 77701

RE: Specific Use Permit

STARPOINT EDUCATIONAL ENRICHMENT CENTER, LLC proposes the use of 4960 Washington Blvd, Beaumont, Tx 77707 as an **Academic and Behavioral Educational Enrichment Center**. The board of director's mission for the facility is to offer quality behavioral therapies, otherwise known as: Applied Behavioral Analysis Therapy for students ages 3-21 who are diagnosed with Autism Spectrum Disorder (ASD) and other neurological or cognitive syndromes. STARPOINT EDUCATIONAL ENRICHMENT CENTER, LLC will also offer General Education Pre-Kindergarten for students 3-5 years of age.

A Life Skills Program focuses on everyday skills for **Special Education Students**: personal/social skills, hygiene, independent life skills such as clothing care, work competencies, and functional academics. These skills are essential for special education students to learn because they provide the basis for and facilitate transition from school to life in the real world. Special education students learn things better when they are not confined to sitting behind a desk or staying in one spot, learning life skills are best done "by doing"; ***"We learn by doing."***

Hours of operation will be: Monday through Friday 8:00 am to 6:00 pm

STARPOINT EDUCATIONAL ENRICHMENT CENTER, LLC will provide with Enrichment programs as described below.

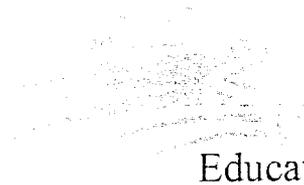
Suites D-I: Special Education Program

Foundation Skills

- Communication
- Fine Motor Skills

Subject Area Learning

- Cognitive Development
- Functional Academics



StarPoint

Educational Enrichment Center, LLC

Life Skills

- Domestic Family Life
- Personal Social Development
- Leisure/Recreation/Arts
- Citizenship and Community Involvement
- Career Development

Capacity for the Special Education Program will be: 92

92 Special needs students, 6 teachers. Total for this program: 98

STARPOINT EDUCATIONAL ENRICHMENT CENTER, LLC will comply with Fire Codes regarding fire and safety. Our mission is to provide a state of the art facility that offers our clients a sense of security. Our facility will provide security measures including closed circuit videos of interior classrooms, code enforced fire alarms, and required exits to ensure self-preservation for our clients. Please see attached letter that will be provided in our initial client intake packet.

Suite C: **General Education Pre-K Programs.** Clients ages 3-5 years.

Early childhood education (ECE) programs include any type of educational program that serves children in the preschool years and is designed to improve later school performance.

Capacity of this program will be: 20

20 general education students, 2 teachers. Total for this program: 22

Capacity for Administration: 5

Total Capacity for Services: 125

In closing, the Board of Managers of STARPOINT EDUCATIONAL ENRICHMENT CENTER, LLC expresses our sincere appreciation to the Planning Division of the City of Beaumont in helping complete this process.

Best Regards,

Jennifer Ford, M.Ed.
Programs Director

Zoning Ordinance Eight Conditions:

1. StarPoint Educational Enrichment Center, LLC, will be compatible with and will not injurious to the use and enjoyment of other property values within the immediate vicinity. SPEEC, LLC will be providing services to the community for special needs children.
2. StarPoint Educational Enrichment Center, LLC, with the specific use of 4960 WASHINGTON will not impede the normal and orderly development and improvement of surrounding vacant property. Our business will promote growth to the surrounding areas.
3. StarPoint Educational Enrichment Center, LLC has provided the City of Beaumont; The Planning Commission and City Counsel a Specific Use Permit that includes the site plan describing adequate utilities, access roads, and drainage.
4. StarPoint Educational Enrichment Center, LLC has provided a site map showing the design, location, and arrangement of the driveways and parking spaces which facilitate safe and appropriate movement for vehicles and pedestrians without negatively influencing the general public or adjacent development.
5. StarPoint Educational Enrichment Center, LLC will not be participating or engaging in any activities that would produce offensive odors, fumes, dust, noise, nor vibrations. In the event that we have such concerns in the future, we would make the necessary provisions to prevent such issues from affecting the general public and surrounding developments.
6. StarPoint Educational Enrichment Center, LLC will make sure that any directional lighting will not affect neighboring properties. Currently, there is no such lighting present on the property.
7. StarPoint Educational Enrichment Center, LLC will maintain sufficient landscaping and screening that is appropriate and supportive of adjacent property.
8. StarPoint Educational Enrichment Center, LLC has submitted our proposed business use of 4960 WASHINGTON as an educational facility to the City of Beaumont and it is in accordance with the Comprehensive Plan.



StarPoint

Educational Enrichment Center, LLC

RE: SELF PRESERVATION

For the purpose of the fire code for the City of Beaumont, all clients that are present inside the facility must be capable of life preservation. In the event of a fire, each client must be able to respond to an emergency situation without physical assistance from the staff. They must be able to properly make their way from the immediate room where such care is being held to an exit door which leads directly to the exterior.

Our facility will practice monthly fire and safety drills to maintain the client's familiarity with this procedure.

Parent Signature

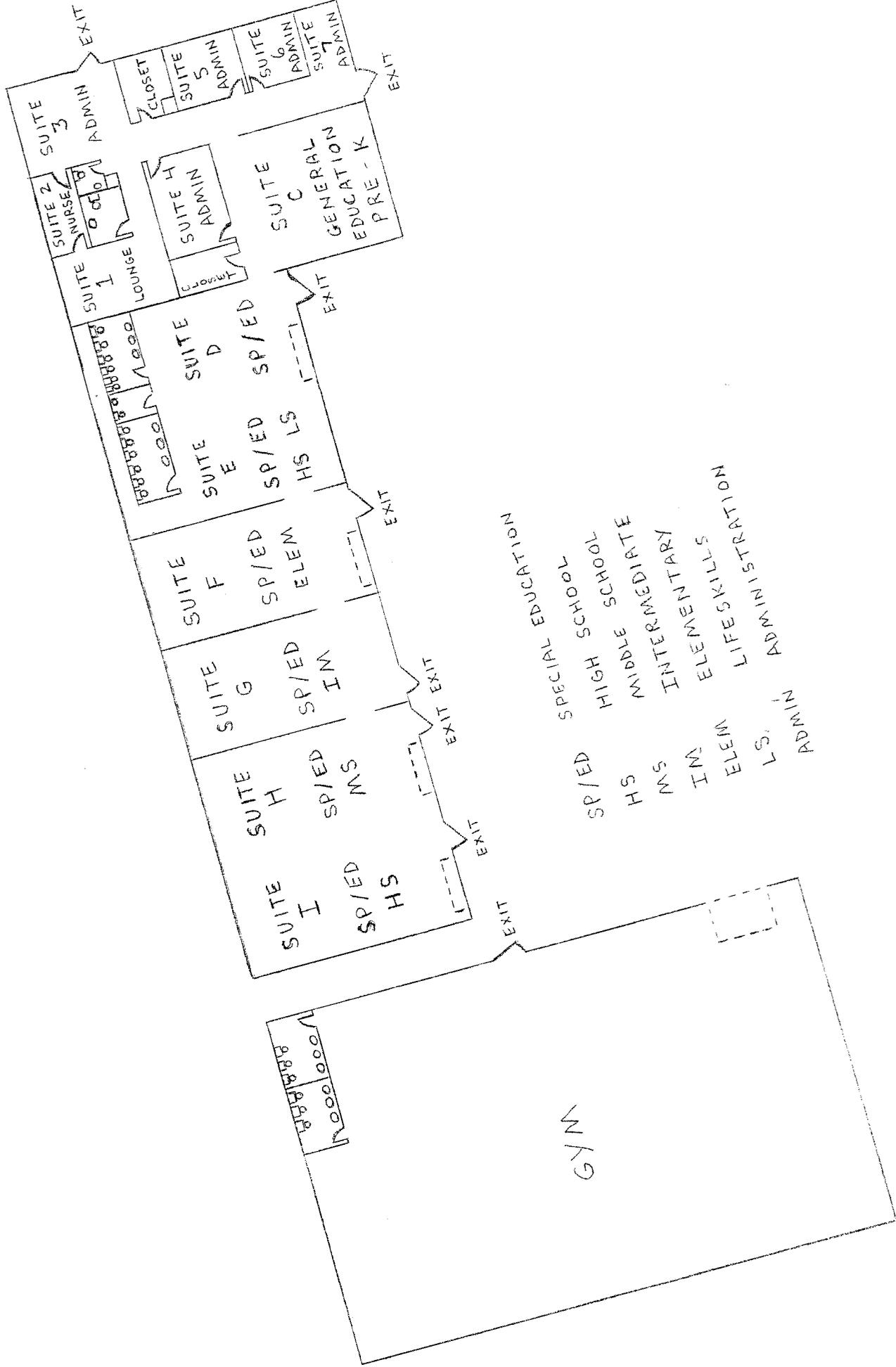
Date

StarPoint EEC, LLC Signature

Date

WASHINGTON

4960



ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW A BEHAVIORAL AND ACADEMIC CENTER/SECONDARY SCHOOL IN A GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT AT 4960 WASHINGTON BOULEVARD IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, Jennifer Ford, on behalf of Starpoint Educational Enrichment Center, L.L.C., has applied for a specific use permit to allow a behavioral and academic center/secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4960 Washington Boulevard, being Tract 6 (out of Tract 3), Block A, Washington Place, Beaumont, Jefferson County, Texas, containing 0.6885 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 denial of a specific use permit to allow a behavioral and academic center/secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 7900 Collier Road; 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 a behavioral and academic center/secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4960

Washington Boulevard, being Tract 6 (out of Tract 3), Block A, Washington Place, Beaumont, Jefferson County, Texas, containing 0.6885 acres, more or less, as shown on Exhibit "A," attached hereto, is hereby granted to Jennifer Ford, on behalf of Starpoint Educational Enrichment Center, L.L.C., its legal representatives, successors and assigns, as shown on Exhibit "B," attached hereto and made a part hereof for all purposes.

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 28th day of October, 2014.

- Mayor Becky Ames -

File 2212-P: Request for a specific use permit to allow a behavioral and academic center/secondary school in a GC-MD (General Commercial-Multiple Family Dwelling) District.

Location: 4960 Washington Boulevard

Applicant: Jennifer Ford, C.E.O.

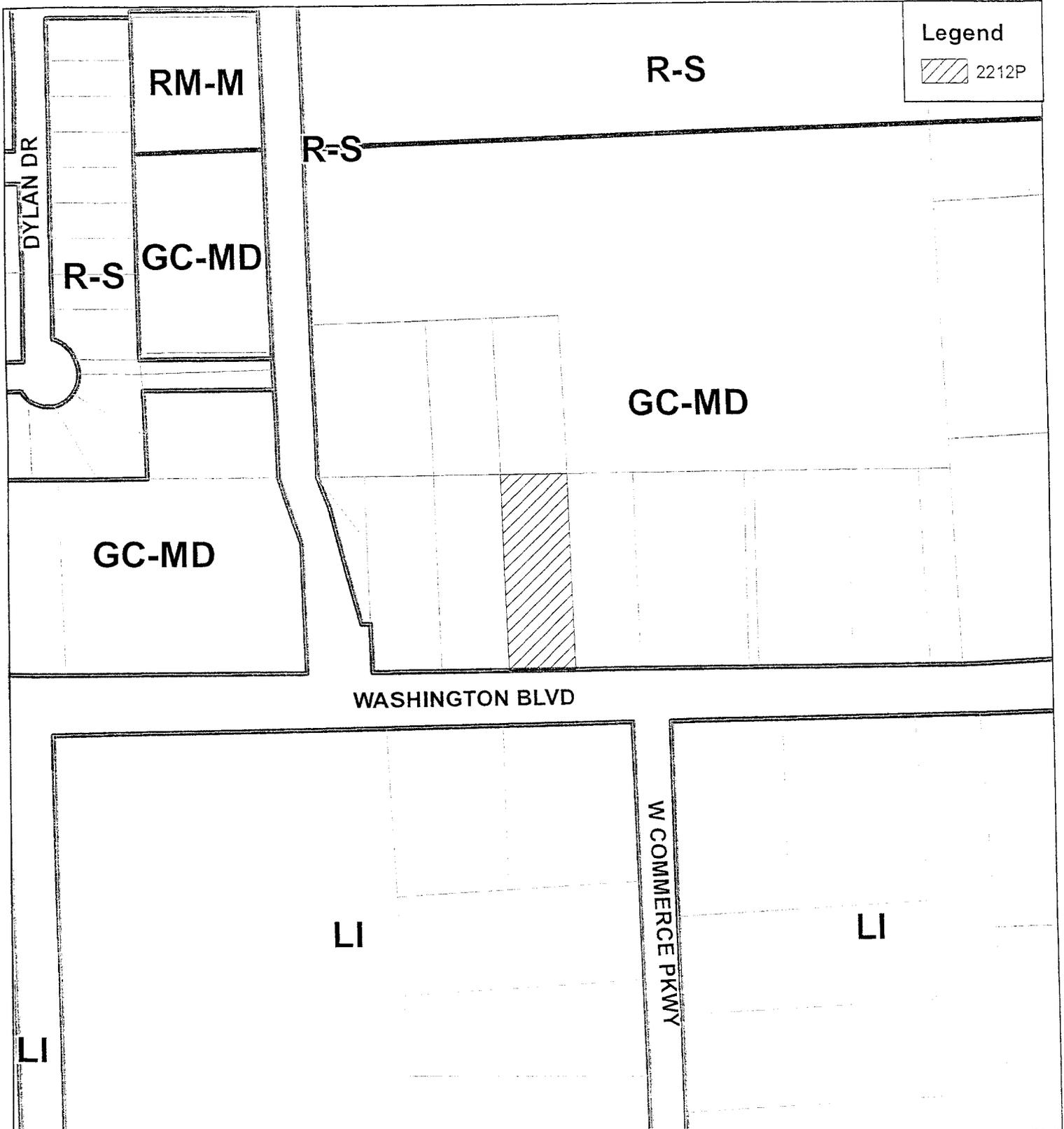
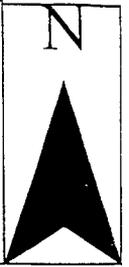
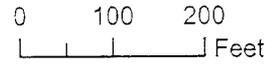
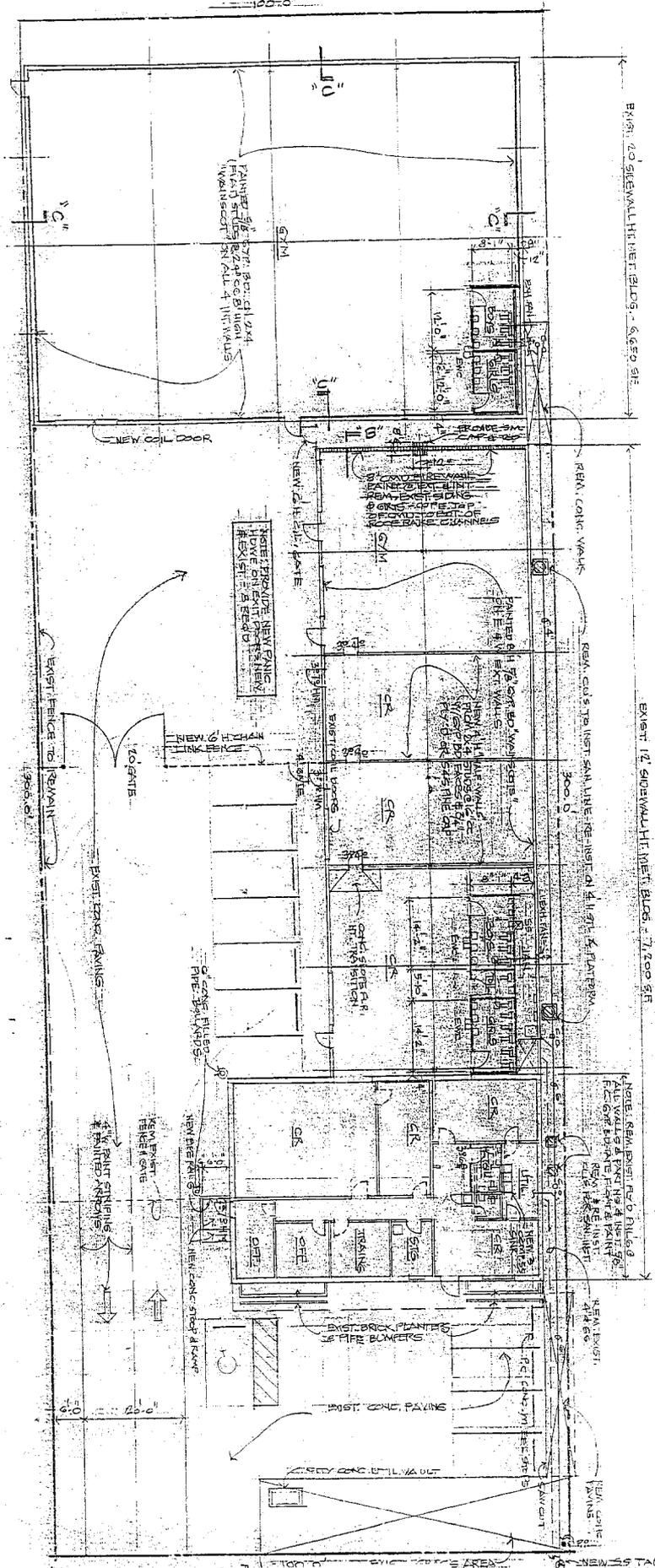


EXHIBIT "A"

SITE & OVERALL BLDG PLAN



13,850 SQ FT



EXIST. 20' SIDEWALL HEIGHT BLDG. - 6,650 S.F.

EXIST. 12' SIDEWALL HEIGHT BLDG. - 7,200 S.F.

NOTE: REM. EXIST. REV. 0. ALL G.B. ALL WALLS & PARTIAL RESTROOMS. FLOORING, REM. & REST. PART. FLOORING, REM. & REST. PART.

REM. EXIST. 4\"/>

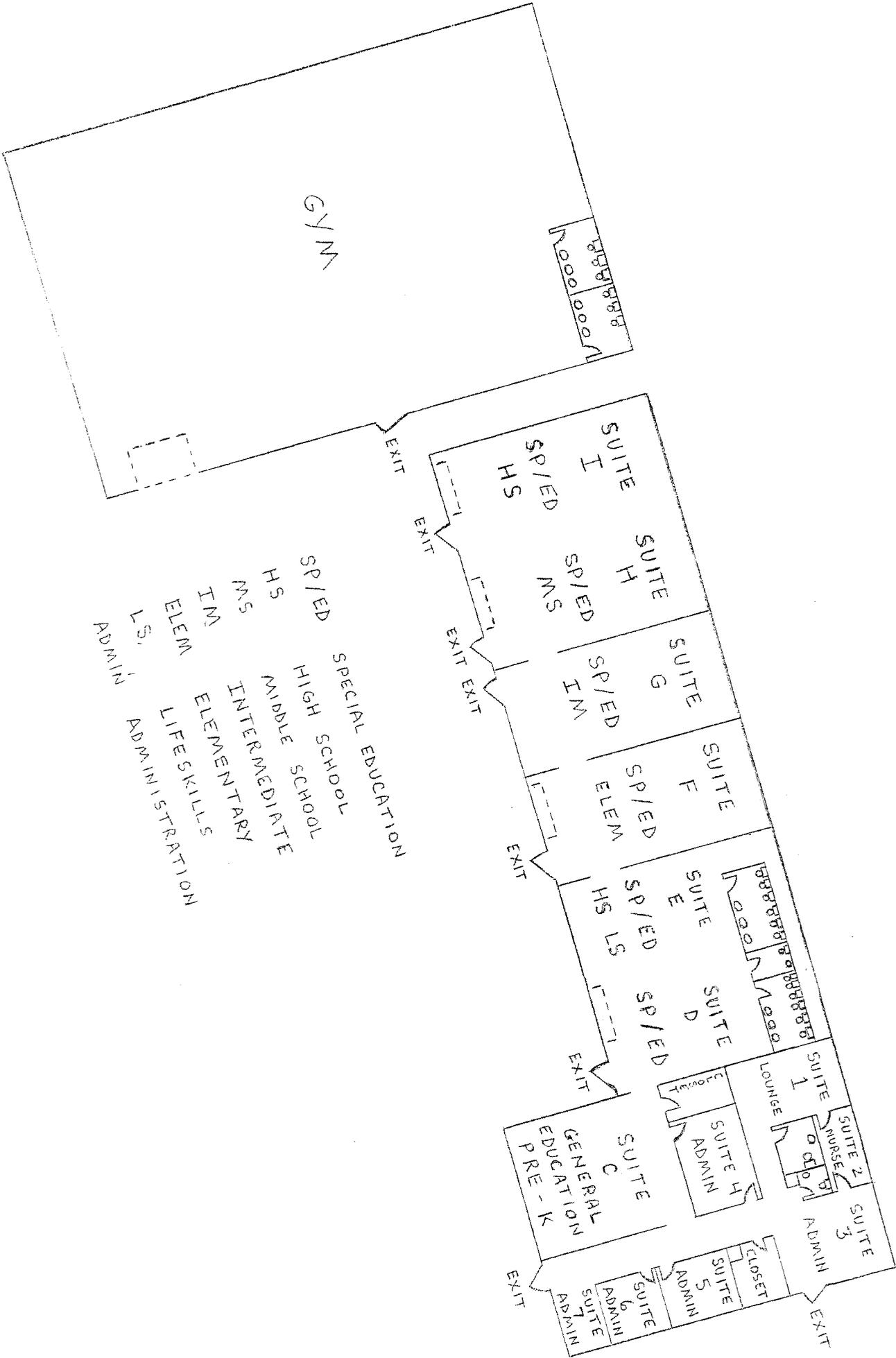
NEW CONC. 4\"/>

NEW 1\"/>

EXHIBIT "B"

4960

WASHINGTON



October 28, 2014

Consider an ordinance approving the revocation of a specific use permit to allow antique furniture restoration in an RCR-H (Residential Conservation and Revitalization-Historic) District at 1801 North Street



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Planning & Community Development Director

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider an ordinance approving the revocation of a specific use permit to allow antique furniture restoration in an RCR-H (Residential Conservation and Revitalization-Historic) District at 1801 North Street.

BACKGROUND

The City of Beaumont Planning Division has applied for the revocation of a specific use permit.

In August, 2012, the City Council approved a specific use permit to Mr. Rodney Cooley to allow antique furniture restoration at 1801 North Street with the condition that he:

1. Replace the 6' tall wood screening fence missing along the west property line and install a 4' tall wood screening fence or a 6' wide landscape bed along the west 26' of the north property line.

A recent inspection of the property showed that the condition had not been met. Mr. Cooley was notified of the violation, but failed to bring the property into compliance. On September 30, 2014, a certified letter was sent to Mr. Cooley notifying him of this impending hearing to revoke the specific use permit.

This property has been an issue for some time now. Beginning in early 2013, Mr. Cooley was notified that he had not completed a Certificate of Occupancy. Since then charges have been filed for two separate counts of failure to obtain a Certificate of Occupancy and comply with the specific use permit condition as well as one count of furniture kept outside. To date, Mr. Cooley has refused to pay a fine or appear before Municipal Court. Water records show that Mr. Cooley has never opened an account with the water department, however he continues to place heavy trash at the curb for pick-up. The attached inspection report shows the scope of work involved. Revocation of this specific use permit would be one additional tool to obtain compliance for the specific use permit requirements.

At a Joint Public Hearing held October 20, 2014, the Planning Commission recommended 5:0 to approve the revocation of a specific use permit to allow antique furniture restoration in an RCR-H (Residential Conservation and Revitalization-Historic) District at 1801 North Street.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance.

Case Number ZON2013-00171
Case Name NORTH ST 1801
Type ZONING
Subtype ZONING
Status PENDING COURT
Description:

Opened 3/27/2013 LB
Closed
Last Action 11/14/2013 AV
Follow Up 10/30/2013 AV

Site Address	City	State	Zip	Site APN
1801 NORTH ST	BEAUMONT	TX		04300000001660000008
Owner	Address	Resident		
PRESSLER HENRY C	3930 BAYOU RD BEAUMONT TX 777072446			

Action Date	Completion Date	Action Type	Action By / Action Description
8/22/2014	8/22/2014	ALL Miscellaneous	ANNA VARELA (8/23/2014 11:44:25 AM AV) Action Created (8/23/2014 11:44 AM AV) Emailed Bengy @ Solid Waste that material are being set out at this location @ a business and we had been picking up debris for quite-a-while now & this bus. not having City Wtr Serv. for sometime too. Since this business has not complied with Zoning issues, I asked if Solid Waste would not continue picking up at this location until he comes & straightens out all his issues. (including setting up current water services.)
12/23/2013	12/23/2013	ALL Court results received	ANNA VARELA (1/6/2014 2:05:01 PM AV) Action Created (1/6/2014 2:05 PM AV) Prepared FTA report for Judge Lively. (Mr. Cooley was a "No Show" in court)
12/19/2013	12/19/2013	ALL Court Appearance	ANNA VARELA (12/22/2013 8:33:40 PM AV) Action Created (12/22/2013 8:33 PM AV) FAILED TO APPEAR IN COURT AGAIN
12/19/2013	12/19/2013	ALL Miscellaneous	ANNA VARELA (12/19/2013 1:22:13 PM AV) Action Created (12/19/2013 1:22 PM AV) Lindsey told the lady that came into office this afternoon (to obtain C.O. today); that they will have to get back w/Anna, before C.O. can be issued.
12/18/2013	12/18/2013	ALL Prepare for court	ANNA VARELA (12/18/2013 8:32:40 PM AV) Action Created Prepared file for court hearing on 2nd charge
11/14/2013	11/14/2013	ALL Miscellaneous	ANNA VARELA

Action Date	Completion Date	Action Type	Action By / Action Description
			(11/14/2013 9:52:27 AM AV) Action Created (11/14/2013 9:52 AM AV) T.T. CHRIS BOONE TO GIVE HIM AN UPDATE ON THIS FILE.
11/14/2013	11/14/2013	ALL Call Received	ANNA VARELA (11/14/2013 9:56:00 AM AV) Action Created (11/14/2013 9:56 AM AV) REC'D A CALL FR OUR WATER CUSTOMER SERV. DEPT. (D. MICKENS). MS. MICKENS STATED THAT THE WATER METER WAS REMOVED 11/03/11, AND THE SERVICE WAS KILLED IN FEB. 2012. SINCE THEN.....NO ONE HAS APPLIED FOR ANY SERVICE
11/14/2013	11/14/2013	ALL Miscellaneous	ANNA VARELA (11/14/2013 1:46:07 PM AV) Action Created (11/14/2013 1:46 PM AV) I personally called water dept.... found that the water meter was removed on 11/3/11 and Service was Killed on 02/2012. No water service at this location since 2011.
11/14/2013	11/14/2013	ALL Call Made	ANNA VARELA (11/14/2013 9:55:06 AM AV) Action Created (11/14/2013 9:55 AM AV) CALLED MARCUS RODGERS BK THIS MORNING AND ASKED THAT HE GO AHEAD AND DO A FULL FIRE INSPECTION OF THIS BUILDING FOR A C/O. HE SAID HE WILL GO OUT TO DO THE INSPECTION, BUT TODAY IS HIS LAST DAY UNTIL JAN. OF NEXT YR. SO SOMEONE ELSE WILL HAVE TO DO THE FOLLOW-UP INSPECTION. I TOLD HIM THAT'S FINE. BUT I NEED TO BE MADE AWARE OF THE FOLLOW-UP DATE. HE SAID HE WILL NOTATE THAT DOWN.
11/13/2013	11/13/2013	ALL Miscellaneous	ANNA VARELA (11/13/2013 11:36:46 AM AV) Action Created (11/13/2013 11:36 AM AV) C/O IS STILL NOT COMPLETE. AGAIN, CALLED FIRE MARSHALL'S OFFICE TO SEE WHAT DATE IS SCHEDULED FOR HIS FOLLOW-UP INSPECTION. IN SPEAKING TO MARCUS RODGERS, HE DIDN'T DO A FULL INSPECTION...HE ONLY WENT OUT PER MY VERBAL REQUEST; MET W/ BUS. OWNER & INFORMED HIM WHAT HE NEEDED (FOR FIRE INSP). THE BUS. OWNER HASN'T CALLED BK SINCE THEN...TO REQUEST ANY INSPECTION.
11/6/2013	11/6/2013	ALL Reinspection	ANNA VARELA (11/6/2013 10:59:32 AM AV) Action Created (11/6/2013 10:59 AM AV) Add'l re-inspection to see if any changes have taken place.

Action Date	Completion Date	Action Type	Action By / Action Description
11/4/2013	11/6/2013	ALL charges filed in muni crt.	ANNA VARELA (11/6/2013 10:51:58 AM AV) Action Created (11/6/2013 10:51 AM AV) Had paperwork (2nd File Charges) already prepared to take to Mun. Crt. late Monday 11-04-13, but due to me being out sick the next day, I didn't file until 11-06-13
11/4/2013	11/6/2013	ALL File Charges	ANNA VARELA (11/6/2013 8:07:19 AM AV) Action Created (11/6/2013 8:07 AM AV) Re-file a 2nd charge, because even after we appeared in court for the 1st charge, he was fined..however, he has yet to correct the 1st violation. He has still not completed a certificate of occupancy.
11/4/2013	11/4/2013	ALL Prepare MC Coversheet	ANNA VARELA (11/4/2013 11:03:02 AM AV) Action Created
10/24/2013	11/4/2013	ALL Prepare PC Affidavit	ANNA VARELA (10/24/2013 10:48:42 AM AV) Action Created
10/23/2013	10/24/2013	ZON Monitoring Location	ANNA VARELA (10/24/2013 9:54:23 AM AV) Action Created (10/24/2013 9:54 AM AV) This is still not in compliance as of yet. Even though he was fined thru Mun. Crt; he has not proceeded to complete his C/O. (RE-FILE CHG'S)
10/17/2013	10/17/2013	ALL Court Appearance	ANNA VARELA (10/17/2013 1:31:50 PM AV) Action Created (10/17/2013 1:31 PM AV) Mr. Rodney Cooley - tenant @ this Bldg @ 1801 North St. did appear in court today.
10/17/2013	10/17/2013	ALL Court results received	ANNA VARELA (10/17/2013 1:33:04 PM AV) Action Created (10/17/2013 1:33 PM AV) Tenant plead Guilty...he said he hasn't had the time, then forgot..then got real busy. He was fined \$200.00 plus court cost of \$69.00 for a total fine of \$269.00. EVEN THOUGH A FINE HAS BEEN CHARGED, MR COOLEY IS STILL NOT IN COMPLIANCE TODAY. RE-CHECK AGAIN NEXT WEEK TO SEE IF COURT GENERATED HIM TO PROCEED WITH THE COMPLETION OF THE C/O. IF NOT; RE-FILE CHARGES.
10/14/2013	10/16/2013	ALL Prepare for court	ANNA VARELA (10/16/2013 8:07:18 AM AV) Action Created (10/16/2013 8:07 AM AV) WORKED ON GETTING NEW PIC'S IN FILE, AND RESEARCHING TO SEE IF ANY CHANGES HAVE BEEN UPDATE IN THE BLDG CODE FILES FOR A C/O. NO CHANGES FOUND YET.

Action Date	Completion Date	Action Type	Action By / Action Description
9/23/2013	9/23/2013	ALL Court results received	ANNA VARELA (9/23/2013 12:38:35 PM AV) Action Created (9/23/2013 12:38 PM AV) EMAILED JUDGE LIVELY THAT HE WAS A NO-SHOW IN COURT ON 09/19/13. THIS SHOULD GENERATE A WARRANT
9/19/2013	9/19/2013	ALL Court Appearance	ANNA VARELA (9/23/2013 12:37:54 PM AV) Action Created (9/23/2013 12:37 PM AV) DIDN'T ANSWER TO HIS NAME CALLED OUT IN COURT TODAY. (N0-SHOW)
9/17/2013	9/18/2013	ALL Prepare for court	ANNA VARELA (9/18/2013 12:36:48 PM AV) Action Created (9/18/2013 12:36 PM AV) FINISHED PREPARING THIS CASE FOR COURT TOMORROW
9/16/2013	9/17/2013	ALL Personal Contact	ANNA VARELA (9/17/2013 10:40:05 AM AV) Action Created (9/17/2013 10:40 AM AV) When reinspecting on Monday 09-16-13, Mr. Cooley's worker was on-site. I asked him what was in the closed room, where the air conditioning room is at? He said it's just more work room. Asked if he would open it...He said O.K...& opened it...He pointed out a couple of ladders, then said 2-beds and a T.V. Told him I was going to take pic's of what is here, to show my supervisor. He allowed me to continue to take what photo's I wanted to take. Then I thanked him, gave him my business. card, & asked him to have Mr. Cooley call me. He said O.K.
9/16/2013	9/16/2013	ALL Call Received	ANNA VARELA (9/17/2013 10:54:57 AM AV) Action Created (9/17/2013 10:54 AM AV) On V.M. when returning from out in the field. Mr. Cooley had left a message 09-16-13 @ 2:38 p.m. He called fr 1-409-951-0108. Said he had received a card from his worker (It sounded like he called him Donny?). Then he said please call him back @ 951-0108.
9/16/2013	9/17/2013	ALL Prepare for court	ANNA VARELA (9/17/2013 11:05:12 AM AV) Action Created
9/16/2013	9/16/2013	ALL Call Made	ANNA VARELA

Action Date	Completion Date	Action Type	Action By / Action Description
			(9/17/2013 11:04:38 AM AV) Action Created (9/17/2013 11:04 AM AV) I called bk @ 5:10 p.m. - Mr. Cooley answered...voiced his opinion about me continuously going out to this property when in fact the City knew what he was going to use this property for; & he then said he already had his inspections on the building except for the Fire Dept, but he had already been approved for his SUP by the P & Z and City Council, so he can't understand why am I still harrassing him about this building, when they have other things going on in the neighborhood, such as stealing, robbing, prostitution etc. Yet, I keep on him for this building. I told him since he doesn't have his Fire Inspection, his C/O is not complete. I told him I was just trying to let him know he had to show up in court this Thursday. He said he already took care of this and informed the courts that he won't be there. I said O.K., I didn't want him to miss his court date.
9/16/2013	9/16/2013	ALL Call Made	ANNA VARELA (9/17/2013 10:57:01 AM AV) Action Created (9/17/2013 10:57 AM AV) Ret'd call @ 5:08 p.m. on 9-16-13. - Mr. Cooley answered and said "Hello, Hello, Hello; then I said this is Anna w/the City...He said Ms. Anna & then the phone clicked off.
8/5/2013	8/6/2013	ALL File Charges	ANNA VARELA (8/7/2013 10:15:11 AM AV) Action Created (8/7/2013 10:15 AM AV) Charges Filed in Mun. Crt.
8/5/2013	8/5/2013	ALL Prepare MC Coversheet	ANNA VARELA (8/5/2013 9:55:58 AM AV) Action Created
8/1/2013	8/5/2013	ALL Prepare PC Affidavit	ANNA VARELA (8/5/2013 9:55:38 AM AV) Action Created (8/5/2013 9:55 AM AV) Had to organize a file folder & separate the two (2) different chg's that were being filed, and the dates that other Code Office (Lois) addressed anything in this file, then started my case from there.
7/31/2013	7/31/2013	ALL Miscellaneous	ANNA VARELA (7/31/2013 8:46:38 AM AV) Action Created (7/31/2013 8:46 AM AV) Checked with supervisor, & he said he hadn't spoken to Mr. Cooley. I went to Boyd & asked him to have one of the clerks put a halt on any other extensions in the system. I am going to be filing chg's.
7/26/2013	7/31/2013	ALL Personal Contact	ANNA VARELA

Action Date	Completion Date	Action Type	Action By / Action Description
			(7/31/2013 8:44:42 AM AV) Action Created (7/31/2013 8:44 AM AV) Mr. Cooley was @ prop. site & saw me driving in neighborhood. He drove his P/U truck arnd & I rolled my wndw dwn. I told him I'm ready to file chg's...He immediately said he's been trying to get inspections. I told him to call supervisor on Monday & speak to him about his issue.
6/14/2013	6/14/2013	ALL Mail Results Received	ANNA VARELA (6/14/2013 10:08:09 AM AV) Action Created (6/14/2013 10:08 AM AV) Cert Green Card #7011 3500 0001 1754 5273 to Rodney Cooley was rec'd & signed by Rodney Cooley & ret'd to us on 06/13/13
6/10/2013	6/10/2013	Sent Letter	CRW VOIDED (AV 6/10/2013 10:36:53 AM) sent Zoning CO Letter to COOLEY, RODNEY with cert #7011 3500 0001 1754 5273 (6/10/2013 10:36 AM AV) Added information didn't attach to letter, so I had to manually re-print a new ltr.
6/10/2013	6/10/2013	Sent Letter	CRW VOIDED (AV 6/10/2013 10:36:41 AM) sent Zoning CO Letter to PRESSLER HENRY C with cert # (6/10/2013 9:32 AM AV) Didn't issue to property owner, due to Lois and Anna always having contact w/occupant.
6/10/2013	6/10/2013	ALL Send Certified Letter	ANNA VARELA (6/10/2013 10:39:18 AM AV) Action Created (6/10/2013 10:39 AM AV) Added information didn't attach to letter, so I had to manually re-print a new ltr. Certified Ltr number 7011 3500 0001 1754 5273 was issued to Rodney Cooley.
6/10/2013	6/10/2013	ALL Send Certified Letter	ANNA VARELA VOIDED (AV 6/10/2013 9:28:16 AM) (6/10/2013 9:28:01 AM AV) Action Created (6/10/2013 9:28 AM AV) Only issued to occupant of building
6/10/2013	6/10/2013	ALL Send Certified Letter	ANNA VARELA VOIDED (AV 6/10/2013 10:38:45 AM) (6/10/2013 9:10:18 AM AV) Action Created Only issued to occupant of building (6/10/2013 10:38 AM AV) Added information didn't attach to letter, so I had to manually re-print a new ltr.

Action Date	Completion Date	Action Type	Action By / Action Description
5/15/2013	5/15/2013	ALL Extension Given	<p>ANNA VARELA</p> <p>(5/15/2013 5:48:09 PM AV) Action Created (5/15/2013 5:48 PM AV) automatic extension to check for compliance, on 05/31/13.</p>
5/15/2013	5/15/2013	ALL Call Made	<p>ANNA VARELA</p> <p>(5/15/2013 5:47:40 PM AV) Action Created (5/15/2013 5:47 PM AV) Called Mr. Cooley again on 05/15/13 @ 5:30 p.m. I inquired about the C/O progress, & he said he already has the exit light and the fire extenguishers, but needs to make room for the walk-thru to be done. He is expecting the wtr dept. on Monday, but will make sure that his guys gets this cleaned up so he can finish his inspections. Give an automatic extension until the end of the month, but he said he should have it all done by the end of next week.</p>
5/7/2013	5/7/2013	ALL Personal Contact	<p>ANNA VARELA</p> <p>(5/7/2013 10:52:41 AM AV) Action Created (5/7/2013 10:52 AM AV) PHONE CONTACT TODAY</p> <p>(5/7/2013 10:47 AM AV) UPON RE-INSP. MR. RODNEY COOLEY'S WORKER WAS AT THIS PROP. SITE. HE CALLED MR. COOLEY FOR ME & LET ME SPEAK TO HIM. I EXPLAINED HE STILL HASN'T OBTAINED HIS C.O AS OF YET. HE SAID HE FORGOT, & WILL SEND HIS WIFE, BECAUSE HE IS OUT OF TOWN. AS FAR AS THE FURN. BEING OUTSIDE, MR COOLEY ARGUED W/ME THE FACT THAT HE APPLIED FOR AN SUP AND WAS APPROVED BY THE PLZ COMMISSION & COUNCIL. BOTH WERE AWARE THAT HIS BUSINESS CONSISTED OF RESTORATION OF FURNITUR, & HE EVEN PUT IT IN HIS APPLICATION THAT HE WOULD BE PAINTING FURNITURE. MR COOLEY THEN SAID HE EVEN MAKES AND DONATES TO THE HISTORIC NEIGHBORHOOD ASSOC. FOR THE FUNDRAISERS. ANYWAY, I TOLD MR COOLEY I WOULD GET W/MY SUPERVISOR & DISCUSS THIS APPROVAL, AND IF HE OVERRIDES THE RULE, THIEN I WILL INFORM HIM, EITHER WAY.</p>
3/27/2013	3/27/2013	ALL Call Made	<p>LOIS BALKA</p> <p>(3/27/2013 4:55:48 PM LB) Action Created (3/27/2013 4:55 PM LB) CALL MR COOLEY HE WILL COME IN ON 3/28/13 TO RENEW HIS PERMIT</p>

Name: COOLEY, RODNEY Race: Sex: DOB: Warrants: **Y**
 SSN: 000000000 DL #: Phone: 409-951-0108
 Balance: 2243.80 Pending payments: Pending bonds: .00
 Type options, press Enter.
 5=Display

Opt	Case number	Violation	Date	Disp	Date	Bond	Assessed	Balance
— R	T13002856A	FAILURE TO APP	121213		000000	.00	.00	375.70
—	T13003955	FAIL TO OBTAIN	102313		000000	.00	.00	798.20
— R	T13002920	FAIL TO OBTAIN	072613	GUILTY	092413	.00	589.00	375.70
— R	T13002856	HISTORIC DIST-	072613		000000	.00	264.00	505.70
— R	PD007652	PARKING-FIRE Z	053011	GUILTY	101713	.00	95.00	188.50

Bottom

F2=Alt view F3=Exit F8=Print history F12=Cancel F13=Warrants F15=Search
 F23=More options

FURN. Charge - Didn't Appear 9-19-13
 Appeared & plead Not Guilty - 10-17-13 - Trial will be reset
 Didn't Appear for his re set on 12-12-13

Position to name: COOLEY, RODNEYType options, press Enter.
1=Select

Opt	Name	R	S	DOB	DL#	SSN
—	COOLEY, RODNEY					000000000
—	WARRANT 2475 LIBERTY				BEAUMONT	TX 77702
—	COOLEY, RODNEY A	B	M	1/20/1974	09070135	000000000
—	2350 GLENDALE				BEAUMONT	TX 77706-0000
—	COOLEY, SARA LYNN	W	F	1/04/1984	TX	
—	342 S HWY 109				STARKS	LA 70661
—	COOLEY, SEAN	W	M	3/29/1986	06804964 TX	
—	1204 TURNER RD				BRIDGE CITY	TX 77611
—	COOLEY, SHONTE BATTLES	B	F	7/29/1974	12402198	
—	COOLEY, TEELA JOLEAN	W	F	2/13/1987	24086399 TX	
—	6411 VAL				GROVES	TX 77619

More...

F3=Exit

ORDINANCE NO.

ENTITLED AN ORDINANCE APPROVING THE REVOCATION OF A SPECIFIC USE PERMIT WHICH ALLOWED AN ANTIQUE FURNITURE RESTORATION USE IN AN RCR-H (RESIDENTIAL CONSERVATION AND REVITALIZATION -HISTORIC) DISTRICT AT 1801 NORTH STREET IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, on August 28, 2012, City Council of the City of Beaumont, Texas approved Ordinance No. 12-057 granting a Specific Use Permit to allow antique furniture restoration in a RCR-H (Residential Conservation and Revitalization-Historic) District at 1801 North Street, being the N 75' of Lot 12 and the N 75' of the E 25' of Lot 11, Block 22, McFaddin 2nd, City of Beaumont, Jefferson County, Texas, containing 0.129 acres, more or less, subject to the following condition:

- Replace the 6' tall wood screening fence mission along the west property line and install a 4' tall wood screening fence or a 6' wide landscape bed along the west 26' of the north property line; and,

with the modification of the landscaping requirement along the west property line (no 10' wide landscape strip); and,

WHEREAS, recent inspection of the property showed that the required condition has not been met; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the revocation and is recommending approval of the revocation of the specific use permit which allowed an antique furniture restoration use in an RCR-H (Residential Conservation and Revitalization-Historic) District at 1801 North Street; and,

WHEREAS, the City Council is of the opinion that the revocation 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 the specific use permit issued on August 28, 2012 by Ordinance No. 12-057 to Rodney Cooley, his legal representatives, successor and assigns which allowed an antique furniture restoration use in an RCR-H (Residential Conservation and Revitalization-Historic) District at 1801 North Street, being 3890 Highland Avenue, being the N 75' of Lot 12 and the N 75' of the E 25' of Lot 11, Block 22, McFaddin 2nd, City of Beaumont, Jefferson County, Texas, containing 0.129 acres, more or less, as shown on Exhibit "A," attached hereto, be and the same is hereby revoked.

Section 2.

The use of the property herein above described shall hereinafter be in all 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 28th day of October, 2014.

- Mayor Becky Ames -

File 2140-P: Request for the revocation of a specific use permit to allow antique furniture restoration in a RCR-H (Residential Conservation Revitalization - Historic) District.
Location: 1801 North Street
Applicant: City of Beaumont Planning Division

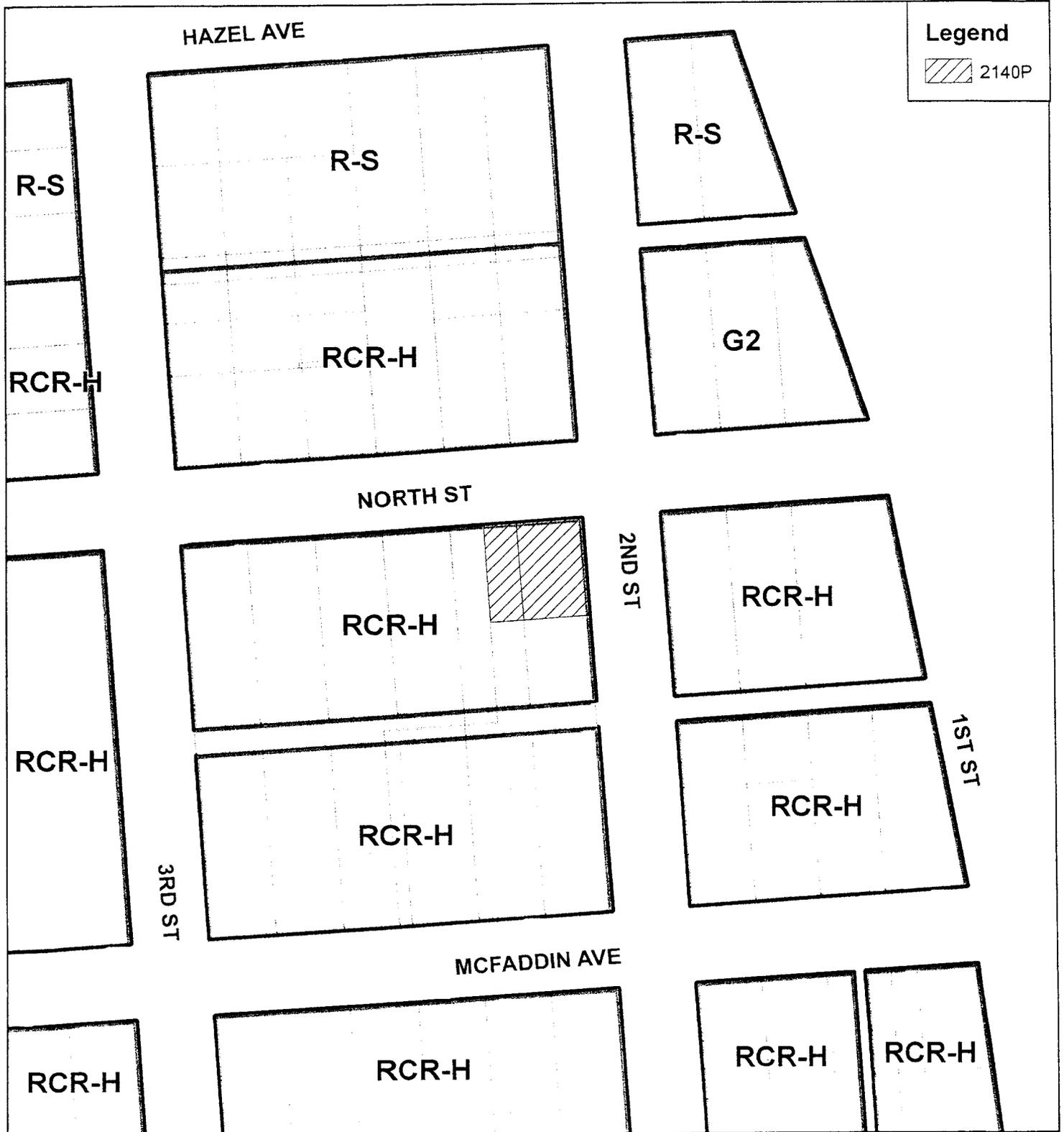
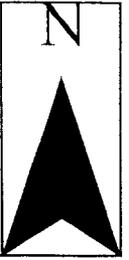
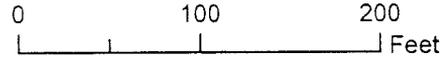


EXHIBIT "A"

PUBLIC HEARING

- * Receive comments on allowing the Mission Economic Development Corporation in Mission, Texas to issue Solid Waste Disposal Revenue Bonds, Series 2014 in an estimated amount not to exceed \$100 million to finance waste to energy facilities to be located at or near the Beaumont city landfill

October 28, 2014

Consider an ordinance allowing the Mission Economic Development Corporation in Mission, Texas to issue Solid Waste Disposal Revenue Bonds, Series 2014 in an estimated amount not to exceed \$100 million to finance waste to energy facilities to be located at or near the Beaumont city landfill



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Tyrone E. Cooper, City Attorney

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council hold a public hearing and then consider an ordinance allowing the Mission Economic Development Corporation in Mission, Texas to issue Solid Waste Disposal Revenue Bonds, Series 2014 in an estimated amount not to exceed \$100 million to finance waste to energy facilities to be located at or near the Beaumont city landfill.

BACKGROUND

On August 12, 2014, the City Council approved an ordinance for the issuance of Solid Waste Disposal Revenue Bonds Series 2014 for the benefit of Fair Energy Operations/Beaumont, LLC in the amount of \$50 million. Since that time, circumstances have changed and the total amount of the revenue bond offering is now \$100 million in order to finance facilities in Beaumont and Angleton, Texas.

Mission Economic Development Corporation (MEDC) in Mission, Texas will continue to serve as the governmental issuer of the bonds. However, it remains necessary to obtain the consent of the governing body where the facilities will be located. As was indicated previously, the granting of approval by the City Council does not obligate the City in any way with respect to the bonds or the facility, or to otherwise assume any liability with respect to the issuance of the bonds.

State law and federal tax law requires a public hearing be conducted to allow comments with respect to the project and issuance of the Series 2014 revenue bonds.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance.

ORDINANCE NO.

ORDINANCE WITH RESPECT TO
FAIR ENERGY OPERATIONS LLC.
PROJECT

WHEREAS, FAIR ENERGY OPERATIONS LLC. and its subsidiaries or affiliates (collectively, the “Company”) own and operate various solid waste and waste to energy facilities (the “Facilities”) throughout the state of Texas; and

WHEREAS, the Company desires to make certain improvements to such Facilities throughout the state of Texas (the “Project”) as more fully described in **Exhibit “A”** a portion of which is located in this City (the “Local Portion”); and

WHEREAS, in order to achieve the economies of scale in financing the Project, the Company has requested Mission Economic Development Corporation (the “Issuer”) to issue Solid Waste Disposal Revenue Bonds (Fair Energy Operations LLC Project) Series 2014 (the “Series 2014 Bonds”) to finance the Project, including portions located outside the boundaries of Mission, Texas, the Issuer’s sponsoring governmental unit; and

WHEREAS, in order that the Local Portion of the Project may be financed with the proceeds of Series 2014 Bonds, the City Council of the City (the “City Council”) must request that the Issuer exercise its powers within the City for the purpose of issuing such bonds in one or more series to finance the Local Portion of the Project, such request being intended to satisfy the requirements of Section 501.159 of the Texas Development Corporation Act, Texas Local Government Code, Chapter 501, as amended (the “Act”); and

WHEREAS, the City Council desires hereby to make such request of the Issuer and to take other actions to enable the Issuer to issue the Series 2014 Bonds and the Company to use the proceeds thereof to finance the Project;

WHEREAS, approval of the City Council as the “applicable elected representative” is also required in connection with the issuance of the Series 2014 Bonds in order to satisfy the requirements of Section 147(f) of the Internal Revenue Code and the City Council desires hereby to give such approval.

BE IT ORDAINED, ADOPTED AND DECREED BY THE CITY COUNCIL OF THE CITY
OF BEAUMONT, TEXAS:

Section 1. Third Party Financing. In order that the Local Portion of the Project may be financed as a part of the entire Project through the issuance of the Series 2014 Bonds, the Issuer is hereby requested to exercise its powers within the City for the purpose of issuing such bonds in one or more series to finance the Local Portion of the Project in accordance with Section 501.159 of the Act.

Section 2. Public Hearing and Approval for Federal Tax Purposes. In order to comply with Section 147(f) of the Internal Revenue Code of 1986, as amended, a public hearing shall be held in which members of the public shall be permitted to express their views with respect to the Local Portion of the Project and the Issuer’s issuance of the Series 2014 Bonds for such purpose. Such hearing is authorized to be conducted by Mayor Becky Ames (or her designee), as hearing officer. Notice of such hearing was published no less than 14 days prior to such hearing in a newspaper of general circulation in the City. Based solely upon the results of such hearing, and solely for purposes of complying with Section 147(f)

of the Internal Revenue Code of 1986, as amended, the Mayor is hereby authorized and directed to execute a certificate certifying approval of the Local Portion of the Project and the Issuer's issuance of the Series 2014 Bonds for that purpose.

SECTION 3. DISCLAIMER OF LIABILITY. THE CITY, THE CITY COUNCIL, THE MAYOR AND ALL OTHER CITY OFFICIALS MAKE NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER WITH RESPECT TO THE LOCAL PORTION OF THE PROJECT OR THE ISSUANCE, CREDITWORTHINESS OR REPAYMENT OF THE INDUSTRIAL REVENUE BONDS TO BE ISSUED BY THE ISSUER WITH RESPECT TO THE LOCAL PORTION OF THE PROJECT. UNDER NO CIRCUMSTANCES SHALL THE CITY HAVE ANY LIABILITY, FINANCIAL OBLIGATION OR RESPONSIBILITY OF ANY KIND WITH RESPECT TO THE PAYMENT OF INDUSTRIAL REVENUE BONDS ISSUED FOR THE LOCAL SHARE OF THE PROJECT OR FOR THE CONSTRUCTION, MAINTENANCE, OPERATION OR ANY OTHER ASPECT OF THE LOCAL SHARE OF THE PROJECT.

SECTION 4. Effective Date. This Ordinance shall be effective immediately upon passage by sufficient affirmative votes.

ADJUDGED, ADOPTED AND DECREED this 28th day of October, 2014.

- Mayor Becky Ames -

EXHIBIT “A”

FAIR ENERGY OPERATIONS, LLC AND AFFILIATES

Project Description

The proceeds the Series 2014 Bonds will be loaned to Fair Energy Operations – Beaumont, LLC (“Fair Energy Beaumont”) and Fair Energy Operations – Angleton, LLC (“Fair Energy Angleton,” and together with Fair Energy Beaumont, the “Borrower”) and will be used by the Borrower to provide funds to: (i) finance or refinance all or part of the cost of acquiring and constructing certain capital improvements and infrastructure relating to waste-to-energy facilities and/or solid waste facilities including any land, equipment and other property comprising waste-to-energy facilities (including property functionally related and subordinate thereto) that will convert municipal solid waste into usable products located at: (a) Beaumont City Landfill – 5895 Lafin Drive, Beaumont, Texas (the “Beaumont Facility”) and (b) Seabreeze Environmental Landfill – 10310 FM 523, Angleton, Texas (the “Angleton Facility,” and together with the Beaumont Facility, the “Series 2014 Project”) and (ii) pay the costs of issuance of the Series 2014 Bonds and related financing costs.

CERTIFICATE FOR ORDINANCE

THE STATE OF TEXAS §
CITY OF BEAUMONT §
COUNTY OF JEFFERSON §

We, the undersigned officers of the City Council of the City of Beaumont, Texas, hereby certify as follows:

1. The City Council of the City of Beaumont, Texas, convened in regular meeting on October 28, 2014, at the regular meeting place thereof, within said City, and the roll was called of the duly constituted officers and members of said City Council, to wit:

Becky Ames	Mayor
Gethrel Williams-Wright	Mayor Pro Tem
W.L. Pate, Jr.	Council Member, At-large
Dr. Alan B. Coleman	Council Member, Ward 1
Mike Getz	Council Member, Ward 2
Audwin Samuel	Council Member, Ward 3
Jamie Smith	Council Member, Ward 4

and all of said persons were present except for _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

ORDINANCE WITH RESPECT TO FAIR ENERGY OPERATIONS LLC PROJECT

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said ordinance be adopted; and, after due discussion, said motion, carrying with it the adoption of said ordinance, prevailed and carried by the following vote:

AYES: _

NOES: _;

ABSTENTIONS: _.

2. A true, full and correct copy of the aforesaid ordinance adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; said ordinance has been duly recorded in said City Council’s minutes of said meeting; the above and foregoing paragraph is a true, full and correct excerpt from said City Council’s minutes of said meeting pertaining to the adoption of said ordinance; the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said ordinance would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; and said meeting was open to the public as required by law; and public notice of the date, hour, place and subject of said meeting was given as required by the Texas Open Meetings Act.

SIGNED AND SEALED this October 28, 2014.

(SEAL)

City Secretary

CERTIFICATE OF MAYOR OF
CITY OF BEAUMONT, TEXAS
(Fair Energy Operations Project)

The undersigned Mayor of the City of Beaumont, Texas (the "City") hereby certifies with respect to a plan of finance of the Mission Economic Development Corporation (the "Corporation") including the issuance of its Solid Waste Disposal Revenue Bonds (Fair Energy Operations Project) Series 2014 (the "Bonds") and other bond issues, that:

1. I am the duly appointed hearing officer for the public hearing which was held on October 28, 2014 in connection with the issuance of the Bonds at the time and place indicated in the Notice of Public Hearing included in **Exhibit A** attached hereto, all in accordance with the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code").

2. Notice of the public hearing was published no less than 14 days before the date of the public hearing in a newspaper of general circulation available to residents of the City, as evidenced by the Affidavit of Publication of Notice of Public Hearing attached hereto as **Exhibit A**.

3. All persons appearing at the public hearing were given an opportunity to comment on the proposed plan of finance, including the issuance of the Bonds, and the project to be financed by the plan of finance. No such persons appeared or made comments except as is set forth on **Exhibit B** attached hereto.

4. After giving all interested persons an opportunity to appear and comment, the public hearing was declared closed.

5. Solely for purposes of the approval requirements of the aforesaid Section 147(f) of the Code, and for no other purposes, in my capacity as Mayor, I hereby approve the plan of finance, including the issuance of the Bonds, and the facilities to be financed by the plan of finance; **provided, however, THAT THIS APPROVAL IS NOT TO BE CONSTRUED AS (I) A REPRESENTATION OR WARRANTY BY THE CITY, THE MAYOR OF THE CITY, THE STATE OF TEXAS OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE OF TEXAS THAT THE BONDS WILL BE PAID OR THAT ANY OBLIGATIONS ASSUMED BY ANY OF THE PARTIES UNDER THE INSTRUMENTS DELIVERED IN CONNECTION WITH THE BONDS WILL IN FACT BE PERFORMED; (II) A PLEDGE OF THE FAITH AND CREDIT OF THE CITY OR THE STATE OF TEXAS OR ANY AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE OF TEXAS OR THE CITY; OR (III) A REPRESENTATION OR WARRANTY BY THE CITY CONCERNING THE VALIDITY OF THE CORPORATE EXISTENCE OF THE CORPORATION OR THE VALIDITY OF THE BONDS.**

EXECUTED as of October 28, 2014.

Mayor
City of Beaumont, Texas

Exhibit A - Notice of Public Hearing

Exhibit B - Names and Comments of Persons Attending Public Hearing

EXHIBIT A

**AFFIDAVIT OF PUBLICATION OF
NOTICE OF PUBLIC HEARING**

ATTACHED

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS:
COUNTY OF JEFFERSON:

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared: Monica Mendoza, who after being duly sworn, says that she is a **NEWSPAPER REPRESENTATIVE** for **THE BEAUMONT ENTERPRISE**, a daily newspaper published in Jefferson County and generally circulated in Jefferson, Hardin, Tyler, Newton, Orange, Jasper, Liberty, Sabine, Chambers, San Augustine, Angelina and Galveston Counties, Texas, and that the publication, of which the annexed is a true copy, was published to wit:

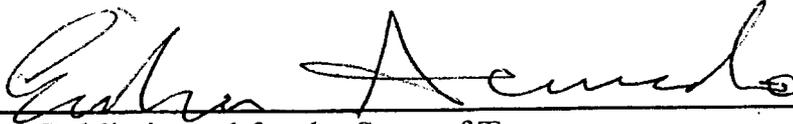
October 14, 2014 Ad #197052001

Account #041664103 Bracewell & Giuliani, LLP

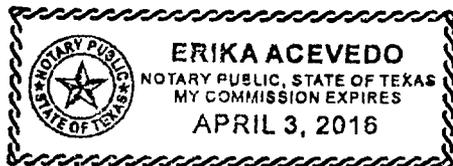


Newspaper Representative

Sworn and subscribed to before me, this 16th day of OCTOBER A.D.



Notary Public in and for the State of Texas



HMS Royal Oak, a British battleship; 833 of 1,200 men aboard were killed. In 1947, Air Force pilot Charles E. "Chuck" Yeager broke the sound barrier as

he flew the experimental Bell XS-1 (later X-1) rocket plane. In 1960, Democratic presidential candidate John F. Kennedy suggested the idea of a Peace Corps while

addressing an audience of students at the University of Michigan in Ann Arbor. In 1987, a 58-hour drama began in Midland, as 18-month-old Jessica Mc-

Clure slid 22 feet down an abandoned well at a private day care center; she was rescued on Oct. 16.

The Associated Press



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NOTICE OF PUBLIC HEARING

**MISSION ECONOMIC DEVELOPMENT CORPORATION
SOLID WASTE DISPOSAL REVENUE BONDS
(FAIR ENERGY OPERATIONS LLC PROJECT)
SERIES 2014**

Notice is hereby given of a public hearing to be held by the Mission Economic Development Corporation (the "Issuer") at the time and location set forth below with respect to the captioned bonds (the "Series 2014 Bonds") to be issued in one or more series in an aggregate principal amount not to exceed \$100,000,000 by the Issuer. The proceeds the Series 2014 Bonds will be loaned to Fair Energy Operations - Beaumont, LLC ("Fair Energy Beaumont") and Fair Energy Operations - Angleton, LLC ("Fair Energy Angleton," and, together with Fair Energy Beaumont, the "Borrower") and will be used by the Borrower to provide funds to: (i) finance or refinance all or part of the cost of acquiring and constructing certain capital improvements and infrastructure relating to waste-to-energy facilities and/or solid waste facilities including any land, equipment and other property comprising waste-to-energy facilities (including property functionally related and subordinate thereto) that will convert municipal solid waste into usable products located at: (a) Beaumont City Landfill - 5895 Lafin Drive, Beaumont, Texas, (the "Beaumont Facility") and (b) Seabreeze Environmental Landfill - 10310 FM 523, Angleton, Texas (the "Angleton Facility," and together with the Beaumont Facility, the "Series 2014 Project") and (ii) pay the costs of issuance of the Series 2014 Bonds and related financing costs.

Fair Energy Operations, LLC is the sole member of each of Fair Energy Beaumont and Fair Energy Angleton. The initial and exclusive owner, operator and manager of the facilities comprising the Beaumont Facility will be Fair Energy Beaumont or an affiliate controlled, directly or indirectly, by Fair Energy Operations, LLC. The initial and exclusive owner, operator and manager of the facilities comprising the Angleton Facility will be Fair Energy Angleton or an affiliate controlled, directly or indirectly, by Fair Energy Operations, LLC.

The Issuer will conduct a public hearing with respect to the proposed issuance of the Series 2014 Bonds on October 28, 2014, at 1:30 p.m., at the Beaumont City Council Chambers—1st Floor City Hall, 801 Main Street, Beaumont, Texas 77701 (the "Hearing").

The Beaumont Hearing will be conducted by Mayor Becky Ames or her designee.

All interested persons are invited to attend the Hearing to express their views with respect to the Series 2014 Project and the Series 2014 Bonds. Questions or requests for additional information may be directed to Mr. Lee McCormick, 6988 Lebanon Road, Suite 103, Frisco, Texas 75034, (214) 256-3121. Any interested persons unable to attend the Hearing may submit their views in writing to Mr. McCormick at the address above or by facsimile (214) 256-3209 prior to the date scheduled for the Hearing.

This notice is published and the above described Hearing is to be held in satisfaction of the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, regarding the public approval prerequisite to the exemption from federal income taxation of the interest on the Series 2014 Bonds.

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- Ornamental shrubs
- Cool weather vegetables - broccoli, kale, collards, cabbage, multiplying onions and more
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AgriLife Extension Service (409) 835-8461



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EXHIBIT B

NAMES AND COMMENTS OF PERSONS ATTENDING PUBLIC HEARING

October 28, 2014

Consider an ordinance denying the Entergy Texas Application for a Distribution Cost Recovery Factor rate increase on file with the City of Beaumont



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Tyrone E. Cooper, City Attorney

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider an ordinance denying the Entergy Texas Application for Distribution Cost Recovery Factor rate increase on file with the City of Beaumont.

BACKGROUND

On or about September 18, 2014, Entergy Texas filed with each city in its service area an Application for Approval of a Distribution Cost Recovery Factor (DCRF). Entergy has also filed the same application with the Public Utility Commission of Texas covering its customers located outside the cities' boundaries. Entergy is requesting the implementation of a rider that would collect approximately \$7 million in additional annual revenue to cover increased distribution expenses. Residential customers would be charged approximately \$4.5 million or 64% of the requested increase, which amounts to approximately \$0.78 per month for an average residential customer using 1000 kWh per month. The cities' retained utilities attorney and rate consultants have analyzed this request and are recommending denial of the application. The reason for denial is based primarily on the fact that the proposed adjustments are inconsistent with the directives of the PUC as it pertains to a DCRF. The Public Utilities Commission developed a detailed formula that utilities must follow when calculating the revenue requirements for a DCRF. The preliminary findings of the rate consultants indicate that both of the adjustments proposed by Entergy do not conform with the mandated formula. This deviation in calculations results in an overstatement of the need for the requested DCRF rate increase. Denial of the application by the cities would allow for the appeal to the PUCT for a full review and ultimate resolution.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance.

ORDINANCE NO.

AN ORDINANCE BY THE CITY OF BEAUMONT, TEXAS (“CITY”) DENYING THE DISTRIBUTION COST RECOVERY FACTOR RATE INCREASE REQUEST OF ENTERGY TEXAS, INC. FILED ON SEPTEMBER 18, 2014; SETTING JUST AND REASONABLE RATES FOR ENTERGY TEXAS, INC. FOR SERVICE WITHIN THE MUNICIPAL LIMITS; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS.

WHEREAS, on or about September 18, 2014 Entergy Texas, Inc. (“Entergy”) filed an Application for Authority to Implement a Distribution Cost Recovery Factor with the City to increase electric rates by implementing new riders pursuant to Public Utility Regulatory Act (“PURA”) Section 36.210;

WHEREAS, the proposed Distribution Cost Recovery Factor rates proposed by Entergy Texas, Inc. would increase customer rates in the Entergy Service Area by \$6,980,180 per year;

WHEREAS, Entergy the jurisdictional deadline for the City to act in this rate matter is November 17, 2014;

WHEREAS, the expert utility rate consultants retained to review the Company’s Distribution Cost Recovery Factor rates on behalf of the City have issued a preliminary report and concluded that Entergy has incorrectly calculated the proposed Distribution Cost Recovery Factor and substantially overstated the claimed need for the rate increase requested. The consultants’ analyses support substantial reductions to the Entergy request.

WHEREAS, the rate experts retained for the rate review have concluded that Entergy’s rate filing request is unsupported;

WHEREAS, Entergy has failed to properly support and justify the rate class increase amounts for Entergy’s proposed class allocation of certain distribution costs;

WHEREAS, Entergy has failed to justify Entergy’s proposed rates included in lighting service;

WHEREAS, the statutory deadline to act on Entergy’s Distribution Cost Recovery Factor rate increase request is November 17, 2014;

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

Section 1. That the statement and findings set out in the preamble to this Ordinance are hereby in all things approved and adopted.

Section 2. The City of Beaumont hereby denies the Entergy Distribution Cost Recovery Factor rate increase.

Section 3. Entergy's Distribution Cost Recovery Factor rate increase application on file with the City is denied in total.

Section 4. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 5. This ordinance shall become effective from and after its passage.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of
October, 2014.

- Mayor Becky Ames -

ATTEST:

WORK SESSION

- * Review and discuss proposed changes to rental rates charged at various Event Facilities

Draft

ARTICLE 14.05 CIVIC CENTER COMPLEX

Sec. 14.05.001 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

~~All day.~~ Use of a facility ~~beginning before noon and ending after 6:00 p.m. from 8:00am until 12:00am~~

~~Civic Center complex.~~ Beaumont Event Facilities. ~~The~~ Beaumont Civic Center, ~~the~~ Julie Rogers Theatre ~~for the Performing Arts,~~ the Jefferson Theatre, Event Centre, Great Lawn, the Harvest Club, Riverfront Park, Alice Keith Park Community Center, Rogers Park Community Center, John Paul Davis Community Center, Central Park Community Center and grounds contiguous to those facilities.

~~Commercial event.~~ Any event hosted by a for-profit organization or business. ~~which does not meet the definition of a “noncommercial event.”~~

~~Evening.~~ Use of a facility ~~beginning after 6:00 p.m. and ending at midnight.~~

~~Event staff.~~ All employees necessary for any use of a facility ~~other than management and operation staff,~~ specifically including, but not limited to, security personnel and stagehands.

~~Gross receipts.~~ All monies received from the sale of tickets, ~~less admission taxes, excise taxes or sales taxes levied by the city, county, state, or federal government.~~

~~Lease.~~ The written, typewritten or printed document, with any amendments or supplements, signed by the lessee and the city under the authority and conditions as herein provided, which document grants permission to use a facility of the Civic Center complex.

~~Local.~~ Within the city. An organization will be considered “local” for purposes of this article if a majority of its members are residents of the city.

~~Matinee.~~ Use of a facility ~~beginning after 8:00 a.m. and ending before 6:00 p.m.~~

~~Net square feet.~~ That space ~~occupied by exhibits and exhibitors,~~ not including aisles.

~~Noncommercial event.~~ An event sponsored ~~contracted~~ by any of the following organizations, ~~where the entire net proceeds from said event are retained by the sponsoring organization;~~ or individuals:

- (1) ~~Local~~ nonprofit civic organizations;
- (2) ~~Local~~ nonprofit fraternal organizations;
- (3) ~~Local~~ nonprofit educational institutions;
- (4) ~~Local~~ nonprofit religious organizations;
- (5) ~~Local~~ charitable organizations.

(6) Individuals sponsoring weddings, birthdays, and all other private events as determined by the Director of Event Facilities

Rental: Actual day of event (does not include rehearsal, move-in, or move-out).

Forma

(1958 Code, sec. 9B-1; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; Ordinance 99-99, sec. 1, adopted 12/26/99; 1978 Code, sec. 20-20; Ordinance 07-055, sec. 6, adopted 5/8/07)

Sec. 14.05.002 Use rate schedule

The following rates will apply to the use of Beaumont Event Facilities; ~~the Civic Center complex facilities:~~

- (1) ~~The Civic Center.~~

(A) Commercial: Minimum rental shall be two thousand (\$2,000.00) dollars per all-day (8:00 am - 12:00 am), ~~or ten (10) percent of gross receipts, whichever is greater. However, in~~ In consideration for city participation in furnishing facilities and other assistance, higher percentage additional rates or fees may be negotiated. Any deviation from minimum rate shall first be approved by the city manager.

(B) ~~Noncommercial (minimum rental):~~ Minimum rental shall be one-thousand five hundred dollars (\$1,500.00) per day (8:00 am-12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rate shall first be approved by the city manager.

~~(i) Matinee (8:00 am - 6:00 pm): \$1,200.00 (includes Saturday and Sunday).~~

~~(ii) Evening (6:00 pm - 12:00 am): \$1,200.00.~~

~~(iii) All day (8:00 am - 12:00 am): \$1,500.00.~~

~~—However, in consideration for city participation in furnishing facilities and other assistance, higher minimum rentals or percentage rates may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.~~

~~(C) Meeting room rates are as follows:~~

Forma

(2) Auxiliary Meeting Spaces rooms in the Civic Center.

(A) Commercial/Noncommercial:

(i) Hourly (minimum two hour rental), per space: \$100 per hour
Matinee (8:00 am – 6:00 pm), per room: \$150.00.

~~(ii) Evening (6:00 pm – 12:00 am), per room: \$150.00.~~

~~(iii) All day (8:00 am – 12:00 am), per room: \$250.00.~~

~~(B) Noncommercial:~~

~~(i) Matinee (8:00 am – 6:00 pm), per room: \$100.00.~~

~~(ii) Evening (6:00 pm – 12:00 am), per room: \$100.00.~~

~~(iii) All day (8:00 am – 12:00 am), per room: \$150.00.~~

(3) The Julie Rogers Theatre for the Performing Arts.

(A) Commercial: Minimum rental shall be one thousand two hundred
(\$1,000.00 1,200.00) dollars per all-day (8:00 am - 12:00 am), or ten (10)
percent of gross receipts, whichever is greater; however, in In consideration for
city participation in furnishing facilities and other assistance, higher percentage
additional rates or fees may be negotiated. Any deviation from minimum rental
shall first be approved by the city manager.

(B) Noncommercial (minimum rental): Minimum rental shall be one-
thousand dollars (\$1,000.00) per day (8:00 am-12:00 am). In consideration for
city participation in furnishing facilities and other assistance, additional rates or
fees may be negotiated. Any deviation from minimum rate shall first be
approved by the city manager.

~~(i) Matinee (8:00 am – 6:00 pm): \$700.00.~~

~~(ii) Evening (6:00 pm – 12:00 am): \$700.00.~~

~~(iii) All day (8:00 am – 12:00 am): \$950.00.~~

~~However, in consideration for city participation in furnishing facilities and other assistance, higher minimum rentals or percentage rates may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.~~

(4) Auxiliary Meeting Spaces rooms in the Julie Rogers Theatre.

(A) Commercial/Noncommercial:

(i) Hourly (minimum two hour rental) per space: \$100 per hour
Matinee (8:00 am - 6:00 pm), per room: \$150.00.

(ii) ~~Evening (6:00 pm - 12:00 am), per room: \$150.00.~~

(iii) ~~All day (8:00 am - 12:00 am), per room: \$250.00.~~

(B) ~~Noncommercial:~~

(i) ~~Matinee (8:00 am - 6:00 pm), per room: \$100.00.~~

(ii) ~~Evening (6:00 pm - 12:00 am), per room: \$100.00.~~

(iii) ~~All day (8:00 am - 12:00 am), per room: \$150.00.~~

(5) The Jefferson Theatre.

(A) Commercial: Minimum rental shall be one thousand dollars (\$1,000.00) per all-day (8:00 am - 12:00 am), or ten (10) percent of gross receipts, whichever is greater; however, in In consideration for city participation in furnishing facilities and other assistance, higher percentage additional rates or fees may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.

(B) Noncommercial (minimum rental): Minimum rental shall be eight hundred dollars (\$800.00) per day (8:00 am-12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rate shall first be approved by the city manager.

~~(i) Matinee (8:00 am - 6:00 pm): \$700.00.~~

~~(ii) Evening (6:00 pm - 12:00 am): \$700.00.~~

~~(iii) All day (8:00 am - 12:00 am): \$950.00.~~

~~— However, in consideration for city participation in furnishing facilities and other assistance, higher minimum rentals or percentage may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.~~

(6) Auxiliary Meeting Spaces in the Jefferson Theatre

(A) Commercial/Noncommercial

(i.) Hourly (minimum two hour rental) per space: \$100 per hour

(67) Event Center Centre.

(A) Commercial: Minimum rental shall be one thousand five hundred dollars (\$1,500.00) per all-day (8:00 a.m. - 12:00 a.m), ~~or ten (10) percent of gross receipts, whichever is greater. However, in~~ In consideration for city participation in furnishing facilities and other assistance, ~~higher percentage~~ additional rates or fees may be negotiated. Any deviation from minimum rental shall be approved by the city manager.

(B) Noncommercial (minimum rental): In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Minimum rate may be negotiated if an organization leases the facility ten (10) or more dates within a calendar year. Any deviation from minimum rental shall first be approved by the city manager.:

(i) Matinee (8:00 am - ~~63:00 pm~~): \$500.00 ~~\$900.00~~.

~~(ii) Evening (6:00 pm - 12:00 am): \$900.00.~~

(iii) All day (8:00 am - 12:00 am): \$1,200.00 ~~\$1,125.00~~.

(C) Meeting:

(i) Hourly (minimum two hour rental between 8:00 am and 5:00 pm): \$100 per hour

~~— However, in consideration for city participation in furnishing facilities and other assistance, higher minimum rentals or percentage rates may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.~~

(78) Great Lawn.

In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.

(A) Commercial: All day (8:00 am - 12:00 am): \$1,000.00.

(B) Noncommercial: All day (8:00 am - 12:00 am): ~~\$500.00~~ \$750.00.

~~— However, in consideration for city participation in furnishing facilities and other assistance, higher minimum rentals or percentage rates may be negotiated. Any deviation from minimum rental shall first be approved by the city manger.~~

(89) Riverfront Park.

(A) Commercial: Minimum rental shall be ~~nine hundred~~ one-thousand dollars (~~\$1,000.00~~ \$900.00) dollars per all day (8:00 am - 12:00 am), or ~~ten (10) percent of gross receipts, whichever is greater.~~ However, in ~~In~~ consideration for city participation in furnishing facilities and other assistance, ~~higher percentage~~ additional rates or fees may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.

(B) Noncommercial ~~(minimum rental):~~ Minimum rental shall be one five hundred dollars (\$500.00) per day (8:00 a.m. - 12:00 a.m). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rental shall be approved by the city manager.;

~~(i) Matinee (8:00 am - 6:00 pm): \$500.00.~~

~~(ii) Evening (6:00 pm - 12:00 pm): \$500.00.~~

~~(iii) All day (8:00 am - 12:00 am): \$750.00~~

~~— Any deviation from minimum rental shall first be approved by the city manager.~~

~~(C) Amphitheater: \$150.00.~~

~~(D) Pavilion only: \$250.00, all day (8:00 am - 12:00 am).~~

~~(9) After midnight. When any of the facilities of the Civic Center complex are used between the hours of 12:00 a.m. through 7:00 a.m., said use shall be at the following hourly rates:~~

~~Civic Center, per hour: \$500.00~~

~~- -~~

~~Civic Center Meeting Rooms, per \$100.00~~

Forma

Forma

Forma
Space

Forma

~~hour, per room:~~

-	-
Julie Rogers Theatre, per hour:	\$300.00
-	-
Julie Rogers Theatre Meeting Rooms, per hour, per room:	\$100.00
-	-
Jefferson Theatre, per hour:	\$300.00
-	-
Event Center, per hour:	\$300.00

← Forma
Space

(10) Community Centers. The Community Center rental rates are as follows:

Alice Keith, per hour (minimum two hour rental)	\$75.00
Central Park, per hour (minimum two hour rental)	\$75.00
Northend, John Paul Davis, per hour (minimum two hour rental)	\$65.00 <u>\$75.00</u>
Rogers Park, per hour (minimum two hour rental)	\$75.00
Set-up and take-down of tables and chairs:	\$25.00

Set-up and take-down is allowed thirty (30) minutes before and after any event.

(11) Showmobile. The following rates will apply to the rental of the city showmobile:

<u>Commercial Daily Rate:</u>	\$300.00 <u>\$500.00</u>
<u>Noncommercial Daily Rate:</u>	<u>\$300.00</u>
If out of city: Plus mileage	\$5.00 per mile
If rented for 10 or more <u>consecutive</u> days, daily rate	\$150.00

← Forma

(1958 Code, sec. 9B-2; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 79-85, sec. 1, adopted 10/9/79; Ordinance 83-121, sec. 1 (exhibit A), adopted 9/27/83; Ordinance 95-60, sec. 1, adopted 9/19/95; Ordinance 99-99, sec. 2, adopted 12/26/99; Ordinance 03-102, sec. 1, adopted 12/9/03; 1978 Code, sec. 20-21; Ordinance 07-055, sec. 7, adopted 5/8/07; Ordinance 08-007, sec. 1, adopted 1/15/08; Ordinance 09-013, sec. 1, adopted 3/24/09; Ordinance 10-044, sec. 1, adopted 6/15/10)

Sec. 14.05.003 Additional Fees ~~Computation of rates for trade shows, exhibitions and sales displays; scope of services provided for fees~~

(a) ~~Rates quoted for trade shows, exhibitions and sales displays are daily and based on net square feet. A set-up and move-out charge will be fifty (50) percent of the daily rental. Facility rentals, used for the setup for an event or for moving out after an event, where the facility is not available for other rentals, will be fifty (50) percent of the contracted rental rate.~~

Forma
pt

(b) ~~All rates include the use of normal janitorial services for one performance per day, heat and air conditioning, overhead illumination and water as installed on the premises. Additional fees may Rates do not include special employees auxiliary labor, food service, license fees, broadcast fees, booth equipment, electrical outlets, set-up and tear down, staging, draping, tables, chairs, and service and any other special equipment necessary for the presentation of a show an event. Arrangements for all special employees-needs must be made with the city manager or his designee.~~

(1958 Code, sec. 9B-4; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; Ordinance 99-99, sec. 3, adopted 12/26/99; 1978 Code, sec. 20-22)

Sec. 14.05.004 ~~Additional charge if broadcast involved~~

~~Every applicant for a lease of any Civic Center facility shall, in such application, state whether he intends to broadcast or telecast any event, program or speech in any Civic Center complex facility. An additional broadcast fee may be charged at the discretion of the city manager or his designee. (1958 Code, sec. 9B-14; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 78-44, sec. 3, adopted 11/11/78; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-23)~~

Sec. 14.05.005 Times of payment of rental and charges

Fifty (50) percent of the total rental is payable at the time of execution of the lease contract of any Civic Center Beaumont Event-facility. The balance of all rentals and fees must be paid seven (7) days prior to the final use of any of the facilities unless authorized by the Director of Event Facilities. If more than one request is received for the same facility on the same date, the city may require full payment in advance upon demand. All payments shall be nonrefundable in the event of cancellation by the

lessee unless authorized by the Director of Event Facilities. Should any lessee fail to make the necessary payments as provided herein, all monies previously paid by the lessee shall become the property of the city and shall not be refunded. (1958 Code, sec. 9B-9; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-24)

Sec. 14.05.006 ~~Food and beverage concessionaire approval~~

Any food and beverage served at the Civic Center, Julie Rogers Theatre, and Jefferson Theatre complex facilities shall be served only by a concessionaire ~~who has been approved by the city or~~ with whom the city has a ~~concession~~ food and beverage contract unless authorized by the Director of Event Facilities. (1958 Code, sec. 9B-6; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-25)

Sec. 14.05.007 ~~Use for convention~~

~~The city manager or his designee may grant permission to use any of the facilities of the Civic Center complex to any corporation, association, club or society during an international, national, state or regional convention, seminar or meeting thereof which is a convention of record as recorded by or in the files of the International Association of Convention Bureaus or with the convention and tourism bureau of the city, in accordance with the rental rates as set out herein. (1958 Code, sec. 9B-7; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; Ordinance 99-99, sec. 4, adopted 12/26/99; 1978 Code, sec. 20-26)~~

Sec. 14.05.008 ~~Bond of commercial user~~

The city may require a bond of any person as a prerequisite to the rental of any Beaumont Event Civic Center complex facility for commercial use if said person has failed to perform in accordance with its contract with any facility in the United States within the last forty-eight (48) months, or has never entered into and performed successfully under a contract with any facility in the United States within the last twelve (12) months. Said bond shall be in a penal amount as determined by the city manager or his designee, and shall guarantee that the principal shall well and faithfully perform every term and condition of his contract lease and shall comply with all the laws of the state and ordinances and regulations of the city. Said bond shall be written by an insurance company licensed to do business in the state and shall be subject to the approval of the city. (1958 Code, sec. 9B-8; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-27)

Sec. 14.05.009 ~~Box office rates fees~~

Box office ~~rates~~ fees shall be as follows:

- (1) Three (3) percent of the gross receipts ~~or a~~ minimum charge of \$150.00;
- (2) Applicable fees associated with credit card usage;
- ~~(3) Ticket sellers on day of event.~~

(1958 Code, sec. 9B-10; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; Ordinance 99-99, sec. 5, adopted 12/26/99; 1978 Code, sec. 20-28; Ordinance 07-055, sec. 8, adopted 5/8/07)

Sec. 14.05.010 Prohibited uses

Any use of the Beaumont Event Civic Center ~~complex~~ facilities which is contrary to the public health, safety, welfare, or morals, or not in the best interest of the city as determined by the city manager or his designee, shall be prohibited, and any contract lease previously executed may be revoked for such cause and any unearned deposits may be refunded. Any performer or any other person whose conduct is disorderly or disruptive to facility use shall be refused entrance or shall be ejected from the premises as necessary. (1958 Code, sec. 9B-11; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-29)

Sec. 14.05.011 Advertising

No person shall advertise a performance or attraction to be held in any Beaumont Event Civic Center ~~complex~~ facility until the contract lease for said facility has been properly executed and all contracts between all parties ~~involved have been executed and exhibited to the director of the event facilities department.~~ All advertisements for performance or attractions for which an admission is to be charged must state the total admission prices. Failure to comply with this section will result in forfeiture of all monies paid the city, and may result in refusal by the city to contract lease any facilities to said person in the future. (1958 Code, sec. 9B-12; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-30; Ordinance 07-055, sec. 9, adopted 5/8/07)

~~**Sec. 14.05.012 Denial of rental request**~~

~~The city manager or his designee may deny rental of any of the facilities for bookings of a similar nature in the same promotional period of time. (1958 Code, sec. 9B-12; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-31; Ordinance 07-055, sec. 10, adopted 5/8/07)~~

10/23/2014

Sec. 14.05.013 Promulgation of rules, regulations and documents; execution of documents

The city manager is hereby authorized to promulgate rules, regulations and rental documents concerning the use and operation of the ~~Civic Center complex~~. Beaumont Event facilities. The city manager or his designee is hereby authorized to execute all documents necessary for the rental or ~~lease contract~~ of the ~~Civic Center complex~~ Beaumont Event facilities. (1958 Code, sec. 9B-15; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-32)

Draft

ARTICLE 14.05 CIVIC CENTER COMPLEX

Sec. 14.05.001 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

All day. Use of a facility from 8:00 am until 12:00 am

Beaumont Event Facilities. Beaumont Civic Center, Julie Rogers Theatre, Jefferson Theatre, Event Centre, Great Lawn, , Riverfront Park, Alice Keith Park Community Center, Rogers Park Community Center, John Paul Davis Community Center, Central Park Community Center and grounds contiguous to those facilities.

Commercial event. Any event hosted by a for-profit organization or business.

Gross receipts. All monies received from the sale of tickets.

Noncommercial event. An event contracted by any of the following organizations or individuals:

- (1) nonprofit civic organizations;
- (2) nonprofit fraternal organizations;
- (3) nonprofit educational institutions;
- (4) nonprofit religious organizations;
- (5) charitable organizations;
- (6) individuals sponsoring weddings, birthdays, and all other private events as determined by the Director of Event Facilities.

Rental: Actual day of event (does not include rehearsal, move-in, or move-out).

(1958 Code, sec. 9B-1; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; Ordinance 99-99, sec. 1, adopted 12/26/99; 1978 Code, sec. 20-20; Ordinance 07-055, sec. 6, adopted 5/8/07)

Sec. 14.05.002 Use rate schedule

The following rates will apply to the use of Beaumont Event Facilities:

(1) Civic Center

(A) Commercial: Minimum rental shall be two-thousand (\$2,000.00) dollars per day (8:00 am - 12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rate shall first be approved by the city manager.

(B) Noncommercial: Minimum rental shall be one-thousand five hundred (\$1,500.00) dollars per day (8:00 am - 12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rate shall first be approved by the city manager.

(2) Auxiliary Meeting Spaces in the Civic Center

(A) Commercial/Noncommercial:

(i) Hourly (minimum two hour rental), per space: \$100 per hour

(3) Julie Rogers Theatre

(A) Commercial: Minimum rental shall be one-thousand two hundred (\$1,200.00) dollars per day (8:00 am - 12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.

(B) Noncommercial: Minimum rental shall be one-thousand (\$1,000.00) dollars per day (8:00 am - 12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rate shall first be approved by the city manager.

(4) Auxiliary Meeting Spaces in the Julie Rogers Theatre

(A) Commercial/Noncommercial:

(i) Hourly (minimum two hour rental) per space: \$100 per hour

(5) Jefferson Theatre.

(A) Commercial: Minimum rental shall be one-thousand (\$1,000.00) dollars per day (8:00 am - 12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.

(B) Noncommercial: Minimum rental shall be eight hundred (\$800.00) dollars per day (8:00 am - 12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rate shall first be approved by the city manager.

(6) Auxiliary Meeting Spaces in the Jefferson Theatre

(A) Commercial/Noncommercial

(i.) Hourly (minimum two hour rental) per space: \$100 per hour

(7) Event Centre

(A) Commercial: Minimum rental shall be one-thousand five hundred (\$1,500.00) dollars per day (8:00 am - 12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rental shall be approved by the city manager.

(B) Noncommercial (minimum rental): In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Minimum rate may be negotiated if an organization leases the facility ten (10) or more dates within a calendar year. Any deviation from minimum rental shall first be approved by the city manager.

(i) Matinee (8:00 am - 3:00 pm): \$500.00

(iii) All day (8:00 am - 12:00 am): \$1,200.00

(C) Meeting:

(i) Hourly (minimum two hour rental between 8:00 am and 5:00 pm): \$100 per hour

(8) Great Lawn.

In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.

(A) Commercial: All day (8:00 am - 12:00 am): \$1,000.00

(B) Noncommercial: All day (8:00 am - 12:00 am): \$500.00

(9) Riverfront Park

(A) Commercial: Minimum rental shall be one-thousand (\$1,000.00) dollars. In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rental shall first be approved by the city manager.

(B) Noncommercial: Minimum rental shall be one five hundred (\$500.00) dollars per day (8:00 am - 12:00 am). In consideration for city participation in furnishing facilities and other assistance, additional rates or fees may be negotiated. Any deviation from minimum rental shall be approved by the city manager.

(10) Community Centers

Alice Keith, per hour (minimum two hour rental) \$75.00

Central Park, per hour (minimum two hour rental) \$75.00

John Paul Davis, per hour (minimum two hour rental) \$75.00

Rogers Park, per hour (minimum two hour rental) \$75.00

Set-up and take-down of tables and chairs: \$25.00

Set-up and take-down is allowed thirty (30) minutes before and after any event.

(11) Showmobile

Commercial Daily Rate:	\$500.00
Noncommercial Daily Rate:	\$300.00
If rented for 10 or more consecutive days, daily rate	\$150.00

(1958 Code, sec. 9B-2; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 79-85, sec. 1, adopted 10/9/79; Ordinance 83-121, sec. 1 (exhibit A), adopted 9/27/83; Ordinance 95-60, sec. 1, adopted 9/19/95; Ordinance 99-99, sec. 2, adopted 12/26/99; Ordinance 03-102, sec. 1, adopted 12/9/03; 1978 Code, sec. 20-21; Ordinance 07-055, sec. 7, adopted 5/8/07; Ordinance 08-007, sec. 1, adopted 1/15/08; Ordinance 09-013, sec. 1, adopted 3/24/09; Ordinance 10-044, sec. 1, adopted 6/15/10)

Sec. 14.05.003 Additional Fees

Facility rentals, used for the setup for an event or for moving out after an event, where the facility is not available for other rentals, will be fifty (50) percent of the contracted rental rate.

(b) Additional fees may include auxiliary labor, food service, license fees, broadcast fees, booth equipment, electrical outlets, set-up and tear down, staging, draping, tables, chairs, and service and any other special equipment necessary for the presentation of an event. Arrangements for all special needs must be made with the city manager or his designee.

(1958 Code, sec. 9B-4; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; Ordinance 99-99, sec. 3, adopted 12/26/99; 1978 Code, sec. 20-22)

Sec. 14.05.005 Times of payment of rental and charges

Fifty (50) percent of the total rental is payable at the time of execution of the contract of any Beaumont Event facility. The balance of all rentals and fees must be paid seven (7) days prior to the final use of any of the facilities unless authorized by the Director of Event Facilities. If more than one request is received for the same facility on the same date, the city may require full payment in advance upon demand. All payments shall be nonrefundable in the event of cancellation by the lessee unless authorized by the Director of Event Facilities. Should any lessee fail to make the necessary payments as provided herein, all monies previously paid by the lessee shall become the property of the city and shall not be refunded. (1958 Code, sec. 9B-9; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-24)

Sec. 14.05.006 Food and beverage

Any food and beverage served at the Civic Center, Julie Rogers Theatre, and Jefferson Theatre shall be served only by a concessionaire with whom the city has a food and beverage contract unless authorized by the Director of Event Facilities. (1958 Code, sec. 9B-6; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-25)

Sec. 14.05.008 Bond of commercial user

The city may require a bond of any person as a prerequisite to the rental of any Beaumont Event facility for commercial use if said person has failed to perform in accordance with its contract with any facility in the United States within the last forty-eight (48) months, or has never entered into and performed successfully under a contract with any facility in the United States within the last twelve (12) months. Said bond shall be in a penal amount as determined by the city manager or his designee, and shall guarantee that the principal shall well and faithfully perform every term and condition of his contract and shall comply with all the laws of the state and ordinances and regulations of the city. Said bond shall be written by an insurance company licensed to do business in the state and shall be subject to the approval of the city. (1958 Code, sec. 9B-8; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-27)

Sec. 14.05.009 Box office fees

Box office fees shall be as follows:

- (1) Three (3) percent of the gross receipts or a minimum charge of \$150.00;
- (2) Applicable fees associated with credit card usage;

(1958 Code, sec. 9B-10; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; Ordinance 99-99, sec. 5, adopted 12/26/99; 1978 Code, sec. 20-28; Ordinance 07-055, sec. 8, adopted 5/8/07)

Sec. 14.05.010 Prohibited uses

Any use of the Beaumont Event facilities which is contrary to the public health, safety, welfare, or morals, or not in the best interest of the city as determined by the city manager or his designee, shall be prohibited, and any contract previously executed may be revoked for such cause and any unearned deposits may be refunded. Any performer or any other person whose conduct is disorderly or disruptive to facility use shall be refused entrance or shall be ejected from the premises as necessary. (1958 Code, sec. 9B-11;

Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code. sec. 20-29)

Sec. 14.05.011 Advertising

No person shall advertise a performance or attraction to be held in any Beaumont Event facility until the contract for said facility has been properly executed and all contracts between all parties. Failure to comply with this section will result in forfeiture of all monies paid the city, and may result in refusal by the city to contract any facilities to said person in the future. (1958 Code, sec. 9B-12; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-30; Ordinance 07-055, sec. 9, adopted 5/8/07)

Sec. 14.05.013 Promulgation of rules, regulations and documents; execution of documents

The city manager is hereby authorized to promulgate rules, regulations and rental documents concerning the use and operation of the Beaumont Event facilities. The city manager or his designee is hereby authorized to execute all documents necessary for the rental or contract of the Beaumont Event facilities. (1958 Code, sec. 9B-15; Ordinance 76-74, sec. 1, adopted 6/22/76; Ordinance 83-121, sec. 1, adopted 9/27/83; 1978 Code, sec. 20-32)

October 28, 2014

Consider a resolution authorizing the settlement of the lawsuit styled Joseph W. White vs. City of Beaumont, Texas and Officer Chase Welch; Case No. 1:14-cv-00082



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Tyrone E. Cooper, City Attorney

MEETING DATE: October 28, 2014

REQUESTED ACTION: Council consider a resolution authorizing the settlement of the lawsuit styled Joseph W. White vs. City of Beaumont, Texas and Officer Chase Welch; Case No. 1:14-cv-00082.

BACKGROUND

This matter was presented and discussed in Executive Session held on October 28, 2014. The City Attorney is requesting authority to settle this suit.

FUNDING SOURCE

General Liability Fund.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, the lawsuit styled Joseph W. White vs. City of Beaumont, Texas and Officer Chase Welch, Case No. 1:14-cv-00082, discussed in Executive Session properly called and held Tuesday, October 28, 2014; and,

WHEREAS, the City Attorney is requesting authority to settle this lawsuit;

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 Attorney be, and he is hereby, authorized to settle the lawsuit styled Joseph W. White vs. City of Beaumont, Texas and Officer Chase Welch, Case No. 1:14-cv-00082, for the sum of _____ Dollars (\$_____); and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute all necessary documents related to the settlement of the lawsuit.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of October, 2014.

- Mayor Becky Ames -