



**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS DECEMBER 15, 2015 1:30 P.M.**

CONSENT AGENDA

- * Approval of minutes – December 8, 2015
- * Confirmation of committee appointments

Lauren Williams-Mason who was appointed to the Planning and Zoning Commission on December 8, 2015 will be removed and replaced by Sherrene Cook. The term would commence December 15, 2015 and expire September 30, 2017. (Councilmember Claude Guidroz)

Glen Rabalais would be appointed to the Community Development Advisory Committee. The term would commence December 15, 2015 and expire September 30, 2017. (Councilmember Claude Guidroz)

- A) Approve the granting of a Pipeline License Agreement with Natgasoline, LLC
- B) Authorize the acceptance of a ten foot wide Exclusive Water Line Easement located at 3955 Eastex Freeway
- C) Authorize the execution of a License to Encroach Agreement with Mark Fertita, owner of Madison Plaza, LP located at 6755 Phelan Boulevard
- D) Authorize the execution of a License to Encroach Agreement with Enterprise Logistic Services, LLC located at 6375 Walden Road
- E) Authorize the City Manager to execute an assignment agreement to the current Fixed Base Operator's (FBO) contract at the Beaumont Municipal Airport to BMT Wings, LLC
- F) Authorize the City Manager to apply for and accept grant funding through the 2016 Entergy Environment Initiatives Fund
- G) Authorize the City Manager to execute Industrial District Agreements with Koch Fertilizer, LLC and Koch Nitrogen International Sarl for inventory held offsite within the extraterritorial jurisdiction
- H) Authorize the City Manager to execute an Industrial District Contract with ExxonMobil Oil Corporation for inventory held offsite within the extraterritorial jurisdiction

- I) Authorize the City Manager to execute a fire service agreement with International Brotherhood of Electrical Workers
- J) Authorize a one year contract with the Greater Beaumont Chamber of Commerce for the period of January 1, 2016 through December 31, 2016
- K) Authorize the City Manager to execute a License Agreement between Inspire Encourage Achieve (IEA) and the Beaumont Police Department

RESOLUTION NO.

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

THAT Lauren Williams-Mason will be removed from the Planning and Zoning Commission and replaced by Sherrene Cook on the Planning and Zoning Commission. The term will commence December 15, 2015 and expire September 30, 2017.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the following appointment be made:

<u>Appointment</u>	<u>Commission</u>	<u>Beginning of Term</u>	<u>Expiration of Term</u>
Glen Rabalais	Community Development Advisory Committee	12/15/2015	09/30/2017

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of
December, 2015.

- Mayor Becky Ames -



TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing the granting of one Pipeline Agreement within the City of Beaumont.

BACKGROUND

Natgasoline, LLC has requested permission to install a 30” raw water pipeline which will cross an existing 12” City water line within TXDOT’s Right-of-Way located at MLK/Spur 380. Also, the proposed pipeline will cross an existing 6” City water line and a 4” City sewer force main line within TXDOT’s Right-of-Way located at Highway 69 and Texas Highway 347. The proposed pipeline will receive water from the LNVA canal and transport water to the new methanol plant facility. The pipeline will be constructed in accordance with City requirements.

There is a one-time fee of \$500 for each Pipeline License Agreement.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

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

THAT the City Manager be and he is hereby authorized to grant a Pipeline License Agreement to Natgasoline, LLC, substantially in the form attached hereto as Exhibit "A," to install a thirty inch (30") raw water pipeline which will cross an existing twelve inch (12") water line within TxDOT's Spur 380 (Martin Luther King Jr. Parkway) right-of-way and an existing six inch (6") water line and a four inch (4') sewer force main line within TxDOT's Highway 69 and Texas Highway 3457 right-of-way for the purpose of receiving water from the LNVA canal and transporting water to the new methanol plant facility. The pipeline is to be constructed in compliance with City requirements.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

COST OF LICENSE:

Licensee shall make payment to the City of Beaumont as follows:

- License Agreement fee - \$500.00
- Annual fee of \$2.25 per linear foot of pipeline located within City property. Said fee shall be reset on January 31, 2011 and shall be reset every ten (10) years, thereafter, to a level to be determined by the City Council or their delegated representative.

All fees, including the first annual fee for linear foot usage shall be made to the Engineering Division and payable to the City of Beaumont prior to construction.

This license is granted by the City of Beaumont subject to conditions. Failure to comply with the following may result in termination of agreement (see page 8).

GENERAL CONDITIONS:

- Licensee does not intend to sell product for resale from the covered pipeline to customers located within the City; however, Licensee recognizes that should it sell product for resale from this covered pipeline to customers within the City, it will be required to report such distribution and when lawfully required to do so, pay a street rental fee based on revenues. The annual fee and the regulations controlling the payment of such fee will be those as lawfully established by the ordinances of the City.
- All pipelines crossing public rights-of-way shall be bored from right-of-way line to right-of-way line. Within these limits, the pipeline shall be protected by casing or other method approved by the City and/or the Texas Department of Transportation.
- The pipeline shall be constructed in such a manner as approved by the City so as it does not interfere with the use of the City property.

- The pipeline shall be installed a minimum of five (5) feet below the lowest existing or proposed ditch grades, waterlines, sanitary sewer lines or storm drainage lines, unless otherwise authorized by the City and/or Texas Department of Transportation. Such grades and lines shall be indicated on map submittal, as well as depth of proposed pipeline (see page 4).

The construction and operation of the pipeline shall not interfere with the natural drainage in that area nor with the drainage system of the City, nor with sanitary sewer lines, waterlines, or other utilities.

Damage to existing ditch grade during construction or maintenance of the pipeline shall be corrected and the ditch grade shall be restored to the condition and grade at which it existed prior to construction or maintenance. Bore pits shall be backfilled according to City standards.

- Excavations necessary for the construction, repair, or maintenance of the pipeline shall be performed in such a manner that will cause minimal inconvenience to the public. Licensee shall promptly restore the area to as good a condition as before working thereon and to the reasonable satisfaction of the City's Engineering Division and/or the Texas Department of Transportation.
- Operations along roadways shall be performed in such a manner that all excavated materials will be kept off the pavements at all times, as well as all operating equipment and materials. All property where operations are performed will be restored to original condition or better. No equipment or installation procedures will be used which will damage any road surface or structures. The cost of any repairs to road surface, roadbed, structures or other right-of-way features as a result of this installation will be borne by the owner of this line.
- Barricades, warning signs and lights, and flagpersons shall be provided by the contractor or owner when necessary. Only under extreme circumstances, as deemed necessary by the City Engineer, will open cutting of a street or roadway be allowed. All barricading must be by permit and approved by the City (Public Works Department) in advance.
- Any construction which takes place in, on under, above, or across property not owned by the City shall require additional permission by the owner(s) of the property involved. Written proof of said permission is to be provided to the City as part of the application process. Approval of this license agreement excludes permission to do any construction on property which is not owned by the City of Beaumont.

- Any licenses, permits or agreements required by another governmental entity (County, State or Federal) shall be obtained and a copy of such document shall be provided to the City.
- If agreement is not required by said governmental entity, then documentation regarding such will be provided to the City of Beaumont.
- Licensee shall provide copies of all necessary agreements to be obtained from other City Departments.
 - Licensee shall be responsible for acquiring all agreements necessary for the lawful use of any private property.
 - A map showing the location of the proposed pipeline shall be provided. (1"=2,000' City of Beaumont map or United States Geological Survey Map)
 - The pipeline shall be maintained and operated in such a manner as not to leak and/or cause damage to any City streets, alley, easements or other property. Once the pipeline is in operation, any damage that occurs to the pipeline which results in exposure or release of product must be reported **immediately to the City Fire Department and Public Work's Department**. Licensee shall fully cooperate with the Fire Department and provide, or assist with providing, any and all necessary notifications, evacuations or other necessary actions. Leaks or other defects are to be repaired immediately by Licensee at its own cost.
 - The Licensee shall be responsible for the cleanup and remediation of contaminated areas due to exposure or release of product and any and all costs associated with said cleanup and remediation.
 - The Licensee shall be responsible for any and all costs associated with the relocation of the pipeline. As provided, the necessity for relocation of the pipeline shall be solely within the discretion of City and/or the Texas Department of Transportation.
 - Permits which allow lines to be maintained or constructed in City right-of-way shall be obtained by Licensee or its contractor prior to beginning maintenance or construction. The fee for such permits is in addition to this License Agreement fee. (See Cost of License)
 - Installation will be done in accordance with all City standards and statutes of the State of Texas.

REQUIRED COVERAGE:

- Licensee shall furnish the City with a Certificate of Standard Liability Insurance, including bodily injuries and property damage, naming the City of Beaumont as an Additional Insured. Such policy shall provide for the following minimum coverage:

- Bodily injuries: **\$ 300,000.00** per person
 \$1,000,000.00 per incident

- Property Damage: **\$1,000,000.00**

Such insurance shall be maintained in force and effect during the construction or required maintenance of the pipeline and during the life of the pipeline.

Such certificate shall contain a provision that at least fifteen (15) days written notice must be given to the City prior to cancellation, alteration, or modification of such insurance.

- Licensee shall have in force with the City a surety bond in the principal amount of **\$1,000,000.00**. The bond shall be payable to the City of Beaumont for the use and benefit of any person entitled thereto and conditioned that the principal and surety will pay all damages to any person caused by, or arising from, or growing out of any violation of the terms of this agreement. The bond shall provide that it may not be cancelled, altered, or otherwise modified without giving fifteen (15) days prior written notice to the City. The bond shall be good and in effect for a period of one (1) year from the date of completion of construction of the pipeline.
- Licensee shall indemnify, save and hold harmless the City of Beaumont from any and all claims for injuries and damages to persons or property occasioned by or arising out of the construction, maintenance, operation, repair or removal of the pipeline. This indemnity expressly extends to claims alleging negligence by the City of Beaumont, its agents, officers or employees, arising from actions taken or occurrences under this license agreement.
- If the pipeline or any part thereof installed by Licensee shall be in any respect damaged or injured by City or any of its agents or employees in connection with the performance of any work or repairs that may be done upon the property mentioned herein:

Licensee shall not be entitled to prosecute or maintain a claim against the City of Beaumont for any such damage or injuries so sustained by it; however, said conditions shall not prevent Licensee from recovering against any contractor who shall damage Licensee's property in the course of such contractor's performance of any contract with the City.

OTHER CONSTRUCTION/MAINTENANCE WITHIN R.O.W.:

- o City will use its best efforts to notify Licensee of any proposed construction and/or maintenance, to be done by City forces or by contract for the City, within the R.O.W. involved with this license.

Notification, to Licensee, of other construction and/or maintenance permitted by the City and within the R.O.W. involved with this license will be the responsibility of the company obtaining said permit.

Licensee shall mark the location of its lines within forty-eight (48) hours after receipt of such notification of proposed construction.

Licensee shall maintain a local, or toll free, telephone number to be called for notification of construction or maintenance and for location of lines. Such number, or charges to such number, will be provided to the City (Department of Public Works) and kept current at all times. This number shall be provided to entities permitted to construct, maintain or excavate within this City R.O.W. and which are required to provide notification of such work. When information has been relayed to Licensee, through the phone number provided, such contact shall constitute notification for Licensee to provide location of its lines. Failure, by Licensee, to respond within the required time frame shall alleviate the responsibility of the person(s) requiring the lines to be relocated.

- o City reserves the right to lay, and to permit to be laid, sewer, gas, water and other pipes and cables, and to do or permit to be done any underground work that may be deemed to be necessary or proper by City in, across, along, or under any of the streets, alleys and easements, and to change any curb or sidewalk or the grade of any said streets. In doing or permitting any such work, the City of Beaumont shall not be liable to Licensee for any damage occasioned; it being understood that nothing herein shall be construed as foreclosing Licensee's rights to recover damages against any contractor or third party who may be responsible for damages to Licensee's facilities.

- Whenever by reason of the change in the grade of any street occupied by Licensees' pipeline or construction of a new street or highway along or over said street, or by reason of the location or manner of constructing drainage structures, water pipes, gas pipes, sewers, or other underground construction for any purpose whatever, it shall be deemed necessary by City to relocate, alter, encase, change, adopt or conform the pipeline of Licensee thereto, such change shall be made promptly by Licensee at its cost and without claim for reimbursement or damages against City. If the change is demanded by the City for the benefit of any other person or private corporation, except the City or the Texas Department of Transportation, Licensee shall be reimbursed fully by the person or corporation desiring or occasioning such change for any expense arising out of such change; provided, however, should the change be requested by the Texas Department of Transportation or be required due to construction of a state or federal highway, Licensee will, upon notice from the City, make such change immediately and at its own cost; it being understood that City will not participate in any part of the cost of any change involving relocation, altering, encasing, boring, or changing in any manner of the pipeline where same is in a City street, alley, easement or other right-of-way.

NOTIFICATION/INSPECTION:

- Any and all work to be performed on City right-of-way (R.O.W.) shall be observed and inspected by a City representative. Any work to be performed within the City limits will be subject to periodic inspection to ensure compliance with construction standards.
- Licensee shall provide the City (Public Works Department - Engineering Division) twenty-four (24) hours prior to the installation of the lines permitted by this license. Licensee shall also notify the City twenty-four (24) hours prior to any street or R.O.W. crossing. A representative will be scheduled to be present. The expense of such inspection services may be billed to the Licensee and such amounts will be reimbursed to the City.
- Licensee shall notify the Engineering Division at least forty-eight (48) hours prior to completion of work and removal of equipment from the job site to permit the City to make an inspection.

SPECIAL CONDITIONS:

Nonassignable

This license is personal to the Licensee. It is nonassignable and any attempt to assign this license will terminate the license privileges granted to Licensee hereunder.

Termination

This agreement is subject to termination by the City if any condition specified herein is not met. This agreement may also be terminated by the Licensee. Either party attempting to terminate this agreement shall give written notice to the other specifying the date of, and the reason for, termination. Such notice shall be given not less than thirty (30) days prior to the termination date therein specified. Any written notice may be effected either by personal delivery or by registered or certified mail, postage prepaid with return receipt requested. Mail notices shall be addressed to the addresses of the parties as follows:

City of Beaumont	Name of Licensee: <u>Natgasoline LLC</u>
P.O. Box 3827 Beaumont, Texas 77704	Address of Licensee: <u>P. O. Box 20339</u>
Attn: City Manager	City and State of Licensee: <u>Beaumont, Texas 77720</u>

Upon cancellation, the pipeline shall be removed and property restored to a condition acceptable to the City Engineer. In the event of cancellation, any and all monies collected for fees associated with this agreement will remain the property of the City. There will be no reimbursements.

Commencement of work on the pipeline by Licensee after the date of this fully executed license shall be construed as evidence of Licensee's acceptance and approval of the conditions above set forth.

IN WITNESS WHEREOF, the City of Beaumont, Texas, has caused these presents to be signed by its City Manager and the seal of the City to be herewith affixed by the City Clerk, this ____ day of _____, A.D. 20____.

CITY OF BEAUMONT, TEXAS

By: _____
Kyle Hayes, City Manager

ATTEST:

City Clerk

APPLICANT'S COMPANY NAME:
(Licensee)

Natgasoline LLC

Represented by:

Bashir Uerada, BASHIR UERADA
VICE - PRESIDENT

Title

ATTEST:

By: KSJ
Secretary, Kevin Struve

JEFFERSON COUNTY, TEXAS

P Humphries Survey, A-32



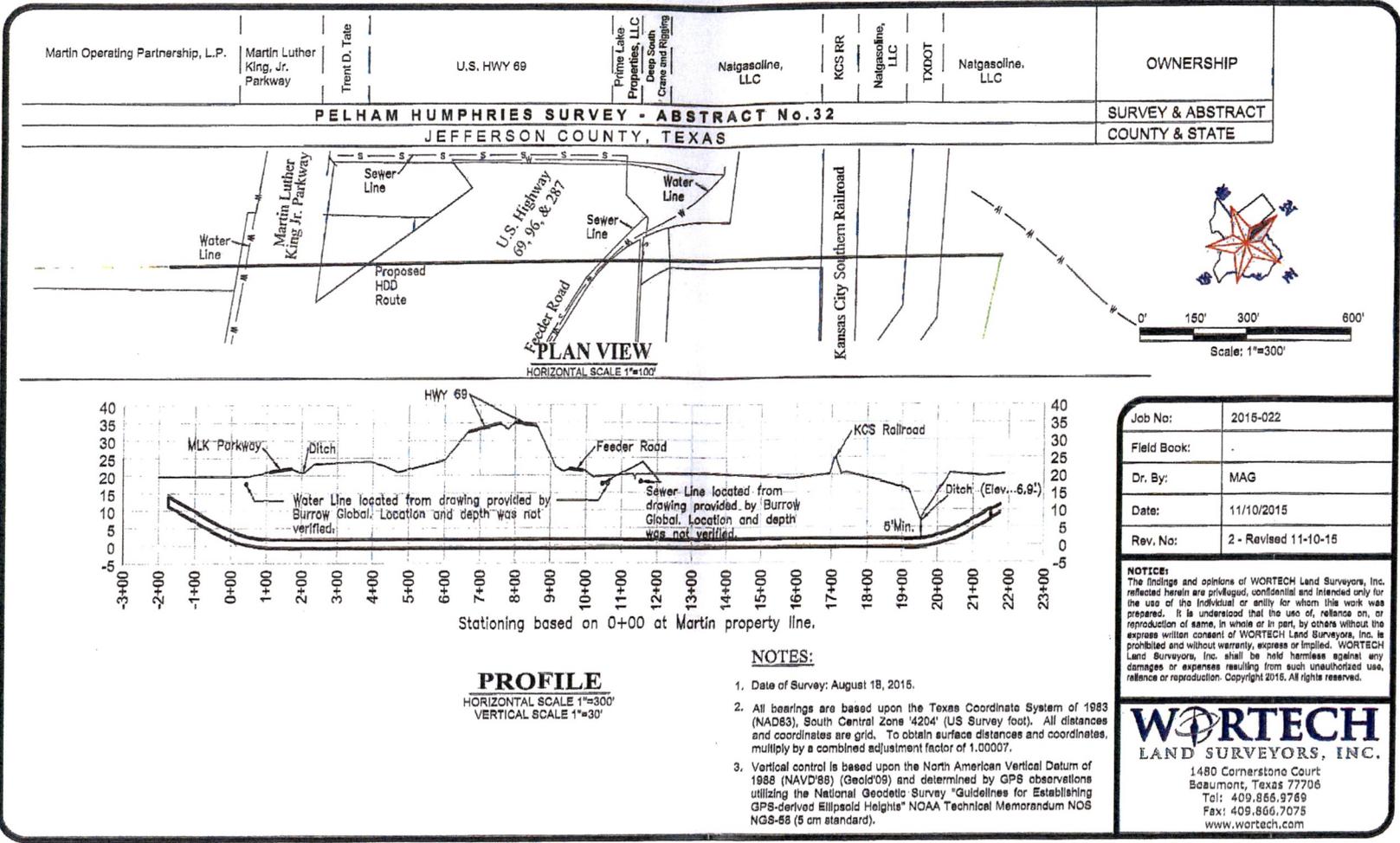
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Job No:	2015-022
Field Book:	
Dr. By:	TEC
Date:	10/27/2015
Rev. No:	0 - Final Issue 10/28/15

WORTECH
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**Vicinity Map for the City of Beaumont
Proposed Pipeline Crossing at
Highway 69/96/287 &
Martin Luther King Jr. Parkway
Pelham Humphries Survey, Abstract No. 32
Jefferson County, Texas**

EXHIBIT 'A'



Job No:	2015-022
Field Book:	
Dr. By:	MAG
Date:	11/10/2015
Rev. No:	2 - Revised 11-10-15

NOTICE:
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www.wortech.com

EXHIBIT 'A'



TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

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

BACKGROUND

SETCRE96, LP has agreed to convey a ten foot (10') wide exclusive Water Line Easement to the City of Beaumont. The easement is described as being a 0.1840 acre tract out of the A. Williams League, Abstract No. 385. The water line easement is for the construction of a new auto dealership located at 3955 Eastex Freeway.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, SETCRE96, LP has agreed to convey a ten foot (10') wide exclusive water line easement, said easement being a 0.1840 acre tract out of the A. Williams League, Abstract No. 385, as described in Exhibit "1" and shown on Exhibit "2," attached hereto, to the City of Beaumont for the purpose of constructing a new auto dealership located at 3955 Eastex Freeway; and,

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

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

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

THAT a ten foot (10') wide exclusive water line easement conveyed by SETCRE96, LP, being a 0.1840 acre tract out of the A. Williams League, Abstract No. 385, as described in Exhibit "1" and shown on Exhibit "2," attached hereto, be and the same is hereby, in all things, accepted for the stated purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

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

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

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

EXECUTED this _____ day of _____, 2015.

GRANTOR:
SETCRE96, LP

By: _____

Printed Name: Jason Kuchera

Title: _____

EXHIBIT "A"

Exclusive Water Line Easement

Legal Description: 0.1840 Acre Exclusive Water Line Easement
A. Williams League, Abstract No. 385
Jefferson County, Texas

BEING a 0.1840 acre exclusive water line easement situated in the A. Williams League, Abstract No. 385, Jefferson County, Texas and being out of and part of that certain called 11.275 acre tract of land as described in a "Special Warranty Cash Deed" from Victor J. Rogers to SETCRE96, L.P. as recorded in Clerk's File No. 2003052122, Official Public Records of Real Property, Jefferson County, Texas, said 0.1840 acre exclusive water line easement being more particularly described as follows:

NOTE: All bearings are referenced to the West line of that certain called 11.275 acre tract of land as recorded in Clerk's File No. 2003052122, Official Public Records of Real Property, Jefferson County, Texas as NORTH 01°22'58" WEST.

BEGINNING at a concrete monument with a Kohler disk found for the most Westerly corner of the said 11.275 acre SETCRE96, L.P. tract, said corner also being the Southerly corner of that certain called 2.125 acre tract of land as described in a "General Warranty Deed With Assumption" from John D. Turnbow and wife, Linda M. Turnbow to San Properties, LTD. as recorded in Clerk's File No. 98-9839987, Official Public Records of Real Property, Jefferson County, Texas, and said corner also being the most Southerly Northeast corner of that certain called 0.251 acre tract of land as described in a "General Warranty Deed" from Ben J. Rogers, Trustee to the City of Beaumont as recorded in Clerk's File No. 102-16-1510, Official Public Records of Real Property, Jefferson County, Texas, also known as Folsom Drive;

THENCE NORTH 88°37'02" EAST, over and across the said 11.275 acre SETCRE96, L.P. tract, for a distance of 10.00 feet to a point for corner;

THENCE SOUTH 01°22'58" EAST, continuing over and across the said 11.275 acre SETCRE96, L.P. tract, for a distance of 204.03 feet to a point for corner;

THENCE NORTH 88°49'38" EAST, continuing over and across the said 11.275 acre SETCRE96, L.P. tract, for a distance of 115.13 feet to a point for corner;

THENCE NORTH 43°49'38" EAST, continuing over and across the said 11.275 acre SETCRE96, L.P. tract, for a distance of 397.84 feet to a point for corner;

THENCE NORTH 37°41'06" EAST, continuing over and across the said 11.275 acre SETCRE96, L.P. tract, for a distance of 69.91 feet to a point for corner, said corner being in the Northeasterly line of the said 11.275 acre SETCRE96, L.P. tract and being in the Southwesterly right-of-way line of U.S. Highway 69,96 and 287;

THENCE SOUTH 46°05'40" EAST, along and with the Southwesterly right-of-way line of U.S. Highway 69, 96 and 287, for a distance of 10.06 feet to a point for corner;

THENCE SOUTH 37°41'06" WEST, over and across the said 11.275 acre SETCRE96, L.P. tract, for a distance of 69.35 feet to a point for corner;

THENCE SOUTH 43°49'38" WEST, continuing over and across the said 11.275 acre SETCRE96, L.P. tract, for a distance of 402.52 feet to a point for corner;

THENCE SOUTH 88°49'38" WEST, continuing over and across the said 11.275 acre SETCRE96, L.P. tract, for a distance of 129.24 feet to a point for corner, said corner being in the Westerly line of the said 11.275 acre SETCRE96, L.P. tract, and being in the Easterly line of that certain tract of land as described in a "Special Warranty Deed" from M.A. Phelan, Trustee and Johannah Phelan to Ben J. Compagno and Deborah E. Compagno as Trustees of the Compagno Family Trust as recorded in Clerk's File No. 2005042229, Official Public Records of Real Property, Jefferson County, Texas;

THENCE NORTH 01°22'58" WEST, for the boundary between the said 11.275 acre SETCRE96, L.P. tract and the said Ben J. Compagno tract, for a distance of 213.99 feet to the **POINT OF BEGINNING** and containing 0.1840 Acres, more or less.

Easement prepared based on a survey performed by Mark W. Whiteley and Associates dated June 27, 2014. This legal description is being submitted along with a plat based on this survey (see EXHIBIT "B")



11/5/15



Thomas S. Rowe, RPLS No. 5728

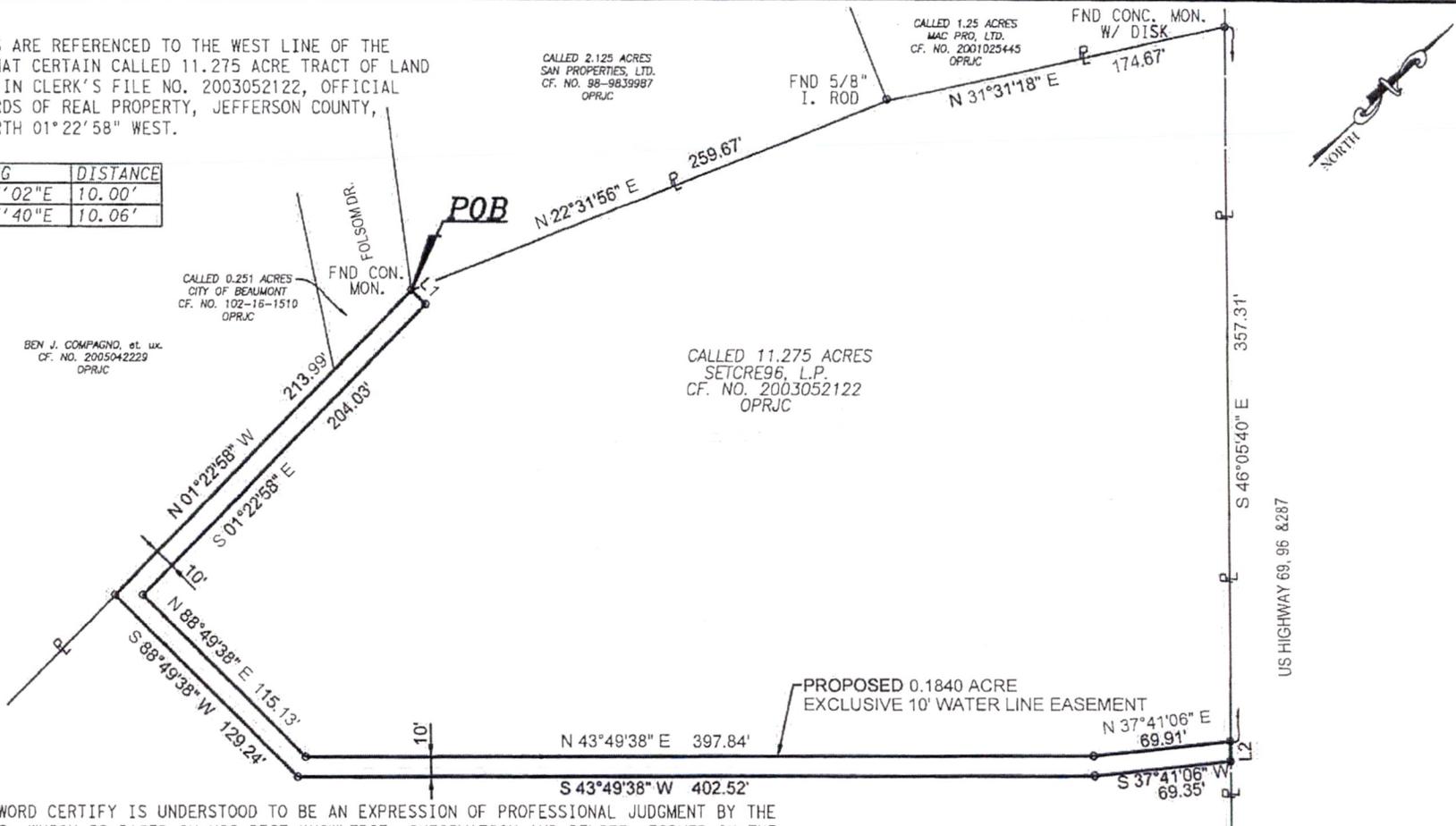
TBPLS Firm No. 10106700

W:\2014-14-619\Water Line Easement\14-619 Water Line Easement m&b.doc

NOTE:

ALL BEARINGS ARE REFERENCED TO THE WEST LINE OF THE REMAINDER THAT CERTAIN CALLED 11.275 ACRE TRACT OF LAND AS RECORDED IN CLERK'S FILE NO. 2003052122, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, JEFFERSON COUNTY, TEXAS AS NORTH 01°22'58" WEST.

LINE	BEARING	DISTANCE
L1	N88°37'02"E	10.00'
L2	S46°05'40"E	10.06'



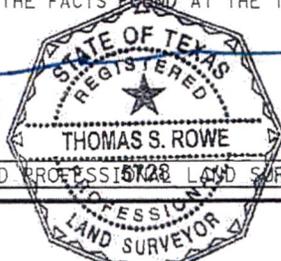
NOTE:

1. THE WORD CERTIFY IS UNDERSTOOD TO BE AN EXPRESSION OF PROFESSIONAL JUDGMENT BY THE SURVEYOR, WHICH IS BASED ON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, FORMED IN THE COURSE OF HIS PERFORMING THE SURVEY IN COMPLIANCE WITH THE STANDARDS OF PRACTICE REQUIRED AND PROMULGATED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS AND THE TEXAS SOCIETY OF PROFESSIONAL SURVEYORS. AS SUCH, IT CONSTITUTES NEITHER A GUARANTEE NOR A WARRANTY, EXPRESSED OR IMPLIED.
2. EASEMENT PREPARED BASED ON A SURVEY PERFORMED BY MARK W. WHITELEY AND ASSOCIATES DATED JUNE 27, 2014.

TO THE OWNERS OF THE PREMISES SURVEYED AS OF THE DATE OF THE SURVEY:

I, THOMAS S. ROWE DO HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE SURFACE OF THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THE SURVEY.

Thomas S. Rowe
11/5/15



THOMAS S. ROWE - REGISTERED PROFESSIONAL LAND SURVEYOR No. 5728

EXHIBIT "B"
REFER TO EXHIBIT "A"
FOR LEGAL DESCRIPTION

CLASSIC KIA SALES & SERVICE FACILITY

DR BY: ZTR	SCALE: 1"=80'	SHEET No.: 1
VER: ACAO 2015	FILE: W:\2014\14-619\14-619 Waterline Easement.dwg	REV: 0
JOB NO. 14-619		

MARK W. WHITELEY AND ASSOCIATES INCORPORATED
CONSULTING ENGINEERS, SURVEYORS, AND PLANNERS
Texas Registered Engineering Firm F-2633

P. O. BOX 5492
BEAUMONT, TEXAS 77705-0492
409-862-0421

3250 EASTEE PKWY.
BEAUMONT, TEXAS 77705
(FAX) 409-862-1348

0.1840 ACRE
EXCLUSIVE WATER
LINE EASEMENT
A. WILLIAMS LEAGUE
ABSTRACT NO. 385
JEFFERSON COUNTY
TEXAS

EXHIBIT "2"



TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing the execution of a License to Encroach Agreement with Mark Fertitta, owner of Madison Plaza, LP.

BACKGROUND

There is one (1) existing structure located at 6755 Phelan Boulevard encroaching onto a ten foot (10') utility easement in Lot 2A and part of Lot 3A, Amended Plat of Calder Woods. The structure encroaches 0.23' to 1.72'.

The request from Mark Fertitta, the owner of the structure, was submitted to all city departments and utility companies with no objections. The City Utilities Department approved the license to encroach with the following conditions:

The City has an existing six inch (6") water line within the ten foot (10') utility easement. The City of Beaumont will not be responsible for any damages to any structures if the water line should ever develop a leak or due to any repairs to the City water main by City crews or contractor crews hired by the City. The City of Beaumont shall not be responsible for the repair and replacement of any paving, landscaping or any other structures within the Easement property.

The License Agreement protects the City from liability and provides a thirty (30) day cancellation clause.

FUNDING SOURCE

There is a one time non-refundable fee of \$500 from Mark Fertitta for the License to Encroach.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, Martin Fertitta, owner of Madison Plaza, LP, has requested that the City of Beaumont grant a License to Encroach into one (1) ten foot (10') utility Easement at 6755 Phelan Boulevard, which is described as being in Lot 2A and part of Lot 3A, Amended Plat of Calder Woods, to the City of Beaumont. The encroachment being one (1) existing structure overlapping 0.23' to 1.72' into the ten foot (10') utility easement as described in Exhibit "A" and shown in Exhibit "B," attached hereto and made a part hereof for all purposes; and,

WHEREAS, City staff has expended considerable time and effort in investigating the effect of such encroachment upon the City easement and utilities therein; and,

WHEREAS, it appears that it would be equitable to allow such encroachment at this time;

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 a License to Encroach with Mark Fertitta, owner of Madison Plaza, LP, to encroach into one (1) ten foot (10') utility easement at 6755 Phelan Boulevard, which is described as being in Lot 2A and part of Lot 3A, Amended Plat of Calder Woods, to the City of Beaumont. The encroachment being one (1) existing structure overlapping 0.23' to 1.72' into the ten foot (10') utility easement, as described in Exhibit "A" and shown on Exhibit "B," attached hereto and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of
December, 2015.

- Mayor Becky Ames -

business or profit, loss of access, or otherwise.

Licensee shall at all times indemnify and hold harmless Licensor and any franchised entity of licensor against, and pay in full, for all claims, losses, damages, law suits, attorney's fees, costs, judgments or expenses, that Licensor and any franchised entity of Licensor may sustain, incur, be required to pay or become liable for, resulting in any manner from the construction, maintenance, use, state of repair, or presence of such encroaching structure.

Licensor, and any franchised entity of Licensor, reserves the right to make improvements, perform maintenance and construction to the right-of-way or premises covered by this license where such is deemed necessary for the health, welfare and safety of the community. In doing so, Licensor and any franchised entity of Licensor shall not be liable to Licensee for any damage occasioned thereby and Licensee shall not be entitled to prosecute or maintain a claim against such parties for any such damage sustained by Licensee to said encroaching structure or any abutting or attached structures, improvements or land caused by the removal or alteration of any encroachment. In addition, Licensee shall reimburse Licensor and any franchised entity of Licensor any additional costs resulting from the encroachment.

Licensor will not be responsible for any damages to the structures if the water line should ever develop a leak or due to any operations, work or repairs to the Licensor main by Licensor crews. The Licensor shall not be responsible for the repair and replacement of any paving, landscaping or any other structures within the Easement property.

Licensee shall not permit trees, shrubs, plants, or any object to be placed on the subject property in such a manner as to obstruct the view of traffic. In addition, Licensor will not be responsible for any damages to the structure if the sewer main should ever develop a cavity or due to any repairs to the Licensor main by Licensor crews.

As part of the consideration for this agreement, Licensee shall pay to Licensor the sum of Five Hundred Dollars (\$500.00). Said sum being non-refundable.

This license shall be recorded in the Real Property Records in the Office of the County Clerk of Jefferson County, Texas by Licensor.

This agreement is terminable by either party by giving written notice to the other specifying the date of termination. Said notice shall be given not less than thirty (30) days prior to the termination date, therein specified, and shall be recorded in the Real Property Records in the Office of the County Clerk of Jefferson County, Texas by Licensor.

This license is neither assignable nor transferable except in conjunction with, and as part of, Licensee's conveyance of all the abutting property this license serves, through probate or warranty deed or lease. In any such event, Licensor shall be notified of such occurrence by being delivered a copy of the document or documents conveying or leasing the same.

Any notice to Licensor shall be sufficient if it is mailed or hand delivered to the Office of the City Engineer, City of Beaumont, P.O. Box 3827, Beaumont, Texas 77704. Any notice to Licensee or their successors shall be sufficient if mailed or hand delivered to Property Owner at 5260 Fairmont Drive, Beaumont, Texas 77706.

IN WITNESS, WHEREOF, the parties hereto have executed this agreement as of the _____ day of _____, 2015.

LICENSOR:
CITY OF BEAUMONT

LICENSEE:

By: _____
KYLE HAYES
CITY MANAGER

By: _____
MARK FERTITTA
MADISON PLAZA, LP

ACKNOWLEDGMENTS

STATE OF TEXAS X

COUNTY OF JEFFERSON X

This instrument was acknowledged before me on the _____ day of _____, 2015, by Kyle Hayes, City Manager of the City of Beaumont, a municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS X

COUNTY OF JEFFERSON X

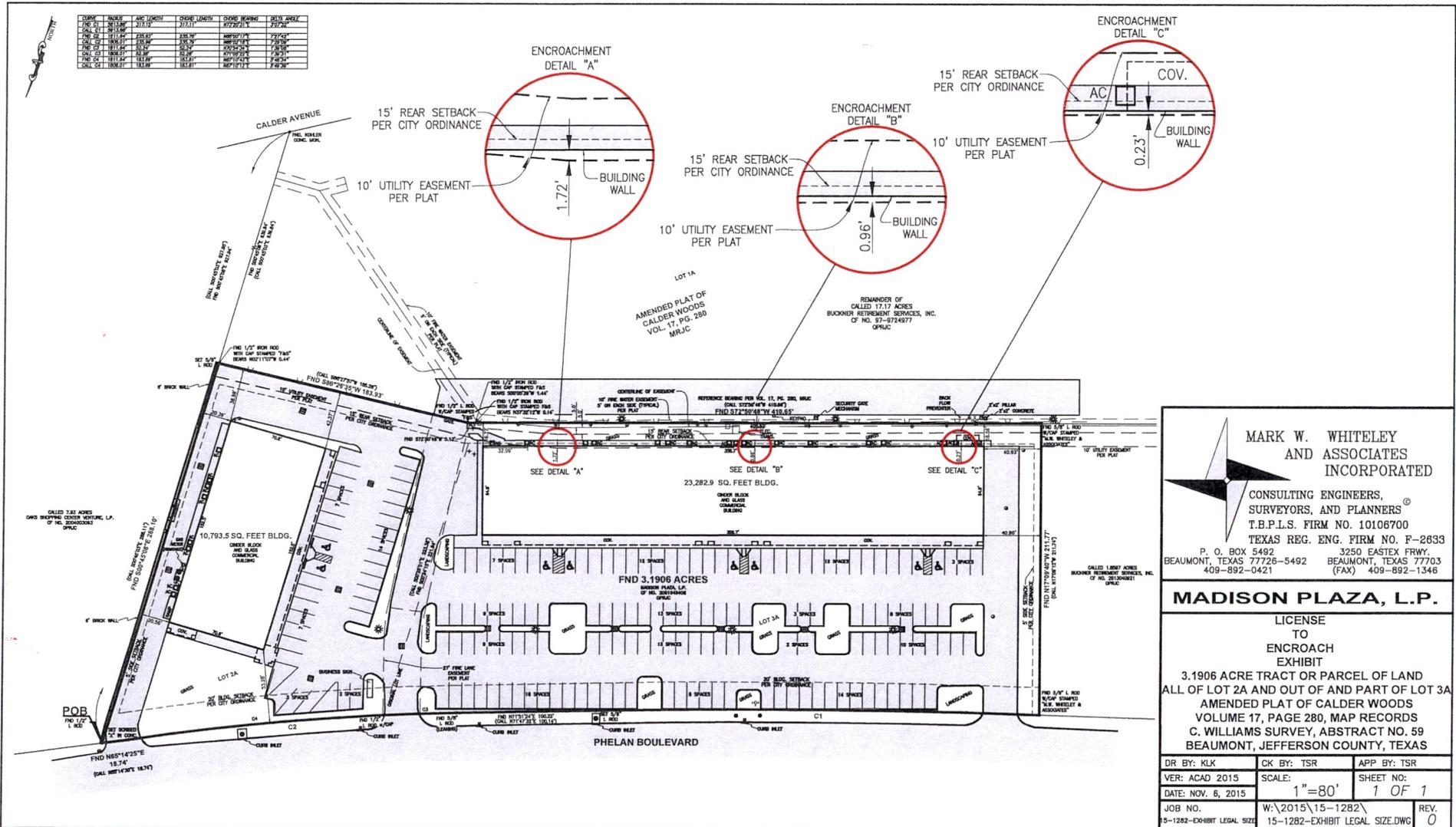
This instrument was acknowledged before me on the _____ day of _____, 2015, by Mark Fertitta, _____ of Madison Plaza, LP.

Notary Public, State of Texas

RETURN TO:

City of Beaumont
Antoinette Hardy - Engineering
P. O. Box 3827
Beaumont, Texas 77704

CURVE	ANGLE	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
1	90.00	317.12	317.12	87.2821°	2.7179°
2	90.00	250.00	250.00	89.9090°	2.0910°
3	90.00	250.00	250.00	89.9090°	2.0910°
4	90.00	250.00	250.00	89.9090°	2.0910°
5	90.00	250.00	250.00	89.9090°	2.0910°
6	90.00	250.00	250.00	89.9090°	2.0910°
7	90.00	250.00	250.00	89.9090°	2.0910°
8	90.00	250.00	250.00	89.9090°	2.0910°
9	90.00	250.00	250.00	89.9090°	2.0910°
10	90.00	250.00	250.00	89.9090°	2.0910°




**MARK W. WHITELEY
AND ASSOCIATES
INCORPORATED**
 CONSULTING ENGINEERS,
 SURVEYORS, AND PLANNERS
 T.B.P.L.S. FIRM NO. 10106700
 TEXAS REG. ENG. FIRM NO. P-2633
 P. O. BOX 5492 3250 EASTEX FRWY.
 BEAUMONT, TEXAS 77728-5492 BEAUMONT, TEXAS 77703
 409-892-0421 (FAX) 409-892-1346

MADISON PLAZA, L.P.

LICENSE
 TO
 ENCROACH
 EXHIBIT
 3.1906 ACRE TRACT OR PARCEL OF LAND
 ALL OF LOT 2A AND OUT OF AND PART OF LOT 3A
 AMENDED PLAT OF CALDER WOODS
 VOLUME 17, PAGE 280, MAP RECORDS
 C. WILLIAMS SURVEY, ABSTRACT NO. 59
 BEAUMONT, JEFFERSON COUNTY, TEXAS

DR BY: KLK	CK BY: TSR	APP BY: TSR
VER: ACAD 2015	SCALE: 1"=80'	SHEET NO: 1 OF 1
DATE: NOV. 6, 2015		
JOB NO.	W:\2015\15-1282\	REV. 0
5-1282-EXHIBIT LEGAL SIZE	15-1282-EXHIBIT LEGAL SIZE.DWG	

EXHIBIT "B"

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing the execution of a License to Encroach Agreement with Enterprise Logistic Services, LLC.

BACKGROUND

On April 7, 2015, City council approved Resolution No. 15-062 authorizing the execution of a License to Encroach Agreement with Enterprise Logistic Services, LLC to install a ground water monitoring well on City-owned property identified as being Fire Station No. 5 located at 6375 Walden Road.

Although the laboratory results from the groundwater sample collected in the first monitoring well was clean, Enterprise Logistic Services, LLC has requested to install an additional ground water monitoring well at the same location to delineate the plume to the North. The license will cover one two inch (2") diameter well encroaching on the City-owned property identified as being Fire Station No. 5 located at 6375 Walden Road, approximately 120 feet off of Walden Road.

The request from Enterprise Logistic Services was submitted to all City departments and utility companies with no objections. The License Agreement protects the City from liability and provides a thirty (30) day cancellation clause.

FUNDING SOURCE

Enterprise Logistic Services will pay a one-time non-refundable fee of \$500 for the License to Encroach.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, Enterprise Logistic Services, LLC has requested that the City of Beaumont grant a License to Encroach into city-owned property at 6375 Walden Road, which is the location of Fire Station No. 5, which is described as being in the northeast two hundred by three hundred forty feet (fronting 200.0 feet on Walden Road and extending back in depth 340.0 feet) of Lot 16, Block 3, C.E. Smith Subdivision, to the City of Beaumont. The encroachment being a proposed two inch (2") diameter ground water monitoring well overlapping onto city-owned property described in Exhibit "A" and shown on Exhibit "B," attached hereto and made a part hereof for all purposes; and,

WHEREAS, City staff has expended considerable time and effort in investigating the effect of such encroachment upon the City easement and utilities therein; and,

WHEREAS, it appears that it would be equitable to allow such encroachment at this time;

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 a License to Encroach with Enterprise Logistic Services, LLC to encroach into city-owned property located at 6375 Walden Road, which is the location of Fire Station No. 5, which is described as being in the northeast two hundred by three hundred forty feet (fronting 200.0 feet on Walden Road and extending back in depth 340.0 feet) of Lot 16, Block 3, C.E. Smith Subdivision, to the City of Beaumont. The encroachment being a proposed

two inch (2") diameter ground water monitoring well overlapping into city-owned property, as described in Exhibit "A" and shown on Exhibit "B," attached hereto and made a part hereof for all purposes for a one-time fee of Five Hundred Dollars (\$500.00) for the License to Encroach.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

LICENSE TO ENCROACH

STATE OF TEXAS X

ALL MEN BY THESE PRESENTS:

COUNTY OF JEFFERSON X

On the date last indicated below, the City of Beaumont, a municipal corporation, of Beaumont, Jefferson County, Texas, herein called "Licensor" or "City" and Enterprise Logistics Services LLC, a Texas Limited Liability Company, herein called "Licensee," contracted and agreed as set forth herein.

Licensee desires a license from Licensor to use that real property (the subject of this license agreement) described as follows:

Monitoring Well – encroaching on the City’s property located at the address locally know as 6375 Walden Road, Beaumont, Texas, which is the location of Fire Station #5, and more particularly described as: The northeast two hundred by three hundred forty feet (fronting 200.0 feet on Walden Road and extending back in depth 340.0 feet) of Lot 16, Block 3 of the C. E. Smith’s Subdivision to the City of Beaumont, Jefferson County, Texas, as shown on the map or plat of record in Volume 1, Page 86 of the Map Records of Jefferson County, Texas. (Hereinafter referred to as the “Subject Property.”) Said encroachment is shown on Exhibit “A”, attached.

NOW, THEREFORE, Licensor hereby grants to Licensee a license to occupy and use the Subject Property for the purpose of installing a groundwater monitoring well, subject to all of the terms and conditions hereof. Licensee shall notify 811 forty-eight (48) hours prior to any excavation at site of encroachment. Licensee shall notify the Water Utilities Project Manager at (409) 785-3017 for utility locates forty-eight (48) hours prior to any excavation. Licensee shall maintain a minimum of ten (10) foot separation between the water mains and the monitoring wells (OD to OD). Licensee shall maintain the said monitoring wells in a good and safe condition as may be required to protect the public from injury or property damage. Licensee shall upon completion of remediation activities, properly close said groundwater monitoring well, with plans subject to approval of the City of Beaumont Water Utilities Department. After three (3) years from the date of this agreement, Licensee shall notify Licensor of their intent to continue using the monitoring wells. Such notice would be sent to the Director of Public Works, City of Beaumont, P.O. Box 3827, Beaumont, Texas 77704.

Subject Property may continue to be occupied and used by Licensee solely in connection with the Monitoring Well and for incidental purposes related thereto during the term of this license or until termination thereof. Said license shall terminate upon removal or demolition of said encroachment.

The parties understand and agree that the City will continue to use the Subject Property for the purpose for which the City owns the property. If requested by the City, Licensee, at no cost to the City, will adjust, modify or alter its use of the Subject Property in order that the City's use of the property will not be impeded. The City's determination that Licensee needs to adjust its use of the Subject Property, as called for in this paragraph, shall be made at the City's sole discretion.

Substantial improvements shall not be made upon any encroachment without first obtaining the written consent of Licensor and giving notice to Licensor in writing of how, when and to what extent such improvements are to be made. A copy of this license shall be attached to such notice.

Substantial improvement means any repair, construction, or improvement of a structure, the cost of which equals or exceeds twenty-five percent (25%) of the market value of the structure either: (1) before the improvement or repair is started; or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any portion of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any projects or improvements of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to protect the health, safety and welfare of the public, inhabitants, or users of such structure.

In the event the City of Beaumont, by resolution of the City Council, determines it needs the Subject Property, or any part thereof, for the benefit of the City or to protect the health, safety or welfare of the public, and it terminates this license or any part thereof, Licensee shall not receive any compensation and the City of Beaumont shall not be liable therefore, whether for the value of property taken, damage to the abutting or remaining property or improvement, loss of business or profit, loss of access, or otherwise.

Licensee shall at all times indemnify and hold harmless Licensor and any franchised entity of Licensor against, and pay in full, for all claims, losses, damages, law suits, attorney's fees, costs, judgments or expenses, that Licensor and any franchised entity of Licensor may sustain, incur, be required to pay or become liable for, resulting in any manner from Licensee's encroachment on the Subject Property through the construction, maintenance, use, state of repair, or presence of such encroaching structure.

Licensor, and any franchised entity of Licensor, reserves the right to make improvements, perform maintenance and construction to the Subject Property or premises covered by this license where such is deemed necessary for the health, welfare and safety of the community, as determined by the City, in its sole discretion. In doing so, Licensor and any franchised entity of Licensor shall not be liable to Licensee for any damage occasioned thereby and Licensee shall not be entitled to prosecute or maintain a claim against such parties for any such damage sustained by Licensee to said encroaching structure or any abutting or attached structures, improvements or land caused by the removal or alteration of any encroachment. In addition,

Licensee shall reimburse Licensor and any franchised entity of Licensor any additional costs resulting from the encroachment.

Licensee shall not permit trees, shrubs, plants, or any object to be placed on the subject property in such a manner as to obstruct the view of traffic. In addition, Licensor will not be responsible for any damages to the structure if the sewer main should ever develop a cavity or due to any repairs to the Licensor main by Licensor crews.

As part of the consideration for this agreement, Licensee shall pay to Licensor the sum of Five Hundred Dollars (\$500.00). Said sum being non-refundable.

This license shall be recorded in the Real Property Records in the Office of the County Clerk of Jefferson County, Texas by Licensor.

This agreement is terminable by either party by giving written notice to the other specifying the date of termination. Said notice shall be given not less than thirty (30) days prior to the termination date, therein specified, and shall be recorded in the Real Property Records in the Office of the County Clerk of Jefferson County, Texas by Licensor. Licensee's obligations to indemnify and hold harmless the City and its franchisees shall survive the termination of this agreement.

This license is neither assignable nor transferable except in conjunction with, and as part of, Licensee's conveyance of all the abutting property this license serves, through probate or warranty deed or lease. In any such event, Licensor shall be notified of such occurrence by being delivered a copy of the document or documents conveying or leasing the same.

Any notice to Licensor shall be sufficient if it is mailed or hand delivered to the Office of the City Engineer, City of Beaumont, P.O. Box 3827, Beaumont, Texas 77704. Any notice to Licensee or their successors shall be sufficient if mailed or hand delivered to Enterprise Logistics Services LLC at 1100 Louisiana Street, Houston, Texas 77002.

IN WITNESS, WHEREOF, the parties hereto have executed this agreement as of the ____ day of _____, 2015.

LICENSOR:

CITY OF BEAUMONT

By: _____
Kyle Hayes
City Manager

LICENSEE:

Enterprise Logistics Services LLC

By: _____

Printed Name: _____

Title: _____

ACKNOWLEDGMENTS

STATE OF TEXAS X

COUNTY OF JEFFERSON X

This instrument was acknowledged before me on the ____ day of _____, 2015, by Kyle Hayes, City Manager of the City of Beaumont, a municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS X

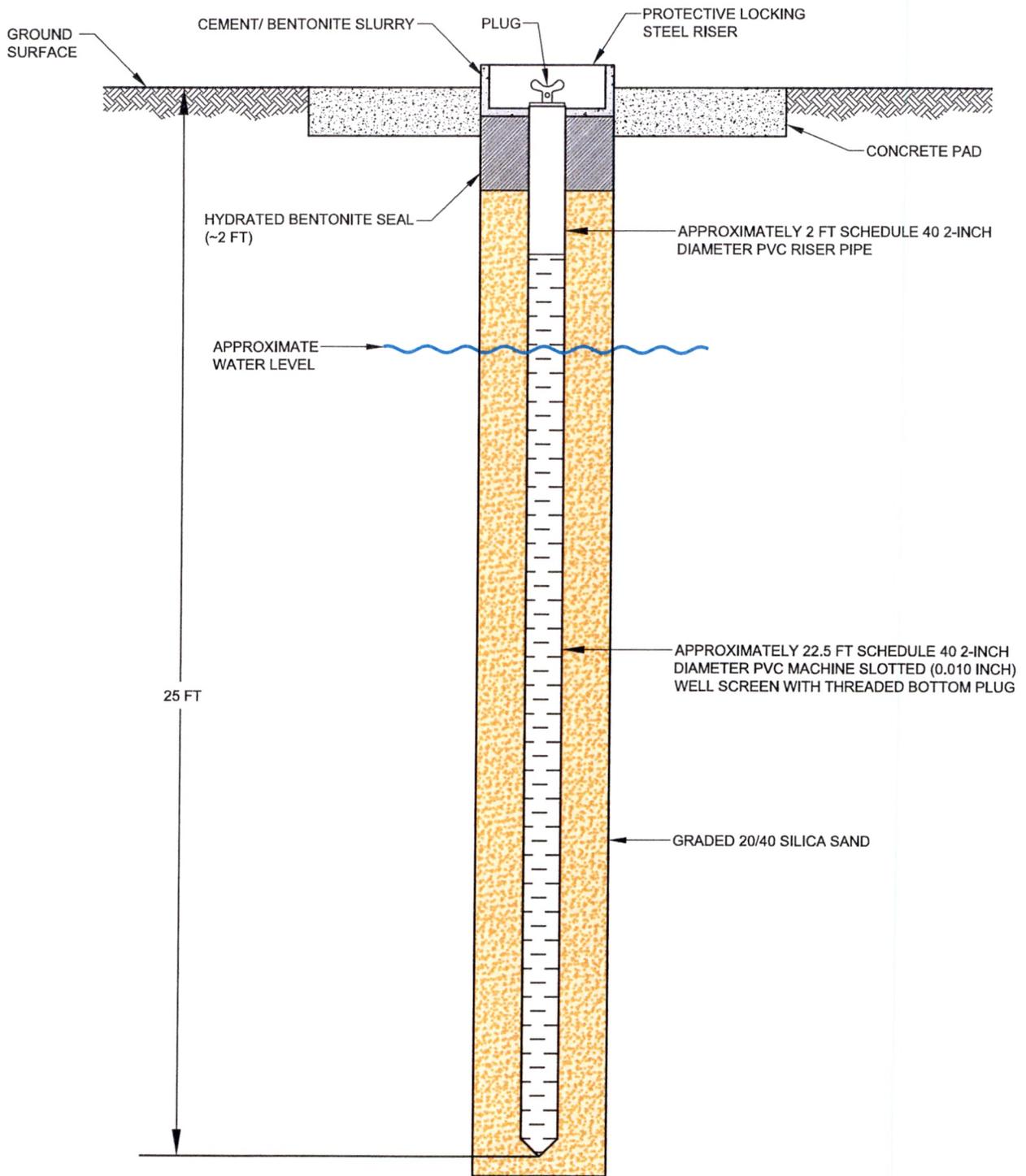
COUNTY OF JEFFERSON X

This instrument was acknowledged before me on the ___ day of _____, 2015, by _____, _____ of Enterprise Logistics Services LLC.

Notary Public, State of Texas

RETURN TO:

City of Beaumont
Antoinette Hardy - Engineering
P. O. Box 3827
Beaumont, Texas 77704



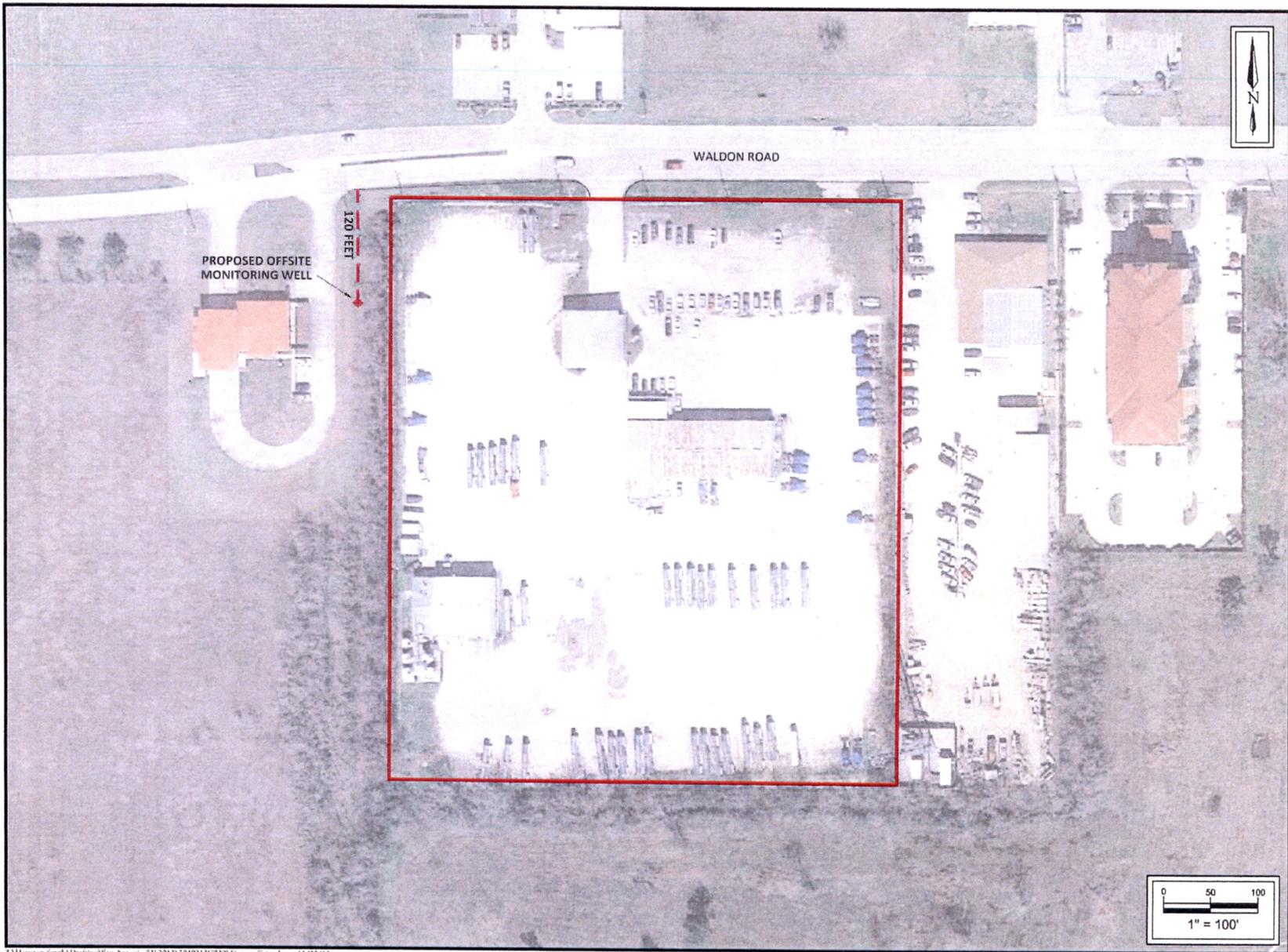
Enterprise Logistical Services LLC
 Beaumont Terminal
 6355 Walden Road
 Beaumont, Texas
 47.694121N, -103.259223W

Project No. 7010213G020



Apex TITAN, Inc.
 7979 Broadway Street, Suite 100
 San Antonio, Texas
 Phone: (210) 804-9922
www.apexcos.com
 A Subsidiary of Apex Companies, LLC

**GROUNDWATER
 MONITOR WELL SCHEMATIC**



LEGEND

- PROPERTY BOUNDARY
- ◆ PROPOSED MONITORING WELL

EXHIBIT "B"

Apex TITAN, Inc.
 7979 Broadway Street, Suite 100
 San Antonio, Texas
 Phone: (210) 804-9522
www.apextitan.com
 A Subsidiary of Apex Companies, LLC

Enterprise Logistical Services LLC
Beaumont Terminal
 6355 Walden Road
 Beaumont, Texas
 47.694121N, -103.259223W

Project No. 7010213G020

FIGURE 1
Off-Site Monitoring
Well Location

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute an assignment agreement to the current Fixed Base Operator's (FBO) contract at the Beaumont Municipal Airport to BMT Wings, LLC.

BACKGROUND

On January 25, 2000, by Resolution No. 00-31, City Council approved the sale of Beaumont Wing, Inc., to Gary Giarraputo. BMT Wings, Inc. from that date to the present has been the FBO for the Beaumont Municipal Airport.

In a letter dated October 30, 2015, Mr. Giarraputo is asking that the current lease held by Beaumont Wings, Inc., which expires March 31, 2017 be reassigned to BMT Wings, LLC, owned by Joseph P. Arena and Joseph A. Arena, Jr.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, on January 25, 2000, City Council of the City of Beaumont, Texas approved Resolution No. 00-031 authorizing the City Manger to execute a Fixed Base Operator's (FBO) lease contract approving the sale of Beaumont Wings, Inc. to Gary Giarraputo; and,

WHEREAS, Gary Giarraputo, as owner of Beaumont Wings, Inc., has requested the assignment of the FBO lease contract to BMT Wings, LLC; and,

WHEREAS, BMT Wings, LLC will assume and fulfill all obligations, responsibilities, terms and conditions under the FBO lease contract between the City of Beaumont and Beaumont Wings, Inc. dated August 14, 2006, which primary term will expire on March 31, 2017; and,

WHEREAS, Beaumont Wings, Inc. will be released from its obligation to the City and the City will be released of its obligations to Beaumont Wings, Inc. upon execution of the Assignment and Assumption Agreement of the current FBO lease contract to BMT Wings, LLC; and,

WHEREAS, City Council is of the opinion that the FBO lease contract with Beaumont Wings, Inc. should be assigned to BMT Wings, LLC, as shown on Exhibit "A," attached hereto;

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

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

THAT the City Manager be and he is hereby authorized to execute an Assignment and Assumption Agreement with Beaumont Wings, Inc. and BMT Wings, LLC, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement"), dated December ____, 2015, is entered into by and between Beaumont Wings, Inc. ("Assignor"), BMT Wings, LLC, ("Assignee"), and the City of Beaumont, a municipal corporation of the State of Texas ("City").

RECITALS:

A. Assignor and City are parties to that certain Lease Agreement, dated August 14, 2006 (the "Contract"), pursuant to which Assignor agreed to provide certain Fixed Base Operator management services at the Beaumont Municipal Airport.

B. Assignor, Assignee and City have agreed to enter into this Agreement to provide for Assignor's assignment to Assignee of all of Assignor's right, title and interest in and to the Contract, and Assignee's assumption and performance of all Assignor's obligations, duties and responsibilities under the Contract arising after the Effective Date (as herein defined).

C. This Agreement will become effective upon approval by City ("Effective Date").

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT:

1. Assignment and Assumption.

(a) Assignor hereby assigns, grants, conveys, transfers and delivers to Assignee and its successors and assigns, all of Assignor's right, title, benefit, privilege and interest in, to and under the Contract and Assignee hereby accepts such assignment, grant, conveyance, transfer and delivery.

(b) Assignor covenants and agrees to indemnify and hold Assignee harmless from any and all claims, causes of action, liabilities, costs and expenses including, without limitation, reasonable attorney's fees, hereafter incurred by Assignee as a result of, or in connection with, the failure by Assignor to perform, or to have performed when due, any of the obligations of the landlord or lessor under the Lease that first accrued on or prior to the Effective Date.

(c) Assignee hereby assumes and accepts all of Assignor's right, title, and interest in and to the lease, and agrees to fulfill, perform

and discharge, all obligations, duties and responsibilities of Assignor to be performed under the Lease Contract after the Effective Date in accordance with its terms. Assignee hereby is made a party to the Contract in replacement of, and substitution for, Assignor, and Assignee hereby agrees to be bound by the terms and conditions thereof.

(d) Assignor hereby is relieved of and released from any further obligations, duties and responsibilities to be performed under the Contract after the Effective Date.

(e) Assignor shall be and remain liable and responsible for and shall make timely payment of all sums owed to vendors, suppliers, City and others directly or indirectly incurred or owed by Assignor in connection with its performance of the Contract prior to the Effective Date. In connection therewith, Assignor agrees to indemnify, hold harmless and defend Assignee and City from and against any and all claims arising from Assignor's operations under the Contract prior to the Effective Date.

(f) Assignor hereby sells, assigns, transfers and conveys to Assignee, free and clear of all liens, security interests, encumbrances, claims and restrictions of any nature, all of Assignor's rights to collect rents or other payments due after the Effective Date under the Lease.

2. Consent and Certification.

(a) Assignor hereby certifies and confirms to Assignee that: (a) true, complete and accurate copies of the Lease have been delivered to Assignee; (b) all rents and other amounts due to Assignor pursuant to the Lease have been paid for all periods through and including the Effective Date; (c) Assignor is not in default under or otherwise in breach of any of the terms and provisions set forth in the Lease; and, (d) no action, suit or proceeding is pending or threatened before or by any judicial body, or any governmental agency or authority against or affecting the Lease.

(b) City hereby consents to the assignment, assumption and other matters set forth in Section 1 above, and hereby agrees that (i) Assignee shall be entitled, in the place and stead of Assignor, to exercise any and all rights of Assignor under the Contract in accordance with its terms, (ii) City shall accept performance by Assignee under the Contract, and (iii) City will look solely to Assignee for the fulfillment, performance and discharge of all obligations, duties and responsibilities which Assignor had originally agreed to fulfill, perform and discharge under the Contract from and after the Effective Date.

(c) City hereby certifies as follows with respect to the Contract: (i) a true, correct and complete copy of the Contract as currently in effect is attached hereto; (ii) the Contract is in full force and effect, has not been modified or amended, and remains subject to terms and conditions contained herein.

3. Miscellaneous.

(a) Authority. Each of Assignor, Assignee and City, and the individuals executing this Agreement on behalf of each such party, represents and warrants to the other parties that (i) such party has the right and power to enter into this Agreement, (ii) such party has taken all necessary action to duly authorize the execution and delivery of this Agreement, and (iii) such party has duly executed and delivered this Agreement.

(b) Binding Effect. This Agreement shall be binding upon and inure to the benefit of Assignor, Assignee and City and their respective successors and permitted assigns.

(c) Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of Texas without giving effect to the principles of conflicts of law thereof

(d) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signed counterparts of this Agreement may be delivered by facsimile and by scanned .pdf image. If so delivered by facsimile or scanned .pdf image, at the request of any party hereto, the other parties shall re-execute an original form hereof and deliver it to the requesting party.

IN WITNESS WHEREOF, Assignor, Assignee and City have caused this Agreement to be duly executed by their respective officers thereunto duly authorized, all as of the date first above written.

**ASSIGNOR,
BEAUMONT WINGS, INC.
A Texas Corporation**

By: _____
Name: Gary Giarraputo
Title: _____

**ASSIGNEE,
BMT WINGS, LLC
A Texas Limited Liability Company**

By: _____
Name: Joseph P. Arena
Title: _____

**ASSIGNEE,
BMT WINGS, LLC
A Texas Limited Liability Company**

By: _____
Name: Joseph A. Arena, Jr.
Title: _____

**OWNER,
CITY OF BEAUMONT**

By: _____
Name: Kyle Hayes
Title: City Manager

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to apply for and accept grant funding through the 2016 Entergy Environmental Initiatives Fund (EIF).

BACKGROUND

Entergy Texas, Inc. is currently offering \$1,000,000 in grant funding for eligible projects that benefit the environment. The types of projects Entergy Texas, Inc. has historically provided funding for vary greatly from assisting with the replacement of light fixtures for greater efficiency to restoring wetlands in key areas.

The City has prepared two (2) grant proposals for submission to Entergy Texas, Inc. for a pilot program to showcase LED lighting in the city. These proposals would be the first opportunity for the City of Beaumont to demonstrate the benefits of LED lighting within the city. The first proposal is a retrofit of the existing lamps located along IH-10 and Spur 380 that will replace the current lamps with LED lamps. The second proposal is to install LED luminaires in lieu of traditional lighting along Northwest Parkway, a proposed roadway currently under design. The proposed projects will provide for increased energy efficiency, lower annual power outage, reduction in the number of man-hours required for maintenance, and improved maintenance worker safety.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of resolution.

Project A

Proposal for Entergy Environmental Initiatives Fund Projects

The City of Beaumont is proposing to replace all existing state highway lighting fixtures within the city limits with LED light fixtures. Presently, the City of Beaumont maintains nearly 1,600 light fixtures within the city limits with 722 fixtures under consideration for replacement. These fixtures cover the highway systems IH-10 and Martin Luther King Jr. Parkway within the city limits.

The fixtures are organized into the following categories for light distribution:

1. High Mast Lighting Fixtures
2. Cobra Head Lighting Fixtures

High Mast Lighting Fixtures

The fixture height above finished grade is approximately one-hundred and fifty (150) feet and presently features high pressure sodium (HPS) lamps operating at four-hundred (400) Watts each. Each structure presently carries twelve (12) lamps per high mast pole. Light is distributed symmetrically from a supporting ring structure. There are forty (40) poles in total; twenty-five (25) along IH-10 and fifteen (15) along Martin Luther King Jr. Parkway.

The proposed high mast LED light fixtures will provide a lumen output equal to or greater than the existing fixtures. The LED light fixtures will illuminate the pavement at a level equal to or greater than 0.6 foot-candles on IH-10 and 0.8 foot-candles on Martin Luther King Jr. Parkway. The City will propose to install LED light fixtures for all 25 high-mast poles located along IH-10 and 15 high-mast poles located along Martin Luther King Jr. Parkway.

Cobra Head Lighting Fixtures

The fixture height above finished grade is approximately forty-five (45) feet and presently features a single high pressure sodium lamp operating at 400 Watts. Light is distributed asymmetrically from a single or double "headed" pole. Poles are arranged along the center median on IH-10 and staggered along both sides of Martin Luther King Jr. Parkway for a total of two-hundred and forty-two (242) Lamps.

The proposed LED light fixtures will replace the cobra head light fixtures on a 1-to-1 basis and will provide a lumen output equal to or greater than the existing fixtures. The LED light fixtures will illuminate the pavement at a level equal to or greater than 0.6 foot-candles on IH-10 and 0.8 foot-candles on Martin Luther King Jr. Parkway.

This project is located within the 77704 zip code and the existing power usage rate is \$0.12 per kilowatt hour at a voltage of 480 V.

Project A

Cost

The City is proposing to perform the LED light installation in house. The cost associated with the purchase of the LED light fixtures is as follows:

1. 480 LED High Mast/Adapter: $(\$760 + \$30) \times 480 = \$379,200$
2. 242 LED Cobra Head: $\$760 \times 242 = \$183,920$

Benefit

1. Total annual energy consumption for all 48 high mast light fixtures will be reduced from 921,600 KWH with the current 400 Watt HPS lamps to 414,720 KWH using 180 Watt LED lamps. At the current usage rate that equates to cost savings of \$60,825 annually.
2. Total annual energy consumption for all 242 cobra head light fixtures will be reduced from 387,200 KWH with the current 400 Watt HPS lamps to 135,520 KWH using 140 Watt LED lamps. At the current usage rate that equates to cost savings of \$30,201 annually.
3. Man hours spent maintaining the light fixtures will be reduced by at least 50% due to longer service life (typically 100,000 hours) of LED lamps.

The City of Beaumont requests your consideration for grant funding from the Entergy Environmental Initiatives Fund (EIF).

Project B

Proposal for Entergy Environmental Initiatives Fund Projects

The City of Beaumont is proposing to install new energy efficient LED lighting fixtures along the proposed Northwest Parkway project. Currently in the design phase, Northwest Parkway will be arterial roadway connecting FM 364 (Major Drive) to Parkdale Mall with additional connections at Old Dowlen Road and Pointe Parkway. A total of forty-four (44) light fixtures are planned to illuminate the roadway's 1.9 mile path. This project would be the first in the City of Beaumont to utilize LED fixtures for roadway illumination.

Planned HPS Luminaires v. Proposed LED Luminaires

The current design for Northwest Parkway utilizes eighty-eight (88) 400W High Pressure Sodium (HPS) luminaires. With this grant, The City of Beaumont is proposing to utilize forty-four (44) 250W LED luminaires in lieu of the HPS lamps. Light will distribute asymmetrically from single poles arranged along both sides of the project roadway in a staggered configuration. The proposed fixture height above finished grade will be thirty-five (35) feet. The LED light fixtures will illuminate the pavement at a level equal to or greater than 0.8 foot-candles along Northwest Parkway.

This project encompasses both 77706 and 77713 zip codes. The existing power usage rate is \$0.12 per kilowatt hour at a voltage of 480 V. *

Cost

		<u>Units</u>	<u>Total</u>
44 – LED Cobra head	=	\$ 740.00ea.	\$ 32,560.00
44 – Ground rod 5/8" x 10'	=	\$ 16.42ea.	\$ 722.48
44 – Round Steel Light Poles	=	\$ 1,860.00ea.	\$ 81,840.00
10000 ft of 2" rolled conduit	=	\$ 11.00/ft	\$110,000.00
10000 ft of # 6 Black wire	=	\$ 450.00/M	\$ 4,500.00
10000 ft of # 6 White wire	=	\$ 450.00/M	\$ 4,500.00
10000 ft of # 6 Green wire	=	\$ 450.00/M	\$ 4,500.00
350 lf- 24" Concrete Pour Foundation	=	\$150.00/LF	\$ 52,500.00
176 – 11/4 in x 48 inch anchor bolts w/nuts	=	\$ 23.90/EA	\$ 4,206.40
12 type C concrete polymer junction box	=	\$ 227.00/EA	\$ 2,724.00

Total \$298,052.88

Benefit

1. Total annual energy consumption for Northwest Parkway will be reduced from 140,800 KWH with the 400 Watt HPS lamps to 44,000 KWH using 250 Watt LED lamps. At the current usage rate that equates to a savings of \$11,616 annually.
2. Man hours spent maintaining the light fixtures will be reduced by at least 50% due to longer service life (typically 100,000 hours) of LED lamps.

Project B

3. LED fixtures will provide an improved distribution and uniformity of light along Northwest Parkway resulting in increased driver safety.

The City of Beaumont requests your consideration for grant funding from the Entergy Environmental Initiatives Fund (EIF).



Entergy Services, Inc.

REQUEST FOR PROPOSAL

RFP Purpose: Identification of Environmental Projects For Potential Funding

Issued and Coordinated by:
Environmental Strategy & Policy

Statement of Confidentiality:

The information contained in this document is proprietary to Entergy Services, Inc. It may not be disclosed, duplicated, or used for any purpose, in whole or in part, without the prior written consent of Entergy Services, Inc.



General Information and Purpose of this RFP

The intent of this RFP is to assist Environmental Strategy & Policy (ESP) in the selection of environmentally beneficial projects and/or vendors for those projects. Acceptable projects may include those that lower water usage, prevent or reduce waste, encourage recycling, promote energy efficiency, lower emissions, decrease fuel consumption, increase efficiency, reduce water effluents, improve water quality, provide for registered greenhouse gas offsets and/or develop innovative solutions to climate change impacts, or any other concepts that have an added environmental benefit for Entergy and our stakeholders. One focus for Entergy's 2016 EIF will be on projects that generate verifiable, bankable CO₂ credits or offsets.

The RFP also solicits existing or developing projects targeted in the same areas whose scope of work could be modified to accomplish the goals stated above. The selected projects will be funded by the Entergy Environmental Initiatives Fund (EIF).

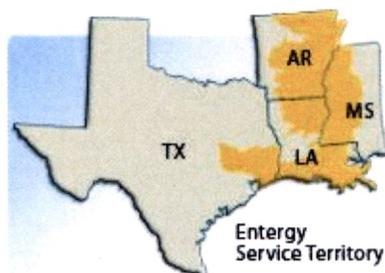
The RFP is seeking scoping proposals that are no more than two standard pages in length. Funding for the project must be completed in 2016. An initial screening of the high-level proposals will identify a small set of proposals for which ESP will seek additional information for further consideration. ESP may engage with third-party subject matter experts (SMEs) to review, rank, and recommend projects for consideration. ESP reserves the right to accept or reject any and all proposals.

The Initial project review screening will seek to determine the project value based on:

- Potential to generate verifiable, bankable CO₂ credits or offsets
- Cost
- Location (projects within the utility service area or near non-utility company operations such as Entergy Wholesale Commodities plant sites are given preference)
- Project quality
- Developer standing, reputation, and co-party risk
- Projects that would not otherwise be funded or conducted
- Marketing and public relations opportunities
- Term
- Uniqueness, innovative quality, or opportunity to expand into self-funding projects

A. Overview of Entergy

Entergy Corporation (NYSE:ETR) is an integrated energy company engaged primarily in electric power production and retail distribution operations. Entergy owns and operates power plants with approximately 30,000 megawatts of electric generating capacity, including nearly 10,000 megawatts of nuclear power, making it one of the nation's leading nuclear generators. Entergy delivers electricity to 2.8 million utility customers in Arkansas, Louisiana, Mississippi and Texas. Entergy has annual revenues of more than \$12 billion and approximately 13,000 employees. For more information regarding Entergy, please visit our web site at www.entergy.com.

Current Regulated Service Territory**Entergy's Utility Companies:**

- Entergy Arkansas, Inc.
- Entergy Louisiana, LLC
- Entergy Mississippi, Inc.
- Entergy New Orleans, Inc.
- Entergy Texas, Inc.

Entergy Wholesale Commodities ("EWC") Areas of Operation

EWC owns or operates facilities including the following:

- James A. FitzPatrick in Oswego County, NY
- Indian Point Energy Center Units 2 and 3 in Westchester County, NY
- Palisades in Covert, MI
- Pilgrim Nuclear Station in Plymouth, MA
- Vermont Yankee in Vernon, VT

B. Entergy's Environmental Focus

Entergy is committed to environmental compliance and stewardship. In 2015 Entergy was named to the Dow Jones Sustainability North America Index, one of four U.S. electric utility companies designated a sustainability leader on the index. This is the 14th consecutive year the Dow Jones Sustainability Index has included Entergy on either its World or North America index or both. Entergy earned top scores in five of the 25 evaluated areas: antitrust policy, scorecards/measurement systems, climate strategy, water-related risks and corporate citizenship/philanthropy. This reflects excellence across all sustainability dimensions – economic, environmental and social. In addition, Entergy was included in the 2014 Carbon Disclosure Leadership Index, a key component of CDP's S&P 500 report. The Carbon Disclosure Leadership Index (CDLI) includes the companies with the highest carbon disclosure scores. This is the tenth time in the past eleven years Entergy has been named to the CDP Leadership Index.

In general, Entergy supports GHG regulation through flexible market-based mechanisms. The company also has focused on climate adaptation and extreme weather risk management for its service area. In 2001, Entergy was the first U.S. utility to voluntarily stabilize its greenhouse gas emissions. Entergy's Board of Directors established the Entergy Environmental Initiatives Fund (EIF) to support environmentally beneficial projects with an emphasis on climate change mitigation and solutions. Entergy has funded a variety of GHG offset projects from the EIF since 2001.

Entergy also was a founding member of the American Carbon Registry (ACR). The majority of our GHG projects have been registered with ACR. This RFP seeks to continue the work on both internal and external opportunities that address GHG and/or other projects as described above.



The EIF has been used to support a variety of creative and innovative projects. Past projects funded have included CO₂ capture/sequestration, habitat restoration, wetland restoration, water quality efficiency and reuse, the purchase of environmental attributes, offsets and allowances, community development for environmental outreach/education/demonstration, and creative environmental/energy efficiency commercialization.

C. General Conditions

Entergy reserves the right to pursue contract negotiations at a later date, if at all, with any bidder best suited to meet Entergy's needs. Any expenses incurred in the preparation of responses to this RFP are the sole responsibility of the bidder. The ability to submit proposals is not limited to entities who received this RFP directly from Entergy.

D. Right of Rejection

Entergy reserves the right to accept or reject any or all responses to this RFP or any portion thereof for any reason or for no reason at all. Neither receipt of a response nor failure to reject a response shall impose any obligation on Entergy to fund a project.

E. Submission Requirements

A high-level summary of the project must be submitted by bidders via email (EIF@entergy.com). The summary should focus on the criteria listed above. Proposals must be received no later than midnight, Central Time, on January 31, 2016. Clarifying questions can be posed before the deadline by submitting questions to the email address EIF@entergy.com.

F. Performance Schedule

RFP Issued	November 16, 2015
Clarifying questions	November 16 - December 31, 2015
RFP due date	January 31, 2016
Review of submittals	February 1 – March 1, 2016
Final selection announcement	on or about April 29, 2016

RESOLUTION NO.

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

THAT the City Manager be and he is hereby authorized to apply for and receive, if awarded, grant funding through the 2016 Entergy Environmental Initiatives Fund (EIF) for a pilot program to showcase LED lighting within the City of Beaumont.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- 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: December 15, 2015

REQUESTED ACTION: Council consider authorizing the City Manager to execute Industrial District Agreements with Koch Fertilizer, LLC and Koch Nitrogen International Sarl for inventory held offsite within the extraterritorial jurisdiction.

BACKGROUND

Industrial District Contracts enable the City to collect payments in lieu of taxes from industries located outside the city limits but within the extra territorial jurisdiction of the city.

The City currently has a contract with Koch Fertilizer, LLC and Koch Nitrogen International Sarl for inventory stored on the site of Martin Gas Sales on Gulf States Road that will expire December 31, 2015. The new contract will be effective January 1, 2016. The in-lieu of tax payment will be based on a ratio of 80% of property taxes due to the City as if the industry were located within the city limits in 2016 through 2018 and 75% of property taxes due to the City in 2019 through 2022. The 2016 payment will be calculated based on 80% of the assessed value multiplied by the tax rate effective on October 1, 2015 or \$0.69 per \$100 of assessed valuation. Payments will be due to the City by February 1st of each year.

A copy of each agreement is attached for your review.

FUNDING SOURCE

The estimated FY 2016 payment is \$46,900 and \$57,200, respectively.

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 an Industrial District Agreement with Koch Fertilizer, LLC and Koch Nitrogen International Sarl for inventory held offsite within the extraterritorial jurisdiction. The agreements are substantially in the form attached hereto as Exhibits "A" and "B" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

AGREEMENT

This Agreement is made under the authority of Section 42.044 of the Texas Local Government Code.

The parties to the Agreement are The City of Beaumont, a municipal corporation and a home-rule city located in Jefferson County, Texas, hereinafter called "CITY," and Koch Fertilizer, LLC, hereinafter called "COMPANY."

PREAMBLE

WHEREAS, Company owns inventory which is stored on the site of Martin Terminal Company located immediately adjacent to the City of Beaumont (the "Site"). The City has established an industrial district comprising a certain part of the extra-territorial jurisdiction of the City, such industrial district being known as the City of Beaumont Industrial District.

WHEREAS, the Company recognizes the benefits of this Agreement and an obligation to contribute to the revenue needs of said City in an amount commensurate with the burdens placed upon the City and benefits derived by the Company by reason of storing inventory at the Site.

WHEREAS, the Company and the City desire to base the industrial district payment on assessed value to ensure equity among the companies.

In view of the above and foregoing reasons, and in consideration of the mutual agreements herein contained, Company and City hereby agree as follows:

ARTICLE I

COMPANY'S OBLIGATION

Annual Payment on Company's Property

1. Commencing with the calendar year 2016 and each calendar year thereafter for the duration of this Agreement, the Company will pay the City a certain sum which will be computed on the assessed value of the Company's inventory located on the Site. (Herein "the properties")

2. The term "Assessed Value" means the 100% valuation of the Company's properties, as determined by the Jefferson County Appraisal District for the previous tax year.

3. The term "assumed City taxes due" shall be calculated by the following formula:

Assumed City Taxes Due:

$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$

4. Payment Procedures

The procedures for determining and making such payments shall be as follows:

(a) The payment for 2016 shall be due and payable on or before February 1, 2016, and calculated as follows:

Assumed City Taxes Due:

$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$

$\text{Year 1 } 80\% \text{ of Assumed City Taxes Due} = \text{Payment Due}$
--

Each October thereafter, the Chief Financial Officer of the City shall obtain the most recent assessed values as set by the Jefferson County Appraisal District for the Company's inventory on the Site; for example, in October, 2015, the 2015 assessed values shall be used for the February 1, 2016 payment.

If the assessed values for the period required are in question and/or under litigation with the Jefferson County Appraisal District, payment shall be computed on the most recent certified values from the Jefferson County Appraisal District. The Company shall notify the City following resolution of the appraised value question and an adjustment for the payment, without interest, will be made within thirty (30) days following such resolution.

(b) After the assessed value of the Company's properties has been determined, the payments due hereunder shall be calculated in accordance with the following schedule:

The 2016 - 2018 payments shall be 80% of assumed City taxes due.

The 2019 - 2022 payments shall be 75% of assumed City taxes.

(c) City hereby agrees to bill Company for its payments due hereunder on or before January 1 each year. Company shall pay to City the amount billed on or before February 1 each year. Upon receiving the final payment, the Chief Financial Officer of the City shall issue an official receipt of said City acknowledging full, timely, final and complete payment due by said Company to City for the property involved in this Agreement for the year in which such payment is made. If payment is not made on or before any due date, the same penalties, interest, attorneys' fees and costs of collection shall be recoverable by the City as would be collectible in the case of delinquent ad valorem taxes. Further, if payment is not timely made, all payments which otherwise would have been paid to the City had Company been in the City limits of City will be recaptured and paid to the City within 60 days of any such event.

ARTICLE II

PROPERTY COVERED BY AGREEMENT

This instrument will reflect the intention of the parties hereto that this instrument shall govern and affect the inventories of Company located on the Site as shown on the records of the Jefferson County Appraisal District which are within the extra-territorial jurisdiction of the City of Beaumont.

ARTICLE III

TERMINATION OF BREACH

It is agreed by the parties to this Agreement that only full, complete and faithful performance of the terms hereof shall satisfy the rights and obligations assumed by the parties and that, therefore, in addition to any action at law for damages which either party may have, Company shall be entitled to enjoin the enactment or enforcement of any ordinance or charter amendment in violation of, or in conflict with, the terms of this Agreement and shall be entitled to obtain such other equitable relief, including specific performance of the Agreement, as is necessary to enforce its rights. It is further agreed that should this Agreement be breached by Company, the City shall be entitled, in addition to any action at law for damages, to obtain specific performance of this Agreement and such other equitable relief necessary to enforce its rights.

ARTICLE IV

TERM OF AGREEMENT

The term of this Agreement shall be for seven (7) years, commencing January 1, 2016, and ending on December 31, 2022.

ARTICLE V

NOTICES

Any notice provided for in this Agreement, or which may otherwise be required by law shall be given in writing to the parties hereto by Certified Mail addressed as follows:

TO CITY

City Manager
City of Beaumont
801 Main
Beaumont, Texas 77704

TO COMPANY

Koch Fertilizer, LLC
Treasurer
PO Box 2900
Wichita, KS 67201-2900

ARTICLE VI

CONTINUATION

If this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not affect the right of City to any payment made or accruing to City hereunder prior to such adjudication, and this provision is intended to be an independent and separable provision not to be affected by such adjudication.

IN WITNESS THEREOF, this Agreement, consisting of 6 pages, is executed in duplicate counterparts as of this _____ day of _____, 2015.

CITY OF BEAUMONT, TEXAS

By: _____
Kyle Hayes
City Manager

ATTEST:

Tina Broussard
City Clerk

KOCH FERTILIZER, LLC

By: _____

ATTEST:

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

AGREEMENT

This Agreement is made under the authority of Section 42.044 of the Texas Local Government Code.

The parties to the Agreement are The City of Beaumont, a municipal corporation and a home-rule city located in Jefferson County, Texas, hereinafter called "CITY," and Koch Nitrogen International Sarl, hereinafter called "COMPANY."

PREAMBLE

WHEREAS, Company owns inventory which is stored on the site of Martin Terminal Company located immediately adjacent to the City of Beaumont (the "Site"). The City has established an industrial district comprising a certain part of the extra-territorial jurisdiction of the City, such industrial district being known as the City of Beaumont Industrial District.

WHEREAS, the Company recognizes the benefits of this Agreement and an obligation to contribute to the revenue needs of said City in an amount commensurate with the burdens placed upon the City and benefits derived by the Company by reason of Site.

WHEREAS, the Company and the City desire to base the industrial district payment on assessed value to ensure equity among the companies.

In view of the above and foregoing reasons, and in consideration of the mutual agreements herein contained, Company and City hereby agree as follows:

ARTICLE I

COMPANY'S OBLIGATION

Annual Payment on Company's Property

1. Commencing with the calendar year 2016 and each calendar year thereafter for the duration of this Agreement, the Company will pay the City a certain sum which will be computed on the assessed value of the Company's inventory located on the Site. (Herein "the properties")

2. The term "Assessed Value" means the 100% valuation of the Company's properties, as determined by the Jefferson County Appraisal District for the previous tax year.

3. The term "assumed City taxes due" shall be calculated by the following formula:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

4. Payment Procedures

The procedures for determining and making such payments shall be as follows:

(a) The payment for 2016 shall be due and payable on or before February 1, 2016, and calculated as follows:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

$$\text{Year 1 } 80\% \text{ of Assumed City Taxes Due} = \text{2016 Payment Due}$$

Each October thereafter, the Chief Financial Officer of the City shall obtain the most recent assessed values as set by the Jefferson County Appraisal District for the Company's inventory on the Site; for example, in October, 2015, the 2015 assessed values shall be used for the February 1, 2016 payment.

If the assessed values for the period required are in question and/or under litigation with the Jefferson County Appraisal District, payment shall be computed on the most recent certified values from the Jefferson County Appraisal District. The Company shall notify the City following resolution of the appraised value question and an adjustment for the payment, without interest, will be made within thirty (30) days following such resolution.

(b) After the assessed value of the Company's properties has been determined, the payments due hereunder shall be calculated in accordance with the following schedule:

The 2016 - 2018 payments shall be 80% of assumed City taxes due.

The 2019 - 2022 payments shall be 75% of assumed City taxes.

(c) City hereby agrees to bill Company for its payments due hereunder on or before January 1 each year. Company shall pay to City the amount billed on or before February 1 each year. Upon receiving the final payment, the Chief Financial Officer of the City shall issue an official receipt of said City acknowledging full, timely, final and complete payment due by said Company to City for the property involved in this Agreement for the year in which such payment is made. If payment is not made on or before any due date, the same penalties, interest, attorneys' fees and costs of collection shall be recoverable by the City as would be collectible in the case of delinquent ad valorem taxes. Further, if payment is not timely made, all payments which otherwise would have been paid to the City had Company been in the City limits of City will be recaptured and paid to the City within 60 days of any such event.

ARTICLE II

PROPERTY COVERED BY AGREEMENT

This instrument will reflect the intention of the parties hereto that this instrument shall govern and affect the inventories of Company located on the Site as shown on the records of the Jefferson County Appraisal District which are within the extra-territorial jurisdiction of the City of Beaumont.

ARTICLE III

TERMINATION OF BREACH

It is agreed by the parties to this Agreement that only full, complete and faithful performance of the terms hereof shall satisfy the rights and obligations assumed by the parties and that, therefore, in addition to any action at law for damages which either party may have, Company shall be entitled to enjoin the enactment or enforcement of any ordinance or charter amendment in violation of, or in conflict with, the terms of this Agreement and shall be entitled to obtain such other equitable relief, including specific performance of the Agreement, as is necessary to enforce its rights. It is further agreed that should this Agreement be breached by Company, the City shall be entitled, in addition to any action at law for damages, to obtain specific performance of this Agreement and such other equitable relief necessary to enforce its rights.

ARTICLE IV

TERM OF AGREEMENT

The term of this Agreement shall be for seven (7) years, commencing January 1, 2016, and ending on December 31, 2022.

ARTICLE V

NOTICES

Any notice provided for in this Agreement, or which may otherwise be required by law shall be given in writing to the parties hereto by Certified Mail addressed as follows:

TO CITY

City Manager
City of Beaumont
801 Main
Beaumont, Texas 77704

TO COMPANY

Koch Nitrogen International Sarl
PO Box 2900
Wichita, KS 67201-2900

ARTICLE VI

CONTINUATION

If this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not affect the right of City to any payment made or accruing to City hereunder prior to such adjudication, and this provision is intended to be an independent and separable provision not to be affected by such adjudication.

IN WITNESS THEREOF, this Agreement, consisting of 6 pages, is executed in duplicate counterparts as of this _____ day of _____, 2015.

CITY OF BEAUMONT, TEXAS

By: _____
Kyle Hayes
City Manager

ATTEST:

Tina Broussard
City Clerk

KOCH NITROGEN INTERNATIONAL SARL

By: _____

ATTEST:

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer 

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider authorizing the City Manager to execute an Industrial District Contract with ExxonMobil Oil Corporation for inventory held offsite within the extraterritorial jurisdiction.

BACKGROUND

Industrial District Contracts enable the City to collect payments in lieu of taxes from industries located outside the city limits but within the extra territorial jurisdiction of the city.

The City currently has a contract with ExxonMobil Oil Corporation for inventory stored at Enterprise Beaumont Marine West, LP that will expire December 31, 2015. The new contract will be effective January 1, 2016. The in-lieu of tax payment will be based on 100% of property taxes due to the City as if the industry were located within the city limits in 2016 through 2022. The 2016 payment will be calculated based on 100% of the assessed value multiplied by the tax rate effective on October 1, 2015 or \$0.69 per \$100 of assessed valuation. Payments will be due to the City by February 1st of each year.

A copy of the agreement is attached for your review.

FUNDING SOURCE

The estimated FY 2016 payment is \$29,000.

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 an Industrial District Agreement with ExxonMobil Oil Corporation for inventory held offsite within the extraterritorial jurisdiction. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

AGREEMENT

This Agreement is made under the authority of Section 42.044 of the Texas Local Government Code.

The parties to the Agreement are The City of Beaumont, a municipal corporation and a home-rule city located in Jefferson County, Texas, hereinafter called "CITY," and ExxonMobil Oil Corporation, hereinafter called "COMPANY."

PREAMBLE

WHEREAS, Company owns inventory which is stored on the site of Enterprise Products Beaumont Marine. The City has established an industrial district comprising a certain part of the extra-territorial jurisdiction of the City, such industrial district being known as the City of Beaumont Industrial District.

WHEREAS, the Company recognizes the benefits of this Agreement and an obligation to contribute to the revenue needs of said City in an amount commensurate with the burdens placed upon the City and benefits derived by the Company by reason of being located immediately adjacent to said City.

WHEREAS, the Company and the City desire to base the industrial district payment on assessed value to ensure equity among the companies.

In view of the above and foregoing reasons, and in consideration of the mutual agreements herein contained, Company and City hereby agree as follows:

ARTICLE I

COMPANY'S OBLIGATION

Annual Payment on Company's Property

1. Commencing with the calendar year 2016 and each calendar year thereafter for the duration of this Contract, the Company will pay the City a certain sum which will be computed on the assessed value of the Company's inventory located on the site owned by Enterprise Beaumont Marine West, LP covered by this contract. (Herein "the properties")

2. By the term "Assessed Value" is meant the 100% valuation of the Company's properties, as determined by the Jefferson County Appraisal District for the previous tax year.

3. The term "assumed City taxes due" shall be calculated by the following formula:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

4. Payment Procedures

The procedures for determining and making such payments shall be as follows:

(a) The payment for 2016 shall be due and payable upon execution of this agreement, and calculated as follows:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

$$\text{Year 1 } 100\% \text{ of Assumed City Taxes Due} = \text{2016 Payment}$$

Each October thereafter, the Chief Financial Officer shall obtain the most recent assessed values as set by the Jefferson County Appraisal District for the Company's inventory, having taxable situs within the areas described in this agreement; for example, in October, 2015, the 2015 assessed values shall be used for the February 1, 2016 payment.

If the assessed values for the period required are in question and/or under litigation with the Jefferson County Appraisal District, payment shall be computed on the most recent certified values from the Jefferson County Appraisal District. The Company shall notify the City following resolution of the appraised value question and an adjustment for the payment, without interest, will be made within thirty (30) days following such resolution.

(b) After the assessed value of the Company's properties has been determined, the payments due hereunder shall be calculated as follows:

The 2017 through 2022 payments shall be 100% of assumed City taxes.

(c) City hereby agrees to bill Company for its payments due hereunder on or before January 1 each year. Company shall pay to City the amount billed on or before February 1 each year. Upon receiving the final payment, the Chief Financial Officer shall issue an official receipt of said City acknowledging full, timely, final and complete payment due by said Company to City for the property involved in this Agreement for the year in which such payment is made. If payment is not made on or before any due date, the same penalties, interest, attorneys' fees and costs of collection shall be recoverable by the City as would be collectible in the case of delinquent ad valorem taxes.

ARTICLE II

PROPERTY COVERED BY AGREEMENT

This instrument will reflect the intention of the parties hereto that this instrument shall govern and affect the inventories of Company located on the site of Enterprise Beaumont Marine West, LP, as shown on the records of the Jefferson County Appraisal District which are within the extra-territorial jurisdiction of the City of Beaumont.

ARTICLE III

TERMINATION OF BREACH

It is agreed by the parties to this Agreement that only full, complete and faithful performance of the terms hereof shall satisfy the rights and obligations assumed by the parties and that, therefore, in addition to any action at law for damages which either party may have, Company shall be entitled to enjoin the enactment or enforcement of any ordinance or charter amendment in violation of, or in conflict with, the terms of this Agreement and shall be entitled to obtain such other equitable relief, including specific performance of the Agreement, as is necessary to enforce its rights. It is further agreed that should this Agreement be breached by Company, the City shall be entitled, in addition to any action at law for damages, to obtain specific performance of this Agreement and such other equitable relief necessary to enforce its rights.

ARTICLE IV

TERM OF AGREEMENT

The term of this Agreement shall be for seven (7) years, commencing January 1, 2016 and ending on December 31, 2022.

ARTICLE V

NOTICES

Any notice provided for in this Contract, or which may otherwise be required by law shall be given in writing to the parties hereto by Certified Mail addressed as follows:

TO CITY

City Manager
City of Beaumont
801 Main
Beaumont, Texas 77704

TO COMPANY

ExxonMobil Oil Corporation
Manager, Property Tax Division
PO Box 53
Houston, Texas 77001-0053

ARTICLE VI

CONTINUATION

If this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not affect the right of City to any payment made or accruing to City hereunder prior to such adjudication, and this provision is intended to be an independent and separable provision not to be affected by such adjudication.

IN WITNESS THEREOF, this Agreement, consisting of 6 pages, is executed in duplicate counterparts as of this _____ day of _____, 2015.

CITY OF BEAUMONT, TEXAS

By: _____
Kyle Hayes
City Manager

ATTEST:

Tina Broussard
City Clerk

EXXONMOBIL OIL CORPORATION

By: _____

ATTEST:

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider authorizing the City Manager to execute a fire service agreement with International Brotherhood of Electrical Workers (IBEW).

BACKGROUND

The IBEW has requested that the City of Beaumont provide fire protection to their office on Spindletop Road which is outside the city limits. The new agreement is effective January 1, 2016 and expires December 31, 2022. The IBEW will pay an annual amount equal to seventy-five percent (75%) of the amount of City taxes that would be due if the IBEW facility were within the city limits of City based on the tax rate set by City Council and the assessed valuation of the facilities. The 2016 payment will be calculated based on 75% of the assessed value multiplied by the tax rate effective on October 1, 2015 or \$0.69 per \$100 of assessed valuation. Payments will be due within thirty (30) days after being invoiced by the City.

A copy of the agreement is attached for your review.

FUNDING SOURCE

The estimated FY 2016 payment is \$3,882.

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 Fire Service Agreement with the International Brotherhood of Electrical Workers (IBEW) for fire protection services. The Agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

STATE OF TEXAS

§

COUNTY OF JEFFERSON

§

AGREEMENT

WHEREAS, the International Brotherhood of Electrical Workers, (herein, "IBEW") has requested that the City of Beaumont, (herein, "City") provide fire protection to their office on Spindletop road which is outside the city limits of City; and,

WHEREAS, the City desires to provide such fire protection because the facility is used by many City residents;

NOW THEREFORE, CITY and IBEW agree as follows:

1. This agreement shall be for seven years, commencing January 1, 2016 expiring December 31, 2022.

2. During the term of this agreement, City will provide fire protection when requested by IBEW at the IBEW facility on Spindletop road. Fire protection shall be the same as that provided within the city limits of City and no warranty, guarantee or other promise of the effectiveness or quality of such fire protection is intended by this agreement. Specifically, the City does not guarantee that significant damage or complete destruction of the IBEW facility will not occur.

3. Each year of this agreement, IBEW agrees to pay an annual amount equal to seventy-five (75%) percent of the amount of City taxes that would be due if the IBEW facility were within the city limits of City based on the tax rate set by the City Council of City and the assessed valuation of the facilities of IBEW as established by the Jefferson

County Appraisal District. The amount shall be due and payable within thirty (30) days after invoice by City.

EXECUTED this _____ day of _____, 2015.

THE INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS

CITY OF BEAUMONT

Kyle Hayes, City Manager

BEAUMONT
— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing a one year contract with the Greater Beaumont Chamber of Commerce in the amount of \$85,000 for the period of January 1, 2016 through December 31, 2016.

BACKGROUND

Funding will be used for marketing Beaumont and business retention/recruitment efforts. Administration is extremely pleased with the relationship between the City and the Chamber.

FUNDING SOURCE

General Fund.

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 one (1) year contract with the Greater Beaumont Chamber of Commerce in the amount of \$85,000 for economic development purposes effective January 1, 2016 through December 31, 2016. The contract 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 15th day of December, 2015.

- Mayor Becky Ames -

STATE OF TEXAS §

COUNTY OF JEFFERSON §

This agreement, executed in duplicate, is made and entered into by and between the City of Beaumont, Texas, a municipal corporation of the State of Texas, hereinafter called "City", acting herein by and through its duly authorized City Manager, and the Greater Beaumont Chamber of Commerce, a non-profit corporation, hereinafter called "Chamber", acting herein by and through its President.

WHEREAS, the City believes that economic development is crucial to the continued economic success of City and believes that Chamber should be retained to carry out a program of work on behalf of City for the economic development of City;

NOW, THEREFORE, in consideration of the mutual promises made herein, the City and the Chamber agree as follows:

1.

City does hereby employ, engage and hire Chamber to engage in a comprehensive range of activities and projects to create jobs in Beaumont directed at economic development. The Chamber does hereby agree to accept such hiring, engagement and employment and to discharge such duties in accordance with the terms and conditions herein set forth.

2.

Chamber is hired as an independent contractor and is not an agent of the City.

3.

Chamber agrees to engage in a comprehensive range of activities and projects to create jobs in Beaumont. Chamber's program will be directed toward four separate aspects of job growth:

- a) retaining existing jobs;
- b) creating new businesses;
- c) expanding existing businesses; and,
- d) attracting new employers.

To achieve these goals, the Chamber will maintain a capable paid staff with necessary expertise; recruit and organize volunteer workers from the community; maintain contacts and relationships with primary economic development allies of both public and private offices; gather and publish necessary information and statistics for prospects; maintain and build relationships with management of existing businesses; and promote any other specific activities or projects which will contribute to an environment conducive to job growth.

4.

City hereby agrees to pay to Chamber during the term of this agreement Eighty-Five Thousand Dollars (\$85,000). Payments of Twenty-One Thousand Two-Hundred Fifty Dollars (\$21,250) will be made upon receipt of invoice dated in January of 2016, April 1, 2016, July 1, 2016 and October 1, 2016. Chamber agrees to expend in excess of One- Hundred -Thousand Dollars (\$100,000) in other Chamber funds for the purposes outlined in paragraph 3 hereof.

5.

In conjunction with its annual audit, Chamber agrees to audit, on a review basis, the functional areas outlined in this agreement. Chamber agrees to provide City a copy of the report done by Chamber's certified public accountants on an annual basis.

6.

The term of this agreement shall be from January 1, 2016 until December 31, 2016.

7.

Chamber agrees to indemnify, save harmless, and defend the City of Beaumont from any and all claims, causes of action and damages of every kind arising from the operations of the Chamber, its officers, agents and employees, including the officers, agents and employees involved in economic development and specifically including herein any and all acts of negligence by the City of Beaumont, its agents, officers or employees, carried out under the terms of this agreement. Chamber shall carry, or cause to be carried, general public liability and automobile liability insurance on all operations embraced by this agreement in the amount of Five-Hundred Thousand Dollars (\$500,000) for each occurrence and property damage liability insurance in the amount of Twenty-Five Thousand Dollars (\$25,000) for each occurrence. Said liability policies shall include contractual liability coverage in the same amounts as stated herein. Said insurance policies shall name the City of Beaumont as an additional insured. Said policies or duplicate originals thereof shall be filed with the City Clerk, or her designated representative, before any operations contemplated by this agreement are begun.

EXECUTED in duplicate originals this the _____ day of _____,
2015.

CITY OF BEAUMONT

By: _____
Kyle Hayes
City Manager

ATTEST:

By: _____
City Clerk

GREATER BEAUMONT CHAMBER OF COMMERCE

By: _____
Chairman of the Board

ATTEST:

By: _____

Name: _____

Title: _____

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: V. J. Clay, Assistant Chief of Police

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute a License Agreement between Inspired Encourage Achieve (IEA) and the Beaumont Police Department.

BACKGROUND

The Police Department is requesting authorizing the City Manager to sign a License Agreement with IEA, substantially in the form of the one attached. This building will be a Cops and Kids fitness center to be used by Beaumont Police Department officers and at-risk youth for physical activities and opportunities for positive interaction, including mentoring. The Police Department will pay \$200 monthly plus utilities for the use of the facility.

FUNDING SOURCE

General Fund-Police Department.

RECOMMENDATION

Approval of Resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager is hereby authorized to execute all documents, including, specifically, a License Agreement between the City of Beaumont and Inspire Encourage Achieve (IEA) for the Cops and Kids fitness center to be used by Beaumont Police Department officers and at-risk youth for physical activities and opportunities for positive interaction, including mentoring. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, (the "Agreement"), is made this ____ day of _____, 20____, by and between _____ (IEA Located at 20 North 11th Street Beaumont Texas 77702), by its managing agent Regina Rogers ("**Licensor**") and City of Beaumont having offices at 801 Main Street Beaumont, TX 77701, on behalf of the Beaumont Police Department, by its Managing Agent, Kyle Hayes, Contact: Kyle Hayes, City Manager, c/o Beaumont Police Department Phone: 409-880-3801 ("**Licensee**").

It is understood and agreed that this Agreement is, and is intended to be, a license, granting the **Licensee** permission to engage in certain acts upon the **Licensor's** premises, subject to the terms, conditions and limitations set forth herein.

1. License Area: **Licensee's** rights under this Agreement shall be limited to the specific area identified as shown on Exhibit A, attached hereto and made a part hereof ("**License Area**"), of the IEA Building located at 20 North 11th Street, Beaumont, TX 77702 (also known as Suite B) **Licensee** shall have no right to use any other area of **Licensor's** premises, other than the area identified on Exhibit A and common areas open to the general public, including access and use of the parking areas. Whenever in this Agreement the term "License Area" is used, such term shall refer to the area listed on Exhibit A during the respective periods.

2. Duration and Payment: With respect to the License Area, **Licensee's** rights and obligations under this Agreement, including the payment of a monthly fee of two hundred dollars (\$200) per month, due and payable the beginning of each month, shall commence on January 1, 2016, (the "**Commencement Date**") and shall end on December 31, 2016, (the "**Expiration Date**"). Either party to this Agreement may cancel this Agreement with thirty (30) days notice in writing to the other party. Upon cancellation, any rental payment due for the final month will be prorated. This Agreement will automatically renew at the end of the one year term and will continue under the same terms of this Agreement, unless this Agreement is cancelled in writing, with 30 days notice to the other party to this Agreement.

3. Use: The License Area shall be occupied and used by the Licensee solely for the purpose of a facility for employees of the Beaumont Police Department to use the health and exercise equipment on premises, as well as a place for Beaumont Police Department employees to interact with youth, as part of the Beaumont Police Department's Cops and Kids programs, particularly focusing on healthy lifestyles and positive interactions between youth and the Beaumont Police Department.

4. Utilities: **Licensee** shall be solely responsible for and shall promptly pay for all fees, deposits and charges, including use and/or connection fees, hook-up fees, standby fees, and/or penalties for discontinued or interrupted service, and the like, for electricity furnished to the License Area. At the time of this Agreement the electric utilities to the property, including the Licensed Area (Suite B), are separately metered. The Licensee will change the electric utilities for the Licensed Area (Suite B) into the Licensee's name and Licensee will be responsible for the

electric utilities in the Licensed Area. The Licensor will remain responsible for water and sewer on the property, including water and sewer for the Licensed Area. The water and sewer for the Licensed Area is not currently separately metered. Due to the short duration of this Agreement and the thirty (30) day cancellation provision in this Agreement, the parties have determined not to separate the meters at this time. Instead, the Licensor will remain responsible for the water and sewer bills. The Licensee hereby agrees to reimburse Licensor for one-half of the water/sewer service to the 20 North 11th Street location. Licensor will fax to the Licensee at the following fax number - (409) 880-3844, the monthly water/ sewer statement and, after receipt, the Licensee will pay one half of the monthly statement amount, within 30 days, for the purpose of reimbursing the Licensor for one half of the water and sewer to the location. Should the parties later determine to separate the water meter to this property, then an agreement to separately meter, will be made in writing between the parties to this Agreement. The Licensee does not expect or require any other utilities to the Licensed Area and should any other utilities be provided to the Licensed Area (such as burglar alarm, cable, etc.), any provision of such additional services will be at the discretion and expense of Licensor and may be terminated at any time by Licensor, at Licensor's sole discretion.

5. Condition of License area: Licensee accepts the License area identified and all the equipment contained therein "as is" with no representation or warranty by **Licensor** regarding the condition of the License area or its suitability for Licensee's use or occupation thereof. The Licensee is authorized to maintain and repair all equipment contained in the License Area, as Licensee, in its sole discretion, deems fit and proper.

6. Permits and Taxes: Any and all taxes, fees and assessments which may be levied or assessed on the portion of the Licensed premises or its equipment or fixtures, by any duly constituted government authority, shall be borne by **Licensee** to the extent applicable. Because Licensee is a government entity and is tax exempt, the parties do not anticipate any taxes being owed by Licensee.

7. Repair and Maintenance: Licensee shall maintain, at its sole cost and expense, the License Area in good condition, normal wear and tear excepted, except for structural repairs.

8. Insurance: The City of Beaumont is a self-insured municipality and is not required to maintain any insurance on the license area or its contents.

9. Obligation upon Expiration: Upon the Expiration Date or earlier revocation of this Agreement with due notice, Licensee shall remove all of the Licensee's Property and shall within thirty (30) days peaceably yield up the License area clean and in good, repair and condition.

10. Notices: Whenever in this Agreement it shall be required or permitted that notice be given or served by either party to this Agreement or on the other, such notice, shall be given or served, and shall not be deemed to have been duly given or served unless in writing and forwarded by certified or registered mail or nationally recognized overnight courier, addressed to the parties at the addresses set forth: City of Beaumont, 801 Main Street, Beaumont, TX 77701; IEA, 20 North 11th Street, Beaumont, Texas 77702.

11. Assignment and Subletting: Licensee shall not sell, assign, mortgage, pledge or transfer this License or any interest therein nor sublet all or any part of the License Area.

12. Non-Waiver Provision: The failure of Licensor to insist upon performance of any of the terms, conditions, and covenants hereof shall not be deemed to be a waiver of any rights or remedies that Licensor may have and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions, and covenants herein contained.

13. Binding Agreement: This Agreement contains all the covenants, promises, agreements, conditions, and understandings between Licensor and Licensee. There are no other agreements other than those set forth in this Agreement. This Agreement may not be modified other than in writing.

14. Counterparts: This Agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, all of which shall together constitute one and the same Agreement, and shall be binding on the signatories. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to any other counterpart. Photocopies, facsimile signatures, or signatures sent via portable document format (PDF), shall be deemed valid as an original.

15. Exhibit to Agreement: An Exhibit is attached to this Agreement and is made a part hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written, each acknowledging receipt of an executed copy hereof,

LICENSOR:

BY: Regina Rogers

PRINT NAME: Regina Rogers

Its: IEA Founder and Chair

DATE: December 9, 2015

LICENSEE:

City of Beaumont

BY: _____

PRINT NAME: Kyle Hayes

Its: City Manager

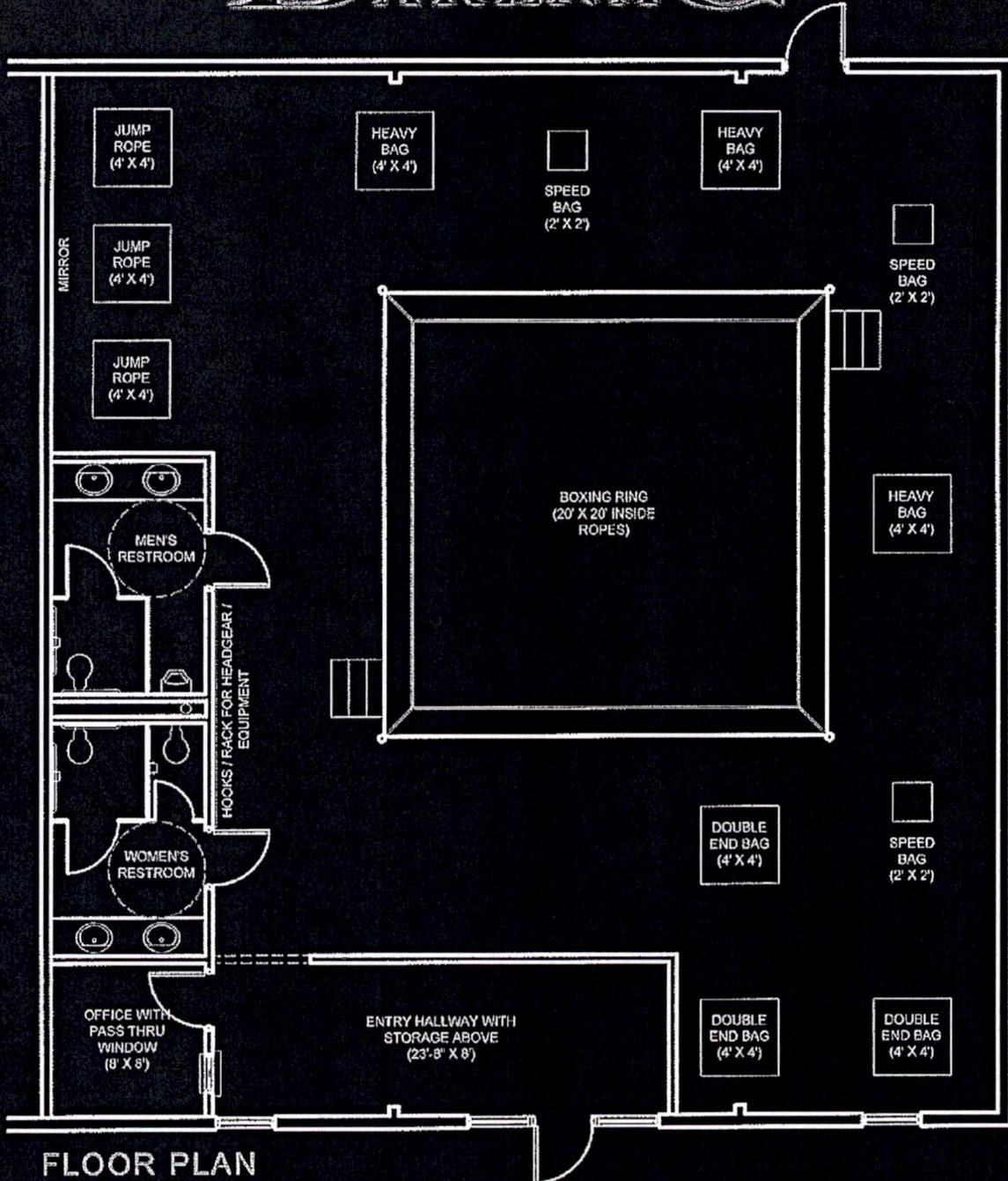
DATE: _____

Exhibit A



JOE LOUIS

BOXING ARENA



FLOOR PLAN



The LaBiche Architectural Group, Inc.
 7999 Gladys Avenue, Suite 101
 office (409) 860-0197 fax (409) 860-0198
www.labiche.com



**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS DECEMBER 15, 2015 1:30 P.M.**

AGENDA

CALL TO ORDER

- * Invocation Pledge Roll Call
- * Presentations and Recognition
- * Public Comment: Persons may speak on scheduled agenda items 1-7/Consent Agenda
- * Consent Agenda

GENERAL BUSINESS

1. Consider a resolution authorizing the award of a bid to GADV, Inc., d/b/a L & L General Contractors of Beaumont for the Construction of an 8-Unit T-Hangar and Removal of 2 Existing T-Hangars Project at the Beaumont Municipal Airport
2. Consider a resolution authorizing the award of a bid to GADV, Inc., d/b/a L & L General Contractors of Beaumont for the Relocation of Parallel Taxiway, Replacement of Taxiway Lighting and Signage and Construction of T-Hangar Access Taxiway at the Beaumont Municipal Airport
3. Consider a resolution approving Change Order No. 2, 3, 4 and 5 to the contract with the Texas Department of Transportation for the Concord Road Project
4. Consider a resolution approving a contract for water bill printing and mailing services with DataProse, Inc., of Irving
5. Consider a resolution approving the award of a three-year contract for grounds maintenance and litter removal in the Downtown Central Business District to Texas Industries for the Blind and Handicapped
6. Consider a resolution approving the award of a contract for workers' compensation excess insurance to McGriff, Seibels & Williams of Texas Inc., of San Antonio

7. Consider a resolution authorizing the City Manager to enter into an agreement with Tri-Con, Inc. for economic development incentives under the Neighborhood Empowerment Zone Abatement Program

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:

Claim of Duc Duy Au

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.

December 15, 2015

Consider a resolution authorizing the award of a bid to GADV, Inc., d/b/a L & L General Contractors of Beaumont for the Construction of an 8-Unit T-Hangar and Removal of 2 Existing T-Hangars Project at the Beaumont Municipal Airport



TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing the award of a bid to GADV, Inc., d/b/a L & L General Contractors of Beaumont, Texas in the amount of \$409,500.00 for the Construction of an 8-Unit T-Hangar and Removal of 2 Existing T-Hangars Project at the Beaumont Municipal Airport.

BACKGROUND

As part of the FAA approved Beaumont Municipal Airport 5-Year Capital Improvement Plan, the City proposed the construction of an 8-unit T-Hangar to satisfy the demand for aircraft hangar space as one of the commitments.

On Thursday, November 19, 2015, bids were solicited for furnishing all labor, materials, equipment and supplies for the project. Eight (8) bids were received as follows:

Contractor	Location	Bid
GADV Inc. dba L & L General Contractors	Beaumont, Texas	\$409,500.00
Don Jackson Construction, Inc.	Riesel, Texas	\$599,000.00
Trinity Transcon, LLC	Eules, Texas	\$1,105,608.00
H.B. Neild & Sons, Inc.	Beaumont, Texas	\$485,300.00
Centric Gulf Coast, Inc.	Metairie, LA	\$705,000.00
Construction Zone of Texas, LLC	Nederland, Texas	\$492,324.00
N & T Construction Co.	Beaumont, Texas	\$481,582.00
Bruce's General Construction, Inc.	Beaumont, Texas	\$500,000.00

A total of 180 calendar days are allocated for the completion of the project. GADV Inc., d/b/a L & L General Contractors is a Certified MBE Contractor and will be providing 100% MBE participation.

Award of T-Hangar Project

December 15, 2015

Page 2

FUNDING SOURCE

Oil and Gas Revenues in the Municipal Airport Fund.

RECOMMENDATION

Approval of resolution.

LOCHNER

Lochner | 12001 N Central Expressway | Suite 1050 | Dallas, TX 75243

www.hwlochner.com

T 214.373.7873

F 214.373.7875

December 3, 2015

Dr. Joseph Majdalani, P.E.
Director of Public Works
City of Beaumont
City Hall
801 Main St.
Beaumont, Texas 77701

Re: Construction Contract Award Recommendation
Airport Improvements Project – T-Hangar Construction
Beaumont Municipal Airport
City of Beaumont Bid No. PW1016-01

Dear Dr. Majdalani,

On November 19, 2015, H.W. Lochner, Inc. was very pleased to receive eight (8) bids for the Airport Improvements Project (T-Hangar Construction) at Beaumont Municipal Airport, Bid No. PW1016-01.

Attached is a detailed tabulation of these bids.

Having evaluated each of the bids in terms of bid content, bid amount and bidder's qualifications, we recommend that if funding is available the construction contract be awarded to the low bidder, GADV Inc. dba L&L General Contractors, for the total of Base Bid amount of \$409,500.00. This bid was lower than the Engineer's Estimate and reflects the competitive nature of this type of work in the Beaumont area.

Once the contract is awarded, we will schedule a Pre-Construction Meeting in preparation of the contractor's Notice to Proceed. With the upcoming Holiday schedule, we anticipate the Notice to Proceed to be no sooner than February 1, 2016.

Please don't hesitate to call if you have any questions concerning this recommendation.

Very sincerely,



Robert C. Jutton, PE
Senior Project Manager

Attachment: Bid Tabulation

Cc: Zheng Tan, PE – City of Beaumont
Dara Cruz – City of Beaumont
Robert Jackson, AICP, C.M. - TxDOT Aviation Division
Kirk Leblanc - GADV Inc. dba L&L General Contractors

LOCHNER

TABULATION OF BIDS

BEAUMONT MUNICIPAL AIRPORT BEAUMONT, TEXAS



BASE BID
T-HANGAR CONSTRUCTION

BID NO. PW1016-01

Bids Received: 11/19/2015
Lochner Job No.: 9315

Bids Tabulated By: ZTS
Date: 11/20/2015
Bids Checked By: RCJ

Date: 11/20/2015

No.	Name of Bidder	Base Bid
1	GADV Inc dba L&L General Contractors	\$409,500.00
2	Don Jackson Construction, Inc.	\$599,000.00
3	Trinity Transcon, LLC	\$1,105,608.00
4	H.B. Neild & Sons, Inc.	\$485,300.00
5	Centric Gulf Coast, Inc.	\$705,000.00
6	Construction Zone of Texas, LLC	\$492,324.00
7	N&T Construction CO.	\$481,582.00
8	Bruce's General Construction, Inc.	\$500,000.00

I:\KAC\PRJ\000009315\PROJECT FILES\AE\EXCEL\000009315 - Master-PayItems_(Beaumont).xls]BID TAB

RESOLUTION NO.

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

THAT the City Council hereby approves the award of a contract to GADV, Inc., d/b/a L & L General Contractors, of Beaumont, Texas, in the amount of \$409,500.00 for the Construction of an 8-Unit T-Hangar and Removal of Two (2) Existing T-Hangars at the Beaumont Municipal Airport Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

December 15, 2015

Consider a resolution authorizing the award of a bid to GADV, Inc., d/b/a L & L General Contractors of Beaumont for the Relocation of Parallel Taxiway, Replacement of Taxiway Lighting and Signage and Construction of T-Hangar Access Taxiway at the Beaumont Municipal Airport

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution authorizing the award of a bid to GADV, Inc., d/b/a L & L General Contractors of Beaumont, Texas in the amount of \$3,684,503.60 for the Relocation of Parallel Taxiway, Replacement of Taxiway Lighting and Signage and Construction of T-Hangar Access Taxiway at the Beaumont Municipal Airport.

BACKGROUND

As part of the FAA approved Beaumont Municipal Airport 5-Year Capital Improvement Plan, the City agreed to taxiway improvements as one of the commitments. The taxiway project is required to relocate the parallel taxiway from 200' offset from the runway to 240' which is the minimum offset distance of a runway to a parallel taxiway for this category of airport. Mitigating this safety issue is a high priority to the FAA.

On Thursday, November 19, 2015, bids were solicited for furnishing all labor, materials, equipment and supplies for the project. Two (2) bids were received as follows:

Contractor	Location	Bid
GADV Inc. dba L & L General Contractors	Beaumont, Texas	\$3,684,503.60
APAC – Texas, Inc.	Beaumont, Texas	\$4,185,925.85

A total of 240 calendar days are allocated for the completion of the project. GADV Inc., d/b/a L & L General Contractors is a Certified MBE Contractor and will be providing 100% MBE participation.

FUNDING SOURCE

Oil and Gas Revenues in the Municipal Airport Fund.

RECOMMENDATION

Approval of resolution.

LOCHNER

Lochner | 12001 N Central Expressway | Suite 1050 | Dallas, TX 75243

www.hwlochner.com

T 214.373.7873

F 214.373.7875

December 3, 2015

Dr. Joseph Majdalani, P.E.
Director of Public Works
City of Beaumont
City Hall
801 Main Street
Beaumont, Texas 77701

Re: Construction Contract Award Recommendation
Airport Improvements Project – Taxiway Relocation
Beaumont Municipal Airport
City of Beaumont Bid No. PW1016-02

Dear Dr. Majdalani,

On November 19, 2015, H.W. Lochner, Inc. was very pleased to receive two (2) bids for the Airport Improvements Project (Taxiway Relocation) at Beaumont Municipal Airport, Bid No. PW1016-02. Attached is a detailed tabulation of these bids.

Having evaluated each of the bids in terms of bid content, bid amount and bidder's qualifications, we recommend that if funding is available the construction contract be awarded to the low bidder, GADV Inc. dba L&L General Contractors, for the total of Base Bid amount of \$3,684,503.60.

This bid was higher than the Engineer's Estimate. After discussing the bids with both GADV Inc. dba L&L General Contractors and APAC – Texas, Inc., we attribute this to the continuing volatility in the unit price of construction materials in the Beaumont area and the challenging phasing schedule required for this project while working in the areas of the existing hangars. We feel rebidding the project with less phases might reduce bids slightly but this would significantly impact operations at the airport during construction and restrict access of the airport's tenants to the airport operating area which we purposefully tried to avoid.

Once the contract is awarded, we will schedule a Pre-Construction Meeting in preparation of the contractor's Notice to Proceed. With the upcoming Holiday schedule, we anticipate the Notice to Proceed to be no sooner than February 1, 2016.

Please don't hesitate to call if you have any questions concerning this recommendation.

Very sincerely,



Robert C. Jutton, PE
Senior Project Manager

Attachment: Bid Tabulation

Cc: Zheng Tan, PE – City of Beaumont
Dara Cruz – City of Beaumont
Robert Jackson, AICP, C.M. - TxDOT Aviation Division
Kirk Leblanc - GADV Inc. dba L&L General Contractors

TABULATION OF BIDS

BEAUMONT MUNICIPAL AIRPORT BEAUMONT, TEXAS



BASE BID
Relocate Parallel Taxiway
Replace Taxiway Lighting and Signage
Construct T-Hangar Access Taxiway

November 20, 2015

Bids Received: 11/19/2015
Lochner Job No.: 10510

Bids Tabulated By: ZTS
Date: 11/20/2015
Bids Checked By: RCJ
Date: 11/20/2015

				APAC - Texas, Inc P.O. Box 20779 Beaumont, TX 77720-0079		GADV Inc dba L&L General Contractors 11988 FM 365 Beaumont, TX 77705	
Item No.	Item Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price
BASE BID							
1	Mobilization	1	L.S.	\$ 440,000.00	\$ 440,000.00	\$ 72,000.00	\$ 72,000.00
2	Temporary Marking, Lighting, & Barricades	1	L.S.	\$ 22,000.00	\$ 22,000.00	\$ 19,000.00	\$ 19,000.00
3	Full Depth Concrete Pavement Removal	508	S.Y.	\$ 24.00	\$ 12,192.00	\$ 40.50	\$ 20,574.00
4	Pavement Removal (Varies)	17,701	S.Y.	\$ 11.00	\$ 194,711.00	\$ 40.00	\$ 708,040.00
5	Saw Cut	979	L.F.	\$ 12.00	\$ 11,748.00	\$ 3.00	\$ 2,937.00
6	Remove Existing Taxiway Lighting System	1	L.S.	\$ 19,000.00	\$ 19,000.00	\$ 11,000.00	\$ 11,000.00
7	Remove Existing Airport Signs	1	L.S.	\$ 14,000.00	\$ 14,000.00	\$ 5,900.00	\$ 5,900.00
8	Remove Existing Drainage Structures	1	L.S.	\$ 61,000.00	\$ 61,000.00	\$ 23,000.00	\$ 23,000.00
9	Unclassified Excavation	20,000	C.Y.	\$ 20.00	\$ 400,000.00	\$ 25.00	\$ 500,000.00
10	Lime	483	TON	\$ 220.00	\$ 106,260.00	\$ 205.00	\$ 99,015.00
11	Lime Stabilized Subgrade (8")	26,824	S.Y.	\$ 3.60	\$ 96,566.40	\$ 8.00	\$ 214,592.00
12	Erosion Control Barrier - Silt Fence	1,640	L.F.	\$ 5.50	\$ 9,020.00	\$ 3.25	\$ 5,330.00
13	Crushed Aggregate Base Course (6")	26,824	S.Y.	\$ 21.00	\$ 563,304.00	\$ 20.00	\$ 536,480.00
14	6" P.C.C. Pavement	23,309	S.Y.	\$ 68.00	\$ 1,585,012.00	\$ 41.95	\$ 977,812.55
15	Yellow Reflectorized Pavement marking	4,217	S.F.	\$ 1.10	\$ 4,638.70	\$ 1.25	\$ 5,271.25
16	Black Non-Reflectorized Pavement Marking	8,239	S.F.	\$ 1.00	\$ 8,239.00	\$ 1.25	\$ 10,298.75
17	Yellow Temporary Non-Reflectorized Pavement Marking	4,217	S.F.	\$ 7.00	\$ 29,519.00	\$ 8.00	\$ 33,736.00
18	Temporary Displaced threshold	1	L.S.	\$ 6,000.00	\$ 6,000.00	\$ 9,000.00	\$ 9,000.00
19	18" RCP	60	L.F.	\$ 90.00	\$ 5,400.00	\$ 24.83	\$ 1,489.80
20	18" RCP End Treatment	2	EA.	\$ 850.00	\$ 1,700.00	\$ 750.00	\$ 1,500.00
21	24" RCP	744	L.F.	\$ 95.00	\$ 70,680.00	\$ 42.00	\$ 31,248.00
22	24" RCP End Treatment	5	EA.	\$ 1,200.00	\$ 6,000.00	\$ 1,250.00	\$ 6,250.00
23	18" RCP Arch Pipe	658	L.F.	\$ 175.00	\$ 115,150.00	\$ 48.00	\$ 31,584.00
24	18" RCP Arch Pipe End Treatment	2	EA.	\$ 1,500.00	\$ 3,000.00	\$ 1,250.00	\$ 2,500.00
25	4' x 4' Junction Box	1	EA.	\$ 4,000.00	\$ 4,000.00	\$ 2,200.00	\$ 2,200.00
26	4' x 4' Grate Inlet	5	EA.	\$ 4,200.00	\$ 21,000.00	\$ 2,444.00	\$ 12,220.00
27	Head Wall	1	EA.	\$ 6,300.00	\$ 6,300.00	\$ 3,500.00	\$ 3,500.00
28	Seeding	10	ACRE	\$ 1,400.00	\$ 14,000.00	\$ 1,200.00	\$ 12,000.00
29	Mulching	10	ACRE	\$ 880.00	\$ 8,800.00	\$ 1,200.00	\$ 12,000.00
30	Underground Cable (1/c, #8 AWG, 5KV XLP/USE) in Duct	14,635	L.F.	\$ 1.05	\$ 15,366.75	\$ 1.25	\$ 18,293.75
31	Bare Copper Counterpoise (#6 AWG) In Separate Trench	10,720	L.F.	\$ 3.30	\$ 35,376.00	\$ 2.50	\$ 26,800.00
32	2" PVC Conduit and Trench	11,750	L.F.	\$ 7.50	\$ 88,125.00	\$ 6.25	\$ 73,437.50
33	2" PVC Concrete Encased Electrical Duct	382	L.F.	\$ 49.00	\$ 18,718.00	\$ 17.00	\$ 6,494.00
34	2-4" PVC Concrete Encased Electrical Duct	60	L.F.	\$ 66.00	\$ 3,960.00	\$ 44.00	\$ 2,640.00
35	M.I.T.L. Base Mounted (LED)(Blue Lens)	148	EA.	\$ 880.00	\$ 130,240.00	\$ 925.00	\$ 136,900.00
36	New 1 Module (LED) Lighted Sign	2	EA.	\$ 3,700.00	\$ 7,400.00	\$ 2,800.00	\$ 5,600.00
37	New 2 Module (LED) Lighted Sign	2	EA.	\$ 4,600.00	\$ 9,200.00	\$ 3,500.00	\$ 7,000.00
38	New 3 Module (LED) Lighted Sign	4	EA.	\$ 5,300.00	\$ 21,200.00	\$ 3,950.00	\$ 15,800.00
39	Semiflush Mounted Threshold Light (Amber/Green) - Complete in place	1	EA.	\$ 3,100.00	\$ 3,100.00	\$ 2,200.00	\$ 2,200.00
40	Semiflush Mounted Threshold Light (Green) - Fixture on Existing Base	7	EA.	\$ 1,200.00	\$ 8,400.00	\$ 1,780.00	\$ 12,460.00
41	Junction Box	8	EA.	\$ 700.00	\$ 5,600.00	\$ 800.00	\$ 6,400.00
BASE BID TOTAL				\$	4,185,925.85	\$	3,684,503.60

RESOLUTION NO.

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

THAT the City Council hereby approves the award of a contract to GADV, Inc., d/b/a L & L General Contractors, of Beaumont, Texas, in the amount of \$3,684,503.60 for the Relocation of Parallel Taxiway, Replacement of Taxiway Lighting and Signage and Construction of T-Hangar Access Taxiway at the Beaumont Municipal Airport Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

December 15, 2015

Consider a resolution approving Change Order No. 2, 3, 4 and 5 to the contract with the Texas Department of Transportation for the Concord Road Project



TO: City Council

FROM: Kyle Hayes, City Manager

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

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution approving Change Order No. 2, 3, 4 and 5 to the contract with the Texas Department of Transportation (TxDOT) for the Concord Road Project.

BACKGROUND

Texas Department of Transportation (TxDOT) is managing the Concord Road Project. On July 26, 2012, TxDOT entered into an agreement with Tradeco Infraestructura, Inc. in the amount of \$11,284,746.71 for the Concord Road Project.

Previous Change Order No. 1, on July 9, 2013, by Resolution No. 13-147, was approved by City Council in the amount of \$88,965.21, which was required for modifications to the water, sanitary sewer, storm sewer, and conduit lines for the project.

On June 10, 2015, Tradeco delivered a voluntary letter of default to TxDOT abandoning and terminating the contract. The Surety Bond held by American Home Assurance Company, is acting in its capacity as the Surety for Tradeco and has chosen Texas Sterling Construction Co., as the Completion Contractor. On September 1, 2015, Texas Sterling Construction Co., was given the Notice to Proceed with a Substantial Completion Date set at November 23, 2016.

TxDOT is requesting Change Order No. 2, 3, 4 and 5 for the removal of water oak trees along SH 105; temporary drainage on SH 105 to aid the installation of water and sanitary sewer improvements; adjustment of sanitary manholes to match final paving; and removal of three (3) existing sanitary manholes respectively. The combined value of all change orders requested is \$32,664.18. An Engineering and Contingencies charge of \$5134.81 has been assessed by TxDOT resulting in the total amount requested being \$37,798.99. With approval of Change Order No. 2, 3, 4 and 5 the new contract amount would be \$11,411,510.91.

FUNDING SOURCE

Capital Program.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.13-147

WHEREAS, on July 26, 2012, the Texas Department of Transportation (TxDOT) entered into an agreement with Tradeco Infraestructura, Inc. in the amount of \$11,284,746.71 for the Concord Road Project; and,

WHEREAS, TxDOT has requested proposed Change Order No. 1, in the amount of \$88,965.21, which is required for modifications to the water, sanitary sewer, storm sewer, and conduit lines for the project; and,

WHEREAS, contingency allowances in the amount of \$12,085.19 have been applied to the total cost of \$88,965.21, thereby resulting in a change of a net amount of \$76,879.72;

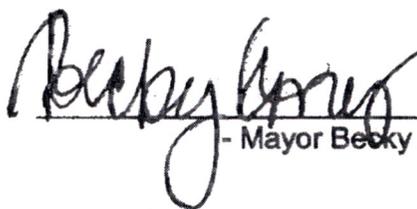
NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

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

THAT the City Manager be and he is hereby authorized to execute an acknowledgment of Change Order No. 1 for additional work described above, thereby increasing the contract amount by \$76,879.72 for the Concord Road Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of July,
2013.




- Mayor Becky Ames -

TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 02

Third Party Funding Notification Sheet

This form is used when the subject change order involves funding by a source other than TxDOT/U.S. DOT, and involves third parties who are providing funding under an Advance Funding Agreement or Donation Agreement.

1. Outside funding provided by:

CITY of BEAUMONT

 (Outside Entity's Legal Name)

CCSJ:	<u>0920-38-153</u>
Project:	<u>HP 450(1)</u>
Highway:	<u>CONCORD ROAD</u>
County:	<u>JEFFERSON</u>
District:	<u>BEAUMONT</u>
Contract Number:	<u>07123217</u>

2. Type of outside funding agreement for this change:

Existing Amended New
 [Check one]

3. Indicate the type and amount of funding:

Fixed Price (Lump Sum) (Estimated Amount 2,220.00)
 Actual Cost

(a) Contract Items (Bid Items):		<u>2,220.00</u>	
(b) E&C*:	(a) x 0.1572 =	<u>348.98</u>	
	<small>enter %</small>		
(c) Indirect Cost**:	(a + b) x 0 =	<u>0.00</u>	
	<small>enter %</small>		
TOTAL		<u>2,568.98</u>	

Use as needed:

I hereby acknowledge notification of the modifications covered by this Change Order.

Date _____

By _____

Typed/Printed Name _____

Typed/Printed Title _____

* The percentage (%) for E&C (Engineering and Contingencies) charges varies from project to project depending on the contract amount of the project. Projects with a higher contract amount will have a lower rate of E&C charge. For a specific project, E&C rate (%) can be derived from the cost of "Engineering and Contingencies" in the "Estimated Cost" of the project.

** Use the statewide district rate as established by Finance Division each year. This line 3(c) is for Service Project only, unless otherwise specified in the Advance Funding Agreement. See Stand Alone Manual Notice 98-2 for instructions.

Funding for this Change Order has been arranged:

TxDOT Representative	Date
Typed/Printed Name: _____	

TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 03

Third Party Funding Notification Sheet

This form is used when the subject change order involves funding by a source other than TxDOT/U.S. DOT, and involves third parties who are providing funding under an Advance Funding Agreement or Donation Agreement.

1. Outside funding provided by:

CITY of BEAUMONT

 (Outside Entity's Legal Name)

CCSJ:	0920-38-153
Project:	HP 450(1)
Highway:	CONCORD ROAD
County:	JEFFERSON
District:	BEAUMONT
Contract Number:	07123217

2. Type of outside funding agreement for this change:

- Existing
 Amended
 New
 [Check one]

3. Indicate the type and amount of funding:

- Fixed Price (Lump Sum) (Estimated Amount 13,293.60)
 Actual Cost

(a) Contract Items (Bid Items):				<u>13,293.60</u>
(b) E&C*:	(a) x	0.1572	=	<u>2,089.75</u>
		enter %		
(c) Indirect Cost**:	(a + b) x	0	=	<u>0.00</u>
		enter %		
TOTAL				<u>15,383.35</u>

Use as needed:

I hereby acknowledge notification of the modifications covered by this Change Order.

Date _____

By _____

Typed/Printed Name _____

Typed/Printed Title _____

* The percentage (%) for E&C (Engineering and Contingencies) charges varies from project to project depending on the contract amount of the project. Projects with a higher contract amount will have a lower rate of E&C charge. For a specific project, E&C rate (%) can be derived from the cost of "Engineering and Contingencies" in the "Estimated Cost" of the project.

** Use the statewide district rate as established by Finance Division each year. This line 3(c) is for Service Project only, unless otherwise specified in the Advance Funding Agreement. See Stand Alone Manual Notice 98-2 for instructions.

Funding for this Change Order has been arranged:

TxDOT Representative	Date
Typed/Printed Name: _____	

TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 04

Third Party Funding Notification Sheet

This form is used when the subject change order involves funding by a source other than TxDOT/U.S. DOT, and involves third parties who are providing funding under an Advance Funding Agreement or Donation Agreement.

1. Outside funding provided by:

CITY of BEAUMONT

 (Outside Entity's Legal Name)

CCSJ: <u>0920-38-153</u>
Project: <u>HP 450(1)</u>
Highway: <u>CONCORD ROAD</u>
County: <u>JEFFERSON</u>
District: <u>BEAUMONT</u>
Contract Number: <u>07123217</u>

2. Type of outside funding agreement for this change:

Existing Amended New
 [Check one]

3. Indicate the type and amount of funding:

Fixed Price (Lump Sum) (Estimated Amount 2,398.38)
 Actual Cost

(a) Contract Items (Bid Items):				<u>2,398.38</u>
(b) E&C*:	(a) x	<u>0.1572</u>	=	<u>377.03</u>
		enter %		
(c) Indirect Cost**:	(a + b) x	<u>0</u>	=	<u>0.00</u>
		enter %		
TOTAL				<u>2,775.41</u>

Use as needed:
 I hereby acknowledge notification of the modifications covered by this Change Order.

Date _____
 By _____
 Typed/Printed Name _____
 Typed/Printed Title _____

* The percentage (%) for E&C (Engineering and Contingencies) charges varies from project to project depending on the contract amount of the project. Projects with a higher contract amount will have a lower rate of E&C charge. For a specific project, E&C rate (%) can be derived from the cost of "Engineering and Contingencies" in the "Estimated Cost" of the project.
 ** Use the statewide district rate as established by Finance Division each year. This line 3(c) is for Service Project only, unless otherwise specified in the Advance Funding Agreement. See Stand Alone Manual Notice 98-2 for instructions.

Funding for this Change Order has been arranged:

	Date
Typed/Printed Name: _____	

TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 05

Third Party Funding Notification Sheet

This form is used when the subject change order involves funding by a source other than TxDOT/U.S. DOT, and involves third parties who are providing funding under an Advance Funding Agreement or Donation Agreement.

1. Outside funding provided by:

CITY OF BEAUMONT

 (Outside Entity's Legal Name)

CCSJ:	0920-38-153
Project:	HP 450(1)
Highway:	CONCORD ROAD
County:	JEFFERSON
District:	BEAUMONT
Contract Number:	07123217

2. Type of outside funding agreement for this change:

- Existing
 Amended
 New
 [Check one]

3. Indicate the type and amount of funding:

- Fixed Price (Lump Sum) (Estimated Amount 14,752.20)
 Actual Cost

(a) Contract Items (Bid Items):					14,752.20
(b) E&C*:	(a) x	0.1572	=		2,319.05
		enter %			
(c) Indirect Cost**:	(a + b) x	0	=		0.00
		enter %			
TOTAL					17,071.25

Use as needed:
 I hereby acknowledge notification of the modifications covered by this Change Order.

Date _____
 By _____
 Typed/Printed Name _____
 Typed/Printed Title _____

* The percentage (%) for E&C (Engineering and Contingencies) charges varies from project to project depending on the contract amount of the project. Projects with a higher contract amount will have a lower rate of E&C charge. For a specific project, E&C rate (%) can be derived from the cost of "Engineering and Contingencies" in the "Estimated Cost" of the project.

** Use the statewide district rate as established by Finance Division each year. This line 3(c) is for Service Project only, unless otherwise specified in the Advance Funding Agreement. See Stand Alone Manual Notice 98-2 for instructions.

Funding for this Change Order has been arranged:

TxDOT Representative	Date
Typed/Printed Name: _____	

RESOLUTION NO.

WHEREAS, on July 26, 2012, the Texas Department of Transportation (TxDOT) entered into an agreement with Tradeco Infraestructura, Inc. in the amount of \$11,284,746.71 for the Concord Road Project; and,

WHEREAS, on July 9, 2013, the City Council of the City of Beaumont, Texas, passed Resolution No. 13-147 approving Change Order No. 1, in the amount of \$88,965.21, including \$12,085.19 for Engineering and Contingency charges, for modifications to the water, sanitary sewer, storm sewer, and conduit lines for the project; and,

WHEREAS, on June 10, 2015, Tradeco Infraestructura, Inc. delivered a voluntary letter of default to TxDOT abandoning and terminating the contract; and,

WHEREAS, the surety bond held by American Home Assurance Company is acting in its capacity as the surety for Tradeco and has chosen Texas Sterling Construction Co. as the completion contractor; and,

WHEREAS, TxDOT has requested Change Order Nos. 2, 3, 4 and 5, in the total amount of \$37,798.99, including \$5,134.81 for Engineering and Contingency charges, for the removal of water oak trees along SH 105; temporary drainage on SH 105 to aid the installation of water and sanitary sewer improvements; adjustment of sanitary manholes to match final paving; and, removal of three (3) existing sanitary manholes, respectively, thereby increasing the contract amount to \$11,411,510.91; and,

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

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

THAT the City Manager be and he is hereby authorized to execute an acknowledgment of Change Order Nos. 2, 3, 4 and 5 for additional work described above, thereby increasing the contract amount by \$37,798.99 for a total contract amount of \$11,411,510.91 for the Concord Road Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

December 15, 2015

Consider a resolution approving a contract for water bill printing and mailing services with DataProse, Inc., of Irving



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer 

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution approving a contract for water bill printing and mailing services with DataProse, Inc., of Irving, Texas, in the estimated amount of \$267,694.

BACKGROUND

The City of Plano has awarded a contract to DataProse, Inc., in compliance with bidding requirements of the State of Texas to provide water bill printing and mailing services. Terms and conditions of the contract extend price and volume discounts to other governmental entities as permitted under Chapter 791 of the Texas Government Code. The City is currently under a joint purchasing inter-local cooperative agreement with the City of Plano for this service.

DataProse has provided the water bill printing and mailing services to the City of Beaumont since 2008. Plano recently extended the contract with DataProse. The contract for this extension is attached.

DataProse will provide all labor, supervision, materials and equipment necessary for providing water bill printing and mailing services. The contract with DataProse is estimated to cost the City \$267,694 per year. The fee under the contract extension for bill processing is less than the current fee by 4.7 cents or 39%. The term of the contract is one (1) year with two (2) options to renew. Fees are as indicated in this table:

Service	Fee	Estimated Annual Cost
Bill Processing	\$0.072 per bill	\$55,945
Search and view bill transmission fee	\$100 per transmission/CD	\$5,106
Postage (1 oz)	\$0.406	\$206,643
Total Estimated Annual Cost		\$267,694

FUNDING SOURCE

Water Fund.

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 one (1) year Production Agreement, with two (2) one (1) year renewal options, with DataProse, Inc., of Irving, Texas, for outsourcing the printing and mailing of water bills at an estimated cost of \$267,694 per year. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

This Production Agreement ("Agreement") is made and entered into by and between DataProse LLC, a Texas limited liability company ("DataProse"), and City of Beaumont, organized under the laws of Texas ("Client"). The effective date of this Agreement is the date last signed below ("Effective Date"). In consideration of the mutual promises and benefits contained herein, the parties hereby agree as follows:

ARTICLE 1 SCOPE OF PRODUCTION AGREEMENT. DataProse agrees to provide to Client goods and/or services as described in Schedule 1.0 (the "Goods and Services"), and Client agrees that DataProse shall be its exclusive provider of these Goods and Services during the term of this Agreement. During the term of this Agreement, the Client agrees to furnish data and documentation for, and DataProse agrees to produce a minimum monthly quantity of 43,000 statements ("Minimum Commitment"), based upon the rates and terms provided herein. In the event that the Client does not fulfill the Minimum Commitment, then Client shall pay to DataProse a minimum processing fee ("Minimum Processing Fee") in an amount that shall be calculated based upon the Minimum Commitment and the rates and terms provided herein.

ARTICLE 2 COMPENSATION. In full and complete compensation for all Goods and Services provided by DataProse hereunder, Client agrees to pay DataProse according to rates set forth in Schedule 1.0. DataProse will provide an invoice to Client after each production run consisting of the fees, as outlined in Schedule 1.0 and postage used. Invoices are due upon receipt and will be considered past due if not paid within 30 days. The prices charged by DataProse to Client for the Goods and Services listed in Schedule 1.0 will not be increased for a period of twelve (12) months from the Effective Date of this Agreement ("Pricing Period"). All DataProse prices are subject to increase following this initial Pricing Period or any subsequent Pricing Period, upon written notice to Client. The rate of any price increase shall not exceed ten percent (10%) at the completion of any Pricing Period. In the event Client cancels the Agreement as allowed under the provisions of this Agreement, then payment for all Goods and Services delivered and/or rendered between the cancellation notification date and the effective date of the cancellation shall be due concurrently upon delivery and/or rendering of such Goods and Services. If Client is a city, county, municipality or other government entity and the compensation payable to DataProse under this Agreement is subject to future appropriation of funds, Client will notify DataProse at least thirty (30) days in advance of the completion date of each appropriation cycle during the term of this Agreement.

ARTICLE 3 TERM. The initial term of this Agreement shall commence as of the Effective Date, and shall continue for a period of not less than three (3) years, ending on the third anniversary of the effective date, unless terminated earlier in accordance with provisions found elsewhere in this Agreement. This Agreement shall renew itself for successive one (1) year terms unless written notice of cancellation is received by one party from the other at the end of the initial term or at the end of any succeeding one (1) year renewal term(s) by sending written notice of non-renewal to the other party no earlier than one hundred fifty (150), and no later than ninety (90), days before the expiration of the then current term.

ARTICLE 4 POSTAGE. Client must maintain a permanent postage deposit in connection with this Agreement. Client shall deposit in advance with DataProse the initial sum specified on Schedule 2.0 as the permanent postage deposit. The amount required to be maintained on deposit with DataProse may be changed by DataProse on a periodic basis due to changes in Client's volume, postage usage, postal rates or payment history. Client will be notified in writing and in advance if the deposit amount is changed. Upon termination of this Agreement, DataProse shall return the deposit amount to Client after payment for all Goods and Services and postage has been paid by the Client. If this Agreement is terminated due to default of Client, DataProse may apply any of Client's funds it holds against any sum owed by Client to DataProse upon termination of this Agreement. If Client fails to maintain the deposit at the required levels, or if Client fails to maintain current status of all invoices as described in article 2, or fails to notify DataProse that funds have been appropriated to meet Client's obligations under this agreement, DataProse may immediately suspend its performance under this agreement and will hold Client's materials until the deposit is received.

ARTICLE 5 EXPENSES. When Client has approved the amount of such costs and expenses in advance and in writing, Client will reimburse DataProse for costs and expenses associated with the delivery and performance of Goods and Services for Client, such as cost of travel, expenses associated with travel, freight, delivery service and other required supplies in connection with providing the DataProse Goods and Services associated with this Agreement.

ARTICLE 6 TERMINATION. Client or DataProse may terminate this Agreement for an event of default committed by the other party and defined below if such default remains uncured (30) thirty days after written notice of the default from the party declaring the default has been received by the other party in accordance with Article 15.

- (1) Failure of Client to pay for all Goods and Services when due in accordance with the terms of this Agreement. In addition to other remedies provided by this Agreement and pursuant to law, DataProse has the right to withhold production and mailing of any further production cycles until Client's account is brought current.
- (2) Any other breach by Client or DataProse of a term or condition of this Agreement.
- (3) Non-Appropriation of funds by government entities if Client is a city, county, municipality or other government entity.

If DataProse terminates this Agreement due to Client's default or the Client terminates this Agreement for any reason other than those specified in Article 3 or this Article 6 prior to satisfying its Minimum Commitment, Client agrees that it shall be liable to DataProse for any monthly invoices that are unpaid by the Client at the time of such termination and any client-approved statement materials held in DataProse inventory.

ARTICLE 7 FORCE MAJEURE. Neither party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such party, including, without limitation: fire, explosion, power failure, flood, earthquake or other act of God; war, revolution, civil commotion, terrorism, or acts of public enemies; any law, order, regulation, ordinance, or requirement of any government or legal body or any representative of any such government or legal body; or labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts. In such event, the party affected shall be excused from such performance (other than any obligation to pay money) on a day-to-day basis to the extent of such interference (and the other party shall likewise be excused from performance of its obligations on a day-to-day basis to the extent such party's obligations relate to the performance so interfered with).

ARTICLE 8 CONFIDENTIALITY. Pursuant to the Texas Government Code, each party agrees that any and all data, reports and documentation supplied by the disclosing party or its affiliates or third parties on disclosing party's behalf, which are confidential shall be, subject only to the disclosure required for the performance of receiving party's obligations hereunder, held in strict confidence and shall not be disclosed or otherwise disseminated by receiving party without the consent of disclosing party, except as required by applicable law, regulation or legal proceeding.

ARTICLE 9 WARRANTIES. DataProse shall provide all Goods and Services in a good and first class workmanlike manner in accordance with the terms specifically set forth in Schedule 1.0. The parties hereto agree that this Agreement is only for the Goods and Services. This warranty constitutes the only warranty with respect to the Goods and Services to be provided to Client and is in lieu of all other warranties, written or oral, statutory, express or implied, including, without limitation, the warranties of merchantability and the warranty of fitness for particular purpose. Except and expressly set forth in this Section 10, DATAPROSE EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES WITH REGARD TO THE GOODS AND SERVICES, AND SUCH GOODS AND SERVICES WILL BE DELIVERED AND PERFORMED "AS IS" AND "WITH ALL FAULTS".

ARTICLE 10 LIMITATION OF LIABILITY. The liability of DataProse with respect to any failure to provide the Goods and Services as required under this Agreement shall in each case be limited to the compensation paid to DataProse for the defective Goods and Services. DataProse IS NOT LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFIT OR INCOME, except where a claim is determined to be covered by the applicable insurance company.

ARTICLE 11 GOVERNING LAW. This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the state of Texas to the exclusion of its conflict of laws provision. Venue and jurisdiction for all disputes shall be exclusively the State or Federal Courts of Jefferson County, Texas.

ARTICLE 12 SEVERABILITY. If a court holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected.

ARTICLE 13 WAIVER; MODIFICATION OF AGREEMENT. No waiver, amendment or modification of any of the terms of this Agreement shall be valid unless in writing and signed by authorized representatives of both parties hereto. Failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of such rights, nor

Client: _____ DataProse: WKM

shall a waiver by either party in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances.

ARTICLE 14 NOTICE. All notices must be in writing and if not personally delivered, be sent by facsimile, first class mail, nationally recognized overnight delivery service or by electronic mail. Mailed notices will be effective on the third day after mailing. Notice by personal delivery or delivery service will be effective when delivered. When sent by facsimile or electronic mail, notice will be effective on the day the transmission is received by the recipient provided that (a) a duplicate copy of the notice is promptly given by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Either party may change the address to which notices are to be sent by giving notice of such a change to the other party. Addresses for purpose of giving notice are as follows:

If to DataProse:

DataProse
1122 W. Bethel Road
Coppell, TX 75019
Attention: COO

If to Client:

City of Beaumont
801 Main Street
Beaumont, TX 77704
Attention: Patrick Bardwell, Purchasing Manager

ARTICLE 15 ENTIRE AGREEMENT. This Agreement and its exhibits constitute the final, complete, and exclusive statement of the terms of the Agreement between the parties pertaining to the production of goods and services for Client by DataProse, and supersede all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Agreement.

ARTICLE 16 ATTORNEY FEES. In the event of any claim, dispute or controversy arising out of or relating to this Agreement. Attorney fees shall be controlled by the Texas Government Code.

ARTICLE 17 SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, provided that, Client shall not be permitted to assign its rights or obligations under this Agreement without the express written consent of DataProse. Any such assignment in violation of the foregoing sentence shall be null and void.

IN WITNESS WHEREOF, The parties hereto have caused this Agreement to be executed to be effective as of the Effective Date.

DataProse

By: William K. Murray
CEO

Date: 8.19.2015

Client: City of Beaumont, Beaumont, TX

By: _____
Kyle Hayes

Title: City Manager Date: _____

Schedule 1.0 – Fees for Goods & Services – Based on the City of Plano Interlocal Agreement dated 02/21/2015

Bill Package (Includes: data processing & simplex, 2-color, laser imaging, printed on 8.5x11 custom stock with printed static backer priced separately, perforated at 3.5" from bottom, #10 window OE, single window RE, folding, inserting, presorting and delivery to USPS)	\$0.072	Per Bill
Search & ViewBill (Archive Package Includes: data processing, archive creation, search, access & hosting of archive files for 12 months from creation date – Minimum Monthly fee - \$150)	\$0.01	Per Bill
NCOALink – Automated address update service	\$0.50	Per Address Correction
NetBill (Includes: Internet bill presentment, 24x7 access to customer bills, hosted on DataProse servers, posting of invoices, email notification of bill availability to customer, payment facilitation)	\$400.00	Per Month
<ul style="list-style-type: none"> Credit Card Transaction Fee ACH Transaction Fee 	\$0.350	Per CC Transaction
	\$0.60 or 1.25% <small>(whichever is greater)</small>	Per ACH Transaction
Additional Impressions – Black Ink Only	\$0.035	Per Impression
Bill Suppression (data processing only – Group Y & Z)	\$0.05	Per Bill
Oversize Surcharge (8-99 page bills – Group C)	\$0.20	Per Bill
Oversize Surcharge (100+ page bills – Group D & E)	\$4.00	Per Bill
Search & ViewBill Transmission Fee (CD or FTP – Shipping will be charged separately)	\$100.00	Per Transmission/CD
Additional Inserts (Inserting fee / above and beyond what is included in the Bill Package)	\$0.01	Per Insert
Offline Folding (As requested)	\$0.005	Per Piece
Basic Set up Fee (Standard Format and Reports)	Not Applicable	One Time
Technical Services (including additional set-up beyond standard, formatting or custom reports, conditional logic & insert/forms composition)	\$125.00	Per Hour
Freight, Courier & Air Delivery	Cost	Per Request
Minimum Daily Processing/Production Fee	\$150.00	Per Day
Postage (1 oz.)	\$0.406	Per Bill

Schedule 2.0 – Permanent Postage Deposit

Permanent Postage Deposit (Based on two (2) months estimated volume = 86,000 x \$0.406)	\$34,916.00	(2 months @ .406)
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Schedule 3.0 – Performance Guarantee

DataProse will deliver Client's bills within an average of 24 hours from the applicable Determination Date (defined below). Such average time period will be determined by measuring the number of elapsed business days between each respective Determination Date and the date which 95% or more of the Client's bills were mailed for consecutive three (3) month period or a minimum of six (6) production cycles.

Schedule 3.1 – Determination Date

The "Determination Date" is the date which data is received via electronic transmission if prior to 12:00 PM (Noon), Central Time. If data is received after 12:00 PM (Noon), Central Time, the Determination Date is the business day immediately following the date data is received. If data is received on a non-business day (weekend or national holiday) the Determination Date will be the next consecutive business day.

Schedule 3.2 – Approval and/or Business Rule Exception

If an Approval has been required by the Client and defined in the business rules for each production run, then the Determination Date will be set by the date and time of the Approval instead of the receipt of data as defined above. As to any production run, the Performance Guarantee will not apply if Client has not provided all data and documentation necessary (as dictated by required business rules) to permit DataProse to produce the bills in a timely manner, or if Client fails to approve or report required changes to DATAPROSE in order to complete the work in a timely manner.

Schedule 4.0 – Glossary of Terms

Impression	Laser Imaging of one side of one piece of paper. Each physical piece of paper can contain two (2) impressions.
USPS	United States Postal Service
Laser Imaging	The process where the application of dry toner (ink) is electro statically applied and bonded to a piece of paper.
Simplex	Laser Imaging of one (1) side of a piece of paper only.
Duplex	Laser Imaging of both (2) sides of a piece of paper.
OE	Outer Envelope – This envelope is used as the carrier mechanism for all information contained in a package to be mailed.
RE	Reply Envelope – This envelope is usually utilized by a customer to return information/payment requested by an organization.
Presorting	The act of organizing mail according to the rules and regulations defined by the USPS in order to achieve lower postage rates and increase deliverability of mail.
Business Day	Any day in which the USPS as well as the U.S. Federal Reserve are open for business.
U.S. federal holiday	All Holidays as defined by the U.S. Federal Reserve.
24x7	24 hours a day, 7 days a week.
Additional Inserts	Any item requested to be placed into the mail container above and beyond (a) the bill and (b) the RE .
Container	One complete piece of mail packaged into one OE.
Electronic Transmission	The act of sending data via DataProse online utility, FTP or Modem
Bill	Data and other information pertaining to one (1) account number and usually in reference to one customer
Group	The term used by DataProse to define how bills are gathered & produced in order to maximize production capabilities. These groups are defined as follows: Group A – 1 ounce bills Group B – 2 ounce bills Group C – 8-99 page bills Group D – 100-499 page bills Group E – 500+ page bills Group I – International bills Group P – Pull bills (Pulled and returned to Account Manager for further action) Group X – Hold bills (combined and sent back to Client) Group Y – Online only bills (Suppress from print only) Group Z – Suppress all
Suppress or Suppression	The act of excluding records or bills (based on Client defined criteria) that have been received in the input data stream received from the Client

December 15, 2015

Consider a resolution approving the award of a three-year contract for grounds maintenance and litter removal in the Downtown Central Business District to Texas Industries for the Blind and Handicapped

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer 

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution approving the award of a three-year contract for grounds maintenance and litter removal in the Downtown Central Business District to Texas Industries for the Blind and Handicapped in the amount of \$188,617.32.

BACKGROUND

Texas Industries for the Blind and Handicapped (TIBH) utilizes private not-for-profit Community Rehabilitation Programs (CRP) under the Texas State Use Program, *Works Wonders*, which exempts political subdivisions from competitive bidding requirements. For this agreement, Beaumont Products and Services (BPS) located in Beaumont, will be providing the services to the City on behalf of TIBH.

BPS has been furnishing grounds maintenance and litter removal services to the City for the past eighteen (18) years. Grounds maintenance services include mowing, edging, sweeping and litter removal for the grounds at City Hall, Civic Center, Beaumont Public Library, Police Building, Julie Rodgers Theatre, Tyrrell Historical Library, Delia Harrington Park, Henry Dannenbaum Transfer Facility, River Front Park and parking lot, Municipal Court, Fire Memorial, Energy Museum, Art Museum, Convention and Visitors Bureau, and Central Business District medians, boulevards, and plazas.

The proposed amount for the three year term is five percent above the current annual amount of \$179,635.56.

The agreement is attached for review.

FUNDING SOURCE

Central Business District - Annual Cost \$169,754.40 - General Fund-Event Facilities Department
Henry Dannenbaum Transfer Center - Annual Cost \$18,862.92 - Beaumont Municipal Transit

RECOMMENDATION

Approval of the resolution.

RESOLUTION NO.

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

THAT the City Council hereby approves the award of a three (3) year agreement with Texas Industries for the Blind and Handicapped (TIBH) for basic grounds maintenance and litter removal services for the Downtown Central Business District in the amount of \$188,617.32; and,

THAT Beaumont Products and Services (BPS), of Beaumont, Texas, will be providing the services to the City on behalf of TIBH; and,

THAT the City Manager be and he is hereby authorized to execute an agreement with Texas Industries for the Blind and Handicapped (TIBH) for the purposes described herein. The Agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.

- Mayor Becky Ames -

STATE OF TEXAS §

COUNTY OF JEFFERSON §

**AGREEMENT FOR FURNISHING GROUNDS MAINTENANCE
AND LITTER REMOVAL FOR THE CENTRAL BUSINESS DISTRICT**

THIS AGREEMENT is made and entered into by and between the **CITY of BEAUMONT, TEXAS (City)**, a municipal corporation, hereinafter referred to as “**City**”, and **Texas Industries for Blind and Handicapped (TIBH)**, a State of Texas agency, hereinafter referred to as “**TIBH**”, and **Beaumont Products & Services, Inc.**, hereinafter referred to as “**Contractor**”.

Therefore, City, TIBH, and Contractor agree as follows:

WITNESSETH

- 1.0** It is the intent of the City to contract with a private not-for-profit state-certified workshop as provided by the State of Texas for furnishing grounds maintenance and litter removal services for the City’s Central Business District (CBD).
- 2.0** This Agreement shall be in effect for a period of three (3) years beginning December 16, 2015 and ending December 15, 2018. The pricing shall remain the same for all three (3) years.
- 3.0** The Contractor shall furnish all labor, materials, equipment, and supplies required to perform grounds maintenance and all other requirements of the Agreement in a complete, timely, safe, and professional manner during the duration of the Agreement. The omission of specific reference to any materials or labor necessary for such a job shall not be interpreted as relieving the Contractor from furnishing said materials or labor.
- 4.0** Services to be provided, as defined and specified in the Scope of Work , attached, are as follows:

- Litter Removal,
- Mowing,
- Edging/Weed Eating,
- Sweeping/Blowing.

5.0 Services shall be provided according to schedule requirements specified in the Scope of Work (SOW), excluding official City holidays which include:

- Labor Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day
- New Year's Day
- Martin Luther King, Jr.'s. Birthday
- Good Friday
- Memorial Day
- Independence Day
- Veterans Day

6.0 The Central Business District shall be defined as the areas listed or shown in Exhibits A and B.

7.0 It shall be the responsibility of the Contractor to ensure the safety of its employees and citizens while in the performance of this Agreement. Contractor shall ensure each worker is provided with an identifiable standard uniform during each working day. Each employee shall wear brightly-colored safety vests while on City rights-of-way. The operation of all equipment shall be done in a manner that is not hazardous to persons in the designated areas or the operators.

8.0 The contractor may not erect, place, alter, or remove any buildings, covers, signs, slabs, driveways, roads, or facilities of any nature without the prior written consent of the City. Such facilities shall become the property of the City of Beaumont upon termination or expiration of this Agreement. The Contractor shall not use premises or facilities for activities or storage not specifically allowed herein without written approval of the City.

9.0 Contractor shall have access to a storage area for purposes of conducting activities associated with this Agreement. Contractor shall be responsible for maintaining this area.

9.1 Contractor shall exercise due and prudent care in storage and use of any hazardous materials, fuel, etc., including security of such.

9.2 Maintenance and repair of equipment used by Contractor in the performance of this Agreement shall be the responsibility of the Contractor. Contractor shall avoid major maintenance and repair activities in public areas and, where applicable, shall perform such activities in the identified storage areas or at locations not on the property.

10.0 The City shall have the right, but not the duty, to inspect, audit, copy, and examine all books and records of the Contractor pertaining to its performance of services and obligations to the City under this Agreement.

11.0 The Contractor may not assign any portion of this Agreement to another party or parties without written approval of the City Manager or his designee of such sale or assignment. The City may require any records or financial statements necessary in its opinion to ensure such sale or assignment will be in the best interest of the City.

12.0 This Agreement, including all Attachments and Exhibits, and the City's Purchase Order, shall constitute the entire understanding of the parties here to with respect to the subject matter hereof, and no Amendment, modifications, or alteration of the terms shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.

13.0 **LIABILITY**

The Contractor agrees to indemnify and hold harmless the City of Beaumont and its officers, agents and employees from any and all claims, causes of action and damages of every kind, for injury to or death of any person, and damages to property arising out of or in connection with the work done by Contractor under this Agreement, and including acts or omissions of the City of Beaumont or its officers, agents or employees in connection with said Agreement.

14.0 **INSURANCE REQUIREMENTS**

14.1 The Contractor shall at all times during the Agreement maintain in full force and effect

insurance naming the City of Beaumont as additional insured on the policies for Commercial General Liability and Automobile Coverage as provided in Attachment "A". An original certificate of insurance shall be furnished to the City by the insurance company providing the coverage or its agent prior to the commencement of work by the Contractor and shall provide that the City shall receive thirty (30) days' prior written notice before any change or cancellation of any policy.

- 14.2** All of the insurance costs shall be borne by the Contractor. Should any insurance required by the Agreement lapse, the Contractor shall immediately cease all operations as of the time and date of such lapse and shall not resume any operations until authorized in writing by the City. If the lapse period extends fifteen (15) days, the City may terminate the Agreement and the Contractor shall be in breach of this Agreement. Should the City of Beaumont receive notices of insurance cancellation three (3) or more times within a twelve (12) month period, the City may cancel this Agreement.

15.0 **CONTRACT TERMINATION**

- 15.1** Either the City or the Contractor may, upon sixty (60) days' written notice, terminate the contract for reasons of convenience. Said termination on behalf of the City shall be by the City Manager or his designee.
- 15.2** The City, besides all other rights or remedies it may have, shall have the right to terminate this Agreement upon five (5) days' written notice if the Contractor fails to perform the Scope of Work as herein provided. The decision to terminate shall be at the sole discretion of the City Manager or his designee.
- 15.3** In addition, the City shall have the right to terminate this Agreement if the Contractor breaches this Agreement by other means, including the following:
- 15.3.1** By failing to pay insurance premiums, liens, claims or other charges.
- 15.3.2** By failing to pay any payments due the City, State, or Federal Government from the successful bidder or its principals, including, but not limited to, payments identified in this Agreement or any taxes, fees, assessments, or liens.

15.3.3 Upon the institution of voluntary or involuntary bankruptcy proceedings against the successful bidder or upon dissolution of the firm or business.

15.3.4 By violation of any provision or non-performance of the Agreement.

15.4 Upon termination or expiration of this contract, the Contractor shall be permitted five (5) working days to remove Contractor-owned material and equipment from the City's premises. Materials and equipment not removed within the specified time shall become the property of the City.

16.0 The relationship of the Contractor to the City shall be that of an independent Contractor, and no principal-agent or employer-employee relationship is created by this Agreement. By entering into this Agreement, the Contractor acknowledges that it will, in the performance of its duties under this Agreement, be acting as an independent Contractor and that not officer, agent, or employee of the Contractor is entitled to any of the benefits and privileges of a City employee or officer under any provision of the statutes of the State of Texas or the Charter and Ordinances of the City of Beaumont.

17.0 **NOTICES**

Any notice which City or Contractor may require or desire to give to the other shall be in writing and shall be sent by registered or certified mail to the following respective addresses:

CITY: City Manager
City of Beaumont
P. O. Box 3827
Beaumont, TX 77704

STATE AGENCY: Melinda May, Market Representative
Texas Industries for the Blind and Handicapped (TIBH)
119 North Street, Suite H
Nacogdoches, TX 85961

CONTRACTOR: Steve Havard, President
Beaumont Products & Services, Inc.
1305 Washington Blvd.
Beaumont, TX 77705

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

18.0 For any information concerning this contact please contact:

Terry Welch, Buyer III
Finance Department / Purchasing Division
City of Beaumont

Physical Address:
801 Main St., Suite 315, Beaumont, TX 77701

Mailing Address:
P.O. Box 3827, Beaumont, TX 77704-3827

Phone # (409) 880-3107 ♦ Fax # (409) 880-3747

E-mail: twelch@beaumonttexas.gov

SCOPE OF WORK

1.0 For the purposes of this Agreement, the Contractor shall perform the work specified herein as to scope and schedule for the **Central Business District** as listed or shown in Exhibits A and B. Contractor shall establish and provide to the City a weekly work schedule showing all areas to be maintained.

2.0 **CENTRAL BUSINESS DISTRICT**

Work to be performed in the areas of the Central Business District shall include:

- Mowing,
- Edging/Weed Eating,
- Sweeping/Blowing,
- Litter Removal.

2.1 MOWING – shall consist of regular cutting of grass and turf areas. All mowing equipment shall be equipped with sharp blades so as not to tear, but cleanly cut, the blades of grass. All grass shall be cut at a maximum height of two inches (2"). Upon completion, a mowed area shall be free of clumped grass and tire tracks or ruts from the mowing equipment. Turf shall be cut evenly, without scalped areas or areas of uncut grass.

2.2 EDGING/WEED EATING – shall be performed to keep all curbs, gutters, sidewalks, and paved areas free of grass and weeds, including curb and gutter lines and joints in the sidewalk. Edging/Weed Eating shall occur on the same day as mowing for any area. Grass exceeding two inches (2") in height around signs, fence lines, trees, poles, and other obstacles, shall be removed by monofilament trimming. Contractor shall be responsible for all equipment, materials, and supplies for such cultivation. Bed edges abutting buildings, concrete, or paved areas shall be kept clean and well defined. The City reserves the right to install additional landscaping at its own expense, with maintenance to be the responsibility of the Contractor.

Edging/Weed Eating may be accomplished by the use of an approved herbicide. Prior to using an herbicide, Contractor shall obtain written permission for the use of herbicides from the City, and shall provide to the City all material data sheets, and provide proof of each applicator's certification to administer pesticides and herbicides in the State of Texas. All herbicides shall be applied according to manufacturer's specifications. Pesticides and herbicides must be administered in accordance with all laws, rules, and regulations pertaining to its application.

Edging/Weed Eating may also be accomplished by mechanical edging to a one inch (1") depth and one fourth inch (1/4") width using a metal blade exposing the concrete surface. Edging/Weed Eating and maintenance of edge shall use a vertical cut approach. All material dislodged by edging/weed eating must be removed from the site prior to the exit of the work crew from the immediate work site. Sidewalks must be edged on both sides.

2.3 SWEEPING/BLOWING – shall be provided to keep all paved areas reasonably free of debris. All walks shall also be swept and debris removed from the site. Debris removal shall always occur on the same day as mowing and edging/weed eating. Cleaning of paved areas and sidewalks shall include, but not be limited to, removal of bird droppings. Work at City Hall location shall be performed at 7:00 A.M. Monday through Friday

2.4 LITTER REMOVAL – shall include all trash and litter, including downed tree limbs three inches (3") in diameter or less, from the entire work area prior to initiating any mowing of the turn areas. All trash and litter removed shall be disposed of by the Contractor to of off-site location in accordance with local, state, and federal laws. Contractor shall be responsible for landfill fees. Any trash and litter cut or broken during maintenance operations shall be completely removed from area prior to the exit of the work crew from the immediate work site.

Litter shall be removed from all areas a minimum of three (3) times per week: Monday, Wednesday, and Friday. Contractor shall remove and replace litter bags in the City trash containers a minimum of three (3) times per week, unless otherwise directed by the City. When containers are emptied, Contractor shall replace with new plastic trash liners. Contractor shall be responsible for furnishing all trash liners and for the removal and disposal of all trash. Landfill fees are the responsibility of the Contractor.

Locations of Additional Sites to Contract	
Grounds Maintenance and Litter Removal for the Central Business District	
Location	Number of Containers
Neches St.	4 Containers
Park St.	4 Containers
Orleans St.	4 Containers
Pearl St.	10 Containers
Main St.	6 Containers
Fannin St.	3 Containers

3.0 SCHEDULE FOR PERFORMANCE

Contractor shall furnish the City with a weekly work schedule indicating the areas that will be maintained according to the requirements for each area shown in Exhibits A and B.

- 3.1 Contractor shall not be required to maintain personnel at the Central Business District on a regular time schedule. However, Contractor shall be available for service calls on necessary between the hours of 7:00 AM and 5:00 PM, Monday through Friday.
- 3.2 Contractor shall respond to all requests for maintenance, repair, and investigation as identified in this Agreement as soon as practical. In cases where Contractor is required to perform services as identified in this Agreement, such services shall be performed within twenty-four (24) hours.
- 3.3 City will make available a list of scheduled and unscheduled recreational events during the course of the year for proper maintenance scheduling. The exact number of events cannot be given for any upcoming year. Events held on weekends will require Contractor to perform maintenance to the appropriate area prior to the event. Normal maintenance work may not be provided on the days on which events are scheduled. The City

reserves the right to rearrange Contractor's work schedule if necessary to accommodate event dates.

- 3.4 If the Contractor is unable to perform mowing services due to excessive water retention on the grounds, then the City's representative shall be contacted. A **final** determination will be made by the City's representative about mowing the area in question.
- 3.5 The City retains the right to inspect and order work to be corrected as needed.
- 3.6 Mowing and edging/weed eating shall occur once every five (5) working days during the **growing season**.

Mowing and edging/weed eating shall occur every ten (10) working days during the **non-growing season**.

- Growing Season is defined as March through October 31.
- Non-growing season is defined as November 1 through February 28.

- 3.7 Contractor shall have access to a storage area for purposes of conducting activities associated with this contract. Contractor shall be responsible for maintenance of this area. Contractor shall exercise due and prudent care in storage and use of any hazardous materials, including security of such.

4.0 **FULFILLMENT AND PAYMENT**

- 4.1 The City agrees to pay the Contractor upon receipt of monthly invoices for services performed satisfactorily. Such payment by City to Vendor shall be made in accordance with the requirements of Texas Government Code §2251.021. The City shall have the right to refuse payment for work not satisfactorily completed.
- 4.2 The Contractor shall submit an accurate invoice within five (5) working days from the date of delivery.

4.3 Invoices must reference a Purchase Order number and the Department or Division for which goods or services are provided.

4.2 **Contractor shall submit separate invoices for:**

- Grounds Maintenance – Central Business District
- Grounds Maintenance – Henry Dannenbaum Transfer Facility

4.3 **Invoices for the Henry Dannenbaum Transfer Facility shall be mailed to:**

Beaumont Municipal Transit
City of Beaumont
P. O. Box 3827
Beaumont, TX 77704

4.4 **All other invoices shall be mailed to:**

ATTN: Accounting Division
City of Beaumont
P. O. Box 3827
Beaumont, TX 77704

- OR -

All other invoices may be submitted via email to: invoices@ci.beaumont.tx.us

4.5 Faxed invoices will not be accepted.

5.0 **FUNDING**

Funds for payment are provided by the City of Beaumont budget approved by City Council for each fiscal year only. The State of Texas statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Obligations beyond the end of each current City of Beaumont fiscal year will be subject to budget approval.

A. Table Below Denotes Monthly and Annual Cost to the City for the Agreement:

Location	Old Rate	NEW RATE	Annual Cost
Central Business District	\$13,472.57/mo.	\$14,146.20/mo.	\$169,754.44
Henry Dannenbaum Transfer Center	\$1,497.06/mo.	\$1,571.91/mo.	\$18,862.92

B. Table Below Denotes Cost For “As Requested Services” by the City for Scopes of Work Not Included In Agreement That Are Grounds Maintenance and Landscape Related:

Labor for “As Requested Services”	Cost Per Worker Per Hour	Minimum Hours
8 a.m. Monday – 5 p.m. Friday	\$29.50	2 Hours
5 p.m. Friday- 8 a.m. Monday	\$34.50	3 Hours

IN WITNESS WHEREOF, City and Contractor have executed or caused to be executed by their duly authorized officers or agents this Agreement as of the day and year written below.

CITY OF BEAUMONT:

By: _____
(Signature) Kyle Hayes, City Manager

Printed Name: Kyle Hayes

Date Signed: _____

TEXAS INDUSTRIES FOR THE BLIND AND HANDICAPPED

By: _____
(Signature) Melinda May, Market Representative

Printed Name: _____

Date Signed: _____

BEAUMONT PRODUCTS AND SERVICES

By: _____
(Signature) Steve Havard, Executive Director

Printed Name: _____

Date Signed: _____

ATTACHMENT A

(Revised 4/1/2013)

INSURANCE

SECTION A. Prior to the approval of this contract by the City, CONTRACTOR shall furnish a completed Insurance Certificate to the Purchasing office. The certificate shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and shall furnish and contain all required information referenced or indicated thereon. CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE IS RECEIVED BY THE CITY OF BEAUMONT'S PURCHASING DIVISION, and no officer or employee of the City shall have authority to waive this requirement.

INSURANCE COVERAGE REQUIRED

SECTION B. CITY reserves the right to review the insurance requirements of this section during the effective period of the contract and to adjust insurance coverages and their limits when deemed necessary and prudent by CITY, based upon changes in statutory law, court decisions, or the claims history of the industry as well as the CONTRACTOR.

SECTION C. Subject to CONTRACTOR'S right to maintain reasonable deductibles in such amounts as are approved by CITY, CONTRACTOR shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at CONTRACTOR'S sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to CITY, in the following type(s) and amount(s):

<u>TYPE</u>	<u>AMOUNT</u>
1. Workers' Compensation and Employer's Liability	Statutory
NOTE: For building or construction projects, and services provided at City-owned facilities, the successful Contractor shall meet the minimum requirements defined in the Texas Workers' Compensation Commission Rule 28 TAC §110.110 which follows this insurance attachment.	
2. Commercial General (public) Liability including coverage for the following:	
a. Premises operations	Combined single limit for bodily injury and property damage of \$500,000 per occurrence or its equivalent with an aggregate limit of \$1,000,000.
b. Independent contractors	
c. Products/completed operations	
d. Personal injury	
e. Advertising injury	
f. Contractual liability	
g. Medical payments	
h. Professional liability*	
i. Underground hazard*	
j. Explosion and collapse hazard*	
k. Liquor liability*	
l. Fire legal liability*	
m. City's property in Contractor's* care, custody, or control	
n. Asbestos specific liability*	

* Not required for this contract

- | | | |
|----|---|---|
| 3. | Comprehensive Automobile Liability insurance, including coverage for loading and unloading hazards, for: | Combined single limit for bodily injury and property damage of \$500,000 per occurrence or equivalent. |
| a. | Owned/leased vehicles | |
| b. | Non-owned vehicles | |
| c. | Hired vehicles | |
| 4. | Errors and Omissions insurance policy (when applicable) | Provide a prudent amount of coverage for the willful or negligent acts or omissions of any officers, employees or agents thereof. |

ADDITIONAL POLICY ENDORSEMENTS

CITY shall be entitled, upon request, and without expense, to receive copies of the policies and all endorsements thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by CITY, CONTRACTOR shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof.

REQUIRED PROVISIONS

CONTRACTOR agrees with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions.

- a. Name, the City of Beaumont and its officers, employees, and elected representatives as additional insured(s), (as the interest of each insured may appear) to all applicable coverage.
- b. Provide for 30 days' notice to City for cancellation, non-renewal, or material change.
- c. Provide for notice to City at the address shown below by registered mail.
- d. CONTRACTOR agrees to waive subrogation against the City of Beaumont, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance.
- e. Provide that all provisions of this agreement concerning liability, duty, and standard of care together shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- f. For coverages that are only available with claims made policies, the required period of coverage will be determined by the following formula: Continuous coverage for the life of the contract, plus one year (to provide coverage for the warranty period) and an extended discovery period for a minimum of five years which shall begin at the end of the warranty period.

NOTICES

CONTRACTOR shall notify CITY in the event of any change in coverage and shall give such notices not less than thirty (30) days prior to the change, which notice must be accompanied by a replacement CERTIFICATE OF INSURANCE. All notices shall be given to CITY at the following address:

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

SECTION D. Approval, disapproval, or failure to act by CITY regarding any insurance supplied by CONTRACTOR shall not relieve CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate CONTRACTOR from liability.

WORKERS COMPENSATION INSURANCE
for
Building or Construction Projects and Services Provided at City-Owned Facilities
TEXAS WORKERS' COMPENSATION COMMISSION RULE 28, §110.110

As required by the Texas Workers' Compensation Rule 28, §110.110, the Contractor shall accept the following definitions and comply with the following provisions:

Workers' Compensation Insurance Coverage

- A. Definitions:
1. Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
 2. Duration of the project-includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the City of Beaumont.
 3. Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the City of Beaumont prior to being awarded the contract.
- D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City of Beaumont showing that coverage has been extended.
- E. The Contractor shall obtain from each person providing services on a project, and provide to the City of Beaumont:
1. A certificate of coverage, prior to that person beginning work on the project, so the City of Beaumont will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 2. No later than seven (7) days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- G. The Contractor shall notify the City of Beaumont in writing by certified mail or personal delivery, within ten (10) days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

- I. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 1. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 2. Provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project.
 3. Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 4. Obtain from each other person with whom it contracts, and provide to the Contractor:
 - a. A certificate of coverage, prior to the other person beginning work on the project; and
 - b. A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
 5. Retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
 6. Notify the City of Beaumont in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the City of Beaumont that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the City of Beaumont to declare the contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the City of Beaumont.

As defined by the Texas Labor Code, Chapter 269, Section 406.096(e), building or construction is defined as:

1. Erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
2. Remodeling, extending, repairing, or demolishing a structure; or
3. Otherwise improving real property or an appurtenance to real property through similar activities.

The employment of a maintenance employee who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.

**CITY OF BEAUMONT
INSURANCE REQUIREMENT AFFIDAVIT**

**To be Completed By Appropriate Insurance Agent
and submitted with bid proposal.**

I, the undersigned Agent/Broker, certify that the insurance requirements contained in this bid document have been reviewed by me with the below identified Contractor. If the below identified Contractor is awarded this contract by the City of Beaumont, I will be able to, within ten (10) days after being notified of such award, furnish a valid insurance certificate to the City meeting all of the requirements defined in this bid.

Agent (Signature)

Agent (Print)

Name of Agency/Broker: _____

Address of Agent/Broker: _____

City/State/Zip: _____

Agent/Broker Telephone #: () _____

CONTRACTOR'S NAME: _____
(Print or Type)

NOTE TO AGENT/BROKER

If this time requirement is not met, the City has the right to invalidate the bid award and award the contract to the next lowest bidder meeting specifications. Should an awarded bid be invalidated the Contractor may be liable for breach of contract. If you have any questions concerning these requirements, please contact the Purchasing Manager for the City of Beaumont at (409) 880-3720.



CERTIFICATE OF INSURANCE

Form No. COB1
Edition Date: 12/12/2012
Page 1 of 3

This form is for informational purposes only and certifies that policies of insurance listed below have been issued to insured named below and are in force at this time. Notwithstanding any requirements, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, insurance afforded by policies described herein is subject to all terms, exclusions and conditions of such policies.

Prior to the beginning of work, the vendor shall obtain the minimum insurance and endorsements specified. Agents must complete the form providing all requested information and submit by fax, U.S. mail or e-mail as requested by the City of Beaumont ("COB"). The endorsements listed below are required as attachments to this certificate; copies of the endorsements are also acceptable. PLEASE ATTACH ALL ENDORSEMENTS TO THIS FORM AND INCLUDE THE MATCHING POLICY NUMBER ON THE ENDORSEMENT. Only City of Beaumont certificates of insurance are acceptable; commercial carriers' certificates are not.

This certificate shall be completed by a licensed insurance agent:

Name and Address of Agency:

City of Beaumont Reference:

Project Name: _____

Project Location: _____

Phone: _____ / _____

Managing Dept.: _____

Name and Address of Insured:

Project Mgr.: _____

Insurers Affording Coverages:

Insurer A: _____

Insurer B: _____

Insurer C: _____

Insurer D: _____

Phone: _____ / _____

Prime or Sub-Contractor? _____

Name of Prime Contractor, if different from Insured: _____

INSR LTR	TYPE OF INSURANCE	POLICY NO.	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS OF LIABILITY	
	Commercial General Liability Policy As defined in the Policy, does the Policy provide:				Each Occurrence	\$
					General Aggregate	\$
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Completed Operations/Products				Completed Operations/ Products Aggregate	\$
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Contractual Liability				Personal & Advertising Injury	\$
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Explosion				Deductible or Self Insured Retention	\$



CERTIFICATE OF INSURANCE

Form No. COB1
Edition Date: 12/12/2012
Page 2 of 3

INSR LTR	TYPE OF INSURANCE	POLICY NO.	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS OF LIABILITY		
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Collapse						
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Underground						
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Contractors / Subcontractors Work						
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Aggregate Limits per Project Form CG 2503						
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Additional Insured Form - CG 2010						
	<input type="checkbox"/> Yes <input type="checkbox"/> No - 30 Day Notice of Cancellation Form - CG 0205						
	<input type="checkbox"/> Yes <input type="checkbox"/> No - Waiver of Subrogation Form - CG 2404						
	Pollution / Environmental Impairment Policy				Occurrence	\$	
Aggregate					\$		
	Auto Liability Policy As defined in the Policy, does the Policy provide:				CSL	\$	
					Bodily Injury (Per Incident)	\$	
					<input type="checkbox"/> Yes <input type="checkbox"/> No - Any Auto	Bodily Injury	\$
					<input type="checkbox"/> Yes <input type="checkbox"/> No - All Owned Autos	Property Damage	\$
					<input type="checkbox"/> Yes <input type="checkbox"/> No - Non-Owned Autos		
					<input type="checkbox"/> Yes <input type="checkbox"/> No - Hired Autos		
					<input type="checkbox"/> Yes <input type="checkbox"/> No - Waiver of Subrogation - CA0444		
					<input type="checkbox"/> Yes <input type="checkbox"/> No - 30 Day Notice of Cancellation - CA0244		
					<input type="checkbox"/> Yes <input type="checkbox"/> No - Additional Insured - CA2048		
	<input type="checkbox"/> Yes <input type="checkbox"/> No - MCS 90						
	Excess Liability <input type="checkbox"/> Umbrella Form <input type="checkbox"/> Excess Liability Follow Form				Occurrence	\$	
					Aggregate	\$	
	Workers Compensation & Employers Liability As defined in the Policy, does the Policy provide				<input type="checkbox"/> Statutory		
					Each Accident	\$	
					<input type="checkbox"/> Yes <input type="checkbox"/> No - Waiver of Subrogation - WC420304	Disease - Policy Limit	\$
					<input type="checkbox"/> Yes <input type="checkbox"/> No - 30 Day Notice of Cancellation - WC420601	Disease - Each Employee	\$
	Is a Builders Risk or Installation Insurance Policy provided? <input type="checkbox"/> Yes <input type="checkbox"/> No					\$	
					<input type="checkbox"/> Yes <input type="checkbox"/> No - Is the City shown as loss payee/mortgagee?		
	Professional Liability As defined in the Policy, does the Policy provide:				Each Claim	\$	
					<input type="checkbox"/> Yes <input type="checkbox"/> No - 30 Day Notice of Cancellation Retroactive Date:	Deductible or Self Insured Retention	\$



CERTIFICATE OF INSURANCE

Form No. COB1
Edition Date: 12/12/2012
Page 3 of 3

AGENT CERTIFICATION:

THIS IS TO CERTIFY TO THE CITY OF BEAUMONT that the insurance policies above are in full force and effect.

Table with 2 columns and 5 rows containing fields for insurance company name, agent name, addresses, phone number, signature, and date.

CERTIFICATE HOLDER:

DATE ISSUED: _____

City of Beaumont

P. O. Box 3827
Beaumont, Texas 77704-3827

AUTHORIZED REPRESENTATIVE SIGNATURE
Licensed Insurance Agent

Printed Name: _____

EXHIBIT “A”

Map of Properties

**Agreement for Furnishing
Grounds Maintenance and Litter Removal
for the Central Business District
Bid No. TF1216-05**

EXHIBIT "A"
 Grounds Maintenance and Litter
 Control for the Central
 Business District

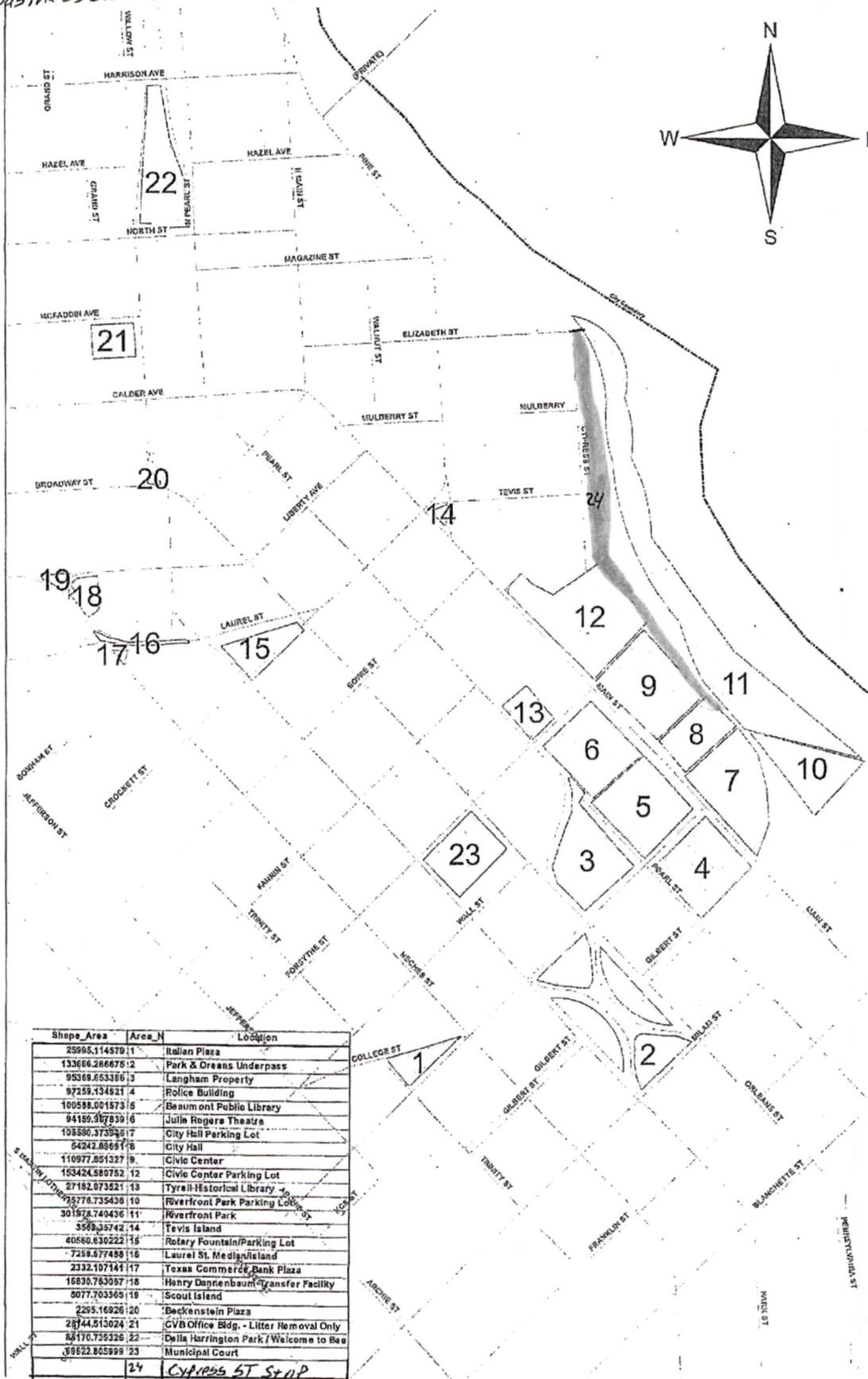
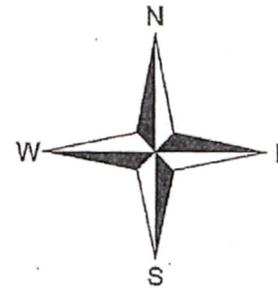


EXHIBIT “B”

Locations and Instructions for All Properties

**Agreement for Furnishing
Grounds Maintenance and Litter Removal
for the Central Business District
Bid No. TF1216-05**

EXHIBIT "B" -

Grounds Maintenance and Litter Removal for the Central Business District
 Bid No. TF1216-05

LOCATION	MOW	EDGE	SWEEP	LITTER	FOUNTAIN	ADDITIONAL INFORMATION
Beaumont Public Library & Parking Lot	Weekly	Weekly	3 X Week, MWF, by 10:00 A.M.	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Beckenstein Plaza	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
City Hall and Parking Lot	Mow to min. 5 ft. outside of fence line.	Weekly	5 X Week, MTWTF, by 7:00 A.M.	5 X Week, MTWTF	Clean exterior as needed. Remove bird droppings on exterior.	Sweeping to be performed daily at 7:00 a.m. after mowing/edging on the days that those occur. Remove litter from lawn areas prior to mowing/edging. Remove bird droppings from City Hall side entrance and sidewalks daily as needed. Severely sloped areas adjacent to railroad rights of way are included in contract.
Civic Center & Parking Lot	Weekly	Weekly	5 X Week, MTWTF, by 10:00 A.M.	5 X Week, MTWTF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Convention & Visitors Bureau			3 X Week	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Rotary Fountain/Parking Lot	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF	Clean exterior as needed. Remove bird droppings on exterior.	Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Delia Harrington Plaza (Welcome to Beaumont Park)	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Henry Tannenbaum Transfer Facility	Weekly	Weekly	3 X Week and same day mowing/edging occurs.	2 X daily, between 7:00-8:00 A.M. and again 3:00-4:00 P.M.		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging. Empty trash containers and replace liners daily.
Italian Plaza	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Julie Rogers Theater & Parking Lot	Weekly	Weekly	3 X Week, MWF, by 10:00 A.M.	3 X Week, MWF	Clean exterior as needed. Remove bird droppings on exterior.	Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Langham Property	Weekly	Weekly	3 X Week	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Laurel Median/Island	Weekly	Weekly	3 X Week	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Lynn Milam Noah Tevis Plaza	Weekly	Weekly	3 X Week	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Main Street Boulevard			3 X Week	3 X Week, MWF		
Neches and Laurel Island	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Parks & Orleans Underpass	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Police Department Building	Weekly	Weekly	3 X Week, MWF, by 10:00 A.M.	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Riverfront Park & Parking Lot	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Scout Island	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Texas Commerce Bank Island	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Tyrrell Historical Library	Weekly	Weekly	3 X Week, MWF, by 10:00 A.M.	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Municipal Court			3 X Week	3 X Week, MWF		
Kyle Plaza		Every other week	Same day mowing/edging occurs	1 X Week		No mowing required. Jasmine beds to be edged and trimmed and foreign growth knocked down with weed eater.
Fire Memorial	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Energy Museum	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Art Museum	Weekly	Weekly	Same day mowing/edging occurs	3 X Week, MWF		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.
Strip Behind AT&T And Entergy	Weekly	Weekly	Same day mowing/edging occurs	1 X Week		Sweeping may be performed after mowing/edging on the days that those occur. Remove litter prior to mowing/edging.

END OF AGREEMENT

**Agreement for Furnishing
Grounds Maintenance and Litter Removal
for the Central Business District
Bid No. TF1216-05**

December 15, 2015

Consider a resolution approving the award of a contract for workers' compensation excess insurance to McGriff, Seibels & Williams of Texas Inc., of San Antonio

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer 

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider a resolution approving the award of a contract for workers' compensation excess insurance to McGriff, Seibels & Williams of Texas Inc., of San Antonio in the amount of \$104,910.

BACKGROUND

The City is self-insured for its workers' compensation program. The excess insurance coverage limits the City's liability for claims from any one job-related accident or injury. The city's liability is called Self Insured Retention (SIR), which means the insurance carrier will cover all cost incurred on any individual claim of more than \$1,000,000 up to any amount authorized by statute. Our current policy is with McGriff, Seibels & Williams of Texas, Inc. The annual premium for the calendar year 2015 was \$113,372. Approximately 1294 full-time employees and more than 200 part-time, temporary and/or casual employees are covered by workers' compensation.

A Request for Proposal was sent to nineteen (19) vendors. Two (2) responses were received. A panel of City employees reviewed the responses. The recommendation of the panel was McGriff, Seibels & Williams of Texas, Inc., who represents Colony Insurance of San Antonio. All specifications were met and the results are attached for review.

The policy is for one (1) year. There is an option to renew for one (1) additional year. Based on the 2016 projected payroll of \$76,901,000, the annual premium is \$104,910.

FUNDING SOURCE

Employee Benefits Fund.

RECOMMENDATION

Approval of resolution.

Criteria Scoring Sheet

RFP Number: PF1016-02
RFP Opening Date: October 22, 2015
RFP Name: Workers Compensation Excess Insurance

Criteria	Max Points	McGriff	TMLI
Requirements of Proposal	20	20	20
Ability to provide quotes for additional years	15	15	0
Financial Stability	10	10	10
Experience	10	10	10
Company History	10	10	10
Cost	35	32.50	25
Total	100	97.50	75

RESOLUTION NO.

WHEREAS, Requests for Proposals were received for a policy for excess workers' compensation insurance; and,

WHEREAS, McGriff, Seibels and Williams of Texas, Inc., of San Antonio, Texas, representing Colony Insurance, submitted a response as follows:

\$104,910.00	Annual rate based on the 2016 projected payroll of \$76,901,000
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; and,

WHEREAS, City Council is of the opinion that the response submitted by McGriff, Seibels and Williams of Texas, Inc., of San Antonio, Texas, representing Colony Insurance, should be accepted;

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

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

THAT the response submitted by McGriff, Seibels and Williams of Texas, Inc., of San Antonio, Texas, representing Colony Insurance, for a policy for excess workers' compensation insurance in the amount of \$104,910.00 be accepted by the City of Beaumont. The policy is effective January 1, 2015 with an option to renew for one (1) additional year; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a contract with Colony Insurance, of San Antonio, Texas, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of
December, 2015.

- Mayor Becky Ames -

December 15, 2015

Consider a resolution authorizing the City Manager to enter into an agreement with Tri-Con, Inc. for economic development incentives under the Neighborhood Empowerment Zone Abatement Program



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Planning & Community Development Director

MEETING DATE: December 15, 2015

REQUESTED ACTION: Council consider authorizing the City Manager to enter into an agreement with Tri-Con, Inc. for economic development incentives under the Neighborhood Empowerment Zone Abatement Program.

BACKGROUND

In recent months, working with Lamar University and the Greater South Park Neighborhood Partnership, the city has increased its efforts to encourage redevelopment within the area surrounding Lamar University and Lamar Institute of Technology. To this end, the City of Beaumont recently established the Lamar Neighborhood Empowerment Zone (Number Six). It is the goal of this new zone to offer economic incentives in this area to attract new businesses and residences as well as encourage the redevelopment or growth of existing businesses and residences. Specifically, the zone offers the following economic development incentives.

- 1) A possible three (3) year, 100% municipal tax abatement for all added value for investments greater than \$50,000 for residential uses and \$75,000 for all other uses and a possible, additional four (4) year, 100% abatement for projects in excess of \$5 Million.
- 2) Building fee waivers (not including tap and meter fees).
- 3) Expedited permit review.
- 4) Lien waivers for any lien claimed by the City for demolition or high gross abatement expenditures.

Tri-Con, Inc. is proposing to construct a new convenience store at 1755 East Cardinal Drive. The estimated project cost is in excess of \$1 Million, but less than \$5 Million. As such, under the Empowerment Zone Guidelines, if approved, Tri-Con's project would be eligible for a three (3) year abatement of city property taxes, building fee waivers, expedited permit review, as well as lien waivers. Attached is Tri-Con's application, outlining their requests for all eligible benefits, except lien waivers. The Administration believes that this project would meet the goals of the Empowerment Zone program and the new retail services to the area would help further the redevelopment of the area.

Attached is a map of the Lamar Neighborhood Empowerment Zone (Number Six), the application as well as the draft abatement agreement.

FUNDING SOURCE

Revenues from waived fees and abated ad-valorem taxes would be forgone, but the long-term economic impact associated with new development should positively affect future budgets.

RECOMMENDATION

Approval of the resolution.

RESOLUTION NO.

WHEREAS, Tri-Con, Inc. is proposing to construct a new convenience store at 1755 East Cardinal Drive in the City of Beaumont, Texas; and,

WHEREAS, this construction is projected to be in excess of \$1,000,000, but less than \$5,000,000, a substantial investment as outlined in the Neighborhood Empowerment Zone Policy and would, therefore, be eligible for consideration for an abatement of City taxes for up to a period of three (3) years, building fee waivers, expedited permit review and lien waivers; and,

WHEREAS, Neighborhood Empowerment Zones are intended to attract this type of economic development in areas of the City with higher concentrations of low to moderate income families and limited redevelopment by offering incentives such as tax abatement;

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 a Neighborhood Empowerment Zone Tax Abatement Agreement with Tri-Con, Inc., Of Beaumont, Texas, offering economic incentives to encourage the construction of a convenience store with a projected value in excess of \$1,000,000, but less than \$5,000,000, at 1755 East Cardinal Drive in the City of Beaumont within Neighborhood Empowerment Zone #6. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of
December, 2015.

- Mayor Becky Ames -



CITY OF BEAUMONT
APPLICATION FOR NEIGHBORHOOD
EMPOWERMENT ZONE DEVELOPMENT INCENTIVES

The purpose of this application is to present to the City of Beaumont a reasonably comprehensive outline of the project for which the incentives are requested. Please review the Neighborhood Empowerment Zone guidelines carefully before completing this application. If additional space is needed, separate sheets may be attached.

Types of incentives that you are seeking:

- Building Fee Waivers**
- Expedited Permit Review**
- Lien Waivers**
- Tax Abatement**

DESCRIPTION OF PROJECT

1. Legal name and address of applicant:
Tri-Con, Inc. / P.O. Box 20555, Beaumont, Texas 77720
2. Type of organization (Corporation, Ltd. Partnership, etc.):
Corporation
3. Date organization formed:
8/14/1969
4. Address and telephone number of headquarters location:
7076 West Port Arthur Road, Beaumont, Texas 77705 (409) 835-2237
5. State(s) in which business is registered:
Texas
6. Other locations of this business (names of cities):
N/A
7. Is business current with all taxes?
Yes
8. Name, address, and telephone number of principal officers:
Elias Sarkis, Imad Sarkis - P.O. Box 20555, Beaumont, Texas 77720 (409) 835-2237
9. Name, address & phone number of designated contact person:
Elias Sarkis, P.O. Box 20555, Beaumont, Texas 77720 (409) 835-2237
10. Type of business to be conducted and goods or services to be produced or provided:
Convenience Store
11. Location of project (street address):
1755 East Cardinal Drive, Beaumont, Texas 77705
12. Legal (lot, block & subdivision) description of the project (Attach plat of property):
J.A. Veatch, B-22, BLK 11, L1
13. Identify and describe the kind, number and location of all improvements to the physical property and discuss the development schedule of the proposed improvements.
New convenience store construction and retail fueling stations installed at the beginning of December 2015

14. What infrastructure construction will be required to serve the proposed project? What is the estimated cost of this construction?

No additional infrastructure construction needed.

15. Estimated construction commencement date:

12/01/2015

16. Estimated construction completion date:

08/10/2016

17. Estimated date for project to be operational:

08/10/2016

18. City liens requested to be released:

None

EMPLOYMENT IMPACT (for Non-residential Projects)

19. What is the estimated number of permanent full-time new jobs that will be created?

10

20. What percentage of employees do you anticipate will be residents living in:

(a) the Neighborhood Empowerment Zone 70%

(b) City of Beaumont 30%

(c) Jefferson County 100%

(d) Outside Jefferson County

21. How many new, temporary and part-time jobs will be created in Beaumont?

10

22. What types of jobs will be created?

clerks/cashier, managers, maintenance

23. What will be the total project annual payroll of the newly created jobs?

\$117,560

24. Will specialized training be required? If so, what type?

TCEQ and TABC training

FISCAL IMPACT

25. Is there an anticipated cost to the City of Beaumont for providing municipal services to the proposed project?

No

COMMUNITY IMPACT

28. Do you anticipate the proposed project having a substantial impact on the local residential, commercial or retail market?

Yes

29. Will rezoning and platting/replatting be required?

No

If you have any questions about this application please call the Community Development Department at (409) 880-3762.

CITY OF BEAUMONT STAFF RECOMMENDATION(S) AND/OR COMMENT(S):
(To be completed by City of Beaumont Staff Only)

2. Recommendation:

Approve
 Disapprove

Comments:

*Meets requirements of
NEZ Guidelines
-CSB*

STATE OF TEXAS

COUNTY OF JEFFERSON

AGREEMENT

This Agreement is entered into by and between the City of Beaumont, Texas, a home-rule city and municipal corporation of Jefferson County, Texas, acting herein by and through its City Manager, hereinafter referred to as "City"; and Tri-Con, Inc., P.O. Box 20555, Beaumont, Texas, hereinafter referred to as "Owner".

WITNESSETH:

WHEREAS, On the eighth day of December, 2015, the City Council of the City of Beaumont, Texas, passed Ordinance No. 15-055, establishing the boundaries of Empowerment Zone Number Six, for residential and commercial tax abatements as authorized by Vernon's Texas Civil Statutes Tax Code, Section 312.001 and Chapter 378 of the Texas Local Government Code, et seq, as amended, hereinafter referred to as "Statute".

WHEREAS, in order to maintain and/or enhance the local economy and/or provide quality, affordable housing, in accordance with said Ordinance and Statute, the City and Tri-Con, Inc., known herein as the Owner, do mutually agree as follows:

1. The property, known as the "Premises" to be the subject of this Agreement shall be the property owned by Tri-Con, Inc. at 1755 East Cardinal Drive, Beaumont, Texas and described at Lot 1, Block 11 of J.A. Veatch, B-22 Subdivision.
2. The Owner shall cause to be constructed a new convenience store and fueling station, known herein as the "Project," on the Premises and shall not have a construction cost less than \$750,000 and shall be completed not later than December 31, 2016.
3. The Owner agrees to pursue these improvements as good and valuable consideration of this Agreement.
4. In the event that the Project and improvements for which an abatement has been granted are not completed in accordance with this Agreement, then this Agreement

shall be subject to termination and all delinquent taxes and taxes which otherwise would have been paid to the City without the benefit of abatement will become a debt to the City and shall be due, owing and paid to the City within sixty (60) days of any such event. In the event that the Owner defaults in the terms and conditions of this Agreement, the City shall give the Owner written notice of such default and if the Owner has not cured such default within thirty (30) days of said written notice, this Agreement may be terminated by the City. Notices shall be in writing and shall be delivered by personal delivery or certified mail addressed as follows:

Elias Sarkis
Tri-Con, Inc.
P.O. Box 20555
Beaumont, Texas 77720

5. In the event that the City should fail to timely or substantially comply with any one or more of the requirements, obligations, duties, terms, conditions or warranties of this Agreement, such failures shall be an Act of Default by the City and the City shall have ninety (90) days to cure and remove the Default upon receipt of written notice to do so from Tri-Con, Inc. Tri-Con, Inc. specifically agree that the City shall only be liable to Tri-Con, Inc. for the amount of waivers and abatement, outlined herein, attorney's fees, and costs of court, shall not be liable to Tri-Con, Inc. for any alleged consequential damages. Tri-Con, Inc. hereby waives any rights or remedies available to it at law or in equity. Notices shall be in writing and shall be delivered by personal delivery or certified mail addressed as follows:

Kyle Hayes, City Manager
City of Beaumont
801 Main
Beaumont, TX 77701

6. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. Other than assignment to a Tri-Con, Inc. affiliate, this Agreement cannot be assigned by Owner to anyone or any other entity which is not an affiliate of Tri-Con, Inc., unless written permission is first granted by the City, which permission shall be in the sole discretion of the City.

7. The Owner agrees to hold the City harmless from any and all kinds of claims, losses, damages, injuries, suits or judgments involving the City and relating to such improvements.

8. The City shall have reasonable right to inspect the Premises and Project during regular daylight hours to ensure that the improvements are made according to the terms of this Agreement. In addition, the Owner agrees to provide records and documentation to the City, sufficient to verify improvements and employment data in order to ensure performance under this agreement.

9. Subject to the terms and conditions of this Agreement, all increases in taxes owed to the City, assessed from the ad valorem real value resulting from these improvements of these Premises, are hereby abated in their entirety for a period of three (3) year beginning January 1, 2017.

10. In addition, an exemption from planning and building fees associated with new construction, though not including water tap fees, shall be made as part of this agreement.

11. In addition, the City and the Owner agree to cooperate with one another to facilitate the expeditious processing of permits, including zoning applications (s), subdivision applications, plat approvals, development application (s) and building permit applications required for the completion of the project, in accordance with State Statutes and City Ordinances.

12. The City and Owner each agree to act in good faith and to do all things reasonably necessary or appropriate to carry out the terms and provisions of this agreement, and to aid and assist the other in carrying out such terms and provisions in order to put the other in the same condition contemplated by this Agreement.

13. If the Owner elects not to proceed with the development of the project as contemplated by this Agreement, the Owner will notify all parties in writing and the

obligations of either Tri-Con, Inc. and the City will be deemed terminated and of no further force or effect as of the date of such notice, except those that expressly survive the termination hereof, if any.

14. This Agreement was authorized by resolution of the City Council at its meeting on the _____, authorizing the City Manager to execute the Agreement on behalf of the City.

15. This Agreement was authorized by the Owners on the _____ day of _____.

16. This shall constitute a valid and binding agreement between the City and the Owners when executed on behalf of said parties, for the abatement of City ad valorem taxes in accordance therewith.

The Agreement is performable in Jefferson County, Texas, witness our hands
This _____ day of _____,

CITY OF BEAUMONT

By: _____

Kyle Hayes
City Manager

ATTEST:

Tina Broussard
City Clerk

OWNERS

By: _____

Elias Sarkis

ATTEST:

Lamar Neighborhood Empowerment Zone (#6)

