



Port of Corpus Christi

Regular Meeting

Tuesday, May 10, 2011 8:00 AM

Port of Corpus Christi
Regular Meeting
Tuesday, May 10, 2011 - 8:00 AM
Congress Solomon P. Ortiz International Center, 402 Harbor Drive, Corpus Christi, Texas

AGENDA

1. Call meeting to order and receive Conflict of Interest Affidavits.
2. Approve the minutes of the April 12 and May 2, 2011 Commission meetings 4
3. Receive comments from the public. **(each speaker will be limited to three minutes)**
4. Approve a Lease Option Agreement with Global Terminal Advisors for 780- acres of the La Quinta Trade Gateway property. 22
5. Declare the PCCA's Harbor Island property to be surplus land not needed by PCCA for use in connection with its development of a navigation project and authorize PCCA staff to request sealed bids for the sale of this property. 35
6. Approve an Exclusive Right To Sell or Lease Contract for PCCA's Harbor Island property with Cushman & Wakefield of Texas, Inc. 36
7. Approve 2011 Security Grant Projects. 44
8. Approve change to Bulk Terminal Tariff 1-A, Item 346 - charges for Unloading of Rail Cars at Bulk Dock 2. 46
9. Approve changes to Tariff 100-A, Item 280 - Free Time and Storage charges after expiration of free time. 47
10. Consent Agenda. The Port Commissioners have been furnished with supporting documentation and staff's recommendation for each of the following items. All Consent Agenda items will be approved, in accordance with the respective staff recommendations, by one vote without being discussed separately unless a Port Commissioner requests otherwise:
 10. A. Approve a Lease Agreement with Cornell Carriers LLC for Sheds 26 and 27, three acres of the Al Speight yard, and 2,750 feet of Tracks 855 and 857 for the transloading and storage of bulk cargo. 48
 10. B. Approve Change Order #8 to Ballenger Construction Co. on the Fulton Corridor - Phase II Construction Contract. 83
 10. C. Approve Change Order #4 to Haas Anderson Construction Ltd. on the Reconstruction of Navigation Boulevard contract. 88
 10. D. Approve a Professional Services Agreement with CH2M Hill for the Engineering of a new dock fender system on Bulk Dock 1. 92
11. Approve PCCA's Financial Report for three months ended March 31, 2011. 93
12. Approve PCCA's Investment Report for quarter ended March 31, 2011. 110
13. Receive report from the Executive Director on upcoming community events, PCCA events and the activities of the following PCCA departments during the preceding month: business development, community relations, government affairs, operations, engineering services, accounting, and human resources. 120
14. Receive comments from Commissioners on any of the agenda items for this meeting, the Port's activities during the preceding month, any upcoming PCCA and community events and suggestions for future agenda items. 147

15. Port Commission will go into Executive Session pursuant to §551.071 of the Texas Government Code to consult with its attorney regarding Cause No. D-1-GV-09-001901: *State of Texas on behalf of Land Commissioner Jerry Patterson, Plaintiff, v. port of Corpus Christi Authority of Nueces County, Texas, in the 419th District Court of Travis County, Texas*. The Commission may also take action on this matter in open session. 148
16. The Port Commission will go into executive session pursuant to §551.072 of the Texas Government Code, to deliberate the purchase of real property in the vicinity of the corpus Christi Ship Channel. 149
17. Adjourn.

April 12, 2011

The Port Commissioners of the Port of Corpus Christi Authority met in regular session on Tuesday, April 12, 2011 at 9:00 a.m., at the Congressman Solomon P. Ortiz International Center located at 402 Harbor Drive, Corpus Christi, Texas.

Present:

Mr. Mike Carrell
Mr. Richard M. Borchard
Ms. Judy Hawley
Mr. Robert J. Gonzalez, Sr.
Mr. Francis I. Gandy, Jr.
Mr. Robert Kostelnik
Mr. Mike Scott

Present:

Mr. John P. LaRue
Mr. Frank Brogan
Mr. Sandy Sanders
Mr. Greg Brubeck
Ms. Patricia Cardenas
Ms. Sandra Davis
Mr. Dennis DeVries
Ms. Lynn Angerstein
Ms. Audre Debler
Ms. Sherry DuBois
Mr. Gustavo Espinosa
Mr. David Krams
Ms. Nelda Olivo
Mr. Richard Stroot
Ms. Maggie Turner
Mr. Bennie Benavides
Ms. Becky McMillon
Mr. Robert Metoyer

Others Present:

Mr. Leo J. Welder, Jr.

Others Present:

Mr. Tom Moore
Consultant
Capt. Bobby Grumbles
Capt. John Williams
Aransas/CC Pilots Assn.
Mr. Kevin Kauk
Koch Carbon
Mr. Don Meumeyer
Mr. Marr Yost
Martin Associates

Ms. Lillian Riojas
Valero
Ms. JoAnn Ehmann
Ingleside On The Bay
Mr. Jim Schuchardt
Eslabon
Mr. Michael Ostos
Dix-Fairway
Mr. Lowell Bezans
Mr. Michael Wortley
Mr. Bill English
Cheniere Energy
Mr. Jimmie Tryon, Jr.
ILA #26
Ms. Carol Scott
Kailo Communications
Mr. Michael Carlie
Royal Caridea
Ms. Josephine Miller
San Patricio EDC
Mr. Doug Cameron
Sabine Surveryors
Mr. Jerry Kane
Sam Kane Processors
Mr. Tom Curlee
Port Industries
Ms. Nancy Vasquez
MD&A
Ms. Sara Foley
Caller-Times
Mr. Tim Clower
TCC
Mr. Rick DuPriest
WL Bates
Mr. Fred Nardini
Mr. Jim Price
San Patricio County
Mr. Roland Mower
Mr. John Plotnik
CC Regional Economic Development Assn
Mr. Roy DeBolt
Kiewit Offshore
Mr. Bill Durrill
Durlame
Ms. Nancy Allen
USO

Mr. Dick Fuqua
Mr. Jody Powers
Mr. Larry Ramming
Canyon Supply & Logistics
Mr. Jim Rimbey
ZEP
Mr. Pete Perkins
Mayor – City of Ingleside
Ms. Josephine Miller
San Patricio EDC
Mr. John Kelley
We the People
Mr. Harry G. Plomarity
Citizen

I.

Chairman Carrell called the meeting to order and asked that any conflict of interest affidavits be submitted. Commissioner Gonzalez submitted an affidavit for items 14 and 18, stating that he owns real property on Burleson Street in the vicinity of the properties involved in these agenda items.

II.

On motion made by Mr. Borchard and seconded by Mr. Scott, the minutes of the March 8 and March 25, 2011 Commission meetings were approved in the form presented to the meeting.

III.

Chairman Carrell asked for comments from the public. None were received

IV.

On motion made by Mr. Gandy and seconded by Mr. Scott, any action on the Exclusive Right to Sell or Lease Contract for the PCCA's Harbor Island property with Cushman & Wakefield of Texas, Inc. was tabled until the next meeting of the Port Commission.

V.

The Commission discussed the status of negotiations with Canyon Supply & Logistics, LLC, for the purchase of the remaining portion of Naval Station Ingleside and PCCA's adjacent 435 acres of undeveloped land. Then on motion made by Mr. Gandy and seconded by Mr. Scott, the Commission approved, in the form presented to the meeting, an Agreement Extending the Canyon Supply & Logistics Letter of Intent until May 10, 2011.

VI.

After discussing PCCA's efforts to lease the Refrigerated Warehouse, on motion made by Mr. Borchard and seconded by Mr. Scott, the Commission approved the following resolution:

**RESOLUTION APPROVING LEASE AGREEMENT
WITH SAM KANE MEAT PROCESSORS, INC., FOR
REFRIGERATED WAREHOUSE PROPERTY
AND RELATED MATTERS**

WHEREAS, Port of Corpus Christi Authority of Nueces County, Texas ("PCCA"), wishes to lease, as lessor, a ±2.9964-acre tract of land located at 701 E. Navigation Blvd., Corpus Christi, Texas ("Land"), and PCCA's Refrigerated Warehouse Facility ("Refrigerated Warehouse") located on the Land; and

WHEREAS, in connection with PCCA's efforts to lease the Land and Refrigerated Warehouse (collectively, the "Refrigerated Warehouse Property"), the following events have transpired:

1. On January 27, 2011, PCCA received one bid to lease the Refrigerated Warehouse Property; the sole bidder being Sherborn Ventures, LLC ("Sherborn Ventures"), a company managed by Chris Hughes.
2. On February 8, 2011, the Port Commission accepted Sherborn Ventures' bid and approved a lease agreement with Sherborn Ventures for the Refrigerated Warehouse Property (the "Sherborn Lease").
3. Chris Hughes advised PCCA staff that Sherborn Ventures was unwilling to sign the Sherborn Lease, but that he would form a new company which would execute the Sherborn Lease.
4. PCCA counsel advised staff that only Sherborn Ventures could sign the Sherborn Lease, because Sherborn Ventures had submitted the bid that was accepted by the Port Commission and the Commission had approved a lease agreement with Sherborn Ventures.
5. Staff advises Chris Hughes that PCCA would request new bids to lease the Refrigerated Warehouse Property, with an option to purchase the Refrigerated Warehouse building and PCCA's equipment located on the leased premises, which it did by a Bid Notice dated March 16, 2011.
6. On March 31, 2011, PCCA received two bids to lease the Refrigerated Warehouse Property, which can be summarized as follows:
 - a. Corpus Christi Cold Storage (Chris Hughes) – Total Base Bid of \$370,000 in rent for five years; and

- b. Sam Kane Meat Processors, Inc. – Total Base Bid of \$450,000 in rent for five years.
7. Staff has recommended that the Port Commission cancel its approval of the Sherborn Lease and approve a lease agreement with Sam Kane Meat Processors, Inc. (“Sam Kane”) for the Refrigerated Warehouse Property.

WHEREAS, the Port Commission has concluded that leasing the Refrigerated Warehouse Property does not constitute a lease of a significant or substantial part of PCCA’s dock and wharf and related facilities constituting the Port of Corpus Christi for purposes of Section 12(g) of the resolution (“Bond Resolution”) adopted by the Port Commission on March 12, 2002, authorizing the issuance of Port of Corpus Christi Authority of Nueces County, Texas Revenue Bonds, Series 2002-A (AMT) and Series 2002-B (NON-AMT).

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION OF PORT OF COPRUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS, THAT:

Section 1. The Port Commission’s acceptance of Sherborn Ventures’ bid to lease the Refrigerated Warehouse Property and its approval of the Sherborn Lease on February 8, 2011, are hereby cancelled and shall have no further force and effect.

Section 2. In the opinion of the Port Commission, of the two bids submitted to PCCA on March 31, 2011, to lease the Refrigerated Warehouse Property (which includes an option to purchase the Refrigerated Warehouse building and PCCA’s equipment located on the leased premises) the bid submitted by Sam Kane is the most advantageous to PCCA, and the Port Commission hereby accepts Sam Kane’s bid to lease the Refrigerated Warehouse Property.

Section 3. The Lease Amendment between PCCA and Sam Kane for the lease of the Refrigerated Warehouse Property, which includes an option to purchase the Refrigerated Warehouse building and PCCA’s equipment located on the leased premises (the “Lease Agreement”), is hereby approved in substantially the form presented to this meeting, and the Executive Director of PCCA is hereby authorized and directed, for and on behalf of PCCA, to sign and otherwise execute the Lease Amendment with such changes therein as shall be approved by the Executive Director, his execution thereof to constitute conclusive evidence of such approval.

Section 4. The Port Commission hereby finds that leasing the Refrigerated Warehouse Property to Sam Kane pursuant to the terms of the Lease Agreement will have a positive impact on PCCA’s Net Revenues (as defined in the Bond Resolution) over the term of the Lease Agreement.

Section 5. The Executive Director and his designees are hereby severally authorized and directed to do any and all other things they deem necessary to carry out the intent and purposes of this Resolution.

VII.

On motion made by Ms. Hawley and seconded by Mr. Gonzalez, the Commission approved, in the form presented to the meeting, the third and final reading of a franchise granting Flint Hills Resources Corpus Christi, LLC, the right of access to the waters of Nueces County and the Corpus Christi Ship Channel from its wharves, piers and other improvements now or hereafter constructed on the company's 1.72-acre upland tract and the company's 10.906-acre tract of leased submerged land situated in the southeast corner of the former Naval Station Ingleside site. Mr. Gandy voted against the motion.

VIII.

On motion made by Ms. Hawley and seconded by Mr. Gonzalez, the Commission approved, in the form presented to the meeting, the fourth quarter Investment Report for 2010.

IX.

On motion made by Ms. Hawley and seconded by Mr. Gonzalez, the Commission approved, in the form presented to the meeting, the PCCA Comprehensive Annual Financial Report for the year ended December 31, 2010.

X.

On motion made by Ms. Hawley and seconded by Mr. Borchard, all items on the consent agenda were approved in accordance with the respective staff recommendations furnished to the Commissioners at the meeting, by one vote. These items were as follows:

- A.** Approve the first option year of PCCA's contract with LINC Government Services, LLC, for facility maintenance, repair and minor construction services at the former Naval Station Ingleside.
- B.** Approve Service Order #2 to a Professional Services Master Agreement with HDR Engineering, Inc for design services for fender replacement and breasting structure replacement at Oil Dock 6.
- C.** Approve a Professional Services Purchase Order with RVE Inc for design and project management services for Security Grant 8.
- D.** Approve Change Order #14 to the Command and Control System contract with G4S Technology, LLC, on Security Grant 6.
- E.** Approve an increase in the contingency amount for standby time for the Oil Dock 9 Allision Repairs contract with CCC Group, Inc.
- F.** Approve a Professional Services Order with Professional Services Industries for inspection and testing services on the Fulton Corridor Phase II project.
- G.** Approve an amendment to the Harbor Bridge Lighting Advance funding Agreement with the Texas Department of Transportation and the City of corpus Christi.

- H.** Approve a Lease Agreement with Eslabon Terminal, LLC for vapor recovery facility at Oil Dock 12.
- I.** Approve an Easement Agreement with Eslabon Terminal, LLC for 10-inch pipeline to Oil Dock 12.
- J.** Consent to the sublease of 1.54 acres of PCCA property located north and west of the Avery Point Turning Basin by Cemex Construction Materials south, LLC, to Sand Storage, LLC.
- K.** Appoint Greg Brubeck as PCCA's representative on the Board of Directors of the City of Corpus Christi Reinvestment Zone No. 2.
- L.** Approve an extension of the Professional Services Agreement with W.L. Bates Company for Naval Station Ingleside real estate support services.

XI.

The Executive Director reported on the following during his report: Thanked staff for efforts on audit, investment and budget process; thanked Commission and staff on their efforts with the Vietnam Memorial event; update on Las Brisas; update on miscellaneous projects for bulk terminal; update on Cold Store facility activities; and funding update on La Quinta project.

XII.

The Chairman asked for comments from Commissioners on any of the agenda items for this meeting, the Port's activities during the preceding month, upcoming PCCA and community events and suggestions for future agenda items.

At 10:56 a.m., the Chairman announced that the Commission would go into executive session pursuant to §551.071 and §551.072 of the Texas Government Code to deliberate items 13, 14, 15, 16, 17 and 18.

At 12.25 p.m., the Commission meeting reconvened in open session.

XIII.

The following agenda item was for executive session only: Deliberate the terms and conditions on which PCCA would lease various parcels of PCCA property in the vicinity of the Bulk Terminal.

XIV.

A lease agreement between PCCA and Martin Operating Partners for approximately 10 acres of PCCA land located on the north side of the Inner Harbor was presented to the Commission for consideration. After discussion, on motion made by Mr. Kostelnik and seconded by Mr. Gandy, the Commission approved the lease, in the form presented to the meeting, subject to the following: (i) delete the last paragraph of Section 1.01 of the lease wherein PCCA had the right to remediate the MOP Property (as defined in the next paragraph) as

seller's expense, and (ii) such other changes as general counsel deems appropriate for the protection of PCCA's interests. Mr. Gonzalez abstained from voting on this item.

A real estate sales contract between PCCA and Martin Operating Partners (MOP) for approximately 10 acres of MOP land located on the north side of the Inner Harbor ("MOP LAND") was also presented to the Commission for consideration. After discussion, on motion made by Mr. Kostelnik and seconded by Ms. Hawley, the Commission approved the sales contract, in the form presented to the meeting, subject to the following: (i) amend paragraph I of the contract to provide that the contract will terminate if MOP fails to remediate the MOP Property to State of Texas Commercial Industrial Standard within a reasonable period of time, and (ii) such other changes as general counsel deems appropriate for the protection of PCCA's interests. Mr. Gonzalez abstained from voting on this item.

XV.

On motion made by Mr. Gonzalez and seconded by Mr. Gandy, the Commission approved a Lease Option Agreement with Cheniere Energy, Inc., for approximately 52 acres of the La Quinta Trade Gateway property, in the form presented to the meeting.

XVI.

Durlame, LLC, asked the Commission to adjust the boundaries of the property it leases from PCCA in the vicinity of Whataburger Field, subject to certain contingencies. Then on motion made by Ms. Hawley and seconded by Mr. Borchard, the Commission approved the following resolution, with Mr. Carrell abstaining from voting on this matter:

RESOLUTION AMENDING COTTON YARD LEASE AND DECLARING LEASED PREMISES TO BE SURPLUS LAND

WHEREAS, the Port of Corpus Christi Authority of Nueces County, Texas ("PCCA"), as lessor, and Adame Group, LLC, as lessee, entered into a ground lease agreement dated June 11, 2010 ("Ground Lease") for 5.1 acres of land in Corpus Christi, Texas, in the vicinity of Whataburger Field; and

WHEREAS, the leased premises under the Ground Lease includes a 2.5-acre tract of land ("Parcel A") and a 2.6-acre tract of land ("Parcel B"), both of which are depicted on the map attached hereto as Exhibit A; and

Whereas, on July 26, 2010, Adame Group, LLC, assigned its interest in the Ground Lease to Durlame, LLC ("Durlame");

WHEREAS, as part of PCCA's original sale of the Whataburger Field property to the City of Corpus Christi in 2003, PCCA granted the City a private easement on a sixty-foot-wide strip of land (the "Private Easement") that runs along the eastern side of Whataburger Field and the western side of Parcel A, and the Private Easement is depicted on the map attached hereto as Exhibit A; and

WHEREAS, Durlame has requested that the description of Parcel A in the Ground Lease be amended to include that part of the Private Easement between Whataburger Field and Parcel A and to exclude a corresponding sixty-foot-wide strip of land along the eastern side of Parcel A, such that the boundaries of Parcel A would be as depicted in the map attached hereto as Exhibit B (the “Lease Amendment”); and

WHEREAS, Durlame has also asked PCCA to acknowledge termination of the Private Easement and to formally release any claim it may have in and to the Private Easement in conjunction with the Lease Amendment; and

WHEREAS, PCCA staff has recommended that the Port Commission declare Parcel A, as amended by the Lease Amendment, and Parcel B to be surplus land which is not needed for use by PCCA in connection with the development of a navigation project, and offer to sell Parcel A, as amended, and Parcel B by sealed bids;

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION THAT

Section 1. The Lease Amendment, in substantially the form presented to this meeting, is hereby approved for the purpose of amending the description of Parcel A as set forth in the Lease Amendment and this Resolution, and the Executive Director of PCCA is hereby authorized and directed, for and on behalf of PCCA, to sign and otherwise execute the Lease Amendment with such changes therein as shall be approved by the Executive Director, his execution thereof to constitute conclusive evidence of such approval.

Section 2. The Acknowledgment of Easement Termination, in substantially the form presented to this meeting, is hereby approved for the purpose of acknowledging the termination of the Private Easement and formally releasing any claim PCCA may have in and to the Private Easement, and the Executive Director of PCCA is hereby authorized and directed, for and on behalf of PCCA, to sign and otherwise execute the Acknowledgment of Easement Termination with such changes therein as shall be approved by the Executive Director, his execution thereof to constitute conclusive evidence of such approval.

Section 3. Parcel A, as amended by the Lease Amendment, and Parcel B (collectively referred to herein as the “Surplus Land”), are hereby declared to be surplus land which is not needed for use by PCCA in connection with the development of a navigation project, and it is the opinion of this Port Commission that it is desirable or advantageous to the interests of PCCA to offer to sell the Surplus Land by sealed bids upon the terms and conditions stated in this Resolution.

Section 4. PCCA staff is hereby authorized to prepare bid specifications for sealed bids for the purchase of the Surplus Land, including, but not limited to, the following terms and conditions, all of which must be complied with or the bid may be rejected:

1. The Port Commission reserves the right to reject any or all bids and to waive any formalities in the bidding.

2. Each bid submitted for the Surplus Land must be accompanied by a certified or cashier's check in an amount equal to the bidder's bid for the property, and this check shall guarantee that the bidder will perform the terms of his bid if it is accepted by the Port Commission.
3. The deed for the Surplus Land will contain a reservation of all oil, gas, and other minerals in and under and that may be produced from the Surplus Land, but PCCA will waive any rights it may have to use the surface of the Surplus Land for purposes of exploring for these minerals.
4. The Surplus Land will be sold subject to any and all leases (including the Ground Lease), restrictive covenants, easements, agreements, encumbrances, and mineral interests, if any, held or owned by others, relating to the Surplus Land, but only to the extent they are still in effect.
5. PCCA will assign its interest in any leases on the Surplus Land to the purchaser of the property, and the purchaser must assume all of PCCA's obligations under these leases.
6. The Surplus Land must be accepted by the successful bidder **"as is, where is and with all faults,"** based upon the bidder's own investigations and not in reliance upon any statements or records furnished to the bidder by the PCCA or prior owners of the Surplus Land.

Section 5. PCCA staff is hereby authorized to request sealed bids for the purchase of the Surplus Land in accordance with the foregoing bid specifications.

Section 6. Notwithstanding anything to contrary contained in this Resolution, (i) the Commission's approval of the Lease Amendment is subject to the approval and execution of the Acknowledgment of Easement Termination by all parties thereto; (ii) the Commission's approval of the Acknowledgment of Easement Termination is subject to the approval and execution of the Acknowledgment by all parties thereto; (iii) the Commission's declaration that Parcel A, as amended by the Lease Amendment, and Parcel B are surplus land is subject to the approval and execution of the Lease Amendment by all parties thereto; and (iv) the Commission's authorization to request sealed bids for the purchase of the Surplus Land is subject to the approval and execution of the Lease Amendment by all parties thereto.

Note: Exhibits A and B to the foregoing resolution are attached to these minutes as Exhibits A and B.

XVII.

The following agenda item was for executive session only: Consult with general counsel about PCCA's rights and obligations under the Cross-Conveyance and Settlement Agreements between PCCA and the land owners along the Jewel Fulton Canal was tabled.

XVIII.

The following agenda item was for executive session only: Consult with general counsel regarding Cause No. D-1-GV-09-001901: *State of Texas on behalf of Land Commissioner Jerry Patterson, Plaintiff, v. Port of Corpus Christi Authority of Nueces County, Texas, in the 419th District Court of Travis County, Texas.* Mr. Gonzalez did not participate in this portion of the executive session.

XIX.

On motion made by Mr. Kostelnik and seconded by Mr. Borchard, consideration of a Lease Option Agreement with Millenium Bulk Logistics, Inc. for 14.50 acres at the Bulk Terminal was tabled until the next meeting of the Port Commission.

XX.

There being no further business, the meeting adjourned at 12:37 p.m.

May 2, 2011

The Port Commissioners of the Port of Corpus Christi Authority met in special session on Monday, May 2, 2011 at 9:00 a.m., at the Congressman Solomon P. Ortiz International Center located at 402 Harbor Drive, Corpus Christi, Texas.

Present: Mr. Mike Carrell
Mr. Richard M. Borchard
Ms. Judy Hawley
Mr. Francis I. Gandy, Jr.
Mr. Robert Kostelnik
Mr. Mike Scott

Absent: Mr. Robert J. Gonzalez, Sr.

Present: Mr. John P. LaRue
Mr. Sandy Sanders
Mr. Greg Brubeck
Ms. Patricia Cardenas
Ms. Sandra Davis
Mr. Dennis DeVries
Chief Arch Archambo
Ms. Sherry DuBois
Mr. Gustavo Espinosa
Mr. David Krams
Mr. Paul Kaup
Mr. Dave Michaelson
Mr. Richard Stroot
Mr. Dave Throop
Ms. Maggie Turner
Mr. Bennie Benavides
Ms. Michelle Berry
Ms. Liz Cantu

Others Present: Mr. Leo J. Welder, Jr.

Others Present: Mr. Tom Moore
Consultant
Ms. Lillian Riojas
Valero
Mr. Tom Curlee
Port Industries of CC
Mr. Harry G. Plomarity
Citizen
Mr. Larry Ramming

Mr. Dick Fuqua
Mr. Paul McConnell
Canyon Logistics & Supply
Mr. Tim Clower
Mr. George Clower
Clower & Co.
Ms. Sarah Foley
CC Caller-Times
Ms. Nancy Allen
USO
Mr. Jim Grey
Mayor Pete Perkins
City of Ingleside
Mr. Rick DuPriest
W.L. Bates
Ms. Sandy Ridgley
Ms. JoAnn Ehmann
Ingleside on the Bay
Mr. Michael Cunhr
Royal Caridea
Mr. Don Clark
Carlisle Insurance
Mr. Roger TenNapel
Flint Hills Resources
Ms. Kathy Redden
Aransas-CC Pilots
Mr. Gary Froestad
VSE Corp.

I.

Chairman Carrell called the meeting to order and asked that any conflict of interest affidavits be submitted. None were submitted.

II.

Chairman Carrell asked for comments from the public. None were received

III.

After discussing the terms of the sales contract between PCCA and Canyon Supply & Logistics, LLC, for the purchase of the former Naval Station Ingleside property, PCCA's adjacent land, and the improvements thereon, on motion made by Ms. Hawley and seconded by Mr. Borchard, the following resolution was approved:

**RESOLUTION APPROVING A
SURPLUS PROPERTY INSTALLMENT SALES AGREEMENT
WITH CANYON SUPPLY & LOGISTICS, LLC, FOR THE SALE OF
NAVAL STATION INGLESIDE AND ADJACENT UPLAND,
AN EASEMENT APPURTENANT THERETO, AND IMPROVEMENTS
AND THE RIGHT TO USE PERSONAL PROPERTY THEREON**

WHEREAS, the Port of Corpus Christi Authority (“PCCA”) has received an offer from Canyon Supply & Logistics, LLC, a Texas limited liability company (“CANYON”), to purchase the following described property for \$102,067,000:

- (a) approximately 363 acres of land on Ingleside Point in San Patricio County designated as Upland Tract I in the aerial photograph attached hereto as Exhibit A (“Upland Tract I”) and the improvements thereon;
- (b) approximately 435 acres of land on Ingleside Point in San Patricio County designated as Upland Tract II in the aerial photograph attached hereto as Exhibit A (“Upland Tract II”) and the improvements thereon;
- (c) an easement on approximately 116 acres of submerged land in Nueces County designated as Submerged Tract I and Submerged Tract II in the aerial photograph attached hereto as Exhibit A (collectively, the “Submerged Lands”), and the improvements thereon;
- (d) approximately 9.5 acres of land on Ingleside Point in San Patricio County designated as Campus “A” in the aerial photograph attached hereto as Exhibit A (“Campus Tract A”), and the improvements thereon;
- (e) approximately 90 acres of land on Ingleside Point in San Patricio County designated as Campus “B” in the aerial photograph attached hereto as Exhibit A (“Campus Tract B”), and the improvements thereon;
- (f) approximately 5.5 acres of land on Ingleside Point in San Patricio County designated as Campus “C” in the aerial photograph attached hereto as Exhibit A (“Campus Tract C”), and the improvements thereon;

WHEREAS, by resolution adopted on August 10, 2010 (the “August 10th Resolution”), PCCA’s Port Commission (the “Port Commission”) declared certain property in the vicinity of the former Naval Station Ingleside Main Base to be surplus property (that is, property not needed by PCCA for a navigation-related project) in accordance with Chapter 498, Acts of the 81st Legislature, Regular Session, 2009 (the “Act”); and

WHEREAS, the surplus property described in the August 10th Resolution includes all of the following described property (collectively, the “Ingleside Redevelopment Project Property”): Upland Tracts I and II (collectively, the “Upland Property”) and the improvements thereon, Campus Tracts A, B and C (collectively, the “Campus Property”) and the improvements thereon, and the improvements on the Submerged Lands; and

WHEREAS, the Act grants the Port Commission the authority to sell or lease the Ingleside Redevelopment Project Property on such terms as the Port Commission considers advisable to carry out the purposes of the Act; provided, however, that such property may not be sold in a private sale for less than its fair market value as determined by an appraisal obtained by PCCA; and

WHEREAS, PCCA has obtained appraisals of the Ingleside Redevelopment Project Property from American Appraisers, Inc., which opined that the market value of Upland Tract II and the improvements thereon as of May 28, 2010, was \$8,360,000, and that the market value of the rest of the Ingleside Redevelopment Project Property as of January 14, 2011, was \$93,707,000, for a grand total of \$102,067,000; and

WHEREAS, the August 10th Resolution has not been revoked and remains in full force and effect; and

WHEREAS, a Surplus Property Installment Sales Agreement by and between PCCA and CANYON for the purchase and sale of the Ingleside Redevelopment Project Property for \$102,067,000 has been presented to the Port Commission for consideration (the “Sales Contract”); and

WHEREAS, the Sales Contract does not include and is not intended to include a sale of the Submerged Lands to CANYON, but the Sales Contract does grant CANYON an easement on the Submerged Lands which is appurtenant to the Upland Property (the “Appurtenant Easement”); and

WHEREAS, the Appurtenant Easement is for the express purpose of owning, constructing, operating, maintaining, repairing, replacing, upgrading and/or removing wharfs, quays, piers, bulkheads, or docks, and any related breasting or mooring structures (collectively, “Navigation Related Improvements”) on the Submerged Lands, and for the purpose of dredging the Submerged Lands as is reasonably necessary to facilitate the construction, operation, repair and maintenance of these Navigation Related Improvements; and

WHEREAS, no other use of the Submerged Lands is allowed under the terms of the Appurtenant Easement; and

WHEREAS, the Sales Contract provides that CANYON shall not access the waters in Nueces and San Patricio County, including Corpus Christi Bay, the Corpus Christi Ship Channel and the La Quinta Ship Channel, from any Navigation Related Improvement located on the Upland Property or the Submerged Lands for any business purpose without first obtaining a franchise from PCCA to do so; and

WHEREAS, the Port Commission has determined and does hereby determine that selling the Ingleside Redevelopment Project Property to CANYON in accordance with the terms of the Sales Contract will carry out the purposes of the Act and other purposes incident to and necessary for the development and operation of the navigable waters and ports within PCCA's boundaries and will aid in the development of industries on the Ingleside Redevelopment Project Property, all of which are public purposes and matters of public necessity; and

WHEREAS, the Port Commission wishes to authorize the sale of the Ingleside Redevelopment Project Property to CANYON in accordance with the terms and conditions of the Sales Contract; and

WHEREAS, this Preamble constitutes an integral part of this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION THAT

Section 1. The sale of the Ingleside Redevelopment Project Property to CANYON in accordance with the terms and conditions of the Sales Contract, in substantially the form presented to this meeting but with the changes to the various deadlines described below, is hereby approved, and the Executive Director of PCCA is hereby authorized and directed, for and on behalf of PCCA, to execute the Sales Contract with the following changes and such conforming changes as he shall deem appropriate, his execution thereof to constitute conclusive evidence of such approval:

NSI Due Diligence Review Period: May 2 – August 31, 2011
Campus Due Diligence Review Period: May 2 – September 30, 2011
Title and Survey Objection Deadline: August 31, 2011
Environmental Objection Deadline: August 31, 2011
Zoning Objection Deadline: August 31, 2011
NSI Closing Deadline: September 15, 2011
Campus Closing Deadline: October 13, 2011

Section 2. The Executive Director is authorized and directed, for and on behalf of PCCA, to close the sale of the Ingleside Redevelopment Project Property to CANYON pursuant to and in accordance with the terms and conditions of the Sales Contract, as revised above, without any further actions or approvals by the Port Commission.

Section 3. In connection with the closing of the sale of the Upland Property and the improvements on the Upland Property and the Submerged Lands to CANYON (the "NSI Transaction"), the Chairman or the Vice-Chairman of the Port Commission is authorized and directed, for and on behalf of PCCA, to execute a special warranty deed with vendor's lien in substantially the form attached to the Sales Contract as Exhibit C, with such changes therein as shall be approved by such officer, his execution thereof to constitute conclusive evidence of such approval.

Section 4. In connection with the closing of the NSI Transaction, the Executive Director is authorized and directed, for and on behalf of PCCA and in consultation with PCCA's counsel, to approve the form of the Deed of Trust described in Section 2.2(c) of the Sales Contract, which will be executed and delivered by CANYON in connection with the closing of the NSI Transaction, provided the Deed of Trust satisfies the requirements of the Sales Contract.

Section 5. In connection with the closing of the NSI Transaction, the Executive Director is authorized and directed, for and on behalf of PCCA and in consultation with PCCA's counsel, to approve the valuation worksheets described in Section 2.8(b) of the Sales Contract to be used in connection with partial releases of the Upland Property from the liens securing payment of CANYON's promissory note for the deferred portion of the purchase price in the NSI Transaction.

Section 6. In connection with the closing of the NSI Transaction, the Executive Director is authorized and directed, for and on behalf of PCCA, to execute the NSI Personal Property Use Agreement described in Section 2.11 of the Sales Contract after the legal form of the agreement has been approved by PCCA's counsel.

Section 7. In connection with the closing of the sale of the Campus Property and the improvements on the Campus Property to CANYON (the "Campus Transaction"), the Chairman or the Vice-Chairman of the Port Commission is authorized and directed, for and on behalf of PCCA, to execute a special warranty deed in substantially the form attached to the Sales Contract as Exhibit C-1, with such changes therein as shall be approved by such officer, his execution thereof to constitute conclusive evidence of such approval.

Section 8. In connection with the closing of the Campus Transaction, the Executive Director is authorized and directed, for and on behalf of PCCA, to execute the Campus Personal Property Use Agreement described in Section 2.11 of the Sales Contract after the legal form of the agreement has been approved by PCCA's counsel.

Section 9. The Chairman and the Executive Director are hereby severally authorized and directed to execute, attest, seal, and deliver any and all additional certificates, documents, or other papers and to do any and all things he deems necessary to effect the closing of the NSI Transaction and the Campus Transaction and to carry out the intent and purposes of this Resolution.

Note: Exhibit A to the foregoing resolution is attached to these minutes as Exhibit A.

At 10:15 a.m., Chairman Carrell announced that the Commission would go into executive session pursuant to §551.072 of the Texas government Code to deliberate agenda items 4 and 5.

At 10:41 a.m., the Commission reconvened in open session.

IV.

The following agenda item was for executive session only: Discuss the terms and conditions on which PCCA would lease various parcels of PCCA property in the vicinity of the Bulk Terminal and the Viola Rail Yard.

V.

The following agenda item was for executive session only: Deliberate the purchase of real property in the vicinity of the Corpus Christi Ship Channel.

VI.

On motion made by Ms. Hawley and seconded by Mr. Gandy, the Commission authorized staff to finalize plans for the Viola Rail Yard and to continue the financial planning negotiations with PCCA's three Class 1 railroads for this project.

VII.

On motion made by Mr. Gandy and seconded by Mr. Kostelnik, the Commission authorized staff to proceed with the planning for Phase 1A of the Bulk Terminal Master Plan for a new rail dump station and a three acre storage pad.

VIII.

On motion made by Mr. Kostelnik and seconded by Mr. Gandy, the Commission approved a Lease Option Agreement, in the form presented to the meeting, with Millennium Bulk Logistics, Inc., for 14.50-acres at the Bulk Terminal.

IX.

On motion made by Mr. Borchard and seconded by Mr. Kostelnik, the Commission approved a Short-Term Lease Agreement, in the form presented to the meeting, with VSE Corporation for portions of Buildings 134 and 138 and all of Building 146 at the former Naval Station Ingleside Main Base.

X.

Chairman Carrell asked for comments from the Commissioners on any of the agenda items for this meeting, the Port's activities during the preceding month, any upcoming PCCA and community events, and suggestions for future agenda items.

XI.

There being no further business, the meeting adjourned at 10:55 a.m.

May 10, 2011

The Honorable Mike Carrell
The Honorable Richard M. Borchard
The Honorable Judy Hawley
The Honorable Robert J. Gonzalez, Sr.
The Honorable Francis I. Gandy, Jr.
The Honorable Robert Kostelnik
The Honorable Mike Scott
Port Commissioners
Port of Corpus Christi Authority

Subject: ***AGENDA ITEM NO. 4***
Lease Option Agreement with Global Terminal Advisors

Dear Commissioners:

In February 2008, the Port issued an RFP to select a firm to build and operate LaQuinta. We received five proposals and short listed three. In the summer of '08, as we were selecting a finalist, the economic crisis put all port development, including La Quinta, on hold.

For the past twelve months, we have been in discussions with Global Terminal Advisors (GTA), an entity associated with Candlewood Partners. One of the principals of GTA was involved with one of the five proposals shortlisted in 2008. Port staff and GTA have reached an agreement on a lease option agreement for this project. The major points are:

- Exclusive Option Agreement for GTA for one year
- Option Payment: Months 1 thru 4 - \$10 per month
 Months 5 thru 8 - \$25,000 per month
 Months 9 thru 12 - \$50,000 per month
- GTA would be responsible for:
 - Design build financing and operation of the terminal
 - Development of business plan

- PCCA would be responsible for:
 - Extension of La Quinta Channel and maintenance dredging
 - Highway and rail connections
 - Utilities to the site
- TERM: 50 years
- RENT: to be agreed upon during the first 12 month option period

This item will be on the May 10 agenda for your review and official action. Staff recommends approval of this item. If you should have any questions, please call me.

Sincerely,



John P. LaRue
Executive Director

Attachment

EXHIBIT B

Port of Corpus Christi Terminal Development Term Sheet

May 10, 2011

Contracting Parties	The Port of Corpus Christi Authority of Nueces County, Texas (“PCCA”), a navigation district and political subdivision of the State of Texas having boundaries coextensive with those of Nueces and San Patricio Counties.
Lessor:	
Lessee	Global Terminal Advisors PCC1 (“GTA”), a special purpose entity formed and organized solely for the purpose of entering into a lease with PCCA for the Leased Premises (“Lease”) and taking all actions required or permitted thereunder.
La Quinta Site	The approximately 1,056 acre parcel of real property located on the northeast side of Corpus Christi Bay. A map of the La Quinta Site is attached as Exhibit A
Leased Premises	That portion of the La Quinta Site leased by the Lessee. The Lessee may lease all or part of that portion of the La Quinta Site (approximately 700 acres) that will not be used by Gulf Compress, Cheniere, or as a dredge material placement area.
Agreement Scope	<p>GTA intends to design, build, finance, operate, and maintain the new multi-use cargo terminal (the “Terminal”) on the Leased Premises, and in that capacity will:</p> <ul style="list-style-type: none">• Develop a detailed business and operating plan (the “Plan”) for the Terminal• Consult with PCCA and its professionals retained to design the Terminal• Assume responsibility for final design and construction of the Terminal• Identify, solicit and contract with key strategic users of the Terminal• Identify, solicit and contract with shipping lines to provide regular scheduled service to the Terminal• Develop and fund a corporate and capital structure for GTA which will allow it to cooperate with PCCA in obtaining tax-exempt financing for the Terminal• Assume responsibility for obtaining Permits and Licenses relating to the construction and operation of the Terminal, except those related to dredging

EXHIBIT B

	<p>activities, environmental impact studies and any permits or licenses to be issued to PCCA</p> <ul style="list-style-type: none"> • Take responsibility for environmental matters after commencement of the Lease • Supervise and fund the construction of the Terminal • Commence and manage operations at the Terminal
Initial Term	The Initial Term of the Lease will be 50 years (the Initial Term, and along with any Renewal Term, collectively the “Term”).
Renewal Term	Provided the Lessee is not in default under the Lease, the Lessee shall have the right to renew the Lease for a period of time beyond the Initial Term. The length of the Renewal Term and the amount of rent to be paid by the Lessee for the Renewal Term will be agreed to by PCCA and the Lessee no later than 5 years prior to the expiration of the Initial Term.
Business Plan	<ul style="list-style-type: none"> • GTA will be responsible for the development of the Plan for the Terminal • PCCA will assist GTA by utilizing its available technical and commercial resources, as is reasonable and necessary • GTA will consult with PCCA on a monthly basis in developing the Plan and will provide PCCA with presentations and information regarding the Plan, as reasonably requested to do so.
Financing	<ul style="list-style-type: none"> • GTA will be responsible for structuring and obtaining the funding necessary to construct and operate the Terminal • The parties will discuss the structure of PCCA’s participation in any tax-exempt financing, if any, as part of the documentation process.
Terminal Design	<ul style="list-style-type: none"> • GTA will: <ul style="list-style-type: none"> ○ Review the existing design and studies ○ Develop an integrated development approach based on the Plan ○ Contract with appropriate professionals to complete the required technical work

EXHIBIT B

	<ul style="list-style-type: none"> ○ Solicit and contract for all of the construction required to build and operate the Terminal
La Quinta Channel Extension:	<p>PCCA shall work with the US Army Corps of Engineers (USACE) to extend the La Quinta Channel to serve the Leased Premises. The current federal authorization and permit for the La Quinta Channel Extension is an ultimate length of 7,300 feet, 400 ft width and 39 ft MLT (40.3 ft Mean Lower Low Water (MLLW) depth). PCCA shall initially provide this depth plus up to a combined four feet of allowable overdepth and advanced maintenance dredging for an effective depth of 44.3 ft MLLW. The length and width of the channel will be determined and agreed to by the parties to serve the needs of the Leased Premises.</p> <p>To the extent required by shipping lines providing regular service to the Terminal, PCCA shall apply for a USACE permit to deepen the La Quinta Channel to an effective depth of 50 ft MLLW no later than January 1, 2015.</p> <p>The La Quinta Channel Extension shall be completed in accordance with a schedule to be agreed to by the parties.</p>
Terminal Construction	<ul style="list-style-type: none"> ● GTA will be responsible for: <ul style="list-style-type: none"> ○ All contracts related to the construction of the Terminal, dock and slips, except for the La Quinta Channel Extension ○ Supervision of all contractors and vendors involved in the construction ○ Funding of the contracts related to the construction of the Terminal, dock and slips, including the installation of the required equipment ● PCCA will take responsibility for working with the appropriate federal and state authorities for the following purposes: <ul style="list-style-type: none"> ○ Creating and maintaining a safe channel to the Terminal, as well as an appropriate turning basin for all agreed vessel types ○ Coordinating with the USACE with respect to all facets of the required dredging ○ Retaining of appropriate professionals to design and supervise the dredging activity ○ Funding of the contracts and obligations related

EXHIBIT B

	<p>to the required dredging</p> <ul style="list-style-type: none"> ○ Ongoing maintenance dredging of La Quinta Channel Extension ○ Connecting the Terminal to the highways ○ Facilitating connections to railways, power and other necessary utilities to the La Quinta Site. ○ Assisting GTA in obtaining the necessary permits for construction and operations.
Rent	<p>The Rent for the Initial Term will be calculated based on one or more of the following payment arrangements to be agreed to by the parties: a one-time up-front payment; annual, fixed ground lease payments; a share of fees and charges collected by the Lessee; or a percentage of gross revenues earned by the Lessee.</p>
Permits and Licenses	<ul style="list-style-type: none"> ● PCCA will take all required actions necessary to assist in GTA's obtaining all government authorizations, applicable permits and licenses.
Environmental	<ul style="list-style-type: none"> ● GTA shall be responsible solely for environmental liabilities it causes after the commencement date of the Lease, with the Port being responsible for any environmental liabilities caused before the commencement date
Operations	<ul style="list-style-type: none"> ● GTA will have responsibility for all operations at the Terminal, including employment matters, subcontracting and all corporate functions ● GTA will have final authority to set and revise Tariffs for all services provided at the Terminal or by GTA ● GTA will be entitled to collect and retain any and all fees or tariffs related to: <ul style="list-style-type: none"> ○ Dockage ○ Wharfage ○ Container handling ○ Cargo handling ○ Stevedoring ○ Storage ○ Container Freight Station ○ Freight forwarding ○ Material handling

EXHIBIT B

	<ul style="list-style-type: none"> ○ Shoreside distribution ○ Other miscellaneous fees related to the operations of the Terminal ● PCCA will be entitled to receive fees directly from GTA related to the following: <ul style="list-style-type: none"> ○ Container handling ○ Bulk cargo handled ○ Harbor safety and security fees
Option Agreement	<ul style="list-style-type: none"> ● PCCA and GTA prepare an option agreement (“<u>Option Agreement</u>”) which incorporates the terms set forth herein for approval at the Port Commission meeting on May 10, 2011. ● GTA will have the exclusive right to market and , advertise the Terminal during the term of the Option Agreement. <p>GTA will have the exclusive option to lease the Leased Premises for a 12-month period following the signing of the Option Agreement (the “<u>Option Period</u>”).</p> <p>This option is granted in consideration of Lessee paying PCCA as follows:</p> <ul style="list-style-type: none"> ○ Four (4) monthly installments of Ten and NO/100 Dollars (\$10.00) due on the 10th day of each month of this Agreement beginning May 10, 2011. ○ Four (4) monthly installments of Twenty-five Thousand and NO/100 Dollars (\$25,000.00) due on the 10th day of each month of this Agreement beginning September 10, 2011. ○ Four (4) monthly installments of Fifty Thousand and NO/100 Dollars (\$50,000.00) due on the 10th day of each month of this Agreement beginning January 10, 2012. ● PCCA will waive any unpaid and future option fees specified in the Option Agreement, once GTA delivers to PCCA an executed Terminal Services Agreement with a reputable global shipping line that provides for regular service to the Terminal, once the Terminal commences operations ● The intent of the Terminal Services Agreement is to provide security for the financing of the Terminal and GTA will consult with PCCA prior to the execution of

EXHIBIT B

	<p>the Terminal Services Agreement</p> <ul style="list-style-type: none">• PCCA will not be precluded during the term of the Option Agreement from continuing to discuss the development of the La Quinta Site with the following organizations: TEDA, TPCO and Tianjin Port Group,. These development discussions are likely to include and benefit GTA. PCCA will not enter into any agreements during the term of the Option Agreement with respect to the Terminal, without the consent and involvement of GTA• PCCA and GTA will agree to mutually support the other party in meeting its obligations under the Option Agreement on a best efforts basis, excluding the obligation to expend funding on such efforts
Documentation of Lease	<ul style="list-style-type: none">• PCCA and GTA will negotiate and document the terms of the Lease prior to the expiration of the Option Period, but neither party shall have any liability to other if the parties are unable to agree on the terms of the Lease.• The Lease will incorporate the applicable provisions of this term sheet.• PCCA will provide a legal opinion confirming that it is duly authorized to enter into the Lease and that the Lease is enforceable in accordance with its terms.

LEASE OPTION AGREEMENT

This Lease Option Agreement (the "Agreement") is made effective as of the 10th day of May, 2011 (the "Effective Date"), at Corpus Christi, Nueces County, Texas, between **Port of Corpus Christi Authority of Nueces County, Texas**, a political subdivision of the State of Texas, (the "Authority"), and **Global Terminal Advisors** ("Optionee").

WHEREAS, the Authority owns the real property located in San Patricio County, Texas, described in **Exhibit A** attached to and incorporated by reference into this Agreement (the "Option Property"); and

WHEREAS, the Option Property contains approximately 780 acres of land; and

WHEREAS, the Authority wishes to grant Optionee an option to lease and Optionee wishes to acquire the right and option to lease the Option Property, subject to the terms of this Agreement and the terms and conditions of the Port of Corpus Christi Terminal Development Term Sheet attached hereto as **Exhibit B** and incorporated by reference into this Agreement (the "Term Sheet");

NOW THEREFORE, for and in consideration of the agreements set forth herein, the Authority and Optionee (collectively, the "Parties" and individually, a "Party") hereby agree as follows:

1. Grant of Option. For the consideration expressed in paragraph 4, the Authority grants to Optionee the right and option during the Term (as defined in paragraph 3) of this Agreement to lease the Option Property, subject to the terms and conditions of this Agreement.

2. Exercise of Option. Optionee may exercise this option by delivering the following items to Authority prior to 5:00 p.m. Central Time on the Termination Date (as defined in paragraph 3): (i) a written notice signed by Optionee exercising its right to lease the Option Property pursuant to this Agreement, (ii) two original copies of the Lease Agreement (as defined in paragraph 8) signed by Optionee; and (iii) a cashier's check payable to the order of Authority in an amount equal to the first rental payment due under the Lease Agreement. Notwithstanding anything to the contrary contained in this Agreement, Optionee may not exercise its option under this Agreement at a time when it is delinquent in making any of the payments due under this Agreement or before the Parties have agreed upon the final form of the Lease Agreement.

3. Term. The "Term" of this Agreement begins on the Effective Date and ends at 5:00 p.m. Central Time on the Termination Date. For purposes of this Agreement, "Termination Date" means the first of the following to occur: (i) May 9, 2012, (ii) the date Optionee terminates this Agreement as provided in this paragraph 3, (iii) the date on which this Agreement terminates automatically pursuant to paragraph 4, or (iv) any other date mutually agreed upon in writing by the Parties.

4. Consideration. This option is granted in consideration of Optionee paying the Authority as follows:

- Four (4) monthly installments of Ten and NO/100 Dollars (\$10.00) each due on the 10th day of each month of this Agreement beginning May 10, 2011.
- Four (4) monthly installments of Twenty-five Thousand and NO/100 Dollars (\$25,000.00) each due on the 10th day of each month of this Agreement beginning September 10, 2011.
- Four (4) monthly installments of Fifty Thousand and NO/100 Dollars (\$50,000.00) each due on the 10th day of each month of this Agreement beginning January 10, 2012.

Authority will waive any unpaid and future option fees specified in this paragraph 4, once Optionee delivers to Authority an executed Terminal Services Agreement as provided in the Term Sheet. Failure to pay any amount on or before the date it is due will result in the automatic termination of this Agreement on such due date without notice. Optionee will not be required to make any additional payments pursuant to this paragraph 4 after this Agreement terminates.

5. Retaining Consideration. The Authority will retain all sums paid by Optionee to the Authority pursuant to paragraph 4 as consideration for granting this option whether or not Optionee exercises its option hereunder and whether or not Optionee terminates this Agreement in accordance with its right to do so in paragraph 3. Furthermore, if the Optionee does exercise its option hereunder, the option payments made to the Authority pursuant to this Agreement shall not be credited against any rent payable under the Final Agreement.

6. Assignment. Optionee may assign its rights under this Agreement to (i) any of Optionee's Affiliates (as defined below), or (ii) any other person the Authority approves in advance in writing. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, at the time such determination is being made, any person or entity controlling, controlled by or under common control with such first person or entity, in each case, whether directly or indirectly, and "control", and any derivation thereof, for the purposes of this Agreement, means (i) the ownership of greater than 20% of the voting securities of a person or entity, or (ii) the control, directly or indirectly, of the power to direct the management and policies of a person or entity (whether through the ownership of voting securities or otherwise).

7. Access to Option Property. During the Term, upon reasonable advance notice from Optionee to the Authority and subject to the Authority's existing security requirements, the Authority shall afford Optionee and its officers, employees, agents and contractors full access, during regular business hours, to any part of the Option Property for purposes of determining the suitability of the Option Property for the use intended by Optionee. While on the Option Property pursuant to preceding sentence, Optionee may make soil tests and borings, but Optionee will be responsible for the remediation of any environmental contaminates brought to the surface of the Option Property during soil test borings.

8. Lease Agreement. The Authority and Optionee shall cooperate in good faith and work diligently to negotiate the final form of lease agreement (the “Lease Agreement”) during the Term of this Agreement, but neither Party shall have any liability to other if the Parties are unable to agree on the terms of the Lease Agreement. The Lease Agreement will incorporate the applicable provisions of the Term Sheet. Optionee understands that if the Parties do not agree on the final form of the Lease Agreement during the Term of this Agreement, Optionee will be unable to exercise its option hereunder. Optionee acknowledges that only the Authority’s Port Commission may approve the final form of the Lease Agreement on behalf of the Authority and that the Port Commission is not required to approve the Lease Agreement. Furthermore, Optionee acknowledges and agrees that if the Port Commission does not approve the Lease Agreement the Authority will nevertheless retain all sums paid by Optionee to the Authority pursuant to paragraph 4 as consideration for granting this option.

9. Reservations. Notwithstanding anything to the contrary in this Agreement, in the Lease Agreement the Authority will reserve the right to use as much of the Option Property as is necessary to lay mains for gas, water or sewers on the Option Property, to lay underground electrical or telephone lines across any part of the Option Property, and to lay, or grant easements or rights of way for the laying of, underground fiber optic lines or cables across the Option Property; provided however, that if Optionee leases the Option Property, the Authority’s use of the Option Property pursuant to the reservations in this paragraph 9 shall not interfere with Optionee’s improvements or Optionee’s use of the Option Property.

10. Temporary Use of Option Property. Except as otherwise provided in this paragraph or paragraph 9, the Authority agrees not to sell, lease or otherwise encumber the Option Property during the Term of this Agreement without the written consent of Optionee. Authority may, however, during the Term of this Agreement, without Optionee’s consent, make temporary use of the Option Property for any lawful purpose and the Authority may, without Optionee’s consent, lease all or any portion of the Option Property for lease terms which terminate on or before the date Optionee exercises this option.

11. Entire Agreement. This Agreement contains the entire agreement between the Parties relating to the option granted in this Agreement. Any oral representations or modifications concerning the option made by either Party before or after the execution of this Agreement have no force. This Agreement may be altered or amended in the future by written agreement of the Parties.

12. Binding Effect. This Agreement will bind and inure to the benefit of the respective successors and permitted assigns of the Parties to the Agreement.

13. Texas Law to Apply. This Agreement is to be construed under Texas law, and all obligations of the Parties are performable in Nueces County, Texas.

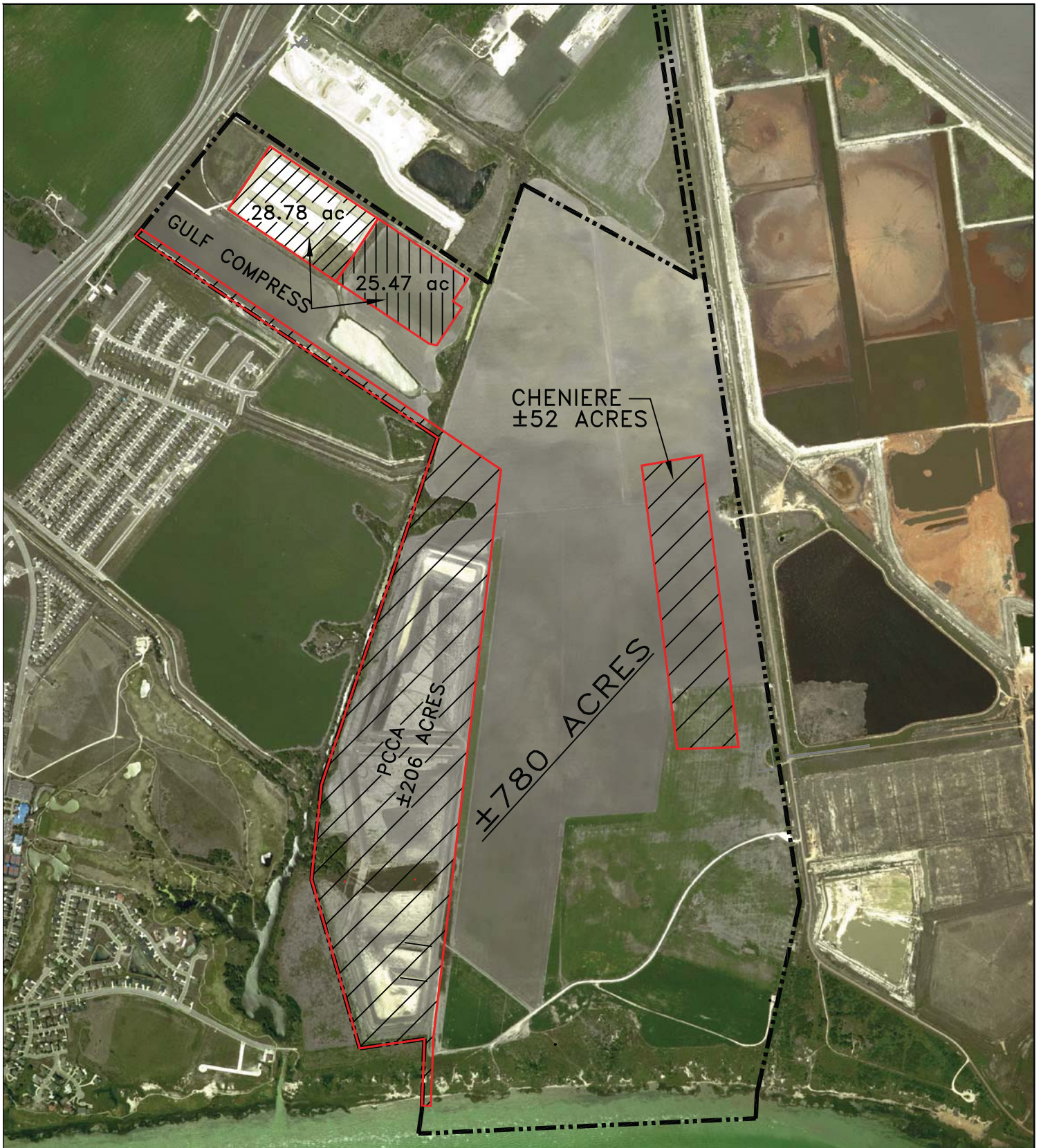
Executed effective as of the Effective Date.

PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS

By: _____
John P. LaRue, Executive Director

GLOBAL TERMINAL ADVISORS

By: _____
Glen C. Pollack, Managing Director



NO.	DATE	REVISION



PORT OF CORPUS CHRISTI AUTHORITY

*CANDLEWOOD PARTNERS
±780 ACRE LA QUINTA TRACT*

SCALE: AS SHOWN

DWN. BY: RALPH

EXHIBIT A

DATE:

MAY, 2011

AGENDA ITEM NO. 5

No Attachment



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1. If sold on or before May 1, 2011, and closed by October 31, 2011, a reduced fee of 0.6% of the total sales price.
2. If sold between May 2, 2011, and June 30, 2011, and closed by October 31, 2011, a reduced fee of 1.1% of the total sales price.
3. If sold on July 1, 2011, or later and closed by October 31, 2011, a reduced fee of 1.625% of the total sales price.

Staff recommends approval of the Exclusive Right to Sell or Lease Contract as drafted. This item is included on the agenda of the May 10, 2011, commission meeting for your consideration and action. Should you have any questions, please call me.

Sincerely,



John P. LaRue
Executive Director

EXCLUSIVE RIGHT TO SELL OR LEASE CONTRACT
(No Override)

May 10, 2011

Mr. B. Kelley Parker, III, SIOR
Executive Vice President
Mr. John F. Littman, SIOR, MAI
Senior Director
Mr. Coe Parker
Cushman & Wakefield of Texas, Inc.
1330 Post Oak Blvd., Suite 2700
Houston, Texas 77056

Re: ±254.24 acres located on Harbor Island fronting on the Corpus Christi Ship Channel on State Highway 361, Nueces County, Texas as identified in Exhibit A attached (the "Premises")

Gentlemen:

We hereby appoint Cushman & Wakefield of Texas, Inc. ("C&W") as our sole and exclusive agent and grant to C&W the exclusive right to sell or lease all or any portion of the Premises.

C&W's appointment as our sole and exclusive agent shall be upon the following terms and conditions:

1. The term of this agreement shall commence on the date hereof and continue in effect until August 31, 2012. Notwithstanding, we shall have the right to cancel this agreement at our discretion with thirty (30) days advance written notification after March 1, 2012.
2. C&W agrees that it will enlist its commercially reasonable efforts to secure a satisfactory purchaser(s) or lessee(s) for the Premises, and if C&W deems it necessary, C&W will also solicit the cooperation of other licensed real estate brokers.
3. C&W shall prepare a comprehensive offering package consisting of a marketing brochure, web site and electronic data room, which must be approved by us prior to its use. C&W will pay all out of pocket expenses, which it may reasonably incur in the preparation of the offering material(s) and marketing the Property. Such expenses may include, but not be limited to, communications, postage for advertising direct mailings, the cost of special graphics, brochures, photographs, and if we mutually agree to advertise, advertising costs. If approved, we agree to reimburse C&W for all reasonable expenses for advertising up to, but not to exceed \$20,000.00 within thirty (30) days of submission of invoicing. In case requested, C&W will provide written evidence of these costs. In the event C&W should subsequently be due a commission pursuant to this agreement, an amount equal to the reimbursement made by us shall be deducted from the amount of the commission. All advertising, whether prepared or issued by C&W or by us, shall identify C&W as our exclusive agent for the Premises during the term of this agreement.
4. If the Premises is sold, we will reserve all littoral rights associated with the Premises, but will grant the buyer a franchise that will allow the buyer to access the Corpus Christi Ship Channel from the Premises in consideration of the buyer's agreement to pay us half wharfage on all cargo shipped by water to or from the Premises.

5. During the term of this agreement, we will refer to C&W all inquiries and offerings received by us with respect to the Premises, regardless of the source of such inquiries or offerings, and all negotiations shall be conducted solely by C&W or under C&W's direction, subject to (a) our review and final approval and (b) our right to have an observer present at meetings or listening in on teleconferences where negotiations for the sale or lease of the Premises takes place. C&W shall notify us timely in the event of potential dual agency. In this event, C&W will designate a C&W broker representative to represent us, specifically either B. Kelley Parker, III or John F. Littman.
6. In the event that: (i) at any time during the term of this agreement a sale or lease of all or any portion of the Premises, upon any terms acceptable to us, shall be made with any purchaser or lessee who was procured by C&W, or by us, or by any other person; or (ii) twelve months after the expiration or termination of this agreement a sale or lease of all or any portion of the Premises, upon any terms acceptable to us, shall be made with any purchaser or lessee to whom the Premises were submitted by C&W, or by us, or by any other person during the term of this agreement (defined herein as the "Carryover List"); then, and in either such event, we agree to pay to C&W one (1) full commission computed and payable in accordance with the applicable annexed Schedule. C&W shall within twenty (20) days after expiration or termination of this agreement submit a list (the Carryover List) of all prospective purchasers or lessees who have expressed an interest in the Premises.

Notwithstanding the forgoing, if the Premises is sold (as evidenced by a fully executed Contract) to an Excluded Prospect, then in such event, C&W agrees to accept a reduced fee (net of any fees payable to co-brokers involved, if any) subject to the following:

- a. If sold on or before June 1, 2011 and closed by November 30, 2011, then in such event C&W agrees to accept a reduced fee of six tenths of one percent (0.6%) of the total Sales Price;
- b. If sold between June 2, 2011 and July 31, 2011 and closed by November 30, 2011, then in such event C&W agrees to accept a reduced fee of one and one tenth percent (1.1%) of the Sales Price;
- c. If sold on August 1, 2011 or later and closed by November 30, 2011, then in such event C&W agrees to accept a reduced fee payable in accordance with the attached Schedule of Commissions for Sales Transactions less fifty percent (50%), or 1.625%

"Excluded Prospect" means any of the following companies acting as the Purchaser (as such term is defined in the schedule):

1. Canyon Supply & Logistics, LLC

C&W will provide the same full service brokerage services for Excluded Prospects as for non-excluded prospects, including negotiating and escrowing the contract through closing and funding if authorized. C&W shall not be responsible or obligated to pay any other brokers or agents retained by an Excluded Prospect out of the fee payable to C&W.

7. If a licensed real estate broker other than C&W is the effective procuring cause of any sale or lease covered by this agreement, C&W shall use its commercially reasonable efforts to have such other broker agree to accept, as its compensation an equitable portion of the commission payable to C&W pursuant to this agreement, and if such other broker so agrees, we will pay to C&W the commission set forth above out of which C&W will pay to such other broker the fee set forth for co-brokers on the applicable attached Schedules, such fee being its agreed upon share and C&W retaining the balance of the commission as C&W's compensation. If the other broker will not agree to accept, as its compensation,

the said portion of C&W's commission, then our written approval will be necessary if the proposal is to be further negotiated. In no event shall C&W be liable for the failure to obtain such other broker's agreement to accept, as its compensation, a portion of the commission exceeding the co-broker fee stated on the attached Schedule.

8. **LIEN NOTICE:** Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the property.
9. This agreement shall be binding upon the parties hereto, their respective successors and assigns.
10. C&W understands that before the Premises can be sold, notice to the general public ("Notice") must be published in the Corpus Christi Caller-Times. The Notice must include a description of the Premises including its location, and the procedure by which sealed bids to purchase the Premises may be submitted. The notice must be published on two separate dates and the sale may not be made until after the 14th day after the date of the second publication. Furthermore, the Premises cannot be sold by installment sale (i.e., there will be no seller financing).

If the foregoing accurately sets forth our agreement, please sign and return the enclosed copies of this letter.

Very truly yours,

**Port of Corpus Christi Authority
Nueces County, Texas**

By: _____
Name: John P. LaRue
Title: Executive Director
Address: 222 Power Street
Corpus Christi, TX 78401
(361) 885.6130

AGREED AND ACCEPTED:

CUSHMAN & WAKEFIELD OF TEXAS, INC.

By: B. Kelley Parker, III, SIOR
Executive Vice President

By: John F. Littman, SIOR, MAI
Senior Director

Attachments

CUSHMAN & WAKEFIELD OF TEXAS, INC. ("C&W")
HOUSTON
SCHEDULE OF COMMISSIONS FOR SALES TRANSACTIONS

1. **RATES**

For the Property, the following Commission Schedule shall apply:

Three and one-quarter percent (3.25%) of the total Sales Price.

C&W shall at its discretion compensate a Co-Broker out of the above Commission Schedule a limited amount of C&W's fee (we believe this may be beneficial for broader exposure/marketing) if the Co-Broker is not also acting as a principal or employee of the Buyer. The Port of Corpus Christi ("Port") shall have no obligation to pay any Co-Broker retained by the Buyer.

2. **TIME OF PAYMENT**

The commission shall be paid in full at the time of the closing or transfer of title to the property.

3. **COMPUTATION OF SALES PRICE**

The commission shall be computed in accordance with the above rates based upon the total sales price, which shall include any mortgages, loans or other obligations of the seller which may be assumed by the purchaser or which the purchaser takes title "subject to", the sales price of any fixtures or other personal property sold by separate agreement between the seller and purchaser as part of the overall sale of the real property, and the current market value of any other real or personal property transferred from the purchaser to the seller. No commission will be paid, however, on the Port's projected revenues under the franchise described in paragraph 4 of the foregoing agreement.

4. **MISCELLANEOUS**

The terms "Seller" and "Purchaser" shall be deemed to include any subsidiaries, affiliates, successors, assigns and nominees of same.

In the event either party shall commence litigation against the other party to enforce its rights under this agreement and/or schedule, the party prevailing in such litigation shall be entitled to recover from the other party its attorney's fees and disbursements thereby incurred.

Seller's Initials

CUSHMAN & WAKEFIELD OF TEXAS, INC. ("C&W")
SCHEDULE OF COMMISSIONS FOR LEASE TRANSACTIONS – HOUSTON

1. **RATES**

Four percent (4%) of the aggregate rental for the first fifteen (15) years of the lease term, including any renewals or extensions, if leased directly by the C&W marketing team of B. Kelley Parker, III, SIOR; John F. Littman, SIOR, MAI; and Coe Parker.

2. **TIME OF PAYMENT**

Fifty percent (50%) of the commission shall be paid at the time of the execution and delivery of the lease by and between the landlord and tenant and the balance of the commission shall be paid at the earlier of the commencement of the lease term, or three (3) months after the date of the execution and delivery of the lease.

3. **COMPUTATION OF RENTAL**

Commissions shall be computed in accordance with the above rates based upon the gross rental set forth in the lease including any percentage or additional rental based upon the gross receipts of, or sales by the tenant, but excluding any additional rental payable pursuant to tax and operating expense escalation provisions.

4. **RENEWALS, EXTENSIONS AND EXPANSIONS**

If a lease is renewed or extended, or if a tenant leases any other or additional space from the landlord as an expansion space pursuant to an option or right contained in the lease, landlord shall pay additional commissions to C&W equal to four percent (4%) of the rental payable during the renewal or extension term, but not beyond the 15th anniversary of the commencement date of the lease, or during the term of the lease of such additional space. Any such additional commissions shall be paid at the time of the exercise of the option or right to renew, or to extend the lease term or to lease additional space. Where the ultimate terms of a renewal, or extension do not substantially conform to the terms of the option or right contained in the lease, C&W shall not be entitled to a commission for any period or for any space in excess of that set forth in the applicable lease provisions unless, however, C&W participates in the new negotiations.

5. **PURCHASE BY A TENANT**

If the property at which the lease is made is purchased by the tenant pursuant to an option or right contained in its lease, landlord shall pay to C&W in full, at the time of the closing of title, a sales commission as stated in the attached Schedule of Commissions for Sales Transactions less any lease commissions paid for the remaining term of the lease from the date of sale.

Landlord's Initials

G:\NET\SHERRY\WPDATA\COMMISSION MEETINGS\2011\05May10\06 - Cushman Contract . docx

6. **CANCELLATION CLAUSES**

C&W will be paid a commission based upon the entire lease term notwithstanding any right of landlord to cancel the lease. If the tenant has a right to cancel the lease after the term has commenced (and for reasons unrelated to casualty, condemnation, default and the like), the commission will initially be based upon the rental for the noncancellable portion of the lease term plus the amount of any cancellation payment payable by the tenant; if such right is not thereafter exercised, landlord shall promptly pay C&W the balance of the commission. A lease will be deemed cancelled only if the tenant vacates the premises. If a cancellation payment includes the unamortized commission, then C&W shall be paid a full commission as if no right of cancellation existed.

7. **SALE OF LANDLORD'S INTEREST**

In the event of a sale or other conveyance or disposition of the landlord's interest in the property, landlord shall continue to be responsible to pay C&W the commissions due pursuant to this schedule and in addition, landlord shall obtain from the grantee of landlord's interest and deliver to C&W a written agreement pursuant to which the grantee shall assume the landlord's commission obligations under this schedule.

8. **MISCELLANEOUS**

The term "Lease" as used herein shall also be deemed to mean sublease and the terms "Landlord" and "Tenant" shall be deemed to include sublandlord and subtenant and any subsidiaries, affiliates, successors, assigns and nominees of same.

In the event either party shall commence litigation against the other party to enforce its rights under this agreement and/or schedule, the party prevailing in such litigation shall be entitled to recover from the other party its attorney's fees and disbursements thereby incurred.



John P. LaRue
EXECUTIVE DIRECTOR

May 10, 2011

The Honorable Mike Carrell
The Honorable Robert J. Gonzalez, Sr.
The Honorable Judy Hawley
The Honorable Richard M. Borchard
The Honorable Francis I. Gandy, Jr.
The Honorable Robert Kostelnik
The Honorable Mike Scott
Port Commissioners
Port of Corpus Christi Authority

Subject: ***AGENDA ITEM NO. 7***
Port Security Grant Program FY 11 Projects

Dear Commissioners:

The due date to submit security grant projects for FY 2011 is May 26, 2011. Staff estimates that approximately \$3.5 million will be available for the port area, and there is no matching fund requirement for FY 2011 grants. All projects are listed in priority order.

Security Equipment Maintenance and Upkeep. The Port received previous grant funding to install fencing, lighting, surveillance equipment, access control, vessel tracking, *etc.* Most of the installed equipment has a finite predictable life cycle. Grant Program Directorate Information Bulletin No. 293 allows for the use of grant funds for the repair, replacement and maintenance of this equipment. This project would allow Port staff to maintain a current viable security network. Total estimated funding required for this project is \$470,500 with no additional long-term operational costs to the Port.

Inner Harbor Waterway Surveillance. This project will provide camera surveillance of the Inner Harbor Waterway in areas that do not currently have adequate camera coverage. These areas include the waterway generally from the site of the old lift bridge west to Texas Dock and Rail, approximately 3.5 miles, and the waterway generally from Oil Dock 2 west to Avery Point, approximately 2.5 miles. Cameras will be mounted on a grain elevator near the east end of the Inner Harbor and on a 60-foot pole near the west end of the Bulk Terminal. The cameras will be long-range PTZ color/thermal cameras, and camera signals will be transmitted to the security command center via Port-owned fiber. Total estimated funding required for this project is \$614,280. Expected recurring operating costs would be electrical power and maintenance costs; the latter of which would probably be eligible for future maintenance grant funding.

Fence and Gate Hardening. This project will provide manually-operated K-4 rated vehicle crash barriers for the gates on Harbor Drive, Stroman, G&H Towing, and Sam Rankin. In addition, the fencing on either side of these gates will be retrofitted with K-4 rated cable vehicle barriers. A K-4 rated barrier will prevent entry of a 15,000 pound vehicle travelling at 30 MPH. Total funding required for this project is \$1,718,000 with little to no operating costs unless damage occurs due to vehicle impact.

Uninterruptible Power Supply. Beginning with the Grant 6 camera project, staff began including a UPS in each of the enclosures that power the cameras. A single enclosure may provide power for one to six cameras. Having a UPS in each enclosure allows the camera and access control equipment to remain operational during short power outages (up to two hours depending on camera count and activity). Camera and access control enclosures installed prior to Grant 6 are not equipped with a UPS. Staff recommends installation of a UPS in each of the pre-Grant 6 cameras and/or access control enclosures. These enclosures are located throughout the port including Harbor Island. Total estimated funding required for this project is \$25,000 with no additional long-term operational cost to the Port.

Additional Security Command Center Work Space. This project involves the construction of a 20' x 80' wing to the Command Center. The existing Command Center no longer provides adequate work space for the department. Understanding the growth of the department since its inception in 2004 and understanding that no further staff increases are expected, this project should resolve issues involving inefficient work-flow, cramped working conditions, and insufficient restroom facilities. At a minimum, this additional space will provide patrol officers with a multi-station work room, systems hardware/software technician work room, equipment/tech repair room, training room, and additional restrooms. Total estimated funding required for this project is \$635,000. Expected recurring operating costs would involve electrical power and maintenance costs.

Staff recommends approval of these five security grant projects. This item is included on the agenda of the May 10 commission meeting for your consideration and action. Should you have any questions, please call me.

Sincerely,



John P. LaRue
Executive Director



John P. LaRue
EXECUTIVE DIRECTOR

May 10, 2011

The Honorable Mike Carrell
The Honorable Richard M. Borchard
The Honorable Judy Hawley
The Honorable Robert J. Gonzalez, Sr.
The Honorable Francis I. Gandy, Jr.
The Honorable Robert Kostelnik
The Honorable Mike Scott
Port Commissioners
Port of Corpus Christi Authority

Subject: ***AGENDA ITEM NO. 8***
Bulk Terminal Tariff 1-A, Item 346
Charges for Unloading of Rail Cars at Bulk Dock 2

Dear Commissioners:

On May 2, the Port Commission authorized staff to proceed with planning for Phase 1A of the Bulk Terminal Master Plan which includes a new rail dump station and a three-acre storage pad. In view of this development, staff recommends the following changes to Item 346 of the Bulk Terminal Tariff 1-A be implemented.

ITEM 346 (A)
Effective Date 1-1-2009
Unloading of Rail Cars at Bulk Dock 2

For the service of unloading bottom dump rail cars through the car dump at Bulk Dock 2, the following charges will apply and are in addition to all other applicable charges.

Straight Time	\$156.00 per hour
Overtime	\$260.00 per hour
Double Time	\$364.00 per hour

Staff recommends the rate in Item 346 change to reflect a straight fee of \$0.63 per ton effective November 1, 2011. This item is included on the May 10 commission agenda for your review and action. Please call me with any questions.

Sincerely,

John P. Lohr

John P. LaRue
Executive Director



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John P. LaRue
EXECUTIVE DIRECTOR

May 10, 2011

The Honorable Mike Carrell
The Honorable Richard M. Borchard
The Honorable Judy Hawley
The Honorable Robert J. Gonzalez, Sr.
The Honorable Francis I. Gandy, Jr.
The Honorable Robert Kostelnik
The Honorable Mike Scott
Port Commissioners
Port of Corpus Christi Authority

Subject: ***AGENDA ITEM NO. 10-A***
**Lease Agreement with Cornell Carriers LLC for Sheds 26 and 27,
 Three Acres of the Al Speight Yard, and 2,750 Feet of Tracks 855 and 857
 for the Transloading and Storage of Bulk Cargo**

Dear Commissioners:

In response to several inquiries and in anticipation of the potential for new cargos (*i.e.*, frac sand) associated with the Eagle Ford Shale drilling activities, the Port Commission authorized staff to request proposals for transloading and storage of bulk cargoes on November 9, 2010. Port staff and the BNSF Railway solicited proposals on March 22, 2011, for the lease of Sheds 26 and 27, three acres of the Al Speight Yard, and 2,750 feet of Tracks 855 and 857 for these transloading activities (see attached drawing). Cornell Carriers submitted the highest and best proposal.

Cornell Carriers proposal is summarized on the attached Lease Summary Sheet. In addition to the rental fees, Cornell Carriers will pay a Facility Use Fee of \$1.05 per ton of cargo handled on the leased premises. Based on an estimated 400 railcar loads per month, the lease and Terminal Use Fee should exceed \$1,000,000 per year of new revenue for the Port.

Staff recommends approval of the attached Lease Agreement as drafted. This item is included on the agenda of the May 10 commission meeting for your consideration and action. Should you have any questions, please call me.

Sincerely,

John P. Parker

John P. LaRue
Executive Director

Attachment

**PORT OF CORPUS CHRISTI AUTHORITY
LEASE SUMMARY**

Lessee: Cornell Carriers, L.L.C.
P.O. Box 3274
Alice, TX 78333

Leased Premises: As depicted on the attached drawing,

Use: Bulk Material Handling Services and the storage of sand.

Term: Three (3) years.

Options: Two (2), Three (3) year option terms.

Start Date: May 10, 2011

Monthly Rent:

Shed 26:	
(41,600 SF)(\$5.00/SF/YR) ÷ (12 MO/YR) =	\$17,333.33/MO
Shed 27:	
(43,200 SF) (\$5.00/SF/YR) ÷ (12 MO/YR) =	\$18,000.00/MO
The land inside the fence surrounding Sheds 26 and 27:	
(INCLUDED IN ABOVE RATES) =	\$0.00/MO
Three (3) acres of the Al Speight Yard:	
(3 Acres)(\$1,000/AC/MO) =	\$3,000.00/MO
Railroad tracks 855 and 857 located between the road crossings and inside the fence surrounding the Al Speight Yard:	
(2,750 Track Feet)(\$25.00/Track Foot/YR) ÷ (12 MO/YR) =	\$5,729.17/MO
TOTAL MONTHLY RENT =	\$44,062.50/MO

Additional Rent: NONE

Adjustment of Rent: Revaluation of the leased premises at the beginning of each option term.

Remarks: In addition to the rental fees, Cornell Carriers will pay a Facility Use Fee of \$1.05 per ton of cargo handled on the leased premises.

LEASE AGREEMENT

Between

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS**
("Authority")

And

CORNELL CARRIERS, L.L.C
("Lessee")

May 10, 2011

LEASE AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This **LEASE AGREEMENT** is made this 10th day of May, 2011, by and between **PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS**, pursuant to authorization by its Port Commissioners (hereinafter called "Authority"), and **CORNELL CARRIERS, L.L.C.**, a Texas limited liability corporation, whose principal address is P.O. Box 3274 Alice, TX 78333, (hereinafter called "Lessee").

ARTICLE 1 LEASE OF PREMISES

Section 1.01. Description of Premises and Term

Authority, in consideration of the rents to be paid and the terms, covenants, and conditions hereinafter set forth, hereby leases to Lessee and Lessee leases from Authority for the entire term, including any extensions, stated in this Section, real property situated in Nueces County, Texas, which is described as follows:

Shed 26 and Shed 27 and the land inside the surrounding fence, three (3) acres of the Al Speight Yard, and railroad tracks 855 and 857 located between the road crossings and inside the fence surrounding the Al Speight Yard, all described and depicted on Exhibit A attached hereto and incorporated herein by reference and all improvements situated thereon, (hereinafter called "Leased Premises").

TO HAVE AND TO HOLD the Leased Premises for a term of three (3) years, beginning on the 10th day of May, 2011, and (subject to earlier termination as herein provided) ending at midnight, Central Time, the 9th day of May, 2014.

In addition, Authority hereby grants to Lessee the option to extend the term of this lease agreement for two (2) additional option periods of three (3) years each, beginning on the first day after the expiration of the primary term and each option term hereof; but if, at the date the original term or any extended term expires, Lessee is in default beyond any grace period provided in this lease agreement in performing any of the terms of this lease agreement, the remaining option or options are void. The option to extend renew shall be exercised by Lessee giving to Authority notice in writing of such exercise at least sixty (60) days prior to the expiration of the primary term or any option term of this lease. Notice of an intention to exercise an option under this lease agreement must, to be effective, be sent by certified mail to Authority at the address provided in the Section in this lease agreement entitled Payments and Notices and must be postmarked no later than the latest date provided in this section for Lessee's exercising the option. Annual rent shall be determined for each option term pursuant to Section 3.02 and Section 3.03 of this lease agreement.

Section 1.02. Holding Over

If Lessee holds over beyond the primary term or any option term of this lease without the written consent of Authority, Lessee is deemed to be occupying the Leased Premises as a tenant at sufferance. During any holdover period, Lessee will pay two (2) times the monthly rent being charged Lessee in the month prior to the commencement of Lessee's holding over, and Lessee will be subject to all other terms of this lease agreement applicable to a tenant at sufferance.

ARTICLE 2 INSPECTION OF LEASED PREMISES

Lessee has inspected the Leased Premises, including all improvements, fixtures, equipment and personal property situated on the Leased Premises and has conducted any environmental assessment survey it desired and on the date of this lease agreement accepts the Leased Premises As Is, Where Is, and in the condition it existed on that date, as reasonably suited and fit for Lessee's intended uses of the Leased Premises. Lessee acknowledges that Authority has made no express warranties with regard to the premises and to the maximum extent permitted by applicable law, Authority hereby disclaims, and lessee waives the benefit of, any and all implied warranties, including implied warranties of habitability, or fitness or suitability for lessee's purpose.

ARTICLE 3 RENT

Section 3.01. Monthly Rent

Subject to adjustments provided for herein, Lessee agrees to pay to Authority at its offices in Corpus Christi, Texas, monthly rent for the Leased Premises during the primary term as follows:

Shed 26:
 $(41,600 \text{ SF})(\$5.00/\text{SF}/\text{YR}) \div (12 \text{ MO}/\text{YR}) = \$17,333.33/\text{MO}$

Shed 27:
 $(43,200 \text{ SF})(\$5.00/\text{SF}/\text{YR}) \div (12 \text{ MO}/\text{YR}) = \$18,000.00/\text{MO}$

The land inside the fence surrounding Sheds 26 and 27:
(INCLUDED IN ABOVE RATES) = \$0.00/MO

Three (3) acres of the Al Speight Yard:
 $(3 \text{ Acres})(\$1,000/\text{AC}/\text{MO}) = \$3,000.00/\text{MO}$

Railroad tracks 855 and 857 located between the road crossings and inside the fence surrounding the Al Speight Yard:
 $(2,750 \text{ Track Feet})(\$25.00/\text{Track Foot}/\text{YR}) \div (12 \text{ MO}/\text{YR}) = \$5,729.17/\text{MO}$

TOTAL MONTHLY RENT =

\$44,062.50/MO

The first monthly installment of rent hereunder is due and payable on or before the 10th day of May, 2011. Rent for any fractional year or month at the beginning or end of the lease term will be prorated on a per-day basis. Each monthly installment of rent is due and payable on or before the 10th day of each succeeding month thereafter. Annual or monthly payments must be paid at the offices of Authority in Corpus Christi, Nueces County, Texas. If Lessee should fail to pay Authority any sum to be paid by Lessee to Authority hereunder within thirty (30) days after such payment is due, interest on the unpaid amount shall accrue at a rate of fifteen percent (15%) per annum or the maximum rate allowed by law, whichever is lesser, from the date payment was due until the date payment is made. Authority may also impose a late charge of Twenty-Five Dollars (\$25.00) or five percent (5%) of the unpaid amount, whichever is greater, to defray Authority's administrative costs incurred as a result of Lessee's failure to timely make such payment, the amount of such costs not being readily ascertainable. Any such late charge shall be in addition to all other rights and remedies available to Authority hereunder or at law or in equity and shall not be construed as liquidated damages or limiting Authority's remedies in any manner. Failure to pay such interest or late charge within thirty (30) days after written demand shall be an event of default hereunder. Following the dishonor of any check presented for payment, Authority shall have the right, at Authority's option, to require all further payments to be made by certified check, money order or wire transfer. For purposes of this section, any adjustment payment made by Lessee to correct a prior underpayment shall be treated as due on the date such underpayment was due; provided, however, an adjustment payment made by Lessee as the result of an independent audit conducted at Lessee's expense shall not be subject to a late charge as described herein.

Rent must be paid to Authority at its address for notice hereunder or to such other person or at such other address in Nueces County, Texas, as Authority may from time to time designate in writing. Rent must be paid in legal tender of the United States of America without notice, demand, abatement, deduction or offset.

This is a net lease. Authority shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with this lease or the financing, ownership, construction, reconstruction, maintenance, operation, or repair of the Leased Premises or the improvements thereon.

Section 3.02. Adjustment of Rent

The monthly rent for each option period of this lease may be adjusted by Authority in the following manner:

Ninety (90) days or more before the expiration of each three year period of the primary term or any option period of this lease, Authority has the right, in its sole discretion, to revalue the Leased Premises (excluding an improvements made to the Leased Premises by Lessee) for the purpose of fixing monthly rent in each of the next succeeding option periods based on the fair market value of the Leased Premises, or some portion thereof. If Authority revalues the Leased Premises or some portion thereof, Authority must notify Lessee in writing of the new valuation.

If Lessee is not notified of the new valuation prior to ninety (90) days before expiration of the primary term or any option period of this lease, it is conclusively presumed that the Equalization Value for the next ensuing option period of this lease is to be the same as the then current Equalization Value.

In the event Lessee does not agree to the increase in the monthly rent, Lessee has the option, to be exercised in writing to Authority within thirty (30) days after the date notice is given to it of the increase in the monthly rent, to either (1) terminate this lease agreement and surrender the Leased Premises effective at Midnight, Central Time, of the last day of the current primary term or option period of this lease, or (2) agree in writing to binding arbitration to fix the monthly rent of the Leased Premises for the ensuing option period.

In the event Lessee agrees to binding arbitration, the arbitration will be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (although the parties do not have to use the services of the American Arbitration Association).

The arbitrator selected by the parties, as a part of his duties as an arbitrator will select an appraiser who is MIA certified, and has greater than ten (10) years experience appraising land such as the Leased Premises.

The appraiser selected by the arbitrator will make an appraisal of the Leased Premises using comparable property and the following criteria for the appraisal process:

Comparables used shall include all recent sales and lease information available on similarly situated properties along the channels of ports located on the Texas Gulf Coast.

The comparables used shall be the average values during the most recent year in which there are comparables sales or leases.

The fair market value of the Leased Premises shall be based on the highest and best use for the Leased Premises, regardless of the use to which the Leased Premises is being put.

The arbitrator will, within sixty (60) days after receipt of the appraisal, determine the Equalization Value for the next ensuing option term of this lease agreement. The arbitrator's decision will be final and is binding on all parties to this lease agreement.

In no event, however, will the process provided for in this Section result in a reduction of the annual rent below the annual rent paid by Lessee during the expiring primary, or any option term of this lease.

Section 3.03. Utilities and Taxes

In addition to the annual rent described hereinabove, Lessee agrees to pay when due all charges it contracts for (a) water, gas, electricity, and other utilities, (b) garbage service, (c) security or guard services, or (d) railroad services in connection with the Leased Premises. If at Lessee's request or because of Lessee's failure to pay for services to the Leased Premises it

contracted for, Authority provides any such services to the Leased Premises or pays the cost for any such services, Lessee will pay to Authority the cost of such services as additional rent upon receiving Authority's invoice therefore, payment to be made pursuant to the terms of said invoice.

Lessee will also pay as additional rent its pro rata share of any utility services provided by Authority.

During the term of this lease, Lessee must pay or cause to be paid when due all taxes, assessments, fees or charges imposed on the Leased Premises by virtue of Lessee's tenancy or upon Lessee's property on, or Lessee's interest in, the Leased Premises.

Lessee may, at its expense, contest any tax, assessment, fee or charge for which it is responsible under this section. Except as provided in the following paragraph, Lessee need not pay the tax, assessment, fee or charge while the contest is pending. Except as provided in the following paragraph, Lessee may prevent Authority from paying any tax, assessment, fee or charge that Lessee is contesting under this section, pending resolution of the contest, by depositing with Authority the full amount of the tax, assessment, fee or charge plus the amount of any penalty that might be imposed for failing to make timely payment and one (1) year of interest at the rate imposed by the entity levying the tax, assessment, fee or charge. When the contest is resolved, Lessee must pay the tax, penalty and interest imposed and may use the money deposited with Authority to pay any tax, assessment, fee or charge, plus any penalty or interest, due under the final resolution and keep any balance of the deposit. If the deposit is insufficient to pay these amounts, Lessee must immediately pay the balance due to the entity imposing the tax, assessment, fee or charge.

Notwithstanding the provisions of the foregoing paragraph, Authority may pay – or require Lessee to pay – any tax, assessment, fee or charge for which Lessee is responsible under this Section, pending resolution of Lessee's contest of the tax, assessment, fee or charge, if payment is demanded by a holder of a mortgage on the premises or if failing to pay will subject all or part of the premises to forfeiture or loss.

Any of said taxes, fees or charges that are payable by Lessee for the tax year in which this lease agreement commences, as well as during the year in which this lease agreement terminates, shall be apportioned so that Lessee shall pay its proportionate share of the taxes, fees or charges for such periods of time. Lessee may pay such taxes, fees or charges in installments as and when such installments become due. Lessee must deliver to Authority evidence of payment of all taxes, fees or charges, which Lessee is obligated to pay hereunder concurrently with making such payment.

ARTICLE 4 USE OF LEASED PREMISES

Section 4.01. Use

The Leased Premises may be used for the following purposes, and for no other purpose, unless written permission for other use is obtained from Authority:

Bulk Material Handling Services and the storage of sand.

Lessee will not:

A. Use, occupy or permit the use or occupancy of the Leased Premises for any purpose or in any manner, which is directly or indirectly:

Inconsistent with the requirements of Section 4.01 hereof;

Violative of (a) judicial decisions, orders, injunctions, writs, statutes, rulings, rules, regulations, promulgations, directives, permits, certificates or ordinances of any governmental authority in any way applicable to Lessee or the Leased Premises, including zoning, environmental and utility conservation matters; (b) Authority's Tariffs or Rules and Regulations; (c) insurance requirements; or (d) other documents, instruments or agreements (written or oral) relating to the Leased Premises or to which the Leased Premises may be bound or encumbered;

Dangerous to life or property or a public or private nuisance; or

Disruptive to the activities of any other tenant or occupant of property adjacent to the Leased Premises;

B. Bring or permit to remain on the Leased Premises any asbestos, petroleum or petroleum products, explosives or toxic materials except for commercially reasonable amounts of materials used in the ordinary course of Lessee's business, nor commit or permit to remain any waste or damage to the Leased Premises; or

C. Commit, or permit to be committed, any action or circumstance on or about the Leased Premises which, directly or indirectly, would or might justify any insurance carrier in increasing the rate of or canceling the insurance policies maintained by Lessee or Authority on the Leased Premises or improvements thereon, or those of other lessees of Authority's property adjacent to the Leased Premises.

D. The Leased Premises shall not be used for any purpose or business deemed as extra hazardous by the Insurance Services Office.

Section 4.02. Environmental Representations, Restrictions and Environmental Indemnity

Lessee hereby represents and warrants to Authority:

That Lessee's construction, occupancy, operation or use of the Leased Premises will not violate any applicable law, statute, ordinance, rule, regulation, order or determination of any governmental authority or any board of fire underwriters (or other body exercising similar functions), or any restrictive covenant or deed restriction (recorded or otherwise) affecting the Leased Premises, including but not limited to all applicable zoning ordinances and building codes, flood disaster laws and health and environmental laws and regulations (hereinafter sometimes collectively called "Applicable Laws");

That, without limitation of Section 4.01A above, in its use of the Leased Premises Lessee will not violate any Applicable Laws pertaining to health or the environment (hereinafter sometimes collectively called "Applicable Environmental Laws"), including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601 et seq; the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et seq; the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq; the Clean Air Act and Amendments of 1990, 42 U.S.C. Section 7401 et seq; the Clean Water Act of 1977, 33 U.S.C. Section 1251 et seq; the Oil Pollution Act of 1990, 33 U.S.C. Section 2701 et seq; the Toxic Substances Control Act, 15 U.S.C. Section 2606 ; the Texas Solid Waste Disposal Act, Chapter 361, Texas Health and Safety Code; the Texas Clean Air Act, Chapter 382, Texas Health and Safety Code; the Oil Spill Prevention Act of 1991, Chapter 40, Texas Natural Resource Code, and Chapter 26, Texas Water Code; and the Texas Water Quality Act, Chapter 26, Texas Water Code; Texas Hazard Communication Act, Chapter 502, Texas Health and Safety Code; Texas Community Right-to-Know Acts, Chapters 505 – 507 Texas Health and Safety Code; Authority's Tariffs, Rules and Regulations and the Port of Corpus Christi Authority's Design and Construction Guidelines set forth in Authority's Real Estate Manual.

That the use which Lessee intends to make of the Leased Premises will not result in the Disposal or other Release of any Hazardous Substance or Solid Waste on or to the Leased Premises--the terms "Hazardous Substance" and "Release" have the meanings specified in CERCLA, and the terms "Solid Waste" and "Disposal" (or "Disposed") have the meanings specified in RCRA--and, in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning will apply to such terms used in this lease agreement subsequent to the effective date of such amendment and, further, to the extent the laws of the state of Texas establish a meaning for "Hazardous Substance," "Release," "Solid Waste," or "Disposal" which is broader than that specified in either CERCLA or RCRA, such broader meaning will apply to such terms used in this lease agreement, and in either of said instances Lessee must immediately cease activities prohibited by Applicable Laws or Applicable Environmental Laws upon the Leased Premises and notify Authority in writing.

Lessee understands and agrees that the Leased Premises are being leased in an "As Is, Where Is" condition and that improvements, grading, filling, removal of existing improvements,

and relocation of utility lines shall be made and performed by Lessee at the sole cost and expense of Lessee. Lessee further understands and agrees that the "As-Is, Where Is" condition of the Leased Premises includes any contamination of the Leased Premises, including structures, soils, groundwater, and any adjacent channel or bay water and sediment, and that information received from Authority regarding such matters may not be complete or accurate and should not be accepted as such.

In the event of a Release of any environmental contaminants which exceed permitted levels as defined by any city, state or federal law or regulation, Lessee must immediately stop the Release and cease any prohibited activities which may be resulting in such Release; and immediately notify the proper environmental and safety agencies, federal, state, and local, as well as Authority, in writing, of the date, time, and nature of the Release, including, but not limited to, a description of the environmental contaminants discharge or released, and provide a MSDS for each of the said environmental contaminants.

In addition, upon receipt from any agency or department of the state of Texas or the federal government, Lessee will immediately furnish PCCA written information concerning any citation, notice of violation, enforcement action or penalty regarding any safety or environmental violation sent to Lessee, or any entity consulting or working on the Lessee's behalf relative to or at the Leased Premises. This information must include:

A. A general description of the conduct that resulted in the citation, notice of violation, enforcement action or penalty; and

B. The document(s) sent from the agency or department to Lessee, or any entity consulting or working on the Lessee's behalf, which state the citation, violation, enforcement action or penalty.

Further, in the event of a Release, Lessee hereby acknowledges that excavation of soils from the Leased Premises could result in exportation of a regulated waste requiring appropriate characterization, handling, transport and disposal (together "Regulated Waste Removal"). Authority takes no responsibility and assumes no liability whatsoever for Regulated Waste Removal. Accordingly, **Lessee hereby waives any claim, or potential claim, it may have to recover costs or expenses arising out of or associated with Regulated Waste Removal and agrees to indemnify, defend and hold harmless Authority, its Port Commissioners, directors, managers, employees, and agents from and against any and all claims, liabilities, losses, damages, costs, and expenses arising from, out of, or in any way related to Regulated Waste Removal. If any action or proceeding is brought against Authority, its Port Commissioners, directors, managers, employees, and agents based upon any and all such claims, liabilities, losses, damages, costs and expenses, Authority will be represented by its general counsel, or another attorney selected by Authority and approved by Lessee, which approval will not be unreasonably withheld.**

Also, in the event of a Release, Authority accepts no liability or responsibility for ensuring that Lessee's workers, including without limitation those conducting testing, construction and maintenance activities on the Leased Premises, are satisfactorily protected from

residual contaminants described in 29 Code of Federal Regulations. Lessee shall assess all human health risks from vapor transport or direct contact with residual hazardous substances or contaminants and incorporate such engineering and institutional controls as may be required to sufficiently protect human health of onsite workers and transient visitors. **Lessee hereby waives any claim, or potential claim, it may have to recover any damages, losses, costs and expenses related to worker exposure or alleged exposure to any residual onsite contamination, and to indemnify, defend and hold harmless Authority, from and against any and all such claims, liabilities, losses, damages, costs and expenses. If any action or proceeding is brought against Authority, its Port Commissioners, directors, managers, employees, and agents based upon any and all such claims, liabilities, losses, damages, costs and expenses, Authority, its Port Commissioners, directors, managers, employees, and agents will be represented by its general counsel, or another attorney selected by Authority and approved by Lessee, which approval will not be unreasonably withheld.**

In claims against Authority, its Port Commissioners, directors, managers, employees, and agents by or for an employee of Lessee, its agents, contractors, owners, invitees, or licensees, the Lessee's indemnification obligation under this Section 4.02 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Lessee, its agents, contractors, owners, invitees, or licensees, under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. If an action for damages is brought by an injured employee of Lessee, a legal beneficiary, or an insurance carrier against Authority, its agents, contractors, owners, invitees, or licensees, to pay damages for the injury or death of such employee under Chapter 417 (Third-Party Liability), Texas Labor Code, that results in a judgment against the Authority, its agents, contractors, owners, invitees, or licensees, or a settlement by Authority, its agents, contractors, owners, invitees, or licensees, Lessee expressly agrees to reimburse and hold harmless Authority, its agents, contractors, owners, invitees, or licensees, for the damages based on such judgment or settlement as provided in this Section 4.02.

Lessee will cooperate with the Authority's Tenant Audit Program (the "Program"). The audit will consist of a scheduled review of Lessee's operations and activities, a review of Lessee's environmental management programs, and a tour of the Leased Premises. Authority staff involved in the Program intend to gain an understanding of Lessee's operations and activities and what measures the Lessee is utilizing to comply with local, state, and federal laws, rules and regulations, this lease agreement, and Authority's Tariffs, Rules, and Regulations. Through the Program they will seek to achieve cooperative conservation between Authority and Lessee that are actions relating to the use, enhancement and enjoyment of natural resources and protection of the environment. The audit will be conducted at a minimum annually and more frequently if determined by Authority staff to be necessary. A letter from Authority staff setting forth staff's observations will be provided to the Lessee following the audit. If violation of applicable laws, rules, regulations, this lease agreement or the tariff have been observed, then Lessee will be notified of the same in the letter, and required to immediately take action to come into compliance, and to verify it has done so to Authority staff.

Lessee must clean up, remove, remediate and repair any soil or ground water contamination or damage caused by the presence or release of any Hazardous Substance or Solid Waste in, on, under, or about the Leased Premises during occupancy of the Leased Premises in conformance with the requirements of Applicable Laws or Applicable Environmental Laws. Lessee shall immediately give Authority written notice of any suspected breach of this paragraph, upon learning of the presence or any release of any Hazardous Substance or Solid Waste, or upon receiving any notice from governmental agencies pertaining to any Hazardous Substance or Solid Waste which may affect the Leased Premises. The obligations of Lessee hereunder shall survive the expiration or earlier termination, for any reason, of this lease.

All of the foregoing representations and warranties made by Lessee are continuing and must be true and correct for the entire term of this lease, including any extensions hereof, and all of such representations and warranties will survive expiration or termination of this lease agreement.

Section 4.03. Underground Storage Tanks

Lessee may not construct, install, maintain, use or otherwise operate on the Leased Premises any petroleum or chemical underground storage tank.

Section 4.04. Permitted Use; Continuous Operation

Lessee will (a) continuously maintain the Leased Premises open for its usual business and available for the purposes permitted hereunder during its usual business hours on days other than Saturday, Sunday or legal holidays.

ARTICLE 5 IMPROVEMENTS OR ALTERATIONS AND MAINTENANCE

Section 5.01. Permanent Improvements

All improvements made, placed, or constructed on the Leased Premises by Lessee after the date of this lease agreement will be at the sole cost and expense of Lessee. Lessee must construct and install Lessee's improvements in a good and workmanlike manner. New or additional improvements may not be constructed nearer than 8.5 feet to the centerline of any existing or proposed railroad track on or adjacent to the Leased Premises.

While constructing improvements, maintaining, or carrying on its activities, on the Leased Premises, Lessee must comply with the *Antiquities Code of Texas (Texas Natural Resources Code, Chapter 191)* and applicable rules promulgated thereunder by the Antiquities Committee, or its successor. Lessee shall undertake its activities on the Leased Premises in a manner consistent with public policy relating to the location and preservation of archeological sites and other cultural resources in, on, or under public lands. Lessee shall use the highest degree of care and all reasonable safeguards to prevent the taking, alteration, damage, destruction, salvage, or excavation of cultural resources and/or landmarks on the Leased Premises. Upon discovery of an archeological site, Lessee shall immediately give written notice

of such discovery to Authority and to the Texas Antiquities Committee, as set out in the Committee's rules. Lessee, its contractors and employees, shall have no right, title, or interest in or to any archaeological articles, objects, or artifacts, or other cultural resources located or discovered on the Leased Premises.

Section 5.02. Maintenance and Return of Leased Premises

Lessee will, throughout the lease term and any extensions of it, at its own expense and risk, maintain the Leased Premises and all improvements on them in good order and condition, including but not limited to making all repairs and replacements necessary to keep the premises and improvements in that condition. All maintenance, repairs, and replacements required by this section must be performed promptly when required and so as not to cause depreciation in the value of the Leased Premises.

If Lessee fails to perform its obligation to repair, replace, or maintain, as set forth above, within a reasonable time after notice from Authority of the need for repair, replacement, or maintenance, Authority may enter the Leased Premises and make the repairs or replacements, or perform the maintenance, or have the repairs or replacements made or maintenance performed, at its own expense. Upon Authority's notice to Lessee of the performance and cost of any maintenance, repairs, or replacements under this section, Lessee must immediately reimburse Authority for the costs incurred by Authority pursuant to this Section, together with interest on the sum at the highest legal rate from the date of the notice until the date paid by Lessee to Authority.

At the expiration of the lease term or any renewals or extensions thereof, Lessee will surrender the premises in good order and repair except for reasonable wear and tear since the last necessary repair, replacement, restoration or renewal made by Lessee pursuant to its obligations under this lease agreement.

Section 5.03. Approval of Alterations and Improvements

Lessee must submit to Authority plans for any proposed buildings, drainage or improvements of any kind on the Leased Premises, or any alterations or additions to existing buildings or improvements, and they must be approved in writing by the Director of Engineering Services of Authority prior to the commencement of work on the same. To facilitate the Authority's review, two (2) sets of formal plans that clearly define the project must be submitted to Authority for its prior approval. The drawings must be prepared on a standard engineering format (24" x 36" drawings) and show all physical features and improvements in and around the project site and must be signed and sealed by a Professional Engineer registered in the State of Texas. In addition, a detailed site plan (minimum 1" = 50' scale) depicting the location and physical layout of the project site, and including, but not limited to, any area to be dredged, adjacent docking facilities, property lines, federal channels, bulkhead lines, and existing channel depth elevations must be included with the plans submitted. The site plan must clearly show the bottom of cut line and top of slope line of any planned dredging. If any dredging is planned by Lessee, its agents, servants, contractors or employees that will, in Authority's judgment, based upon customary dredging operations, result in removal of a substantial quantity of earth or

material from, or damage to, adjacent real property, Lessee must obtain the written permission of the adjacent property owner to carry out the work described for the project and submit it to the Authority with the formal plans.

Slips at any dock located on the Leased Premises must be maintained by Lessee at a sufficient depth to prevent vessels berthed at the dock from striking bottom due to lowering of the water level from passing vessels or seasonal low tides.

Copies of all permits for work in navigable waters issued to Lessee by the Department of Army or any other federal, state or other governmental agency shall be filed with Authority.

No approval by Authority of Lessee's designs, site plans, plans, specifications or other matters may ever be construed as representing or implying that Lessee's designs, site plans, plans, specifications or other matters will, if followed, result in a properly-designed building or other improvements constructed on the Leased Premises. Such approvals shall in no event be construed as a representation or guaranty by the Authority that any improvements will be built in a workmanlike manner, nor shall such approvals relieve Lessee of its obligation to construct the building in a workmanlike manner. **Lessee will defend, indemnify, and hold harmless Authority from and against any lawsuits, actions, causes of action or claims arising out of Authority's approval of any of Lessee's designs, site plans, plans, specifications or other matters relating to the Leased Premises.**

Section 5.04. No Liens

Unless otherwise agreed, Lessee may not grant, place or suffer, or permit to be granted, placed or suffered, against all or any part of the Leased Premises or Lessee's leasehold estate created hereby, any lien, security interest, pledge, conditional sale contract, claim, charge or encumbrance (whether constitutional, contractual or otherwise) and if any of the aforesaid should occur or be asserted, Lessee will, promptly upon demand by Authority and at Lessee's expense, cause same to be released.

Section 5.05. Laborers and Materials

—Lessee will pay for all labor and services performed for, materials used by, or furnished to, any contractor employed by Lessee with respect to the Leased Premises and defend, indemnify and hold Authority and the Leased Premises harmless and free from any liens, claims, encumbrances or judgments created or suffered by Lessee's failure to pay for labor or materials provided to the Leased Premises. If Lessee elects to post a payment or performance bond or is required to post an improvement bond with a public agency in connection with such labor, services or materials, Lessee agrees to include Authority as an additional obligee thereunder.

Section 5.06. Storm Sewers/Railroad Spur Tracks

Lessee agrees to construct or to pay for the construction of (a) storm sewers required by Authority to drain the Leased Premises or (b) railroad spur tracks requested by Lessee, and approved by Authority, to serve the Leased Premises. If requested by Authority or the railroad, Lessee will enter into a joint maintenance agreement with the railroad and bear Lessee's pro rata share of the cost of maintaining any railroad spur on the Leased Premises.

Section 5.07. Building Code

All improvements placed on the Leased Premises by Lessee must comply with all applicable codes unless they are modified by Port of Corpus Christi Authority Design and Construction Guidelines found in the current Port of Corpus Christi Authority Project Manual which may be obtained from Authority's Department of Engineering Services.

Section 5.08. Permits

Lessee must obtain and maintain in effect at all times during the term of this lease agreement all permits, licenses and consents required or necessary for the construction, installation, maintenance, use and operation of Lessee's improvements and Lessee's use and occupancy of, and operations at, the Leased Premises. Lessee will provide Authority's Department of Engineering Services with copy of its permits, licenses and consents as the same are obtained.

Section 5.09. Ownership or Removal of Alterations, Modifications or Improvements by Lessee

At the expiration or earlier termination of this lease, all alterations, modifications or improvements upon the Leased Premises made by Lessee, including all buildings, rail spurs and tracks, paneling, decorations, partitions, heating, ventilating and air-conditioning machinery and equipment, lighting fixtures, plumbing equipment, sprinkler system, and the like, shall, absent any agreement between Authority and Lessee to the contrary at the time of installation, or unless Authority otherwise elects, which election shall be made by giving a notice in writing (a) not less than fifteen (15) days prior to the expiration of this lease, or (b) not more than fifteen (15) days following any termination of this lease other than by expiration, become the property of Authority and shall remain upon and be surrendered with the Leased Premises as a part thereof at the end of the lease term. In the event Authority notifies Lessee to remove any or all of the alterations, additions or improvements made by Lessee, Lessee must do so and must repair any damage caused by such removal, all within forty-five (45) days after the date of expiration or termination of this lease agreement. Trade fixtures, furnishings and equipment, except for those referred to above, which are installed by Lessee, at its expense, may be removed by Lessee provided Lessee removes the same and repairs any damage caused by such removal within thirty (30) days after the date of expiration or termination of this lease. Any trade fixtures not removed by Lessee when this lease terminates are considered abandoned by Lessee and will automatically become Authority's property. If any trade fixture installed by Lessee is abandoned when the

lease terminates, Lessee must pay Authority any reasonable expense actually incurred by Authority to remove the fixture from the premises, less the fair market value of the fixture once removed, if Authority uses the trade fixture.

Section 5.10. Signs

Lessee may not place any signs at or on the Leased Premises nor paint any signs on any building on the Leased Premises unless first approved in writing by the Director of Engineering Services of Authority. Lessee must remove all its signs when this lease terminates and repair any damage resulting from erecting or removing the signs.

Section 5.11. Floodplain

Lessee acknowledges that Lessee has been advised by Authority that the Leased Premises is in the FEMA floodplain and that construction of improvements must conform to the laws and regulations applicable to construction of improvements in a floodplain.

ARTICLE 6 USE BY AUTHORITY

Authority reserves the right to use any streets or roadways on the Leased Premises. Authority further reserves the right to use as much of the Leased Premises as is necessary to lay mains for gas, water or sewers on the Leased Premises, to place poles and necessary wires and attachments for electricity or for telephone and fiber optic lines over and across any part of the Leased Premises, and to lay, or grant easements or rights of way for the laying of, pipelines for oil, petroleum, petroleum products, fiber optics and any other products over, under and upon the Leased Premises; provided, however, that the same shall not interfere with Lessee's buildings, improvements or Lessee's use of the Leased Premises. Authority has the right to use third parties for the performance of the rights reserved to Authority in this Article, and Authority has the right to grant easements or rights of way reserved to Authority in this Article to other parties.

ARTICLE 7 SUBLETTING OR TRANSFER

Section 7.01. Sublease or Transfer

Lessee may not assign or sublet this lease agreement in whole or in part nor any interest therein nor sublet the Leased Premises nor any part thereof nor grant any license, concession or other right of occupancy of any portion of the Leased Premises, nor permit the transfer of this lease by operation of law or otherwise without the prior written consent of Authority. Consent of Authority to one or more assignments or subletting does not operate as a waiver of Authority's rights concerning any subsequent assignments or subletting. If this lease agreement is assigned, or if any of the Leased Premises, or any part thereof, is sublet or occupied by anyone other than the Lessee, then Authority may, after default by the Lessee, collect rent from the assignee, subtenant or occupant and apply the net amount collected, less any costs of collection, attorneys' fees or other costs incurred by Authority, to the rent provided for in this lease agreement. No

assignment, subletting, occupancy or collection waives the obligations of Lessee under this lease agreement upon acceptance of same by Authority. Authority may assign or transfer any of its interests under this Lease Agreement. Furthermore, Lessee shall not, without Authority's express written consent, cause or permit an interest, direct or indirect, in itself to be sold, assigned, transferred, exchanged, or otherwise disposed of (each a "Disposition") such that, after the Disposition, the Lessee shall cease to be controlled by substantially the same individuals and/or entities who Control it as of the effective date of the Lease; provided, however, that this restriction shall not be operative if, on the date of the Disposition, the net worth of Transferee (who is defined in Section 7.02) is more than \$10,000,000 Dollars. As used in this paragraph "Control" means the power to elect a majority of the directors or other members of the governing body of Lessee, or in any other manner to control or determine the management of the Lessee.

Section 7.02. Conditions

The following conditions automatically apply to each sublease, assignment or transfer by Lessee or any sublessee without the necessity of same being stated in or referred to in Authority's written consent:

A. Lessee must execute, have acknowledged and deliver to Authority and cause the sublessee, assignee or other transferee ("Transferee") of any portion of Lessee's interest in this lease agreement, the leasehold estate created hereby or the Leased Premises to execute, have acknowledged and deliver to Authority, an instrument in form and substance acceptable to Authority in which:

The Transferee adopts this lease agreement and assumes and agrees to perform, jointly and severally with Lessee, all of the obligations of Lessee hereunder, as to the interest transferred to it;

The Transferee grants Authority an express first and prior contract lien and security interest in its improvements located upon and property brought into the transferred premises to secure its obligations to Authority hereunder;

Lessee subordinates to Authority's statutory lien, contract lien and security interest any liens, security interests or other rights, which Lessee may claim with respect to any property of the Transferee;

Lessee and any guarantor of this lease agreement agrees with Authority that, if the rent or other consideration due by the Transferee exceeds the rent for the transferred space, then Lessee shall (and any guarantor guarantees that Lessee shall) pay Authority as additional rent hereunder all such excess rent and other consideration immediately upon Lessee's receipt thereof;

The Transferee agrees to use and occupy the transferred space solely for the purposes permitted under Article 4 and otherwise in strict accordance with this lease agreement; and

Lessee and any guarantor acknowledge and agree in writing that, notwithstanding the transfer, Lessee and any guarantor remain directly and primarily liable for the performance of all the obligations of Lessee hereunder (including, without limitation, the obligation to pay all rent), and Authority shall be permitted to enforce this lease agreement against Lessee, any guarantor or the Transferee, or all of them, without prior demand upon or proceeding in any way against any other persons.

B. Lessee must deliver to Authority a counterpart of all instruments relative to the sublease, assignment or other transfer executed by all parties to such transaction (except Authority); and

C. Lessee shall pay or cause to be paid to Authority, at the time of the execution and delivery of the documents, the sum of \$500.00 to cover Authority's administrative and legal costs for each amendment, assignment, sublease, and any estoppel certificate requested from Authority by Lessee or any sublessee.

ARTICLE 8 DEFAULT

Section 8.01. Rights and Remedies of Authority

If for ten (10) calendar days after service by mail or otherwise to Lessee by Authority of written notice of a breach or default by Lessee under any provision of this lease agreement, the Lessee does not or shall neglect or fail to comply with or remedy such breach or default, or if the said breach or default complained of shall be of such a nature that the same cannot be completely remedied or cured within such ten (10) day period, then such breach or default shall not be an enforceable breach or default against Lessee if Lessee shall have commenced curing such breach or default within such ten (10) day period, and shall with reasonable diligence and in good faith, proceed to remedy the default complained of; or if any proceedings concerning Lessee or the Leased Premises be had in bankruptcy, reorganization, arrangement or receivership, or if any assignment shall be attempted to be made of this lease agreement for the benefit of creditors; or if Lessee abandons or vacates a substantial portion of the Leased Premises for fourteen (14) consecutive days; then in any of said cases or in any similar case which, in the sole judgment of Authority, evidences a serious financial insecurity of Lessee, Authority shall have the rights and remedies that may be provided at law or in equity and the following options:

A. Without terminating this lease agreement, Authority may terminate Lessee's right of possession of the Leased Premises under this lease agreement by giving Lessee three (3) calendar days notice of termination of Lessee's right of possession and Lessee's right of possession shall thereupon cease and come to an end and Authority may reenter and take possession of the Leased Premises; provided, however, Authority shall not be required to give such notice prior to the filing of an action of forcible detainer or at common law upon default by Lessee in the payment of rent. Upon entering and taking possession of the Leased Premises, Authority may:

1. Relet for the account of, or as agent for, Lessee the Leased Premises or any part thereof, to a tenant acceptable to Authority, without terminating this lease agreement or working a forfeiture of the rent to be paid, and after receiving the rent therefrom apply the same, first to the payment of all expense the Authority may be put to in recovering possession of the Leased Premises and in reletting same, including but not limited to the costs of renovating, altering and repairing for a new tenant and attorneys' and brokers' fees, and then to the payment of the rent and additional rent payable under this lease agreement and to the fulfillment of Lessee's covenants hereunder. Lessee shall be entitled to any balance remaining after subtracting such costs and debts. Authority may at any time after reletting terminate this lease agreement for the breach or default on account of which it reentered and relet; or

2. Accelerate the future rent and additional rent due under this lease agreement and seek recovery of such rent and additional rent and any other damages provided for in this lease agreement, at law or in equity. Authority is entitled to recover future rent and additional rent from Lessee based upon the present value of the rent and additional rent discounted to present value at the rate of 3% per annum for the remainder of the term of the lease reduced by the fair market rental value of the Leased Premises during that period.

B. Terminate this lease agreement.

C. Lessee pledges with Authority all of its rents and profits from the Leased Premises in addition to the other security for the performance of the lease; and in connection with such pledging of the rents, the Lessee covenants and agrees with Authority that if Authority, upon default of Lessee, elects to file a suit to enforce this lease agreement and protect Authority's rights thereunder, Authority may apply to any court having jurisdiction, for the appointment of a Receiver of all and singular the demised premises, the improvements and buildings located thereon, and the personal property located therein, and thereupon it is expressly covenanted and agreed that the court shall without notice forthwith appoint a Receiver with the usual powers and duties of receivers in like cases, and such appointment shall be made by such court as a matter of strict right to Authority, and without reference to the adequacy or inadequacy of a remedy at law, the value of the property that is subject to Landlord's lien, or to the solvency or insolvency of Lessee; and without reference to the commission of waste.

Section 8.02. No Waiver

Any assent, expressed or implied, by the Authority or Lessee to any breach of any agreement, covenant or obligation herein contained shall operate as such only in the specific instance and shall not be construed as an assent or a waiver to any such agreement, covenant or obligation generally or of any subsequent breach thereof. The remedies provided herein or at law or equity shall not be mutually exclusive.

Section 8.03. Consequential Damages

Authority shall in no event be charged with default in the performance of any of its obligations hereunder, unless and until Authority shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such default) after written notice by Lessee to Authority, properly specifying wherein Authority has failed to perform any such obligation.

Notwithstanding anything in this lease agreement to the contrary, Authority shall in no event be charged with or liable for any consequential damages suffered by Lessee as a result of Authority's breach of this lease agreement or failure to perform any of its obligations under this lease agreement.

ARTICLE 9 LIEN AND SECURITY INTEREST

In consideration for the mutual benefits arising under this lease agreement, and as security for Lessee's performance of all its obligations under this lease agreement, Lessee hereby grants to Authority a lien and security interest in and on all property of Lessee now or hereafter placed in or upon the Leased Premises, and such property shall be and remain subject to such lien and security interest of Authority for payment of all rent and other sums agreed to be paid by Lessee herein. The provisions of this section shall constitute a security agreement under the Texas Uniform Commercial Code so that Authority has and may enforce a security interest on all property of Lessee now or hereafter placed in or on the Leased Premises, including but not limited to all fixtures, machinery, equipment, furnishings and other articles of personal property now or hereafter placed in or upon the Leased Premises by Lessee. An event of default under this lease agreement shall be default under the security agreement. Authority may at its election at any time file a copy of this lease agreement as a financing statement. Authority, as secured party, is entitled to all of the rights and remedies afforded to a secured party under the Texas Uniform Commercial Code, which rights and remedies shall be in addition to and cumulative to the Authority's liens and rights provided by law or by the other terms and provisions of this lease. Promptly upon request, and without further consideration, Lessee agrees to execute as debtor such additional financing statement or statements as Authority may now or hereafter reasonably request in order that Authority's security interests may be protected pursuant to the Texas Uniform Commercial Code, which financing statement Authority may at its election file in the appropriate records.

ARTICLE 10 INDEMNITY/WAIVER

Section 10.01. Indemnity and Waiver

A. As used in this Section 10.01, each of the following terms shall have the meanings set forth in this Section 10.01A:

(1) **“Beneficiary”** means the intended recipient of the benefits of another party’s Indemnity, Waiver or obligation to Defend.

(2) **“Claims”** means all claims, damages (including actual, consequential, and punitive), losses, fines, penalties, liens, causes of action, suits, judgments, settlements, and expenses [including court costs, attorney’s fees (including attorney’s fees in defending and/or settling a Claim and attorney’s fees to collect on this Indemnity), costs of investigation, and expert witnesses] of any nature, kind or description by, through, or of any person or entity.

(3) **“Defend”** means to oppose on behalf of another party a Claim in litigation, arbitration, mediation or other alternative dispute resolution proceeding and to pay all costs associated with the preparation or prosecution of such Defense.

(4) **“Indemnify”** means to protect and hold harmless a party from and against a potential Claim and/or to compensate a party for a Claim actually incurred.

(5) **“Indemnified Persons”** means the Authority, its Port Commissioners, directors, managers, employees and agents.

(6) **“Lessee Parties”** means the Lessee, its agents, contractors, employees, owners, invitees, or licensees.

(7) **“Waive”** means to knowingly and voluntarily relinquish a right and/or to release another party from liability.

B. Subject to the terms of this Section 10.01, Lessee shall Defend and Indemnify the Indemnified Persons from and against all Claims resulting from, arising out of, or alleged to have arisen out of or resulted from, in whole or in part, any of the following matters (these Claims being referred to herein as the “Indemnified Claims”):

(1) the conduct of Lessee’s business on the Leased Premises;

(2) Lessee’s breach of this lease agreement;

(3) any property loss or damage occurring in, on, or about the Leased Premises or relating to the condition, use or occupancy of the Leased Premises;

(4) any bodily or personal injury, sickness, disease, and/or death (including the bodily or personal injury and/or death of any employee of an Indemnified Person or a Lessee Party) occurring in, on, or about the Leased Premises or relating to the condition, use of occupancy of the Leased Premises; or

(5) any act, omission, willful misconduct, strict liability, breach of warranty, express or implied, or violation of any laws, ordinances, rules, regulations, or

codes, now or hereafter existing, of or by any Lessee Party, including the sole, joint, concurrent, or comparative negligence of any Lessee Party in connection with or pertaining to this lease agreement.

C. The Indemnities, Waivers and obligation to Defend in this Section 10.01 shall be enforced to the fullest extent permitted by applicable law for the benefit of the applicable Beneficiary thereof, regardless of any extraordinary shifting of risks, and even if the applicable Claim is caused by the joint, concurrent, or comparative negligence of such Beneficiary, and regardless of whether liability without fault or strict liability is imposed upon or alleged against such Beneficiary; provided, however, that an Indemnity will not be enforced to the extent that a court of competent jurisdiction holds in a final judgment that the applicable Claim against a Beneficiary was caused by the willful misconduct or sole negligence of such Beneficiary.

D. Notwithstanding anything to the contrary contained in this Section 10.01, to the extent an Indemnified Claim arises out of the joint, concurrent, or comparative negligence, causation, responsibility or fault of the Indemnified Persons and the Lessee Parties, then the Lessee's obligation to the Indemnified Persons shall only extend to the percentage of the total responsibility of the Lessee Parties in contributing to such Indemnified Claim.

E. In claims against any Indemnified Person by or for an employee of a Lessee Party, the Lessee's indemnification obligation under this Section 11.01 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Lessee Party under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. If an action for damages is brought by an injured employee of Lessee, a legal beneficiary, or an insurance carrier against an Indemnified Person liable to pay damages for the injury or death of such employee under Chapter 417 (Third-Party Liability), Texas Labor Code, that results in a judgment against the Indemnified Person or a settlement by the Indemnified Person, Lessee expressly agrees to reimburse and hold harmless the Indemnified Person for the damages based on such judgment or settlement as provided in this Section 10.01.

F. Except as otherwise expressly limited in this Section 10.01, it is the intent of the parties to this lease agreement that all indemnity obligations and liabilities contracted for in this lease agreement be without monetary limit and without regard to the cause or causes thereof (including pre-existing conditions on Authority's Property or as the result of an indemnification agreement with a third party), and will not be limited by damages paid under the Workers' Compensation Act. The indemnity contained in this Section 10.01 applies, without limitation, to any violation of any law, rules or regulations referred to in Section 4.02 in effect during the term of this lease agreement, and any and all matters arising out of any act, omission, event or circumstance existing or occurring during the term of this lease agreement, regardless of whether the act, omission, event or circumstance constituted a violation of any law, rules or regulations referred to in Section 4.02 at the time of its existence or occurrence.

G. If any action or proceeding is brought against an Indemnified Person by reason of any Indemnified Claim described in this Section 10.01, the Indemnified Person will be represented by its general counsel, or another attorney selected by the Indemnified Person and approved by Lessee, which approval will not be unreasonably withheld.

H. If Lessee should fail or refuse, after written notice to Lessee that an Indemnified Person intends to make a settlement of an Indemnified Claim, to participate in the settlement of such Indemnified Claim, then the Indemnified Person may settle with the claimant without prejudice to the Indemnified Person's indemnity rights set forth herein, and a settlement after such notice to Lessee will constitute a settlement of the proportionate fault, including but not limited to negligence, of both Lessee and the Indemnified Person, which settlement may later be apportioned between Indemnified Person and Lessee.

I. Lessee agrees to support its obligations to Indemnify and Defend the Indemnified Persons by the purchase of insurance, including contractually assumed liability coverage.

J. To the fullest extent provided by this Section 10.01, Lessee hereby Waives all Claims against the Indemnified Persons resulting from, arising out of, or alleged to have arisen out of or resulted from, in whole or in part, any of the Indemnified Claims.

ARTICLE 11 INSURANCE

Section 11.01. Insurance

Without limiting the indemnity obligations or liabilities of Lessee, or its insurers, provided herein, Lessee agrees at all times this lease agreement is in effect to carry and maintain at its sole expense policies of insurance ("the Policies") of the types and in the minimum amounts as follows:

A. "All Risks" of Direct Physical Loss, including Flood, on buildings, improvements and betterments situated on the Leased Premises in an amount sufficient to cover 100% of the Insurable Value of the said buildings, improvements and betterments; and in builder's risk completed value form during substantial construction of improvements (including malicious mischief and vandalism); in amounts sufficient to provide coverage for 100% of the Insurable Value of such improvements. Lessee is responsible for insurance for its personal property on the Leased Premises. "Insurable Value" means replacement cost value.

B. For all its employees engaged in performing work, workers' compensation required by the Texas Workers' Compensation Code, and employer's liability insurance with limits of at least \$500,000.00 each employee accident and disease, or such similar insurance which is in accordance with state and federal law applicable to said employees.

C. Commercial General Liability (CGL) coverage with policy limits of at least \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate at the Leased Premises

D. Business Auto Liability coverage for all owned and non-owned vehicles, with a policy limit of \$1,000,000.00 (Combined Single Limit.)

E. Umbrella liability coverage limits of not less than \$5,000,000.00 over and above the underlying primary coverage limits stated in subparagraph B, C and D in this Section.

F. Pollution Legal Liability including cleanup and defense costs for premises and operations including pollution of any body of water with limits of not less than \$5,000,000.00 per occurrence.

The minimum insurance protection amounts set forth in the Policies shall be increased from time to time upon request by Authority to an amount, which is commercially reasonable at the time.

Authority shall be furnished, to the attention of Authority's Risk Manager, prior to Lessee taking possession or occupancy of the Leased Premises, as proof of the insurance required of Lessee a certificate or certificates of insurance (and the endorsements required in this paragraph shall be attached to the certificate or certificates of the insurance) describing the Policies, which certificates must be acceptable, in their form and content, to PCCA. Each of the Policies will be endorsed to (a) (except for Workers' Compensation and employer's liability insurance) name Authority, its Port Commissioners, officers, officials, employees and agents as an additional insured (b) provide that it will not be suspended, voided, canceled or reduced in coverage or limits without thirty (30) days' prior written notice to Authority, Attention: Risk Manager, and (c) provide that notwithstanding any language in any policy of insurance held by Authority ("Authority Insurance") to the effect that the Authority Insurance is primary, the policy or policies held by Lessee are primary coverage and the Authority Insurance is non-contributory so that Authority Insurance will not share with the Policies.

In addition the Policies shall be endorsed to provide as follows (or an ISO form endorsement containing the equivalent wording may be used): "Underwriters or the company or companies issuing this policy agree that, if the named insured is required, by written contract, to name any other person, firm or organization as an additional insured on this policy for claims arising out of acts, or the failure to act, by the named insured, then such other person, firm or organization shall automatically be deemed to be an additional insured under this policy without any further action, but only to the extent required under said written contract." Lessee shall deliver to Authority certificates of renewal at least thirty (30) days prior to the expiration date of each of the Policies and copies of new policies at least thirty (30) days prior to terminating any of the Policies. The deductible or self-insured retention for each of the Policies must be stated in the certificate of insurance provided to Authority if either exceeds \$50,000.00; and, in such event, Authority may decline to approve this lease agreement without any liability to Lessee. The company writing each of the Policies must possess a current rating with A.M. Best Company of at least A: VI. If Lessee neglects or refuses to provide any insurance required herein, or if any insurance is canceled, Authority may procure such insurance at Lessee's expense, and Authority is entitled to reimbursement from Lessee for all amounts spent to procure

and maintain the insurance, with interest on such expense at a rate of 10% annually from the date Lessee receives Authority's notice of payment until reimbursement.

Section 11.02. Waiver of Subrogation

Lessee waives every claim which arises or may arise in its favor against Authority during the term of this lease or any renewal or extension thereof for any and all claims against it, or for loss of, or damage to, any of its property located within or upon, or constituting a part of, the Leased Premises, covered by applicable insurance policies, to the extent that such claim, loss or damage is covered or recoverable under said insurance policies. Said waiver shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this lease agreement with respect to any loss of or damage to property of the parties hereto. Lessee agrees to immediately give to each insurance company which has issued to it policies of insurance applicable to provisions of this lease agreement written notice of the terms of the waiver set forth in this Section, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver; and Lessee will provide to Authority a copy of said endorsement or endorsements or evidence that such endorsement is not necessary to prevent the invalidation of the insurance coverage by reason of such waiver.

ARTICLE 12 PROPERTY LOSS

Section 12.01. Obligation to Restore

If all or any part of the improvements located on (or constituting a part of) the Leased Premises are destroyed or damaged by any casualty during any term of this lease agreement, Lessee will promptly commence and thereafter prosecute diligently to completion the restoration of the same to the condition in which the destroyed or damaged portion existed prior to the casualty. Lessee will perform such restoration with at least as good workmanship and quality as the improvements being restored and in compliance with the provisions of Article 5 hereof. Notwithstanding the foregoing provisions of this paragraph to the contrary, if all of such improvements are wholly destroyed by any casualty or are so damaged or destroyed that, in Authority's good faith judgment reasonably exercised, it would be uneconomic to cause the same to be restored (and Authority shall give written notice of such determination to Lessee within ninety (90) days after the date casualty occurred), then Lessee shall not be obligated to restore such improvements and this lease agreement shall terminate as of the date of the casualty, and Authority shall be entitled to receive and retain the insurance proceeds for the loss.

If a property loss affecting the Leased Premises occurs, all insurance proceeds arising from policies maintained by Lessee for the damages arising from such casualty shall be distributed and paid directly to Authority, and Authority shall distribute such insurance proceeds to Lessee to the extent necessary to reimburse Lessee for costs incurred by Lessee in restoring the damaged Leased Premises in satisfaction of this Section 12.01, and any balance of such proceeds remaining after such restoration is complete shall be paid to Lessee within sixty (60) days after the restoration is complete and approved by Authority.

Section 12.02. Damage Near End of Term

If the Leased Premises are damaged to the extent of fifty per cent (50%) or destroyed in whole or in part during the last twenty-four (24) months of the lease term, Lessee shall have the right to terminate this lease agreement and not rebuild the improvements on the Leased Premises, in which event Authority shall be entitled to receive and retain the insurance proceeds from the loss or Lessee will rebuild as provided herein.

If the Port of Corpus Christi or its ship channel are damaged or destroyed in whole or in part to the extent that it is not economically or physically feasible to re-open the same, in Authority's sole judgment, then Authority shall have the option to terminate this lease agreement.

The party electing to terminate this lease agreement shall give notice to the other party of such election within ninety (90) days after the occurrence of such event. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice, and rent shall be adjusted as of the date of such notice of termination.

Section 12.03. Notice of Damage

Lessee shall immediately notify Authority of any destruction of or damage to the Leased Premises.

ARTICLE 13 CONDEMNATION

Section 13.01. Total Taking

If a total taking of the Leased Premises by condemnation occurs, then this lease agreement shall terminate as of the date the condemning authority takes lawful possession of the Leased Premises, and Authority is entitled to receive and retain the award for the taking of the Leased Premises.

Section 13.02. Partial Taking

If a partial taking of the Leased Premises by condemnation occurs, (a) this lease agreement will continue in effect as to the portion of the Leased Premises not taken, and (b) Lessee must promptly commence and thereafter prosecute diligently to completion the restoration of the remainder of Lessee's improvements located on (or constituting a part of) the Leased Premises to an economically viable unit with at least as good workmanship and quality as existed prior to the taking. In the event of a partial taking of the Leased Premises, Authority is entitled to receive and retain the award for the portion of the Leased Premises taken. In addition, upon a partial taking, the annual rent payable during the remainder of the term of this lease agreement (after the condemning authority takes lawful possession of the portion taken) shall be

reduced proportionally, giving due regard to the relative value of the portion of the Leased Premises taken as compared to the remainder thereof.

Section 13.03. Voluntary Conveyance

Nothing in this article prohibits Authority from voluntarily conveying all or part of the premises to a public utility, agency, or authority under threat of a taking under the power of eminent domain. Any such voluntary conveyance will be treated as a taking within the meaning of this Article.

Section 13.04. Notice of Proposed Taking

Lessee and Authority shall immediately notify the other of any proposed taking by condemnation of the Leased Premises.

ARTICLE 14 QUIET ENJOYMENT

Lessee, on paying the rent and all other sums called for herein and performing all of Lessee's other obligations contained herein, shall and may peaceably and quietly have, hold, occupy, use and enjoy the Leased Premises during the term of this lease agreement, subject to the provisions of this lease agreement. Authority agrees to warrant and forever defend Lessee's right to occupancy of the Leased Premises against the claims of any and all persons whomsoever lawfully claiming the same or any part thereof, by, through or under Authority (but not otherwise) subject to (a) the provisions of this lease agreement, (b) the lawful use of the Leased Premises by any mineral owner of part or all of the Leased Premises or a lessee in an oil, gas or mineral lease granted by any mineral owner of all or part of the Leased Premises, (c) all matters of record in Nueces County, Texas, and (d) any unrecorded easements or licenses executed by Authority to the extent the foregoing are validly existing and applicable to the Leased Premises. Lessee shall have no right to voluntarily permit any portion of the Leased Premises to be used for the purpose of drilling an oil or gas well without Authority's prior written consent.

ARTICLE 15 MEDIATION

Section 15.01. Mediation

Authority and Lessee agree they will, before taking any other legal action, including the filing of an action in State or Federal Court, attempt in good faith, to mediate in Corpus Christi, Texas, any controversy or claim arising out of or related to this lease agreement before a mediator to be agreed upon by Authority and Lessee. Authority and Lessee must agree upon a mediator within fifteen (15) days after a written request for mediation by either party, or either party may request any State District Judge sitting in Nueces County, Texas, to appoint a mediator and such appointment will be final. The mediator will schedule a mediation meeting at a time and place determined by the mediator. Authority and Lessee will each pay one-half of the costs of mediation to the mediator.

ARTICLE 16 GENERAL PROVISIONS

Section 16.01. Compliance

Lessee must comply with all federal, state and local laws, rules or regulations, including Authority's Tariff 100-A, applicable to Lessee's tenancy or operations on the Leased Premises. Lessee must comply with the requirements of Item 669 of Authority's Tariff 100-A to the extent the same apply to Lessee, its agents, servants and employees.

Section 16.02. Inspection

Lessee will permit Authority and Authority's agents, representatives or employees to enter on the Leased Premises for the purpose of inspection to determine whether Lessee is in compliance with the terms of this lease agreement, for purposes of maintaining, repairing or altering the premises, or for the purposes of showing the Leased Premises to prospective lessees, purchasers, mortgagees or beneficiaries under deeds of trust.

In an emergency, Authority, its agents, servants and employees, may use any means to open any gate or door into or on the Leased Premises without any liability for doing so. Entry into the Leased Premises by Authority for any purpose permitted herein shall not constitute a trespass nor an eviction (constructive or otherwise), nor entitle Lessee to any abatement or reduction of rent, nor constitute grounds for any claim by Lessee (and Lessee hereby waives any such claim) for damages for any injury to or interference with Lessee's business, for loss of occupancy or quiet enjoyment or for consequential damages.

Section 16.03. No Partnership

The relationship between Authority and Lessee at all times shall remain solely that of landlord and tenant and not be deemed a partnership or joint venture. This lease agreement is for the sole benefit of Authority and Lessee and no other person, entity or third party unless the benefit to a person, entity or third party is expressly stated in this lease agreement.

Section 16.04. Payments and Notices

All payments, notices, demands or requests from Lessee to Authority shall be given to Authority, Attention: Executive Director, P.O. Box 1541, Corpus Christi, Texas 78403, or at such other address as Authority shall request in writing. All payments, notices, demands or requests from Authority to Lessee shall be given to Lessee, Cornell Carriers, L.L.C., at P.O. Box 3274 Alice, TX 78333, or at such other address as Lessee shall request in writing. Any notice required or permitted under this lease agreement must be in writing. Any notice required by this lease agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage paid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile

transmission, or other commercially reasonable means and will be effective when actually received.

Section 16.05. Estoppel Certificate

On request, Lessee will execute an estoppel certificate that states the commencement date and termination date of the lease, describes any rights to extend the term of the lease, lists defaults by Authority and provides any other information reasonably requested.

Section 16.06. Abatement

Lessee's covenant to pay rent and additional rent and Authority's covenants are independent. Except as otherwise provided, Lessee is not entitled to abatement of rent or additional rent for any reason.

Section 16.07. Abandoned Property

Authority may retain, destroy or dispose of any property left on the Leased Premises at the expiration or termination of this lease.

ARTICLE 17 MISCELLANEOUS

Section 17.01. Parties Bound

This agreement binds and inures to the benefit of the parties and their respective legal representatives, heirs, distributees, successors and assigns where assignment is permitted by this lease agreement.

Section 17.02. Applicable Law

This agreement must be construed and its performance enforced under Texas law. Venue of any action arising out of this lease agreement will be in Nueces County, Texas.

Section 17.03. Severability

If any part of this lease agreement is for any reason found to be unenforceable, all other portions nevertheless remain enforceable.

Section 17.04. Time of Essence

Time is of the essence with respect to each date or time specified in this lease agreement by which an event is to occur.

Section 17.05. Rights and Remedies Cumulative

The rights and remedies provided by this lease agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise. All the rights and remedies may be exercised and enforced concurrently or whenever occasion for the exercise arises.

Section 17.06. Attorneys' Fees

In the event Authority or Lessee breach or default upon any of the terms of this lease agreement and the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the reasonable attorneys' fees incurred by the prevailing party.

Section 17.07. Captions

All captions in this lease agreement are for reference and convenience only and shall not modify or affect the provisions of this lease agreement in any manner.

Section 17.08. Public Disclosure

Authority is a governmental authority subject to the requirements of the Texas Open Meetings Act and the Texas Public Information Act (Texas Government Code, chapters 551 and 552), and as such Authority is required to disclose to the public (upon request) this lease agreement and certain other information and documents relating to the consummation of the transactions contemplated hereby. In this regard, Lessee agrees that the disclosure of this lease agreement or any other information or materials related to the consummation of the transactions contemplated hereby to the public by Authority as required by the Texas Open Meetings Act, Texas Public Information Act or any other law will not expose Authority (or any party acting by, through or under Authority) to any claim, liability or action by Lessee.

Section 17.09. Brokers

Lessee hereby warrants and represents unto Authority that it has not incurred or authorized any brokerage commission, finder's fees or similar payments in connection with this lease agreement, and agrees to defend, indemnify and hold harmless Authority from and against any claim for brokerage commission, finder's fees or similar payment arising by virtue of authorization by, through or under Lessee in connection with this lease agreement.

Section 17.10. Authority

The person executing this lease agreement on behalf of the Lessee personally warrants and represents unto Authority that (a) (if applicable) Lessee is a duly organized and existing legal entity, in good standing in the state of Texas, (b) Lessee has full right and authority to execute, deliver and perform this lease agreement, (c) the person executing this lease agreement on behalf of Lessee was authorized to do so, and (d) upon request of Authority, such person will deliver to Authority satisfactory evidence of his or her authority to execute this lease agreement on behalf of Lessee.

Section 17.11. Recording

Neither this lease agreement (including any exhibit hereto) nor any memorandum shall be recorded without the prior written consent of Authority.

Section 17.12. Interpretation

Both Authority and Lessee and their respective legal counsel have reviewed and have participated in the preparation of this lease agreement. Accordingly, no presumption will apply in favor of either Authority or Lessee in the interpretation of this lease agreement or in the resolution of the ambiguity of any provision hereof.

Section 17.13. Force Majeure

In the event either party hereto shall be delayed or hindered in or prevented from the performance required hereunder by reason of *force majeure*, which includes strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God, or other reason of like nature not the fault of the party delayed in performing work or doing acts (hereinafter "*force majeure*"), such party shall be excused for the period of time equivalent to the delay caused by such *force majeure*.

Notwithstanding the foregoing, any extension of time for *force majeure* shall be conditioned upon the party seeking an extension of time and delivering written notice of such *force majeure* to the other party within five (5) calendar days of the event causing the *force majeure*, and the maximum period of time which a party may delay any act or performance of work due to *force majeure* shall be sixty (60) days.

Section 17.14. Contractual Relationship

Nothing contained in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against Authority or Lessee.

Section 17.15. Entire Agreement

This lease agreement, including any exhibits, constitutes the parties' final and mutual agreement. There are no written or oral representations or understandings that are not fully

expressed in this lease agreement. No change, waiver or discharge is valid unless in a writing that is signed by the party against whom it is sought to be enforced.

IN TESTIMONY WHEREOF, this lease agreement is executed in duplicate originals, either of which shall be deemed to be an original, at Corpus Christi, Texas, on the date first above mentioned.

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS**

By: _____
John P. LaRue
Executive Director

"Authority"

CORNELL CARRIERS, L.L.C.

By: _____
Name: _____
Title: _____

"Lessee"

|
STATE OF TEXAS §
§
COUNTY OF NUECES §

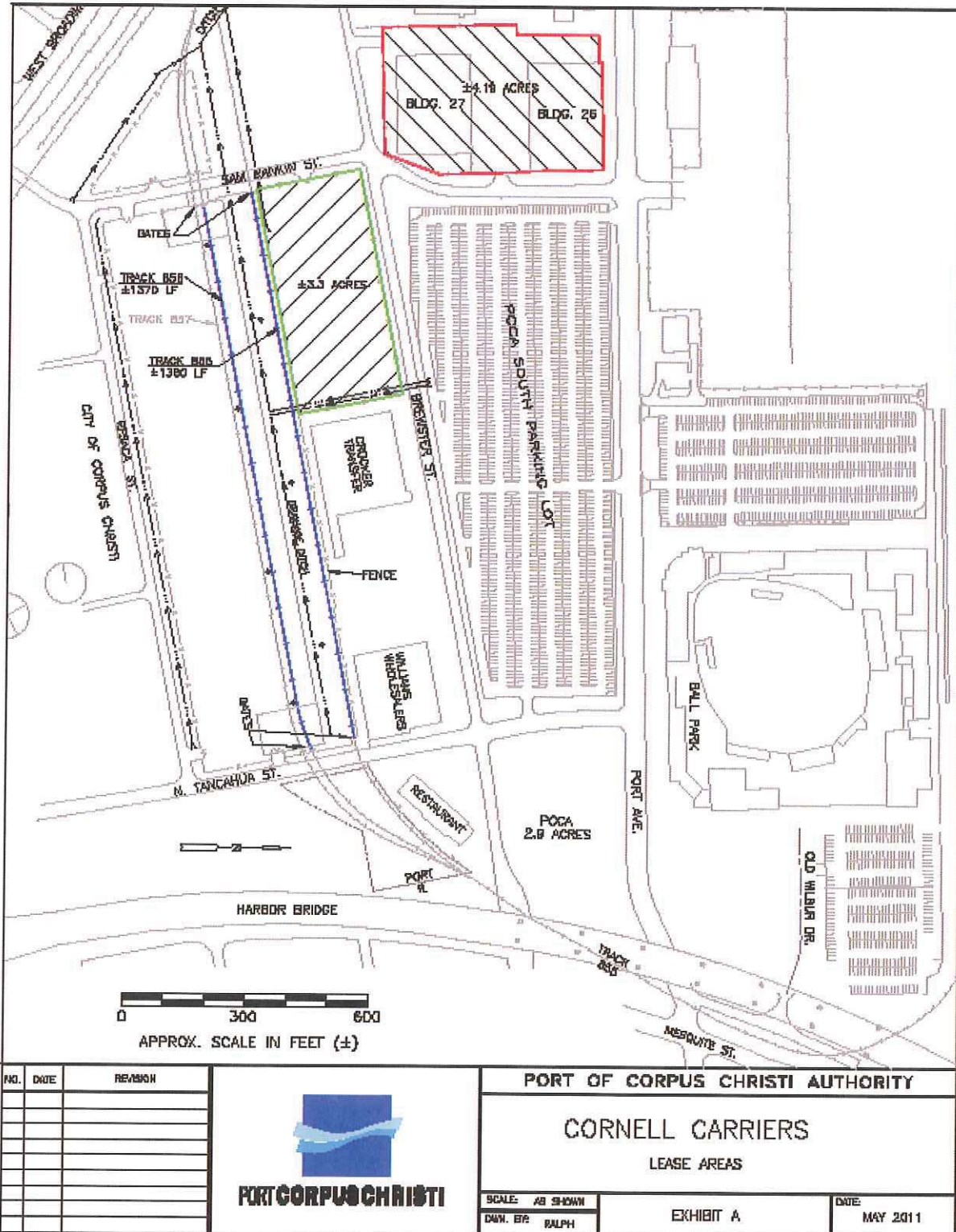
This instrument was acknowledged before me on the 10th day of May, 2011, by JOHN P. LARUE, Executive Director of the Port of Corpus Christi Authority of Nueces County, Texas, on behalf of said Authority.

NOTARY PUBLIC, STATE OF TEXAS

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2011, by _____, _____ of Cornell Carriers, L.L.C., a Texas limited liability corporation, on behalf of said corporation.

NOTARY PUBLIC, STATE OF _____





John P. LaRue
EXECUTIVE DIRECTOR

May 10, 2011

The Honorable Mike Carrell
The Honorable Richard M. Borchard
The Honorable Judy Hawley
The Honorable Robert J. Gonzalez, Sr.
The Honorable Francis I. Gandy, Jr.
The Honorable Robert Kostelnik
The Honorable Mike Scott
Port Commissioners
Port of Corpus Christi Authority

Subject: ***AGENDA ITEM NO. 10-B***
Approve Change Order #8 to Ballenger Construction Co.

Dear Commissioners:

Ballenger Construction Co. is currently 76% complete with the final phase of the Joe Fulton International Trade Corridor project. The newly constructed south lanes of Navigation Blvd. have been opened to traffic, and the north lanes are currently under construction.

The scope of work for this change order is to fill in a low-lying strip of land approximately one-half mile long and 60 feet wide adjacent to the north travel lane right-of-way as part of our storm water drainage plans. This will facilitate the installation of future utilities in and the maintenance of the area between the roadway and the adjacent dredge material placement area levee.

Ballenger's unit price for this work is \$9.74 per cubic yard and staff considers that fair and reasonable in light of the soft and difficult working conditions in this area and the added transportation cost of trucking material to the site due to higher fuel prices. The estimated amount of fill material needed is 10,889 cubic yards. However, Ballenger will be paid based on the actual truck yards delivered and placed.

Staff recommends approval of Change Order #8 (attached) in the amount of \$106,058.86. This amount is within the contingency approved for this project. This item is included on the agenda of the May 10 commission meeting for your consideration and action. Should you have any questions, please call me.

Sincerely,

John P. Baker

John P. LaRue
Executive Director

Attachment



PORTCORPUS CHRISTI

CHANGE ORDER

Change Order No. 8

Date: May 5, 2011

Page: 1 of 1

PROJECT: Joe Fulton International Trade Corridor-Phase II
PROJECT NUMBER: 09-026A TXDOT: STP 2009 (486) ES CONTROL: 0916-35-156
CONTRACTOR: Ballenger Construction Company

This contract will be modified to include the changes listed below, and the contract price and/or contract time will be changed to reflect these modifications:

Add Pay Item 126, Item Code 132, EMBANKMENT (FINAL) (ORD COMP) (TY D-1). Place 10,889 CY @ \$9.74 of embankment from sta. 472+50 to sta. 496+50, to backfill areas along pipeline right of way. Total quantity to be recovered at completion of embankment placement.

Increase in Contract Price: \$ 106,058.86

Increase in Contract Time: 0 days

Original Contract Amount: \$ 8,173,971.96

Total Amount of Previous Change Orders: \$ 62,926.92

Amount of this Change Order: \$ 106,058.86

Revised Contract Amount: \$ 8,342,957.74

Notice to Proceed Date: January 18, 2010

Original Contract Time: 587 days

Previous Changes in Contract Time: 0 days

Calendar Days for this Change Order: 0 days

Revised Contract Time: 587 days

Required Completion Date: August 28, 2011

The change in contract price incorporates all costs for this Change Order including but not limited to the following—direct and indirect costs, overhead, profit, insurance, bonds, labor, materials, equipment, supervision, and delays. This Change Order is accepted and executed by the Port of Corpus Christi Authority and Ballenger Construction Co., Inc., as signed by their duly authorized representatives below.

Port of Corpus Christi Authority

Ballenger Construction Company Inc.

By: _____
David L. Michaelson, P.E.
Chief Engineer

By: _____
Joe C. Ballenger
President

By: _____
Greg Brubeck, P.E.
Director of Engineering Services

Date: _____

Date: May 5, 2011





Form 2146 (Rev. 7/2007)

TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER:

81. CONTRACTOR: **Ballenger Construction**2. Change Order Work Limits: Sta. **472+50** to Sta. **496+50**3. Type of Change(on federal-aid non-exempt projects): ☐ Minor ☒ (Major/Minor)4. Reasons: **6D** (3 Max. - In order of importance - Primary first)

5. Describe the change and the reason for the change order. When necessary, include exceptions to this agreement.

Add Pay Item 126, Item Code 132, EMBANKMENT (FINAL) (ORD COMP) (TY D-1). Place 10,889 CY @ \$9.74 of embankment from sta. 472+50 to sta. 496+50, to backfill areas along pipeline right of way. Total quantity to be recovered at completion of embankment placement.

CCSJ: **0916-35-156**Project: **STP 2009 (486) ES**Highway: **Joe Fulton**County: **Nueces**District: **16**Contract
Number:Federal Letter of
Authority (FLOA): ☐State Letter of Authority
(SLOA): ☐

6. New or revised plan sheet(s) are attached and numbered:

Each signatory hereby warrants that each has the authority to execute this Change Order.

By signing this change order, the contractor agrees to waive any and all claims for additional compensation due to any and all other expenses; additional changes for time, overhead and profit; or loss of compensation as a result of this change. Further, the contractor agrees that this agreement is made in accordance with Item 4 and the Contract. Exceptions should be noted in the response for #5 above.

THE CONTRACTOR

Date

By

Typed/Printed Name

Typed/Printed Title

The following information must be providedTime Ext. #: **0** Days added on this C.O.: **0**Amt. added by this change order: **\$106,058.86****For TxDOT use only:**Days FHWA non-participating: **0**

Change Order portion

FHWA non-participating: **\$106,058.86**

Change Order portion

financed by 3rd party funding:

RECOMMENDED FOR EXECUTION:

PCCA Chief Engineer

Date

Area Engineer

☐ APPROVED

Date

☐ REQUEST APPROVAL

Engineers Seal:

District Engineer

☐ APPROVED

Date

☐ REQUEST APPROVAL

TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER:

8

CCSJ: 0916-35-156

TABLE A: Force Account Work and Materials Placed into Stock Estimated Cost:

Paid by Invoice? (Yes ☐ No ☐)

[illegible]

TABLE B: Contract Items

100% Port of Corpus Christi Funded				ORIGINAL + PREVIOUSLY REVISED		NEW		
ITEM	DESCRIPTION	UNIT	UNIT PRICE	QUANTITY	ITEM COST	QUANTITY	ITEM COST	OVERRUN/ UNDERRUN
132	INCREASE EMBANKMENT (FINAL) (ORD COMP) (TY D-1)				\$0.00	10,889.00	\$9.74	\$106,058.86
TOTALS					\$0.00		\$9.74	\$106,058.86

89

EMBANKMENT

COST	BID	MARKUP	%			
\$ 0.75	\$ 1.66	\$ 0.91	55%	TOTAL	\$	9.74

LOAD & HAUL

COST	PROFIT	OVERHEAD	TOTAL
	5.39%	6.00%	
\$ 7.25	\$0.39	\$ 0.44	\$ 8.08

STA	STA	LENGTH	WIDTH	DEPTH	CY	TOTAL
47250	49650	2400	35	3.5	10888.89	\$ 106,057.79



John P. LaRue
EXECUTIVE DIRECTOR

May 10, 2011

The Honorable Mike Carrell
The Honorable Richard M. Borchard
The Honorable Judy Hawley
The Honorable Robert J. Gonzalez, Sr.
The Honorable Francis I. Gandy, Jr.
The Honorable Robert Kostelnik
The Honorable Mike Scott
Port Commissioners
Port of Corpus Christi Authority

Subject: ***AGENDA ITEM NO.10-C***
Approve Change Order No. 4 to
Haas-Anderson Construction on the Reconstruction
of Navigation Boulevard Contract

Dear Commissioners:

On October 12, 2010, the Port awarded a contract to Haas-Anderson Construction, Ltd., to reconstruct Navigation Boulevard between Cargo Dock 9 and the Fulton Corridor. The contract award amount was \$1,704,000.00 with a 5% contingency in accordance with our standard contingency guidelines for rehabilitation projects. The original scope of the project included the total reconstruction and widening of the existing 20-foot wide pavement to 28 feet to facilitate easier access for trucks moving large cargos to and from our open storage yards.

During construction of this project, portions of three existing pipelines scheduled for removal were discovered to be located much deeper (below the water table) than anticipated. To minimize the additional costs to totally remove these pipelines, Port staff elected to leave sections of the pipelines in-place once any residual contents are cleaned out and properly disposed of and the pipelines left in the ground filled with grout. The original contract estimate was \$194,607.50 to remove the pipelines. However, due to the differing site conditions, the actual cost of the work was \$311,924.46. Staff was able to negotiate this price with only a 1% markup for overhead and profit.

In addition, the attached change order includes additional fencing, repair of unexpected soft spots in the subgrade, and added work on several driveways. Staff recommends approval of Change Order #4 in the amount of \$143,323.37 and an increase in the project contingency from the original \$85,200.00 to a new total of \$238,523.37. This amount allows \$10,000.00 for any additional work that may be needed to complete this project.

This item is included on the agenda of the May 10 commission meeting for your consideration and official action. Should you have any questions, please call me.

Sincerely,



John P. LaRue
Executive Director

Attachment



PORTCORPUSCHRISTI

CHANGE ORDER

Change Order No. 4

Date: May 10, 2011

Page: 1 of 2

PROJECT: Reconstruction of Navigation Blvd between Cargo Dock 9 & Fulton Corridor
PROJECT NUMBER: 09-028A
CONTRACTOR: Haas-Anderson Construction, Ltd.

This contract will be modified to include the changes listed below, and the contract price and/or contract time will be changed to reflect these modifications:

See attached description of modifications and breakdown of charges on Page 2.

Increase in Contract Price:	\$ 143,323.27
Increase in Contract Time:	16 days

Original Contract Amount:	\$ 1,704,000.00
Total Amount of Previous Change Orders:	\$ 73,040.25
Amount of this Change Order:	\$ 143,323.27
Revised Contract Amount:	\$ 1,920,363.52

Notice to Proceed Date:	December 1, 2010
Original Contract Time:	160 days
Previous Changes in Contract Time:	15 days
Calendar Days for this Change Order:	16 days
Revised Contract Time:	191 days
Required Completion Date:	June 10, 2011

The change in contract price incorporates all costs for this Change Order including but not limited to the following—direct and indirect costs, overhead, profit, insurance, bonds, labor, materials, equipment, supervision, and delays. This Change Order is accepted and executed by the Port of Corpus Christi Authority and Haas-Anderson Construction, Ltd., as signed by their duly authorized representatives below.

Port of Corpus Christi Authority

Haas-Anderson Construction, Ltd.

By: _____
 Bert Perez, P.E.
 Project Engineer

By: _____
 Darryl O. Haas
 President

By: _____
 Greg Brubeck, P.E.
 Director of Engineering Services

Date: _____

Date: May 10, 2011



PROJECT: Reconstruction of Navigation Blvd between Cargo Dock 9 & Fulton Corridor
PROJECT NUMBER: 09-028A
CONTRACTOR: Haas-Anderson Construction, Ltd.

1. Repairs of 1,394 SY of soft spots in the existing subgrade.

Increase	\$ 14,079.91
Increase	3 day

2. Additional cost associated with pipeline removal activities due to change in condition.

Increase	\$ 117,316.86
Increase	10 day

3. Additional 25 linear feet of fence replacement.

Increase	\$ 575.00
----------	-----------

4. Additional 311 square yards of HMAC paved driveways.

Increase	\$ 11,351.50
Increase	3 day

TOTAL INCREASE IN CONTRACT PRICE	\$ 143,323.27
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TOTAL INCREASE IN CONTRACT TIME	16 Days
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2011 Financial Review

**Three Months Ended
March 31, 2011**

05/10/11

2011 Financial Review

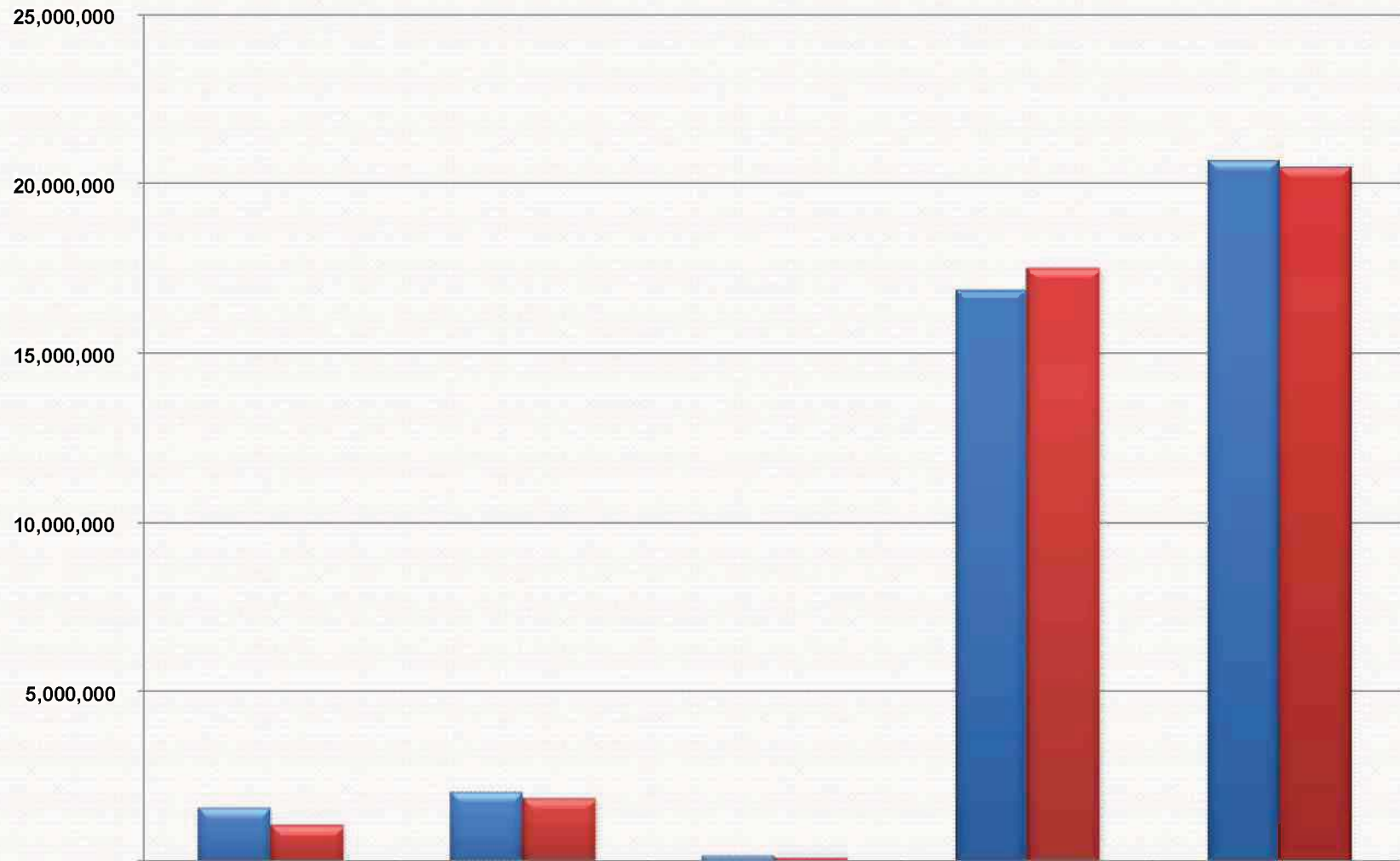


- **Cargo Tonnage**
- **Operating Budget - Summary**
- **Operating Revenues**
- **Operating Expenses**
- **Oil Docks – Public**
- **Oil Docks – Private**
- **Cargo Docks**
- **Conference Center**
- **Bulk Terminal**
- **Property & Buildings**
- **NSI**
- **Other Facilities**
- **Port Security**
- **General & Administrative**
- **Capital Expenditures**

2011 Financial Review



Cargo Tonnage

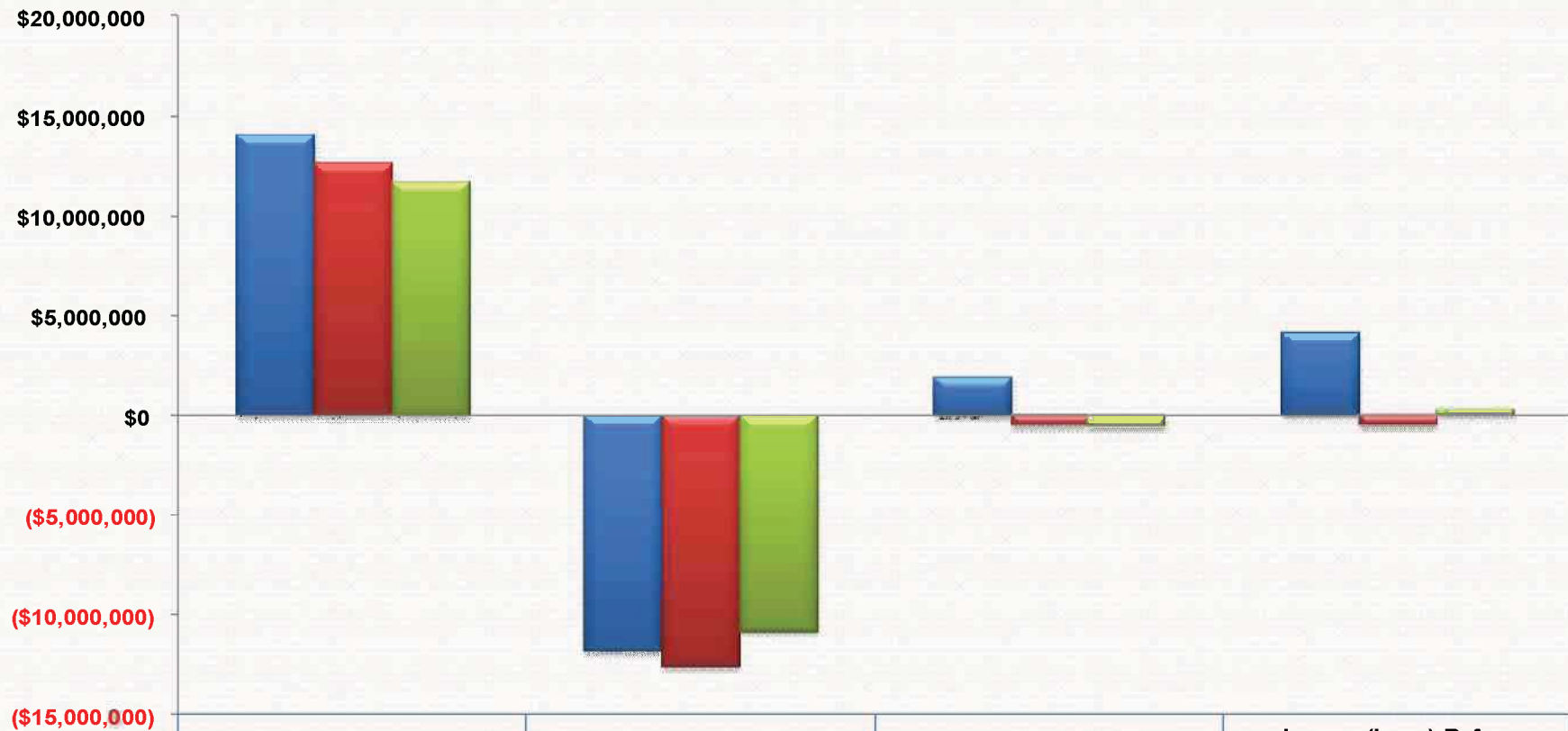


	Bulk Grain	Dry/Liquid/ Break Bulk	Petroleum Coke	Petroleum/ Chemical	Total
2011	1,579,851	2,034,514	177,047	16,900,458	20,691,870
2010	1,069,641	1,833,727	104,168	17,502,344	20,509,880

2011 Financial Review



Operating Budget Summary

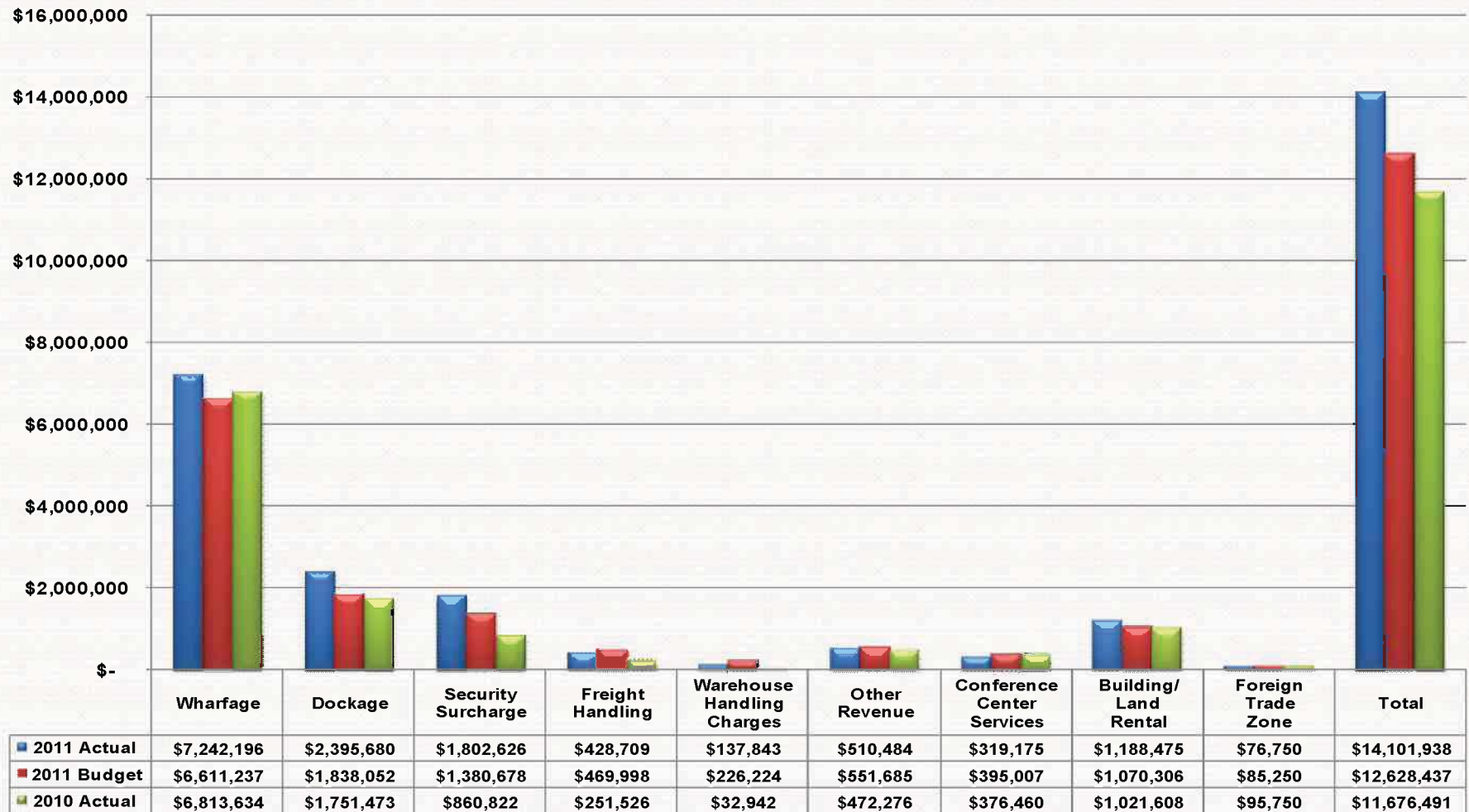


	Operating Revenue	Operating Expenses	Non-Operating Rev(Exp)	Income(Loss) Before Contributions
2011 Actual	\$14,101,938	(\$11,830,807)	\$1,877,134	\$4,148,265
2011 Budget	\$12,628,437	(\$12,603,433)	(\$503,771)	(\$478,767)
2010 Actual	\$11,676,491	(\$10,823,714)	(\$548,292)	\$304,485

2011 Financial Review



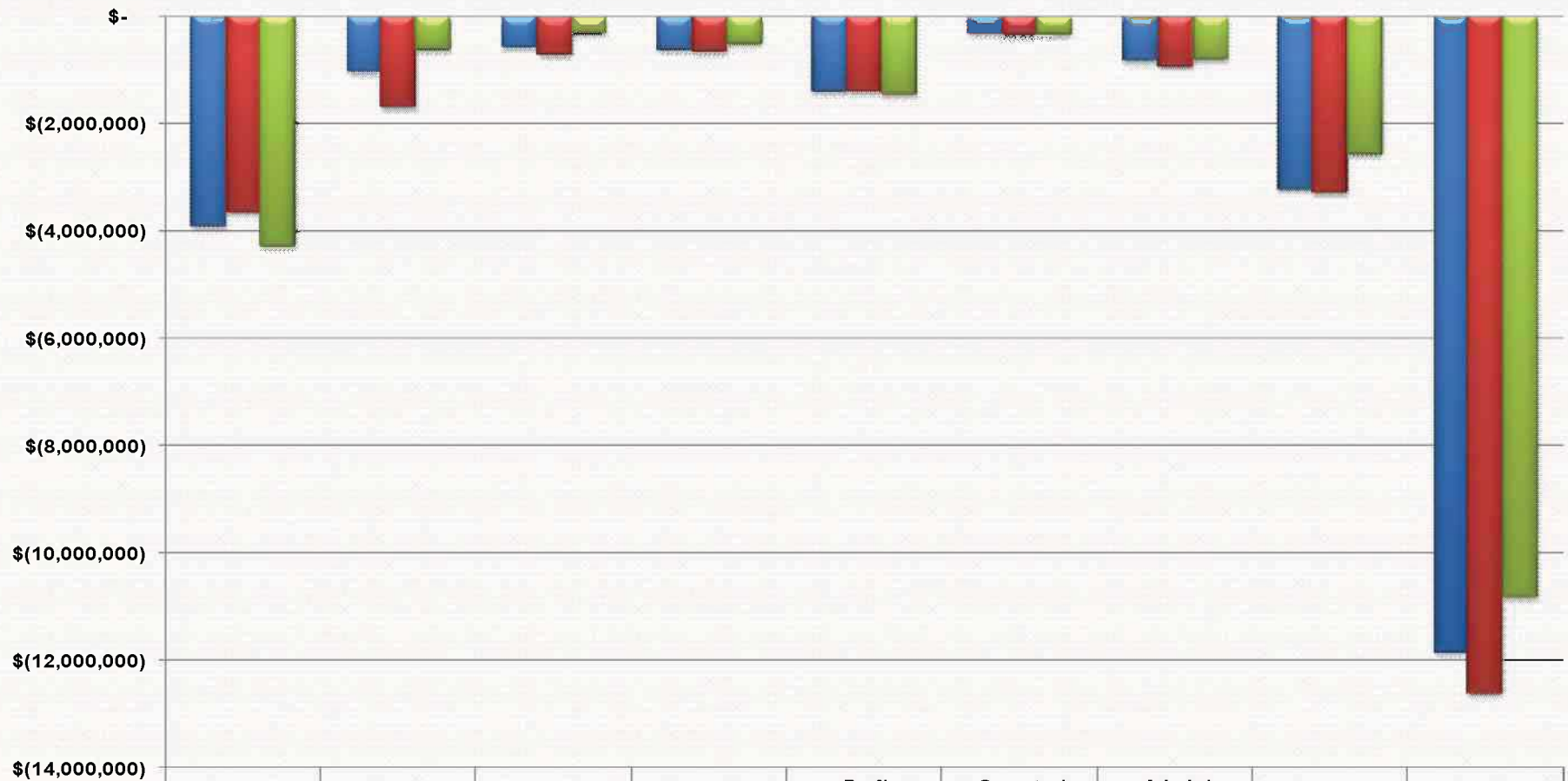
Operating Revenues



2011 Financial Review



Operating Expenses

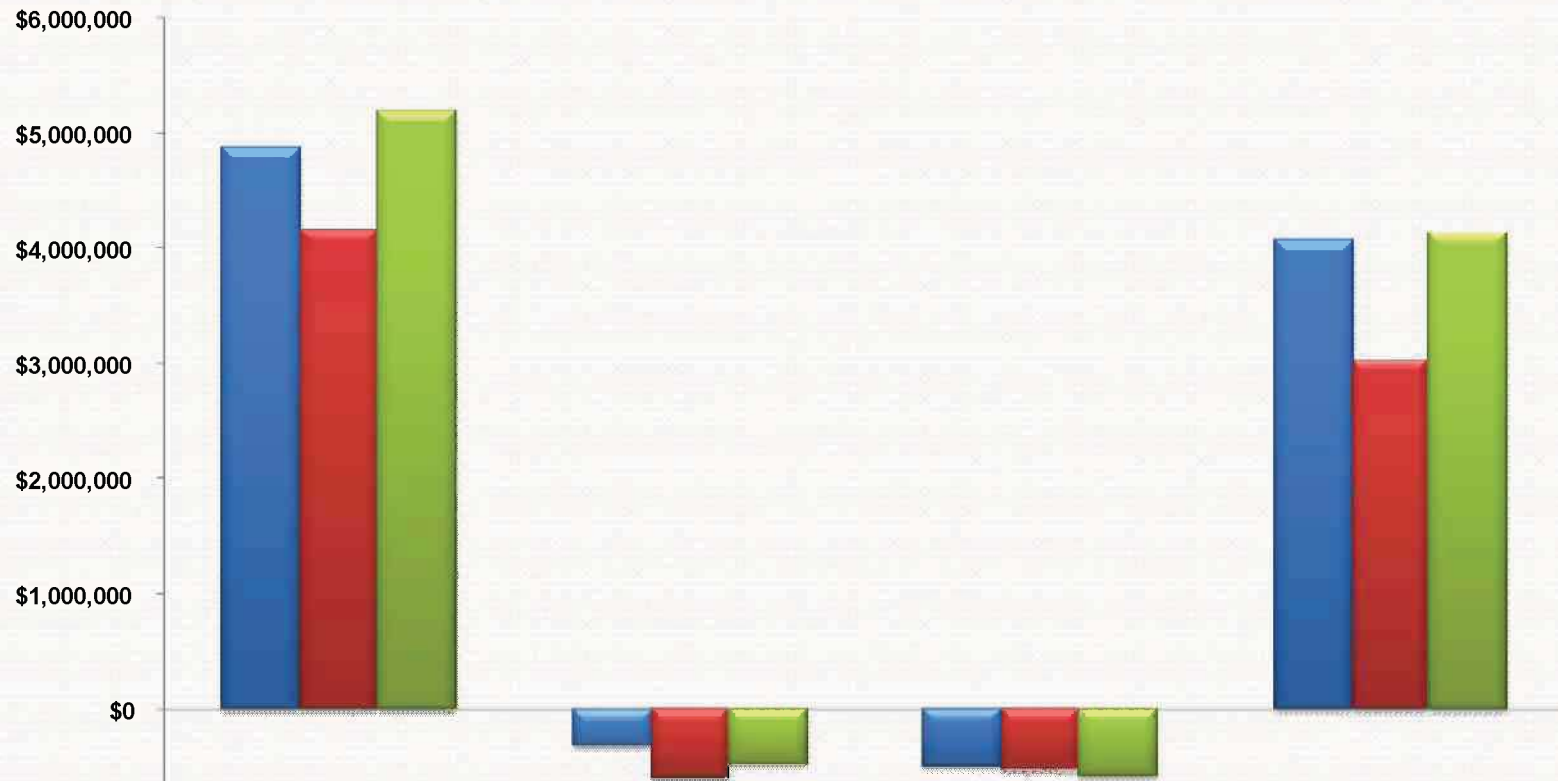


2011 Financial Review



● Oil Docks - Public

- Wharfage and Dockage are above budget
- Maintenance costs are down from budget due to maintenance projects



(\$1,000,000)

	Operating Revenue	Operating Expenses	Non-Operating Rev(Exp)	Income(Loss) Before Contributions
2011 Actual	\$4,875,374	(\$311,545)	(\$487,283)	\$4,076,546
2011 Budget	\$4,167,799	(\$600,072)	(\$525,000)	\$3,042,727
2010 Actual	\$5,196,241	(\$476,926)	(\$586,323)	\$4,132,992

2011 Financial Review



- Oil Docks - Private
- Wharfage is slightly up over budget



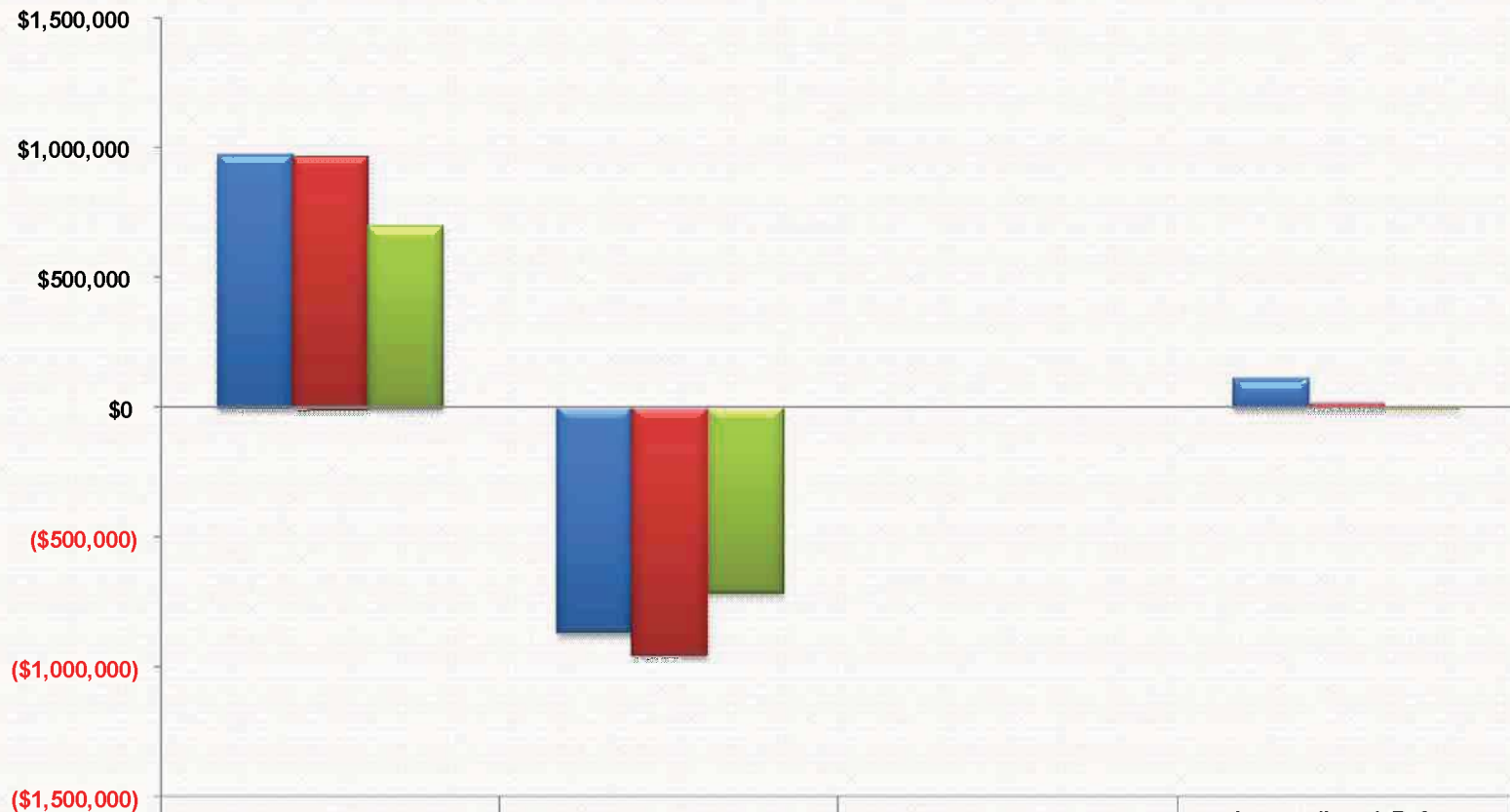
	Operating Revenue	Operating Expenses	Non-Operating Rev(Exp)	Income(Loss) Before Contributions
2011 Actual	\$2,715,467	(\$15,811)	\$0	\$2,699,656
2011 Budget	\$2,607,735	(\$24,501)	\$0	\$2,583,234
2010 Actual	\$3,141,933	(\$28,194)	\$0	\$3,113,739

2011 Financial Review



● Dry Cargo Docks

- Revenues on target with budget projections
- Expenses slightly down from budget



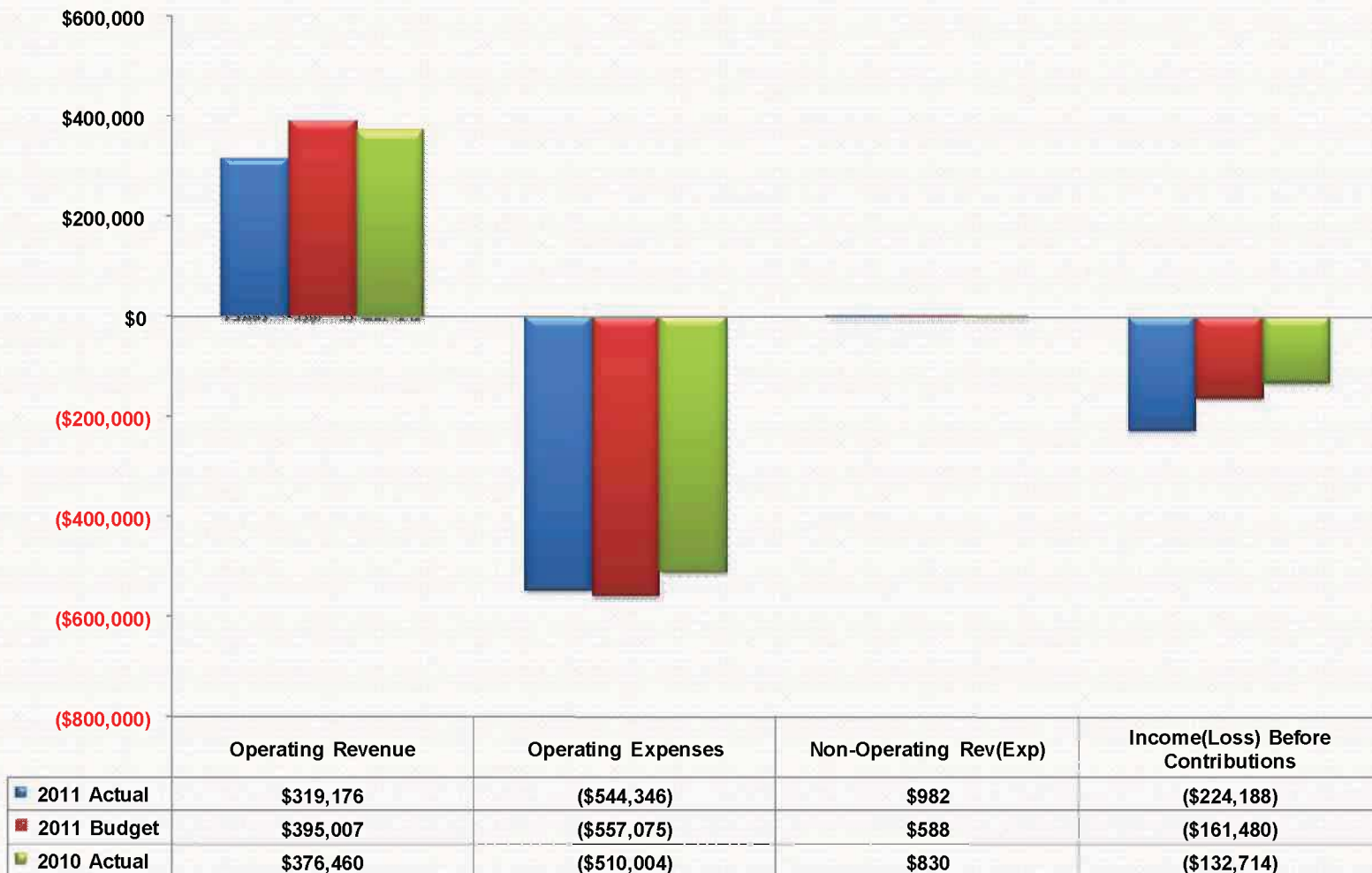
	Operating Revenue	Operating Expenses	Non-Operating Rev(Exp)	Income(Loss) Before Contributions
2011 Actual	\$974,415	(\$864,000)	\$0	\$110,415
2011 Budget	\$971,637	(\$954,490)	\$0	\$17,147
2010 Actual	\$701,107	(\$710,930)	\$0	(\$9,823)

2011 Financial Review



● Conference Center

- Revenues are below budget
- Expenses are closely tracking budget

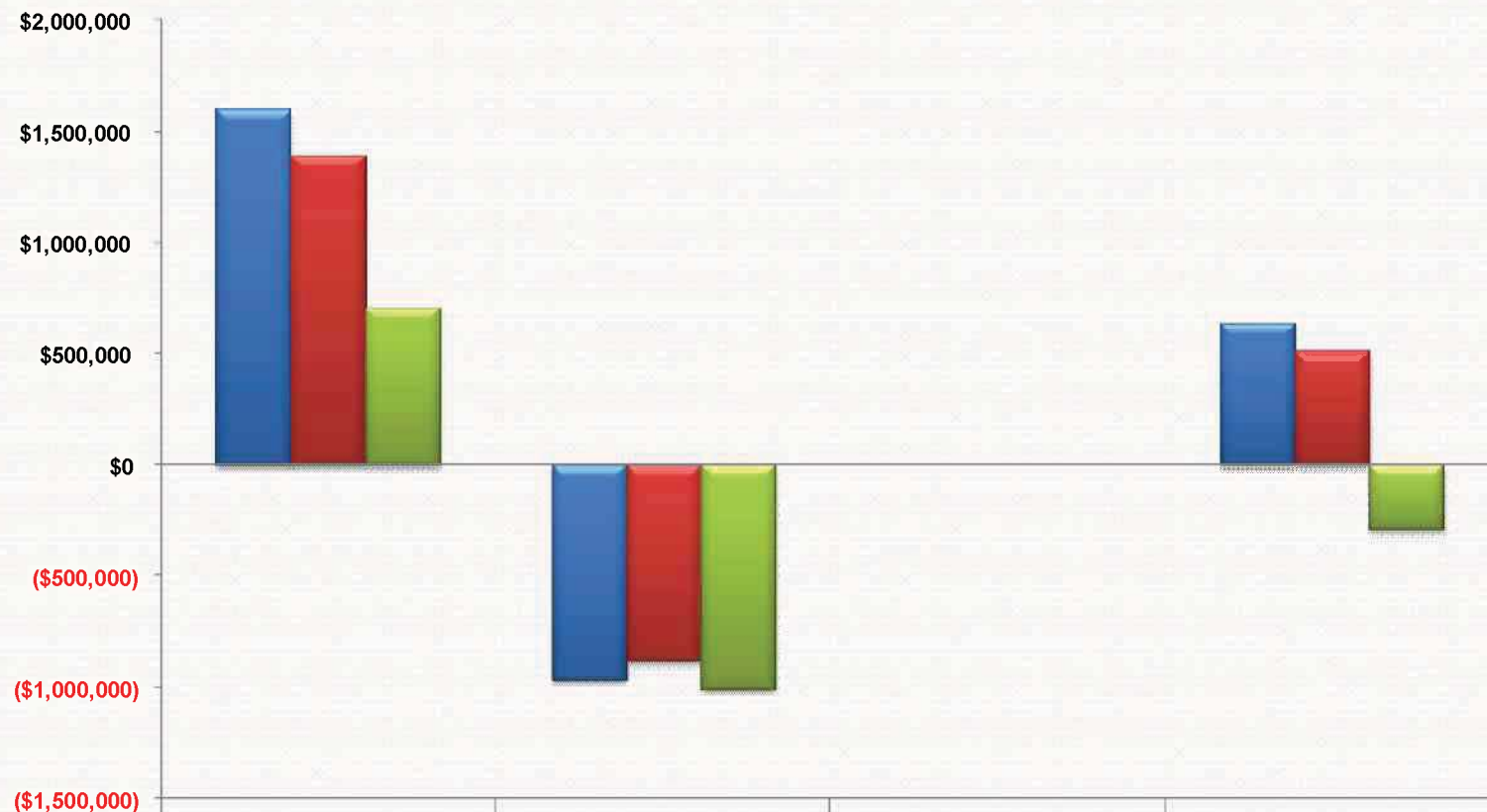


2011 Financial Review



● Bulk Terminal

- Dockage and land rental are tracking above budget
- Expenses are slightly up over budget



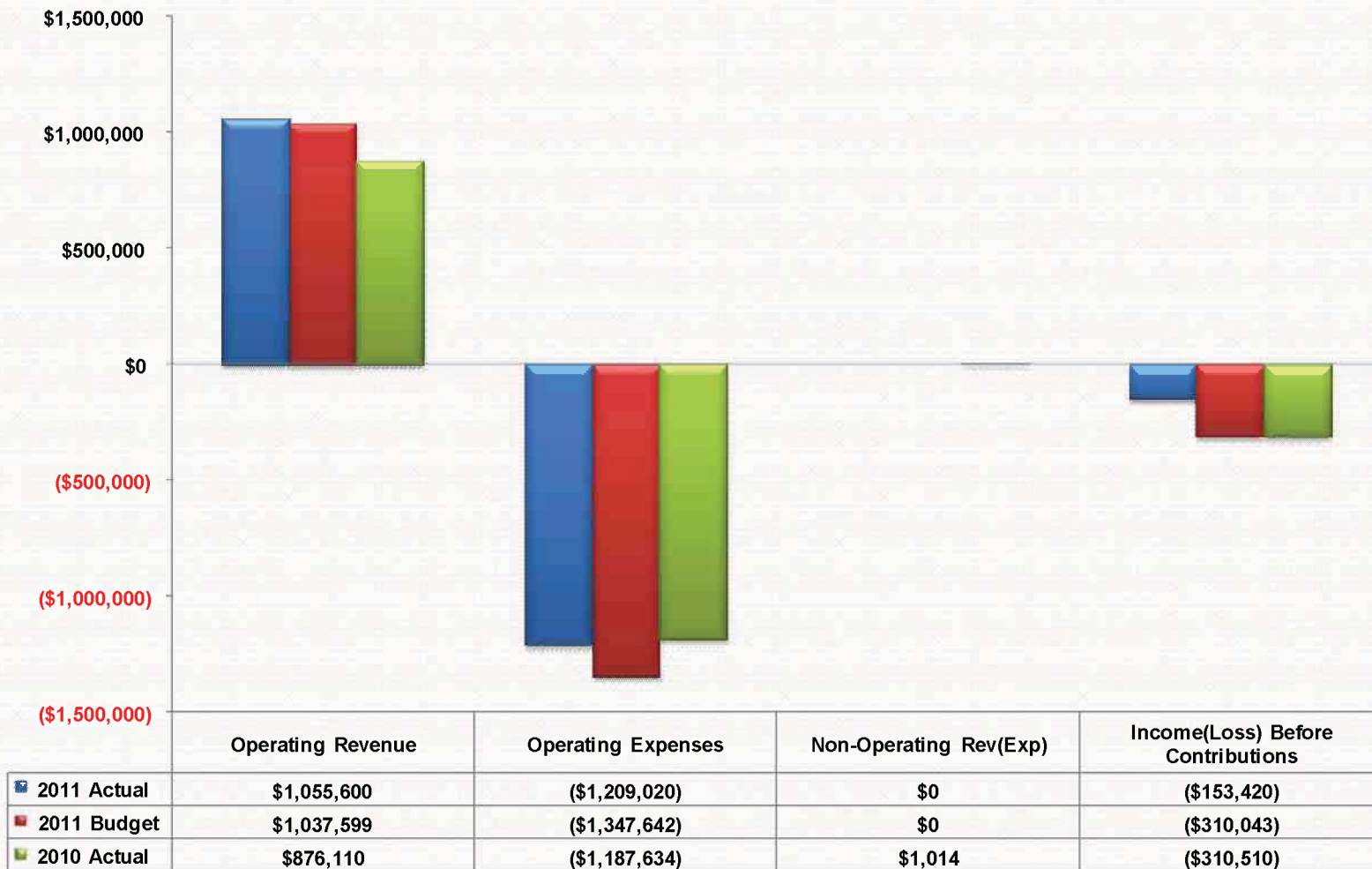
	Operating Revenue	Operating Expenses	Non-Operating Rev(Exp)	Income(Loss) Before Contributions
2011 Actual	\$1,600,555	(\$964,717)	\$0	\$635,838
2011 Budget	\$1,390,800	(\$879,758)	\$0	\$511,042
2010 Actual	\$710,362	(\$1,004,177)	\$0	(\$293,815)

2011 Financial Review



● Property & Buildings

- Maintenance expenses are tracking below budget

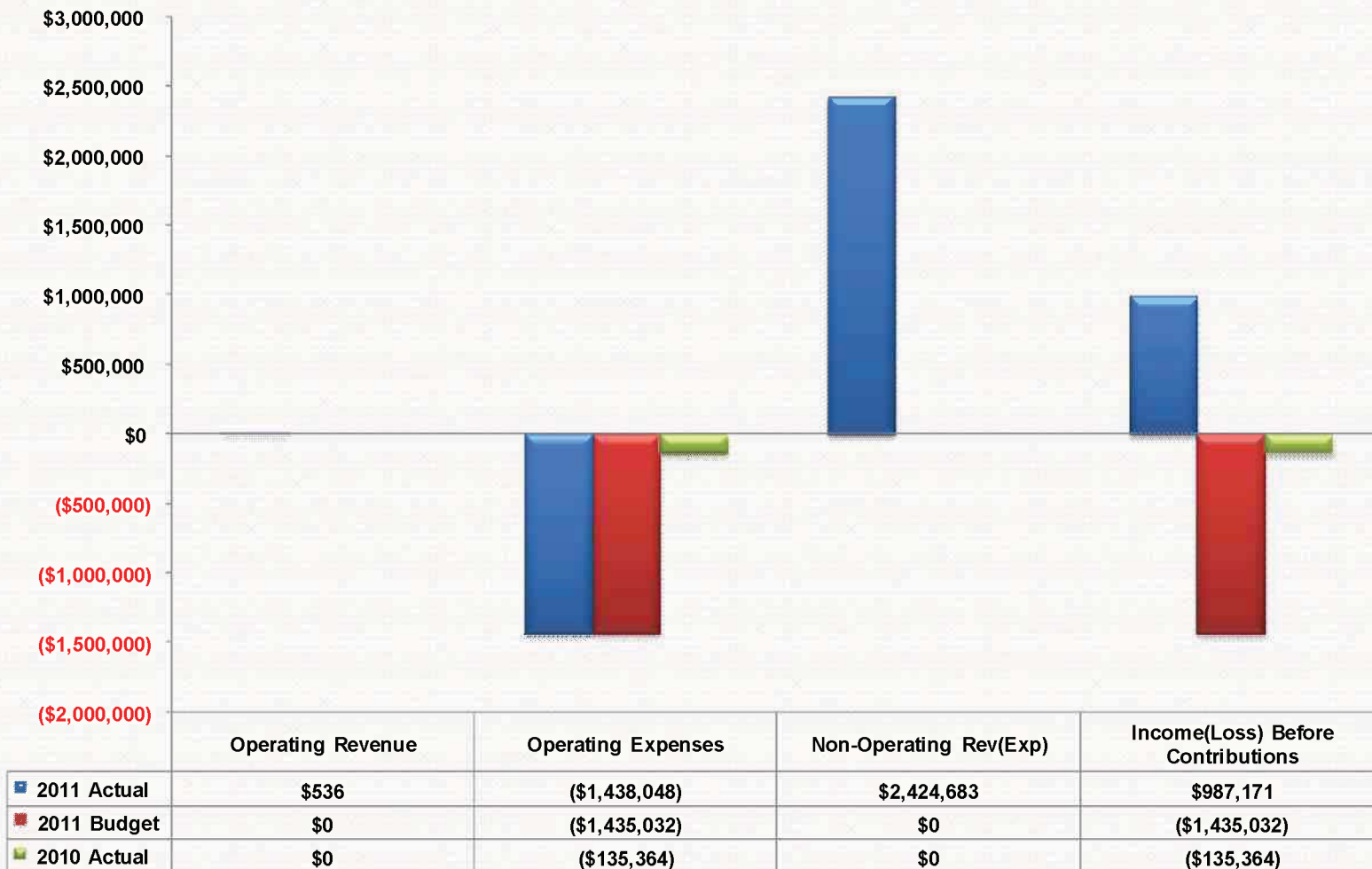


2011 Financial Review



● NSI

- Expenses tracking with budget
- Gain on sale of small craft pier

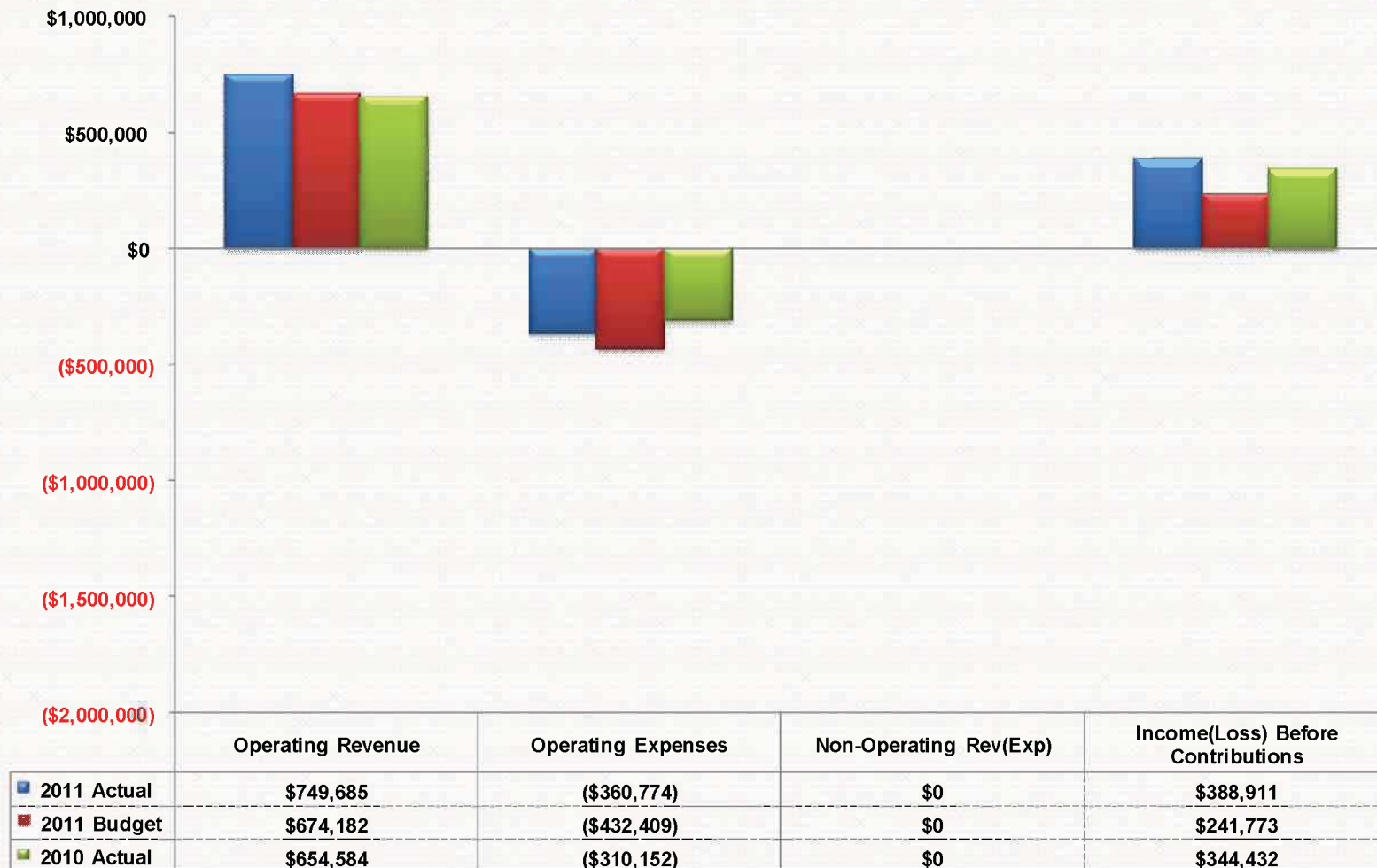


2011 Financial Review



● Other Facilities

- Railroad facility use fees and railcar revenues exceed budget projections
- Maintenance expenses tracking below budget

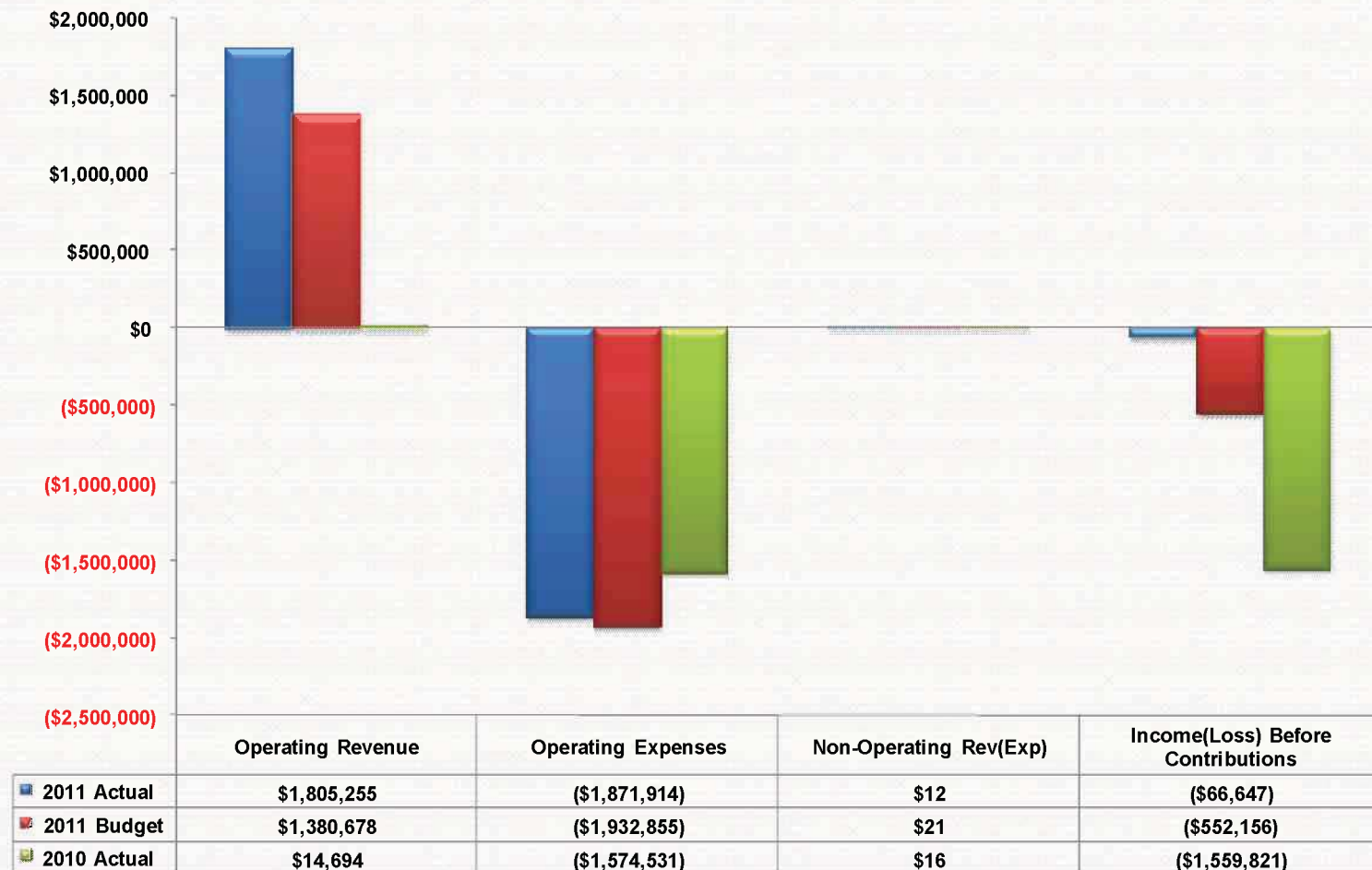


2011 Financial Review



● Port Security

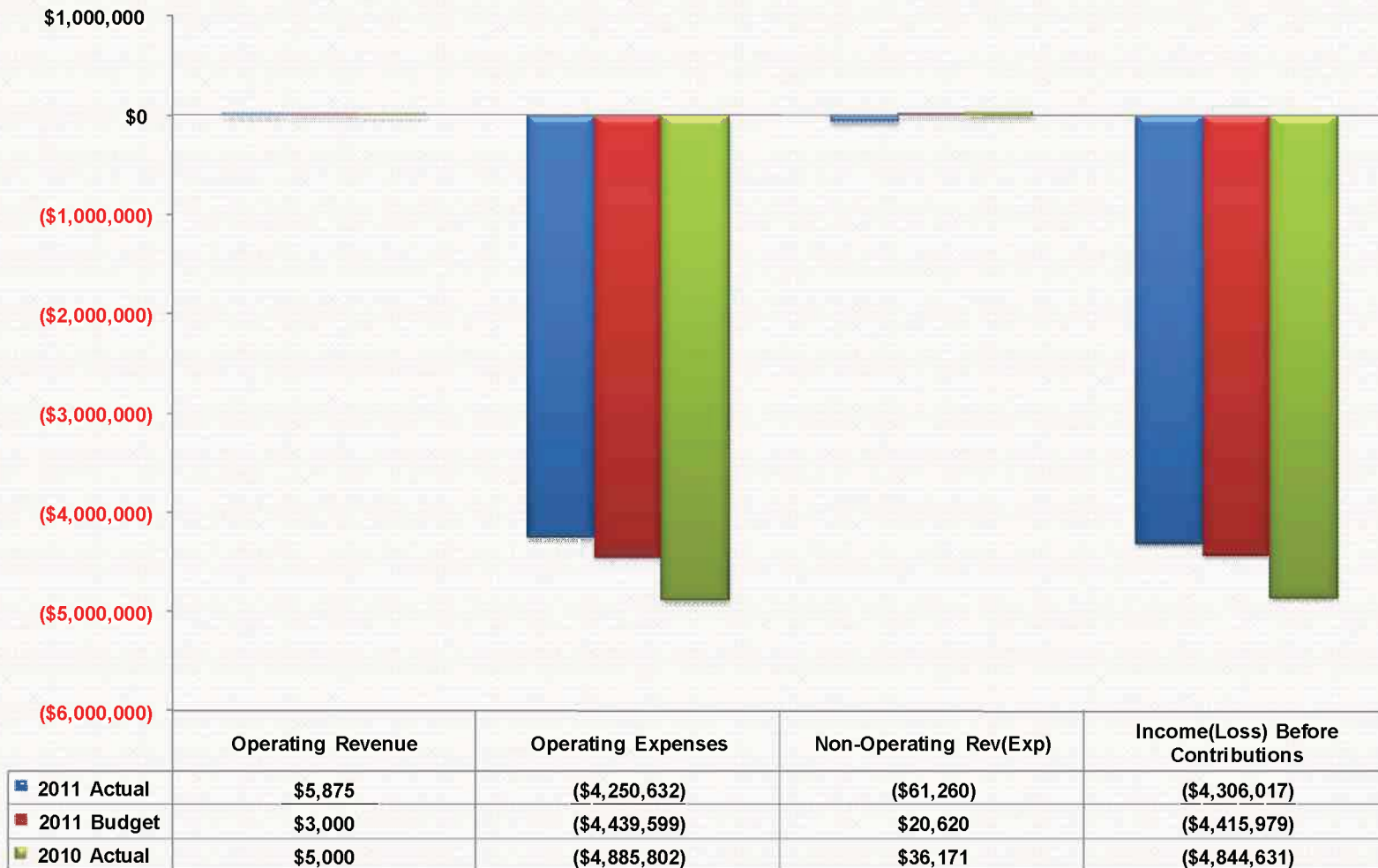
- Security revenues exceed budget projections due to increased wharfage and dockage revenues, and vessel calls



2011 Financial Review



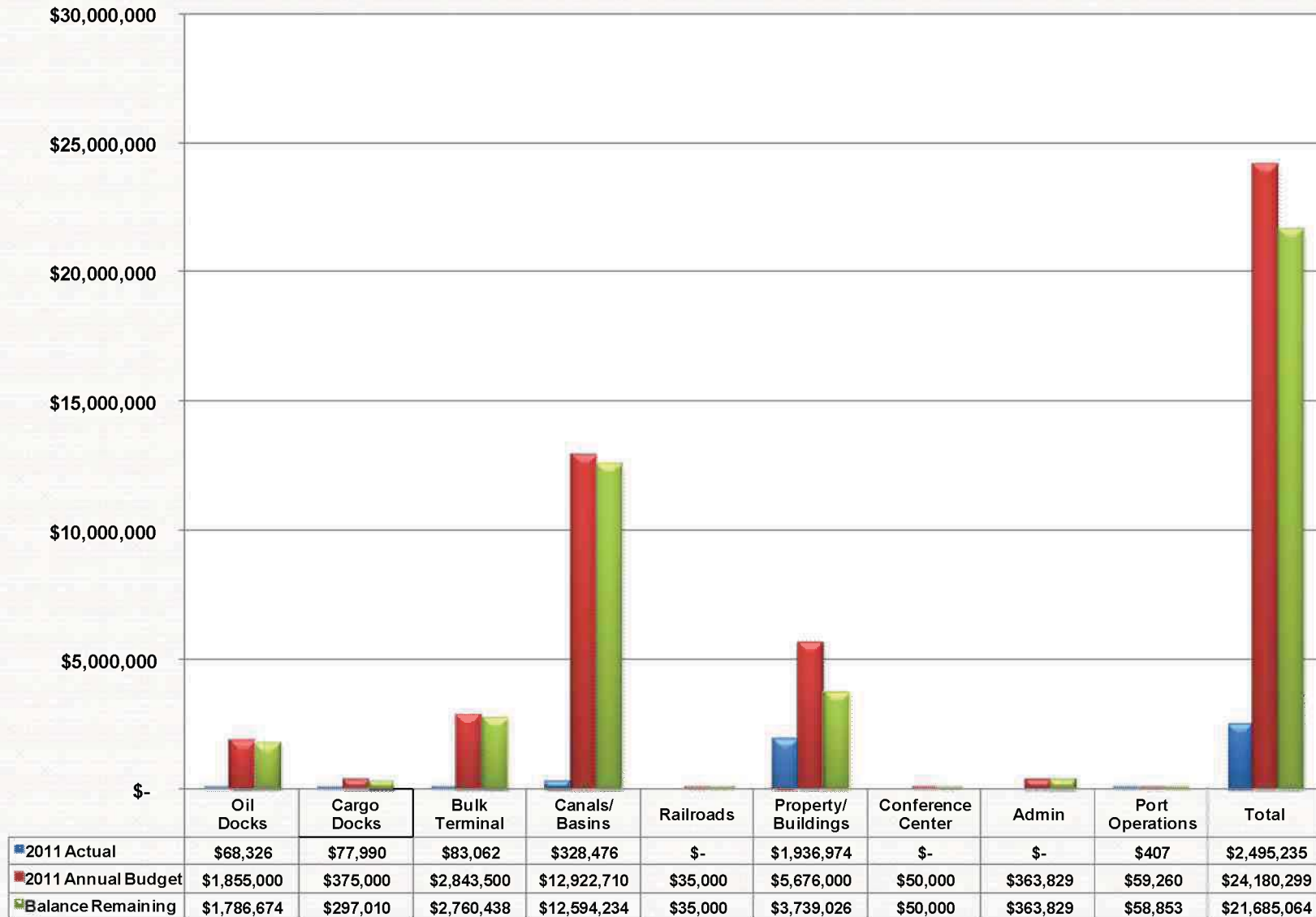
- **General & Administrative**
 - Expenses are tracking slightly below budget



2011 Financial Review



Capital Expenditures





INVESTMENT REPORT

For the Quarter Ended March 31, 2011

Port of Corpus Christi of Nueces County, Texas

**Port of Corpus Christi Authority
Investment Report
Table of Contents
For the Quarter Ended March 31, 2011**

Compliance Statement	1
Executive Summary	2
Investment Portfolio Report	4
Investment Transactions	5
Diversification Report	6
Treasury Yield Curve Comparison	7
Portfolio Return to Benchmark Comparison	8

Port of Corpus Christi Authority

Compliance Statement

For the Quarter Ended March 31, 2011

Quarterly Investment Report

We believe the investment information presented for the quarter ending March 31, 2011, is accurate in all material respects, and is presented in a manner that fairly sets forth the investment standing of the Port of Corpus Christi Authority (Authority).

This report was prepared in compliance with the Authority's Investment Policy, Investment Strategy, and the Public Funds Investment Act of the State of Texas (Texas Government Code 2256.023).



Dennis J. DeVries
Director of Finance



Audre Debler
Chief Accountant

Port of Corpus Christi Authority

Executive Summary

For the Quarter Ended March 31, 2011

The accompanying quarterly investment report lists in summary form and in detail the investment positions of the Port of Corpus Christi Authority's (Authority) operating funds as of March 31, 2011. As of that date, the Authority had a total of approximately \$38.6 million invested in a local government investment pool and certificates of deposit.

The goal of the Authority is to ensure the safety of all funds entrusted to the Authority, the availability of those funds for the payment of all necessary obligations of the Authority, and to provide for the investment of all funds, not immediately required, in securities earning a reasonable market yield. The safety of principal and liquidity shall always be the primary concern. The Authority's intention is to hold investments to maturity while receiving the highest reasonable market yield in accordance with its objectives at the date of investment. It is not the intent to devote substantial efforts to earn profit on investment market fluctuations. Investments will be purchased because of their interest yield expectations over their remaining life rather than for speculative purposes.

All investments in the portfolio are fully secured and will return 100% of par value if held to maturity. The Authority's investments are usually held to maturity, and any gains (losses) in market value will be reflected in market prices created by changes in interest rates during the quarter.

Port of Corpus Christi Authority

Executive Summary

For the Quarter Ended March 31, 2011

Below are summaries of the Authority's investment performance and activity for the quarter ended March 31, 2011.

Performance Summary	03/31/11	12/31/10	Change
Book Value	\$ 38,613,282	\$ 25,603,680	\$ 13,009,602
Market Value	\$ 38,613,282	\$ 25,603,680	\$ 13,009,602
Market to Book Ratio	100.00%	100.00%	100.00%
Weighted Average Maturity (Days)	35	72	(37)
Weighted Average Yield	0.246%	0.343%	-0.097%

Investment Activity Summary	Book Value	Market Value	Market to Book Ratio
Beginning Balance - 12/31/10	\$ 25,603,680	\$ 25,603,680	100%
Changes:			
Purchases	\$ 13,009,602	\$ 13,009,602	
Maturities	\$ -	\$ -	
Net Change	\$ 13,009,602	\$ 13,009,602	
Ending Balance - 03/31/11	\$ 38,613,282	\$ 38,613,282	100%

Port of Corpus Christi Authority

Investment Portfolio Report

For the Quarter Ended March 31, 2011

Purchase Date	Type	Call Date	Maturity Date	Days to Maturity at Purchase	Remaining Days to Maturity	Book Yield (%)	Par Value	Original Principal	Book Value	Market Value	Unrealized Gain(Loss)	Quarterly Accrued Interest
03/31/11	TEXPOOL		04/01/11	1	1	0.140%	\$ 33,121,758	\$ 33,121,758	\$ 33,121,758	\$ 33,121,758	\$ -	\$ 8,692
10/18/10	Certificate of Deposit		10/18/11	365	201	1.500%	\$ 245,000	\$ 245,000	\$ 246,524	\$ 246,524	\$ -	\$ 910
11/05/10	Certificate of Deposit		11/05/11	365	219	0.950%	\$ 245,000	\$ 245,000	\$ 245,000	\$ 245,000	\$ -	\$ 583
11/30/10	Certificate of Deposit		11/30/11	365	244	0.850%	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000	\$ -	\$ 10,638
Total							\$ 38,611,758	\$ 38,611,758	\$ 38,613,282	\$ 38,613,282	\$ -	\$ 20,823

Valuation Date:	03/31/11
Average Maturity:	35 Days
	1.15 Mths
	0.10 Yrs
Average Rate of Return:	0.246%

Port of Corpus Christi Authority

Investment Transactions

For the Quarter Ended March 31, 2011

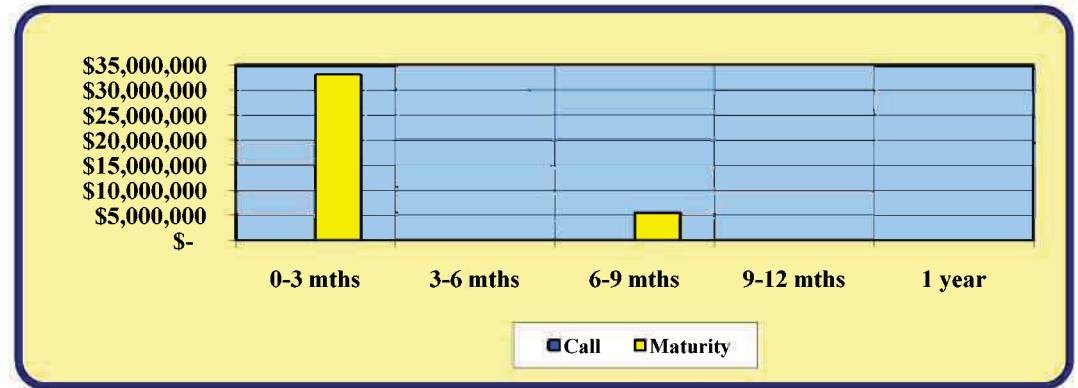
Transaction Date	Purchase Date	Description	Coupon	Yield	Maturity Date	Par Value	Transaction Price	Total Cost	Interest Purchased (Sold)	Total Transaction
<u>Purchases:</u>										
01/18/11	01/18/11	Interest-1st Community	1.500%	1.500%	01/18/11	\$ 314	100.00	\$ 314	\$ -	\$ 314
01/31/11	01/31/11	TEXPOOL	Daily	Daily	Daily	\$ 2,710	100.00	\$ 2,710	\$ -	\$ 2,710
02/18/11	02/18/11	Interest-1st Community	1.500%	1.500%	02/18/11	\$ 313	100.00	\$ 313	\$ -	\$ 313
02/18/11	02/18/11	TEXPOOL	Daily	Daily	Daily	\$ 4,000,000	100.00	\$ 4,000,000	\$ -	\$ 4,000,000
02/28/11	02/28/11	TEXPOOL	Daily	Daily	Daily	\$ 2,451	100.00	\$ 2,451	\$ -	\$ 2,451
03/17/11	03/17/11	TEXPOOL	Daily	Daily	Daily	\$ 9,000,000	100.00	\$ 9,000,000	\$ -	\$ 9,000,000
03/18/11	03/18/11	Interest-1st Community	1.500%	1.500%	03/18/11	\$ 283	100.00	\$ 283	\$ -	\$ 283
03/31/11	03/31/11	TEXPOOL	Daily	Daily	Daily	\$ 3,531	100.00	\$ 3,531	\$ -	\$ 3,531
Total Purchases						\$ 13,009,602		\$ 13,009,602	\$ -	\$ 13,009,602
Total Net Transactions						\$ 13,009,602		\$ 13,009,602	\$ -	\$ 13,009,602

Port of Corpus Christi Authority

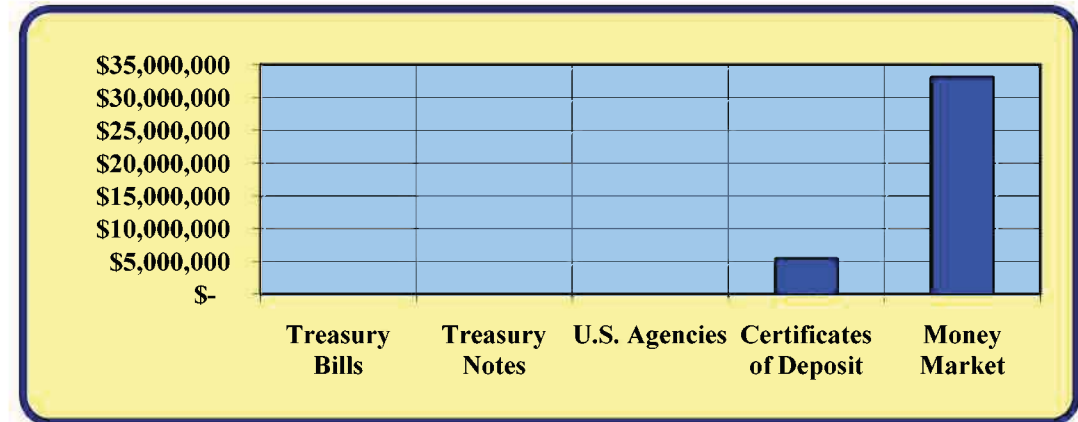
Diversification Report

For the Quarter Ended March 31, 2011

MATURITY PERIOD				
Period	Call		Maturity	
0-3 mths	\$ -	\$ 33,121,758		85.78%
3-6 mths	-	-		0.00%
6-9 mths	-	5,491,524		14.22%
9-12 mths	-	-		0.00%
1 year	-	-		0.00%
	\$ -	\$ 38,613,282		100.00%



SECURITY TYPE		
Type	Book Value	
Treasury Bills	\$ -	0.00%
Treasury Notes	-	0.00%
U.S. Agencies	-	0.00%
Certificates of Deposit	5,491,524	14.22%
Money Market	33,121,758	85.78%
	\$ 38,613,282	100.00%

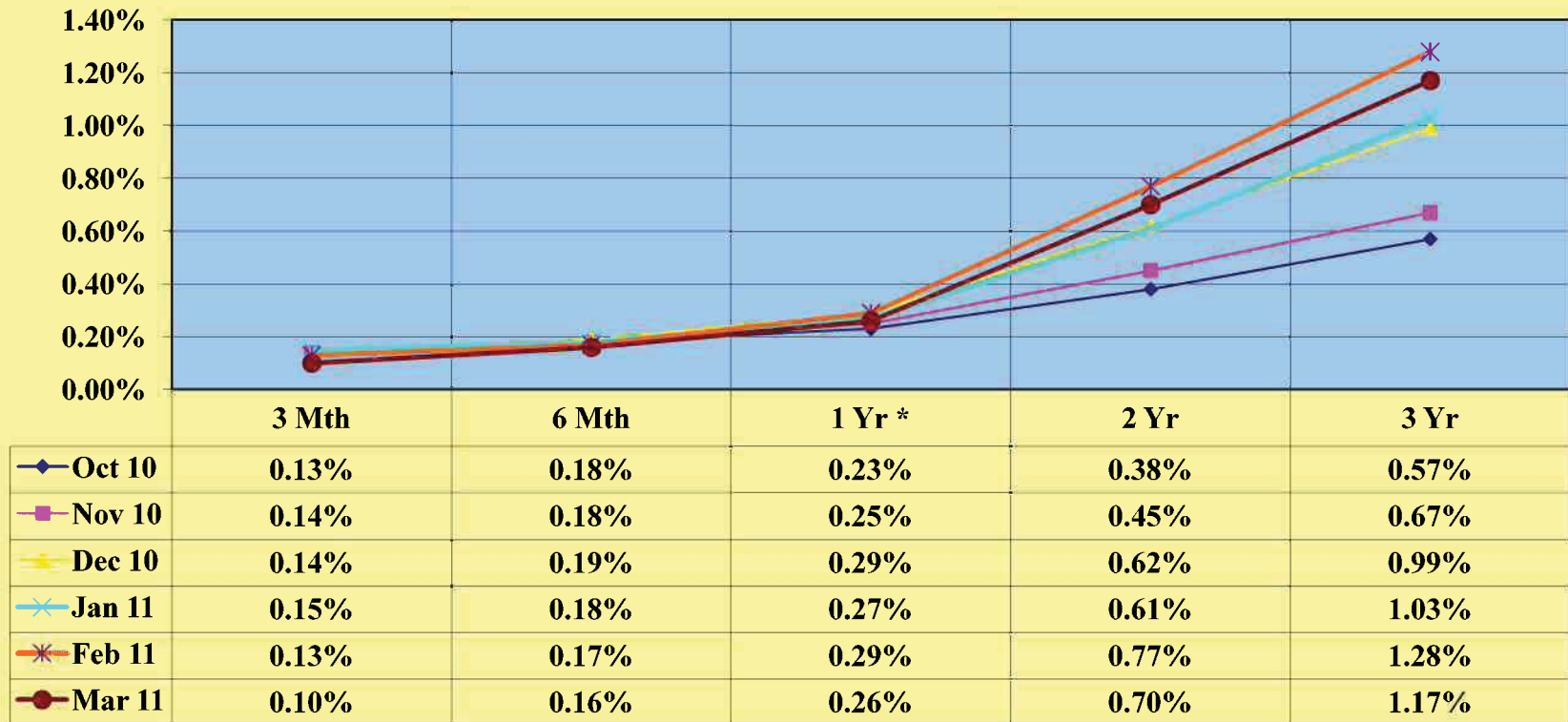


Port of Corpus Christi Authority

Treasury Yield Curve Comparison

(Average Yields By Month)

For the Quarter Ended March 31, 2011

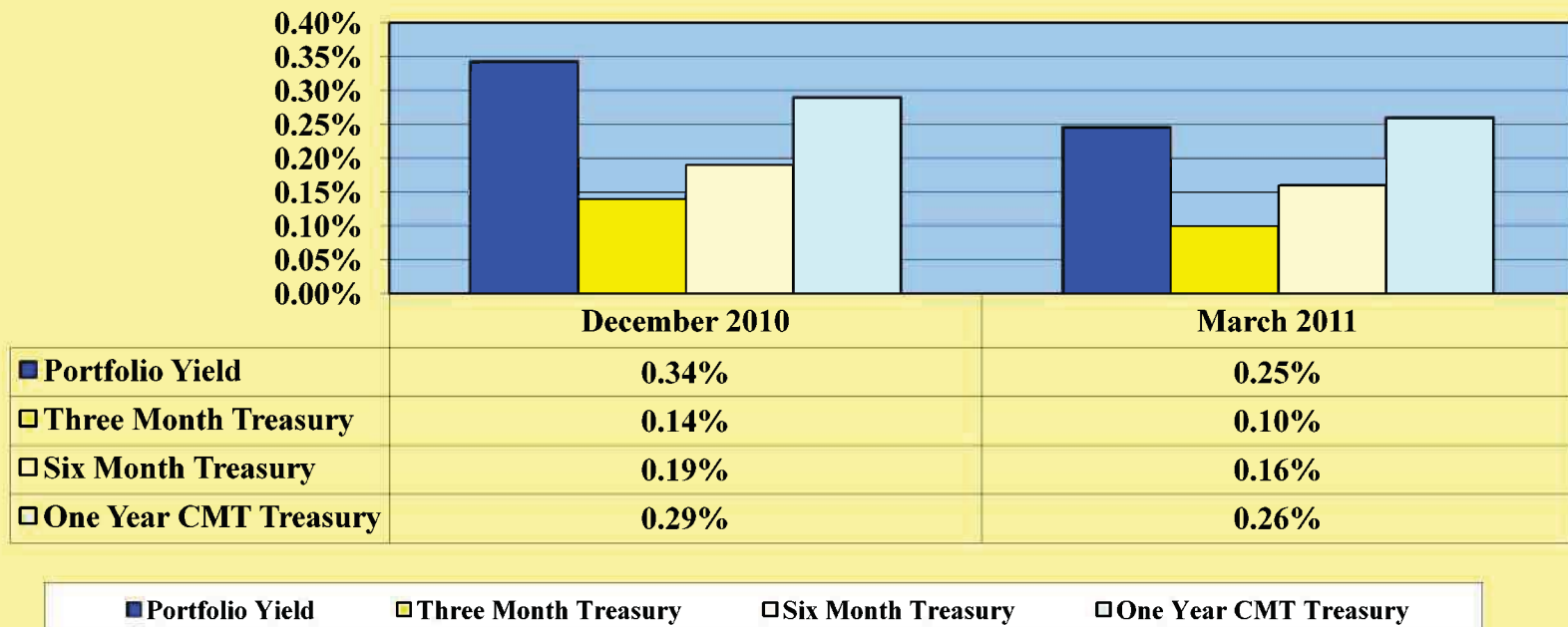


* Treasury does not currently issue a 1-year T-Bill, the market recognizes the 1-year CMT T-Bill of "comparable maturity treasury" as representative of this market sector

Port of Corpus Christi Authority

Portfolio Return to Benchmark Comparison

For the Quarter Ended March 31, 2011



EXECUTIVE DIRECTOR'S REPORT

For the month of May 2011



PORTCORPUSCHRISTI

Port of Corpus Christi Authority

Monthly Financial Summary

March 31, 2011

**Port of Corpus Christi Authority
Monthly Financial Summary
March 31, 2011**

STATEMENT OF NET ASSETS HIGHLIGHTS:

Unrestricted Cash:

Cash in Bank	\$	1,776,429
Investments		36,941,666
Total	\$	38,718,095

Accounts Receivable:

\$ 6,274,886

Note Receivable:

	Balance	Principal Payment	Due
Diamond Shamrock	\$ 4,879,996	\$ 831,827	12/31/2011

Accounts Payable:

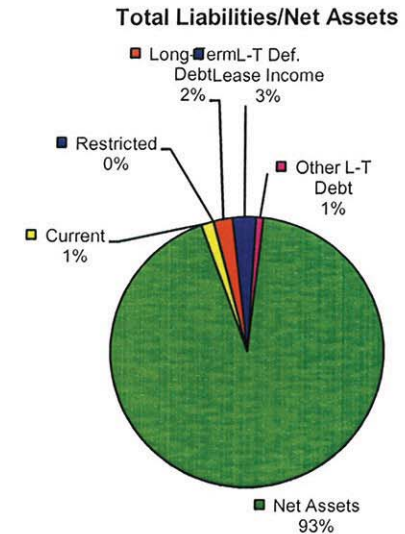
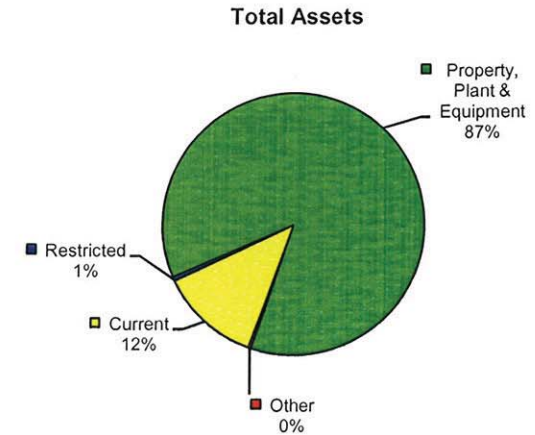
\$ 2,706,056

Long-term Debt:

	Balance	Principal Payment	Due
General Revenue Bonds			
Series 2002-A	\$ 4,906,998	\$ 720,000	12/1/2011
Series 2002-B	3,686,226	545,000	12/1/2011
Total	\$ 8,593,224		

Statement of Net Assets Summary:

Total Assets	\$	386,159,699
Total Liabilities		28,529,450
Net Assets	\$	357,630,249



Port of Corpus Christi Authority
Monthly Financial Summary
March 31, 2011

OPERATIONS:

Tonnage (Short Tons):

	Month	2011 Y-T-D	2010 Y-T-D
Bulk Grain	513,673	1,579,851	1,069,641
Break Bulk	14,296	44,253	95,872
Dry Bulk	723,855	1,839,286	1,599,083
Liquid Bulk	62,153	150,975	138,772
Chemicals	129,244	409,084	354,504
Petroleum Coke	-	177,047	104,168
Petroleum	5,902,131	16,491,374	17,147,840
Total	7,345,352	20,691,870	20,509,880

Operating Revenue:

	Actual	Budget	Variance
Month	\$ 5,102,422	\$ 4,451,053	\$ 651,369
Y-T-D	\$ 14,101,938	\$ 12,628,437	\$ 1,473,501

Operating Expenses:

Month	\$ (2,662,016)	\$ (3,192,097)	\$ 530,081
Y-T-D	\$ (8,619,256)	\$ (9,330,799)	\$ 711,543

Operating Income (Loss) Before Depreciation:

Month	\$ 2,440,406	\$ 1,258,956	\$ 1,181,450
Y-T-D	\$ 5,482,682	\$ 3,297,638	\$ 2,185,044

Depreciation:

Month	\$ (1,069,400)	\$ (1,090,879)	\$ 21,479
Y-T-D	\$ (3,211,551)	\$ (3,272,634)	\$ 61,083

Other Revenue (Expenses):

Month	\$ 2,207,459	\$ (160,859)	\$ 2,368,318
Y-T-D	\$ 1,877,134	\$ (503,771)	\$ 2,380,905

Income (Loss) Before Capital Contributions:

Month	\$ 3,578,465	\$ 7,218	\$ 3,571,247
Y-T-D	\$ 4,148,265	\$ (478,767)	\$ 4,627,032

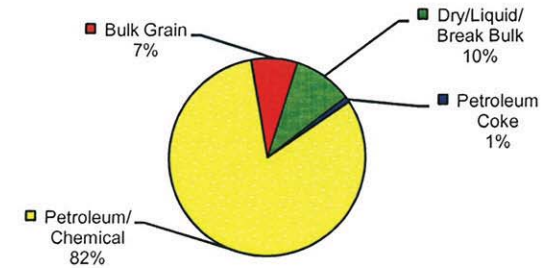
Capital Contributions

Month	\$ 282,715	\$ 1,977,754	\$ (1,695,039)
Y-T-D	\$ 282,715	\$ 1,977,754	\$ (1,695,039)

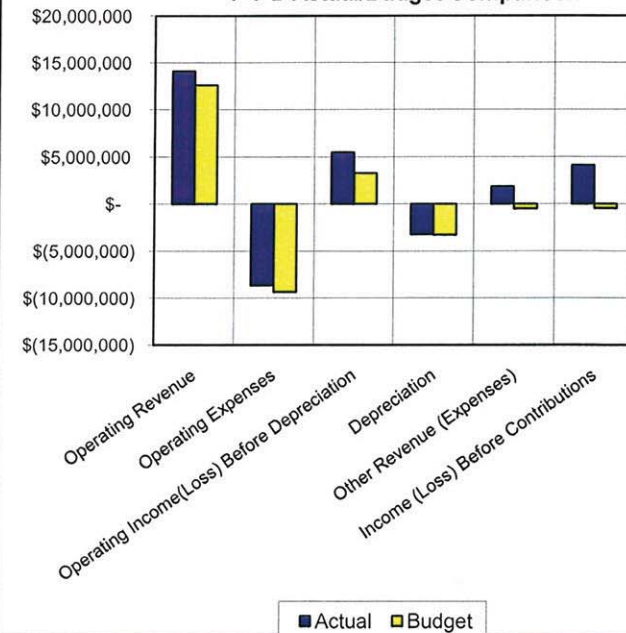
Change in Net Assets

Month	\$ 3,861,180	\$ 1,984,972	\$ 1,876,208
Y-T-D	\$ 4,430,980	\$ 1,498,987	\$ 2,931,993

Y-T-D Tonnage



Y-T-D Actual/Budget Comparison



Port of Corpus Christi Authority
Monthly Financial Summary
March 31, 2011

DIVISION SUMMARY:

				Operating Income (Loss) Before Depreciation		Other Revenue (Expenses)		Income (Loss) Before Contributions		Budget	Variance					
		Operating Revenues	Operating Expenses													
Oil Docks-Public																
Month	\$	1,665,299	\$	12,714	\$	1,678,013	\$	(63,767)	\$	(207,940)	\$	1,406,306	\$	1,132,165	\$	274,141
Y-T-D	\$	4,875,374	\$	(119,996)	\$	4,755,378	\$	(191,549)	\$	(487,283)	\$	4,076,546	\$	3,042,727	\$	1,033,819
Oil Docks-Private																
Month	\$	1,000,731	\$	(3,160)	\$	997,571	\$	-	\$	-	\$	997,571	\$	934,900	\$	62,671
Y-T-D	\$	2,715,467	\$	(15,811)	\$	2,699,656	\$	-	\$	-	\$	2,699,656	\$	2,583,234	\$	116,422
Dry Cargo Docks																
Month	\$	356,296	\$	(188,230)	\$	168,066	\$	(118,193)	\$	-	\$	49,873	\$	5,721	\$	44,152
Y-T-D	\$	974,415	\$	(509,368)	\$	465,047	\$	(354,632)	\$	-	\$	110,415	\$	17,147	\$	93,268
Conference Center																
Month	\$	155,443	\$	(166,212)	\$	(10,769)	\$	(25,795)	\$	53	\$	(36,511)	\$	(41,347)	\$	4,836
Y-T-D	\$	319,176	\$	(466,940)	\$	(147,764)	\$	(77,406)	\$	982	\$	(224,188)	\$	(161,480)	\$	(62,708)
Bulk Terminal																
Month	\$	565,190	\$	(259,627)	\$	305,563	\$	(56,829)	\$	-	\$	248,734	\$	170,402	\$	78,332
Y-T-D	\$	1,600,555	\$	(793,545)	\$	807,010	\$	(171,172)	\$	-	\$	635,838	\$	511,042	\$	124,796
Property and Buildings (Includes NSI)																
Month	\$	386,721	\$	(335,093)	\$	51,628	\$	(564,235)	\$	2,424,683	\$	1,912,076	\$	(581,691)	\$	2,493,767
Y-T-D	\$	1,056,136	\$	(954,364)	\$	101,772	\$	(1,692,704)	\$	2,424,683	\$	833,751	\$	(1,745,075)	\$	2,578,826
Other Facilities																
Month	\$	336,749	\$	(56,183)	\$	280,566	\$	(53,079)	\$	-	\$	227,487	\$	73,340	\$	154,147
Y-T-D	\$	749,685	\$	(201,536)	\$	548,149	\$	(159,238)	\$	-	\$	388,911	\$	241,773	\$	147,138
Port Security																
Month	\$	634,393	\$	(443,574)	\$	190,819	\$	(124,418)	\$	4	\$	66,405	\$	(152,732)	\$	219,137
Y-T-D	\$	1,805,255	\$	(1,498,298)	\$	306,957	\$	(373,616)	\$	12	\$	(66,647)	\$	(552,156)	\$	485,509
General and Administrative																
Month	\$	1,600	\$	(1,222,651)	\$	(1,221,051)	\$	(63,084)	\$	(9,341)	\$	(1,293,476)	\$	(1,533,540)	\$	240,064
Y-T-D	\$	5,875	\$	(4,059,398)	\$	(4,053,523)	\$	(191,234)	\$	(61,260)	\$	(4,306,017)	\$	(4,415,979)	\$	109,962
Total																
Month	\$	5,102,422	\$	(2,662,016)	\$	2,440,406	\$	(1,069,400)	\$	2,207,459	\$	3,578,465	\$	7,218	\$	3,571,247
Y-T-D	\$	14,101,938	\$	(8,619,256)	\$	5,482,682	\$	(3,211,551)	\$	1,877,134	\$	4,148,265	\$	(478,767)	\$	4,627,032

Port of Corpus Christi Authority
Monthly Financial Summary
March 31, 2011

CAPITAL PROJECTS:

Project Description	Annual Budget	Y-T-D Actual	Balance Remaining
Authority Oil Docks			
Avery Point Oil Dock Platform Extensions & Evacuation Catwalk	\$ 150,000	\$ -	\$ 150,000
Fire System Pressurization at Avery Point Oil Docks	600,000	24,307	575,693
Hoist Foundation & Gangway Support at OD's 4, 7 & 11	600,000	-	600,000
New Oil Dock 9 Dock House	200,000	-	200,000
Provide Dock Space for Gangway at Oil Dock 1	200,000	-	200,000
Replace Air Conditioning System at Oil Docks 1, 2 & 3	105,000	44,019	60,981
		-	
	1,855,000	68,326	1,786,674
Authority Cargo Docks			
Repairs and Fender Replacement Cargo Dock 10	250,000	-	250,000
Replace Central Control System at Refrigerated Warehouse Facility	125,000	-	125,000
Improvements to Cargo Docks 14 & 15	-	77,990	(77,990)
	375,000	77,990	297,010
Bulk Terminal			
Boom Length Addition to Gantry Crane	450,000	37,480	412,520
Bulk Terminal Locomotive Switch Engine Repower Under DERA	1,355,500	1,176	1,354,324
Bulk Terminal Rail Replacement/Upgrade	200,000	-	200,000
Increase Digging Depth of Gantry Crane	250,000	-	250,000
Paint Building for Bulk Terminal	88,000	42,406	45,594
Replace Fendering on Bulk Dock 1	500,000	-	500,000
Replace Shiploader PLC at Bulk Terminal 2	-	2,000	(2,000)
	2,843,500	83,062	2,760,438
Conference Center			
Miscellaneous Purchases	50,000	-	50,000
	50,000	-	50,000

Port of Corpus Christi Authority
Monthly Financial Summary
March 31, 2011

CAPITAL PROJECTS:

Project Description	Annual Budget	Y-T-D Actual	Balance Remaining
<i>Harbor Island</i>			
Harbor Island Drainage Improvements	\$ 50,000	\$ -	\$ 50,000
	50,000	-	50,000
<i>Canals and Basins</i>			
Tule Lake Channel Improvements	5,500,000	-	5,500,000
Replacement of Bulkhead at Viola Turning Basin	485,000	-	485,000
Inner Harbor Waterways Surveillance Grant	491,200	-	491,200
Security Enhancements - Grant #6	3,709,010	216,823	3,492,187
Security Enhancements - Grant #7	1,000,000	17,140	982,860
Security Enhancements - Grant #7 Supplemental	1,000,000	94,513	905,487
Security Enhancements - Grant #8	637,500	-	637,500
Security Enhancements - Grant #10	100,000	-	100,000
	12,922,710	328,476	12,594,234
<i>Property and Buildings</i>			
Administration/Annex Building Improvements	30,000	-	30,000
Emergency Generators for Administration/Annex Buildings	100,000	32,337	67,663
Fencing Storage Yards and Other Port Areas	30,000	4,377	25,623
Joe Fulton International Trade Corridor, Phase II	3,366,000	600,502	2,765,498
Paving Additional Storage Area Behind the Brown Express Building	350,000	360,440	(10,440)
Reconstruction of Navigation Boulevard Between CD9 & Fulton Corridor	1,700,000	939,318	760,682
Suntide Bypass Road at the Viola Turning Basin	50,000	-	50,000
	5,626,000	1,936,974	3,689,026
<i>Railroads</i>			
Brewster Street Track Security Fencing	35,000	-	35,000
	35,000	-	35,000

Port of Corpus Christi Authority
Monthly Financial Summary
March 31, 2011

CAPITAL PROJECTS:

Project Description	Annual Budget	Y-T-D Actual	Balance Remaining
<i>Finance and Administration</i>			
A/S 400 Hardware/Software	\$ 93,000	\$ -	\$ 93,000
Administrative File Server Hardware/Software	235,829	-	235,829
Air Conditioner Admin Computer Room	35,000	-	35,000
<i>Engineering</i>	-	-	-
<i>Trade & Business Development</i>	-	-	-
	363,829	-	363,829
<i>Port Operations</i>			
Purchase of equipment:			
Replacement of fuel tanks - Maintenance	-	407	(407)
Subtotal	-	407	(407)
Purchase of vehicles:			
2011 4WD SUV - Port Security	30,000	-	30,000
Subtotal	30,000	-	30,000
Network Hardware/Software - Bulk Terminal	7,315	-	7,315
Network Hardware/Software - Conference Center	7,315	-	7,315
Network Hardware/Software - Port Security	7,315	-	7,315
Network Hardware/Software - Maintenance	7,315	-	7,315
Subtotal	29,260	-	29,260
	59,260	407	58,853
	-	-	-
	-	-	-
Total 2011 Capital Budget Expenditures	\$ 24,180,299	\$ 2,495,235	\$ 21,685,064

Port of Corpus Christi Authority
Monthly Financial Summary
March 31, 2011

TERMS & DEFINITIONS:

Current Assets	Unrestricted cash and investments, accounts receivables, grant receivables, accrued revenues, inventory, prepaid expenses
Restricted Assets	Restricted cash and investments for revenue bond debt reserves, escrow funds, Section 125 benefits plan, and law enforcement seizure accounts and LEOSE (Law Enforcement Officer Standards & Education) funds and NSI personal property inventory
Property, Plant & Equipment	Capitalized fixed assets and contruction in progress, net of accumulated depreciation
Other	Long-term notes receivable and bond issue costs
Current Liabilities	Accounts payables, accrued expenses, deferred income, worker compensation claims liability, and estimated incurred but not reported claims on employee health benefits
Restricted Liabilities	Accrued interest on revenue bonds, Section 125 benefits plan deposits, and the law enforcement pending account
Long-term Debt	General revenue bonds and unamortized discounts
L-T Deferred Lease Income	Deferred lease revenue - Gulf Compress La Quinta warehouses
Other Long-Term Debt	Accrued vacation and sick leave, other post-employment benefits, and capital leases payable
Net Assets	Total net assets; total assets less total liabilities

Divisions:

Oil Docks-Public	Oil docks owned by the Port
Oil Docks-Private	Oil docks owned by private industries
Dry Cargo Docks	Dry cargo docks owned both by the Port and private industries, refrigerated warehouse facility, transfer facility and intermodal facility
Conference Center	Ortiz Center
Bulk Terminal	Bulk docks 1 and 2, public storage pad and storage pads
Property & Buildings	Port property, leased elevators and grain bagging facility, compress, and Naval Station Ingleside
Other Facilities	Service docks owned both by the Port and private industries, bulk docks owned by private industries, Tule lift bridge, railroads, fire fighting response vessel, canals and basins, foreign trade zone, and refinery terminal fire company
Port Security	Port security to include the marine division, Port security guards and Amtex
General & Administrative	Executive director, deputy port directors, business development, finance & administration, engineering services, government affairs, and operations

BUSINESS DEVELOPMENT

- Rail Opportunities for Frac Sand, additional 200-300 cars per month
- Working with Corpus Christi Railway Association for additional capacity
- Working with companies to move crude from truck to barge
- Working with Bulk Terminal on several coal opportunities
- Developed RPQ for sale of Harbor Island
- Finalizing the RFP for the Transload
- Continued with development of potential wind energy cargo, including meeting with major developer in Austin, TX and meeting with overseas wind project developer in Corpus Christi
- Continued contact with shippers of potential general cargo
- Continued with development of potential weekly service to coldstore from Central America.
- Assisted Free Trade Alliance San Antonio with International Business Plan Contest
- Attended South American business development opportunity seminar in Laredo, TX
- Continued maintenance work for Port Tariff 100-A & Bulk Terminal Tariff 1-A, including various rate and language changes for May Commission Agenda
- Participated in Gulf Regional Marine Highway Development in conjunction with MARAD
- Participated in “Vision 2011” Economic outlook in Laredo for continued business between Texas and northern Mexico
- Attended workshop: “Next generation offshore wind technology” and “4th North American offshore wind development & finance summit”
- Working on specific marketing/sales project to present PCC to exporters/importers/freight forwarders and nvoc’s within a 400 mile radius
- Met with Asian exporters of proppants to increase their volumes through this port
- Met with Asian wind components manufacturing for future cargo volumes coming through this port

COMUNICATIONS EDR REPORT

April Events Attend and/or coordinated:

- Coastal Bend Council of Cultures
- Volunteer Council Board
- American Diabetes Association Board meeting
- GPAA Spring Conference

- Wellness Committee meeting
- USO Board meeting
- World of Affairs Council
- All events related to the Visit of the Vietnam Wall
- State of the County

April Projects:

- Planning of 85th Celebration activities:
 - 85th Schools/Hands-on Celebration Sept 21
 - 85th Employee Celebration Sept 22
 - 85th Community Wide Celebration TBA
- Working on MOU with Panama Canal
- Working on MOU with Port of Tianjin
- Department's Strategic planning
- Up-Coming Newsletters
- Supporting Gulf Ports EMS Regional Meeting
- All Needs for AWEA Trade Show and Latin American Ports Conference
- NASCO Presentation

Spring Community Walks:

- Buc Days Parade
- March of Dimes

Port Presentations & Tours:

- Tour – Corpus Christi Boy Scouts
- Tour - Flour Bluff Naval Science Class
- Tour – Wind Systems Magazine editor
- Presentation – Leadership Corpus Christi
- Presentation – Corpus Christi College Prep School
- Presentation – Rotary Club

April supported community events:

- NuHope Golf Classic
- Aquarium Beach Ball Bash
- Botanical Gardens Sponsorship
- Aransas Pass Luncheon
- State of County
- Volunteer Center STAR Awards Banquet
- Del Mar College Crawfish Broil
- Harvey Weil Award Dinner
- PAAG Sparkling City Humane ala
- Centurión Golf Classic
- Tuloso Midway Golf Benefit Hole Sponsor
- PAAG Sparkling City Humane Gala
- Islanders Athletic Fund. Golf Tournament

2-May-11

Upcoming May Events:

- Flint Hills Flights of Angels Golf
- KEDT Angel Auction 2-May-11
- Girl Scouts Power of the Purse 3-May-11
- Gulf Coast Humane Society Golf 20-May-11

Marketing Update:

April 2011 was another active month, preparing for the *Remembering Our South Texas Heroes* benefit and events. The banquet took place on April 12th with Oliver North as the speaker. We're proud to say that donations are continuing to pour in. Next month we are preparing to head to Anaheim, California for the 2011 WINDPOWER conference May 22-25. We are prepared to represent Texas and proclaim our new headline as *The Port of the Lone Star State.TM*. We are looking forward to making new friends and business contacts.

Jobs Working:

- Port 2011 Media Planning (ongoing)
- MyPort April Newsletter
- New Customer Welcome Kit
- EMS Bags
- EMS Staff Training Game
- AAPA Award Entries
- AWEA Invitations
- Conference Materials: Pop Up Banners
- Honoring South Texas Veterans Event
- Map Brochure in Spanish

April 2011 Publication/Media Editorial /Ad:

- *Inbound Logistics Mexico* Inland Ports Desde aqui
- *Wind Today* 2nd Quarter Big Components? No problem.
- *Central America Data* (online) Transportation Channel Desde aqui
- *T21.com.mx* (online) Run of Site Desde aqui

May 2011 Publication/Media Editorial Ad:

- *BNAmericas.com* - Rotating online ad - Desde aqui
- *Breakbulk.com* - Rotating online ad - Big Port. Big Service.
- *Business Xpansion Journal* - Wind Energy - Texas Bound. Access here.
- *Central America Data* - Transportation Channel - Desde aqui
- *enerG Magazine* - AWEA Conference - Big Components? No problem.
- *Heavy Lift* - Latin Amer/Heavy Lift Ship - The Port of the Lone Star State
- *JOC.com* - Rotating online ad - The Port of the Lone Star State
- ***Journal of Commerce** - Texas Trade/RoRo - Texas Bound. Access here.**
- *Journal of Commerce* - Top 25 N. American Ports - The Port of the Lone Star State
- *La Tene Maps Map Dist.* - @ WINDPOWER - The Port of the Lone Star State
- *Wind Power* - Monthly Special Report: AWEA - Big Components? No problem.

- **Additional coverage and editorial in this issue.*

Latest Collateral Developments:

Final art for the Welcome Kit folder has been sent off. We will finalize all the pieces for a new welcome Packet for new customers. We are preparing for a busy summer of conferences. Thus far our main focus has been on AWEA – WINDPOWER 2011. Our next focus will be on the Congreso de Latinoamericano de Puertos in Lima, Perú in late June.



GOVERNMENT AFFAIRS

During April 2011, Government Affairs promoted and protected port and regional interests at the local, state and federal levels of government.

LOCAL

- Attended COG Economic Development Strategy meeting to prepare regional economic development plan.

STATE

- Met with state delegation to provide update; working with port consultants and Texas Ports Assoc to monitor legislation that might impact the port.
- Attended Gulf Ports Association of the Americas spring meeting.

FEDERAL

- Congress finally came to an agreement on how to cut spending before approving a continuing resolution to fund federal government for remainder of FY 2011.
- FY 2011 Port Security Grant Program was increased to \$250 million in the final bill; the cost share waiver was also extended; DHS will likely announce opening of the grant application period within 60 days with a short deadline to submit.
- House and Senate approved \$528 million for National Infrastructure Investments (NII) also known as TIGER grants for FY 2011; the Notice of Funding Availability will be available no sooner than 60 days after the continuing resolution becomes law; possible announcement will be in mid June.
- Coordinated meeting for Congressman Henry Cuellar (D-TX-28) at port; briefing was provided by Executive Director re port's priority projects.
- Working with congressional offices and consultants to monitor FY 2012 President's budget, WRDA, surface transportation reauthorization, homeland security, rail legislation, Harbor Maintenance Trust Fund, US Coast Guard Reauthorization Act, RAMP Act, Diesel Emission Reduction Act (DERA), etc.

Alan Mauk Associates, Ltd.

Monthly Activity Report
Port of Corpus Christi
April 2011

- AMA tracked legislative activity with respect to the Federal Government affairs objectives of the Port with regard to the FY2011 and 2012 Appropriations process in the U.S. House and the Senate, the WRDA 2010 bill, ARRA Stimulus funding, the Surface Transportation Reauthorization Bill.
- Both the House and the Senate reconciled the 2011 DOD & Full-Year Continuing Resolution in April to fund the Government until 9/30/2011. Public Law 112-10.
- The House Appropriations Committee is currently requesting programmatic and language submissions for FY2012. AMA is working with Rep. Farenthold's office on these requests.
- We continue to monitor future rounds of the USDOT TIGER Discretionary Grant Program, legislation affecting the Harbor Maintenance Trust Fund and also legislation affecting trade laws between the U.S. and Cuba.
- AMA provides current and updated information on Federal legislation impacting the Port of Corpus Christi Authority through the Alan Mauk Associates, "Transportation Weekly," which monitors and analyzes developments in Federal transportation and public works policy.
- AMA attends AAPA Washington Representatives Meetings and events.
- AMA maintains current working relationships with members and staffs of the U.S. House of Representatives and the U.S. Senate.

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Firm Client: Port of Corpus Christi Authority, Texas

Primary Client Team: Barry Rhoads, Steven McKnight, James Lofton, and Andrew Forbes

Services Period: April 1-30, 2011

Summary of Services on behalf of Port of Corpus Christi Authority, Texas:

- Substantive consulting on federal government issues on behalf of POCCA
 - ▶ Gathered and integrated new data in support of La Quinta Channel Extension and Terminal project into talking points
 - ▶ Reviewed budget cut proposals and their impact on U.S. Army Corps of Engineers FY11 funding
 - ▶ Analyzed impact of Full-Year Continuing Appropriations Act on POCCA and La Quinta terminal project
 - ▶ Researched contact information for White House and Army Corps of Engineer officials
 - ▶ Spoke with government relations officials for corporate La Quinta partner to gather information about economic benefits and coordinate Member contacts
- Legislative Liaison and Monitoring
 - ▶ Discussed action steps for seeking funding from Corps of Engineers for La Quinta project with Texas Congressional delegation
 - ▶ Prepared talking points and background information for meeting with Texas Member of Congress at Port offices
 - ▶ Had office and telephone meetings with professional staff members of supportive Texas to provide additional information about La Quinta project and economic development benefits
 - ▶ Reported on federal activities related to budget action and policies regarding Congressionally-directed spending projects
- Client Contact and Team Coordination
 - ▶ Engaged in regular telephone and e-mail contact on POCCA matters with Executive Director John LaRue and Government Relations Manager Nelda Olivo
 - ▶ Held office meeting with Executive Director John LaRue on La Quinta project funding strategy and tactics
 - ▶ Spoke with Port engineering and business development staff to gather information in support of La Quinta project
 - ▶ Reviewed news media coverage on Naval Station Ingleside real property issues and other POCCA activities, discussed same with POCCA representatives

OPERATIONS

POLICE DEPT.

Nothing to report for April.

HARBORMASTER

- The Harbormaster's Office reports 107 ship arrivals, 84 tankers and 23 cargo carriers. There were also 285 barge arrivals, of which 257 were tanker barges and 28 were dry cargo barges. 188 tugs entered the harbor pushing barges.
- The average daily ship arrival for April was 3.45 and the average daily barge arrival was 9.19.
- There were 11 tankers and 0 cargo ships shifted inside the port area while 991 tanker barges and 24 cargo barges shifted.
- There were 14 ships and 101 barges using port docks for standby.
- There were 2.9 hours of channel disruption. Disruptions hours were 2.9 hours for a rig movement. There was 1 inbound delay and 2 out bound delays due to this disruption.

BULK TERMINAL

- Projects BT currently working on:
 - EMS - Work on BMD Paint Facility in progress
 - Bulk Terminal rail improvements
- Activity during April
 - Railcars:
 - Loaded rail cars: 236 cars 24,817.45 short ton pet coke
 - Unloaded rail cars: 116 cars 9,280 short ton pet coke
 - Bulk Dock #1:
 - 4,825.91 short on Rutile unloaded
 - Bulk Dock #2:
 - 91,473.42 Pet Coke loaded
 - Pads
 - 130,527.71 short tons pet coke

SAFETY & TRAINING

- Conducted fire drills at both the administration and annex buildings on 4/26.
- Safety Committee met on 21 April. We discussed:
 - Safety Training Video Library: Videos of the major areas of concern will be borrowed from TML for presentation to Port employees. We will also purchase about 5 videos.
 - Committee members reviewed the proposed second draft of Report of Injury documents.
 - A Committee member will address all employees at the May 5th Wellness luncheon.
 - Members are working on a presentation to give to the Maintenance department employees (15 minutes) during their monthly EMS meeting.
- Worked with Port counsel and insurance brokers to insure Port contractor has and maintains the required insurance levels.
- Assisted EMS auditors with the completion of the EMR audit. Reviewed audit.
- Coordinated a Port tour for a small group from Portugal.
- Conducted safety walk-through at the Ortiz Center. Followed up on areas of concern.
- Working with Port counsel and brokers on rewriting the Tariff language for stevedore requirements.

MAINTENANCE

- Located a technical training class for three electronic techs to support the new fiber optic systems installed for Security.
- Replaced the freeze damaged landscape and plants on the pavilion at the Ortiz center.
- Reviewed the bids to replace the water tight hatches on the Fire Barge. Selection made and contract issued.
- Assisted Marketing department in presenting assets in Rincon to and interested company.
- Assisted the Vietnam Veterans Wall that Heals, set up, daily support and disassembly.
- Provided parts for the large fender installation at Cd14/15 layberth contract.
- Started planning for the Police Memorial service to be held on the pavilion at the Ortiz center.
- Rebuilt the flag pole base at the Security Command Center after high wind damages.
- Conducted interviews for 2 general maintenance workers, additional interviews to be conducted.
- Provided access assistance to the Buc Days committee for assembling floats.
- Rebuilt the Port float for the Buc Das parade.
- Began preparations to repaint the 2nd floor ladies room at Admin.

- Coordinated the visit of the LNG Gemini tanker at the former Naval Base at Ingleside. In for repairs.
- Began preparations for the Taiwanese Navy use of barracks, galley and outdoor recreational fields.
- Prepared for the latest military movement through the south side docks to land helicopters.

FOREIGN TRADE ZONE

- A compliance review with Customs was conducted at Valero for both subzone sites. All records were audited and reviewed by Customs and FTZ Manager to ensure compliance with all FTZ rules and regulations.
- A meeting with Customs and Subzone Operators was held at Valero on April 21. Operators were updated on FTZ matters.
- FTZ Manager continues to work with FTZ Board on a pilot program for the upcoming Online FTZ Information system and reviewing the proposed changes to the FTZ regulations.

Ortiz Center Monthly Forecast Report Prepared by Rebekah Sillman on May 2, 2011

2011	Guest Attendance	Number of Events	% of Monthly Budgeted Sales	Status
January	1,842	23	64%	Actual
February	4,822	29	78%	Actual
March	5,949	41	92%	Actual
1st Quarter	12,613	93	81.9%	Actual
April	14,695	35	132%	Actual
May	6,247	31	96%	Forecast
June	4,764	25	88%	Forecast
2nd Quarter	25,706	91	105%	Forecast

July	1,546	15	94%	Forecast
August	1,646	17	63%	Forecast
September	3,320	22	77%	Forecast
3rd Quarter	6,512	54	76%	Forecast
October	3,161	18	60%	Forecast
November	3,962	22	108%	Forecast
December	3,178	16	62%	Forecast
4th Quarter	10,301	56	71%	Forecast

2011	Guest Attendance	Number of Events	% of Yearly Budgeted Sales	Status
	55,132	294	83%	Forecast

April Close

With more than 14,000 guests attending the many events in April, it has been a busy and exciting time for the Ortiz Center. The variety of tradeshow, banquets, corporate meetings, and the Healing Wall exhibit have made for a profitable month.

Second Quarter

The Ortiz Center staff continues to look for opportunities to showcase the facility, fill dark days through self-promoted events and remain active within the community. Currently we are working with a number of non-profit organizations to create self-promoted events to drive business on Sundays and slower business times. The Banquet team is working on special wine dinner packages to increase revenue through local wineries and businesses. We hope to have more details and dates soon.

Sales Up-Date

The third annual Bernie's Famous Crawfish Boil was held on April 15th with the highest attendance to date! The event provides scholarships to Del Mar College Foundation with great

help from former Commissioner Bernie Paulson. To date, the event has assisted more than 1,100 students and this year's event raised \$65,000 for scholarships.

Outside sales calls continue to be a focus to increase revenue for the facility and to gain new clients. In the month of April calls were made to: Southern Career's Institute, Junior Achievement, Frost Bank, Corpus Christi Apartment Association, Thomas J. Henry, Corpus Christi Literacy Council and Driscoll Hospital to name a few.

ENGINEERING SERVICES

As of April 30, 2011, the Port of Corpus Christi Authority Department of Engineering Services had completed 7 projects and has 65 projects in progress. These projects consist of 29 Capital, 23 Maintenance, and 20 Professional Service projects. During April, \$2,273,000 was invoiced on on-going projects. To date this year approximately \$4,530,000 has been invoiced for work performed. Below is a table detailing the budget amount and the “to date” cost, for the capital, maintenance and professional services projects.

Engineering Services 2011 April Report			
Project Type	No. of Projects	2011 Budget Amount	Expended To Date
Capital	77	\$23,787,210	\$3,228,000
Maintenance	32	\$2,580,000	\$643,000
Professional Services	33	\$800,000	\$659,000
Total	142	\$27,167,210	\$4,530,000

The status of the following listed projects currently in progress is provided for your information:

CAPITAL PROJECTS

Security Grant Improvements

Grant Six: Adesta is complete with the final design on the command and control (C2) upgrade project. They are well into the construction phase. Work Order 20 is complete.

Grant Seven: The construction has begun on the Northside Gate Project.

Grant Seven - Supplemental: Beecroft Construction is well underway with construction of the new guard station at the Viola Turning Basin Oil Docks.

Grant Eight: Investment justifications have been prepared and submitted for the various projects, but not yet definitized by the Feds.

Grant Nine: Investment justifications that were approved by the commission at the September meeting have been submitted to FEMA.

Grant Ten: The applications with project descriptions have been submitted, reviewed, and is in the award process for the \$3.8 million allocated to the Corpus Christi area.

Reconstruction of Navigation Blvd. (09-028A)

Pipelines to be removed have been capped and grout filled. All sections from Joe Fulton Corridor to Ave F has limestone base installed to grade and has been primed. Contractor currently scheduled to hot mix the roadway 1st or 2nd week of May.

Gangway Ramp and Hoist Foundations at Oil Docks 4, 7, and 11 (08-001A)

Initial project will be at Oil Dock 11. Design will include hoist foundation(s) and support for a new gangway. After a recent Customers meeting it appears that they are close to signing an agreement which has initiated negotiations between the PCCA and consultant on engineering services. Staff will combine this project with project (11-028A), Avery Point Oil Dock Platform Extensions & Evacuation Catwalk.

Bulkhead West of Oil Dock 10 (06-036B)

Staff is presently designing a sheet pile wall between Oil Docks 9 and 10, the additional work added to this project. Construction is still scheduled for 2011.

Fulton Corridor – Phase II (09-026A)

The majority of the south half of road is complete up to the first course of hot-mix. Traffic has been switched over to the south side. The contractor has cleared right-of-way on the north half of the roadway. Ballenger has overlaid 95% of the western portion of the project with 5 ½" of hot mix asphalt. The pipeline removal and waterline installation has begun.

Fire Pressurization on Oil Docks (08-046A)

Geotech complete, report and preliminary plans should be submitted for review in the middle of May.

Permian Site Yard & Rail Improvements (09-041A)

The paralleled rail track design is 95% complete.

Viola Channel Rail Yard (09-037A)

Staff is working with the COE to finalize the permitting phase. A design proposal for an 8,000' rail siding has been received from CH2M Hill. Staff will review the overall concept again, prior to proceeding.

La Quinta Multi-purpose Dock & Infrastructure Projects (07-036A & 07-037A)

Preliminary engineering phase complete. Project on hold.

Oil Dock 9 Allision Repairs (10-029A)

Notice of Substantial Completion has been issued and have numerous punch list items to address such as crack injection repairs and installation of pile wraps. Oil Dock 9 customer, Flint-Hills turnaround ended in late April and contractor has resumed work.

Tule Lake Lift Bridge Foundation Removal (07-046C)

One very high bid was opened on October 28, 2010. This project will be re-scoped and re-bid this summer.

Replace Cable Drums and Lengthening the Gantry Crane Boom at Bulk Dock 1 (09-033B)

Design is complete. The project will bid in June.

New Oil Dock 9 Dock Houses (11-032A)

Presently developing design drawings and generating contract documents. Planning to bid in mid to late April.

Replace Air Conditioning Systems at Oil Docks 1, 2 and 3 (10-027A)

All A/C units have been installed at all three docks. Minor miscellaneous work remains at the docks.

Bulk Dock 1- Fender Replacement (11-019A)

Design work will begin after commission approval. See commission letter for details.

MAINTENANCE PROJECTS

Bulk Terminal Paint Building Foundation (10-015B)

Foundation construction is complete and the building has been ordered.

Upgrades to Administration and Annex Building Elevator Systems (11-030A)

LNV, Inc. has performed an assessment of existing elevator systems and has recently provided a draft reports for staff to review and comment.

Port Aransas Bulkhead Repairs near UTMSI (11-039A)

UT opened bids in March, 2011, pending award to K & P Fabrication.

Oil Dock 6 Fender Upgrades & Breasting Structure Replacement (11-027B)

Negotiating service order with HDR.

ENVIRONMENTAL/PROFESSIONAL PROJECTS

Monitoring of Remediation of Harbor Island Exxon Terminal (09-002B)

In accordance with the Site Remediation Agreement between PCCA and Exxon, soils on site have been cleaned up to 1% Total Petroleum Hydrocarbons. The site has been restored and the remediation report for PCCA activities has been submitted to the Railroad Commission of Texas. No response has been received yet from RRC on their review of the report.

ExxonMobil previously completed its soil remediation activities at the site. RRC has requested the installation of monitoring wells at the site. The monitoring wells locations will be submitted to RRC for approval in April 2011 and will be installed in May 2011. Following installation, a report documenting all of ExxonMobil's soil remediation activities and well installations onsite will be submitted to RRC. If groundwater sampling indicates no issues in groundwater then site closure to industrial standards will also be requested by ExxonMobil. A deed recordation of the industrial cleanup for the property will need to be filed by PCCA at that time. PCCA has scheduled a conference call with ExxonMobil and their consultant to determine when they plan to install the wells.

In order to have a residential closure for the property, PCCA has been advised by RRC that a cap of the site is required.

PCCA Environmental Management System (11-025A)

PCCA has an ISO 14001 certified Environmental Management System since July 2007 for our Bulk Terminal and Maintenance Facility. On June 28, 2010, the program was audited and recertified and includes the expanded fence line – the north and south side Public Cargo Docks and the associated laydown areas.

Final significant aspects, objectives and targets, and Environmental Management Programs for 2011 were approved by the Steering Committee. Training and implementation programs will begin to occur. A Port Customers Stakeholder Meeting was held on February 10, 2011 and input from our customers on the EMS program was received. Another Port Customers Stakeholder Meeting will be held in May 2011.

Internal audits began in March 2011 and the external audit is currently scheduled for May 24-25, 2011.

Harbor Bridge Height Study (10-019A)

The report has been completed and forwarded to TxDOT.

Underwater Inspections of Various Waterfront Facilities (10-020A)

Underwater inspections complete at Oil Docks 1, 6, & 12; Cargo Dock 1, Water Taxi Landing, and Viola Barge Dock. Oil Docks 8 & 10 inspections will be performed as dock closure schedules allow in mid 2011.

DREDGING

Corps of Engineers (COE) Dredging for FY 2011

COE awarded a contract in February 2011 for maintenance dredging the Corpus Christi Ship Channel in select reaches from the Inner Basin to the Harbor Bridge. Work projected to be complete in July 2011.

Channel Improvement Project (98-012A)

In November 2007, Congress passed WRDA of 2007 authorizing the Port's Channel Improvement Project.

The project include in following improvements:

1. Widening the CCSC to 530' from Port Aransas to the Harbor Bridge.
2. Adding 200'-wide barge shelves on both sides of the ship channel across Corpus Christi Bay.
3. Extending La Quinta Channel by 7400' at a depth of -39' MLT.
4. Deepening all reaches of CCSC (excluding La Quinta) from -45' MLT to -52' MLT.
5. Constructing Ecosystem Restoration projects near Port Aransas and Ingleside on the Bay.

Project received congressional appropriation in FY2009 for the construction phase of the project, officially ending the Pre-Construction Engineering and Design phase. A Project Partnership Agreement (PPA) was executed in October 2009 for the La Quinta Channel Extension & Ecosystem Restoration. Additional contracts pending federal funding. Construction of Contract No. 1 completed in 2010 to construct DMPA 14.

Deepening and widening of the CCSC and the addition of barge shelves still undergoing re-evaluation and is projected to be complete in the summer of 2011. Draft re-evaluation confirmed project still in Federal interest. Study undergoing various required reviews.

UPCOMING BID OPENINGS

New Oil Dock 9 Dock House (<i>11-032A</i>)	May 27, 2011
Replace Cable Drums & Lengthen the Gantry Crane Boom at Bulk Dock 1 (<i>09-033B</i>)	June 2, 2011

HUMAN RESOURCES

(Organizational Chart Attached)

Human Resources

There were (4) four random and (2) post-accident drug tests conducted.

Several meetings with staff were held to discuss staffing, human relations and employee development.

Wellness Program

The monthly meeting of the Wellness Committee was held. The Committee discussed the speaker(s) for the education luncheon for the month of May and June. Also, the Committee discussed the "Walk Challenge" for employees and family members. Other items were discussed during the meeting such as: additional committee members, Port newsletter, digital mascot, employee incentives and physical fitness classes to be held at admin bldg after working hours.

Contract Participation

There are almost (800) vendors registered into the Vendor Registration Database. Of those registered, about one-third are targeted group vendors. The Targeted Group Vendors are: Disadvantaged Business Enterprise (DBE), Historically Underutilized Business (HUB), Women Owned Business (WOB), Minority Business Enterprise (MBE) and Small Business Enterprise (SBE).

The Procurement Technical Assistance Center (PTAC) at Del Mar College held a Workshop entitled "How "To Do Business with the Port." There were (20) attendees which included mainly small business owners. Port staff provided information regarding vendor registration online, purchasing process, capital, professional, and maintenance projects along with a discussion of the Port's website along with the upcoming E-Bid program which will be implemented late spring or early summer.

AGENDA ITEM NO. 14

No Attachment

AGENDA ITEM NO. 15

No Attachment

AGENDA ITEM NO. 16

No Attachment