



**Notice of Meeting of the Port Commission of the
Port of Corpus Christi Authority of Nueces County, Texas, on
Tuesday, March 20, 2018, at 8:30 AM
At the Solomon P. Ortiz International Center
402 North Harbor Drive, Corpus Christi, Texas**

**The Agenda for this meeting of the Port Commission ("Commission") of the Port of
Corpus Christi Authority ("PCCA") is set forth below.**

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Sherry DuBois at 885-6174 at least 48 hours in advance so that appropriate arrangements can be made.

Si usted se dirige a la junta y cree que su inglés es limitado, habrá un intérprete inglés español en la reunión de la junta para ayudarle.

Members of the audience will be provided an opportunity to address the Port Commission. Please speak into the microphone located at the podium and state your name and address. Your presentation will be limited to three minutes.

PUBLIC NOTICE is given that the Commission may go into executive session at any time during the meeting to discuss matters listed on the agenda when authorized to do so by the provisions of Section 418.183 or Chapter 551 of the Texas Government Code. In the event the Commission elects to go into executive session regarding any agenda item, the presiding officer will publicly announce the section or sections of the Texas Government Code authorizing the executive session.

- 1. Call to Order**
- 2. Safety Briefing**
- 3. Pledge of Allegiance**
- 4. Invocation**
- 5. Receive Conflict of Interest Affidavits**
- 6. Minutes**

- 6.a. Approve minutes of the February 20, 2018 Commission meeting.
[February 20, 2018 - Minutes](#)

7. Public Comment (Each speaker is limited to 3 minutes.)

8. Standing Committee Reports

9. Presentations

- 9.a. Receive a presentation from the US Coast Guard.
- 9.b. Receive project update from Flatiron Dragados LLC.
- 9.c. Receive PORTS Update.

10. Open Agenda

- 10.a. Approve a Resolution of Appreciation for David Lew Michaelson, P.E., Chief Engineer, in honor of his service and contribution to the Port of Corpus Christi.
[Michaelson - Resolution](#)
- 10.b. Authorize the renewal of Property Insurance coverage in the amount of \$1,329,821.73.
[2018-2019 FinalProperty Insurance Coverage.docx](#)
- 10.c. Accept recommendation by the Capital Finance Committee to approve the Plan of Finance as presented to the Committee on March 5, 2018.
[2018 Financing Plan - Memo](#)
[2018 Plan of Financing Timelines](#)
- 10.d. Authorize Staff to commence request for proposal process for Bond Underwriter according to the Plan of Finance.
- 10.e. Authorize Staff to commence request for proposal for a \$100 million credit facility according to the Plan of Finance.
- 10.f. Approve a Resolution of the Port Commission of the Port of Corpus Christi Authority of Nueces County, Texas, declaring the Port Authority's official intent to reimburse itself from the future proceeds of bond obligations.
[2018 Bond Reimbursement Resolution - Memo](#)

2018 Bond Reimbursement Resolution

- 10.g. Award a Construction Contract in the amount of \$821,484.65 to Garrett Construction Company, the lowest and best bidder based on bids received on March 7, 2018 for the PCCA Roadway and Parking Lot Repairs Project at Avery Point Oil Docks, Oil Dock 1, and the Southside Storage Yard.
[Roadways & Pkg Lot - 1-Memo.docx](#)
[Roadway & Pkg Lot - 2 Exhibit.pdf](#)
[Roadways & Pkg Lot - 3-Bid Tab.pdf](#)
- 10.h. Adopt a Resolution Approving a Real Estate Sales Contract between the Port of Corpus Christi Authority of Nueces County, Texas, as Purchaser, and PPG Industries, Inc., as Seller, and Authorizing the Execution of the Contract and Related Closing Documents.
[PPG Industries Purchase Agreement-CM.docx](#)
[PPG Memo Exhibit.pdf](#)
[PPG Resolution.pdf](#)
- 10.i. Approve four (4) Agreements Associated with AccuTRANS Fleeting Services, LLC, Relocation to the North Side of Avery Point Turning Basin to Accommodate Construction of the New Harbor Bridge Replacement Project: (1) Long-Term Lease Agreement with AccuTRANS Fleeting Services, LLC; (2) Short-Term Lease with AccuTRANS Fleeting Services, LLC; (3) Short-Term Lease Agreement with CCC Group, Inc.; and (4) Third Amendment of Lease with Archer-Daniels-Midland Company to Reduce the Lease Premises by 0.63 acres.
- 10.j. Amendment to Tariff 100-A: Item 205 (Application and Interpretation of Tariff); Item 210 (Cargo Statement, Wharfage Transaction Form, Ship's Manifest and Access to Records Required); Item 240 (Charge for Special Services); Item 260 (Holidays for Port Authority Employees); Item 285 (Assignment of Berth and Conditions of Assignment); Item 288 (Facility Use Fee); Item 301 (Harbor Safety Fee); and Item 540 (Project Rates).
[Tariff - Memo](#)
- 11. 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.*
- 11.a. Approve an Easement and Right of Way Agreement with AEP Texas, Inc. for Electrical Service to serve Gavilon's 8.85-acre Leased Premises Located in the Inner Harbor, Nueces County, Texas.
[AEP Easement Gavilon - Memo.docx](#)

[AEP Easement Gavilon - Memo Exhibit.pdf](#)
[AEP Easement Gavilon - Easement Agreement.pdf](#)

- 11.b. Approve an Easement and Right of Way Agreement with AEP Texas, Inc. for Installation of New Service for Waterfront Development along Mike Carrell Road East of Oil Dock 14, Nueces County, Texas.

[AEP Easement Mike Carrell Raod Waterfront - CM.docx](#)
[AEP Easement Mike Carrell Raod Waterfront - Memo Exhibit.pdf](#)
[AEP Easement Mike Carrell Road.pdf](#)

- 11.c. Approve an Access and Utility Easements Agreement with Maverick Terminals Corpus, LLC for a 12" Waterline, 2" Gas Pipeline and a 20 Foot Wide Non-Exclusive Access Driveway to Maverick Terminals 40.79 acre Facility Located East of the Bulk Terminal, Nueces County, Texas.

[Maverick Utility Easement - CM.docx](#)
[Maverick Utility Easement - Memo Exhibit.pdf](#)
[Maverick Utility Easement - Agreement.pdf](#)

- 11.d. Approve a Change Order with Haas-Anderson Construction Ltd. in the Amount of \$81,747.40 for the Rincon West Storage Area Development Project Associated with Relocating Soil.

[Rincon West CO - 1-Memo.docx](#)
[Rincon West CO #3.pdf](#)
[Rincon West Change Order 3 exhibit.pdf](#)

- 11.e. Approval of a Contribution-In-Aid-Of-Construction Agreement and Purchase Order with AEP in the amount of \$78,798.66 for Security Lighting along the Joe Fulton International Trade Corridor under Security Grant 15.

[Fulton Lighting - 1-Memo.docx](#)
[Fulton Lighting - 2-Exhibit.pdf](#)
[Fulton Lighting - 3-Agreement.PDF](#)

- 11.f. Award contract to Sunoco, LLC for one (1) year for purchase of bulk fuel estimated amount of \$225,000.

[Bulk Fuel - Memo](#)
[Bid Tab for Bulk Fuel.xls](#)

- 11.g. Approve Master Services Agreement No. 18-02 and Service Order No. 1 in the amount of \$16,000 with Govind Development, LLC, for Construction Phase Engineering Services associated with Fire Pressurization at Oil Docks 1, 2, and 15 Project.

[Govind MSA - 1 Memo.docx](#)
[Govind MSA - 2-Master Agreement.pdf](#)
[Govind - 3 Service Order #1.docx.pdf](#)
[Govind - 4 Service Order #1 exhibit.docx.pdf](#)

- 11.h. Approve Fifth Amendment to Professional Consulting Services Contract with AECOM in an amount of \$148,865 for additional scope of work related to the Waterway Planning Study.
[AECOM - Memo](#)
[AECOM - Agreement](#)
- 11.i. Approve Grant Application for Various Port Security Projects under the Port Security Grant Program FY-18
[Security Grant - Memo](#)
- 11.j. Approve a Lease Agreement with the United States of America, through the Department of Homeland Security, United States Coast Guard, to Locate a Maritime Navigational Aid at La Quinta to the West of the No. 14 Dredge Material Placement, San Patricio County, Texas.

[USCG_La_Quinta_AToN_Lease_Agreement_-_CM.DOCX](#)
[USCG La Quinta ATON Lease Agreement - Memo Exhibit.pdf](#)
[USCG La Quinta ATON Lease Agreement - Agreement.pdf](#)
- 11.k. Approve Sixth Modification of Lease Agreement with Corpus Christi Terminal Railroad, Inc. to Relocate to a 1.2-acre Tract South of Joe Fulton International Corridor and West of Mike Carrell Road, Nueces County, Texas.
[19959 CCTR Amendment to Relocate - CM.docx](#)
[19959 CCTR Amendment to Relocate - Memo Exhibit.pdf](#)
[19959 CCTR Amendment to Relocate - Agreement.pdf](#)
- 11.l. Ratify Permanent Pipeline Project Proposal Nomination to the U.S. Army Corp of Engineers in Response to the Solicitation for Non-Federal Sponsor Nomination of Pilot Projects for Beneficial Use of Dredge Materials.

[Corps Pilot Program - Memo](#)
- 11.m. Award a Construction Contract to Mitchell Energy Services, the lowest and best bidder based on bids received March 6, 2018, in the amount of \$67,933.40 for the Security Grant 15 - Bulk Terminal Fencing - Additional Fencing Project.
[BT Fencing - 1-Memo - Final 3.8.18.docx](#)
[BT Fencing - 2 bid tab.pdf](#)
[BT Fencing - 3 exhibit.pdf](#)
- 11.n. Award a Contract in the amount of \$100,000 to J.M. Davidson, LTD., the lowest and best bidder based on bids received on February 20, 2018, for maintenance painting at the Bulk Terminal.
[JM Davidson - Memo](#)
[JM Davidson - Bid Tab](#)

- 11.o. Authorization for Solicitation by Request for Proposals for Bulk Terminal Storage Pad Operator Services.

[BD Storage Pad Operator - Memo](#)

- 11.p. Authorization for Solicitation by Request for Proposals for Debris Management Services.

[Debris Management - Memo](#)

- 11.q. Authorization for Solicitation by Request for Proposals for Debris Monitoring and Recovery Services.

[Debris Monitoring - Memo](#)

12. Executive Director, Chief Executive Officer and Commissioners' Comments

- 12.a. Receive Executive Director and Chief Executive Officer's Reports on upcoming community events, PCCA events and the activities of the following PCCA departments during the preceding month: business development, community relations, communications, engineering services, environmental management, government affairs, and operations.

- 12.b. Receive Commission comments on any of the agenda items for this meeting, the Port's activities during the preceding month, upcoming PCCA events, and suggestions for future agenda items.

13. Recess Open Meeting and Convene Executive Session - *The Port Commissioners will deliberate the purchase, exchange, lease or value of real property in executive session only if deliberation in an open meeting would have a detrimental effect on PCCA's position in negotiations with a third person.*

- 13.a. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate leasing PCCA submerged land to the City of Port Aransas.

- 13.b. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate leasing PCCA real property in Nueces County.

- 13.c. The Commission will go into executive session pursuant to §551.071 of the Texas Government Code to receive legal advice from PCCA counsel regarding the enforcement of PCCA's remedies under one of its leases of land in San Patricio County.

- 13.d. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate leasing PCCA real property on the north side of the Inner Harbor.
- 13.e. The Commission will go into executive session pursuant to §551.074 of the Texas Government Code to deliberate the 2018 performance evaluation criteria of the Executive Director and the Chief Executive Officer.
- 13.f. The Commission will go into executive session pursuant to §551.071 of the Texas Government Code to receive legal advice from PCCA counsel regarding PCCA's Project Partnership Agreement with U.S. Army Corps of Engineers.
- 13.g. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate leasing PCCA real property in San Patricio County.

14. Reconvene in Open Session

- 14.a. Consider for approval an Amended and Restated Lease Agreement with CCI Corpus Christi Infrastructure LLC.
- 14.b. Consider for approval a Laydown Lease Agreement with GCGV Asset Holding LLC for a 9.2-Acre Temporary Laydown Area Located at the La Quinta Trade Gateway in San Patricio County, Texas.
- 14.c. Consider for approval a 30.07-acre Marina Lease Agreement with the City of Port Aransas located in Port Aransas, Nueces County, Texas.
[Port Aransas Marina - CM \(003\).docx](#)
[Port Aransas Marina - Memo Exhibit.pdf](#)
[CORPUS-#313160-v3-PCCA_-_Port_Aransas_Marina_Lease.pdf](#)

15. Adjourn

**OFFICIAL MINUTES OF PORT COMMISSION MEETING
FEBRUARY 20, 2018**

The Port Commissioners of the Port of Corpus Christi Authority convened at the Solomon P. Ortiz International Center, 402 Harbor Drive, Corpus Christi, Texas, on Tuesday, February 20, 2018 at 9:00 a.m., for the regular monthly meeting of the Port Commission.

Present: Mr. Charles Zahn
Mr. Wayne Squires
Ms. Barbara Canales
Mr. David P. Engel
Mr. Richard Valls
Mr. Richard L. Bowers
Mr. Wes Hoskins

Present: Mr. John P. LaRue
Mr. Sean Strawbridge
Mr. Dennis DeVries
Mr. Jarl Pedersen
Mr. Kent Britton
Mr. Darrin Aldrich
Ms. Patricia Cardenas
Ms. Rosie Collin
Mr. Russell Cordo
Mr. Tyler Fuhrken
Ms. Sarah Garza
Mr. David Krams
Mr. Ruben Medina
Ms. Sandra Terrell-Davis
Ms. Nelda Olivo
Mr. Gilbert Acevedo
Ms. Lynn Angerstein
Mr. Eric Battersby
Mr. Bland Chamberlain
Ms. Audre Debler
Ms. Sherry DuBois
Mr. Sam Esquivel
Mr. Brett Flint
Ms. Natasha Fudge
Mr. James Haley
Mr. T.J. Gonzalez
Mr. Erin Hall
Ms. Donna James-Spruce
Mr. Dan Koesema
Ms. Sonya Lopez
Mr. Dave Michaelson

Ms. Leslie Ruta
Mr. David Villarreal
Mr. Bennie Benavides
Ms. Sandy Escobar
Ms. Jennifer Powell
Mr. Jesse Samu
Ms. Pamela Mota

Others Present:

Mr. Leo J. Welder, Jr.
Mr. Dane Bruun

Others Present:

Mr. Bob Paulison
Mr. Terry Arnold
Consultant
Mr. Xavier Valverde, Sr.
G&H Towing
Capt. Hahn
Mr. Jason Smith
Mr. Joe Anthony
Cmdr. Picket
US Coast Guard
Capt. Mike Kershaw
Consultant
Mr. Roger TenNapel
Flint Hills Resources
Mr. William Goldston
ALEL
Capt. Jay Rivera
Aransas-CC Pilots
Ms. Darcy Schroeder
Valero
Ms. Karen Pollock
Ms. Lorian Perez
Mr. Jeff Taylor
OPC
Mr. John Frazier
McCurthy Building Co.
Mr. Tom Moore
Consultant
Mr. Ronald Berglund
Robstown Improvement District
Mr. Dionisio Marquez
Mr. Frank Jordan
Ms. Samatha Davila
Ms. Hilda Correa
Ms. Melessi Deleon
Del Richardson & Associates

Mr. Bert Moorehouse
Gulf Copper
Ms. Jane Gimler
Ingleside Chamber of Commerce
Ms. Bridgett Cook
Collier Johnson & Woods
Mr. Peter Waugh
VOPAK
Mr. JD Kennedy
Cong. Farenthold Office
Mr. Josh Macklin
Mr. Kevin Gibson
Signet Maritime
Ms. Gretchen Arold
CC Air Quallity
Mr. Gary Moore
City of Portland
Mr. Joe Miller
Mr. Trent Thigpen
TAMUCC
Mr. Scott Harris
LAN
Ms. Doreen Harrell
KCS/PR
Mr. Dan Korus
Ms. Dara Beto
Del Mar College
Mr. Joe Guzman
So Tx Military Facilities Task Force
Mr. Jim Barnett
CoastCon
Mr. Keith Little
Cheniere
Mr. David Cave
CITO
Mr. Howard Gillespie
San Patricio County
Mr. Robert Morris
Security Title
Mr. Joe Fulton
Mr. Foster Edwards
San Patricio EDC
Ms. Elva Lopez
Robstown Area Development Corp.

1. Meeting called to order.

2. **Safety briefing presented.**
3. **Pledge of Allegiance recited.**
4. **Invocation given.**
5. **Conflict of Interest Affidavits:** None were submitted.
6. **Minutes.**
 - 6a. **Action:** On motion made by Mr. Squires and seconded by Mr. Valls, the Commission approved the minutes of the January 16, January 31 and February 6, 2018 Commission meetings in the form presented to the meeting.
7. **Public Comments:** Ms. Patsy Vasquez with the American GI Forum thanked the Port for its work with the GI Forum and advised that the Port would be presented the Presidential Award at the upcoming National Conference.
8. **Standing Committee Reports:**
 - 8a. **Audit Committee Report:** The Chairman of the committee reported on the committee's activities since the last regular Commission meeting.
 - 8b. **Long-Range Planning Committee Report:** The Chairman of the committee reported on the committee's activities since the last regular Commission meeting.
 - 8c. **Office Building Committee:** The Chairman of the committee reported on the committee's activities since the last regular Commission meeting.
 - 8d. **Security Committee:** The Chairman of the committee reported on the committee's activities since the last regular Commission meeting.
 - 8e. **Capital Finance Committee:** The Chairman of the committee reported that the committee had not met since the last regular Commission meeting.
9. **Presentations:**
 - 9a. Staff introduced PCCA Spring Semester Interns.
 - 9b. The Commission received an update from Keith Little on Cheniere Energy's Corpus Christi Liquefaction Project.
 - 9c. The Commission received an update from Ray Armstrong on the Hillcrest Voluntary Relocation Project.
 - 9d. The Commission received an update on the Hurricane Harvey After Action and Improvement Plan from PCCA's Manager of Emergency Management.

10. Open Session Agenda:

10a. Reappointment of members of Office Building Committee: Chairman Zahn made the following reappointment:

Rick Valls – Chair
Wayne Squires
Dick Bowers

10b. Resolution of Appreciation in memory of Joe R. Fulton:
Action: On motion made by Mr. Valls and seconded by Mr. Bowers, the Commission adopted the following resolution:

**RESOLUTION IN MEMORIAM OF
JOE R. FULTON
1934 -- 2018**

WHEREAS, the Port of Corpus Christi lost a great leader and friend on February 15, 2018, with the passing of Joe R. Fulton; and

WHEREAS, Joe R. Fulton was a member of the Port Commission from January 1985 until January 1998, a total of thirteen years; and

WHEREAS, Joe R. Fulton served as Chairman of the Port Commission from September 1991 until January 1997; and

WHEREAS, during Joe R. Fulton's tenure, the Port moved forward on many major projects such as a 45-foot draft channel, the Bulk Terminal expansion project, the Northside Road and Rail project, the Lake Texana Water Pipeline to Corpus Christi, the James C. Storm Pavilion, used by citizens and visitors alike, and a multi-million dollar capital expansion program designed to diversify the Port's cargo base, and the Port became the sixth largest Port in the United States; and

WHEREAS, Joe R. Fulton was an active member of the construction industry for his entire career, during which time he built many of the most significant structures in Corpus Christi, including the Art Museum of South Texas, Texas State Aquarium, Nueces County Courthouse, United States Federal Courthouse, Christus Spohn Hospital South, Whataburger Field, American Bank Center, Frost Bank Plaza, Omni Bayfront Hotel, Bay Area Medical Center, and Veteran's Memorial High School, and served at all levels of the Associated General Contractors of America; and

WHEREAS, Joe R. Fulton was a leader of numerous organizations committed to improving the well-being of the citizens of the Coastal Bend, including Trustee and Chairman of the Driscoll Foundation, Chairman of the Corpus Christi Economic Development Corporation, Chairman of the Greater Corpus Christi Business Alliance, and President of the Corpus Christi Convention & Visitors Bureau, and served as a director of Cullen/Frost Bank; and

WHEREAS, the Joe Fulton International Trade Corridor, a critical part of the infrastructure of the Port Corpus Christi, bears his name and is a reflection of his far-reaching legacy; and

WHEREAS, the Port Commission wishes to publicly recognize the remarkable achievements of Joe R. Fulton and to extend its sincerest condolences to his family and friends;

NOW, THEREFORE BE IT RESOLVED that the Port Commission of the Port of Corpus Christi Authority expresses its sincere gratitude for the many years of service Joe R. Fulton gave to the Port of Corpus Christi, its staff and, to our region. The Commission further wishes to gratefully acknowledge that Joe R. Fulton was a loyal friend of the Port of Corpus Christi, a servant of the citizens of the Coastal Bend community, and a visionary for the prosperity of our nation; and

BE IT FURTHER RESOLVED, that this Resolution be made part of the permanent records of the Port Commission and that a copy of the Resolution be given to Joe Fulton's beloved wife of 45 years, Fran Fulton.

UNANIMOUSLY ADOPTED, this 20th day of February, 2018.

10c. Resolution requesting 86th Texas Legislature to restore funding to Texas Commission on Environmental Quality:

Action: On motion made by Ms. Squires and seconded by Mr. Hoskins, the Commission adopted the following resolution:

RESOLUTION REQUESTING THE 86th TEXAS LEGISLATURE TO RESTORE FUNDING TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR AIR QUALITY MONITORING AND MITIGATION PROGRAMS FOR NEAR NON-ATTAINMENT COMMUNITIES ESSENTIAL TO REMAIN IN COMPLIANCE WITH THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE ESTABLISHED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY THROUGH THE CLEAN AIR ACT.

WHEREAS, many Texas near-nonattainment communities like Corpus Christi have efficiently and effectively utilized funding provided in the General Appropriations Act in a rider to the Texas Commission on Environmental Quality (TCEQ) to implement air quality monitoring and mitigation strategies to remain in compliance with current and proposed National Ambient Air Quality Standard for Ozone by the United States Environmental Protection Agency (EPA) as authorized in the federal Clean Air Act; and

WHEREAS, the Clean Air Act directs the states to develop state implementation plans (SIPs), applicable to appropriate industrial sources in the state, in order to achieve ozone standards; the lack of funding for near non-attainment communities resulting from a line-item veto by the governor in the 2018-2019 General Appropriations Act prevents impacted communities from implementing strategies in the adopted Texas SIP, and local governments do not have the financial capacity to assume the responsibilities; and

WHEREAS, the health and quality of life for millions of Texas residents in near nonattainment communities has benefitted greatly from the strategies, services and programs implemented at the local level by local governments, businesses, and industry to reduce ozone levels and remain in compliance with federal standards; and

WHEREAS, the Corpus Christi air-shed remains in attainment of the most recently established ozone standards announced by the EPA in 2015 of 70 parts per billion (ppb); and

WHEREAS, two programs in Corpus Christi served to ensure the Corpus Christi air-shed's continued attainment of ozone standards: Texas A&M University Corpus Christi Pollution Prevention Partnership's vehicle emissions reduction program and Texas A&M University Kingsville's ozone air monitor program; and

WHEREAS, both the Texas A&M University Corpus Christi Pollution Prevention Partnership's vehicle emissions reduction program and Texas A&M University Kingsville's ozone air monitor program relied on funding through the TCEQ's Clean Air Account No. 151; and

WHEREAS, rider funding to support the continuation of the Texas A&M University Corpus Christi Pollution Prevention Partnership's vehicle emissions reduction program and Texas A&M University Kingsville's ozone air monitor program was vetoed after adjournment of the 85th Regular Session of the Texas Legislature after it had been adopted without opposition by both the Texas House of Representatives and the Texas Senate, denying these critical programs of the funding needed to continue; and

WHEREAS, without restoration of funding by the 86th Texas Legislature, both the Texas A&M University Corpus Christi Pollution Prevention Partnership's vehicle emissions reduction program and Texas A&M University Kingsville's ozone air monitor program will cease to operate thereby risking Corpus Christi air-shed's continued attainment designation of ozone standards; and

WHEREAS, the Texas A&M University Corpus Christi Pollution Prevention Partnership's vehicle emissions reduction program protects Corpus Christi's attainment status of ozone standards by providing over 10 tons of reductions of ozone-causing emissions each year at a cost of approximately \$4,700 per ton compared to the possible costs of \$50,000 a ton or more for offset emissions should a development choose to site in Corpus Christi that no longer attains ozone standards; and

WHEREAS, without the restoration of funding to the TCEQ by the 86th Texas Legislature, Corpus Christi is stripped of proven programs (i.e., AutoCheck, Air Quality Monitoring) that work to reduce the mobile source emissions that are a significant 30 percent contributor to Corpus Christi's ozone causing emissions; and

WHEREAS, without the restoration of funding provided by the 86th Texas Legislature, Corpus Christi is stripped of the ozone research monitors that substantiate and document transported emissions that are not generated in our air-shed, and possible consideration for attainment designations; and

WHEREAS, the economic burden on the State of Texas to bring a non-attainment community back into attainment is far greater than the cost to restore funding that assists struggling attainment communities to remain an attainment community in the State of Texas; and

WHEREAS, the economic burden for a business to obtain a permit to locate or expand in Corpus Christi is significantly increased should funding for the TCEQ not be restored by the 86th Texas Legislature and Corpus Christi loses the critical ozone attainment protection programs of the Texas A&M University Corpus Christi Pollution Prevention Partnership's vehicle emissions reduction program and Texas A&M University Kingsville's ozone air monitor program, and fall into non-attainment of ozone standards; and

WHEREAS, the Corpus Christi air-shed prides itself on being a national leader in voluntary actions and programs that work to keep our industrial based community in attainment of toughened ozone standards;

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

Section 1. The Corpus Christi air-shed's continued attainment of ozone standards is critical to public and economic health, and

Section 2. Appropriations to TCEQ to provide for the continuation of air-shed programs proven to reduce emissions and monitor ozone sources must be restored by the 86th Texas Legislature; and

Section 3. The Port Commission does hereby request the Governor, Lieutenant Governor, the Speaker of the Texas House of Representatives, the Texas Senate and Texas House of Representatives to restore funding to the TCEQ in the FY 2020-2021 General Appropriations Act for air quality programs in all near non-attainment communities with quantifiable emission reduction strategies.

Section 4. This Resolution is hereby adopted by the Port Commission on February 20, 2018.

10d. Development Services Agreement with Texas A&M: In 2017, the Governor line item vetoed the 2018-2019 General Appropriations Act Rider funding which eliminated the funding provided to TCEQ for near non-attainment communities such as Corpus Christi. Staff recommended approval, in the form presented to the meeting, of a Development Services Agreement with Texas A&M Pollution Prevention Partnership (P3) for stop gap funding of the P3 emission mitigation and education programs while working with the legislature to restore funding for this program.

Action: On motion made by Mr. Engel and seconded by Mr. Squires, the Commission approved Staff's recommendation.

10e. Construction Contract for new access road to Good Hope Dredge Material Placement Area Project: Staff recommended the award of a construction contract to JE Construction Services, LLC in the amount of \$506,778.35 for the New Access Road to Good Hope DMPA project. Staff further recommended that the Director of Engineering Services be granted a 4% contingency (\$20,271.13) in accordance with the PCCA's standard contingency guidelines for general construction projects. The total possible construction contract cost for this project, based on staff's recommendation, is \$527,049.48. The Agenda Memorandum presented at the meeting for this agenda item contains a complete description of Staff's recommendation.

Action: On motion made by Mr. Valls and seconded by Mr. Squires, the Commission approved Staff's recommendation.

10f. Amendment to Tariff 100-A, Section V adding new Item 509 and Item 511: Staff recommended amending Tariff 100-A, Section V (Loading, Unloading and Wharfage Rates), by adding new Item 509 (Barite in Bags or Super Sacks) and new Item 511 (Cement in Bags or Super Sacks) with rates for both items of \$1.75 per net ton.

Action: On motion made by Mr. Valls and seconded by Mr. Squires, the Commission approved Staff's recommendation.

10g. PCCA 4th Quarter Investment Report: The Audit Committee recommended approval of PCCA's 4th Quarter Investment Report in the form presented to the meeting.

Action: On motion made by Mr. Engel and seconded by Mr. Valls, the Commission approved the Audit Committee's recommendation.

10h. Engagement of Collier, Johnson & Woods, PC for 2017 Financial Audit: The Audit committee recommended approval of the engagement of Collier, Johnson & Woods, PC for the auditing of the primary financial statements of PCCA, including the related notes to the financial statements, for the year ended December 31, 2017.

Action: On motion made by Mr. Engel and seconded by Ms. Canales, the Commission approved, in the form presented to the meeting, an engagement letter with Collier, Johnson & Woods, PC, for the audit of PCCA's primary financial statements for the year ended December 31, 2017.

10i. Lease Option Agreement with Vopak North America Inc.: Staff recommended approval of a Lease Option Agreement with Vopak North America Inc. for a 64.51-acre tract for development of a marine terminal facility at PCCA's La Quinta Trade Gateway.

Action: On motion made by Mr. Engel and seconded by Mr. Squires, the Commission approved Staff's recommendation.

10j. Contingency increase and Change Order with J.M. Davidson, Ltd:

The Commission previously (a) awarded a construction contract to JM Davidson, Ltd., in the amount of \$6,621,987 for the construction of the petroleum liquids and vapor handling facilities at Bulk Terminal Dock 3, along with a 4% contingency, (b) a \$250,000 increase in the contingency under the contract, and (c) a change order to the contract in the amount of \$258,866.88. Staff recommended approval of a \$605,000 increase in contingency in the amount and approval of a Change Order with J.M. Davidson, Ltd in the amount of \$580,000 for additional work associated with providing metering skids for the construction of bulk liquid handling facilities at Bulk Terminal Dock 3. The Agenda Memorandum presented at the meeting for this agenda item contains a complete description of Staff's recommendation.

Action: On motion made by Mr. Valls and seconded by Ms. Canales, the Commission approved Staff's recommendation.

- 11. Consent Agenda:** Individual Commissioners requested that Consent Agenda Items 11d and 11e be considered separately. Then Mr. Hoskins moved the approval of the remaining Consent Agenda Items by one vote (the "Consent Agenda Motion"), in accordance with the respective staff recommendations and agreements furnished to the Commission at the meeting. Mr. Bowers seconded the motion and the motion passed without objection.

11a. By approval of the Consent Agenda Motion, the Commission approved the additional purchase of lighting retrofit supplies and services for the Ortiz Center from Facility Solutions Group through the existing Co-op contract under the State of Texas BuyBoard Cooperative Program in the amount of \$28,940.

11b. By approval of the Consent Agenda Motion, the Commission approved an Amendment to increase a Professional Engineering Services Contract with Bath Group, Inc. in the amount of \$35,000 for engineering services associated with electrical upgrades at Public Oil Docks 1 through 5, 7, 11 and 12.

11c. By approval of the Consent Agenda Motion, the Commission approved an Amendment to increase a Professional Consulting Services Contract with 360Factors EHS Consulting Services, Inc. in the amount of \$31,000 for additional work associated with sediment testing of dredge material for the construction of the Corpus Christi Ship Channel – Channel Improvement Project.

11d. The Commission previously awarded a construction contract to Haas-Anderson Construction Ltd. in the amount of \$4,389,524.65 for the construction of the Rincon West Storage Area Development Project, along with a 2% contingency. Mr. Valls moved the approval of a \$165,000 increase in contingency and a Change Order with Hass-Anderson Construction Ltd. in the amount of \$75,557.77 for the Rincon West Storage Area Development Project associated with relocating onsite soil and providing up to 3,436 cubic yards of structural fill. Mr. Engel seconded the motion and the motion passed.

11e. On motion made by Mr. Valls and seconded by Mr. Squires, the Commission authorized Staff to request competitive sealed proposals for the replacement of PCCA's existing Maritime Vessel Traffic Information System (VTIS).

11f. By approval of the Consent Agenda Motion, the Commission approved an Agreement with G2, Inc. under GSA GS-35F-0660N for implementation of National Institute of Standards and Technology Cybersecurity Framework funded by FEMA Port Security Grant Program in the amount of \$120,000.

11g. By approval of the Consent Agenda Motion, the commission approved the purchase of Cisco Networking Equipment from Computer Solutions in the amount of \$249,577.05 through Texas DIR DIR-TSO-2542 for the upgrade of the security network.

11h. By approval of the Consent Agenda Motion, the Commission approved an Easement and Right of Way Agreement with AEP Texas, Inc. for relocation of an electrical distribution line located at the Bulk Terminal, Nueces County, Texas.

11i. By approval of the Consent Agenda Motion, the Commission approved an Amendment of Lease with the City of Port Aransas to extend the 50.75-acre Marina Lease located in Port Aransas, Nueces County, Texas to March 31, 2018.

11j. By approval of the Consent Agenda Motion, the Commission approved a Pipeline Easement Agreement with Maverick Terminals Corpus, LLC for a 43' by 10' surface site and two 12" pipeline and one 1" fiber optic line, located east of the Bulk Liquid Handling Facility at Bulk Terminal Dock 3, Nueces County, Texas.

11k. By approval of the Consent Agenda Motion, the Commission approved the purchase of a compact excavator from H&V Equipment Services using Government pricing from the State of Texas BuyBoard Cooperative Program.

11l. By approval of the Consent Agenda Motion, the Commission approved a First Amendment to Consulting Services Contract with SMART Development for 2018.

11m. By approval of the Consent Agenda Motion, the Commission approved a Restated Pipeline Relocation Agreement by and between EOG Resources, Inc., Maverick Terminals Corpus, LLC and the Port of Corpus Christi Authority for the relocation of an existing EOG pipeline located on the Maverick Terminal Corpus, LLC leased premises, Nueces County, Texas.

11n. By approval of the Consent Agenda Motion, the Commission approved a Consulting Services Contract with Del Carmen Consulting, Inc. related to the professional development of port police officers for 2018.

11o. Amendment No. 1 to PCCA's Professional Engineering Services Contract with Cardno, Inc., for additional services related to the procurement of a new crane for Bulk Dock 1 for an amount of \$42,548 was presented to the Commission for approval. After discussion, Mr. Bowers moved that this item be tabled. Mr. Valls seconded the motion and the motion passed.

11p. By approval of the Consent Agenda Motion, the Commission adopted the following resolution:

**RESOLUTION APPROVING INTERLOCAL AGREEMENT BETWEEN THE PORT OF
CORPUS CHRISTI AUTHORITY AND REGION VIII EDUCATION SERVICE CENTER
FOR COOPERATIVE PURCHASING SERVICES THROUGH
INTERLOCAL PURCHASING SYSTEM (TIPS) PROGRAM**

WHEREAS, an Interlocal Agreement ("**Interlocal Agreement**") between the Port of Corpus Christi Authority of Nueces County, Texas ("**Authority**") and the Region VIII Education Service Center ("**Center**") for Cooperative Purchasing Services Through the Interlocal Purchasing System ("**TIPS**") Program has been presented to Authority's Port Commission for approval; and

WHEREAS, Texas Education Code § 8.002 authorizes Center, at the direction of the Commissioner of Education, to provide Cooperative Purchasing Services to school districts, colleges and universities; and

WHEREAS, Texas Government Code §§ 791.001 *et seq* authorizes Center to enter Interlocal Agreements with governmental entities and political subdivisions of the state, including Authority; and

WHEREAS, the Authority believes it is in the Authority's best interest to execute an Interlocal Agreement with Center for cooperative purchasing services offered by Center through the TIPS Program.

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION OF THE PORT OF CORPUS CHRISTI AUTHORITY AS FOLLOWS:

Section 1. The Port Commission hereby finds and determines that it is necessary and advisable that the Authority enter into the Interlocal Agreement in the form presented to this meeting.

Section 2. The Interlocal Agreement, in substantially the form presented to this meeting, is hereby approved, and the Chief Executive Officer is hereby authorized and directed, for and on behalf of the Authority, to execute the Interlocal Agreement and to make any changes he deems appropriate to carry out the purposes of this resolution.

Section 3. This resolution is adopted by the Port Commission this 20th day of February, 2018.

11q. By approval of the Consent Agenda Motion, the Commission approved a Pipeline Easement Agreement – Part II with POTAC, LLC for eight (8) pipelines crossing the South Shore Dredge Material Placement Area (Cell C) together with a 0.07 acre surface site and 0.25 acre dock platform site situated at Public Oil Dock 14.

12. Executive Director Report, Chief Executive Officer Report, and Commissioners' Comments:

12a. The Executive Director and Chief Executive Officer submitted their reports on upcoming community events, PCCA events and activities of the following PCCA departments during the preceding month – Safety, Community Relations, Communications, Government Affairs, Business Development, Foreign Trade Zone, Ortiz Center, Human Resources, Security, Operations, Engineering Services, Finance, Real Estate, and Environmental.

12b. Mr. Zahn then asked for comments from the Commissioners.

13. Recess Open Session and Convene Executive Session: At 11:10 a.m., Mr. Zahn announced the Commission would go into executive session pursuant to §551.071 and §551.072 of the Texas Government Code to deliberate agenda items 13a, 13b, 13c, 13d, and 13e, which were described in the agenda of the meeting as follows:

13a. The Port Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate leasing PCCA real property in San Patricio County.

13b. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate leasing PCCA real property on the north side of the Inner Harbor.

13c. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate purchasing real property in San Patricio County.

13d. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to purchasing real property in Nueces County.

13e. The Commission will go into executive session pursuant to §551.071 and §551.072 of the Texas Government Code to deliberate the value and leasing of real property in the vicinity of the La Quinta Channel and to receive legal advice concerning land use restrictions on adjacent real property.

14. Reconvene Open Session: The Chairman reconvened the meeting in open session at 1:15 p.m. to consider agenda item 14a.

14a. In connection with the sale of M&G's assets in bankruptcy, on motion made by Mr. Squires and seconded by Ms. Canales, the Commission authorized the Chief Executive Officer or his designee to submit a bid to purchase M&G's land (without improvements) in Nueces County. The bid will consist of an Asset Purchase Agreement for M&G's land in Nueces County (with a price not to exceed the amount discussed in executive session) and an Agreement to Leaseback M&G's land to the seller or seller's assignee.

- 15. Adjourn:** On motion duly made and seconded, the meeting was adjourned at 1:18 p.m.

**RESOLUTION OF APPRECIATION FOR DAVID LEW MICHAELSEN, P.E.,
CHIEF ENGINEER, IN HONOR OF HIS SERVICE AND CONTRIBUTION TO
THE PORT OF CORPUS CHRISTI**

WHEREAS, David Lew MichaelSEN, better known as “Dave” to his friends at the Port of Corpus Christi, was born and raised in Ida Grove, Iowa; and

WHEREAS, Dave MichaelSEN received his Bachelor of Science Degree in Civil Engineering from the University of Iowa, where he became the biggest Hawkeye fan in the country; and

WHEREAS, Dave MichaelSEN having begun his professional engineering career in Corpus Christi, Texas in 1976 as a Staff Engineer/Diver for Ogletree, Gunn & Associates; and

WHEREAS, Dave MichaelSEN continued what was to be a long and successful engineering career focusing primarily on the design and construction of ports and waterfront facilities projects working at Goldston Corporation in Corpus Christi having been a Project Cost Engineer, Construction Engineer, Staff Design Engineer and Field Engineer/Diver Consultant; and

WHEREAS, Dave MichaelSEN, gained significant experience in bulk material handling facilities at the firm of Soros Associates of New York, New York for four years where he was a Site Engineer and Construction Manager for various bulk material loading and unloading facilities including the construction of the Port of Corpus Christi’s Bulk Material Dock No. 2; and

WHEREAS, Dave MichaelSEN’s bulk material experience would prove to be invaluable to the Port of Corpus Christi Authority when he returned to Corpus Christi and was hired by the Port of Corpus Christi as a Project Engineer on January 3rd, 1989; and

WHEREAS, Dave MichaelSEN earned his Certificate of Registration as a Professional Engineer in the State of Texas in 1990; and

WHEREAS, Dave MichaelSEN was promoted to Senior Project Engineer in 1994 and promoted again to Chief Engineer in 1998; and

WHEREAS, Dave MichaelSEN’s official title was recently changed to Chief of Construction, Dave proudly remained the Port’s “Chief Engineer” and often proclaimed that he had the best engineering position of any engineer; and

WHEREAS, Dave MichaelSEN has been project manager and designed or overseen the design and construction of hundreds of major capital and maintenance projects that transformed and greatly improved the Port of Corpus Christi over the years including: numerous Bulk Terminal related improvements and upgrades for Bulk Material Dock No.’s 1 and 2, the Gantry Crane, the radial unloading crane, conveying systems, storm water infrastructure, public bulk storage yards, and the construction of the loop rail track; construction of the Joe Fulton International Trade Corridor, the Mike Carrell Road, and the construction of the first and second phases of the Nueces River Rail Yard; the construction of Oil Docks 1 and 14; various upgrades to Port’s Public Grain

Elevator, the dock apron and transit shed expansion at Cargo Dock 9; the construction of a LMSR lay berth at future Bulk Dock 3, to name a few; and,

WHEREAS, Dave Michaelsen performed his work diligently and with dedication, and always in the Port's best interest, often working long hours and on the weekends to do what it takes to get the job done, and to ensure the Port facilities were constructed of the highest quality; and

WHEREAS, Dave Michaelsen had a keen ability to solve problems, describe solutions, and expedite results; and became a source of Port wisdom with the willingness to share and teach to others his institutional memory; and

WHEREAS, Dave Michaelsen and his cool demeanor and signature grin will be missed, but will always be remembered at the Port of Corpus Christi; and

NOW THEREFORE BE IT RESOLVED, upon his retirement, effective March 29th, 2018, that the Port Commission of the Port of Corpus Christi Authority of Nueces County, for itself and on behalf of Port staff and the Port community as a whole, expresses its sincere gratitude and appreciation for the nearly three decades of service that Dave Michaelsen has given to the Port of Corpus Christi and the citizens of the Coastal Bend, and to the maritime industry; and

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent minutes of this Port Commission, March 20th, 2018, and that a signed original of this Resolution be furnished to David Lew Michaelsen and his wife Linda.

DATE: March 20, 2018
TO: Port Commission
FROM: Donna James-Spruce, Risk Manager
donna@pocca.com
(361) 885-6695

**Authorize the Renewal of Property Insurance Coverage
in the Amount of \$1,329,821.73**

SUMMARY: Staff recommends authorization to renew Property, Terrorism and Equipment Breakdown insurance coverage for a combined total premium cost of \$1,329,821.73.

BACKGROUND: On December 9, 2016, PCCA issued a Request for Proposals pursuant to Texas Water Code § 60.405 soliciting quotations for property insurance. On March 21, 2017, the Port Commission accepted Carlisle Insurance Agency's ("CIA") proposal by Letter of Award. The term of the award was two (2) years with a one (1) year option.

In late 2017, CIA aggressively sought the most cost efficient markets for PCCA's structured insurance program April 1, 2018 renewal. All carriers that comprise PCCA's layered insurance program are AM Best rated at A XII or better, excellent category. Global market conditions were unfavorable for PCCA's renewal due to significant losses in excess of \$138 Billion worldwide. Hardening of the global insurance market, coupled with PCCA's open claim, resulted in a premium cost increase of \$264,347.33 (including Terrorism and Equipment Breakdown) and a property rate increase of 26%. Over the past five years, the property rate has trended downward. Even though it is increasing this year to 0.4149, it is still well below an average rate of .44 and rates for 2014-2016 policy period. Deductibles, coverages, and the per occurrence limit of \$100,000,000 remain intact. Blanket coverage for shoreline revetments was added to the policy. Increasing the limit from \$100,000,000 to \$125,000,000 would cost an additional \$54,493.

The renewal includes the following general coverage features:

- (a) 5% NS/Flood deductible, \$4M cap;
- (b) Total Insured Value (TIV): \$314,049,841;
- (c) \$100M limit
- (d) Primary Cost: \$983,756.63;
- (e) Excess Cost: \$319,469.85;

- (f) Total Property Cost: \$1,303,226.48;
- (g) Rate: \$0.4149
- (h) Terrorism Cost: \$17,141.25;
- (i) Equipment Breakdown Cost: \$9,454.00; and
- (j) Total Cost: \$1,329,821.73

The property insurance renewal will result in: 1) premium increase of \$264,347.33; and
2) a rate increase of 26% (\$0.4149)

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: Conforms to Strategic Plan Goal #1-Fund Our Vision,
Strategic Objective 1B-Manage Business and Operational Risks.

EMERGENCY: N/A

FINANCIAL IMPACT: The financial obligation regarding this item is a cost of
\$1,329,821.73, an increase of \$264,347.33 from the expiring program cost.

STAFF RECOMMENDATION: Staff recommends the Port Commission authorize the
renewal of Property, Terrorism and Equipment Breakdown insurance coverage.

DEPARTMENTAL CLEARANCES:

Originating Department	Finance/Risk Management
Reviewed & Approved	Dennis DeVries
	Donna James-Spruce
Legal	Dane Bruun
Senior Staff	John LaRue
	Sean Strawbridge
	Jarl Pederson

LIST OF SUPPORTING DOCUMENTS:

None

DATE: March 20, 2018

TO: Port Commission

FROM: Dennis J. Devries – Chief Financial Officer
dennis@pocca.com – 885-6139

Approve a Plan of Finance for Funding the Port of Corpus Christi Authority Capital Improvement Program, Commence a Request for Proposal Process for Bond Underwriters and for a \$100 Million Credit Facility

SUMMARY:

Plan of Finance

The Port's financial advisor, Estrada Hinojosa, presented a Plan of Finance (Plan) to Capital Finance Committee on March 5, 2018. As the Port of Corpus Christi Authority (PCCA) incurs capital expenditures in connection with the projects outlined within the PCCA's Capital Improvement Program (CIP), the PCCA would like to provide a financing plan (Plan) by which to optimize the use of both cash reserves and debt. This plan is designed to create flexibility to ramp up and down the use of debt based on availability of future cash resources and create an ability to pay off debt early without penalty. To increase or preserve existing debt credit ratings and take advantage of current, low, long-term interest rates. The Plan of Finance has several components which will be subject to future Commission approval. Two of those components are on the current agenda and are as follows:

Bond Underwriters

Part of the Plan to be approved includes the issuance of approximately \$200 million in long-term, fixed rate bonds in FY 2018 ("the Series 2018 Bonds"). Several qualified investment banking firms have expressed interest in working with the Port over the past year and this agenda item will direct staff, in consultation with its advisors, to issue a Request for Proposals from investment banks for the purpose of selecting a group of firms through which the Port will sell the Series 2018 Bonds. The selection of the underwriting team and the approval of the Series 2018 bond documents will be subject to a future Commission agenda action item(s).

Credit Facility

Part of the Plan to be approved the establishment of a credit facility of up to \$100 million with a financial institution. The credit facility allows the Port access to funds on an as needed basis typically on a “same day” or “24 hour” notice basis. The facility will allow the Port to better manage cash balances throughout the year as well as providing flexibility in the timing of CIP expenditures. The interest rate for funds drawn/borrowed under the credit facility are set at the time of the draw. Funds borrowed can be repaid at any time without penalty. This agenda item directs staff, in consultation with its advisors, to issue a Request for Proposals from financing institutions for a credit facility of up to \$100 million. Execution and approval of the actual credit facility would be subject to a future Commission agenda action item.

BACKGROUND: Due to the United States experiencing a resurgence in its energy production and this Port being at the apex of this energy renaissance as the global gateway for American energy, the Port has developed a robust and aggressive capital improvement program to build new infrastructure to meet these growing demands and to accelerate the deepening and widening of its ship channel. This Port is positioned to become the leading export hub for Crude Oil and Liquefied Natural Gas (LNG). Our customers are requiring larger, deeper draft cargo ships in order to save millions in transportation costs, a major global competitive advantage. At over 600 million barrels a year of energy exports in Corpus Christi alone, these transportation cost savings are in excess of \$100 million per year for our Port customers. In order to accomplish this ambitious task, the Port along with using its own cash reserves needs to bring in new capital to help finance its capital improvement program. The Port with the assistance of its financial advisors have developed a plan of finance that will provide the Port with the flexibility it needs to accomplish this.

ALTERNATIVES:

Modify its capital improvement program and continue to finance its capital improvement program through generated cash reserves.

CONFORMITY TO PORT POLICY:

PCCA Strategic Goal 1 – Fund Our Vision – Strategic Objective 1A – Fund Operating Budget, Capital Program and Strategic Opportunities.

EMERGENCY: No.

STAFF RECOMMENDATION:

Staff recommends (1) approval of the Plan of Finance; (2) authorization to issue a Request for Proposals for Bond Underwriters according to the Plan of Finance; and (3) authorization to issue a Request for Proposals for a \$100 million credit facility according to the Plan of Finance.

DEPARTMENTAL CLEARANCES:

Reviewed & Approved

John P. LaRue
Sean Strawbridge
Dennis J. DeVries

Legal

Jimmy Welder
Dane Brunn

LIST OF SUPPORTING DOCUMENTS: POF Timeline

Aggressive Timetable Milestones

- **March 23** – Issue Underwriter RFP; First Notice Published (earliest date)
- **Week of March 26** – Review draft Master Resolution with Port and Port General Counsel
- **April 5** – Underwriter RFP's due
- **April 10** – Brief CFC on Underwriter Recommendation
 - This would be a very short turn around time for evaluating what is expected to be 20+ proposals.
- **April 17** – Commission meeting to approve Underwriter Recommendation and Master Trust Agreement
 - This is likely a quick turn around time for drafting the Master Resolution, does not allow time for Senior Managing Underwriter to review draft Master Trust Agreement
- **Week of April 23** – Rating Agency Presentations
- **May 18** – Receive Ratings
- **June 1** – Post Preliminary Official Statement (Begin marketing period of Bonds)
- **Week of June 12** – Price Bonds (interest rates set)
- **June 27** – Close Bond Issue (Port receives funds)

Recommended Timetable Milestones

- **March 23** – Issue Underwriter RFP; First Notice Published (earliest date)
- **Week of March 26** – Review draft Master Resolution with Port and Port General Counsel
- **April 5** – Underwriter RFP's due
- **Week of April 16** – Schedule special CFC meeting to brief CFC on Underwriter Recommendation
 - Based on CFC recommended Underwriter team, allow senior underwriter to comment on draft Bond documents (Master Resolution)
- **Mid April to May 8** – Finalize Master Resolution
 - Allows adequate time to have multiple reviews of the draft Master Resolution and other bond documents
- **May 8** – Brief CFC on Bond Documents that will be recommended for approval at May 15 Commission meeting
- **May 15** – Commission meeting to approve Underwriter Recommendation and Master Trust Agreement
- **Week of May 21**– Rating Agency Presentations
- **June 15** – Receive Ratings
- **June 29** – Post Preliminary Official Statement (Begin marketing period of Bonds)
- **Week of July 9** – Price Bonds (interest rates set)
- **July 25** – Close Bond Issue (Port receives funds)

30

Disclaimer

This document is intended for discussion purposes only and, in conjunction with oral presentations and further negotiations, is subject to the final terms of definitive transaction related written agreements, if appropriate, and is not a commitment to lend money, underwrite or purchase securities or commit capital, nor does it obligate this firm to enter into written agreements. Terms and conditions described herein are an indicative summary which may be amended or replaced by subsequent summaries.

This document is intended for the exclusive use of the entity identified on the cover page hereof or otherwise identified as the recipient by a member of the firm and may contain information proprietary to Estrada Hinojosa, which by acceptance of this document obligates you to use discretion when sharing the proposed terms for any prospective transaction. With this communication, Estrada Hinojosa is **not** assuming the role of your independent registered municipal advisor and is **not** attempting to establish a fiduciary relationship with you pursuant to the SEC's Municipal Advisor Rule. Estrada Hinojosa is acting in its own interests with a view to underwriting and distributing your municipal securities in an arm's length commercial transaction and you should discuss any action you intend to take with any and all internal or external advisors and experts that you deem appropriate before acting on this information or material

In addition, Estrada Hinojosa does not provide accounting, tax or legal advice and any discussion of such matters herein should not be relied upon by you as a guarantee or commitment of a specific result should a transaction occur. All numbers and prices discussed herein are preliminary and indicative of market conditions on the date prepared and do not represent bids or offers, and you should determine, without reliance upon us, the economic risks and merits as well as the legal and tax consequences of any such transaction, keeping in mind that the results of analyses from any quantitative model which represent potential future events that may or may not occur, and that may not include every particular material fact related to a proposed transaction, are by their nature subject to further discussion and examination.

2018 Estrada Hinojosa & Company, Inc. © Member: FINRA & SIPC.

All rights reserved. No part of this document may be reproduced in any manner without the written permission of Estrada Hinojosa & Company, Inc.

DATE: March 20, 2018
TO: Port Commission
FROM: Dennis J. DeVries – Chief Financial Officer
dennis@pocca.com – 885-6139

**Approve a Resolution of the Port Commission of the Port of Corpus Christi
Authority of Nueces County, Texas, Declaring the Port Authority's Official Intent
to Reimburse Itself from the Future Proceeds of Bond Obligations**

SUMMARY: As the Port of Corpus Christi Authority (PCCA) incurs capital expenditures in connection with the projects outlined in the PCCA's Capital Improvement Program, the PCCA would like to maintain the ability to reimburse itself for capital expenditures eligible to be financed with the proceeds of a future series of tax-exempt obligations. The Reimbursement Resolution presented for approval would enable the PCCA to expend available cash for such purposes, while preserving the opportunity to reimburse itself from a future series of tax-exempt obligations. In the event that the expenditures do not qualify for reimbursement from the proceeds of tax-exempt debt, the PCCA would be entitled to reimburse itself from a future series of taxable obligations.

BACKGROUND: The Port Commission previously adopted a reimbursement resolution covering the expenditures related to the PCCA's share of the construction costs related to the Corpus Christi Ship Channel Improvement Project. That resolution was effective as of September 1, 2017. The proposed Reimbursement Resolution covers expenditures within the PCCA's Capital Improvement Program that were not covered by the previously adopted Corpus Christi Ship Channel Improvement Project reimbursement resolution.

Under federal tax law, the Authority is generally able to reimburse itself for eligible expenditures made not more than 60 days prior to the date of the adoption of a reimbursement resolution. The reimbursement from future proceeds of tax exempt bonds must generally be made within 18 months of (i) the date of the payment of the expenditure or (ii) the date the project is placed in service or abandoned, but in no event more than three years after the original payment of the expenditure. Certain preliminary expenditures can be reimbursed without a reimbursement resolution and without regard to the timing window noted in the prior sentence.

The Reimbursement Resolution is not a grant of authority to spend \$300 million on the Port Capital Improvement Program at this time. The Reimbursement Resolution simply allows the Authority to reimburse itself for authorized expenditures from a future bond issuance in an amount up to \$300 million.

ALTERNATIVES: The alternative would be to not adopt the Reimbursement Resolution and not reimburse the general fund for eligible capital expenditures.

CONFORMITY TO PORT POLICY: PCCA Strategic Goal 1 – Fund Our Vision – Strategic Objective 1A – Fund Operating Budget, Capital Program and Strategic Opportunities.

STAFF RECOMMENDATION: Staff recommends approval of the Reimbursement Resolution.

Reviewed & Approved	John LaRue Sean Strawbridge Dennis DeVries
---------------------	--

Legal	Jonathan Frels
-------	----------------

LIST OF SUPPORTING DOCUMENTS:

Reimbursement Resolution Declaring Intent to Finance Expenditures to be Reimbursed

THE STATE OF TEXAS §
COUNTY OF NUECES §

Section 3. The Authority reasonably expects that the maximum principal amount of the obligations to be issued to reimburse itself for the costs associated with the Port Capital Improvement Program, will be \$300 million.

Section 4. The Chairman or Secretary of the Port Commission is hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this Resolution.

Section 5. This Resolution shall take effect immediately upon its passage.

Section 6. The notice and agenda relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

[Execution Page to Follow]

PASSED AND APPROVED by the Port Commission of the Port of Corpus Christi Authority of Nueces County, Texas, at a [Special/Regular] Meeting held on the ____ day of [____], 2018.

Charles W. Zahn, Jr.
Chairman, Port Commission

ATTEST:

Barbara Canales
Secretary, Port Commission

APPROVED AS TO FORM:

Leo J. Welder, Jr.
General Counsel

DATE: March 20, 2018

TO: Port Commission

FROM: David L. Krams, P.E.
Director of Engineering Services
Krams@pocca.com
(361) 885-6134

**ANTICIPATED
STAFF PRESENTER:** Natasha Fudge, P.E.
Capital Program Manager

Award a Construction Contract in the Amount of \$821,484.65 to Garrett Construction Company, the Lowest and Best Bidder Based on Bids Received on March 7, 2018 for the PCCA Roadway and Parking Lot Repairs Project at Avery Point Oil Docks, Oil Dock 1, and the South Side Storage Yard.

SUMMARY: Staff recommends the award of a construction contract to Garrett Construction Company for construction of the PCCA Roadway and Parking Lot Repairs project. On March 7, 2018, we received 8 responses to our Notice to Bidders (see attached Bid Tabulation). Garrett Construction Company submitted the lowest and best bid for a total of \$821,484.65.

BACKGROUND: The Port of Corpus Christi has numerous roadways and parking areas that provide access to our port facilities. These paved areas require regular maintenance and repair in order to extend their useful life. This year's scope of work is more extensive and includes areas around Oil Dock 1, Avery Point, and along Harbor Drive within the Southside Storage Yard (see attached map exhibit). The Oil Dock 1 entrance and parking area requires total reconstruction, which has been delayed until now due to ongoing tenant improvements. In addition, a majority of the Avery Point Road, which services Oil Docks 3, 4, 7 & 11, will also be completely reconstructed, including its security entrance and areas of major damage currently filled with loose base. Lastly, repairs will be made to areas of major damage along Harbor Drive within the South Side Storage Yard likely due to high volumes of crane and wind energy component movements.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: The project conforms to the PCCA's Strategic Plan (Strategic Goal #2 – Provide Facilities and Services to Meet Customer Needs, Strategic Objective #2B – Provide Public Docks and Support Private Facilities to Facilitate Maritime and Industrial Development, Action #2 – Upgrade and Maintain Existing Docks and Facilities).

EMERGENCY: No.

FINANCIAL IMPACT: Roadways and Parking Lot Repairs is typically a recurring annual project, and \$1,430,000 was included in the 2018 budget for this project.

STAFF RECOMMENDATION: Staff recommends the award of a contract to Garrett Construction Company in the amount of \$821,484.65 for the Base Bid. Garrett Construction is a local contractor and has successfully performed numerous projects for the PCCA over the years, including previous similar work at the current project sites. Staff further recommends that the Director of Engineering Services be granted a 4% contingency (\$32,859.39) in accordance with the PCCA's standard contingency guidelines for general construction projects. Therefore, the total possible construction contract cost for this project based on staff's recommendation is \$854,344.04.

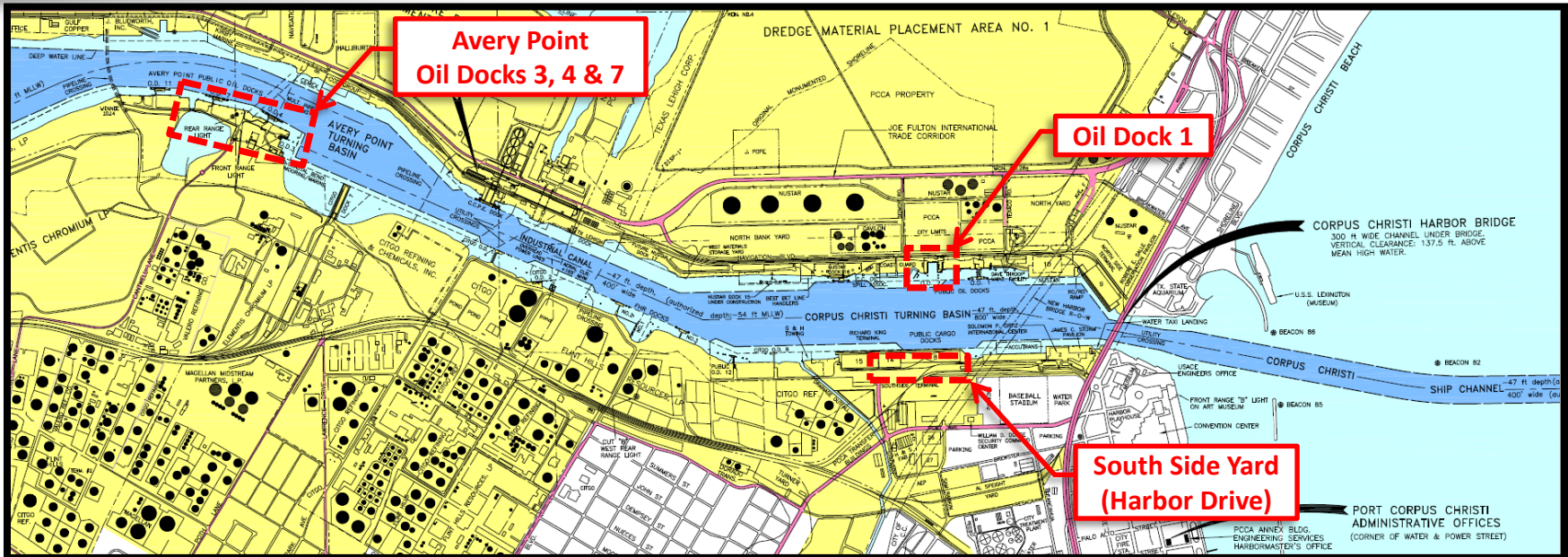
DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	David Krams
	Dave Michaelson
	Natasha Fudge
Legal	Used standard Construction Contract template
Senior Staff	John LaRue
	Sean Strawbridge
	Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Bid Tabulation
Map Exhibits

Roadway & Parking Lot Repairs



Avery Point



Avery Point

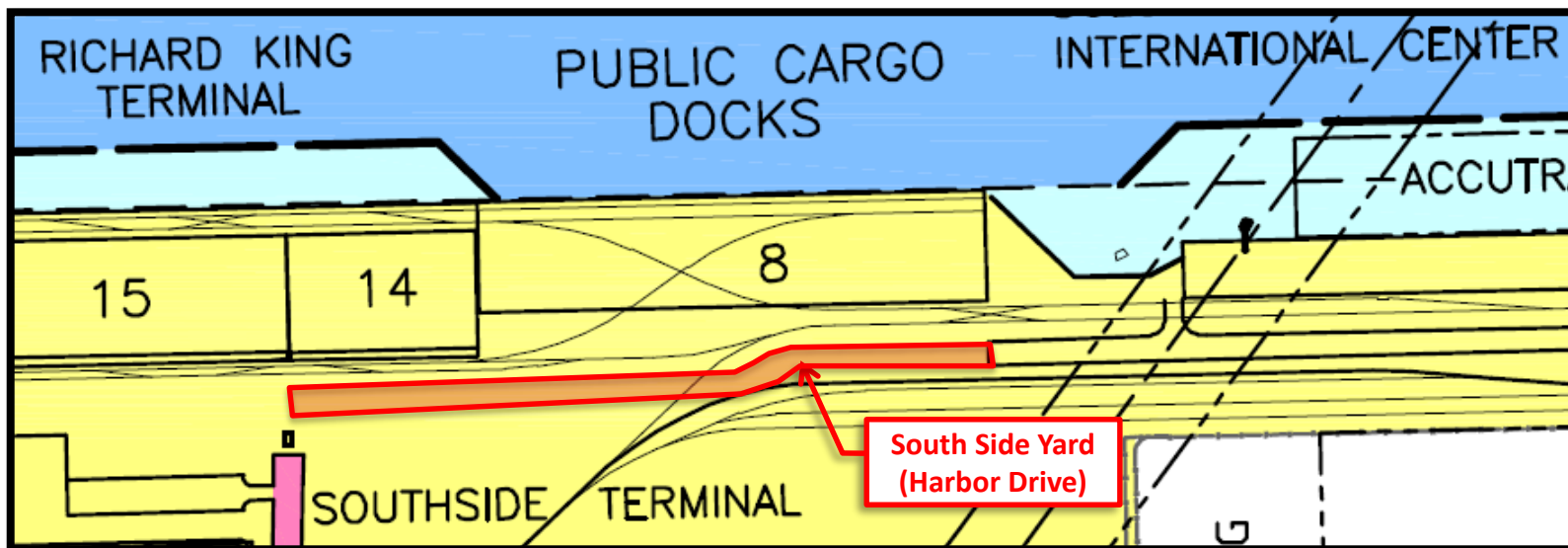
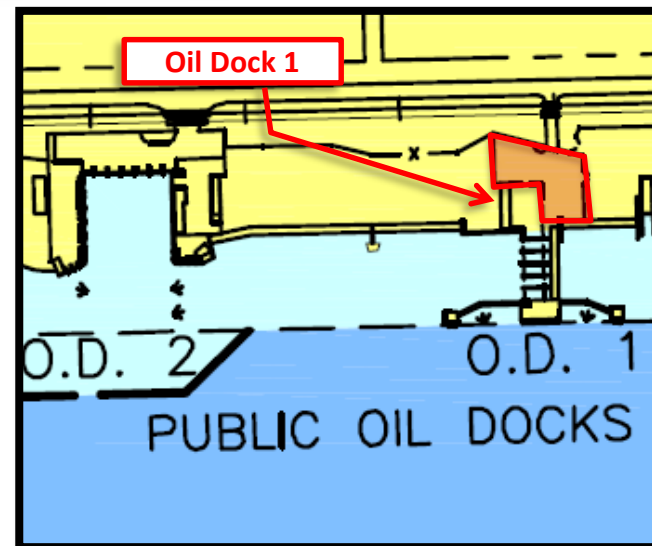
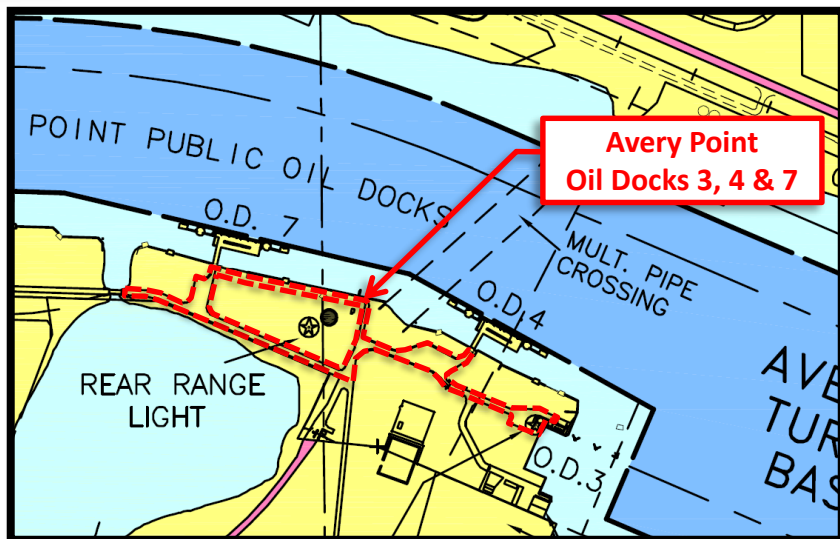


Oil Dock 1



Harbor Drive

Roadway & Parking Lot Repairs





BID TABULATION FOR
PCCA Roadway and Parking Lot Repairs
PROJECT NO. 16-018A
Bid Opening: March 07, 2018 - 2 PM

Draft Copy

Company Name	Bid Bond or Check	Base Bid ^A	Addendum No.1
Garrett Construction Co.	5%	\$821,484.65	X
J. Carroll Weaver, Inc.	5%	\$824,538.81	X
Winters Construction, Inc.	5%	\$826,671.00	X
Mitchell Energy Services	5%	\$839,796.55	X
J E Construction Services	5%	\$856,308.00	X
Haas-Anderson Construction, Ltd.	5%	\$946,000.00	X
Jimmy Evans Company	5%	\$1,070,799.00	X
ABBA Construction, LLC.	5%	\$1,091,936.86	X

Project to be complete within 160 calendar days of the date of said Notice to Proceed.

^A **BASE BID:** The scope of work includes reconstruction of approximately 13,000 square yards of pavement at three (3) PCCA sites including Avery Point, Oil Dock 1, and the South Side Storage Yard roadway and parking lot areas. Work includes excavation and disposal of existing material, and installation of compacted lime treated subgrade, compacted flexible base, prime coat, and hot mix asphalt concrete (HMAC) and approximately 725 LF of replacement of concrete curb and gutter. This is a lump sum bid item.

Read By: Lynn Angerstein

Tabulated By: Eileen Mink

Checked & Prepared By: Cindy Hamilton

Date: 03/07/18

DATE: March 20, 2018

TO: Port Commission

FROM: Darrin Aldrich, Real Estate Acquisition Manager
darrin@pocca.com
(361) 885-6169

AGENDA ITEM NO.

Adopt a Resolution Approving a Real Estate Sales Contract between the Port of Corpus Christi Authority of Nueces County, Texas, as Purchaser, and PPG Industries, Inc., as Seller, and Authorizing the Execution of the Contract and Related Closing Documents.

SUMMARY: Staff requests approval to finalize the purchase of a 32.034-acre tract of land owned by PPG Industries, Inc. located at near the Avery Point Turning Basin, as shown on the attached exhibit.

BACKGROUND: The Port Authority currently owns four (4) public oil docks at Avery Point on the south side of the Corpus Christi Ship Channel, known as Public Oil Docks 3, 4, 7 and 11. These docks were constructed and are operated pursuant to three separate easement agreements granted by PPG Industries, Inc. or its predecessors in title dating back to 1947 when the Corpus Christi Ship Channel was extended from Avery Point Turning Basin to the Tule Lake Turning Basin. Certain stipulations in those easement agreements restrict the Port's use of the land and it is staff's desire to remove those restrictions by acquiring fee title to the land in order to remove those restrictions. Over the course of the past two years staff has been negotiating with PPG to arrange surveys, title inspections, environmental assessments, legal liability and to establish a fair purchase price to acquire the property in fee simple interest. PPG has offered to sell the land to the Port at a price that staff believes to be fair.

ALTERNATIVES: Do Not Purchase the property and continue to operate under the existing easement agreements.

CONFORMITY TO PORT POLICY: This Resolution is consistent with the PCCA Strategic Plan (Strategic Goal #4 – Foster compatible industrial and maritime development by acquiring and protecting land for industrial development and port related infrastructure).

EMERGENCY: None

FINANCIAL IMPACT: \$10.00 and other good and valuable consideration.

STAFF RECOMMENDATION: Adopt resolution approving a Real Estate Sales Contract between the Port of Corpus Christi Authority, as purchaser, and the PPG Industries, Inc., as seller, and authorizing the execution of the contract and related closing documents.

DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate Department
Reviewed & Approved	Darrin Aldrich Kent Britton
Legal	Bruce Hawn
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Resolution

Adopt a Resolution Approving a Real Estate Sales Contract between the Port of Corpus Christi Authority of Nueces County, Texas, as Purchaser, and PPG Industries, Inc., as Seller, and Authorizing the Execution of the Contract and Related Closing Documents.



**RESOLUTION APPROVING A REAL ESTATE SALES CONTRACT BETWEEN
THE PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY,
TEXAS, AS PURCHASER, AND PPG INDUSTRIES, INC.,
AS SELLER, AND AUTHORIZING THE EXECUTION OF THE
CONTRACT AND RELATED CLOSING DOCUMENTS**

WHEREAS, PPG Industries, Inc. ("**Seller**") is the owner of 32.034 acres of land, more or less, in Nueces County, Texas, which is more particularly described in **Exhibit A** attached hereto ("**Property**"); and

WHEREAS, the Port Commission of the Port of Corpus Christi Authority of Nueces County, Texas ("**PCCA**"), has considered a Real Estate Sales Contract ("**Contract**") for the purchase of the Property at this meeting; and

WHEREAS, PCCA's staff recommends approval of the Contract;

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

Section 1. The purchase of the Property from Sellers in accordance with the terms and conditions of the Contract in substantially the form presented to this meeting (the "**Transaction**") is hereby approved.

Section 2. The Chairman, Chief Executive Officer, and Executive Director are each hereby severally authorized and directed, for and on behalf of PCCA, to close the Transaction pursuant to and in accordance with the terms and conditions of the Contract without any further actions or approvals by the Port Commission.

Section 3. In connection with the closing of the Transaction, Chief Executive Officer, and Executive Director are each hereby severally authorized and directed, for and on behalf of PCCA, to execute and deliver the following documents after the legal form of such documents has been approved by PCCA's counsel: (i) closing statement and any other documents required by the title company in order to close the Transaction; and (ii) any other documents or certificates necessary to close the Transaction.

Section 4. The Chief Executive Officer, and Executive Director are each hereby severally authorized and directed to execute, attest, seal, and deliver any and all additional certificates, documents, affidavits, or other papers and to do any and all things he deems necessary to close the Transaction and to carry out the intent and purposes of this Resolution.

Section 5. This Resolution is hereby adopted by the Port Commission on March 20, 2018.

EXHIBIT A

METES AND BOUNDS DESCRIPTION

32.034 ACRES

NUECES COUNTY, TEXAS

Being all that certain 32.034-acre tract of land situated in the Nueces County Navigation District Number 1 Survey, Abstract Number 2677, Nueces County, Texas, and being all of that certain called 12.95-acre tract of land (**Tract 1**) described in an Easement dated September 18, 1947, recorded in Volume 394 at Page 588 (Clerk's File Number 258659), Nueces County Deed Records (N.C.D.R.), by and between Southern Alkali Corporation and Nueces County Navigation District No. 1, as amended by an Easement Amendment dated March 3, 1949 recorded in Volume 430 at Page 310 of the N.C.D.R., by and between Southern Alkali Corporation and Nueces County Navigation District No. 1, and as ratified in an Agreement dated March 22, 1977 recorded in Volume 1602 at Page 549 (Clerk's File Number 44723), N.C.D.R., by and between PPG Industries, Inc. and Nueces County Navigation District No. 1 and ; all of that certain called 7.80-acre tract of land (**Tract 2**) being out of and a part of that certain called 134.44-acre (First Tract) described in a Deed by and between Nueces County Navigation District Number 1 and Southern Alkali Corporation dated October 23, 1933, recorded in Volume 208, Page 394 of the N.C.D.R. and further being out of and a part of that certain called 74.28-acre tract of land described in a Deed by and between Nueces County Navigation District No. 1 and Southern Alkali Corporation in Volume 394, Page 564 (Clerk's File Number 258656) of the N.C.D.R. and finally being more specifically described as Tract I in an Easement Agreement by and between Pittsburgh Plate Glass Company and Nueces County Navigation District No. 1 executed on August 10, 1967 (no recordation information found), as amended on March 21, 1977 recorded in Volume 1602 at Page 544 (Clerk's File Number 44722) of the N.C.D.R., ratified by Agreement dated March 22, 1977 recorded in Volume 1602 at Page 549 (Clerk's File Number 44723) of the N.C.D.R., between PPG Industries, Inc., and Nueces County Navigation District No. 1; all of that certain called 8.52-acre tract of land (**Tract 3**) being out of and a part of that certain called 134.44-acre tract of land (First Tract) described in a Deed by and between Nueces County Navigation District No. 1 and Southern Alkali Corporation dated October 23, 1933, recorded in Volume 208, Page 394 of the N.C.D.R. and further being out of and a part of that certain called 74.28-acre tract of land described in a Deed by and between Nueces County Navigation District Number 1 and Southern Alkali Corporation in Volume 394, Page 564 (Clerk's File Number 258656) of the N.C.D.R. and finally being more specifically described as Tract II in an Easement Agreement by and between Pittsburgh Plate Glass Company and Nueces County Navigation District Number 1 executed on August 10, 1967 (no recordation information found), as amended on March 21, 1977, which amendment is recorded in Volume 1602 at Page 544 (Clerk's File Number 44722) of the N.C.D.R., ratified by Agreement dated March 22, 1977, between PPG Industries, Inc., and Nueces County Navigation District No. 1, recorded in Volume 1602 at Page 549 (Clerk's File Number 44723) of the N.C.D.R.; all of that certain called 2.8 acre tract (**Tract 4**) being out of and a part of that certain called 134.44-acre tract of land (First Tract) described in a Deed dated October 23, 1933 and recorded in Volume 208, Page 394 of the N.C.D.R., by and between Nueces County Navigation District Number 1 and Southern Alkali

Corporation and further being more fully described in that certain Easement Deed by and between PPG Industries, Inc. and Nueces County Navigation District No. 1 dated March 11, 1980 in Volume 1733, Page 320 (Clerk's File Number 173138) of the N.C.D.R. and, all together, being more particularly described by metes & bounds as follows: (All bearings and coordinates reference the Texas Coordinate System of 1983, South Zone);

BEGINNING at a concrete monument with PPCC brass cap found for an interior angle point in the northerly line of that certain called 179.89 acre tract of land described in a General Warranty Deed by and between American Chrome & Chemicals, Inc. and American Chrome & Chemicals Holdings, Inc. in Clerk's File Number 946491 of the Official Public Records of Nueces County Texas (O.P.R.N.C.T.) for the southwest corner of said 8.52-acre tract and the most westerly southwest corner of the herein described tract (Texas Plane Coordinates modified to surface, average combined scale factor 0.999993613990): Northing 17,189,210.12, Easting 1,326,915.62);

THENCE with the upper easterly line of said 179.89 acre tract, the westerly line of said 8.52-acre tract and the most westerly line of the herein described tract, North 20 Degrees 30 Minutes 55 Seconds West, at approximately 136 feet pass the southerly edge of water of the Corpus Christi Ship Channel (as measured on June 2nd 2015) and continue, in all, a distance of 262.06 feet (called 264.43 feet) to a submerged point in the Corpus Christi Ship Channel in the north line of said 74.28 acre tract ("New Navigation District Bulkhead Line") for the northwest corner of said 8.52-acre tract and the herein described tract and the beginning of a non-tangent curve to the right;

THENCE with the north line of said 74.28-acre tract ("New Navigation District Bulkhead Line") and the herein described tract and with the arc of said curve to the right having a radius of 3,519.83 feet and an overall central angle of 34 Degrees 32 Minutes 09 Seconds, at an arc length of 1,014.96 pass the northeast corner of said 8.52 acre tract and the northwest corner of said 7.80 acre tract, at an arc length of 1,984.92 feet pass the northeast corner of said 7.80 acre tract and the northwest corner of said 12.95 acre tract, and continue, in all, a total arc length of 2,121.62 feet (overall long chord bearing of South 83 Degrees 56 Minutes 15 Seconds East, a distance of 2,089.65 feet) to a submerged point in the Corpus Christi Ship Channel for a point of tangency;

THENCE clockwise with the northerly and easterly boundary lines of said 74.28-acre tract ("New Navigation District Bulkhead Line") and said 12.95-acre tract and the herein described tract, the following four (4) courses:

- 1) South 66 Degrees 40 Minutes 10 Seconds East, a distance of 250.00 feet to a submerged point in the Corpus Christi Ship Channel for an interior corner of said 74.28-acre tract and an interior corner of said 12.95-acre tract and the herein described tract;
- 2) North 23 Degrees 19 Minutes 50 Seconds East, a distance of 62.89 feet to a submerged point in the Corpus Christi Ship Channel for an exterior corner of said 74.28-acre tract and an exterior corner of said 12.95-acre tract and the herein described tract;

- 3) South 59 Degrees 32 Minutes 40 Seconds East, a distance of 507.00 feet to a submerged point in the Corpus Christi Ship Channel for the northeasterly corner of said 74.28-acre tract and the east or northeast corner of said 12.95-acre tract and the herein described tract;
- 4) South 23 Degrees 19 Minutes 50 Seconds West, a distance of 600.00 feet to a submerged point in the Corpus Christi Ship Channel and Avery Point Turning Basin in the northerly line of that certain called 81.04 acre tract of land (Tract 2) described in a General Warranty Deed by and between American Chrome & Chemicals, Inc. and American Chrome & Chemicals Holdings, Inc. in Clerk's File Number 946491 of the O.P.R.N.C.T. for the southeast corner of said 74.28 acre tract, the southeast corner of said 12.95 acre tract and the upper southeast corner of the herein described tract;

THENCE with the northerly line of said 81.04 acre tract and the southerly line of said 74.28 acre tract, the southerly line of said 12.95 acre tract and the herein described tract, North 66 Degrees 40 Minutes 10 Seconds West, a distance of 82.27 feet to a submerged point in the Corpus Christi Ship Channel (Avery Point Turning Basin) for the intersection of the easterly line of said 2.8 acre tract with the southerly line of said 74.28 acre tract and said 12.95 acre tract, the northeast corner of said 2.8 acre tract and an interior corner of the herein described tract;

THENCE departing the southerly line of said 74.28 acre tract and said 12.95 acre tract and clockwise with the easterly, southerly and westerly boundary lines of said 2.8 acre tract, the following three courses:

- 1) South 23 Degrees 19 Minutes 50 Seconds West, a distance of 90.13 feet to a submerged point in the Corpus Christi Ship Channel (Avery Point Turning Basin) for an interior corner of said 81.04-acre tract, the southeast corner of said 2.8 acre tract and the lower southeast corner of the herein described tract;
- 2) North 87 Degrees 16 Minutes 30 Seconds West, a distance of 641.14 feet (called 641.01 feet) to an interior corner of said 81.04-acre tract, the southwest corner of said 2.8 acre tract, and the lowest southwest corner of the herein described tract, said point having modified surface coordinates of Northing 17,188,365.98 and Easting 1,328,603.98 (unable to monument, point falls in marshy wetland);
- 3) North 23 Degrees 19 Minutes 50 Seconds East, a distance of 315.77 feet to an exterior corner of said 81.04 tract, an angle point in said 74.28 acre tract and said 12.95 acre tract, the northwest corner of said 2.8 acre tract, and an interior corner of the herein described tract, and from which a 1/2 inch iron rod found for reference at the base of a chain link fence line bears South 40 Degrees 38 Minutes East, a distance of 1.5 feet;

THENCE with the northerly line of said 81.04 acre tract and the southerly line of said 74.28 acre tract, the southerly line of said 12.95 acre tract and the herein described tract, North 84 Degrees 20 Minutes 40 Seconds West, at 158.49 feet pass the northwest corner

of said 81.04 acre tract and the easterly right-of-way (R.O.W.) line of Cantwell Lane (80' wide, formerly known as Navigation Boulevard, Volume 394, Page 588 - Clerk's File Number 258659, N.C.D.R.), and continue, in all, a distance of 245.37 feet (called 245.23 feet) to a 5/8 inch iron rod (no cap) found in the westerly R.O.W. line of said Cantwell Lane and the lower easterly line of said 179.89 acre tract for an angle point in said 74.28 acre tract, the southwest corner of said 12.95 acre tract, the middle southwest corner of the herein described tract and the beginning of a non-tangent curve to the left;

THENCE through and across said 74.28 acre tract and with the westerly R.O.W. line of said Cantwell Lane, the westerly line of said 12.95 acre tract, the lower easterly line of said 179.89 acre tract and the middle westerly line of the herein described tract, 79.74 feet along the arc of said curve to the left having a radius of 1,106.00 feet, a central angle of 04 Degrees 07 Minutes 52 Seconds, and a chord that bears North 27 Degrees 24 Minutes 15 Seconds East, a distance of 79.73 feet to a point of tangency, and from which a 5/8 inch iron rod (no cap) found for reference bears South 31 Degrees 28 Minutes West, a distance of 1.7 feet;

THENCE continuing through and across said 74.28 acre tract and with the westerly R.O.W. line of said Cantwell Lane, the westerly line of said 12.95 acre tract, the lower easterly line of said 179.89 acre tract and the middle westerly line of the herein described tract, North 25 Degrees 20 Minutes 20 Seconds East, a distance of 142.68 feet to the intersection of the southerly line of said 7.80 acre tract with the westerly line of said 12.95 acre tract for the south or southeast corner of said 7.80 acre tract and an interior corner of the herein described tract;

THENCE continuing through and across said 74.28 acre tract and now with the lower northerly line of said 179.89 acre tract, the southerly line of said 7.80 acre tract and the upper southerly line of the herein described tract, North 66 Degrees 40 Minutes 10 Seconds West, a distance of 567.23 feet to the southeast corner of said 8.52 acre tract and an angle point of the herein described tract, said point having modified surface coordinates of Northing 17,189,104.49 and Easting 1,328,061.76 (unable to monument, point falls outside of chain link fence line on steep lakeside slope);

THENCE continuing through and across said 74.28 acre tract and continuing with the northerly line of said 179.89 acre tract and now with the southerly line of said 8.52 acre tract and the upper southerly line of the herein described tract, North 88 Degrees 12 Minutes 31 Seconds West, at 290.63 feet pass a 5/8 inch iron rod with plastic cap stamped "FRONTIER 10082900" found for the lower northeast corner of a proposed 111.395 acre tract surveyed for Elementis, and continue, in all, a distance of 740.62 feet to a 5/8 inch iron rod found (no cap) for an angle point in said 179.89 acre tract and an angle point in said 8.52 acre tract and the herein described tract, and from which a 5/8 inch iron rod found for reference bears South 33 Degrees 42 Minutes East, a distance of 0.6' feet, and from which a 5/8 inch iron rod found for reference bears South 78 Degrees 14 Minutes East, a distance of 7.3 feet;

THENCE continuing through and across said 74.28 acre tract and with the northerly line of said 179.89 acre tract, the southerly line of said 8.52 acre tract and the upper southerly

line of the herein described tract, North 78 Degrees 30 Minutes 48 Seconds West, a distance of 414.18 feet (called 414.11 feet) to the **POINT OF BEGINNING** and containing 32.034 acres of land

DATE: March 20, 2018
TO: Port Commission
FROM: Maggie Iglesias-Turner

Amendment to Tariff 100-A: Item 205 (Application and Interpretation of Tariff); Item 210 (Cargo Statement, Wharfage Transaction Form, Ship's Manifest and Access to Records Required); Item 240 (Charge for Special Services); Item 260 (Holidays for Port Authority Employees); Item 285 (Assignment of Berth and Conditions of Assignment); Item 288 (Facility Use Fee); Item 301 (Harbor Safety Fee); and Item 540 (Project Rates).

SUMMARY: Staff recommends amendments to Tariff 100-A: Item 205 (Application and Interpretation of Tariff); Item 210 (Cargo Statement, Wharfage Transaction Form, Ship's Manifest and Access to Records Required); Item 240 (Charge for Special Services); Item 260 (Holidays for Port Authority Employees); Item 285 (Assignment of Berth and Conditions of Assignment); Item 288 (Facility Use Fee); Item 301 (Harbor Safety Fee); and Item 540 (Project Rates).

BACKGROUND: Amended Item 205 adds Paragraph 3 which requires Users to complete Berth Applications pursuant to amended Item 285 (discussed below).

Item 210 currently references Cargo Statement and Wharfage Transaction Forms which are not used. The recommended amendment incorporates a new form: General Cargo Wharfage Statement.

Amended Item 240 deletes the phrase "upon written application."

Amended Item 260 recognizes Martin Luther King Day as an employee holiday.

Item 285 currently references "application in writing" to the Harbormaster for assignment of berth and conditions of assignment. The recommended amendment incorporates a new form: Berth Application and Acceptance of Financial Responsibility.

Amended Item 288 clarifies that the Security Surcharge applies to Facility Use Fees.

Amended Item 301 clarifies that the Harbor Safety Fee "ship" rate also applies to ocean-going barges.

Amended Item 540 fixes a clerical error.

ALTERNATIVES: Language remains as published.

CONFORMITY TO PORT POLICY: Supports Strategic Goal 4: Foster Compatible Industrial and Maritime Development; Strategic Objective 4A: Proactively Pursue Diversified Port-related Economic Development Opportunities; Action Item 3: Identify and Pursue General Cargo and Dry Bulk Diversification Opportunities.

EMERGENCY: No

FINANCIAL IMPACT: None

STAFF RECOMMENDATION: Staff recommends amendments to Tariff 100-A: Item 205 (Application and Interpretation of Tariff); Item 210 (Cargo Statement, Wharfage Transaction Form, Ship's Manifest and Access to Records Required); Item 240 (Charge for Special Services); Item 260 (Holidays for Port Authority Employees); Item 285 (Assignment of Berth and Conditions of Assignment); Item 288 (Facility Use Fee); Item 301 (Harbor Safety Fee); and Item 540 (Project Rates).

DEPARTMENTAL CLEARANCES:

Originating Department	Commercial
Reviewed By	Maggie Iglesias-Turner
	Jarl Pedersen
	Dennis DeVries
Legal	Dane Bruun
Senior Staff	John LaRue
	Sean Strawbridge

LIST OF SUPPORTING DOCUMENTS: Redline and Clean Tariff Items

Redlined Item 205:

Rates, rules and regulations contained in this tariff shall apply equally to all Users of the waterways and Terminal Facilities on the effective date shown in this tariff or amendments thereto.

The use of the waterways and facilities under the jurisdiction of the Port Authority is consent to the terms and conditions of this tariff, and amendments hereto, and an agreement on the part of all such Users to pay all charges based upon this tariff, and amendments thereto, and to be governed by all rules and regulations herein contained.

No User shall be permitted to utilize a lay berth or loading berth, or move cargo to or from ship's tackle, or otherwise load or discharge cargo to or from a Vessel until (i) an accurate and complete Berth Application has been filed pursuant to Tariff Item 285, (ii) it furnishes the Port Authority with proof of financial responsibility acceptable to the Port Authority, (iii) arrangements for payment have been made with the Port Authority as provided herein; and (iv) the permission of the Port Authority has been obtained. The Port Authority reserves the right to refuse permission to use its facilities in the event a User does not satisfy the conditions set forth in clauses (i) through (iii) in the previous sentence, or for any other just and reasonable cause not prohibited by law.

Clean version of Amended Item 205:

Rates, rules and regulations contained in this tariff shall apply equally to all Users of the waterways and Terminal Facilities on the effective date shown in this tariff or amendments thereto.

The use of the waterways and facilities under the jurisdiction of the Port Authority is consent to the terms and conditions of this tariff, and amendments hereto, and an agreement on the part of all such Users to pay all charges based upon this tariff, and amendments thereto, and to be governed by all rules and regulations herein contained.

No User shall be permitted to utilize a lay berth or loading berth, or move cargo to or from ship's tackle, or otherwise load or discharge cargo to or from a Vessel until (i) an accurate and complete Berth Application has been filed pursuant to Tariff Item 285, (ii) it furnishes the Port Authority with proof of financial responsibility acceptable to the Port Authority, (iii) arrangements for payment have been made with the Port Authority as provided herein; and (iv) the permission of the Port Authority has been obtained. The Port Authority reserves the right to refuse permission to use its facilities in the event a User does not satisfy the conditions set forth in clauses (i) through (iii) in the previous sentence, or for any other just and reasonable cause not prohibited by law.

Redlined Item 210:

GENERAL CARGO WHARFAGE STATEMENT, WHARFAGE TRANSACTION FORM, SHIP'S MANIFEST AND ACCESS TO RECORDS REQUIRED

All vessels, their owners and/or agents using Terminal Facilities or private dock facilities for delivering or receiving cargo shall file with the Port Authority's ~~accounting department~~ Harbormaster a ~~wharfage transaction~~ General Cargo Wharfage Statement form. ~~Such wharfage transactions shall be reported on a processed wharfage transaction form provided by the Port Authority.~~ The Port Authority's form is to be accompanied with certified Manifests and Bills of Lading in either printed or electronic form, showing the weight, measurements and description of all cargo loaded or unloaded. Any other data required for proper statistical information may be requested by the Port Authority.

The ~~General Cargo Wharfage Statement wharfage transaction form~~ on inbound cargo must be filed not later than ten (10) consecutive days (Saturday, Sunday and Holidays included) after arrival of the vessel. The ~~General Cargo Wharfage Statement wharfage transaction form~~ on outbound cargo must be filed not later than 10 (ten) consecutive days (Saturday, Sunday and Holidays included) after vessel sailing.

All invoices are due and payable thirty (30) days after the invoice date. Payment for all charges must be remitted according to stated terms regardless of when the vessel, her Owner and/or Agents are reimbursed. Any invoice remaining unpaid forty five (45) days after the invoice date will be considered delinquent. Continued failure to comply with terms set forth herein may result in being placed on a cash payment basis and on a delinquent party list by the Port Authority.

All Users of private and public port facilities as noted above shall be required to permit Port Authority representatives reasonable access to manifests of cargo, receiving reports and all other documents necessary for the purpose of audit for ascertaining the correctness of ~~General Cargo Wharfage Statements wharfage transaction reports~~ filed or securing necessary data to permit estimate of ~~wharfage transaction~~ charges.

Failure to file the Port Authority's ~~General Cargo Wharfage Statement wharfage form~~ and certified documentation within the time specified may constitute cause for suspension of berth assignment, suspension of credit, or suspension of other vessel privileges until such failure is remedied.

The Port Authority reserves the right to estimate the amount of and collect in advance charges pursuant to this tariff which may accrue against vessels, its Owners and/or Agents, or against cargo received for, loaded to, or discharged from a vessel using the Terminal Facilities.

Clean Version of Amended Item 210:

GENERAL CARGO WHARFAGE STATEMENT, SHIP'S MANIFEST AND ACCESS TO RECORDS REQUIRED

All vessels, their owners and/or agents using Terminal Facilities or private dock facilities for delivering or receiving cargo shall file with the Port Authority's Harbormaster a General Cargo Wharfage Statement. The Port Authority's form is to be accompanied with certified Manifests and Bills of Lading in either printed or electronic form, showing the weight, measurements and description of all cargo loaded or unloaded. Any other data required for proper statistical information may be requested by the Port Authority.

The General Cargo Wharfage Statement on inbound cargo must be filed not later than ten (10) consecutive days (Saturday, Sunday and Holidays included) after arrival of the vessel. The General Cargo Wharfage Statement on outbound cargo must be filed not later than 10 (ten) consecutive days (Saturday, Sunday and Holidays included) after vessel sailing.

All invoices are due and payable thirty (30) days after the invoice date. Payment for all charges must be remitted according to stated terms regardless of when the vessel, her Owner and/or Agents are reimbursed. Any invoice remaining unpaid forty five (45) days after the invoice date will be considered delinquent.

Continued failure to comply with terms set forth herein may result in being placed on a cash payment basis and on a delinquent party list by the Port Authority.

All Users of private and public port facilities as noted above shall be required to permit Port Authority representatives reasonable access to manifests of cargo, receiving reports and all other documents necessary for the purpose of audit for ascertaining the correctness of General Cargo Wharfage Statements filed or securing necessary data to permit estimate of wharfage charges.

Failure to file the Port Authority's General Cargo Wharfage Statement and certified documentation within the time specified may constitute cause for suspension of berth assignment, suspension of credit, or suspension of other vessel privileges until such failure is remedied.

The Port Authority reserves the right to estimate the amount of and collect in advance charges pursuant to this tariff which may accrue against vessels, its Owners and/or Agents, or against cargo received for, loaded to, or discharged from a vessel using the Terminal Facilities.

Redlined Item 240 – Charge for Special Service:

Any labor or material required for special services not specifically covered herein may be provided at actual cost plus twenty percent, or flat rate prices may be quoted by the Executive Director or his designated representative. Such quotations include, but are not limited to, establishment of new or initial rates and charges, and changes in existing rates and charges. The Port Authority reserves the right to quote rates or to provide special services at its convenience and has no obligation or duty to quote on or render such service.

Clean Version of Amended Item 240 – Charge for Special Service:

Any labor or material required for special services not specifically covered herein may be provided at actual cost plus twenty percent, or flat rate prices may be quoted by the Executive Director or his designated representative. Such quotations include, but are not limited to, establishment of new or initial rates and charges, and changes in existing rates and charges. The Port Authority reserves the right to quote rates or to provide special services at its convenience and has no obligation or duty to quote on or render such service.

Red-lined Item 260 – Holidays for Port Authority Employees:

- New Year's Day (January 1)
- Martin Luther King Day (3rd Monday in January)
- President's Day (3rd Monday in February)
- Good Friday (Friday before Easter)
- Memorial Day (last Monday in May)
- Fourth of July
- Labor Day (1st Monday in September)
- Thanksgiving Day (4th Thursday in November)
- Friday after Thanksgiving
- Christmas (December 25)

When a holiday falls on Saturday, it will be observed on the preceding Friday. When a holiday falls on Sunday, it will be observed on the following Monday.

Clean Version of Amended Item 260 – Holidays for Port Authority Employees:

- New Year's Day (January 1)
- Martin Luther King Day (3rd Monday in January)
- President's Day (3rd Monday in February)
- Good Friday (Friday before Easter)
- Memorial Day (last Monday in May)
- Fourth of July
- Labor Day (1st Monday in September)
- Thanksgiving Day (4th Thursday in November)
- Friday after Thanksgiving
- Christmas (December 25)

When a holiday falls on Saturday, it will be observed on the preceding Friday. When a holiday falls on Sunday, it will be observed on the following Monday.

Redlined Item 285 – Assignment of Berth and Conditions of Assignment:

Vessel owners or their agents desiring a berth for vessels of any kind at ~~any Authority Terminal Facility~~~~wharves~~ must, as far in advance as possible of the date of docking, ~~file a Berth Application and Acceptance of Financial Responsibility ("Berth Application") form specifying the date of docking, sailing, and the nature and quantity of cargo to be handled.~~ The Berth Application shall be filed with the Harbormaster or his designee. In addition, vessel owners or their agents loading or discharging general cargo must, as far in advance as possible of the date of docking, ~~file a General Cargo Wharfage Statement ("Wharfage Statement") form attaching manifests or bills of lading as supporting documentation. The Wharfage Statement should be submitted with the Berth Application. make application in writing for same to the Harbormaster on a form prescribed by the Authority specifying the date of docking, sailing and the nature and quantity of cargo to be handled.~~ Qualified Barge Tows (see Note 1) will be classified as ships for purposes of berth assignments.

Assignment of berth to vessels will be on first-come first-served basis. The Harbormaster maintains a record of arrival times for all vessels, which is used for berth assignments. Arrival time for ships and ocean barges will be at the time of anchorage on the bar or at the time a vessel crosses the bar and declares to be ready in all respects to commence operations. Arrival time for Qualified Barge Tows and other inland waterway barges to queue for Port public docks will commence upon arrival at mile marker 512 of the Gulf Intracoastal Waterway (GIWW).

To expedite the handling of vessels (~~S~~see Note 1) and avoid congestion when there are more vessels to be assigned to specific berths than can be accommodated at one time, vessels already ~~in-at~~ berth may be ordered by the Harbormaster to work continuously at their own expense. A vessel refusing or unable to work continuously may be ordered to vacate its berth by the Harbormaster, regardless of the reason for the vessel's refusal or inability to work continuously, including circumstances which are beyond its control. Failure of a vessel to vacate its berth when ordered to do so shall subject the vessel owners or their agents to payment of an additional dockage charge at the rate of one thousand dollars (\$1,000.00) per vessel per hour or fraction thereof. Assessment of this additional dockage charge shall not affect the right of the Port Authority to effect removal of such vessels at the cost, risk and expense of the vessel owners or their agents. **When a vessel refuses to vacate its berth when ordered to do so under the provisions of this item, its owners or their agents, individually and collectively, will indemnify and hold harmless the Port Authority against all claims by incoming vessels assigned to the same berth for delay caused by failure of the vessel to vacate the berth.**

An inland waterway barge or barges (see ~~n~~Note 1) assigned to occupy a berth for loading or unloading will have the right to finish loading or unloading. However, if ordered by the Harbormaster to work continuously and to vacate the berth when loading or unloading is finished, such barge or barges will be subject to the additional dockage and other provisions of stated in this Item.

Ships, ocean barges and Qualified Barge Tows have preference at all Port Authority berths over tows of less than four inland waterway barges.

~~Vessels awaiting berth will load or unload in turn.~~ Port Authority ~~management has the right to may, in its discretion,~~ change the ~~turn-berth assignments~~ of vessels when confronted with congestion, the urgent need to load or unload a particular cargo, or to otherwise facilitate operations. The Port Authority is not responsible for delays to vessels at or seeking berths regardless of the cause of such delay.

NOTE 1: *For the purpose of applying the provisions of this item, Qualified Barge Tows will be treated the same as ships and ocean barges for berth ~~turn~~ assignments. A "Qualified Barge Tow" means (1) an inland waterway barge tow of not less than four barges which gives its written notice of arrival requesting to be classified as such to the Harbormaster's Office as far in advance as possible prior to its arrival at Mile Marker 512 of the Gulf Intracoastal Waterway (GIWW); (2) enters the Inner Harbor as a unit and remains a unit in the Inner Harbor until all of its cargo operations are completed; (3) hires a tug that will remain with the barges throughout dock occupancy in the Inner Harbor to conduct barge shifting; (4) pays Dockage per Item 300 D.*

Clean Version of Amended Item 285 – Assignment of Berth and Conditions of Assignment:

Vessel owners or their agents desiring a berth for vessels of any kind at wharves must, as far in advance as possible of the date of docking, file a Berth Application and Acceptance of Financial Responsibility ("Berth Application") form specifying the date of docking, sailing, and the nature and quantity of cargo to be handled. The Berth Application shall be filed with the Harbormaster or his designee. In addition, vessel owners or their agents loading or discharging general cargo must, as far in advance as possible of the date of docking, file a General Cargo Wharfage Statement ("Wharfage Statement") form attaching manifests or bills of lading as supporting documentation. The Wharfage Statement should be submitted with the Berth Application. Qualified Barge Tows (see Note 1) will be classified as ships for purposes of berth assignments.

Assignment of berth to vessels will be on first-come first-served basis. The Harbormaster maintains a record of arrival times for all vessels, which is used for berth assignments. Arrival time for ships and ocean barges will be at the time of anchorage on the bar or at the time a vessel crosses the bar and declares to be ready in all respects to commence operations. Arrival time for Qualified Barge Tows and other inland waterway barges to queue for Port public docks will commence upon arrival at mile marker 512 of the Gulf Intracoastal Waterway (GIWW).

To expedite the handling of vessels (see Note 1) and avoid congestion when there are more vessels to be assigned to specific berths than can be accommodated at one time, vessels already at berth may be ordered by the Harbormaster to work continuously at their own expense. A vessel refusing or unable to work continuously may be ordered to vacate its berth by the Harbormaster, regardless of the reason for the vessel's refusal or inability to work continuously, including circumstances which are beyond its control. Failure of a vessel to vacate its berth when ordered to do so shall subject the vessel owners or their agents to payment of an additional dockage charge at the rate of one thousand dollars (\$1,000.00) per vessel per hour or fraction thereof. Assessment of this additional dockage charge shall not affect the right of the Port Authority to effect removal of such vessels at the cost, risk and expense of the vessel owners or their agents. **When a vessel refuses to vacate its berth when ordered to do so under the provisions of this item, its owners or their agents, individually and collectively, will indemnify and hold harmless the Port Authority against all claims by incoming vessels assigned to the same berth for delay caused by failure of the vessel to vacate the berth.**

An inland waterway barge or barges (see Note 1) assigned to occupy a berth for loading or unloading will have the right to finish loading or unloading. However, if ordered by the Harbormaster to work continuously and to vacate the berth when loading or unloading is finished, such barge or barges will be subject to the additional dockage and other provisions of stated in this Item.

Ships, ocean barges and Qualified Barge Tows have preference at all Port Authority berths over tows of less than four inland waterway barges.

Port Authority may, in its discretion, change the berth assignments of vessels when confronted with congestion, the urgent need to load or unload a particular cargo, or to otherwise facilitate operations. The Port Authority is not responsible for delays to vessels at or seeking berths regardless of the cause of such delay.

NOTE 1: *For the purpose of applying the provisions of this item, Qualified Barge Tows will be treated the same as ships and ocean barges for berth assignments. A "Qualified Barge Tow" means (1) an inland waterway barge tow of not less than four barges which gives its written notice of arrival requesting to be classified as such to the Harbormaster's Office as far in advance as possible prior to its arrival at Mile Marker 512 of the Gulf Intracoastal Waterway (GIWW); (2) enters the Inner Harbor as a unit and remains a unit in the Inner Harbor until all of its cargo operations are completed; (3) hires a tug that will remain with the barges throughout dock occupancy in the Inner Harbor to conduct barge shifting; (4) pays Dockage per Item 300 D.*

Redlined Item 288 – Facility Use Fee:

Upon request by a User, the Port Authority will attempt to provide the User with suitable Transfer and/or storage Facilities for cargos arriving by rail or truck, if any are available, which is not guaranteed,. The Rail Company User may enter into a non-exclusive track use agreement with the Authority before using the Authority's Transfer Facilities; this agreement may include a track use fee and a short-term storage option. A Facility User Fee will equal the quantity of the transferred cargo multiplied by the Authority's then current wharfage rate for the type of cargo. Tariff 100-A Section IV Security Surcharge will apply. Authority is not responsible for, nor will it provide, any transfer services.

Clean Version of Amended Item 28 – Facility Use Fee:

Upon request by a User, the Port Authority will attempt to provide the User with suitable Transfer and/or storage Facilities for cargos arriving by rail or truck, if any are available, which is not guaranteed,. The Rail Company User may enter into a non-exclusive track use agreement with the Authority before using the Authority's Transfer Facilities; this agreement may include a track use fee and a short-term storage option. A Facility User Fee will equal the quantity of the transferred cargo multiplied by the Authority's then current wharfage rate for the type of cargo. Tariff 100-A Section IV Security Surcharge will apply. Authority is not responsible for, nor will it provide, any transfer services.

Redlined Item 301 – Harbor Safety Fee:

All commercial ships and barges entering or operating in the Authority's Waterways shall be assessed a Harbor Safety Fee (HSF), as provided herein, to assist in defraying the administration, maintenance and operation expenses of a fire response vessel and marine patrol vessels, including personnel and equipment. For the purposes of the Harbor Safety Fee, the "Authority's Waterways" means, collectively, the Corpus Christi Ship Channel, the La Quinta Channel, the Jewel Fulton Canal and the Rincon Canals.

For commercial ships and barges entering the Authority's Waterways the HSF is as follows:

Ships and ocean-going barges.....\$1,153.00
Barges.....\$132.00

The HSF for entering the Authority's Waterways will be billed upon departure.

For commercial cargo barges that are in the Authority's Waterways for a period of thirty (30) consecutive days or more without leaving the Authority's Waterways, an HSF of \$530.00 will be assessed for each continuous 30-day period. The HSF for each continuous 30-day period will be billed monthly.

If any marine firefighting services should be rendered by Authority to any ship or barge, or rendered for the protection of bulkheads, piers, wharves, landings, appurtenances or other property of third persons, such services, including the labor and materials used, shall be charged to the vessel receiving such services, or to the owner of such bulkheads, piers, wharves, landings, approaches, buildings, appurtenances or other property, in accordance with the fees to be quoted by the Port Authority.

Clean Version of Amended Item 301 – Harbor Safety Fee:

All commercial ships and barges entering or operating in the Authority's Waterways shall be assessed a Harbor Safety Fee (HSF), as provided herein, to assist in defraying the administration, maintenance and operation expenses of a fire response vessel and marine patrol vessels, including personnel and equipment. For the purposes of the Harbor Safety Fee, the "Authority's Waterways" means, collectively, the Corpus Christi Ship Channel, the La Quinta Channel, the Jewel Fulton Canal and the Rincon Canals.

For commercial ships and barges entering the Authority's Waterways the HSF is as follows:

Ships and ocean-going barges.....\$1,153.00
Barges.....\$132.00

The HSF for entering the Authority's Waterways will be billed upon departure.

For commercial cargo barges that are in the Authority's Waterways for a period of thirty (30) consecutive days or more without leaving the Authority's Waterways, an HSF of \$530.00 will be assessed for each continuous 30-day period. The HSF for each continuous 30-day period will be billed monthly.

If any marine firefighting services should be rendered by Authority to any ship or barge, or rendered for the protection of bulkheads, piers, wharves, landings, appurtenances or other property of third persons, such services, including the labor and materials used, shall be charged to the vessel receiving such services, or to the owner of such bulkheads, piers, wharves, landings, approaches, buildings, appurtenances or other property, in accordance with the fees to be quoted by the Port Authority.

Redlined Item 540 – Project Rates:

Project Rates - Applicable only to materials and equipment to be employed in the construction or one-time development of a named facility used for a major governmental, charitable, manufacturing, resource development, public utility or public service purpose and also including disaster relief projects. Such construction or development must be undertaken by either the shipper or consignee and none of the materials or equipment shall be for the purpose of resale or other commercial distribution.

Clean Version of Amended Item 540 – Project Rates:

Project Rates - Applicable only to materials and equipment to be employed in the construction or one-time development of a named facility used for a major governmental, charitable, manufacturing, resource development, public utility or public service purpose and also including disaster relief projects. Such construction or development must be undertaken by either the shipper or consignee and none of the materials or equipment shall be for the purpose of resale or other commercial distribution.

DATE: March 20, 2018

TO: Port Commission

FROM: Sam Esquivel, Real Estate Services Manager
Sam@pocca.com
(361) 885-6140

Approve an Easement and Right of Way Agreement with AEP Texas, Inc. for Electrical Service to serve Gavilon's 8.85-acre Leased Premises Located in the Inner Harbor, Nueces County, Texas.

SUMMARY: AEP Texas, Inc. (AEP) representatives have requested an Easement and Right of Way Agreement to provide electrical service to serve Gavilon's Leased Premises as depicted on the attached Exhibit. The easement will be for a term of 30 years.

BACKGROUND: On January 1, 1996 the Port of Corpus Christi Authority (PCCA) granted a Lease to Corpus Christi Liquid, Inc. (CCL), for a 5.83 acre tract of land to operate a liquid fertilizer terminal and commercial truck scale. Subsequently on July 11, 2000 CCL amended the lease to increase the leased premises to 8.85 acres. Gavilon Group, LLC (Gavilon) became the successor in title to CCL in 2008. Gavilon has planned improvements for the tanks and tank foundations. Part of the improvement project also includes a new pump station that requires an electrical upgrade to the Leased Premises. This AEP easement will facilitate the upgrade to Gavilon's pump station.

ALTERNATIVES: None. Do not approve and Gavilon cannot perform the needed improvements to increase their business.

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan (Strategic Goal #2 – Provide facilities and services to meet customer needs to provide surface infrastructure and services to support maritime and industrial development).

EMERGENCY: N/A

FINANCIAL IMPACT: None – No fees are assessed for AEP electrical service easements granted to serve PCCA customers.

STAFF RECOMMENDATION: Staff recommends approval of the Easement and Right of Way Agreement with AEP Texas, Inc.

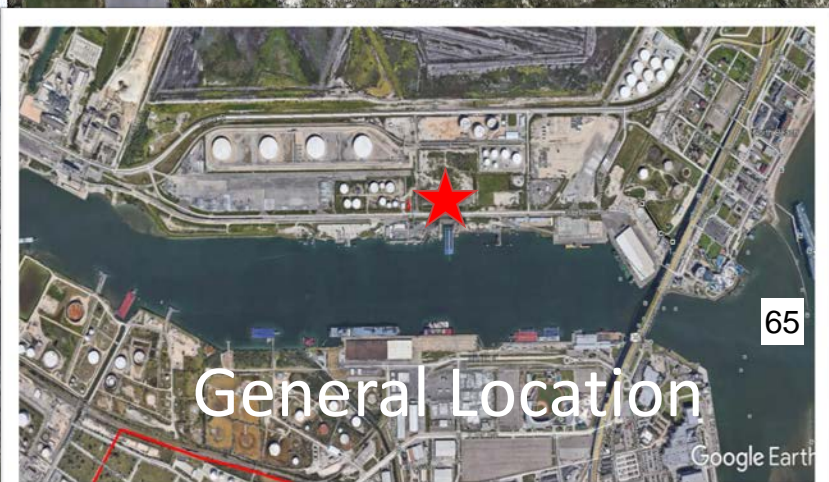
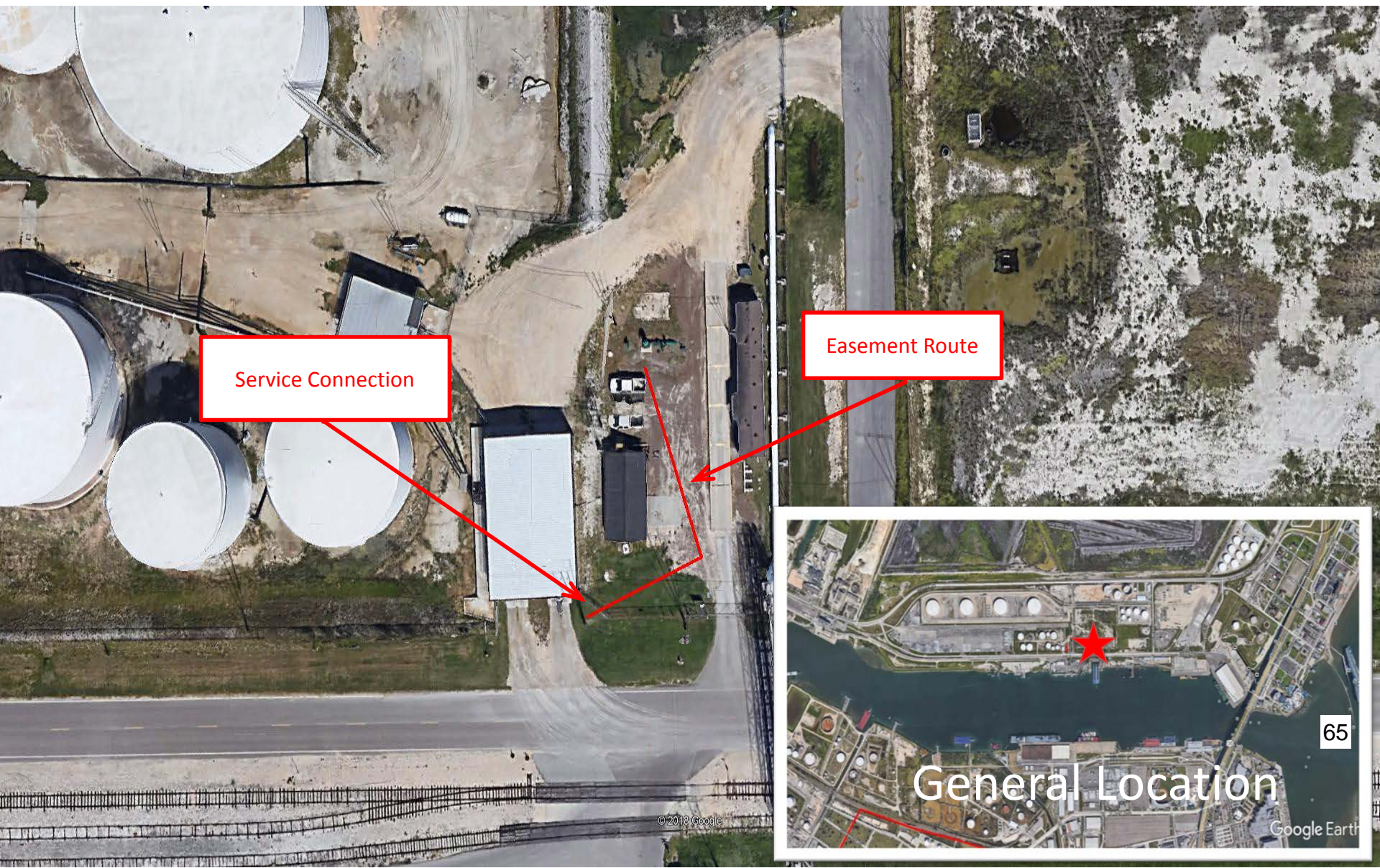
DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel Kent Britton
Legal	R. Bryan Stone
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Easement and Right of Way Agreement

Approve an Easement and Right of Way Agreement with AEP Texas, Inc. for Electrical Service to serve Gavilon's 8.85-acre Leased Premises Located in the Inner Harbor North of the Corpus Christi Turning Basin and East of the North Bank Yard, Nueces County, Texas.



EASEMENT AND RIGHT-OF-WAY AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF NUECES §

PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS, acting herein by and through its Port Commissioners hereunto duly authorized (hereinafter called "Authority") for and in consideration of Ten and NO/100 Dollars (\$10.00) and other good and valuable considerations, including the covenants and conditions herein made and provided to be kept and performed by Grantee, has GRANTED AND CONVEYED and by these presents does GRANT AND CONVEY to **AEP TEXAS INC.**, a Delaware Corporation (hereinafter, together with its successor and assigns, called "Grantee"), an easement and right-of-way (hereinafter called the "Easement") over, across and upon the property described in Exhibit "A" attached hereto for the purpose of constructing, operating, reconstructing, enlarging, replacing, upgrading, inspecting, patrolling, repairing, maintaining, and removing electric distribution lines consisting of poles or towers made of wood, metal or other materials, wires, circuits, static wires, communication circuits, crossarms, insulators, guy wires, and all other necessary or desirable appurtenances (the "Distribution Line").

The easement width for the underground utilities shall be the exterior dimensions of the conduit/casing laid as described on Exhibit "A" and depicted on Exhibit "B" attached hereto, and which is incorporated herein by reference for all purposes.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns, the rights and privileges hereby conveyed for a term of 30 years, and subject to the exceptions and reservations herein set forth, and upon the following covenants and conditions which are a part of the consideration for this grant, which covenants and conditions are and shall be construed as covenants running with the land, and which covenants and conditions, by its acceptance hereof, Grantee covenants and agrees to keep and perform.

This Easement is granted subject to the following:

A. Type of Distribution Line. The Distribution Line shall be electric distribution cables together with conduits, static wires, communication circuits and other appurtenances as deemed appropriate by Grantee. The Distribution Line is to be encased in red concrete and shall be buried and maintained so that the top thereof shall be at least three feet (3') below the top of any existing surfaces elsewhere for the full length of the underground segment. Notwithstanding anything herein to the contrary, the Distribution Line is hereby restricted solely to an underground easement within the Easement where indicated on Exhibit "B". Any damage or disruption of fiber service or other utilities will be corrected immediately at the Grantee's cost and to the satisfaction of the Grantor.

B. Access. The rights of ingress and egress hereinabove referred to given to Grantee shall be confined to the above-described easement area. Grantee shall have the right to cross

Authority's adjacent land, store materials or equipment thereon or to conduct any of its operations thereon only if the prior consent of the Authority is obtained in writing, which consent will not be unreasonably withheld. Except in the case of an emergency, Grantee agrees to notify the Authority not less than 72 hours prior to its employees, agents or contractors entering upon the easement area for construction, maintenance, repairs or other operations.

C. Construction, Maintenance and Use. Grantee shall construct and maintain the Distribution Line in a good and workmanlike manner and in compliance with all applicable governmental and industry standards for construction and maintenance of the same, and in accordance with the Grantor's current requirements as detailed in the Port of Corpus Christi Authorities current Project Manual.

Grantee's use of the Easement herein granted and its operations in relation to it shall at all times comply with all laws, statutes, rules and regulations of federal, state and local government.

Grantee shall furnish the Authority upon completion of the installation of the Distribution Line or any modification thereof an as-built drawing of the location of the Distribution Line and any such modification.

Grantee shall be responsible for coordination of its construction and use in the easement area with any other existing users and easement holders near the Easement. Grantee shall promptly restore any portion of the easement area damaged by Grantee to substantially its original condition. All restoration work shall be appropriately tested at Grantee's expense.

Grantee must submit to Authority plans for any proposed improvements on the easement area ("Plans"), and the Plans must be approved in writing by the Director of Engineering Services of Authority prior to the commencement of construction of the same, which approval shall not be unreasonably denied, delayed or conditioned. To facilitate the Authority's review, two sets of final for-construction plans that clearly define the project must be submitted to Authority along with electronic files 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. Any approval, comments or denial of the Plans by the Authority shall be promptly made to Grantee within 30 Business Days after submittal. Further, Authority shall prepare detailed comments or responses to the Plans in order to direct Grantee on the action needed to have the Plans revised and approved. Within 60 days of the completion of the work depicted on the Plans, Grantee will provide Authority with one set of As-Built or Record Drawings on a standard engineering format (24" x 36" drawings) and in an electronic file format acceptable to the Authority.

D. Reservations and Exceptions. The Easement is further made subject to any restrictions, covenants, easements, rights-of-way, encumbrances, and mineral or royalty reservations or interests affecting the Easement whether or not appearing of record in the Official

Public Records of Nueces County, Texas, to the extent that said items and matters are in effect and validly enforceable.

E. Indemnity. GRANTEE HEREBY RELEASES AND DISCHARGES AUTHORITY FROM LIABILITY FOR, AND ASSUMES THE RISK OF LOSS OR DAMAGE TO THE PROPERTY OF GRANTEE, AND THE PERSONAL INJURY OR DEATH OR ANY PERSON EMPLOYED BY GRANTEE, AND GRANTEE EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD AUTHORITY, ITS AGENTS, SERVANTS, EMPLOYEES AND COMMISSIONERS, HARMLESS FROM ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY GRANTEE'S WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BREACH OF ANY TERM OR CONDITION OF THIS EASEMENT, INCLUDING THAT CAUSED BY ANY OF THE GRANTEE'S AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, ACTIVITIES DIRECTLY RELATED TO THIS EASEMENT OCCURRING IN, DURING OR AFTER THE TERM OF THIS EASEMENT, SAVE AND EXCEPT SUCH DAMAGES AS MAY BE CAUSED BY THE NEGLIGENCE OF THE AUTHORITY, ITS AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES IT BEING INTENDED THAT GRANTEE WILL INDEMNIFY AUTHORITY FOR GRANTEE'S PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO, NEGLIGENCE, WHICH CAUSES SUCH DAMAGES. IT IS EXPRESSLY AGREED THAT SHOULD GRANTEE FAIL OR REFUSE TO PARTICIPATE IN THE SETTLEMENT OF A CLAIM FOR DAMAGES, THEN AUTHORITY MAY SETTLE WITH THE CLAIMANT WITHOUT PREJUDICE TO AUTHORITY'S INDEMNITY RIGHTS SET FORTH HEREIN, IT BEING EXPRESSLY RECOGNIZED THAT A SETTLEMENT AFTER DEMAND ON GRANTEE WILL CONSTITUTE A SETTLEMENT OF THE PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, OF BOTH GRANTEE AND AUTHORITY, WHICH SETTLEMENT MAY LATER BE APPORTIONED BETWEEN AUTHORITY AND GRANTEE.

TO THE EXTENT PERMITTED BY LAW, AUTHORITY HEREBY RELEASES AND DISCHARGES GRANTEE FROM LIABILITY FOR, AND ASSUMES THE RISK OF LOSS OR DAMAGE TO THE PROPERTY OF AUTHORITY, AND THE PERSONAL INJURY OR DEATH OF ANY PERSON EMPLOYED BY AUTHORITY, AND AUTHORITY EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD GRANTEE, ITS AGENTS, SERVANTS, EMPLOYEES AND COMMISSIONERS, HARMLESS FROM ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY AUTHORITY'S WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BREACH OF ANY TERM OR CONDITION OF THIS EASEMENT, INCLUDING THAT

CAUSED BY ANY OF THE AUTHORITY'S AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, ACTIVITIES DIRECTLY OR INDIRECTLY RELATED TO AUTHORITY'S USE OF THE EASEMENT OR ITS SURROUNDING PROPERTIES AND OCCURRING IN, DURING OR AFTER THE TERM OF THIS EASEMENT, SAVE AND EXCEPT SUCH DAMAGES AS MAY BE CAUSED BY THE NEGLIGENCE OF THE GRANTEE, ITS AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, IT BEING INTENDED THAT AUTHORITY WILL INDEMNIFY GRANTEE FOR AUTHORITY'S PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO, NEGLIGENCE, WHICH CAUSES SUCH DAMAGES. IT IS EXPRESSLY AGREED THAT SHOULD AUTHORITY FAIL OR REFUSE TO PARTICIPATE IN THE SETTLEMENT OF A CLAIM FOR DAMAGES, THEN GRANTEE MAY SETTLE WITH THE CLAIMANT WITHOUT PREJUDICE TO GRANTEE'S INDEMNITY RIGHTS SET FORTH HEREIN, IT BEING EXPRESSLY RECOGNIZED THAT A SETTLEMENT AFTER DEMAND ON AUTHORITY WILL CONSTITUTE A SETTLEMENT OF THE PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, OF BOTH AUTHORITY AND GRANTEE, WHICH SETTLEMENT MAY LATER BE APPORTIONED BETWEEN AUTHORITY AND GRANTEE.

EXCEPT AS OTHERWISE EXPRESSLY LIMITED HEREIN, IT IS THE INTENT OF THE PARTIES HERETO THAT ALL INDEMNITY OBLIGATIONS AND LIABILITIES ASSUMED UNDER THE TERMS OF THIS EASEMENT BE WITHOUT MONETARY LIMIT. THE INDEMNITY CONTAINED IN THIS PARAGRAPH APPLIES, WITHOUT LIMITATION, TO ANY VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW IN EFFECT DURING THE TERM OF THIS EASEMENT, INCLUDING ANY EXTENSION, AND ANY AND ALL MATTERS ARISING OUT OF ANY ACT, OMISSION, EVENT OR CIRCUMSTANCE EXISTING OR OCCURRING DURING THE TERM OF THIS EASEMENT, INCLUDING ANY EXTENSIONS, REGARDLESS OF WHETHER THE ACT, OMISSION, EVENT OR CIRCUMSTANCE CONSTITUTED A VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW AT THE TIME OF ITS EXISTENCE OR OCCURRENCE.

F. Assignment. The rights herein granted may not be assigned without the prior written consent of the Authority, which consent will not be unreasonably withheld; if the Authority withholds consent, the Authority will provide written notice within 30 days from date of notice of assignment to third parties by Grantee; failure to provide such written notice within the said 30 days shall constitute acceptance of assignment.

The Authority, however, consents to the assignment of the Easement to any corporation that is an affiliate of and controlled by, Grantee, or to a parent corporation of Grantee or a subsidiary corporation of such parent corporation.

The Easement shall be deemed a covenant running with the land and shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns. Assignment in accordance with this paragraph shall relieve Grantee from liability for the performance of the covenants and indemnities hereof.

G. Relocation. The Authority may require Grantee to remove, lower, raise, or relocate the Distribution Line, equipment, facilities and appurtenances situated in the Easement in the event the Authority wants to use the Easement property for construction of Authority facilities or other Authority uses and the Distribution Line becomes a hindrance or interferes with any such future uses of the property. In such event, the cost of such removal, lowering, raising or relocation shall be paid solely by Grantee. In the event of such removal, lowering, raising, or relocation, the Authority will provide Grantee with an alternate easement, using its best efforts, on Authority land in a location that is reasonably acceptable to Grantee and at no additional cost to Grantee.

H. Compliance with all Laws. The rights and privileges associated with the Easement granted under this agreement shall not be exercised in a manner so as to violate any standards or provisions of any applicable common law or legislation, or the rules, regulations or policies of any regulatory body, whether Federal, State municipal or county, including without limitation, applicable standards, legislation, rules and regulations relating to the protection of the environment.

I. Exhibits. All exhibits attached hereto are hereby incorporated herein by this reference and made a part hereof for all purposes.

J. Notice. Any notice or demand which either party hereto may desire to serve upon the other shall be sufficiently served if deposited in the United States mail, postage prepaid and certified or registered, or delivered by a regularly established courier service, or hand delivered, addressed, in the instances of Authority to:

If to Authority: Port of Corpus Christi Authority
Attn: Executive Director
222 Power Street
P.O. Box 1541
Corpus Christi, Texas 78403
Fax: (361) 881-5155

If to Grantee: AEP Texas Inc.
c/o Distribution Right-of-Way Agent
P.O. Box 2121
Corpus Christi, Texas 78403

or to such other address which a party may notify in writing to the other. Such notice shall be deemed to have been served upon receipt thereof by the party to whom such notice is given.

K. Termination. The Easement herein granted shall terminate if Grantee shall fail to complete the construction of the Distribution Line within three (3) years from the date hereof, or at any time during the term hereof abandon the use of the same for the purposes herein granted for twelve (12) consecutive months. In addition to the immediate sentence above, this Easement Agreement and all of Grantee's interest hereunder, at the option of Grantor, shall forthwith terminate upon breach by Grantee of any of the covenants or conditions hereof and the failure of

Grantee to remedy the same within ninety (90) days after written notice from the Grantor to do so. However, if such breach cannot be reasonably remedied within ninety (90) days, this Easement Agreement and Grantee's interest hereunder shall not terminate if Grantee furnishes Grantor a plan, reasonably acceptable to Grantor, for remedying such breach as expeditiously as reasonably possible and thereafter diligently and continuously prosecutes reasonable and prudent corrective measures to completion in accordance with such plan. Grantee agrees it will within one hundred twenty (120) days after the termination of this Easement Agreement remove the Distribution Line (including poles, towers and guy wires) in the Easement and shall restore Grantor's lands in the Easement to the condition in which same existed prior to the existence of the Distribution Line. In the event Grantee fails to so remove the Distribution Line, the Grantor may either declare the termination of Grantee's interest in the Distribution Line and all of Grantee's interest therein shall thereupon terminate, or the Grantor may cause the Distribution Line, or any part thereof at Grantor's election, to be removed and the lands of the Grantor restored at the cost of Grantee.

L. Severability/Interpretation. In case any one or more of the provisions contained in this agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Whenever required by the context, as used in this agreement, the singular number shall include the plural and the neuter shall include the masculine or feminine gender, and vice versa.

M. Counterparts. This agreement may be executed and acknowledged in counterparts, all of which executed and acknowledged counterparts shall together constitute a single document. Signature and acknowledgement pages may be detached from the counterparts and attached to a single copy of this document to physically form one document, which may be recorded.

N. Governing Law. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION.

The execution of this Easement shall be conclusive of the agreement of the Authority and Grantee to all of the terms and conditions hereof, whereupon the Easement and all of its provisions shall extend to and be binding upon the legal representatives, successors and assigns of Grantee and the Authority, respectively.

[Signature and acknowledgement pages follow this page]

WITNESS this _____ day of _____, 2018.


GRANTOR:

PORT OF CORPUS CHRISTI AUTHORITY

By: _____
 Name: _____
 Title: _____

GRANTEE:

AEP TEXAS INC.

By: 
 Name: Thomas M. Coad
 Title: Vice President of Distribution Region Operations

R.S.

THE STATE OF TEXAS §
 §
 COUNTY OF NUECES §

This instrument was acknowledged before me on the _____ day of _____, 2018, by _____, of Port of Corpus Christi Authority of Nueces County, Texas, on behalf of the Port.

 NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires:

THE STATE OF TEXAS §
 §
 COUNTY OF NUECES §

This instrument was acknowledged before me on the 12 day of March, 2018, by Thomas M. Coad, Vice President of Distribution Region Operations of AEP Texas Inc., a Delaware corporation, on behalf of the corporation.

Robert Saenz
 NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires:

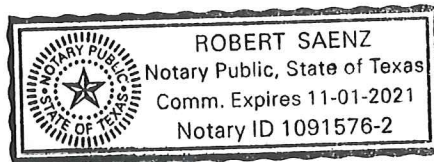


EXHIBIT "A"**NUECES COUNTY, TEXAS**

BEING A 0.041 ACRE ELECTRICAL EASEMENT SITUATED IN THE NUECES COUNTY NAVIGATION DISTRICT NUMBER-1 SURVEY, A-2677, NUECES COUNTY, TEXAS, BEING OUT OF A CALLED 8.85 ACRE LEASE TRACT UNRECORDED, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH BOUNDARY LINE LINE OF SAID 8.85 ACRE LEASE TRACT FROM WHICH A FENCE CORNER POST FOUND AT THE SOUTHEAST CORNER OF SAID 8.85 ACRE LEASE TRACT BEARS S86°30'31"W, 109.17 FEET;

THENCE CONTINUING S 86° 30' 31" W ALONG THE SOUTH BOUNDARY LINE OF SAID 8.85 ACRE LEASE TRACT, A DISTANCE OF 31.90 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE N 68° 14' 15" E, A DISTANCE OF 49.40 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE N 63° 35' 55" E, A DISTANCE OF 40.22 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE N 24° 18' 34" W, A DISTANCE OF 73.23 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE S 65° 41' 26" W, A DISTANCE OF 2.50 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE N 24° 18' 34" W, A DISTANCE OF 15.00 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE N 65° 41' 26" E, A DISTANCE OF 15.00 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE S 24° 18' 34" E, A DISTANCE OF 15.00 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;


THENCE S 65° 41' 26" W, A DISTANCE OF 2.50 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE S 24° 18' 34" E, A DISTANCE OF 82.87 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

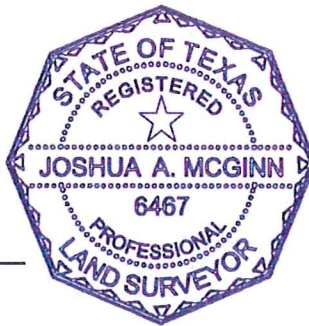
THENCE S 63° 35' 55" W, A DISTANCE OF 50.27 FEET TO AN ANGLE POINT IN THE HEREIN DESCRIBED EASEMENT;

THENCE S 68° 14' 15" W, A DISTANCE OF 19.52 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED EASEMENT CONTAINING 0.041 ACRES (OR 1,802.55 SQUARE FEET) OF LAND.

NOTE: THIS DESCRIPTION IS THE RESULT OF A SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION AND THE SUBSEQUENT MAPPING IS THE RESULT OF THAT SURVEY MADE IN CONJUNCTION WITH RECORD TITLE INFORMATION AS FURNISHED BY OTHERS AND SHOULD NOT BE CONSTRUED TO BE A BOUNDARY SURVEY OF THE PARENT TRACT. REFERENCE IS HEREIN MADE TO THE SKETCH ACCOMPANYING THIS METES AND BOUNDS DESCRIPTION.


 JOSHUA A. MCGINN
 REGISTERED PROFESSIONAL
 LAND SURVEYOR NO. 6467

2-15-2018
 DATE



Baker & Lawson Inc.
 300 East Cedar, Angleton, TX 77515
 Phone # 979-849-6681
 www.BakerLawson.com
 Licensed Surveying Firm No.10052500

FIELD NOTES DESCRIPTION

OF A
 0.041 ACRE ELECTRICAL EASEMENT

PAGE: 1 OF 2

DATE: 02-15-2018

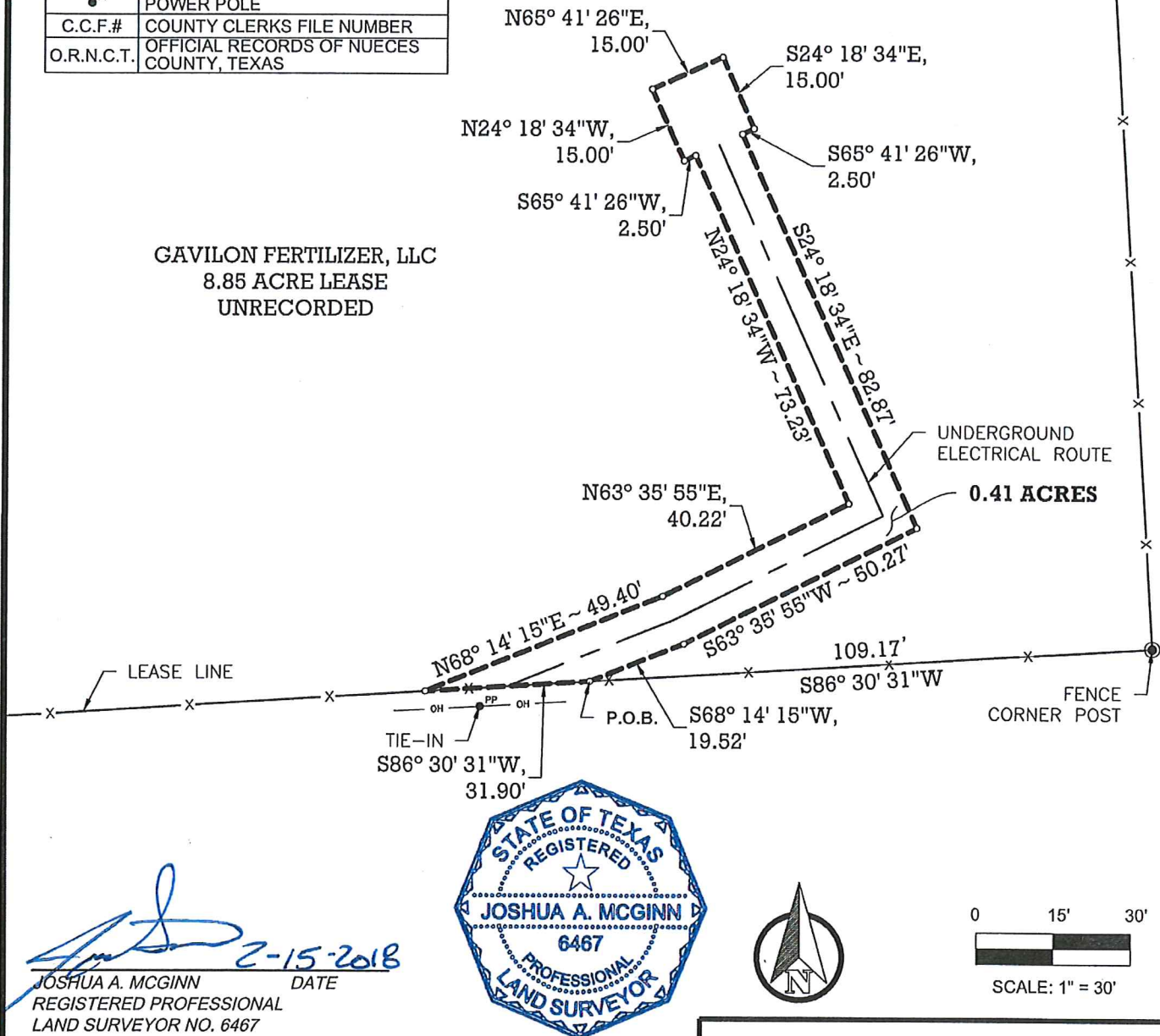
JN:

EXHIBIT " B "

NUECES COUNTY, TEXAS

LEGEND	
●	FOUND MONUMENT (AS NOTED)
P.O.B.	POINT OF BEGINNING
— OH —	OVERHEAD POWER LINES
— X —	FENCE
● PP	POWER POLE
C.C.F.#	COUNTY CLERKS FILE NUMBER
O.R.N.C.T.	OFFICIAL RECORDS OF NUECES COUNTY, TEXAS

GAVILON FERTILIZER, LLC
8.85 ACRE LEASE
UNRECORDED



JOSHUA A. MCGINN
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6467

DATE

I hereby certify that this survey was made on the ground and that this Exhibit correctly represents the facts found at the time of the survey.

NOTE: THIS EXHIBIT IS FOR GRAPHICAL PURPOSES ONLY IN RELATION TO THE PROPOSED EASEMENTS SHOWN HEREON AND IS NOT A BOUNDARY SURVEY NOR SHALL IT BE CONSTRUED IN ANY WAY AS A BOUNDARY SURVEY.



Baker & Lawson Inc.
300 East Cedar, Angleton, TX 77515
Phone # 979-849-6681
www.BakerLawson.com
Licensed Surveying Firm No. 10052500

ELECTRICAL EASEMENT

0.041 ACRES
SITUATED IN THE
GAVILON FERTILIZER, LLC
8.85 ACRE LEASE TRACT
NUECES COUNTY NAVIGATION
DISTRICT NUMBER-1, A-2677
NUECES COUNTY, TEXAS

PAGE: 2 OF 2

DATE: 02-15-2018

JN:

DATE: March 20, 2018

TO: Port Commission

FROM: Sam Esquivel, Real Estate Services Manager
Sam@pocca.com
(361) 885-6140

Approve an Easement and Right of Way Agreement with AEP Texas, Inc. for Installation of New Service for Waterfront Development along Mike Carrell Road East of Oil Dock 14, Nueces County, Texas.

SUMMARY: AEP Texas, Inc. (AEP) representatives have requested an Easement and Right of Way Agreement to provide electrical service for future waterfront development north of Tule Lake Turning Basin, as shown on the attached exhibit memo exhibit. The easement will be for a term of 30 years.

BACKGROUND: The Easement and Right of Way Agreement with AEP Texas, Inc. will facilitate development of available PCCA property along the waterfront. Currently, AEP has an Easement and Right of Way Agreement that stops north of the Oil Dock 14 guard house entrance. The new agreement will extend the easement approx. 400 ft. to the east to serve future tenants along the waterfront. Port staff has been negotiating with potential tenants interested in this area. The installation of electrical service will further negotiations with those interested parties.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan (Strategic Goal #2 – Provide facilities and services to meet customer needs to provide surface infrastructure and services to support maritime and industrial development).

EMERGENCY: No.

FINANCIAL IMPACT: None – No fees are assessed for AEP electrical service easements granted to serve the PCCA or its customers.

STAFF RECOMMENDATION: Staff recommends approval of the Easement and Right of Way Agreement with AEP Texas, Inc.

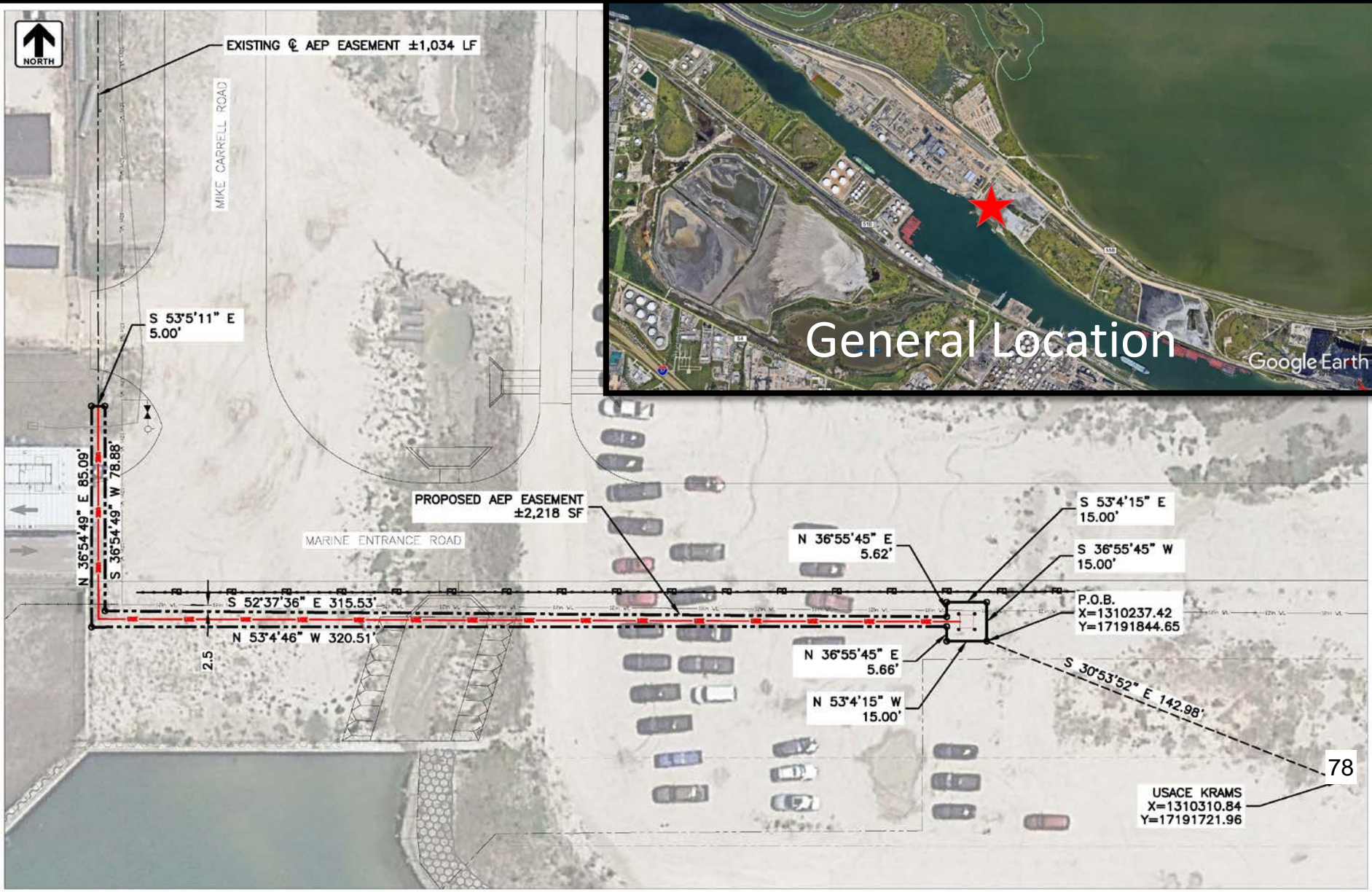
DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate Department
Reviewed & Approved	Sam Esquivel Kent Britton
Engineering	David L. Krams P.E.
Legal	Bryan Stone
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
AEP Easement and Right of Way Agreement

Approve an Easement and Right of Way Agreement with AEP Texas, Inc. for Installation of New Service for Waterfront Development along Mike Carrell Road East of Oil Dock 14, Nueces County, Texas.



EASEMENT AND RIGHT-OF-WAY AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF NUECES §

PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS, acting herein by and through its Port Commissioners hereunto duly authorized (hereinafter called "Authority") for and in consideration of Ten and NO/100 Dollars (\$10.00) and other good and valuable considerations, including the covenants and conditions herein made and provided to be kept and performed by Grantee, has GRANTED AND CONVEYED and by these presents does GRANT AND CONVEY to **AEP TEXAS INC.**, a Delaware Corporation (hereinafter, together with its successor and assigns, called "Grantee"), an easement and right-of-way (hereinafter called the "Easement") over, across and upon the property depicted in Exhibit "A" attached hereto for the purpose of constructing, operating, reconstructing, enlarging, replacing, upgrading, inspecting, patrolling, repairing, maintaining, and removing an electric distribution line consisting of wires, circuits, static wires, communication circuits, insulators, transformer, and all other necessary or desirable appurtenances (the "Distribution Line").

The easement width for the underground utilities shall be five feet (5') in width and ten (10') in width at the electrical transformer pad site as described on Exhibit "A" attached hereto, and which is incorporated herein by reference for all purposes.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns, the rights and privileges hereby conveyed for a term of 30 years, and subject to the exceptions and reservations herein set forth, and upon the following covenants and conditions which are a part of the consideration for this grant, which covenants and conditions are and shall be construed as covenants running with the land, and which covenants and conditions, by its acceptance hereof, Grantee covenants and agrees to keep and perform.

This Easement is granted subject to the following:

A. Type of Distribution Line. The Distribution Line shall be electric distribution cables together with conduits, static wires, communication circuits and other appurtenances as deemed appropriate by Grantee. Notwithstanding anything herein to the contrary, the Distribution Line is hereby restricted solely to an underground easement within the Easement. Any damage or disruption of fiber service or other utilities will be corrected immediately at the Grantee's cost and to the satisfaction of the Grantor.

B. Access. The rights of ingress and egress hereinabove referred to given to Grantee shall be confined to the above-described easement area. Grantee shall have the right to cross Authority's adjacent land, store materials or equipment thereon or to conduct any of its operations thereon only if the prior consent of the Authority is obtained in writing, which consent will not be unreasonably withheld. Except in the case of an emergency, Grantee agrees to notify the Authority

TX20185094

not less than 72 hours prior to its employees, agents or contractors entering upon the easement area for construction, maintenance, repairs or other operations.

C. Construction, Maintenance and Use. Notwithstanding anything herein to the contrary, Grantor will install 2 – 4” electrical PVC conduits for Grantee to install a distribution line, and when completed, will convey the Easement to Grantee. Thereafter, Grantee shall maintain the Distribution Line in a good and workmanlike manner and in compliance with all applicable governmental and industry standards for construction and maintenance of the same, and in accordance with the Grantor’s current requirements as detailed in the Port of Corpus Christi Authorities current Project Manual.

Grantee's use of the Easement herein granted and its operations in relation to it shall at all times comply with all laws, statutes, rules and regulations of federal, state and local government.

Grantee shall furnish the Authority upon completion of the installation of the Distribution Line or any modification thereof an as-built drawing of the location of the Distribution Line and any such modification.

Grantee shall be responsible for coordination of its use in the easement area with any other existing users and easement holders near the Easement. Grantee shall promptly restore any portion of the easement area damaged by Grantee to substantially its original condition. All restoration work shall be appropriately tested at Grantee's expense.

Upon completion of the Distribution Line and conveyance to Grantee, Grantee must submit to Authority plans for any proposed improvements on the easement area (“Plans”), and the Plans must be approved in writing by the Director of Engineering Services of Authority prior to the commencement of construction of the same, which approval shall not be unreasonably denied, delayed or conditioned. To facilitate the Authority’s review, two sets of final for-construction plans that clearly define the project must be submitted to Authority along with electronic files 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. Any approval, comments or denial of the Plans by the Authority shall be promptly made to Grantee within 30 Business Days after submittal. Further, Authority shall prepare detailed comments or responses to the Plans in order to direct Grantee on the action needed to have the Plans revised and approved. Within 60 days of the completion of the work depicted on the Plans, Grantee will provide Authority with one set of As-Built or Record Drawings on a standard engineering format (24” x 36” drawings) and in an electronic file format acceptable to the Authority.

D. Reservations and Exceptions. The Easement is further made subject to any restrictions, covenants, easements, rights-of-way, encumbrances, and mineral or royalty reservations or interests affecting the Easement whether or not appearing of record in the Official Public Records of Nueces County, Texas, to the extent that said items and matters are in effect and validly enforceable.

E. Indemnity. GRANTEE HEREBY RELEASES AND DISCHARGES AUTHORITY FROM LIABILITY FOR, AND ASSUMES THE RISK OF LOSS OR DAMAGE TO THE PROPERTY OF GRANTEE, AND THE PERSONAL INJURY OR DEATH OR ANY PERSON EMPLOYED BY GRANTEE, AND GRANTEE EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD AUTHORITY, ITS AGENTS, SERVANTS, EMPLOYEES AND COMMISSIONERS, HARMLESS FROM ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY GRANTEE'S WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BREACH OF ANY TERM OR CONDITION OF THIS EASEMENT, INCLUDING THAT CAUSED BY ANY OF THE GRANTEE'S AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, ACTIVITIES DIRECTLY RELATED TO THIS EASEMENT OCCURRING IN, DURING OR AFTER THE TERM OF THIS EASEMENT, SAVE AND EXCEPT SUCH DAMAGES AS MAY BE CAUSED BY THE NEGLIGENCE OF THE AUTHORITY, ITS AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES IT BEING INTENDED THAT GRANTEE WILL INDEMNIFY AUTHORITY FOR GRANTEE'S PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO, NEGLIGENCE, WHICH CAUSES SUCH DAMAGES. IT IS EXPRESSLY AGREED THAT SHOULD GRANTEE FAIL OR REFUSE TO PARTICIPATE IN THE SETTLEMENT OF A CLAIM FOR DAMAGES, THEN AUTHORITY MAY SETTLE WITH THE CLAIMANT WITHOUT PREJUDICE TO AUTHORITY'S INDEMNITY RIGHTS SET FORTH HEREIN, IT BEING EXPRESSLY RECOGNIZED THAT A SETTLEMENT AFTER DEMAND ON GRANTEE WILL CONSTITUTE A SETTLEMENT OF THE PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, OF BOTH GRANTEE AND AUTHORITY, WHICH SETTLEMENT MAY LATER BE APPORTIONED BETWEEN AUTHORITY AND GRANTEE.

TO THE EXTENT PERMITTED BY LAW, AUTHORITY HEREBY RELEASES AND DISCHARGES GRANTEE FROM LIABILITY FOR, AND ASSUMES THE RISK OF LOSS OR DAMAGE TO THE PROPERTY OF AUTHORITY, AND THE PERSONAL INJURY OR DEATH OF ANY PERSON EMPLOYED BY AUTHORITY, AND AUTHORITY EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD GRANTEE, ITS AGENTS, SERVANTS, EMPLOYEES AND COMMISSIONERS, HARMLESS FROM ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY AUTHORITY'S WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BREACH OF ANY TERM OR CONDITION OF THIS EASEMENT, INCLUDING THAT CAUSED BY ANY OF THE AUTHORITY'S AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, ACTIVITIES DIRECTLY OR INDIRECTLY RELATED TO AUTHORITY'S USE OF THE EASEMENT OR ITS SURROUNDING PROPERTIES AND OCCURRING IN,

DURING OR AFTER THE TERM OF THIS EASEMENT, SAVE AND EXCEPT SUCH DAMAGES AS MAY BE CAUSED BY THE NEGLIGENCE OF THE GRANTEE, ITS AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, IT BEING INTENDED THAT AUTHORITY WILL INDEMNIFY GRANTEE FOR AUTHORITY'S PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO, NEGLIGENCE, WHICH CAUSES SUCH DAMAGES. IT IS EXPRESSLY AGREED THAT SHOULD AUTHORITY FAIL OR REFUSE TO PARTICIPATE IN THE SETTLEMENT OF A CLAIM FOR DAMAGES, THEN GRANTEE MAY SETTLE WITH THE CLAIMANT WITHOUT PREJUDICE TO GRANTEE'S INDEMNITY RIGHTS SET FORTH HEREIN, IT BEING EXPRESSLY RECOGNIZED THAT A SETTLEMENT AFTER DEMAND ON AUTHORITY WILL CONSTITUTE A SETTLEMENT OF THE PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, OF BOTH AUTHORITY AND GRANTEE, WHICH SETTLEMENT MAY LATER BE APPORTIONED BETWEEN AUTHORITY AND GRANTEE.

EXCEPT AS OTHERWISE EXPRESSLY LIMITED HEREIN, IT IS THE INTENT OF THE PARTIES HERETO THAT ALL INDEMNITY OBLIGATIONS AND LIABILITIES ASSUMED UNDER THE TERMS OF THIS EASEMENT BE WITHOUT MONETARY LIMIT. THE INDEMNITY CONTAINED IN THIS PARAGRAPH APPLIES, WITHOUT LIMITATION, TO ANY VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW IN EFFECT DURING THE TERM OF THIS EASEMENT, INCLUDING ANY EXTENSION, AND ANY AND ALL MATTERS ARISING OUT OF ANY ACT, OMISSION, EVENT OR CIRCUMSTANCE EXISTING OR OCCURRING DURING THE TERM OF THIS EASEMENT, INCLUDING ANY EXTENSIONS, REGARDLESS OF WHETHER THE ACT, OMISSION, EVENT OR CIRCUMSTANCE CONSTITUTED A VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW AT THE TIME OF ITS EXISTENCE OR OCCURRENCE.

F. Assignment. The rights herein granted may not be assigned without the prior written consent of the Authority, which consent will not be unreasonably withheld; if the Authority withholds consent, the Authority will provide written notice within 30 days from date of notice of assignment to third parties by Grantee; failure to provide such written notice within the said 30 days shall constitute acceptance of assignment.

The Authority, however, consents to the assignment of the Easement to any corporation that is an affiliate of and controlled by, Grantee, or to a parent corporation of Grantee or a subsidiary corporation of such parent corporation.

The Easement shall be deemed a covenant running with the land and shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns. Assignment in accordance with this paragraph shall relieve Grantee from liability for the performance of the covenants and indemnities hereof.

G. Relocation. The Authority may require Grantee to remove, lower, raise, or relocate the Distribution Line, equipment, facilities and appurtenances situated in the Easement in the event the Authority wants to use the Easement property for construction of Authority facilities or other

Authority uses and the Distribution Line becomes a hindrance or interferes with any such future uses of the property. In such event, the cost of such removal, lowering, raising or relocation shall be paid solely by Grantee. In the event of such removal, lowering, raising, or relocation, the Authority will provide Grantee with an alternate easement, using its best efforts, on Authority land in a location that is reasonably acceptable to Grantee and at no additional cost to Grantee.

H. Compliance with all Laws. The rights and privileges associated with the Easement granted under this agreement shall not be exercised in a manner so as to violate any standards or provisions of any applicable common law or legislation, or the rules, regulations or policies of any regulatory body, whether Federal, State municipal or county, including without limitation, applicable standards, legislation, rules and regulations relating to the protection of the environment.

I. Exhibits. All exhibits attached hereto are hereby incorporated herein by this reference and made a part hereof for all purposes.

J. Notice. Any notice or demand which either party hereto may desire to serve upon the other shall be sufficiently served if deposited in the United States mail, postage prepaid and certified or registered, or delivered by a regularly established courier service, or hand delivered, addressed, in the instances of Authority to:

If to Authority: Port of Corpus Christi Authority
Attn: Executive Director
222 Power Street
P.O. Box 1541
Corpus Christi, Texas 78403
Fax: (361) 881-5155

If to Grantee: AEP Texas Inc.
c/o Distribution Right-of-Way Agent
P.O. Box 2121
Corpus Christi, Texas 78403

or to such other address which a party may notify in writing to the other. Such notice shall be deemed to have been served upon receipt thereof by the party to whom such notice is given.

K. Termination. The Easement herein granted shall terminate if at any time during the term hereof Grantee shall abandon the use of the Distribution Line for the purposes herein granted for twelve (12) consecutive months. In addition to the immediate sentence above, this Easement Agreement and all of Grantee's interest hereunder, at the option of Grantor, shall forthwith terminate upon breach by Grantee of any of the covenants or conditions hereof and the failure of Grantee to remedy the same within ninety (90) days after written notice from the Grantor to do so. However, if such breach cannot be reasonably remedied within ninety (90) days, this Easement Agreement and Grantee's interest hereunder shall not terminate if Grantee furnishes Grantor a plan, reasonably acceptable to Grantor, for remedying such breach as expeditiously as reasonably possible and thereafter diligently and continuously prosecutes reasonable and prudent

corrective measures to completion in accordance with such plan. Grantee agrees it will within one hundred twenty (120) days after the termination of this Easement Agreement remove the Distribution Line (including poles, towers and guy wires) in the Easement and shall restore Grantor's lands in the Easement to the condition in which same existed prior to the existence of the Distribution Line. In the event Grantee fails to so remove the Distribution Line, the Grantor may either declare the termination of Grantee's interest in the Distribution Line and all of Grantee's interest therein shall thereupon terminate, or the Grantor may cause the Distribution Line, or any part thereof at Grantor's election, to be removed and the lands of the Grantor restored at the cost of Grantee.

L. Severability/Interpretation. In case any one or more of the provisions contained in this agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Whenever required by the context, as used in this agreement, the singular number shall include the plural and the neuter shall include the masculine or feminine gender, and vice versa.

M. Counterparts. This agreement may be executed and acknowledged in counterparts, all of which executed and acknowledged counterparts shall together constitute a single document. Signature and acknowledgement pages may be detached from the counterparts and attached to a single copy of this document to physically form one document, which may be recorded.

N. Governing Law. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION.

The execution of this Easement shall be conclusive of the agreement of the Authority and Grantee to all of the terms and conditions hereof, whereupon the Easement and all of its provisions shall extend to and be binding upon the legal representatives, successors and assigns of Grantee and the Authority, respectively.

[Signature and acknowledgement pages follow this page]

WITNESS this _____ day of _____, 2018.

GRANTOR:

PORT OF CORPUS CHRISTI AUTHORITY

By: _____

Name: _____

Title: _____

GRANTEE:

AEP TEXAS INC.

By: _____

Name: Thomas M. Coad

Title: Vice President of Distribution Region Operations

THE STATE OF TEXAS §
 §
 COUNTY OF NUECES §

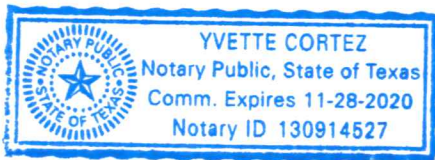
This instrument was acknowledged before me on the _____ day of _____, 2018, by _____, _____ of Port of Corpus Christi Authority of Nueces County, Texas, on behalf of the Port.

 NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires: _____

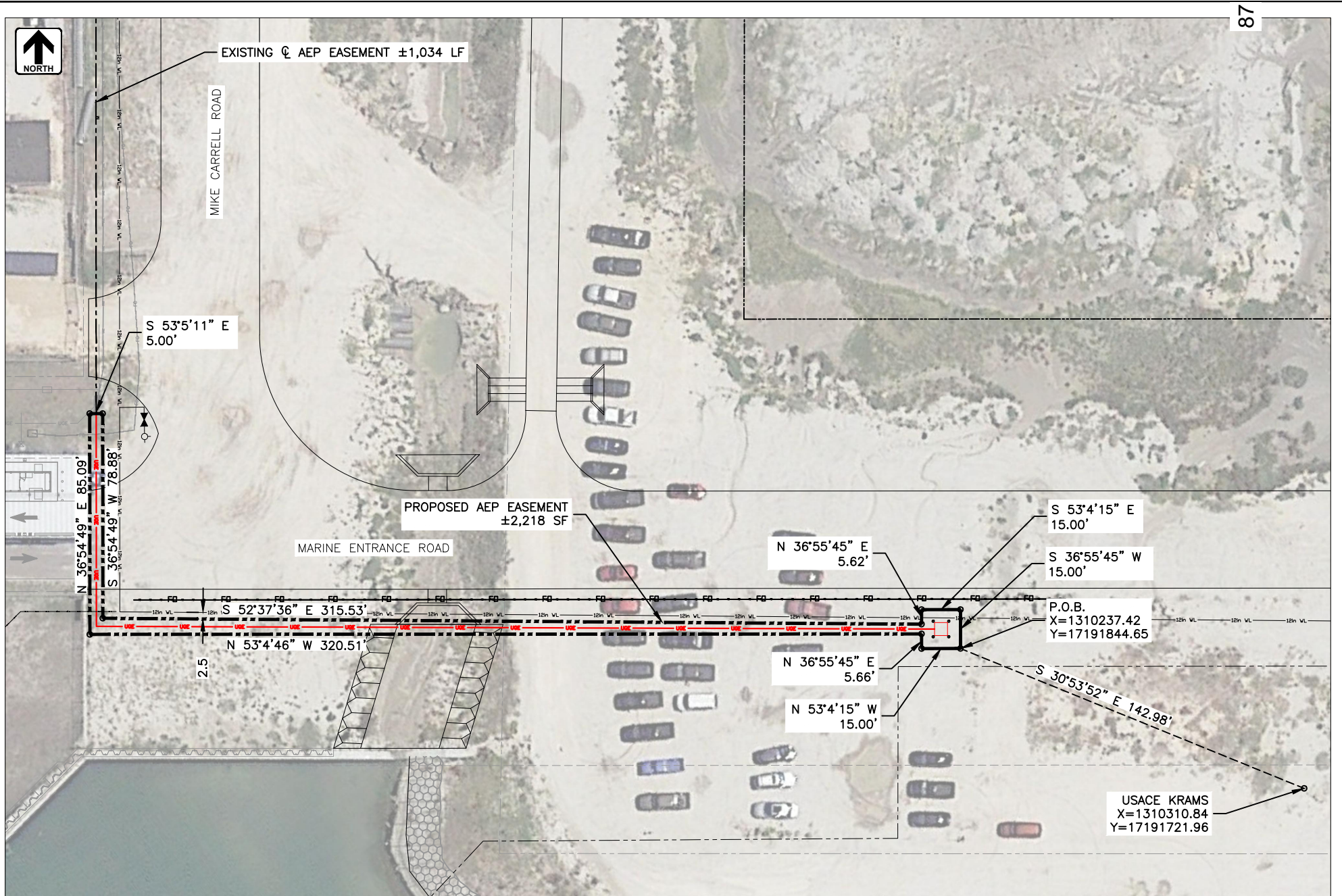
THE STATE OF TEXAS §
 §
 COUNTY OF NUECES §

This instrument was acknowledged before me on the 14th day of March, 2018, by Thomas M. Coad, Vice President of Distribution Region Operations of AEP Texas Inc., a Delaware corporation, on behalf of the corporation.



Yvette Cortez
 NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires: 2020



PORT OF CORPUS CHRISTI AUTHORITY

**MIKE CARRELL ROAD
AEP EASEMENT**

SCALE: AS NOTED	DATE: 3/14/2018
DWN. BY: BLV	DWG. NO. 1:49:41 PM
EXHIBIT A	

DATE: March 20, 2018

TO: Port Commission

FROM: Sam Esquivel, Real Estate Services Manager
Sam@pocca.com
(361) 885-6140

Approve an Access Road and Utility Easement Agreement with Maverick Terminals Corpus, LLC for a 12" Waterline, 2" Gas Pipeline and a 20 Foot Wide Non-Exclusive Access Driveway to Maverick Terminals 40.79 acre Facility Located East of the Bulk Terminal, Nueces County, Texas.

SUMMARY: Maverick Terminals Corpus, LLC representatives are requesting an increase in the waterline diameter and a 20-foot-wide non-exclusive access driveway to the Maverick Terminals Corpus, LLC, (Maverick) 41-acre Terminal facility located on the south side of the Joe Fulton International Trade Corridor (JFITC) and east of the Bulk Terminal. The project includes a non-exclusive easement for the installation of a 12 inch waterline and 2 inch gas pipeline and a 20 foot wide non-exclusive access driveway as depicted on the attached Exhibit. . The term of the Easement will be coterminous with the term of the Maverick Lease Agreement.

BACKGROUND: On February 20, 2018 the Port of Corpus Christi Authority (PCCA) granted an Access and Utility Easement Agreement to Maverick for a 2 inch gas pipeline and a 10 inch waterline (Prior Agreement). The purpose of this agreement is to replace the Prior Agreement and to increase the waterline diameter from a 10 inch to 12 inch waterline and to add a 20 foot wide non-exclusive access driveway.

ALTERNATIVES: Do not approve and Maverick will not have access to water and gas and the required access agreement to obtain title insurance for their terminal facility.

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan (Strategic Goal #2 – Provide facilities and services to meet customer needs to provide surface infrastructure and services to support maritime and industrial development).

EMERGENCY: N/A

FINANCIAL IMPACT: None – No fees are assessed for utility service easements or non-exclusive access agreements granted to serve PCCA customers.

STAFF RECOMMENDATION: Staff recommends approval of the Utility Easement Agreement with Maverick Terminals Corpus, LLC

DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel Kent Britton
Legal	Bruce Hawn
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Utility Easement Agreement

**Approve an Access Road and Utility Easement Agreement with Maverick Terminals
Corpus, LLC for a 12" Waterline, 2" Gas Pipeline and a 20 Foot Wide Non-
Exclusive Access Driveway to Maverick Terminals 40.79 acre Facility Located East
of the Bulk Terminal, Nueces County, Texas.**



ACCESS ROAD AND UTILITY EASEMENTS AGREEMENT

THE PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS AND MAVERICK TERMINALS CORPUS, LLC PREVIOUSLY ENTERED INTO AN UTILITY EASEMENTS AGREEMENT DATED EFFECTIVE AS OF FEBRUARY 20, 2018 (THE “**PRIOR AGREEMENT**”); AND DESIRE TO AND DO HEREBY AMEND, RESTATE, AND REPLACE THE PRIOR AGREEMENT IN ITS ENTIRETY WITH THE FOLLOWING:

This Access and Utility Easements Agreement (this “**Agreement**”) dated as of March 20, 2018, but effective as of February 20, 2018 (the “**Effective Date**”), and is executed by and between **PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS**, a navigation district and political subdivision of the State of Texas (“**Authority**”), and **MAVERICK TERMINALS CORPUS, LLC**, a Delaware limited liability company (“**Grantee**”). Authority and Grantee are sometimes hereinafter referred to individually as “**Party**” and collectively as “**Parties**.”

RECITALS:

A. The Parties entered into a lease agreement effective as of August 1, 2017 (as amended, restated, modified or replaced from time to time, the “**Grantee Lease**”) pursuant to which Grantee is leasing from Authority an approximately 40.79-acre tract of land in Nueces County, Texas, which tract is more particularly described and depicted in **Exhibit A** attached hereto (the “**Grantee Property**”), with any portion of the Grantee Property hereafter released from the Grantee Lease being no longer part of the Grantee Property after such release.

B. In the Grantee Lease, the Authority granted to Grantee an easement adequate for ingress and egress and utilities over and across the land between the Grantee Property and Navigation Boulevard, also known as Joe Fulton International Trade Corridor (the “**Lease Easement**”).

C. The Parties wish to enter into this Agreement to more precisely describe the Lease Easement and Grantee’s rights thereunder, and the Parties intend for this Agreement to replace the Lease Easement in its entirety.

AGREEMENTS:

NOW, THEREFORE, for and in consideration of the premises set forth above and incorporated herein by this reference, the sum of \$10.00 in hand paid, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged and confessed, and intending to be legally bound, Authority and Grantee agree as follows:

Section 1. Grant of Road Easement.

A. **Road Easement and Road Easement Area.** Authority hereby grants and conveys to Grantee and its successors and assigns a non-exclusive easement (“**Road Easement**”) on, in, over, under, through, and across lands owned by Authority. The location of Road Easement is described and depicted in **Exhibit B** attached hereto (the “**Road Easement Area**”).

B. Road Easement Purposes. The Road Easement is granted for the following purposes, subject in all cases to the terms, reservations and limitations of this Agreement:

(i) to provide nonexclusive unrestricted vehicle and large truck access to the Grantee Property from Navigation Boulevard, also known as, Joe Fulton International Trade Corridor (“**Trade Corridor**”) over the Road Easement Area, except during the periods of time when a train is passing across the Road Easement Area on the Fulton Corridor Lead Track (“**Fulton Track**”) and subject to the use by others (the Authority, its authorized users, adjacent existing and future tenants and customers);

(ii) to install, construct, inspect, maintain, replace, remove, and repair an access road in the Road Easement Area from the Trade Corridor to the Grantee Property (the “**Access Road**”).

C. Access Road. As to any portion of the Road Easement Area that Grantee uses for vehicular access which is not currently paved, Grantee shall construct an all-weather road and associated drainage improvements on the Road Easement Area with an asphalt or concrete top. Any such Access Road shall be capable of withstanding normal semi-tractor trailer highway loads. Any such Access Road shall also meet all reasonable design standards and specifications of the Authority.

Grantee as a condition precedent to Grantee’s right to enter upon the Road Easement Area for construction purposes must submit to Authority, plans for the initial construction of the Access Road; thereafter Grantee must submit to Authority plans for any future modifications and improvements to the Access Road constructed within the boundaries of the Road Easement Area. The Initial construction plans and plans for future modifications and improvements to the Access Road must be approved in writing by the Director of Engineering Services of Authority prior to the commencement of construction of the same, which approval shall not be unreasonably denied, delayed or conditioned. 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 and show all physical features and improvements proposed to be installed within the boundaries of the Road Easement Area and must be signed and sealed by a Professional Engineer registered in the State of Texas. Any approval, comments or denial, of such revised initial construction plans or plans for future modifications and improvements, by the Authority shall be promptly made to Grantee within thirty (30) Business Days after Authority’s receipt of the of such revised plans or plans. Further, Authority shall prepare detailed comments or responses to the revised initial construction or plans modifications and improvements to the Access Road in order to direct Grantee on the action needed to have such plans revised and approved. The final plans for Access Road as ultimately approved by the Authority are referred to herein as the “**Approved Plans**”. Prior to the commencement of construction of the Access Road, Grantee will furnish Authority issued-for-construction drawings for the Access Road, if different than the Approved Plans. Grantee shall construct and maintain the Access Road in a good and workmanlike manner and in compliance with all applicable governmental and industry standards for construction and maintenance of the same. Once completed, Grantee shall furnish Authority with an as-built survey thereof within a reasonable period of time after written request therefor. Grantee will be required to provide and maintain stop signs at the intersection of the Access Road and Trade Corridor and will install such other traffic control devices on the Access Road as may reasonably be required by the Authority. Except as may be reasonably necessary for the construction of the

Access Road, Grantee may not use the Road Easement Area for the Road Easement Permitted Purposes until such time as construction of the Access Road has been completed.

D. Maintenance of Access Road and Easement Area. Grantee shall have the right, but not the obligation, to maintain the Access Road, at its own expense. The Authority shall also have the right, but not the obligation, to maintain the Access Road, at its own expense.

E. Security Requirements. Grantee shall comply with the Authority's reasonable, non-discriminatory security measures applicable to the Access Road provided by the Authority to Grantee in writing.

F. Reservations and Exceptions. Authority reserves the right to maintain the Fulton Track where it crosses the Road Easement Area and Access Road and to install additional railroad tracks and related safety equipment over and across the Road Easement Area and Access Road without the consent or approval of Grantee if access to the Grantee Property is generally maintained or alternative route provided during such maintenance or construction. Authority will at its expense repair any damage to the Access Road caused by the installation and maintenance of Authority railroad tracks within the Road Easement Area.

G. Additional Rights. Authority further grants to Grantee and its successors and assigns the additional right to enter onto the Authority's land adjacent to the Road Easement Area, to the extent it is reasonably available, as reasonably necessary from time to time, at reasonable times, for purposes of constructing, maintaining, repairing, and replacing the Access Road. Such right of entry shall only be exercised after five (5) days advance written notice to Authority unless in the event of an emergency. Entry by Grantee onto the Authority's property shall not unreasonably interfere with the Authority's use of the Authority's property.

Section 2. Grant of Water Pipeline Easement.

A. Water Pipeline Easement. Authority hereby grants and conveys to Grantee and its successors and assigns a non-exclusive easement: to construct, lay, install, operate, maintain, repair, replace and remove in on and under the Authority's lands one twelve-inch (12") diameter (nominal outside diameter) water pipeline ("**Water Pipeline**") for the purpose of providing water to the Grantee Property ("**Water Pipeline Easement**"). The Water Pipeline to be as close as reasonably possible, but in no event further than ten feet (10') from the Water Pipeline Easement centerline described and depicted in Exhibit C attached hereto. Upon the completion of construction of the Water Pipeline Grantee will conduct an as-built survey of the actual location of the Water Pipeline and prepare a metes and bounds centerline description of the Water Pipeline's location and plat thereof at which time the revised centerline description and plat will be substituted for Exhibit C hereto for all purposes. The Water Pipeline Easement, together with the Water Pipeline Temporary Construction Easement (defined below) shall hereinafter be referred to as the "**Water Pipeline Easement Area**".

B. This Water Pipeline Easement is granted subject to the following:

1. Width. The Water Pipeline Easement granted herein is limited to the outside width of the Pipeline as installed.

2. Access. The rights of ingress and egress hereinabove referred to in Grantee shall be confined to the above-described Water Pipeline Easement and Water Pipeline Temporary Construction Easement, except as noted below. Grantee shall not have the right to cross Authority's adjacent land, store materials or equipment thereon or to conduct any of its operations thereon, unless the prior consent of the Authority is obtained in writing, which consent will not be unreasonably withheld.

Except in the case of an emergency, Grantee agrees to notify the Authority not less than forty-eight (48) hours prior to its employees, agents or contractors entering upon the Water Pipeline Easement Area for construction, maintenance, repairs or other operations.

3. Construction, Maintenance and Use. Grantee as a condition precedent to Grantee's right to enter upon the Water Pipeline Easement Area for construction purposes must submit to Authority, plans for the initial construction of the Water Pipeline; thereafter Grantee must submit to Authority plans for any future modifications and improvements to the Water Pipeline constructed within the boundaries of the Water Pipeline Easement. The Initial construction plans and plans for future modifications and improvements to the Pipeline must be approved in writing by the Director of Engineering Services of Authority prior to the commencement of construction of the same, which approval shall not be unreasonably denied, delayed or conditioned. 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 and show all physical features and improvements proposed to be installed within the boundaries of the Water Pipeline Easement and must be signed and sealed by a Professional Engineer registered in the State of Texas. Any approval, comments or denial, of such revised initial construction plans or plans for future modifications and improvements, by the Authority shall be promptly made to Grantee within thirty (30) Business Days after Authority's receipt of the of such revised plans or plans. Further, Authority shall prepare detailed comments or responses to the revised initial construction or plans modifications and improvements to the Water Pipeline in order to direct Grantee on the action needed to have such plans revised and approved. The final plans for Water Pipeline as ultimately approved by the Authority are referred to herein as the "**Approved Plans**". Prior to the commencement of construction of the Water Pipeline, Grantee will furnish Authority issued-for-construction drawings for the Water Pipeline, if different than the Approved Plans. Grantee shall construct and maintain the Water Pipeline in a good and workmanlike manner and in compliance with all City of Corpus Christi building codes and other applicable governmental and industry standards for construction and maintenance of the same. In the event, Grantee does not construct the Water Pipeline prior to April 1, 2021, then the Water Pipeline Easement granted by this Agreement shall terminate and be of no further force and effect. Termination of the Water Pipeline Easement shall not affect the Road Easement or the Gas Pipeline Easement.

Grantee shall bore under all rail crossing locations; and at such all such rail crossing locations the Water Pipeline will be designed with sufficient pipe wall thickness, depth of cover, and/or other protective measures in order to meet Cooper E-80 Railroad Live Load standards. In no event may the top of the Water Pipeline under any rail crossings be less than eleven feet (11') below bottom of rail. At all other locations, the Water Pipeline must be buried to a depth such that the top of the Water Pipeline will be at least four feet (4') below the surface of the ground.

No above ground improvements may be installed in the Water Pipeline Easement, except for pipeline markers and corrosion test stations which may only be installed adjacent to rail and road crossings. Pipeline markers may be installed at any other location required by law.

Grantee shall be responsible for coordination of its construction and use in the Water Pipeline Easement with any other existing users and easement holders in or near the Grantee's easement. Grantee shall promptly restore any portion of the Water Pipeline Easement Area damaged by Grantee. All restoration work shall be appropriately tested at Grantee's expense.

4. Temporary Construction Easement. Grantee has the right (the “**Water Pipeline Temporary Construction Easement**”) to use as much of the surface of Authority’s property, to the extent reasonably available, and which is adjacent to the Water Pipeline Easement (“**Water Pipeline Adjacent Property**”) as may be reasonably necessary to install and maintain the Water Pipeline within the Water Pipeline Easement. Grantee must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Water Pipeline Temporary Construction Easement.

5. Reservations and Exceptions. The Water Pipeline Easement herein granted shall be subject to any and all easements heretofore granted by Authority to other parties whether of record in Nueces County or not. Authority reserves the right to install, maintain, inspect and repair gas lines, water lines, sewer lines, pipelines, power transmission lines, fiber optic cable, and related poles and attachments over and across the Water Pipeline Easement Area, which do not unreasonably interfere with Grantee’s intended use of the Water Pipeline. Authority also reserves the right to grant easements and rights of way on the portion of the Water Pipeline Easement Area, which do not unreasonably interfere with Grantee’s intended use of the Water Pipeline. Authority also reserves the right to cross the Water Pipeline Easement with pipelines, roads, etc., and the right to grant to others the right to do so, if such crossings do not unreasonably interfere with the Water Pipeline.

6. Relocation. The Authority may require Grantee to remove, lower or relocate the Water Pipeline situated in the aforesaid Water Pipeline Easement in the event the same materially interferes with or will materially interfere with: (1) the development of Authority’s lands; (2) any facility, facility modification, or proposed facility of Authority, Authority Lessee or Authority Franchisee; (3) any road or proposed road; or (4) any operation or proposed operation of Authority, Authority Lessee or Authority Franchisee; The Authority may also require Grantee to remove, lower or relocate the Water Pipeline and associated facilities situated in the aforesaid Water Pipeline Easement in the event the same materially interferes with or will materially interfere with any navigable channel, railroad or proposed railroad under which the Water Pipeline passes. In the event Authority requires Grantee to remove, lower or relocate pursuant to the provisions of this Section, the cost of such removal, lowering or relocation shall be paid by Grantee.

Section 3. Grant of Natural Gas Pipeline Easement.

A. Gas Pipeline Easement. Authority hereby grants and conveys to Grantee and its successors and assigns a non-exclusive easement: to construct, lay, install, operate, maintain, repair, replace and remove in on and under the Authority’s lands one two-inch (2”) diameter

(nominal outside diameter) natural gas pipeline (“**Gas Pipeline**”) for the purpose of providing Natural Gas to the Grantee Property (“**Gas Pipeline Easement**”). The Gas Pipeline to be as close as reasonably possible, but in no event further than ten feet (10’) from the Gas Pipeline Easement centerline described and depicted in **Exhibit D** attached hereto. Upon the completion of construction of the Gas Pipeline Grantee will conduct an as-built survey of the actual location of the Gas Pipeline and prepare a metes and bounds centerline description of the Gas Pipeline’s location and plat thereof at which time the revised centerline description and plat will be substituted for Exhibit C hereto for all purposes. The Gas Pipeline Easement, together with the Gas Pipeline Temporary Construction Easement (defined below) shall hereinafter be referred to as the “**Gas Pipeline Easement Area**”.

B. This Gas Pipeline Easement is granted subject to the following:

1. **Width**. The Gas Pipeline Easement granted herein is limited to the outside width of the Pipeline as installed.

2. **Access**. The rights of ingress and egress hereinabove referred to in Grantee shall be confined to the above-described Gas Pipeline Easement and Gas Pipeline Temporary Construction Easement, except as noted below. Grantee shall not have the right to cross Authority's adjacent land, store materials or equipment thereon or to conduct any of its operations thereon, unless the prior consent of the Authority is obtained in writing, which consent will not be unreasonably withheld.

Except in the case of an emergency, Grantee agrees to notify the Authority not less than forty-eight (48) hours prior to its employees, agents or contractors entering upon the Gas Pipeline Easement Area for construction, maintenance, repairs or other operations.

3. **Construction, Maintenance and Use**. Grantee as a condition precedent to Grantee’s right to enter upon the Gas Pipeline Easement Area for construction purposes must submit to Authority, plans for the initial construction of the Gas Pipeline; thereafter Grantee must submit to Authority plans for any future modifications and improvements to the Gas Pipeline constructed within the boundaries of the Gas Pipeline Easement. The Initial construction plans and plans for future modifications and improvements to the Pipeline must be approved in writing by the Director of Engineering Services of Authority prior to the commencement of construction of the same, which approval shall not be unreasonably denied, delayed or conditioned. 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 and show all physical features and improvements proposed to be installed within the boundaries of the Gas Pipeline Easement and must be signed and sealed by a Professional Engineer registered in the State of Texas. Any approval, comments or denial, of such revised initial construction plans or plans for future modifications and improvements, by the Authority shall be promptly made to Grantee within thirty (30) Business Days after Authority’s receipt of the of such revised plans or plans. Further, Authority shall prepare detailed comments or responses to the revised initial construction or plans modifications and improvements to the Gas Pipeline in order to direct Grantee on the action needed to have such plans revised and approved. The final plans for Gas Pipeline as ultimately approved by the Authority are referred to herein as the “**Approved Plans**”. Prior to the commencement of construction of the Gas Pipeline, Grantee will furnish Authority issued-

for-construction drawings for the Gas Pipeline, if different than the Approved Plans. Grantee shall construct and maintain the Gas Pipeline in a good and workmanlike manner and in compliance with all City of Corpus Christi building codes and other applicable governmental and industry standards for construction and maintenance of the same.

Grantee shall bore under all rail crossing locations; and at such all such rail crossing locations the Gas Pipeline will be designed with sufficient pipe wall thickness, depth of cover, and/or other protective measures in order to meet Cooper E-80 Railroad Live Load standards. In no event may the top of the Gas Pipeline under any rail crossings be less than eleven feet (11') below bottom of rail. At all other locations, the Gas Pipeline must be buried to a depth such that the top of the Gas Pipeline will be at least four feet (4') below the surface of the ground.

No above ground improvements may be installed in the Gas Pipeline Easement, except for pipeline markers and corrosion test stations which may only be installed adjacent to rail and road crossings. Pipeline markers may be installed at any other location required by law.

Grantee shall be responsible for coordination of its construction and use in the Gas Pipeline Easement with any other existing users and easement holders in or near the Grantee's easement. Grantee shall promptly restore any portion of the Gas Pipeline Easement Area damaged by Grantee. All restoration work shall be appropriately tested at Grantee's expense.

4. Temporary Construction Easement. Grantee has the right (the "***Gas Pipeline Temporary Construction Easement***") to use as much of the surface of Authority's property, to the extent reasonably available, and which is adjacent to the Gas Pipeline Easement ("***Gas Pipeline Adjacent Property***") as may be reasonably necessary to install and maintain the Gas Pipeline within the Gas Pipeline Easement. Grantee must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Gas Pipeline Temporary Construction Easement.

5. Reservations and Exceptions. The Gas Pipeline Easement herein granted shall be subject to any and all easements heretofore granted by Authority to other parties whether of record in Nueces County or not. Authority reserves the right to install, maintain, inspect and repair gas lines, water lines, sewer lines, pipelines, power transmission lines, fiber optic cable, and related poles and attachments over and across the Gas Pipeline Easement Area, which do not unreasonably interfere with Grantee's intended use of the Gas Pipeline. Authority also reserves the right to grant easements and rights of way on the portion of the Gas Pipeline Easement Area, which do not unreasonably interfere with Grantee's intended use of the Gas Pipeline. Authority also reserves the right to cross the Gas Pipeline Easement with pipelines, roads, etc., and the right to grant to others the right to do so if such crossings do not unreasonably interfere with the Gas Pipeline.

6. Relocation. The Authority may require Grantee to remove, lower or relocate the Gas Pipeline situated in the aforesaid Gas Pipeline Easement in the event the same materially interferes with or will materially interfere with: (1) the development of Authority's lands; (2) any facility, facility modification, or proposed facility of Authority, Authority Lessee or Authority Franchisee; (3) any road or proposed road; or (4) any operation or proposed operation of Authority, Authority Lessee or Authority Franchisee; The Authority may also require Grantee to

remove, lower or relocate the Gas Pipeline and associated facilities situated in the aforesaid Gas Pipeline Easement in the event the same materially interferes with or will materially interfere with any navigable channel, railroad or proposed railroad under which the Gas Pipeline passes. In the event Authority requires Grantee to remove, lower or relocate pursuant to the provisions of this Section, the cost of such removal, lowering or relocation shall be paid by Grantee.

Section 4. Certain Definitions.

(a) “*Easements*” means, collectively, the Road Easement, the Water Pipeline Easement and the Gas Pipeline Easement.

(b) “*Easement Areas*” means, collectively, the Road Easement Area, the Water Pipeline Easement Area and the Gas Pipeline Easement Area.

(c) “*Grantee’s Facilities*” means, collectively, the Access Road, the Water Pipeline and the Gas Pipeline and appurtenances thereto.

Section 5. Term of Agreement; Survival. The term of this Agreement (“*Term*”) shall be coterminous with the term of the Grantee Lease. Upon the expiration or earlier termination of the Grantee Lease, provided no replacement of the Grantee Lease is entered into as contemplated by Article 15 or other provision of the Grantee Lease, this Agreement will automatically terminate without any further action by either Party, but Authority and Grantee (or its successor) shall enter into a written agreement confirming the termination of this Agreement at the request of either Party. The termination of this Agreement will not release either Party from any liability or obligation under this Agreement, whether indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination.

Section 6. Insurance.

(a) Without limiting the indemnity obligations or liabilities of Grantee provided under this Agreement, Grantee shall provide and maintain at Grantee’s own expense during the Term of this Agreement the insurance coverages and requirements set forth in *Exhibit E* attached hereto, which is incorporated in this Agreement (the “*Required Coverages*”).

(b) Grantee agrees to have such insurance policies properly endorsed as set forth in *Exhibit E* attached hereto. Anything in this Section 6 to the contrary notwithstanding, if at any time during the Term the waiver of subrogation clause required to be maintained by Grantee is no longer available on terms which are commercially reasonable, then Grantee shall, in good faith, find a mutually acceptable alternative.

(c) The Grantee agrees that it will require any Contractor that is not covered by the Required Coverages to obtain insurance coverages reasonably comparable to the Required Coverages that are reasonably appropriate in their limits and other terms and conditions to the nature of the work to be performed by the Contractor. Such coverages shall insure the interests of the Authority Parties and the Grantee as additional insureds in respect of the applicable work being performed and shall be subject to the same (or comparable) coverage and administrative requirements as are imposed on the Grantee pursuant to this Agreement. When requested to do so by the Authority, the Grantee shall provide or cause to be provided to the Authority

certificates of insurance with respect to such insurance coverages or such other evidence of insurance, reasonably acceptable in form and content to the Authority. For purposes of this Agreement, the term “**Contractor**” means any contractor with whom Grantee contracts to perform work or supply materials or labor in relation to the Grantee’s Facilities, including any subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Contractor.

Section 7. INDEMNITY AGREEMENT. TO THE EXTENT PERMITTED BY LAW, GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS AUTHORITY AND AUTHORITY’S PORT COMMISSIONERS, DIRECTORS, MANAGERS, EMPLOYEES, AND AGENTS (COLLECTIVELY, THE “**AUTHORITY PARTIES**”), FROM AND AGAINST ANY AND ALL LIABILITIES, CLAIMS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, FINES, JUDGMENTS AND OTHER EXPENSES (INCLUDING, BUT NOT LIMITED TO ATTORNEYS’ FEES AND EXPENSES AND COSTS OF INVESTIGATION), OF ANY KIND, NATURE OR DESCRIPTION (INCLUDING CLAIMS FOR PERSONAL INJURY, BODILY INJURY, EMOTIONAL DISTRESS, REAL AND PERSONAL PROPERTY DAMAGE AND ECONOMIC LOSS) (ALL OF WHICH ARE COLLECTIVELY REFERRED TO HEREIN AS “**CLAIMS**”) WHICH MAY BE BROUGHT, INSTITUTED OR ASSERTED AGAINST THE AUTHORITY PARTIES TO THE EXTENT BASED ON OR ARISING OUT OF ANY OF THE FOLLOWING EVENTS (EACH BEING REFERRED TO IN THIS SUBSECTION AS AN “**INDEMNIFIED EVENT**”):

(A) THE FAILURE ON THE PART OF GRANTEE OR ITS OFFICERS, AGENTS, CONTRACTORS, OR EMPLOYEES (COLLECTIVELY, THE “**GRANTEE PARTIES**”) TO COMPLY WITH THIS AGREEMENT OR ANY LAWS OR REGULATIONS APPLICABLE TO THE INSTALLATION, OPERATION, MAINTENANCE, USE OR REMOVAL OF THE GRANTEE FACILITIES BY THE GRANTEE PARTIES; OR

(B) ANY INJURY TO OR DEATH OF OR CLAIM OF INJURY TO OR DEATH OF ANY PERSON (INCLUDING THE EMPLOYEES OF THE GRANTEE PARTIES) OR ANY DAMAGE TO OR LOSS OF OR CLAIM OF DAMAGE TO OR LOSS OF PROPERTY ARISING OUT OF THE INSTALLATION, OPERATION, MAINTENANCE, USE OR REMOVAL OF THE GRANTEE FACILITIES BY THE GRANTEE PARTIES.

Notwithstanding anything in this Agreement to the contrary, to the extent the Indemnified Event for which a Claim is made arises out of the joint, concurrent or comparative negligence, causation, responsibility or fault of the Grantee Parties and the Authority Parties, whether negligence, strict liability, breach of warranty, express or implied, or products liability, then Grantee shall defend the Authority Parties against such Claim, but Grantee shall be relieved of its obligation of indemnity with respect to such Claim to the extent, but only to the extent, of the percentage of responsibility attributed to the Authority Parties with respect to causing or contributing to cause the Indemnified Event for which such Claim was made. Furthermore, Grantee shall be relieved of its obligation of indemnity (but not its obligation to defend) with respect to any Claim to the extent, but only to the extent, of the amount actually recovered from one or more insurance carriers and either paid to the Authority Parties or paid for benefit of the Authority Parties in reduction of such Claim. The indemnities contained in Section 7 will not be limited by a limitation on the amount or type of damages owed by Grantee to any employee of Grantee under the Workers’ Compensation Act or similar employee benefit acts.

Section 8. No Public Dedication. In no event and under no circumstances of any kind or nature whatsoever shall the Road Easement granted be deemed to be a gift or dedication

of any portion of the Authority's property for the benefit of the general public or to any governmental entity.

Section 9. Title Exceptions. The Easements are further made subject to any restrictions, covenants, easements, rights-of-way, encumbrances, and mineral or royalty reservations or interests affecting the Easement Areas and appearing of record as of the Effective Date in the real property records of Nueces County, Texas, to the extent that said items and matters are in effect and validly enforceable against the Easements.

Section 10. Warranty of Title. Subject to the matters set forth in Section 9, Authority warrants that it has good and indefeasible fee simple title to the Easement Areas, that it has lawful right and authority to grant to Grantee the Easements, and that it will forever warrant and defend the Easements unto Grantee and its successors and assigns against the claims of all persons claiming by, through, or under the Authority, but not otherwise. Authority represents and warrants that there are no liens, leases or purchase options affecting the Easement Areas as of the Effective Date.

Section 11. Notices. Any notice required or permitted under this Agreement shall be in writing with a statement therein to the effect that notice is given pursuant to this Agreement and the same shall be served (i) by hand delivery, (ii) by overnight courier service guaranteeing next business day delivery, (iii) via facsimile transmission to the facsimile number listed below, or (iv) by depositing same in the United States mail, registered or certified mail, return receipt requested, postage prepaid. Any notice given by mail as aforesaid shall be deemed to have been given one (1) day after such notice was deposited in the United States mail, certified and postage prepaid, addressed to the Party to be served. Notice given otherwise shall be deemed given and received if and when actually received. Notices to the Authority and to Grantee shall be sent to the following address (unless and until change of address information is sent to the other Party):

If to Grantee: MAVERICK TERMINALS CORPUS, LLC
Attn.: General Counsel
16211 La Cantera Parkway, Suite 202
San Antonio, Texas 78256
Fax: (210) 812-5702

If to Authority: Port of Corpus Christi Authority
Attn: Chief Executive Officer
222 Power Street
P.O. Box 1541
Corpus Christi, Texas 78403
Fax: 361-881-5155

Either Party may designate by Notice given to the other Party a new address, facsimile number or person to which Notices hereunder shall thereafter be sent.

Section 12. Exhibits. All Exhibits attached hereto are hereby incorporated herein by this reference and made a part hereof for all purposes.

Section 13. Amendment. The provisions of this Agreement may be amended, modified, enlarged, or otherwise changed in whole or in part only by a written agreement executed by the Authority and Grantee (or its successor).

Section 14. Governing Law. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION.

Section 15. Successors; Assignment. This Agreement shall bind, and shall inure to the benefit of, each party and their respective grantees, successors and assigns. Grantee may assign this Agreement and the Easements granted hereunder to the lessee under the Grantee Lease at the time of the assignment without the Authority's consent. Except as provided in the preceding sentence, Grantee shall not assign any of the rights herein granted, in whole or in part, without the prior written consent of the Authority, which may be granted or withheld by the Authority in its reasonable discretion.

Section 16. Severability/Interpretation. In case any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Whenever required by the context, as used in this Agreement, the singular number shall include the plural and the neuter shall include the masculine or feminine gender, and vice versa.

Section 17. Recordation. The Parties agree that once the as-built surveys and the revised Exhibits C & D contemplated by Sections 2. A and 3 are prepared that this Agreement will be rerecorded with the revised Exhibits C & D substituted for the exhibits initially attached hereto. Revised Exhibits C & D shall reference fact that revised Exhibits are based on an as-built survey.

Section 18. Counterparts. This Agreement may be executed and acknowledged in counterparts, all of which executed and acknowledged counterparts shall together constitute a single document. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this document to physically form one document, which may be recorded.

[Signature page is the next page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by its duly authorized representative as of the Effective Date.

Authority:

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

By: _____
Sean C. Strawbridge,
Chief Executive Officer

Grantee:

MAVERICK TERMINALS CORPUS, LLC
a Delaware limited liability company

By: Maverick Terminals, LLC, its sole member

By: Howard Midstream Energy Partners, LLC, its
sole member

By: _____

Name: _____

Title: _____

ATTACHMENTS:

- Exhibit A – Legal Description and Plat of Grantee Property
- Exhibit B – Legal Description and Plat of Road Easement Area
- Exhibit C – Centerline Description and Plat of Water Pipeline Pipeline Easement
- Exhibit D – Centerline Description and Plat of Natural Gas Pipeline Easement
- Exhibit E – Grantee’s Insurance Requirements

ACKNOWLEDGMENTS

THE STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on this _____ day of _____, 2018, by Sean C. Strawbridge, as Chief Executive Officer of PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS, a navigation district and political subdivision of the State of Texas, on behalf of said navigational district.

Notary Public, State of Texas

My commission expires: _____

Print or Type Name of Notary

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 2018, by _____, the _____ of Howard Midstream Energy Partners, LLC, sole member of Maverick Terminals, LLC, sole member of Maverick Terminals Corpus, LLC, a Delaware limited liability company on behalf of such Maverick Terminals Corpus, LLC.

Notary Public, State of Texas

My commission expires: _____

Print or Type Name of Notary

AFTER RECORDING RETURN TO:

Maverick Terminals Corpus, LLC
Attn.: General Counsel
16211 La Cantera Parkway, Suite 202
San Antonio, Texas 78256

EXHIBIT A

Legal Description of Grantee's Property

EXHIBIT A – LEGAL DESCRIPTION OF LEASED PREMISES OR LAND MAVERICK TERMINALS CORPUS TRACT
--

STATE OF TEXAS
COUNTY OF NUECES

40.79 ACRES

Field notes of a 40.79 acre tract of land out of the submerged land patented to Nueces County Navigation District No. 1 and referred to by records of the Texas General Land Office (GLO) as Patent 84, recorded in Book 5, Pages 257-260 out of Nueces County Surveyors office, issued to Nueces County Navigation District No. 1, and out of a portion of Patent 381, a 390.56 acre tract issued to Nueces County Navigation District No. 1, recorded in Volume 380, Page 586, deed records of Nueces County, Texas. Said TRACT further described as follows:

Commencing at brass disk monument "CCTA 1992" found at N: 17,190,273.52, E: 1,324,574.58;

Thence S 73°28'36" E, a distance of 195.61' to the **point of beginning** at N: 17,190,217.89, E: 1,324,762.11;

thence S 66°03'00" W a distance of 1281.65';
thence S 10°19'30" W a distance of 555.72';
thence S 63°32'14" W a distance of 304.10';
thence S 26°27'46" E a distance of 125.00';
thence S 63°32'14" W a distance of 400.00';
thence S 26°27'46" E a distance of 175.00';

thence S 63°32'17" W a distance of 1100.00'; parallel and 25 feet northwest of the PCCA North Bulkhead line, to a point at N: 17,188,078.41, E: 1,322,009.82, from which monument "Nikolaus", N: 17,188,397.50, E: 1,322,390.47, bears N 50°01'40" E, a distance of 496.70';

thence N 26°28'43" W a distance of 174.98';
thence N 63°32'14" E a distance of 402.27' to a point for corner, from which the centerline of track #802 bears N 76° E, 15.3';
thence N 16°11'06" W a distance of 56.69';
thence N 09°51'29" W a distance of 45.19';
thence N 05°05'05" W a distance of 60.87';
thence N 01°51'06" W a distance of 76.68' to a point between track #800 and #801;
thence N 00°22'45" E a distance of 280.81';
thence N 06°00'49" E a distance of 87.08';
thence N 10°01'10" E a distance of 51.05';
thence, continuing parallel and between track #800 and #801, with a curve turning to the right with an arc length of 628.94', with a radius of 790.76', with a chord bearing of N 32°48'17" E, with a chord length of 612.49';

thence N 67°32'34" E a distance of 117.10' to a point between tracks #801 and #802;
thence N 66°01'54" E, continuing parallel and between tract #801 and #802 a distance of 1677.06', to a point;

EXHIBIT A – LEGAL DESCRIPTION OF
LEASED PREMISES OR LAND
MAVERICK TERMINALS CORPUS TRACT

STATE OF TEXAS
COUNTY OF NUECES

40.79 ACRES

thence with a curve turning to the right with an arc length of 438.65', with a radius of 1050.00', with a chord bearing of N 77°59'59" E, with a chord length of 435.47', to a point;

thence N 89°58'04" E a distance of 169.15';

thence S 83°09'00" E, crossing railroad track #651, a distance of 141.33', to a point between tracks #650 and #651;

thence N 89°57'46" E, continuing between tracks #650 and #651, a distance of 1299.18' to a point;

thence N 89°35'19" E a distance of 78.38';

thence N 84°22'48" E, crossing track #651, a distance of 88.42';

thence N 85°44'09" E a distance of 80.64';

thence N 87°52'04" E a distance of 11.05';

thence S 02°07'56" E, crossing track #651 east of the switch to track #650, at 6.5' crossing track #650, a total distance of 15.00';

thence S 87°52'04" W a distance of 10.77';

thence S 85°44'09" W a distance of 80.18';

thence S 84°22'48" W a distance of 88.92';

thence S 89°35'20" W a distance of 79.16';

thence S 89°57'46" W a distance of 355.23';

thence S 00°14'52" W a distance of 14.03';

thence S 89°57'46" W a distance of 491.36';

thence N 89°55'18" W a distance of 189.02';

thence N 85°43'43" W a distance of 188.17';

thence S 89°53'37" W a distance of 317.30';

thence S 05°48'49" E a distance of 150.64'; to the **point of beginning**, having an area of 1,756,200 square feet, 40.79 acres, more or less

Bearings and distances are grid, Texas Coordinate System NAD 1983 (2011), South Zone. Reference plat dated July, 2017 for additional information.

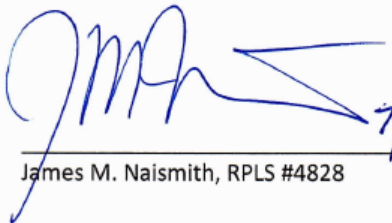

  7/13/2017
James M. Naismith, RPLS #4828

EXHIBIT B

Legal Description and Plat of Road Easement Area



Job No. 43187.B8.00

January 23, 2018

Revised: February 23, 2018

1.01 Acre

Access Easement

STATE OF TEXAS COUNTY OF NUECES

Fieldnotes, for a 1.01 Acre (43,887 Sq. Ft), Access Easement, situated in Survey No. 706 and 706A, State of Texas Submerged Land Tracts of Nueces Bay, being out of Survey No. 939, A-2677, Nueces County Navigation District No.1, as recorded in Book 3, Pages 257-260 at the Nueces County Surveyor's Office, and filed as Patent No. 84, Vol. No. 47-A, File No. Refugio Script 1922, in the Records of the General Land Office of the State of Texas; also recorded in Volume 192, Page 579, Deed Records of Nueces County, Texas; said 1.04 Acre Tract, also being out of Survey No. 980, A-2682, Nueces County Navigation District No.1 as recorded in Book 3, Pages 364-366 at the Nueces County Surveyor's Office, and filed as Patent No. 381, Vol. No. 7-B, File No. Refugio Script 1925, in the Records of the General Land Office of the State of Texas; said 1.01 Acre Tract, being more fully described by metes and bounds as follows:

Beginning, at an inner ell corner of a 40.79 Acre Lease Tract out of the said Survey No.939, A-2677, said Lease Tract being between Port of Corpus Christi Authority, as Lessor, and Maverick Terminal Corpus, LLC, as Lessee, referenced as Maverick Terminals Corpus Tract; for the **Point of Beginning** [Northing:17190367.92'; Easting:1324746.88'] and the Northwest corner of this Tract, **from whence** a NGS Monument "Nikolaus" Found [Northing:17188397.58'; Easting:1322390.44'], bears South 50°05'57" West, 3,071.65 Feet, also **from whence** a Brass Monument "PCCA CCTA 1992" [Northing:17190273.70', Easting:1324574.58'] Found, bears South 61°19'35" West, 196.38 Feet;

Thence, over and across the said Survey No. 706 and 706A, Survey No. 939 A-2677 and Survey 980 A-2682, with the common boundary line of the said 40.79 Acre Lease Tract, and with the boundary of this Tract as follows;

- North 89°53'37" East, 317.30 Feet;
- South 85°43'43" East, 188.17 Feet;
- South 89°55'18" East, 189.02 Feet;
- North 89°57'46" East, 491.36 Feet;

Thence, departing the said common boundary line, North 79°15'26" East, 75.52 Feet, to the said common boundary line, for a corner of this Tract;

Thence, continuing with the said common boundary line of the said 40.79 Acre Lease Tract, and with the boundary of this Tract as follows;

- North 89°57'46" East, 281.09 Feet;
- North 89°35'20" East, 79.16 Feet;
- North 84°22'48" East, 88.92 Feet;
- North 85°44'09" East, 80.18 Feet;
- North 87°52'04" East, 10.77 Feet, to a Northeast corner of the said 40.79 Acre Lease Tract;

Thence, departing the said common boundary line, continuing over and across the said Survey No. 706 and 706A, Survey No. 939 A-2677 and Survey 980 A-2682, and with the boundary of this Tract as follows:

- North 86°46'48" East, 24.13 Feet;
- North 89°44'34" East, 89.39 Feet, for the beginning of a circular curve to the Left, having a delta angle of 07°06'47", a Radius of 726.91 Feet, an arc length of 90.24 Feet, and a chord which bears North 84°41'02" East, 90.19 Feet;

S:\Surveying\43187\B800\OFFICE\METES AND BOUNDS\FN43187B800_1.01Ac_20180223.Doc Page 1 of 2

OFFICE: (361)854-3101 2725 SWANTNER DR. • CORPUS CHRISTI, TEXAS 78404 FAX (361)854-6001

www.urbaneng.com
TBPE Firm # 145 • TBPLS Firm # 10032400

- With the said circular curve to the Left, 90.24 Feet, for the beginning of a reverse curve to the Right, having a delta angle of 08°59'52", a Radius of 540.87 Feet, an arc length of 84.94 Feet, and a chord which bears North 85°09'49" East, 84.85 Feet;
- With the said reverse curve to the Right, 84.94 Feet;
- South 89°47'30" East, 92.76 Feet, for the beginning of a circular curve to the Left, having a delta angle of 89°50'48", a Radius of 10.00 Feet, an arc length of 15.68 Feet, and a chord which bears North 45°11'46" East, 14.12 Feet;
- With the said circular curve to the Left, 15.68 Feet;
- North 00°16'22" East, 33.74 Feet;
- North 89°43'38" East, 20.00 Feet;
- South 00°16'22" West, 33.86 Feet, for the beginning of a circular curve to the Right, having a delta angle of 89°53'03", a Radius of 30.00 Feet, an arc length of 47.06 Feet, and a chord which bears South 45°12'54" West, 42.38 Feet;
- With the said circular curve to the Right, 47.06 Feet;
- North 89°47'30" West, 92.68 Feet, for the beginning of a circular curve to the Left, with a delta angle of 08°59'46", a Radius of 520.87 Feet, an arc length of 81.78 Feet, and a chord which bears South 85°09'15" West, 81.70 Feet;
- With the said circular curve to the Left, 81.78 Feet, for the beginning of a reverse curve to the Right, with a delta angle of 07°08'23", a Radius of 746.91 Feet, an arc length of 93.07 Feet, and a chord which bears South 84°41'27" West, 93.01 Feet;
- With the said reverse curve to the Right, 93.07 Feet;
- South 89°44'34" West, 89.13 Feet;
- South 86°46'48" West, 23.80 Feet;
- South 87°52'04" West, 10.59 Feet;
- South 85°44'09" West, 79.57 Feet;
- South 84°22'48" West, 89.59 Feet;
- South 89°35'20" West, 80.14 Feet;
- South 89°57'46" West, 279.28 Feet;
- South 81°46'32" West, 74.98 Feet, to the North boundary line of Gulf Copper Lease, for a corner of this Easement;
- South 89°55'34" West, with the said North boundary line of Gulf Copper Lease, 225.00 Feet, for a corner of this Easement;
- South 88°07'27" West, 99.99 Feet;
- South 89°57'46" West, 358.09 Feet;
- North 85°43'43" West, 188.14 Feet;
- South 89°53'37" West, 314.54 Feet, to the common boundary line of the said 40.79 Acre Lease Tract, **from Whence** a corner of the said 40.79 Acre Lease Tract bears, South 05°48'49" East, 130.54 Feet;

Thence, North 05°48'49" West, with the said common boundary line, 20.10 Feet, to the **Point of Beginning**, containing 1.01 Acre (43,887 Sq. Ft) of Land, more or less.

Grid Bearings and Distances shown hereon are referenced to the Texas Coordinate System of 1983, Texas South Zone 4205, and are based on the North American Datum of 1983(2011) Epoch 2010.00.

Unless this fieldnote description, including preamble, seal and signature, appears in its entirety, in its original form, surveyor assumes no responsibility for its accuracy.

Also reference accompanying sketch of Tract described herein.



URBAN ENGINEERING

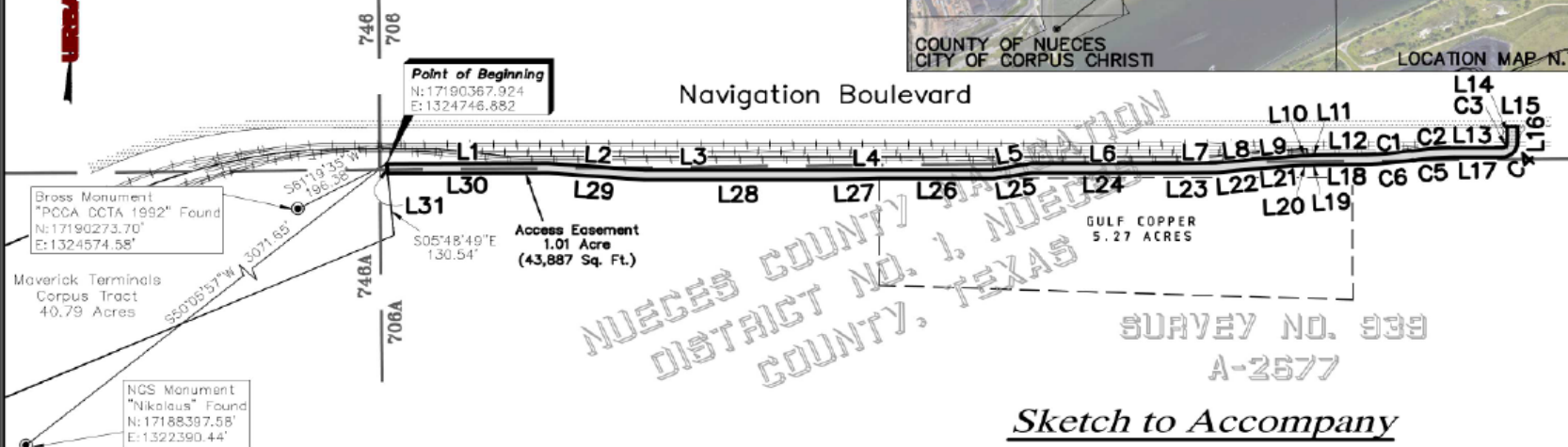
James D. Carr, R.P.L.S.
License No. 6458

S:\Surveying\43187\B800\OFFICE\METES AND BOUNDS\FN43187B800_1.01Ac_20180223.Doc
Page 2 of 2

OFFICE: (361)854-3101 2725 SWANTNER DR. • CORPUS CHRISTI, TEXAS 78404 FAX (361)854-6001
www.urbaneng.com
TBPE. Firm # 145 • TBPLS Firm # 10032400

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	7°06'47"	726.91'	90.24'	N84°41'02"E	90.19'
C2	8°59'52"	540.87'	84.94'	N85°09'49"E	84.85'
C3	89°50'48"	10.00'	15.68'	N45°11'46"E	14.12'
C4	89°53'03"	30.00'	47.06'	S45°12'54"W	42.38'
C5	8°59'46"	520.87'	81.78'	S85°09'15"W	81.70'
C6	7°08'23"	746.91'	93.07'	S84°41'27"W	93.01'

SURVEY NO. 980
A-2682



LINE	BEARING	DISTANCE
L1	N89°53'37"E	317.30'
L2	S85°43'43"E	188.17'
L3	S89°55'18"E	189.02'
L4	N89°57'46"E	491.36'
L5	N79°15'26"E	75.52'
L6	N89°57'46"E	281.09'
L7	N89°35'20"E	79.16'
L8	N84°22'48"E	88.92'
L9	N85°44'09"E	80.18'
L10	N87°52'04"E	10.77'
L11	N86°46'48"E	24.13'
L12	N89°44'34"E	89.39'
L13	S89°47'30"E	92.76'
L14	N00°16'22"E	33.74'
L15	N89°56'17"E	20.00'

LINE	BEARING	DISTANCE
L16	S00°16'22"W	33.86'
L17	N89°47'30"W	92.68'
L18	S89°44'34"W	89.13'
L19	S86°46'48"W	23.80'
L20	S87°52'04"W	10.59'
L21	S85°44'09"W	79.57'
L22	S84°22'48"W	89.59'
L23	S89°35'20"W	80.14'
L24	S89°57'46"W	279.28'
L25	S81°46'32"W	74.98'
L26	S89°55'34"W	225.00'
L27	S88°07'27"W	99.99'
L28	S89°57'46"W	358.09'
L29	N85°43'43"W	188.14'
L30	S89°53'37"W	314.54'
L31	N05°48'49"W	20.10'

Sketch to Accompany

FIELDNOTES for a 1.01 Acre (43,887 Sq. Ft.), Access Easement, situated in Survey No. 706 and 706A, State of Texas Submerged Land Tracts of Nueces Bay, being out of Survey No. 939, A-2677, Nueces County Navigation District No.1, as recorded in Book 3, Pages 257-260 at the Nueces County Surveyor's Office, and filed as Patent No. 84, Vol. No. 47-A, File No. Refugio Script 1922, in the Records of the General Land Office of the State of Texas; also recorded in Volume 192, Page 579, Deed Records of Nueces County, Texas; said 1.04 Acre Tract, also being out of Survey No. 980, A-2682, Nueces County Navigation District No.1 as recorded in Book 3, Pages 364-366 at the Nueces County Surveyor's Office, and filed as Patent No. 381, Vol. No. 7-B, File No. Refugio Script 1925, in the Records of the General Land Office of the State of Texas.

REV: Feb. 23, 2018
DATE: Jan. 18, 2018
SCALE: 1"=300'
JOB NO.: 43187.B8.00
SHEET: 1 of 1
DRAWN BY: RLG
urbansurvey1@urbaneng.com
©2017 by Urban Engineering



EXHIBIT C

Centerline Description and Plat of Natural Gas Pipeline Easement



Job No. 43187.B8.03
January 25, 2018
Revised: March 15, 2018

Exhibit C Centerline Description Proposed Water Pipeline Easement

STATE OF TEXAS COUNTY OF NUECES

Fieldnotes, of a Centerline Description of a Proposed Water Pipeline, being out of Survey No. 939, A-2677, Nueces County Navigation District No. 1, as recorded in Book 3, Pages 257-260 at the Nueces County Surveyor's Office, and filed as Patent No. 84, Vol. No. 47-A, File No. Refugio Script 1922, in the Records of the General Land Office of the State of Texas; said Survey No. 939, also recorded in Volume 192, Page 579, Deed Records of Nueces County, Texas; also being out of Survey No. 980, A-2682, Nueces County Navigation District No.1 as recorded in Book 3, Pages 364-366 at the Nueces County Surveyor's Office, and filed as Patent No. 381, Vol. No. 7-B, File No. Refugio Script 1925, in the Records of the General Land Office of the State of Texas; said Centerline of Propose Water Pipeline, being more fully described by metes and bounds as follows:

Beginning, at a Point [Northing:17190413.66', Easting:1324181.85'], from **Whence**, a NGS Monument "Nikolaus" Found [Northing:17188397.58', Easting:1322390.44'], bears South 41°42'42" West, 2,706.07 Feet;

Thence, South 22°36'24" East, 65.06 Feet;

Thence, North 66°23'49" East, 29.82 Feet;

Thence, South 21°43'30" East, 59.15 Feet, to the North boundary line of a 40.79 Acre Lease Tract between Port of Corpus Christi Authority, as Lessor, and Maverick Terminal Corpus, LLC, as Lessee, referenced as Maverick Terminals Corpus Tract; said 40.79 Acre Lease being situated in Survey No. 706 and 706A, State of Texas Submerged Land Tracts of Nueces Bay, being out of the said Survey No. 939, A-2677, said 40.79 Acre Lease Tract, also being out of the said Survey No. 980, A-2682, and being the **Point of Terminus** [Northing:17190314.60', Easting:1324265.24'], from Whence, a Brass Monument "PCCA CCTA 1992" [Northing:17190273.70', Easting:1324574.58'] Found, bears South 82°28'06" East, 312.04 Feet;

Grid Bearings and Distances shown hereon are referenced to the Texas Coordinate System of 1983, Texas South Zone 4205, and are based on the North American Datum of 1983(2011) Epoch 2010.00.

Unless this fieldnote description, including preamble, seal and signature, appears in its entirety, in its original form, surveyor assumes no responsibility for its accuracy.

The Surveyor has made no investigation or independent search for any pipelines, utilities, obstructions, encumbrances, ownership or other pertinent information that may be disclosed in a title search or utility locate.

This description is based on documented information provided by the client and surveying is limited to that of which is requested by the client.

Also reference accompanying sketch of Tract described herein.

URBAN ENGINEERING

Preliminary, this document shall not
be recorded for any purpose and shall not
be used or viewed or relied upon as a final survey document.

James D. Carr, R.P.L.S.
License No. 6458

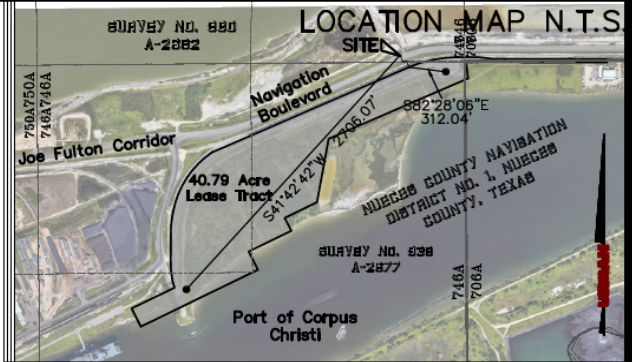
\\Urbanfs03\Data\Surveying\43187\B803\OFFICE\METES AND BOUNDS\FN43187B803_20180315.Doc Page 1 of 1

OFFICE: (361)854-3101 2725 SWANTNER DR. • CORPUS CHRISTI, TEXAS 78404 FAX (361)854-6001

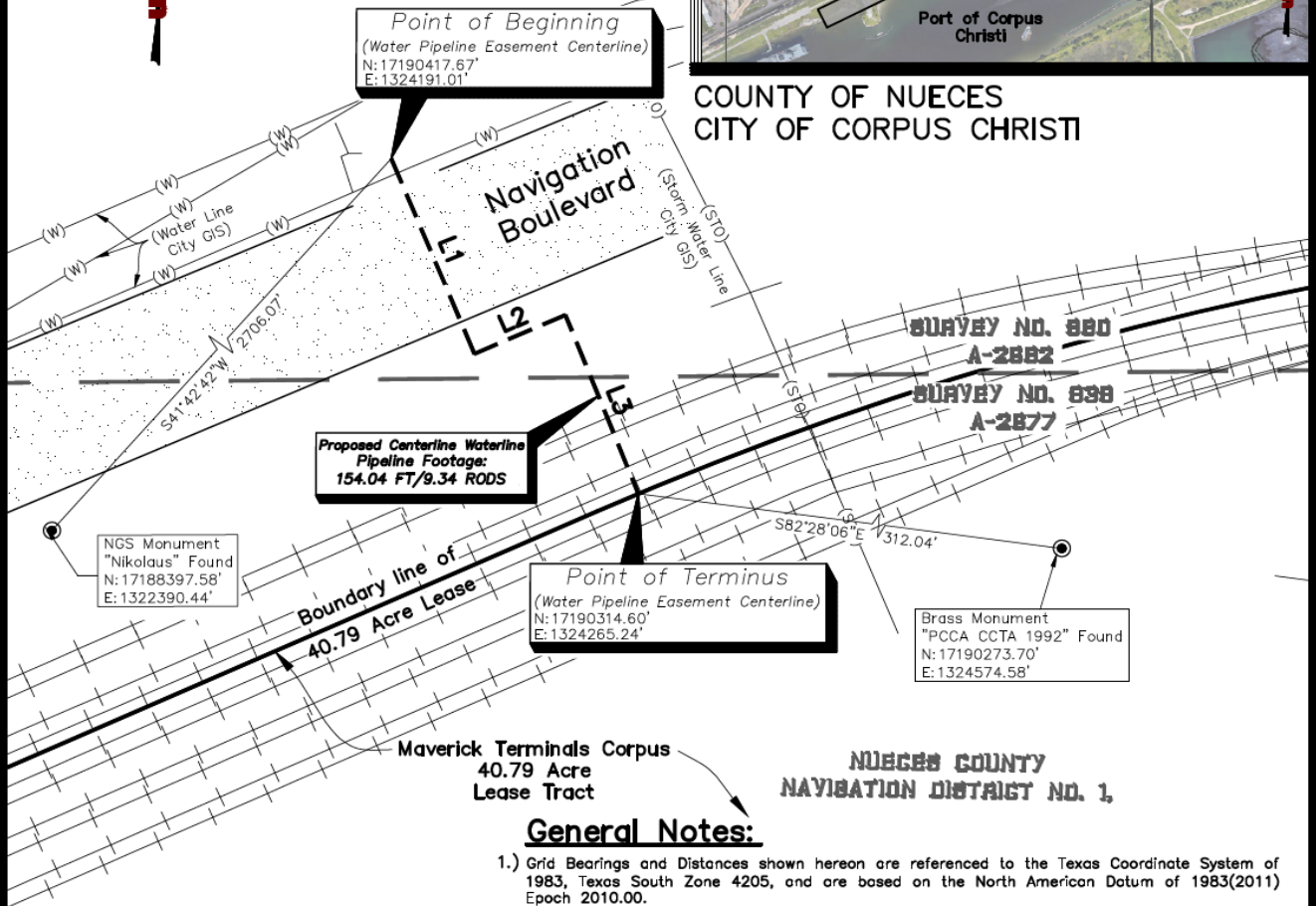
www.urbaneng.com

TBPE Firm # 145 • TBPLS Firm # 10032400

LINE	BEARING	DISTANCE
L1	S22°36'24"E	65.06'
L2	N66°23'49"E	29.82'
L3	S21°43'30"E	59.15'



COUNTY OF NUECES
CITY OF CORPUS CHRISTI



General Notes:

- 1.) Grid Bearings and Distances shown hereon are referenced to the Texas Coordinate System of 1983, Texas South Zone 4205, and are based on the North American Datum of 1983(2011) Epoch 2010.00.
- 2.) Some features shown on this Survey may be out of scale for clarity.
- 3.) This map was prepared without the benefit of a current title commitment. The surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership of title evidence or any other facts that an accurate title search may disclose.
- 4.) Also reference accompanying Legal Description.
- 5.) The Surveyor has made no investigation or independent search for any pipelines, utilities, obstructions, encumbrances, ownership or other pertinent information that may be disclosed in a title search or utility locate.
- 6.) This sketch is based on documented information provided by the client and surveying is limited to that of which is requested by the client.

Exhibit C Sketch to Accompany

Fieldnotes of a Centerline Description of a Proposed Water Pipeline, being out of Survey No. 939, A-2677, Nueces County Navigation District No. 1, as recorded in Book 3, Pages 257-260 at the Nueces County Surveyor's Office, and filed as Patent No. 84, Vol. No. 47-A, File No. Refugio Script 1922, in the Records of the General Land Office of the State of Texas; said Survey No. 939, also recorded in Volume 192, Page 579, Deed Records of Nueces County, Texas; also being out of Survey No. 980, A-2682, Nueces County Navigation District No.1 as recorded in Book 3, Pages 364-366 at the Nueces County Surveyor's Office, and filed as Patent No. 381, Vol. No. 7-B, File No. Refugio Script 1925, in the Records of the General Land Office of the State of Texas.



REV: Mar. 15, 2018
DATE: Jan. 24, 2018
SCALE: 1"=50'
JOB NO.: 43187.B8.03
SHEET: 1 of 1
DRAWN BY: RLG
urbansurvey1@urbaneng.com
©2018 by Urban Engineering

EXHIBIT D

Centerline Description and Plat of Natural Gas Pipeline Easement



Job No. 43187.B8.02
January 25, 2018
Revised: March 15, 2018

Exhibit D Centerline Description Proposed Gas Pipeline Easement

STATE OF TEXAS
COUNTY OF NUECES

Fieldnotes, for a Centerline Description of a Proposed Gas Pipeline, being out of Survey No. 939, A-2677, Nueces County Navigation District No. 1, as recorded in Book 3, Pages 257-260 at the Nueces County Surveyor's Office, and filed as Patent No. 84, Vol. No. 47-A, File No. Refugio Script 1922, in the Records of the General Land Office of the State of Texas; said Survey No. 939, also recorded in Volume 192, Page 579, Deed Records of Nueces County, Texas; also being out of Survey No. 980, A-2682, Nueces County Navigation District No.1 as recorded in Book 3, Pages 364-366 at the Nueces County Surveyor's Office, and filed as Patent No. 381, Vol. No. 7-B, File No. Refugio Script 1925, in the Records of the General Land Office of the State of Texas; said Centerline of Proposed Gas Pipeline, being more fully described by metes and bounds as follows:

Beginning, at a Point [Northing:17190353.76', Easting:1324260.40'], from **Whence**, a NGS Monument "Nikolaus" Found [Northing:17188397.58', Easting:1322390.44'], bears South 43°47'58" West, 2,715.21 Feet;

Thence, South 21°43'30" East, 37.70 Feet, to the North boundary line of a 40.79 Acre Lease Tract between Port of Corpus Christi Authority, as Lessor, and Maverick Terminal Corpus, LLC, as Lessee, referenced as Maverick Terminals Corpus Tract; said 40.79 Acre Lease being situated in Survey No. 706 and 706A, State of Texas Submerged Land Tracts of Nueces Bay, being out of the said Survey No. 939, A-2677, said 40.79 Acre Lease Tract, also being out of the said Survey No. 980, A-2682, and being the **Point of Terminus** [Northing:17190322.31', Easting:1324283.70'], from **Whence**, a Brass Monument "PCCA CCTA 1992" [Northing:17190273.70', Easting:1324574.58'] Found, bears South 80°30'43" East, 294.92 Feet;

Grid Bearings and Distances shown hereon are referenced to the Texas Coordinate System of 1983, Texas South Zone 4205, and are based on the North American Datum of 1983(2011) Epoch 2010.00.

Unless this fieldnote description, including preamble, seal and signature, appears in its entirety, in its original form, surveyor assumes no responsibility for its accuracy.

The Surveyor has made no investigation or independent search for any pipelines, utilities, obstructions, encumbrances, ownership or other pertinent information that may be disclosed in a title search or utility locate.

This description is based on documented information provided by the client and surveying is limited to that of which is requested by the client.

Also reference accompanying sketch of Tract described herein.

URBAN ENGINEERING

**Preliminary, this document shall not
be recorded for any purpose and shall not
be used or viewed or relied upon as a final survey document.**

James D. Carr, R.P.L.S.
License No. 6458

EXHIBIT D

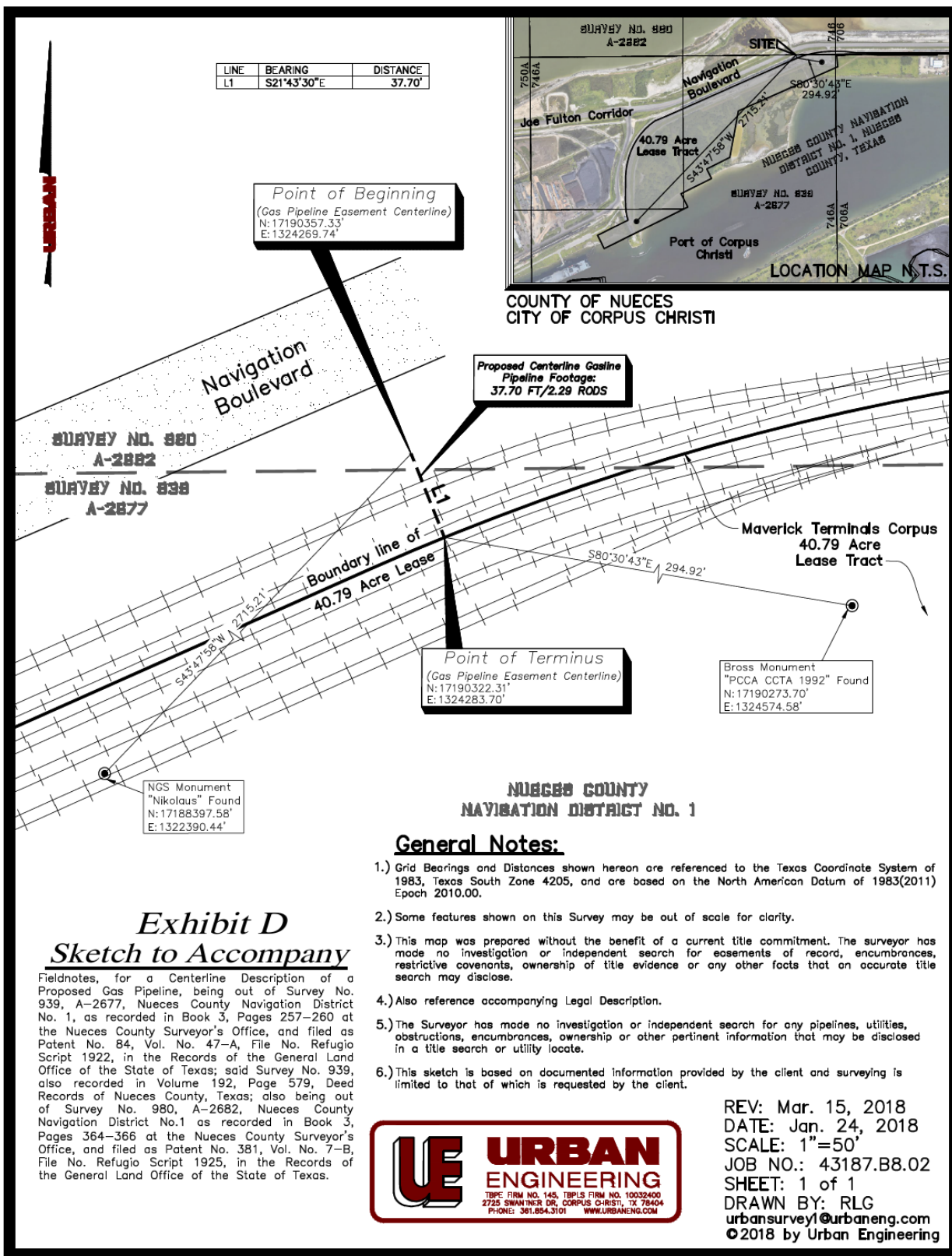


EXHIBIT E

GRANTEE'S INSURANCE REQUIREMENTS

Without limiting the indemnity obligations or liabilities of Grantee or its insurers provided in this Agreement, before commencing any material activities in any of the Easement Areas under this Agreement, Grantee shall procure and maintain at its sole expense during the Term of this Agreement, and during any time period following expiration or termination of this Agreement in which Grantee is required to perform additional work in any of the Easement Areas, the following policies of insurance (sometimes collectively referred to in this **Exhibit E** as the “**Policies**”) and in at least the minimum amounts specified below:

(1) *Property Insurance.* Special form (“all risk”) property insurance with no exclusions, except the standard printed exclusions, at |||| covering Grantee’s Facilities (the “**Property Insurance**”). Coverage shall include, without limitation, the following: primary and excess flood, windstorm, named storm, earthquake, and debris removal, subject to customary sub-limits. The term “**Full Replacement Cost**” shall mean the actual replacement cost of ||, including the cost of demolition and debris removal and without deduction for depreciation. The Authority shall be named as an additional insured on the Property Insurance to the extent “additional insured” status for the Authority is available with respect to such insurance. Grantee shall be the loss payee on the Property Insurance with respect to proceeds attributable to damage to the Grantee’s Facilities. The proceeds of the Property Insurance shall be used for the restoration of the Grantee’s Facilities. Grantee shall provide to the Authority a certificate of the Property Insurance which reflect the above coverage requirements.

(2) *Workers’ Compensation and Employer’s Liability Insurance.* For all its employees engaged in performing work in any of the Easement Areas or on the Grantee’s Facilities, workers’ compensation insurance for at least the applicable statutory limit required by the Texas Workers’ Compensation Code; and Employer’s Liability insurance with at least \$1,000,000 limit for each for bodily injury by accident, and at least a \$1,000,000 limit for each employee for bodily injury by disease. Under the Worker’s Compensation policy, Grantee shall provide a Waiver of Subrogation in favor of the Authority Parties on the Certificate of Insurance. In the event that the work of Grantee’s employees in any of the Easement Areas or on the Grantee’s Facilities falls within the purview of the United States Longshoremen’s and Harbor Workers’ Compensation Act, the Jones Act or the Federal Employer’s Liability Act, the Grantee shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts.

(3) *Commercial General Liability Insurance.* Commercial General Liability (CGL) insurance coverage, which shall cover or be endorsed to cover bodily injury, personal injury, property damage, operations hazard, owner’s protective coverage, contractual liability, products and completed operations liability, with a per occurrence limit of \$1,000,000 and aggregate limits of at least \$2,000,000 and endorsed to name the Authority Parties as additional insureds on a primary, non-contributory basis.

(4) *Automobile Liability Insurance.* When any motor vehicles (owned, non-owned or hired by Grantee) are used in connection with work being performed in any of the Easement Areas, the Grantee shall provide Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage.

(5) *Umbrella Insurance.* Excess or Umbrella liability insurance coverage limits of not less than \$5,000,000 over and above the underlying primary coverage limits stated above with respect to bodily injury to or death of any number of persons in any one accident or occurrence. The policy shall be endorsed to name the Authority Parties as additional insureds, non-contributory basis.

(7) *Pollution Insurance.* Pollution insurance covering bodily injury, property damage, including cleanup, and other losses caused by pollution conditions occurring during the Term of this Agreement and arising directly from Grantee's operations in any of the Easement Areas or on the Grantee's Facilities, including pollution of any body of water, with limits of not less than \$10,000,000 per occurrence. Pollution Coverage shall include, but not be limited to, environmental cleanup, remediation and disposal and may be included within the required General Liability and/or Umbrella Insurance.

(8) *Railroad Protective Liability Insurance.* Railroad Protective Liability insurance, with limits of not less than \$1,000,000 per Occurrence and Aggregate limits of not less than \$5,000,000. Railroad Protective Liability is required unless the Commercial General Liability Policy contains an endorsement which deletes the exclusion within 50 feet of rail.

Grantee shall deliver to Authority, prior to the commencement of any material activity by Grantee in any of the Easement Areas or on the Grantee's Facilities, as proof of the insurance required of Grantee, a certificate or certificates of insurance (and any endorsements required to provide evidence of the insurance coverages required under this Agreement) describing the Policies, which certificates must be in their form and content, reasonably acceptable to the Authority.

In the event that a claim is filed against one or more of the Authority Parties and governed by the terms of this Agreement, the Grantee shall, upon receipt of a written request, deliver to the Authority, true and correct copies of the Policies required hereunder which may be responsive to the claim. In addition, to the extent that during the Term there shall occur any material changes in any of the Policies required hereunder, Grantee shall notify the Authority of such changes.

From time to time during the Term to the extent that the Authority provides written notice to Grantee evidencing reasonable belief (in reasonable detail) that the amounts of coverage required by this **Exhibit E** to be maintained have become insufficient to adequately protect the interests of the Authority, then upon such notice the Parties will commence a dialog in good faith to discuss a possible adjustment to the coverage amounts herein provided, to adequately restore the protection afforded to the interests of the Authority.

Grantee shall deliver to the Authority certificates of renewal at least thirty (30) days prior to the expiration date of each of the Policies required to be maintained by the Grantee. The company writing each of the Policies, must possess a Financial Strength Rating of no less than "A-" and a Financial Size Category rating of at least "VI" by A.M. Best Company (or any successor rating agency or entity reasonably selected by Authority if A.M. Best Company discontinues publishing ratings of insurance companies or if the rating system is changed). Grantee shall deliver to Authority a copy of the most recent audited financial statements of Grantee's captive insurance company, which is presented on a consolidated basis with Howard Resource Management Corporation, before commencing any material activities in any of the Easement Areas or on the Grantee's Facilities under this Agreement. Grantee represents and warrants to the Authority that the financial statements of Grantee's captive insurance company are audited annually by a certified public accountant. Grantee shall submit a copy of the audited financial statements of Grantee's captive insurance company to the Authority annually within one hundred eighty (180) days after the close of the captive insurance company's fiscal year.

Notwithstanding the foregoing, Grantee may elect, with Authority's review and consent, to comply with the insurance obligations using self-insurance programs maintained by it or its corporate parent. If Grantee exercises the option to self-insure, then (i) Grantee shall provide written notice of its intent to self-insure accompanied with details of its self-insurance program; (ii) such self-insurance program must be permitted by applicable law; (iii) the insuring company must maintain a net worth (as shown by its most recent financial statements audited in accordance with generally accepted accounting principles) of not less than One Hundred Million Dollars (\$100,000,000); and (iv) the insuring company must maintain an "Investment Grade" financial rating by Moody's or Standard and Poor's or an equivalent rating service; and as to any of the insurance requirements which Grantee elects to self-insure, Grantee will self-insure Authority in the same manner as an additional insured using self-insurance programs maintained by Grantee or Grantee's corporate parent. If Grantee elects to self-insure or to maintain insurance required herein subject to deductibles and/or retentions exceeding \$500,000, Authority and Grantee shall maintain all rights and obligations between themselves as if Grantee maintained the insurance with a commercial insurer including any additional insured status, primary liability, waivers of rights of recovery, other insurance clauses, and any other extensions of coverage required herein. Grantee or its corporate parent, whichever maintains the self-insurance program, shall pay from its assets the costs, expenses, damages, claims, losses and liabilities, including reasonable attorney's fees and necessary litigation expenses at least to the extent that an insurance company would have been obligated to pay those amounts if Grantee had maintained the insurance pursuant to this **Exhibit E**. Authority shall not be responsible for payment of any deductible or self-insured retention or uninsured amount.

DATE: March 20, 2018

TO: Port Commission

FROM: David Krams, P.E.
Director of Engineering Services
Krams@pocca.com
(361) 885-6134

**ANTICIPATED
STAFF PRESENTER:** Natasha E. Fudge, P.E.
Capital Program Manager

Approve a Change Order with Haas-Anderson Construction Ltd. in the Amount of \$81,747.40 for the Rincon West Storage Area Development Project Associated with Relocating Soil.

SUMMARY: Staff requests the approval of a Change Order in the amount of \$81,747.40 with Haas-Anderson Construction Ltd. for the Rincon West Storage Area Development project, associated with the relocation of approximately 8,000 cubic yards of soil removed from an area previously deed recorded as a historical landfill.

BACKGROUND: On December 12, 2017, the Port Commission awarded a construction contract to Haas-Anderson Construction Ltd. in the amount of \$4,389,524.65 for the 25-acre Rincon West Storage Area Development Project and also approved 2% (\$87,790.49) in contingency. On February 20, 2018, the Port Commission approved a change order and an increase in contingency in the amount of \$165,000.00 in order to relocate 3,400 cubic yards of soil within the project site and to have sufficient remaining contingency in anticipation of having to relocate an additional 8,000 cubic yards of material from the PCCA-approved adjacent site back to within the limits of the deed recorded area.

As part of the attached Change Order, the Contractor is required to move the approximately 8,000 cubic yards of material from the PCCA-approved adjacent site back to within the limits of the deed recorded area, re-grade the material to facilitate positive site drainage, and re-vegetate the area for erosion control at a not to exceed cost of \$81,747.40. See attached map exhibit.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: The project conforms to the PCCA's Strategic Plan (Strategic Goal #2 – Provide Facilities and Services to Meet Customer Needs, Strategic Objective #2B – Provide Public Docks and Support Private Facilities to Facilitate Maritime and Industrial Development, Action #2 – Upgrade and Maintain Existing Docks and Facilities).

EMERGENCY: While not an emergency, approving will allow the PCCA to maintain its high standards of environmental stewardship and comply with requirements of the deed recordation.

FINANCIAL IMPACT: This project was included in the 2018 budget with \$4,800,000 budgeted for this year. To date, the PCCA has approved Change Orders totaling \$105,747.24, leaving \$147,043.25 of the approved contingency remaining.

STAFF RECOMMENDATION: Staff requests approval of the attached Change Order in the amount of \$81,747.40 with Haas-Anderson Construction Ltd. for work associated with Rincon West Storage Area Development project.

DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	David Krams
	Natasha Fudge
Legal	Used Standard Change Order template
Senior Staff	John LaRue
	Sean Strawbridge
	Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Change Order
Map Exhibit



Change Order No. 3
Date: February 26, 2018
Page 1 of 2

PROJECT: Rincon West Storage Area Development
PROJECT NUMBER: 17-028C
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:	\$	81,747.40
Increase in Contract Time:		7 Days

Original Contract Amount:	\$	4,389,524.65
Total Amount of Previous Change Orders:	\$	105,757.24
Amount of this Change Order:	\$	81,747.40
Revised Contract Amount:	\$	4,577,029.29

Notice To Proceed Date:	December 26, 2017
Original Contract Time:	300 Days
Previous Changes in Contract Time:	4 Days
Calendar Days for this Change Order:	7 Days
Revised Contract Time:	311 Days
Required Completion Date:	November 02, 2018

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: _____
Louis G Donato, EIT
Associate Project Engineer

By: _____
James K. Parish
Project Manager

By: _____
David L. Krams, P.E.
Director of Engineering Services

Date: _____

Date: February 26, 2018



Change Order No. 3
 Date: February 26, 2018
 Page 2 of 2

PROJECT: Rincon West Storage Area Development
PROJECT NUMBER: 17-028C
CONTRACTOR: Haas-Anderson Construction, Ltd.

- 1 SOIL RELOCATION: Move approximately 8000-cubic yards of deed restricted soil from the project spoil site back to the deed restricted limits as specified in attached drawing. Grade area as shown, seed area and install erosion control mats.

Increase \$ 81,747.40

Increase 7 Days

TOTAL INCREASE IN CONTRACT PRICE 81,747.40

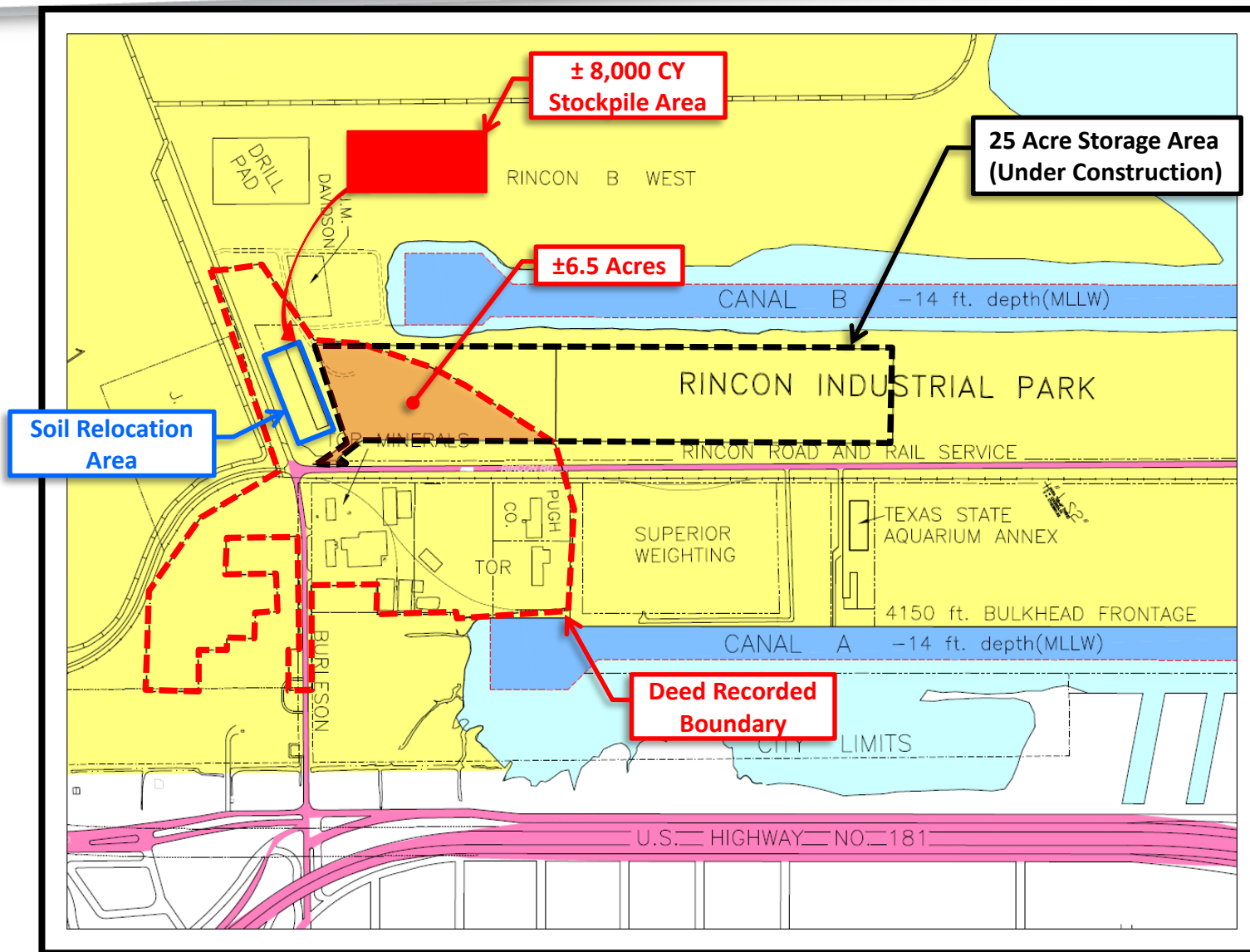
TOTAL INCREASE IN CONTRACT TIME 7 Days



PORT CORPUS CHRISTI®

Moving America's Energy

Rincon West Storage Area Development Change Order No.3



DATE: March 20, 2018

TO: Port Commission

FROM: David L. Krams, P.E.
Director of Engineering Services
Krams@pocca.com
(361) 885-6134

**ANTICIPATED
STAFF PRESENTER:** Carlos Martinez, P.E.
Senior Design Engineer

Approval of a Contribution-In-Aid-Of-Construction Agreement and Purchase Order with AEP in the amount of \$78,798.66 for Security Lighting along the Joe Fulton International Trade Corridor under Security Grant 15.

SUMMARY: Staff requests Approval of a Contribution-In-Aid-Of-Construction Agreement and Purchase Order with American Electric Power Texas (AEP) in the amount of \$78,798.66 for Security Lighting along the Joe Fulton International Trade Corridor (JFITC) under Security Grant 15.

BACKGROUND: In 2015, the Port of Corpus Christi Authority received a U.S. Department of Homeland Security grant for various security projects, which included security lighting along the JFITC. The scope of work for the project includes the design and installation of light poles, electrical conductor, electrical equipment, and lights from Nueces River Rail Yard to Avenue F, an approximate total of seven miles of security lighting.

During the design phase of this project, it was determined that AEP was capable of designing the system and also proposed that the security lighting be attached to existing AEP electric poles. This approach reduces design costs, installation costs, and installation time. Lighting, which will consist of 162 lights, will be installed on existing poles and includes a combination of lighting along the north side and south side of JFITC.

On March 2, 2018, we received a proposal from AEP in the amount of \$78,798.66. Therefore, the total amount for this project is \$78,798.66 with a 25% PCCA share (\$19,699.67) and the other 75% (\$59,098.99) reimbursable by the federal government. Cost to provide power to the lights will be approximately \$45,000 per year and will vary in the future depending on annual electrical contract pricing, and is eligible for current and future FEMA reimbursements at the same 25/75 match.

ALTERNATIVES: None.

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan (Strategic Goal # 2 – Provide facilities and services to meet customer needs and improves security at port facilities).

EMERGENCY: No; however, this is a time sensitive project that needs to be completed no later than August 31, 2018 in order to receive the awarded federal funding.

FINANCIAL IMPACT: The 2018 budget includes \$284,796 for this capital project. The project is covered by a Security Grant from the Federal Government with 25 percent of the cost being paid by PCCA (approximately \$19,699.67) and 75 percent of the cost reimbursable by the federal government (approximately \$59,098.99).

STAFF RECOMMENDATION: Staff recommends a Purchase Order be awarded to AEP in the amount of \$78,798.66. Staff further recommends that the Director of Engineering Services be granted a 9 percent contingency (\$7,091.87) in accordance with the PCCA's standard contingency guidelines for general construction projects, should it be needed to accommodate any changes in the project.

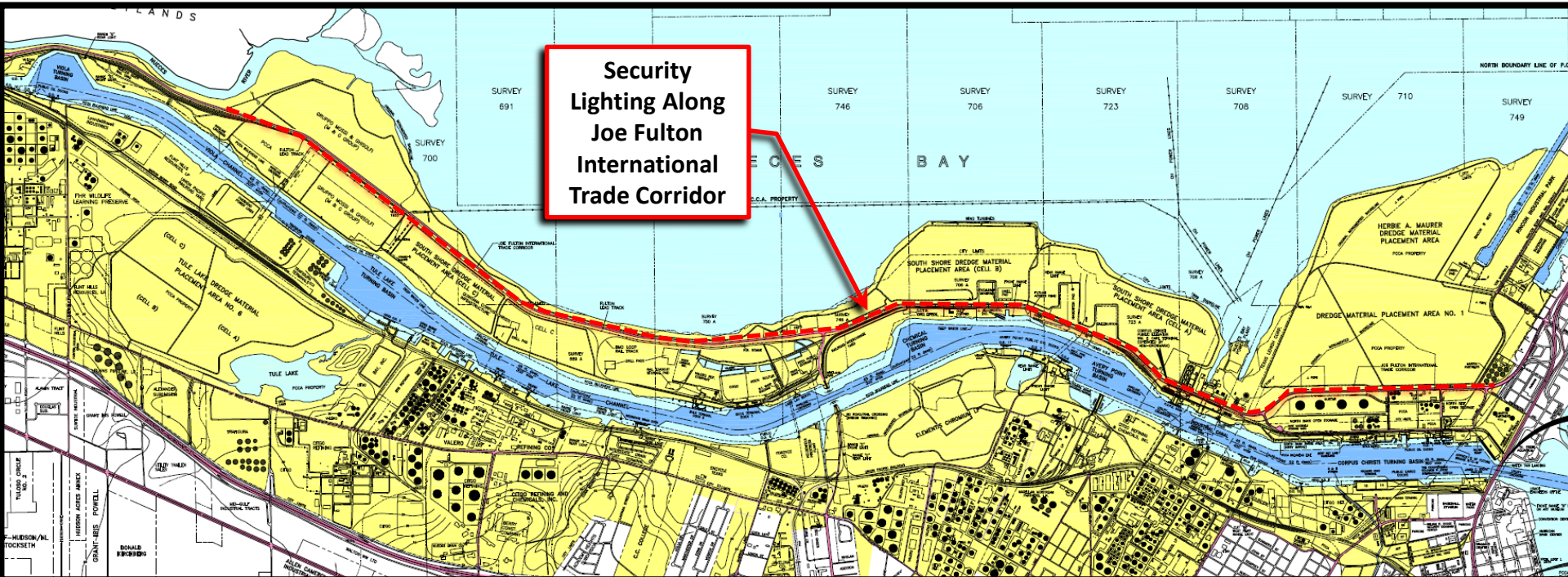
DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	David Krams Brett Flint Carlos Martinez
Legal	N/A
Senior Staff	John LaRue Sean Strawbridge Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Map Exhibit
Contribution-In-Aid-Of-Construction Agreement

Security Grant 15 – Lighting along Joe Fulton International Trade Corridor



AEP Texas

Contribution-In-Aid-Of-Construction Agreement For Electric Distribution Service

PORT OF CORPUS CHRISTI
Service: JOE FULTON CORRIDOR
CORPUS CHRISTI, TX

Mailing: 222 Power St.
Corpus Christi, TX 78401

Contract #: DWMS00000402740

Work Request #: 67847887

Date: 3/1/2018

You, PORT OF CORPUS CHRISTI (Customer) have requested AEP Texas (Company) to install/construct certain electric distribution facilities (hereinafter referred to as "Facilities") as follows: INSTALL "101" OF 400W MH STREET LIGHTS INSTALL "61" OF 400W MH FLOOD LIGHTS AND INSTALL "18" 25 KVA TRANSFORMERS

The cost for construction/installation of the requested Facilities will be in excess of what would normally be provided by Company at no additional cost to the Customer to initiate service. In accordance with the Company's approved Tariff, as filed with the Public Utilities Commission of Texas, the Customer agrees to pay Company a one-time, non-refundable, Contribution-In-Aid-Of-Construction (CIAC) in the amount of 78,798.66. The Customer understands that he/she receives no ownership or control of the Facilities by virtue of the payment of the CIAC. The Facilities installed by the Company will remain the property of the Company. The Company expressly retains the right to use said Facilities for any purpose which Company deems appropriate under good utility practices, including the distribution of electric service to other customers.

Company agrees to INSTALL FACILITIES TO PREMISES IDENTIFIED AS FOLLOWS, ALL ALONG JOE FULTON CORRIDOR IN CORPUS CHRISTI, TX, and the Customer agrees to provide PAY AMOUNT LISTED IN CONTRACT AS AID TO CONSTRUCTION and to be ready to take electric service on or before 03/01/2018.

It is understood and agreed that the Company will not begin construction/installation of the Facilities until full payment of the CIAC has been received by the Company; therefore, Customer understands and agrees that he/she needs to make full payment of the CIAC in sufficient time to allow for the construction/installation to be completed by the In Service Date.

The pricing of the CIAC quoted herein is based on the specifics of the Customer's request, including the Customer's stated In Service Date, and must be accepted by the Customer by executing and returning to the Company this Agreement by 5/30/2018 to remain valid. Should Customer alter the request for facilities, or request a delay in (or is otherwise unable to take service by) the stated In Service Date, the Company reserves the right to update the pricing and require an additional CIAC payment to reflect any increases in cost due to the alteration in requested facilities or the delay in taking service, or both.

Nothing contained herein shall be construed as a waiver or relinquishment by Company of any right it has or may hereafter have to discontinue service for default in the payment of any bill owing or to become owing hereunder or for any reason or cause allowed by law.

By signing and returning this Agreement, Customer understands and accepts the above described terms and conditions.

Customer

Company

By

By

Signature:

Signature:

Title:

Title:

Date:

Date:

PLEASE
DETACH
STUB
AND
RETURN
WITH
PAYMENT

>>
>>
>>
>>
>>
>>
>>

Please remit To:
American Electric Power
Sandra Luna
P.O. Box 2121
Corpus Christi, TX 78403

Bill To:
PORT OF CORPUS CHRISTI
222 Power St.
Corpus Christi, TX 78401

Company No:
Contract No:
Customer No:
Date:
Amount Due:

211
DWMS00000402740
11016878
3/1/2018
78,798.66

Amount Remitted:_____

Contract No: DWMS00000402740
Date: 3/1/2018

PRO FORMA

				Customer No:	11016878
				Purchase Order:	67847887
Description	Quantity	UOM	Init Amt	Net Amount	
INSTALL "101" OF 400W MH STREET LIGHTS	1.0	EA	78,798.66	78,798.66	
INSTALL "61" OF 400W MH FLOOD LIGHTS AND INSTALL "18" 25 KVA TRANSFORMERS					
				Amount Due:	78,798.66

125

DATE: March 20, 2018
TO: Port Commission
FROM: Lynn Angerstein, Procurement & Financial Analysis Manager
Lynn@pocca.com
(361) 885-6142

**Award Contract to Sunoco LLC, for one (1) year for Purchase of Bulk Fuel
Estimated Amount of \$225,000**

SUMMARY: The PCCA operates three (3) fueling stations: one located at the Maintenance Department complex, one adjacent to the Maintenance Office near the boat ramp, and one located at the Bulk Terminal Facility. An average of 85,000 gallons of unleaded gasoline and 11,500 gallons of diesel is dispensed each year from these stations, supplying fuel to PCCA vehicles, equipment, and boats. On April 15, 2018, the PCCA's final option on the current bulk fuel contract will expire.

BACKGROUND: Staff prepared bid documents for a new bulk fuel contract to establish pricing based on the lowest markup rate per gallon on various types of gasoline and diesel. The successful bidder was determined based on the lowest markup rate per gallon submitted on various types of gasoline and diesel. Twelve potential bidders downloaded the bid package from PCCA's procurement website, and two responsive bids were received on February 22, 2018. Sunoco LLC, submitted a bid for the purchase of fuel with the following bid item markup rates:

<u>Commodity</u>	<u>Markup</u>
1. Ultra Low Emission Red No. 2 Diesel Off-Road	\$0.1029
2. Ultra Low Emission Clear No. 2 Diesel On-Road	\$0.3029
3. 89 Octane E10 Unleaded Gasoline	\$0.3029

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: Strategic Objective #3B- Operate the Port's Facilities in a Safe, Secure, and Efficient Manner.

EMERGENCY: No

FINANCIAL IMPACT: Budgeted Operating Expense \$250,226
Estimated Annual Expense \$225,000

STAFF RECOMMENDATION: Staff recommends award of a one-year bulk fuel contract to Sunoco LLC, with an option to extend the contract at contracted price for one additional year.

DEPARTMENTAL CLEARANCES:

Originating Department	Procurement
Reviewed & Approved	Lynn Angerstein

Legal	Dane Bruun
-------	------------

Senior Staff	John LaRue
	Sean Strawbridge
	Dennis DeVries
	Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Bid Tabulation



**BID TABULATION FOR
PURCHASE OF BULK FUEL
PROJECT NO. 18-502A
Bid Opening: February 22, 2018 at 3:00 PM**

Company Name	Bid Item 1 ^A	Bid Item 2 ^B	Bid Item 3 ^C	Evaluated Bid ^D
Sunoco Energy Services LLC dba Sunoco LP	\$0.1029	\$0.3029	\$0.3029	\$221,629.85
Sun Coast Resources	\$0.5000	\$1.1999	\$0.4985	\$253,864.00

*Time of Delivery 365 Calendar Days with 1 year option

^ABid Item 1 - Total Mark-Up per Gallon of "Off-Road" Ultra Low Emission Red (ULER) No. 2 (Diesel)

^BBid Item 2 - Total Mark-Up per Gallon of "On-Road" Ultra Low Emission Clear (ULEC) No. 2 (Diesel)

^CBid Item 3 - Total Mark-Up per Gallon of 89 Octane Unleaded E10 Gasoline

^DTotal Evaluated Bid of Total Price per gal. of "Off Road" ULER No. 2 (Diesel) x 3,000 gals. + Total Price per gal. of On-Road" ULEC No. 2 (Diesel) x 8,500 gals. + Total price per gal of 89 Octane E10 Unleaded Gasoline x 85,000 gals.

Read by: Lynn Angerstein, Manager of Procurement Services

Date: February 22, 2018



DATE: March 20, 2018

TO: Port Commission

FROM: David L. Krams, P.E.
Director of Engineering Services
Krams@pocca.com
(361) 885-6134

**ANTICIPATED
STAFF PRESENTER:** Bert Perez, P.E.
Senior Project Engineer

Approve Master Services Agreement No. 18-02 and Service Order No. 1 in the amount of \$16,000 with Govind Development, LLC, for Construction Phase Engineering Services associated with Fire Pressurization at Oil Docks 1, 2, and 15 Project.

SUMMARY: Staff recommends approval of the attached Master Services Agreement with Govind Development, LLC (Govind) and approve Service Order No. 1 in an amount not to exceed \$16,000 to provide construction phase services for the Fire Pressurization at Oil Docks 1, 2, and 15 project.

BACKGROUND: In November 2017, the PCCA awarded a contract to H & S Constructors, Inc. for the Fire Pressurization at Oil Docks 1, 2, and 15 project. The scope of work for this project generally includes the construction of a structural steel, auger-cast pile-supported water storage tank, supplying and installing a housed pump system, underground piping to Oil Docks 1, 2, and 15's existing or new dry fire water piping systems, a horizontal bore under Navigation Boulevard and the existing railroad lines for connection to the City water supply, the installation of a back flow preventer, upgrading existing fire nozzles, and installing foam canisters at Oil Docks 1, 2, and 15. In addition, electrical service will require the construction of a new AEP approved transformer concrete foundation, and all associated electrical services to the fire pump system.

Staff negotiated the attached Master Services Agreement and its Service Order No. 1 with Govind Development, Inc., the PCCA's design consultant for this project, to provide engineering services during construction which will include limited construction work oversight, field inspections, the review of contractor's submittals and shop drawings, assisting the PCCA in responding to Contractor's requests for information or clarifications and ensure design objectives are achieved for the project.

The Master Services Agreement provides the general terms, conditions, insurance, etc. for this and any subsequent service orders that may be issued to Govind Development, LLC, during the three-year term of the Master Services Agreement.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: The project conforms to the PCCA's Strategic Plan (Strategic Goal #2 – Provide Facilities and Services to Meet Customer Needs).

EMERGENCY: No.

FINANCIAL IMPACT: The Engineering budget included \$2,400,000 in 2018 for the Fire Pressurization Upgrades at Oil Docks 1, 2, and 15.

STAFF RECOMMENDATION: Staff recommends approval of the attached Master Services Agreement and approval of Service Order No. 1 with a ceiling price of \$16,000 with Govind Development, LLC, to provide construction phase engineering services for Fire Pressurization at Oil Docks 1, 2 and 15.

DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	David Krams
	Natasha Fudge
Legal	PCCA's standard Master Services Agreement & Service Order
Senior Staff	John LaRue
	Sean Strawbridge
	Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Master Services Agreement
Service Order No. 1
Map Exhibit

**MASTER SERVICES AGREEMENT
BETWEEN THE
PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS,
AND
GOVIND DEVELOPMENT, LLC
FOR
PROFESSIONAL ENGINEERING SERVICES
ON A
SERVICE ORDER BASIS**



MASTER SERVICES AGREEMENT NO. 18-02

EFFECTIVE DATE MARCH __, 2018

TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS AND INTERPRETATION.....	1
Section 1.01 Certain Definitions.....	1
Section 1.02 Terminology and Interpretation.....	7
ARTICLE 2 SERVICES OF ENGINEER AND REPORTS	8
Section 2.01 Scope of Services	8
Section 2.02 Service Order Procedure.....	8
Section 2.03 Times for Rendering Services	8
Section 2.04 PCCA Project Manual.....	9
Section 2.05 No Guaranteed Amount of Services	9
Section 2.06 Progress Reports	9
ARTICLE 3 CHANGES TO SERVICE ORDERS AND PERSONNEL	10
Section 3.01 Changes to Service Orders Requested by PCCA.....	10
Section 3.02 Changes to Service Orders Requested by Engineer	10
Section 3.03 Replacement of Personnel	10
ARTICLE 4 PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES.....	11
Section 4.01 Methods of Compensation.....	11
Section 4.02 Explanation of Compensation Methods.....	11
Section 4.03 Standard Hourly Rates for Service Orders	12
Section 4.04 Reimbursable Expenses.....	13
Section 4.05 Invoice Procedure and Payment.....	14
ARTICLE 5 RESPONSIBILITIES AND STANDARDS OF PERFORMANCE	14
Section 5.01 PCCA's Responsibilities.....	14
Section 5.02 Standards of Performance	16
Section 5.03 Design without Construction Phase Services	17
Section 5.04 Inspection and Acceptance.....	18
ARTICLE 6 TERM, RENEWAL, SUSPENSION OR TERMINATION	18
Section 6.01 Term	18

Section 6.02	Renewal.....	18
Section 6.03	Termination.....	18
Section 6.04	Suspension	19
ARTICLE 7 OPINIONS OF COST		19
Section 7.01	Opinions of Probable Construction Cost.....	19
Section 7.02	Opinions of Total Project Costs.....	20
Section 7.03	Designing to Construction Cost Limit.....	20
ARTICLE 8 REPRESENTATIVES AND MANAGERS		21
Section 8.01	Contract Representatives	21
Section 8.02	Designated Project Managers	21
Section 8.03	Resident Project Representative.....	22
ARTICLE 9 NOTICES		22
ARTICLE 10 DOCUMENTS		22
Section 10.01	Use of Documents.....	22
Section 10.02	Records Retention.....	23
ARTICLE 11 INSURANCE.....		23
Section 11.01	Standard Insurance Policy Requirements	23
Section 11.02	Additional Insurance Policies Required for Certain Work	24
Section 11.03	General Insurance Requirements.....	24
ARTICLE 12 RELEASE, INDEMNIFICATION AND MUTUAL WAIVER		25
Section 12.01	Release by Engineer	25
Section 12.02	Indemnification by Engineer	25
Section 12.03	Percentage Share of Negligence	26
Section 12.04	Mutual Waiver	26
ARTICLE 13 DISPUTE RESOLUTION		26
ARTICLE 14 GENERAL PROVISIONS.....		27
Section 14.01	Severability	27
Section 14.02	No Waiver	27

Section 14.03	Applicable Law.....	27
Section 14.04	Agreement and Service Orders Control	27
Section 14.05	Amendment of Agreement	27
Section 14.06	Assignment.....	28
Section 14.07	No Third-Party Beneficiaries.....	28
Section 14.08	Force Majeure	28
Section 14.09	Public Disclosure	28
Section 14.10	Confidentiality	28
Section 14.11	Certificate of Interested Parties.....	28
Section 14.12	Engineer’s Certificate	29
Section 14.13	No Organizational Conflict of Interest	29
Section 14.14	Defamation.....	29
Section 14.15	Parties Bound	29
Section 14.16	Attorneys’ Fees; Default.....	30
ARTICLE 15	EXHIBITS	30
Section 15.01	Suggested Form of Service Order	30
Section 15.02	Exhibits Included	30

ATTACHMENTS

ATTACHMENT ONE - SERVICE ORDER

EXHIBIT A – ENGINEER'S SERVICES FOR SERVICE ORDER

EXHIBIT B - STANDARD HOURLY RATES SCHEDULE

EXHIBIT C -REIMBURSEMENT EXPENSE SCHEDULE

EXHIBIT D - SCHEDULE OF DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY

EXHIBIT E- NOTICE OF ACCEPTABILITY OF WORK

EXHIBIT F - AMENDMENT TO SERVICE ORDER

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 18-02
FOR PROFESSIONAL ENGINEERING SERVICES**

THIS MASTER SERVICES AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES (“**Agreement**”) is made effective as of the ____ day of March 2018 (“**Effective Date**”) between the Port of Corpus Christi Authority of Nueces County, Texas, (“**PCCA**”) and Govind Development, LLC (“**Engineer**”), each a “**Party**” and collectively the “**Parties**”.

RECITALS

(a) From time to time PCCA may request that the Engineer provide professional services for Specific Projects. Each engagement will be documented by a Service Order.

(b) This Agreement sets forth the general terms and conditions which shall apply to all Service Orders duly executed under this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

Section 1.01 Certain Definitions

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below shall have the meanings set forth in this Section, which are applicable to both the singular and plural thereof:

1. *Addenda.* Written or graphic instruments issued prior to the opening of Bids that clarify, correct, or change the Bid Documents or the proposed Construction Contract Documents.
2. *Agreement.* This “Master Services Agreement between PCCA and Engineer for Professional Engineering Services,” including all Attachments and Exhibits attached hereto.
3. *Bid.* The offer or proposal of the bidder submitted on the PCCA-prescribed form setting forth the prices and schedule for the Work to be performed.
4. *Bid Documents.* The notice or invitation to submit bids or proposals for construction of a Specific Project, including the instructions to bidders, the Bid form and attachments, the bid bond, if any, the Construction Contract Documents, and all Addenda, if any.

5. *Business Day.* means any day other than Saturday or Sunday or any other day on which banks in Texas are permitted or required to be closed.
6. *Change Order.* A document which is signed by a Contractor and PCCA and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal.* A written request by a Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Ceiling Price.* The maximum amount PCCA will pay for the Work or phases of Work described in a Service Order.
9. *Commencement Date of a Service Order.* The date indicated in a Service Order on which the Service Order becomes effective; but if no such date is indicated, it means the date on which this Service Order is signed and delivered by the last of the two Parties to sign and deliver.
10. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
11. *Construction Contract.* The entire and integrated written contract between PCCA and Contractor concerning the Work.
12. *Construction Contract Documents.* The documents described in the Construction Contract as the “Contract Documents.”

13. *Construction Contract Price*—The money that PCCA has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
14. *Construction Contract Times*—The numbers of days or the dates by which a Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion, and (c) complete the Work.
15. *Construction Cost*. The cost to PCCA of the construction of those portions of an entire Specific Project designed or specified by or for Engineer under this Agreement and the specific Service Order, including construction labor, services, materials, testing, equipment, insurance, and bonding costs, and allowances for contingencies. The Construction Cost does not include costs of Services of Engineer or other design professionals and Consultants; costs of land, rights-of-way, or compensation for damages to properties; or PCCA's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with a Specific Project; or the cost of services to be provided to PCCA by others. Construction Cost is one of the items comprising Total Project Costs.
16. *Constructor*. Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Specific Project, including but not limited to Contractors, Subcontractors, Suppliers, PCCA's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and their employees, agents, and representatives.
17. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
18. *Contractor*. The individual or entity with which PCCA enters into a Construction Contract.
19. *Correction Period*. The time after Substantial Completion during which Contractor must correct, at no cost to PCCA, any Defective Work; normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Construction Contract Documents.
20. *Day*. For purposes of this Agreement and associated Service Orders, the term "day" means a calendar day of 24 hours.
21. *Defective Work*. Any part of the Work the Engineer or the RPR believes is defective under the terms and standards set forth in the Construction Contract Documents.

22. *Documents.* Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, generated, provided or furnished in appropriate phases by Engineer to PCCA pursuant to this Agreement and any attached Service Orders.
23. *Drawings.* That part of the Construction Contract Documents prepared or approved by Engineer that graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop drawings are not Drawings as so defined.
24. *Effective Date.* The date indicated in this Agreement on which it becomes effective; but if no such date is indicated, it means the date on which this Agreement is signed and delivered by the last of the two Parties to sign and deliver it.
25. *Engineer.* The individual or entity named as such in this Agreement.
26. *Engineer's Contract Representative.* The Engineer's Contract Representative is the person appointed to represent the Engineer's interests in this Agreement as more particularly described in Section 8.01(B).
27. *Field Order.* A written order issued by Engineer which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
28. *Final Acceptance.* That point in a Specific Project wherein PCCA considers the Project complete and PCCA issues a Certificate of Final Acceptance.
29. *General Conditions.* That part of the Construction Contract Documents that sets forth the terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to a Specific Project.
30. *Hourly Rates Service Order.* A Service Order under which PCCA agrees to pay Engineer based on the amount of time spent by the Engineer's employees in performing the Work described in the Service Order and for the Reimbursable Expenses incurred by Engineer in performing the services, but limited to the Ceiling Price specified in the Service Order.
31. *Laws and Regulations; Laws or Regulations.* Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
32. *Lump Sum Service Order.* A Service Order under which PCCA agrees to pay Engineer a specified agreed amount for the services described in the Service Order regardless of the number hours it takes to complete the work.
33. *Named Reimbursable Expenses.* Only the Reimbursable Expenses expressly listed, if any, in a Lump Sum Service Order.

34. *PCCA's Contract Representative.* PCCA's Contract Representative is the person appointed to represent PCCA's interests in this Agreement as more particularly described in Section 8.01(A).
35. *PCCA Parties.* PCCA and its agents, servants, representatives, employees, officers, directors, and Port Commissioners.
36. *Proposal.* Document representing technical qualifications, approach to specific work, and costs associated with construction of a Specific Project or project specific services.
37. *Record Drawings.* Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer and based solely on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction and to depict the final state of work.
38. *Reimbursable Expenses.* The expenses incurred directly by Engineer in connection with performing or furnishing Services for a Specific Project for which PCCA will pay Engineer as indicated in the Service Order and **Exhibit C**.
39. *Resident Project Representative.* The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. As used herein, the term Resident Project Representative or "**RPR**" includes any assistants or field staff of the RPR.
40. *Samples.* Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
41. *Scope of Services.* The scope of the professional engineering services to be provided by Engineer for any Specific Project as outlined in the Service Order for that Project.
42. *Services.* The professional engineering services to be provided by Engineer under any Service Order.
43. *Service Order.* A document in the form of **Attachment One** executed by PCCA and Engineer pursuant to this Agreement, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services, deliverables, and other relevant information for a Specific Project.
44. *Shop Drawings.* All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to PCCA or Engineer to illustrate some portion of the Work.

Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

45. *Site.* Lands or areas indicated in the Construction Contract Documents for a Specific Project as being furnished by PCCA upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by PCCA which are designated for use of a Contractor for the construction of a Specific Project.
46. *Specific Project.* The total specific undertaking to be accomplished for PCCA by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Service Order are a part.
47. *Specifications.* That part of the Construction Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
48. *Standard Hourly Rates.* The Standard Hourly Rates listed in Engineer's Standard Hourly Rates Schedule attached hereto as **Exhibit B**.
49. *Subcontractor.* An individual or entity having a direct contract with a Contractor or with any other Subcontractor for the performance of a part of the Work.
50. *Substantial Completion.* The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of PCCA or Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
51. *Special Conditions.* That part of the Construction Contract Documents which amends or supplements the General Conditions.
52. *Term or Term of this Agreement.* The Term of this Agreement is the period from the Effective Date until the date on which this Agreement expires or is terminated in accordance with the provisions of this Agreement.
53. *Total Project Costs.* The total cost of planning, permitting, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or PCCA's costs

for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to PCCA.

54. *Work.* The entire construction or the various separately identifiable parts thereof required to be provided by Construction Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, equipment, materials, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning; all as required by such Construction Contract Documents.
55. *Work Change Directive.* A written directive to a Contractor issued on or after the effective date of the Construction Contract, signed by PCCA and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Capitalized terms in this Agreement which are not defined in Section 1.01 are defined in the text of this Agreement the first time they occur.

Section 1.02 Terminology and Interpretation

A. The terms defined in Section 1.01 or in the text of this Agreement shall apply throughout this Agreement. All references in this Agreement to “Section” or “Article” shall refer to a section or article of this Agreement, unless otherwise expressly stated. All references in this Agreement to “Paragraph” shall refer to a paragraph of a Service Order or a paragraph of an Exhibit to this Agreement, unless otherwise expressly stated. All references to “Exhibits” shall mean the exhibits attached to this Agreement. All such Exhibits and any other attachments to this Agreement are incorporated in this Agreement by this reference. All references to herein, hereof, hereto, hereunder or similar terms shall be deemed to refer to this Agreement in its entirety. As used in this Agreement, the term “including” shall mean “including but not limited to.” The headings of Articles and Sections in this Agreement and the headings of Paragraphs in the Service Order and the Exhibits to this Agreement shall be for convenience only and shall not affect the interpretation hereof.

B Words used in the singular number shall include the plural, and vice-versa, and any gender shall be deemed to include each other gender. Reference to any agreement means such agreement as amended or modified and in effect from time to time in accordance with the terms thereof.

C. Unless otherwise indicated, for purposes of this Agreement, a period of days shall be deemed to begin on the first day after the event that began the period and to end at 5:00 p.m. on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall be deemed to end at 5:00 p.m. on the next Business Day. All references to time herein are to time in Corpus Christi, Texas.

ARTICLE 2

SERVICES OF ENGINEER AND REPORTS

Section 2.01 Scope of Services

A. Engineer's Services will be detailed in a duly executed Service Order for each Specific Project. The general format of a Service Order is shown in **Attachment One** to this Agreement. This Agreement shall be referred to in any Service Order issued pursuant hereto as "Master Services Agreement No. 18-02." Each Service Order will indicate the specific services to be performed, deliverables to be provided, schedule and specific compensation terms.

B. Engineer shall not be obligated to perform work under a prospective Service Order unless and until PCCA and Engineer agree as to the particulars of the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters and the specific Service Order is executed by both parties.

Section 2.02 Service Order Procedure

A. PCCA and Engineer shall agree on the scope, time for performance, and method of compensation for each Service Order. With respect to the scope of Engineer's services, each specific Service Order shall either (1) be accompanied by and incorporate a customized **Exhibit A**, "Engineer's Services for Service Order," prepared for the Specific Project, (2) state the scope of services in the Service Order document itself, or (3) incorporate by reference all or portions of **Exhibit A**, "Engineer's Services for Service Order," as attached to this Agreement. Each duly executed Service Order shall be subject to the terms and conditions of this Master Services Agreement, unless specifically modified within the Service Order.

B. Engineer shall provide, or cause to be provided, the services set forth in the fully executed Service Order.

Section 2.03 Times for Rendering Services

A. Engineer is not authorized to begin work or to incur costs under a Service Order until the time set forth in the Service Order.

B. The Commencement Date of each Service Order and the times for completing services or providing deliverables will be stated in each Service Order. Engineer is authorized to begin rendering services under a Service Order as of the Commencement Date of the Service Order unless otherwise specified in the Service Order.

C. Unless specific periods of time or specific dates for providing Services are specified in a Service Order, Engineer's obligation to render Services hereunder will be for a period which may reasonably be required for the completion of the Services.

D. If PCCA has requested changes in the scope, extent, or character of the Specific Project, the time of performance and completion of Engineer's Services may be adjusted equitably as agreed by the Parties.

E. If, through no fault of Engineer, the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for performance and completion of Engineer's services shall be adjusted equitably.

Section 2.04 PCCA Project Manual

In addition to the terms and conditions set forth herein and in associated Service Orders, the Engineer will perform Services in accordance with the latest version of the PCCA Project Manual issued prior to the date of the Service Order.

Section 2.05 No Guaranteed Amount of Services

Services pursuant to this Agreement will be required on an irregular and as needed basis during the Term of this Agreement, and PCCA has not made nor does it make any representation of any kind or guarantee regarding the amount of services PCCA will require from Engineer under this Agreement.

Section 2.06 Progress Reports

A. Unless otherwise provided in a Service Order, Engineer will provide PCCA with a monthly progress report ("**Monthly Progress Report**") on the services being performed or furnished by Engineer under each Service Order. At a minimum, the report shall cover the following items:

1. The percentage of Work performed during the previous month.
2. The total percentage of the Specific Project completed.
3. Significant findings, problems, delays, inclusions, events, trends, etc. of the reporting period which result from or affect the performance of the Construction Contract.
4. Specific actions required of PCCA, to assist in the resolution of a problem or to affect the timely progression of the Work
5. The percentage of the Service Order budget expended during the reporting period and total expended to-date.
6. A statement that Services are on schedule, or an explanation of variance and proposed corrective actions.

B. The Monthly Progress Report for each Specific Project shall be delivered to the PCCA Project Manager within ten working days following the end of the month being reported.

ARTICLE 3 CHANGES TO SERVICE ORDERS AND PERSONNEL

Section 3.01 Changes to Service Orders Requested by PCCA

PCCA may change the Scope of Services set forth in a Service Order, by sending written notice to Engineer. Should Engineer believe that such changes require an equitable adjustment in Engineer's agreed compensation and/or schedule for the Services or other terms of the Services, Engineer shall notify PCCA in writing of its request for such adjustments no later than fourteen (14) calendar days following its receipt of such requested changes from PCCA. Except as otherwise instructed in writing by PCCA, Engineer shall not commence the changed Services until PCCA and Engineer have mutually accepted Engineer's timely requested adjustments, if any, to its compensation or schedule for its Services or other terms of the Services and a written amendment to Service Order is executed by the Parties.

Section 3.02 Changes to Service Orders Requested by Engineer

Should an event or condition occur after the initiation of a Service Order, that in the opinion of the Engineer, will result in a change in scope, schedule and/or budget, the Engineer will provide timely written notice to PCCA stating: the nature of the event or condition; detailing the impact on scope, schedule and/or, budget; and providing the Engineer's recommendation or request for modification of the affected Service Order. Such notice will be provided upon recognition of the event or condition and prior to the completion of the services stated in the Service Order. PCCA will not consider a request for an increase in the Ceiling Price of a Service Order that is submitted after completion of the services stated in the Service Order, if PCCA determines, in its sole discretion, that the event or condition cited as the cause for the increase in the Ceiling Price was, or could reasonably have been, known in time to submit a change request prior to completion of the services stated in the Service Order. PCCA will review the Engineer's recommendation or request and provide a written response agreeing with the requested recommendation or request or not accepting said recommendation or request. Any changes or modification to the scope, schedule and/or budget will be detailed in a written modification to the Service Order. No changes to the Services shall be made by Engineer except with PCCA's prior written agreement.

Section 3.03 Replacement of Personnel

PCCA, in its sole discretion, shall have the right to demand that Engineer replace any personnel providing Services to PCCA under the terms of a Service Order. Upon receipt of PCCA's demand, Engineer will immediately replace the specified personnel with personnel substantially equal in ability and qualifications. The criteria for demanding replacement of an individual will be based on, but not limited to, the following: technical incompetence, inability to meet the position qualifications, failure to perform an assignment, poor attendance, ethics violation, unsafe work habits, damage to PCCA property, or reasonable PCCA dissatisfaction.

ARTICLE 4

PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Section 4.01 Methods of Compensation

A. The method of compensation for Services (including, if applicable, the method of compensation for individual phases of Services) shall be identified in each specific Service Order. PCCA shall pay Engineer for Services in accordance with the applicable method of compensation.

B. The method of compensation for services under a Service Order will be specified in that Service Order. The possible methods of compensation are as follows:

1. Lump Sum plus Named Reimbursable Expenses, if any;
2. Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price.

Section 4.02 Explanation of Compensation Methods

A. Lump Sum plus Named Reimbursable Expenses

1. PCCA shall pay Engineer a Lump Sum amount for the specified services or category of services stated in a Service Order regardless of the amount of time it takes to complete the services.
2. The Lump Sum will include compensation for Engineer's services and services of Consultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Consultant charges. In other words, Engineer will only be reimbursed for the Named Reimbursable Expenses (see Section 4.02(A)(3)).
3. In addition to the Lump Sum, Engineer shall also be entitled to reimbursement from PCCA for the Named Reimbursable Expenses explicitly listed in the Service Order, if any, that are reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services (see **Exhibit C** for rates or charges for these specific expenses).
4. Progress payments may be allowed in a Lump Sum Service Order. If so, the portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period, subject to acceptance and approval of PCCA.

B. Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price

1. For the specified services or category of services, the PCCA shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times the Standard Hourly Rates for each applicable billing class. Under this method, Engineer shall also be entitled to reimbursement

from PCCA for the Reimbursable Expenses identified in **Exhibit C**, as the same may be modified in the individual Service Order. But the total amount payable to Engineer for the services rendered under the Service Order plus the Reimbursable Expenses shall not exceed the Ceiling Price stated in the Service Order.

2. The Ceiling Price will be stated in the Service Order. It may be called the Ceiling Price or the “Not-to-Exceed Amount.”
3. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
4. Each Standard Hourly Rates Schedule attached hereto as **Exhibit B** shall remain in effect as changed in accordance with Section 4.03(B) of this Agreement.
5. The Reimbursable Expenses Schedule attached hereto as **Exhibit C** shall remain in effect for the Term of this Agreement.
6. The total estimated compensation for the specified category of services shall be stated in the Service Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, and Reimbursable Expenses (including Consultants' charges, if any).
7. The amounts billed by Engineer will be based on the cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses (including Consultant's charges, if any), but PCCA shall not be required to pay more than the Ceiling Price stated in the applicable Service Order without a duly executed amendment to the Service Order.
8. For Service Orders that included definable deliverables to be provided to the PCCA, Engineer will continue to prosecute work necessary to provide those deliverables even when the Ceiling Price has been reached, at no additional cost to PCCA unless the parties agree in writing to modify the Ceiling Price.
9. Where no definable deliverable exists, the Engineer's services will terminate when the Ceiling Price is reached.

Section 4.03 Standard Hourly Rates for Service Orders

A. Engineer's Standard Hourly Rates Schedule are in **Exhibit B**. Engineer hereby certifies by its execution of this Agreement that the hourly rates in **Exhibit B** for each class of Engineer's employees are less than or equal to the lowest hourly rates Engineer is currently charging any its clients. Engineer agrees that if during the Term of this Agreement it charges any of its clients lower hourly rates than the rates in **Exhibit B**, as adjusted in accordance with Section 4.03(B), then Engineer shall charge PCCA such lower hourly rate or rates for the services under any Service Order, current or future, for the remainder of the Term of this Agreement and such lower hourly rate or rates will be standard for the remaining Term of this Agreement.

B. The Engineer may adjust its Standard Hourly Rates as of the first day of each calendar year during the Term of this Agreement by submitting to PCCA a new **Exhibit B** with Engineer's new Standard Hourly Rates on or before January 15th of such calendar year; provided, however, that the new Standard Hourly Rate for each class of Engineer's employees may not be more than five percent (5%) higher than previous Standard Hourly Rate for that class. The new Standard Hourly Rates will apply to all services performed by each class of Engineer's employees on and after the effective date of such new rates, but these adjustments will not affect the Ceiling Prices stated in the Service Orders executed under this Agreement. Any overtime to be incurred by the Engineer must be approved by Authority in advance.

C. Generally, the compensation method specified in a Service Order executed under this Agreement will be Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price. PCCA reserves the right, however, to issue Lump Sum Services Orders when they are deemed to be in the best interest of PCCA

Section 4.04 Reimbursable Expenses

A. Under the Lump Sum method of compensation to Engineer, unless expressly indicated otherwise, the following categories of expenses are included in the Lump Sum amount: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; providing field and office equipment necessary for the prosecution of the work; toll telephone calls, mobile phone services, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; and Consultant charges. **These expenses are not reimbursable under the Lump Sum method, unless expressly indicated otherwise in the specific Service Order.**

B. Expenses eligible for reimbursement under the Standard Hourly Rates method of compensation include the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services under a specific Service Order: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; providing field and office equipment necessary for the prosecution of the work; toll telephone calls, mobile phone services, and courier services; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; Consultant charges; and any other expenses identified in **Exhibit C**. Whenever Engineer is entitled to compensation for the charges of its Consultants, those charges shall be the amount billed by such Consultants to Engineer times a factor of one hundred five percent (105%). In other words, the markup for Consultant services shall be five percent (5%).

C. Reimbursement for lodging and meals may not exceed the maximum allowable per diem rates for domestic or foreign travel as set by the U.S. Department of Defense, Defense Travel Management Office. Lodging and meal per diem rates for specific locations (foreign and domestic) may be found on the Defense Travel Management Office's website. Engineer shall submit proper documentation of any such approved travel expenses to PCCA from time to time, and such costs and expenses shall be billed to PCCA at Engineer's actual cost.

Section 4.05 Invoice Procedure and Payment

A. Engineer shall submit invoices monthly to PCCA for work performed during the preceding calendar month. Such invoices shall be due and payable by PCCA within thirty (30) days after receipt and acceptance of the invoice by PCCA. Monthly compensation will be for the Services actually performed during the billing period, invoiced in accordance with the prices in the Fee Schedules. On a Lump Sum Service Order, monthly billing will be based on the percentage of work completed. Invoices shall also describe any work performed by subcontractors retained by Engineer and Reimbursable Expenses. Engineer will provide sufficient detail with each invoice to substantiate the requested amount of monthly payment. At PCCA's request, Engineer will provide additional backup such as signed time sheets, invoices for materials and subcontracted service or other documentation sufficient to establish the accuracy of the invoices. Invoices are to be submitted in a format previously approved by PCCA. The Engineer's fees will cover all of Engineer's overhead costs, including office rent, long distance telephone charges, postage, and payroll.

B. Engineer will provide written notice to PCCA when the sum of previous payments and a current invoice meet or exceed 70% of the approved Ceiling Price of a Service Order. Engineer will include a statement that the remaining budget will be sufficient to complete the services, or provide an estimate of cost to complete, an explanation of the need for additional funding, and a request for a modification to the Service Order.

ARTICLE 5 RESPONSIBILITIES AND STANDARDS OF PERFORMANCE

Section 5.01 PCCA's Responsibilities

A. PCCA shall pay Engineer as set forth in each Service Order and Article 4.

B. PCCA shall be responsible for the requirements and instructions that it furnishes to the Engineer pursuant to this Agreement, and for the accuracy and completeness of the programs, reports, data, and other information furnished by PCCA to Engineer pursuant to this Agreement or any Service Order for use of Engineer in performing or furnishing services under any Service Order, subject to any express limitations or reservations applicable to the furnished items

C. PCCA shall give prompt written notice to Engineer whenever PCCA observes or otherwise becomes aware of: (1) any development that affects the scope or time of performance of Engineer's services; (2) the presence at the Site of a Specific Project of any Constituent of Concern; or (3) any relevant, material defect or nonconformance in Engineer's services, the Work or the performance of any Constructor or consultant managed by the Engineer.

D. PCCA shall:

1. Provide Engineer with criteria and information as to PCCA's requirements for each Specific Project, including design objectives and constraints, space, capacity and

performance requirements, flexibility, and expandability, and any budgetary limitations.

2. Furnish Engineer with copies of design and construction standards that PCCA will require to be included in the Drawings and Specifications; and furnish copies of PCCA's standard forms, conditions, and related documents to be included in the Bid Documents and Construction Documents, as applicable.
3. Following the Engineer's assessment of initially available Specific Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project-related information and data as is reasonably required to enable Engineer to complete its Services, unless the Service Order requires Engineer to obtain this information from other sources. Such additional information or data would generally include the following:
 - a. Property descriptions.
 - b. Zoning, deed, and other land-use restrictions.
 - c. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - d. Explorations and tests of subsurface conditions at the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at the Site, or hydrographic surveys with appropriate professional interpretation thereof.
 - e. Environmental assessments, audits, investigations, impact statements, and other environmental or cultural studies relevant to the Specific Project and the Site.
 - f. Data or consultations as required for the Specific Project but not otherwise identified in this Agreement or the Exhibits thereto.
4. Arrange for access to and make provisions for Engineer to enter upon PCCA property as required for Engineer to perform Services under the Service Order.
5. Examine alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents required by the terms of the Service Order which are presented by the Engineer and render, in writing, timely decisions pertaining thereto.
6. Provide reviews, approvals, and permits from governmental authorities having jurisdiction to approve phases of the Specific Project designed or specified by Engineer, and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project, unless the Service Order requires Engineer to obtain these reviews, approvals, or consents from other sources.

7. Place and pay for advertisement of Bids in appropriate publications, as required, for a Specific Project.
8. Advise Engineer of the identity and scope of services of any independent consultants employed by PCCA to perform or furnish Services in regard to the Project, including cost estimating, project peer review, value engineering, and constructability review unless such Services are related to an issue under legal review or are included in the Engineer's Scope of Services.
9. Furnish to Engineer data as to PCCA's anticipated costs for Services to be provided by others for PCCA so that Engineer may make the necessary calculations to develop and periodically adjust Engineer's opinion of Total Project Costs as required by a specific Service Order.

Section 5.02 Standards of Performance

A. *Standard of Care:* Engineer shall perform the professional engineering and related services required by each Service Order issued under this Agreement with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

B. *Technical Accuracy:* PCCA shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in PCCA-furnished information or an identifiable and documented change in conditions or circumstances impacting the Engineer's work.

C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by PCCA.

D. *Reliance on Others:* Subject to the standard of care set forth in Section 5.02(A), Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. Compliance with Laws and Regulations, and Policies and Procedures

1. Engineer and PCCA shall comply with applicable Laws and Regulations.
2. Engineer shall comply with the policies, procedures, and instructions of PCCA that are applicable to Engineer's performance of services under this Agreement and that PCCA provides to Engineer in writing, subject to the standard of care set forth in Section 5.02(A), and to the extent compliance is not inconsistent with professional practice requirements.

3. Each Service Order is based on Laws and Regulations and PCCA-provided written policies and procedures as of the Commencement Date of the Service Order. The following may be the basis for modifications to PCCA's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Commencement Date of the Service Order to Laws and Regulations; or
 - b. the receipt by Engineer after the Commencement Date of the Service Order of PCCA-provided written policies and procedures or changes to PCCA-provided policies or procedures.

F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. PCCA agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such document.

G. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site of a Specific Project, nor for any failure of a Constructor to comply with Laws and Regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

H. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.

I. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

J. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.

K. Engineer's services do not include providing legal advice or representation.

L. While at a Site, Engineer, its Consultant, and their employees and representatives shall comply with the applicable requirements of Contractor's and PCCA's safety programs of which Engineer has been informed in writing.

Section 5.03 Design without Construction Phase Services

It is understood and agreed that if Engineer's Services under this Agreement do not include Project observation, review of Contractor's performance, or any other construction phase services, and that such services will be provided by PCCA, then PCCA assumes responsibility for interpretation of the Construction Contract Documents and for construction observation or review except where such interpretation is attributable to the design are an obvious design error or omission and requires correction by the Engineer of record.

Section 5.04 Inspection and Acceptance

Deliverables and/or services furnished under this Agreement shall be subject to review and inspection and, as applicable, test by PCCA at times and places covered under the period of performance for Services and the applicable Service Order. PCCA reserves the right to reject deliverables which do not conform to the Specifications, Drawings, and/or other data or which do not comply with the terms and conditions of this Agreement and individual Service Orders. If rejected after delivery, rejected deliverables will be returned to Engineer at Engineer's risk and expense. Payment for any Services or deliverables shall not be deemed acceptance thereof, and if such Services or deliverables are rejected after payment, PCCA shall be entitled to an equitable refund. Additional or varying acceptance terms may be mutually agreed under individual Service Orders.

ARTICLE 6 TERM, RENEWAL, SUSPENSION OR TERMINATION

Section 6.01 Term

A. This Agreement shall be effective and applicable to Service Orders issued hereunder for three (3) years from the Effective Date of this Agreement.

Section 6.02 Renewal

A. The Parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term, provided the terms and conditions, including insurance coverages, hourly and reimbursable rates and other particulars remain unchanged.

Section 6.03 Termination

A. PCCA may terminate a Service Order or this Agreement for convenience with seven (7) days prior written notice to Engineer of such action. Upon termination of this Agreement in accordance with this paragraph, PCCA will have no further obligation to the Engineer hereunder except to pay the Engineer unpaid fees and expenses which the Engineer can reasonably show to have been earned under this Agreement. **Under no circumstances may Engineer claim or recover consequential damages from PCCA.**

B. Either Party may terminate this Agreement by giving written notice to the other Party if the other Party ("**Defaulting Party**"): (a) materially breaches any term, condition or provision of this Agreement and fails to cure the breach to the satisfaction of the notifying Party within ten (10)

days after the Defaulting Party receives a written notice of the breach from the notifying Party, or (b) becomes the subject of any proceedings under state or federal law for the relief of debtors or otherwise becomes insolvent, or bankrupt, or makes any assignments for the benefit of one or more creditors.

Section 6.04 Suspension

A. PCCA may suspend a Service Order for convenience with seven (7) days prior written notice to Engineer of such action.

B. If PCCA fails to give prompt written authorization to proceed with any phase of Services after completion of the immediately preceding phase, or if Engineer's Services are delayed through no fault of Engineer, Engineer may, after giving seven (7) days written notice to PCCA, suspend Services under this Agreement.

C. PCCA may, upon written notice to the Engineer, suspend work on a Service Order until such time that PCCA determines that it is in the best interest of PCCA to resume the work or to terminate the Service Order.

D. In the event of suspension of Services, the Engineer shall resume the full performance of the Services when directed in writing to do so by PCCA. Suspension of the Services for reasons other than the Engineer's negligence or failure to perform shall not affect the Engineer's compensation as provided for in this Agreement. The schedule for performance of the Services shall be amended by a mutually agreed, written modification to the Service Order in progress to reflect the suspension.

E. If Engineer's Services are delayed or suspended in whole or in part by PCCA for more than ninety (90) days after the date of the beginning of the delay or suspension through no fault of Engineer, Engineer may be entitled to an equitable adjustment of compensation provided for elsewhere in this Agreement to reflect reasonable costs incurred by Engineer in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised, to the extent that the Engineer can demonstrate that an actual increase in cost has been incurred and is equitable and compensable.

ARTICLE 7 OPINIONS OF COST

Section 7.01 Opinions of Probable Construction Cost

A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's judgment as an experienced and qualified professional generally familiar with the industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, Bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer.

B. PCCA reserves the right to request that the Engineer provide a written explanation of significant variations between the Engineer's opinion of probable Construction Cost and the actual Construction Cost.

Section 7.02 Opinions of Total Project Costs

A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the PCCA in tabulating the various categories that comprise Total Project Costs. Engineer's opinions (if any) of probable Total Project Costs are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that Total Project Costs will not vary from opinions of probable Total Project Costs prepared by Engineer.

Section 7.03 Designing to Construction Cost Limit

A. If a Construction Cost Limit for a Specific Project is established between PCCA and Engineer in a Service Order, then such Construction Cost Limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in the applicable Service Order.

B. If a Construction Cost Limit is set forth in a Service Order, then the Service Order will also specify a percentage bidding or negotiating contingency to be added to such Construction Cost Limit.

C. Should an opinion of Probable Construction Cost or a revised Opinion of Probable Construction Cost be provided by the Engineer during the execution of the Services that is in excess of the then established Construction Cost Limit, PCCA shall have the option of increasing the Construction Cost Limit, modifying the design criteria and Engineer's Scope of Services, or suspending or terminating the Service Order in accordance with terms herein. Alternately, PCCA may direct the Engineer to separate the work into a Base Bid with alternative or additive bid items that can be awarded at PCCA's discretion.

D. Engineer will be permitted to determine what types of materials, equipment and component systems, and the types and quality thereof, are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices to bring the Project within the Construction Cost Limit, subject to final approval and acceptance of PCCA. Engineer will present proposed changes in materials, equipment and component systems to PCCA for review and approval prior to incorporating such into the design.

E. If PCCA does not request Bids for a Project within six months after completion of the final design of the Project or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost Limit will not be binding on Engineer, and PCCA (i) may consent

to an adjustment in such Construction Cost Limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the final design of the Project and the date on which Bids are requested, or (ii) may, at PCCA's sole discretion, terminate the Service Order in accordance with terms and conditions herein.

F. If the lowest *bona fide* Bid exceeds the established Construction Cost Limit, PCCA will: (1) give written approval to increase such Construction Cost Limit, (2) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices and re-advertise or re-bid the Project, or (3) provide direction to the Engineer to revise contract documents to include additive or alternative bid items or add such additive or alternative bid items and re-bid the project, or (4) elect not to award additive or alternative bid items to keep the Project within the Construction Cost Limit. In the case of (2), above, Engineer will modify the Drawings and Specifications as necessary to bring the Construction Cost within the Construction Cost Limit at no cost to PCCA, and the providing of such Services will be the limit of Engineer's responsibility in this regard; and, having done so, Engineer will not otherwise be liable for damages attributable to the lowest *bona fide* Bid exceeding the established Construction Cost Limit.

ARTICLE 8 REPRESENTATIVES AND MANAGERS

Section 8.01 Contract Representatives

A. PCCA shall designate a Contract Representative on the signature page of this Agreement who will, on behalf of PCCA, coordinate with the Engineer and administer this Contract. It shall be the responsibility of the Engineer to coordinate all assignment-related activities under this Agreement with PCCA's Contract Representative. PCCA may change its Contract Representative at any time by giving the Engineer written notice of such change.

B. Engineer shall designate a Contract Representative on the signature page of this Agreement who will, on behalf of Engineer, coordinate with PCCA and administer this Contract. The Engineer's Contract Representative and PCCA's Contract Representative will coordinate all assignment-related activities under this Agreement. Engineer may change its Contract Representative at any time by giving PCCA written notice of such change, provided the recommended replacement has similar qualification and experience as the original contract representative.

Section 8.02 Designated Project Managers

A. Contemporaneously with the execution of each Service Order, Engineer and PCCA will each designate a specific individual to act on its behalf as Project Manager with respect to the Services to be performed or furnished by Engineer and the responsibilities of PCCA under such Service Order. The Project Managers for each Project will have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the Party appointing the Project Manager. Either Party may change that Party's designated Project Manager by giving the other Party written notice of the change as provided in Article 9.

Section 8.03 Resident Project Representative

A. The Service Order for a Specific Project shall state whether Engineer must furnish a Resident Project Representative (“**RPR**”) to assist Engineer in observing progress and quality of the Work on the Specific Project. The duties and responsibilities of the RPR, if any, will be as set forth in each Service Order.

ARTICLE 9 NOTICES

A. All notices, demands or requests from Engineer to PCCA shall be given to PCCA’s Contract Representative named on the signature page of this Agreement at (i) PCCA’s address for notice provided on the signature page, or (ii) the facsimile number for PCCA’s Contract Representative stated on the signature page, or to such other person, address or facsimile number as PCCA shall request in writing.

B. All payments, notices, demands or requests from PCCA to Engineer shall be given to Engineer’s Contract Representative named on the signature page of this Agreement at (i) Engineer’s address for notice provided on the signature page, or (ii) the facsimile number for Engineer’s Contract Representative stated on the signature page, or to such other person, address or facsimile number as PCCA shall request in writing.

C. Notices required to be given to either Party may be given by certified first-class mail, by overnight delivery or by fax, to the appropriate Party at its address or fax number stated on the signature page of this Agreement. Notice may also be given by personal service. Any notice given by mail shall be deemed to have been given one day after such notice was deposited in the United States mail, certified and postage prepaid, properly addressed to the Contract Representative of the Party to be served. In all other cases, notice to a Party will be considered delivered when actually received by the Party’s Contract Representative.

ARTICLE 10 DOCUMENTS

Section 10.01 Use of Documents

A. Upon payment of all fees owed for a Service Order, all Documents relative to that Service Order are the property of PCCA, including native files for each software package used.

B. Copies of PCCA-furnished data that may be used by Engineer are limited to the printed copies (also known as hard copies) that are delivered to Engineer by PCCA. Files in electronic media format of text, data, graphics, or of other types that are furnished by PCCA to the Engineer are only for convenience of Engineer. Any conclusion or information obtained or derived from such files, written or electronic, will be at the user’s sole risk. Engineer will review documents provided by PCCA and determine applicability and usability of information. Engineer will request additional information as necessary.

C. Copies of Documents that may be relied upon by PCCA are limited to the printed copies (also known as hard copies) that are signed or sealed by Engineer. Files in electronic media format of text, data, graphics, or of other types that are furnished by Engineer to PCCA are only for convenience of PCCA. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the Party receiving electronic files agrees that it will perform acceptance tests or procedures within 90 days, after which the receiving Party will be deemed to have accepted the data thus transferred. Any errors detected within the 90-day acceptance period will be corrected by the Party delivering the electronic files. Engineer is not responsible to maintain documents stored in electronic media format after acceptance by PCCA.

E. When transferring documents in electronic media format, neither PCCA nor Engineer make any representation to the other as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by PCCA or Engineer on the Effective Date.

F. Documents provided by Engineer are not intended or represented to be suitable for reuse by PCCA or others on extensions of the Project or on any other project. PCCA may, however, reuse such documents without any payment to Engineer. Any such reuse or modification without written verification or adaptation by Engineer, as appropriate for the specific purpose intended, will be at PCCA's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

Section 10.02 Records Retention

A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under each Service Order, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Service Order. Upon PCCA's request, Engineer shall provide a copy of any such item to PCCA at cost.

ARTICLE 11 INSURANCE

Section 11.01 Standard Insurance Policy Requirements

A. Without limiting the indemnity obligations or liabilities of Engineer or its insurers, provided herein, Engineer agrees to carry and maintain at its sole expense during the Term of this Agreement the following policies of insurance (individually, a "***Policy***" and, collectively, the "***Policies***") in at least the minimum amounts specified below.

B. At least five (5) days prior to execution of this Agreement by PCCA, Engineer will provide to PCCA's Risk Program Manager certificates of insurance issued by each insurance company providing any of the required insurance coverage, and the text entered in each certificate must be acceptable to PCCA. The requirement to provide acceptable certificates of insurance is a material condition of this Agreement, and work under this Agreement and any associated Service Order may not commence until such certificates of insurance have been received, reviewed, and accepted by PCCA.

TYPE OF INSURANCE

LIMITS OF LIABILITY

- | | | |
|----|------------------------------|---|
| 1. | Workers' Compensation | Statutory |
| 2. | Employer's Liability | \$1,000,000 per Occurrence
\$1,000,000 Aggregate |
| 3. | Commercial General Liability | \$1,000,000 per Occurrence
\$2,000,000 Aggregate |

The CGL Policy will provide contractual liability coverage at the aforementioned limits.

- | | | |
|----|-------------------------------|----------------------------|
| 4. | Business Automobile Liability | \$1,000,000 per Occurrence |
|----|-------------------------------|----------------------------|

Automobile liability insurance coverage will include all owned, non-owned, and hired vehicles.

- | | | |
|----|------------------------|-------------|
| 5. | Professional Liability | \$2,000,000 |
|----|------------------------|-------------|

Engineer will procure and maintain professional liability insurance for protection from claims arising out of performance of its Services under this Agreement caused by any error, omission, or act for which the Engineer is legally liable. Policies written on a claims-made basis shall have an extended reporting period of at least two (2) years beyond termination of the Agreement.

- | | | |
|----|--------------------|----------------------------|
| 6. | Umbrella Liability | \$5,000,000 per Occurrence |
|----|--------------------|----------------------------|

Umbrella liability coverage will apply to Employer's Liability, Commercial General Liability, and Business Automobile Liability.

Section 11.02 General Insurance Requirements

A. Each Policy, except Professional Liability, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the PCCA Parties. Additionally, the PCCA Parties shall be designated as an additional insured either by a blanket

additional insured or a specific endorsement on all Policies, except for Worker's Compensation, Employer's Liability, and Professional Liability.

B. In the event that the work of Engineer's employees falls within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or the Federal Employer's Liability Act, Engineer shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts even if not specifically required by the PCCA.

C. Each Policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the Policy is primary to any other insurance available to the additional insureds with respect to claims arising under this Agreement.

D. The insurance required as listed above, shall apply to any Consultant performing for or on behalf of Engineer, and Engineer shall ensure that any such Consultant is aware of and complies with the insurance requirements during any period such Consultant is performing work under this Agreement.

E. The minimum insurance required may be increased periodically upon request by PCCA to commercially reasonable limits. The company writing each of the Policies must possess a current rating with A.M. Best Company of at least "A-, VII".

F. Engineer's liability shall not be limited to the specified amounts of insurance required herein.

ARTICLE 12 RELEASE, INDEMNIFICATION AND MUTUAL WAIVER

Section 12.01 Release by Engineer

A. To the fullest extent permitted by Laws and Regulations, Engineer hereby releases and discharges the PCCA Parties from liability for and assumes the risk of loss or damage to the property of Engineer and the injury or death of any person employed by Engineer.

Section 12.02 Indemnification by Engineer

A. To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless the PCCA Parties from all damages, losses, costs and expenses, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable consultants' and attorneys' fees) (collectively, "Damages") arising from third-party claims or actions relating to this Agreement, any Service Order, or any Specific Project, but only to the extent that the Damages are caused by or result from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer or the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

B. Engineer's indemnity obligations under this Article 12 shall not be limited by a limitation on the amount or type of damages, compensation or benefits owed by Engineer to any employee of Engineer under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts.

C. The obligations of the Engineer under this Article 12 shall survive the end of the Term of this Agreement.

Section 12.03 Percentage Share of Negligence

A. The Engineer's total liability to the PCCA Parties for any Damages caused in part by the negligence of the Engineer Parties and in part by the negligence of the PCCA Parties or any other negligent entity or individual, shall not exceed the percentage share that the negligence of the Engineer Parties bears to the total negligence of all negligent parties.

Section 12.04 Mutual Waiver

A. To the fullest extent permitted by law, PCCA and Engineer waive against each other, and the other's employees, officers, Port Commissioners, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Service Order, or a Specific Project, from any cause or causes.

ARTICLE 13 DISPUTE RESOLUTION

A. In the event a dispute arises between the Parties regarding the application or interpretation of, or in any way relating to, this Agreement, the Parties agree to attempt to resolve all such disputes arising hereunder promptly, equitably and in a good faith manner. If the Parties shall have failed to resolve the dispute within the ten (10) Business Days after any written notice of the dispute has been received by the other Party, then either Party may elect to refer the dispute to the respective upper management of the Parties by notice in writing to the other Party, and the appropriate upper management of the Parties shall meet within the ten (10) Business Days after the date of the notice, to resolve the dispute. If the dispute is not resolved within five (5) Business Days after such a meeting has commenced (but in any event within ten (10) Business Days after the date of the letter referring the matter to upper management), then either Party may at any time thereafter resort to mediation, under the remaining provisions of this Article.

B. PCCA and Engineer 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 Agreement before a mediator to be agreed upon by PCCA and Engineer. PCCA and Engineer must use their best efforts to agree upon a mediator within fifteen (15) Business Days after a written request for mediation by either Party, and if PCCA and Engineer are unable to agree upon a mediator within such time either Party may request that the American Arbitration Association appoint a mediator. The mediator will schedule a mediation meeting at a time and place determined by the mediator. PCCA and Engineer

will each pay one-half of the costs of mediation to the mediator. Any mediation shall not extend beyond thirty (30) days after the appointment of the mediator, and should the Parties fail to resolve any dispute by mediation within such 30-day period, the Parties shall have all rights available under this Agreement and at law or in equity.

ARTICLE 14 GENERAL PROVISIONS

Section 14.01 Severability

If any part of this Agreement is held to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any other provision of this Agreement, and this Agreement shall then be construed as if the invalid, illegal, or unenforceable provision had not been included in this Agreement.

Section 14.02 No Waiver

Any waiver, expressed or implied, by either PCCA or Engineer to any breach of any agreement, covenant or obligation contained in this Agreement shall operate as such only in the specific instance, and shall not be construed as waiver to any subsequent breach of such agreement, covenant or obligation.

Section 14.03 Applicable Law

THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. PCCA and Engineer agree that if any controversy or claim arising out of or related to this Agreement cannot be resolved pursuant to and in accordance with the deadlines set forth in Article 13, then either Party may elect to resolve the controversy or claim through litigation filed and maintained in the federal or state courts located in Corpus Christi, Nueces County, Texas. PCCA and Engineer each submits to the exclusive jurisdiction of said courts and waives the right to change venue.

Section 14.04 Agreement and Service Orders Control

In the event of a conflict between the wording of a Service Order and any purchase order issued by PCCA in connection with the Service Order, the wording of the Service Order will control.

Section 14.05 Amendment of Agreement

This Agreement may be changed or modified at the request of either the Engineer or PCCA, provided both Parties agree to the requested change, and a written amendment of this Agreement is prepared and executed by the Parties.

Section 14.06 Assignment

Neither PCCA nor Engineer may assign or transfer any rights under or interest in this Agreement without the written consent of the other.

Section 14.07 No Third-Party Beneficiaries

This Agreement will be for the sole and exclusive benefit of PCCA and Engineer and not for the benefit of any other party, person, or entity. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by PCCA or Engineer to any Consultant, Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

Section 14.08 Force Majeure

In the event either Party 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 (herein "*force majeure*"), such Party shall be excused for the period of time equivalent to the delay caused by such *force majeure*, or the Agreement may be terminated in accordance with terms herein should such delay be sufficient that termination is in the best interest of the PCCA.

Section 14.09 Public Disclosure

PCCA is a political subdivision of the state of Texas 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, PCCA is required to disclose to the public (upon request) this Agreement, the Service Orders issued hereunder, and certain other information and documents relating to the services contemplated hereby. In this regard, Engineer agrees that the disclosure of this Agreement, the Service Orders issued hereunder, or any other information or materials related to the services contemplated hereby, to the public by PCCA as required by the Texas Open Meetings Act, the Texas Public Information Act, or any other law will not expose PCCA (or any party acting by, through or under PCCA) to any claim, liability, or action by Engineer.

Section 14.10 Confidentiality

Engineer will keep confidential all information in whatever form produced, prepared, observed or received from PCCA to the extent that such information is: (a) confidential by law; (b) marked or designated "Confidential" or words to that effect; or (c) information that Engineer is otherwise required to keep confidential by this Agreement. Notwithstanding the above, Engineer will be permitted to disclose any information required by law or court order.

Section 14.11 Certificate of Interested Parties

Engineer will comply with the provisions of Section 2252.908 of the Texas Government Code and Chapter 46 of the Texas Ethics Commission Rules by preparing a Texas Form 1295, "Certificate of Interested Parties" and submitting the signed and notarized form to PCCA at the time Engineer submits the signed Agreement to PCCA. A separate Form 1295 may be required for subsequent Service Orders, as required by the referenced code and rules issued thereunder.

Section 14.12 Engineer's Certificate

Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing this Agreement. For the purposes of this Section 14.12:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the execution of the Agreement;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of PCCA, or (b) to deprive PCCA of the benefits of free and open competition;
3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

Section 14.13 No Organizational Conflict of Interest

Engineer hereby certifies that it has no actual or potential Organizational Conflict of Interest. "***Organizational Conflict of Interest***" means that because of other activities or relationships with other persons or entities, the Engineer is unable or potentially unable to render impartial assistance or advice to PCCA or the Engineer's objectivity in performing the services under this Agreement and related Service Orders is or might otherwise be impaired. Engineer agrees to immediately notify PCCA of any actual or potential Organizational Conflict of Interest that develops during the Term of this Agreement. Engineer agrees that PCCA may terminate this Agreement immediately if it becomes aware of any Organizational Conflict of Interest during the term of the Agreement.

Section 14.14 Defamation

The Parties covenant and agree that in no event, and at no time during the Term of this Agreement or at any time thereafter, shall either of them disparage, denigrate, slander, libel or otherwise defame the other or the other's businesses, services, properties or assets, or employees, personnel, agents, or representatives.

Section 14.15 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 Agreement.

Section 14.16 Attorneys' Fees; Default

In the event Engineer or PCCA breach any of the terms of this 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 reasonable attorney's fees and costs incurred by the prevailing Party.

ARTICLE 15 EXHIBITS

Section 15.01 Suggested Form of Service Order

The Suggested Form of Service Order is attached as Attachment One, and shall be used as the basis for preparing a specific Service Order for each Specific Project under this Agreement.

Section 15.02 Exhibits Included

A. **Exhibit A**, *Engineer's Services for Service Order*. Services, tasks, and terms in **Exhibit A** as included with this Agreement are for reference in preparing the scope of services for specific Service Orders, and are contractually binding only to the extent expressly incorporated in a specific Service Order.

B. **Exhibit B**, *Engineer's Standard Hourly Rates for Work performed under the Service Order*. This Exhibit, as updated from time to time, applies to all Service Orders.

C. **Exhibit C**, *Engineer's Reimbursable Expenses Schedule for costs incurred by Engineer when performing Work under the Service Order*. The terms of **Exhibit C** that will be applicable to and govern compensation under a specific Service Order will be determined by the selection of compensation methods made in Paragraph 5, "*Payments to Engineer*," of the specific Service Order.

D. **Exhibit D**, *Duties, Responsibilities and Limitations of Authority of Resident Project Representative*. This Exhibit is not contractually binding except when expressly incorporated in a specific Service Order.

E. **Exhibit E**, *Notice of Acceptability of Work*. Engineer shall use this Notice of Acceptability of Work form at the conclusion of construction on a Specific Project if the form is expressly incorporated by reference in a specific Service Order, and Engineer's scope of services in the specific Service Order includes providing such a Notice.

F. **Exhibit E**, *Amendment to Service Order*. PCCA and Engineer may use this form during a Specific Project to modify the specific Service Order.

[Signature page follows this page]

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

PCCA:

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

By: _____

Name: Sean C. Strawbridge

Title: Chief Executive Officer

Date Signed: _____

Address for giving notice:

222 Power Street
Corpus Christi, Texas 78401
Attention: Director of Engineering Services

PCCA's Contract Representative:

David L. Krams, P.E.

Title: Director of Engineering Services

Phone Number: 361-885-6134

Facsimile Number: 361-881-5161

E-Mail Address: krams@pocca.com

Engineer:

Govind Development, LLC

By: 

Name: AJMER KULAR

Title: VICE PRESIDENT

Date Signed: 3/1/18

Address for giving notice:

9510 Leopard St.
Corpus Christi, Texas 78401

Engineer's Contract Representative:

Ajmer S. Kular, P.E.

Title: Vice President

Phone Number: 361/241-2777

Facsimile Number: 361/241-2200

E-Mail: akular@govinddevelopment.com

This document is based in part on excerpts from EJCDC® E-505, Copyright © 2014 by the National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. Those portions of the text that originated in copyrighted EJCDC documents remain subject to the copyright.

**ATTACHMENT ONE
TO MASTER SERVICES AGREEMENT NO. 18-02**

**SERVICE ORDER
PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 18-02**

PROJECT NAME *(Insert Project name)*
PROJECT NO. *(Insert Project number)*
SERVICE ORDER NO. *(Insert Service Order number)*
COMMENCEMENT DATE *(Insert Commencement Date of Service Order)*

This Service Order is executed by any between the Port of Corpus Christi Authority of Nueces County, Texas (“PCCA”) and Govind Development, LLC (“**Engineer**”). PCCA and Engineer agree that all of the Services authorized by this Service Order shall be subject to the terms and conditions of PCCA’s Master Services Agreement No. 18-02 between PCCA and Engineer, as amended (“**Agreement**”). Upon execution of this Service Order, the Agreement shall be incorporated into and be considered part of this Service Order as if set forth herein in its entirety. Any capitalized terms in this Service Order that are not defined herein shall have the meanings given to them in the Agreement. If there is any inconsistency between the terms of this Service Order and the terms of the Agreement, the terms of this Service Order will control.

Engineer will provide the Services described in the Services of Engineer below in connection with the Specific Project described below.

1. Description of Specific Project:

[Insert a paragraph that describes the Specific Project that is the subject of this Service Order.]

2. Services of Engineer (Scope of Services)

A. The specific services to be provided or furnished by Engineer under this Service Order are: *[Select one of the following options and delete the other.]*

- ☐ set forth in “Part 1—Services” of **Exhibit A**, “*Engineer’s Services for Service Order*,” modified for this specific Service Order, and attached to and incorporated as part of this Service Order.

[or]

- ☐ as follows: [] *[Note: Insert detailed scope of services here.]*

B. Resident Project Representative (RPR) Services

If the scope of services established in Paragraph 2.A above includes RPR services, then **Exhibit D** of the Agreement is expressly incorporated in this Service Order by reference. The RPR shall provide *[Select one of the following options]:*

- ☐ full time representation; or
- ☐ part time representation as follows: _____.

[1. If RPR services are not in the scope of this Service Order, do not include any references to RPR services in Exhibit A (Paragraph A1.05(A)(1)) for this Service Order (or state “Does not apply” or similar), or in any other scope of services text or document.

2. If appropriate, modify Exhibit D for this specific Service Order, and attach it, rather than incorporating the Exhibit D that is included with the Agreement.]

C. Designing to a Construction Cost Limit

[If the design under this Service Order will be governed by a Construction Cost Limit, then include the following clause, with blanks filled in; if not, then delete the clause or indicate “Does not apply” or similar.]

Under this Service Order, Engineer will design to a Construction Cost Limit, subject to the terms of Section 7.03 of the Agreement. The Construction Cost Limit is \$_____. The bidding or negotiating contingency to be added to the Construction Cost Limit is _____ percent per PCCA’s Contingency Guidelines for General or Marine or Rehabilitation projects accordingly.

D. Other Services

Engineer shall also provide the following services:

[Summarize or provide a brief description of other services (if any) that are to be provided by Engineer, but have not been addressed in Paragraphs 2.A through 2.C.]

3. PCCA's Responsibilities

PCCA shall have those responsibilities set forth in Section 5.01 of the Agreement, subject to the following: *[State any additions or modifications to Section 5.01 for this Specific Project here.]*

4. Service Order Schedule

In addition to any schedule provisions provided in **Exhibit A** or elsewhere, the parties shall meet the following schedule: *[Revise and amend for each specific Service Order.]*

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish [] review copies of the Report and other Study and Report Phase deliverables to PCCA.	Within [] days of the Commencement Date of the Service Order.
PCCA	Submit comments regarding Report and other Study and Report Phase deliverables to Engineer.	Within [] days of the receipt of Report and other Study and Report Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised Report and other Study and Report Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Report and other Study and Report Phase deliverables.
Engineer	Furnish [] review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of PCCA's authorization to proceed with Preliminary Design Phase services.
PCCA	Submit comments regarding Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	Within [] days of the receipt of Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish [] copies of the 60% Design documents, updated opinion of probable Construction Cost, and other 60% Design deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the 60% Design documents, updated opinion of probable Construction Cost, and other 60% Design deliverables.

Engineer	Furnish [] copies of the 90% Design documents, updated opinion of probable Construction Cost, and other 90% Design deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the 90% Design documents, updated opinion of probable Construction Cost, and other 90% Design deliverables.
Engineer	Furnish [] copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design deliverables, to PCCA.	Within [] days of PCCA's authorization to proceed with Final Design Phase Services.
PCCA	Submit comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Engineer.	Within [] days of the receipt of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised final Drawings and Specifications, assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to PCCA.	Within [] days of the receipt of PCCA's comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables

Should PCCA not return comments and/or instructions in the time listed in the schedule, the Engineer's schedule for subsequent items will be extended by the same number of days by which PCCA comments or instructions exceed the scheduled review with no further recourse by the Engineer against PCCA.

5. Method of Compensation

A. PCCA shall pay Engineer for services rendered under this Service Order using the following method of compensation: *[Select one of the following options.]*

- ☐ Lump Sum plus Named Reimbursable Expenses, if any; or
☐ Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price.

B. If this is a Lump Sum Service Order, PCCA shall pay Engineer the following lump sum amount for the services described in this Service Order: \$_____. In addition, PCCA shall reimburse Engineer for the following Named Reimbursable Expenses (if any): _____.

C. If this is an Hourly Rates Service Order, the Ceiling Price for this Service Order is \$_____.

D. If this is an Hourly Rates Service Order, the estimated amount of compensation payable for each category of services rendered under this Service Order is as follows:

*[Notes: 1. Delete line items that do not apply to this Service Order.
2. Cross-references are to Exhibit A. Revise if necessary, or delete cross-references if Exhibit A is not used to establish the scope of services under this Service Order.]*

Description of Service	Amount
Study and Report Phase (A1.01 of Ex. A)	\$[]
Preliminary Design Phase (A1.02 of Ex. A)	\$[]
Final Design Phase (A1.03 of Ex. A)	\$[]
Bidding or Negotiating Phase (A1.04 of Ex. A)	\$[]
Construction Phase (A1.05 of Ex. A)	\$[]
Resident Project Representative Services (A1.05(A)(1) of Ex. A)	\$[]
Post-Construction Phase (A1.06 of Ex. A)	\$[]
Commissioning Phase (A1.07 of Ex. A)	\$[]
Other Services (list as appropriate) (A2.01 of Ex. A)	\$[]
ESTIMATED TOTAL COMPENSATION	\$[]

E. The terms of payment are set forth in Article 4 of the Agreement.

6. Consultants retained or that will be retained as of the Commencement Date of the Service Order: *[List name of Consultants, if any]*

7. Other Modifications to the Agreement or the Exhibits to the Agreement:

[Supplement or modify the Agreement and Exhibits, if appropriate.]

8. Insurance Requirements:

In addition to the standard insurance requirements set forth in Section 11.01 of the Agreement, Engineer shall maintain the following additional insurance coverage described in Section 11.02 of the Agreement for as long as Engineer is providing services under this Service Order:

[Select the appropriate Policies]

- ☐ A. Contractor's Pollution Liability \$2,000,000 per Occurrence
(applicable if Professional Services involve work in/to areas of known or suspected contamination)
- ☐ B. Railroad Protective Liability \$1,000,000 per Occurrence
 \$2,000,000 Aggregate
(applicable if work is to be conducted within 50 ft. of any railroad property, railroad bridge, track and/or trestle)
- ☐ C. Protective and Indemnity \$1,000,000 per occurrence
(applicable if any work requires marine operations; i.e., operation or ownership of a vessel)

9. Exhibits or Attachments to this Service Order:

10. Documents (other than the Agreement) Incorporated by Reference:

11. Terms and Conditions

Execution of this Service Order by PCCA and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Service Order signed by PCCA.

[Signature page follows this page]

IN WITNESS WHEREOF, each Party has executed this Service Order effective for all purposes as of the Commencement Date.

PCCA:

Engineer:

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

Govind Development, LLC

By:_____

By:_____

Name: _____

Name:_____

Title: _____

Title:_____

Date Signed:_____

Date Signed:_____

Address for giving notice:

222 Power Street
Corpus Christi, Texas 78401
Attention: Director of Engineering Services

Address for giving notice:

9510 Leopard St.
Corpus Christi, Texas 78401

PCCA's Designated Representative:

Engineer's Designated Representative:

Title:

Title:_____

Phone Number:

Phone Number:_____

Facsimile Number:

Facsimile Number:_____

E-Mail Address:

E-Mail Address:_____

EXHIBIT A ENGINEER'S SERVICES FOR SERVICE ORDER

[Introductory Note to User: The parties should prepare a specific, modified Exhibit A for each specific Service Order, state the scope of services for the Specific Project directly in the specific Service Order, or incorporate all or portions of Exhibit A by reference.]

The following text as published describes a variety of services that may be included, in whole or in part, in a specific Service Order issued under the Agreement. Until this exhibit is customized for inclusion in a specific Service Order, or some or all of the exhibit is incorporated in a specific Service Order by reference, it has no legal or contractual effect.

Not all possible services are included in this exhibit. Language provided is intended to provide a basic framework, ideas for inclusion, and to avoid omissions; none, any, or most of this language may be applicable to a Specific Project. The user should revise and supplement the descriptions of services provided here for purposes of drafting the scope of Engineer's Services for each specific Service Order.]

PART 1—SERVICES

A1.01 Study and Report Phase Services

A. As Study and Report Services, Engineer shall:

1. If PCCA has already identified one or more potential solutions to meet its Specific Project requirements, Engineer will proceed with the study and evaluation of: *[List the specific potential solutions here.]*
2. If PCCA has not identified specific potential solutions to meet its Specific Project requirements, Engineer will identify up to ____ potential solution(s) and then proceed with the study and evaluation of these potential solution(s).
3. Visit the Site, or potential Specific Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
4. Advise PCCA of any need for PCCA to obtain, furnish, or otherwise make available to Engineer additional Specific Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to PCCA's Specific Project requirements, and preparation of a related report.
5. After consultation with PCCA, recommend to PCCA the solution(s) which in Engineer's judgment meet PCCA's requirements for the Specific Project.
6. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Specific Project to be designed or

specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Specific Project.

7. Prepare a report (the “**Report**”) which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer’s recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by PCCA, a tabulation of other items and services included within the definition of Total Project Costs.
 8. Review available survey, geotechnical, environmental, and other data and recommend additional investigations, studies, tests, professional services that may be required to support design of the alternatives.
 9. When mutually agreed, assist PCCA in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of PCCA’s facilities.
 10. If requested to do so by PCCA, assist PCCA in identifying opportunities for enhancing the sustainability of the Specific Project, and pursuant to PCCA’s instructions plan for the inclusion of sustainable features in the design.
 11. Pursuant to the Service Order schedule, furnish the required number of review copies of the Report and any other Study and Report Phase deliverables to PCCA, and review it with PCCA. PCCA shall submit to Engineer any comments regarding the furnished items within the time established in the Service Order schedule.
 12. Pursuant to the Service Order schedule, revise the Report and any other Study and Report Phase deliverables in response to PCCA’s comments, as appropriate, and furnish the required number of copies of the revised Report and any other Study and Report Phase deliverables to the PCCA.
- B. Engineer’s services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to PCCA the revised Report and any other Study and Report Phase deliverables.

A1.02 *Preliminary Design Phase*

A. Engineer shall:

1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Specific Project.

2. In preparing the Preliminary Design Phase documents, use any specific applicable Specific Project Strategies, Technologies, and Techniques authorized by PCCA during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to PCCA's instructions.
3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by PCCA pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.
4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
5. Advise PCCA if additional reports, data, information, or services necessary so support final design and assist PCCA in obtaining such reports, data, information, or services. Include as appropriate scope for:
 - (a) geotechnical for investigation
 - (b) topographical surveys
 - (c) utility mapping
6. Continue to assist PCCA with Specific Project Strategies, Technologies, and Techniques that PCCA has chosen to implement.
7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist PCCA in tabulating the various cost categories which comprise Total Project Costs.
8. Pursuant to the Service Order schedule, furnish the required number of review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to PCCA, and review them with PCCA. Within the time established in the Service Order schedule, PCCA shall submit to Engineer any comments regarding the furnished items.
9. Pursuant to the Service Order schedule, revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to PCCA's comments, as appropriate, and furnish to PCCA the required number of copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and revised estimate of design and related professional services, and any other Preliminary Design Phase deliverables.

- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to PCCA the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 *Final Design Phase*

A. Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
3. Provide technical criteria, written descriptions, and design data for PCCA's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist PCCA in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
4. Advise PCCA of any recommended adjustments to the opinion of probable Construction Cost as design progresses.
5. Assist PCCA in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
6. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from PCCA.
7. Prepare or assemble 60% Design documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.
8. Prepare or assemble 90% Design and bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.
9. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.

10. Pursuant to the Service Order schedule, furnish for review by PCCA, the required number of copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, and review them with PCCA. Within the time required by the Service Order schedule, PCCA shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions sealed by Registered Professional Engineer licensed to practice in the State of Texas.
 11. Pursuant to the Service Order schedule, revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the PCCA, as appropriate, and submit the required number of final copies of such documents to PCCA after receipt of PCCA's comments and instructions.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to PCCA the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

A1.04 *Bidding or Negotiating Phase*

A. Engineer shall:

1. Attend pre-bid conference and provide a presentation of the technical aspect of the project.
2. Prepare and issue Addenda as appropriate, and as requested by PCCA, to clarify, correct, or change the issued documents.
3. Provide information or assistance needed by PCCA in the course of any review of proposals or negotiations with prospective contractors.
4. Consult with PCCA as to the qualifications of prospective contractors.
5. Consult with PCCA as to the qualifications of Subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.01(A)(16) of this **Exhibit A**.

7. Attend the bid opening, and assist PCCA in evaluating bids or proposals, assembling final contracts for the Work for execution by PCCA and Contractor, and in issuing notices of award of such contracts.
 8. If PCCA engages in negotiations with bidders or proposers, assist PCCA with respect to technical and engineering issues that arise during the negotiations.
 9. Engineer shall prepare and submit issued for construction drawings and specifications incorporating addenda issued during the Bid phase. Issued for Construction Drawings shall be sealed by Registered Professional Engineer licensed to practice in the State of Texas.
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if a Construction Cost limit is a part of this Service Order).

A1.05 Construction Phase

A. Engineer shall:

1. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in **Exhibit D**. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in **Exhibit D**. ***[If Engineer will not be providing the services of an RPR, then delete this Paragraph 2 by inserting the word "DELETED" after the paragraph title, and do not include Exhibit D in the Task Order.]***
2. *Selection of Independent Testing Laboratory:* Assist PCCA, as requested, in the selection of an independent testing laboratory to perform the testing services identified in the contract documents.
3. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.
4. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with PCCA and Contractor jointly develop such protocols for transmittals between and among PCCA, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
5. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.

6. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
7. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - (a) Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep PCCA informed of the progress of the Work.
 - (b) The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for PCCA a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
8. *Defective Work:* Recommend rejection of Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to PCCA regarding whether Contractor should correct such Work or remove and replace such Work, or whether PCCA should consider accepting such Work as provided in the Construction Contract Documents.
9. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set

forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform PCCA of such incompatibility, and provide recommendations for addressing such Work.

10. *Clarifications and Interpretations:* Accept from Contractor and PCCA submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or an amendment or supplement to the Construction Contract Documents.
11. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to PCCA, as appropriate, and support preparation of Change Orders and Work Change Directives as required.
12. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews, obtain information, and prepare findings, conclusions, and recommendations for PCCA's use, subject to the limitations and responsibilities under the Agreement and the Construction Contract.
13. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
14. *Substitutes and "or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.
15. *Inspections and Tests:*
 - (a) Receive and review certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.

- (b) Pursuant to the terms of the Construction Contract, recommend additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
16. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to PCCA and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to PCCA regarding engineering or technical matters pertaining to Claims.
17. *Applications for Payment:* As requested by PCCA, review Contractor's applications for payment and provide PCCA with a recommendation to pay, partially pay, or request a revised pay application.
18. *Contractor's Completion Documents:* As required and directed by PCCA, review, and transmit to PCCA maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided from Contractor. Review, and transmit to PCCA the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment.
19. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with PCCA and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, PCCA's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist PCCA regarding any remaining engineering or technical matters affecting PCCA's use or occupancy of the Work following Substantial Completion.
20. *Final Notice of Acceptability of the Work:* Conduct a final visit to the specific Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to PCCA and Contractor in the form attached hereto as **Exhibit E** ("**Notice of Acceptability of Work**") that the Work is acceptable.
21. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and

judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to PCCA or Contractor.

22. Preparing Record Drawings, and furnishing such Record Drawings to PCCA.
 23. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, PCCA, utility companies, and other reliable sources.
 24. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, PCCA, utility companies, and other sources; revise and supplement Record Drawings as needed.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Specific Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the specific Project involves more than one prime contract then Construction Phase services may be rendered at different times in respect to the separate contracts.

A1.06 *Post-Construction Phase*

- A. Upon written authorization from PCCA during the Post-Construction Phase, Engineer shall:
1. Together with PCCA, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of Defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist PCCA in consultations and discussions with Contractor concerning correction of any such Defective Work and any needed repairs.
 2. Together with PCCA, visit the Project within one month before the end of the Construction Contract's Correction Period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
- B. The Post-Construction Phase services may commence during the Construction Phase and will terminate twelve months after the commencement of the Construction Contract's Correction Period.

A1.07 *Commissioning Phase*

- A. Engineer shall:
1. Assist PCCA in connection with the adjusting of Specific Project equipment and systems.

2. Assist PCCA in training PCCA's staff to operate and maintain Specific Project equipment and systems.
3. Prepare operation and maintenance manuals.
4. Assist PCCA in developing procedures for (a) control of the operation and maintenance of Specific Project equipment and systems, and (b) related record-keeping.
5. Prepare and furnish to PCCA, in the format agreed to, Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.

PART 2—OTHER SERVICES

A2.01 *Other Services Required to be Listed in the Service Order*

- A. Each specific Service Order may include Services that do not fit into the categories described in Part 1, such as the types of Services listed in this Part 2. Such services should be expressly stated in the specific Service Order itself.
 1. Preparation of applications and supporting documents (in addition to those furnished under Services) for private or governmental grants, loans, or advances in connection with the Specific Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Specific Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Specific Project.
 2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by PCCA or others.
 3. Services resulting from significant changes in the scope, extent, or character of the portions of the Specific Project designed or specified by Engineer, or the Specific Project's design requirements, including, but not limited to, changes in size, complexity, PCCA's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Commencement Date of the Service Order or are due to any other causes beyond Engineer's control.
 4. Providing renderings or models for PCCA's use, including services in support of building information modeling or civil integrated management.
 5. Undertaking investigations and studies including, but not limited to:
 - a) detailed consideration of operations, maintenance, and overhead expenses;

- b) based on the engineering and technical aspects of the Project, the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c) evaluating processes available for licensing, and assisting PCCA in obtaining process licensing;
 - d) detailed quantity surveys of materials, equipment, and labor; and
 - e) audits or inventories required in connection with construction performed or furnished by PCCA.
6. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by PCCA; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
 7. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Section 3.02.
 8. Preparation of operation, maintenance, and staffing manuals.
 9. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
 10. Assistance to PCCA in training PCCA's staff to operate and maintain Specific Project equipment and systems.
 11. Assistance to PCCA in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
 12. Preparing to serve or serving as a consultant or witness for PCCA in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project.
 13. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05(A)(6), and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
 14. Provide assistance in responding to the presence of any Constituent of Concern at any Site, in compliance with current Laws and Regulations.

15. Services in connection with Work Change Directives and Change Orders to reflect changes requested by PCCA.
16. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
17. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
18. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
19. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.

EXHIBIT B
TO MASTER SERVICES AGREEMENT NO. 18-02

Standard Hourly Rates Schedule

The Standard Hourly Rates Schedule for Services performed under this Agreement is:

GOVIND DEVELOPMENT, LLC

**Professional Services - Schedule of Hourly Rates by
Personnel Classifications**

Effective January 1, 2018 - December 31, 2018

	EXEMPT(E)		
CLASSIFICATION	HOURLY(H)	Standard Time RATE	Over Time RATE
Project Consultant II	E	\$199.50	\$199.50
Project Consultant I	E	\$178.50	\$178.50
Project Manager II	E	\$136.50	\$136.50
Project Manager I	E	\$122.85	\$122.85
Project Engineer / Coordinator	E	\$105.00	\$105.00
Project Engineer / Coordinator	E	\$94.50	\$94.50
Project Engineer / Coordinator	E	\$84.00	\$84.00
Project Engineer / Coordinator	E	\$73.50	\$73.50
Engineer VII	E	\$190.00	\$190.00
Engineer VI	E	\$162.75	\$162.75
Engineer V	E	\$141.75	\$141.75
Engineer IV	E	\$105.00	\$105.00
Engineer III	E	\$94.50	\$94.50
Engineer II	E	\$84.00	\$84.00
Engineer I	E	\$73.50	\$73.50
Designer V	E	\$136.50	\$136.50
Designer IV	H	\$115.50	\$147.26
Designer III	H	\$94.50	\$120.49
Designer II	H	\$89.25	\$113.80
Designer I	H	\$68.25	\$87.02
Technician III	H	\$63.00	\$80.33
Technician II	H	\$47.25	\$60.24
Technician I	H	\$36.75	\$46.86
Document Control III	H	\$73.50	\$93.71
Document Control II	H	\$63.00	\$80.33
Document Control I	H	\$42.00	\$53.55
Secretary III	H	\$67.20	\$85.68
Secretary II	H	\$54.60	\$69.62
Secretary I	H	\$42.00	\$53.55
Controls Manager	E	\$109.20	\$109.20
Project Estimator III	H	\$115.50	\$147.26
Project Estimator II	H	\$94.50	\$120.49
Project Estimator I	H	\$73.50	\$93.71

EXHIBIT B (continued)
TO MASTER SERVICES AGREEMENT NO. 18-02

GOVIND DEVELOPMENT, LLC

Professional Services - Schedule of Hourly Rates by
Personnel Classifications

Effective January 1, 2018 - December 31, 2018

	EXEMPT(E)		
CLASSIFICATION	HOURLY(H)	Standard Time RATE	Over Time RATE
Project Planner/Scheduler III	E	\$126.00	\$126.00
Project Planner/Scheduler II	H	\$105.00	\$133.88
Project Planner/Scheduler I	H	\$84.00	\$107.10
Clerk II	H	\$42.00	\$53.55
Clerk I	H	\$31.50	\$40.16
Architect	E	\$147.00	\$147.00
Construction Manager	E	\$120.75	\$120.75
Construction Coordinator	H	\$88.20	\$112.46
Safety Manager	H	\$84.00	\$107.10
Safety Coordinator	H	\$67.20	\$85.68
Registered Surveyor	E	\$141.75	\$141.75
Survey Chief	H	\$96.60	\$123.17
Survey Crewman	H	\$63.00	\$80.33

* (Includes All Equipment, Vehicles & Stakes)

** (Includes Boat & Equipment)

EXHIBIT C
TO MASTER SERVICES AGREEMENT NO. 18-02

Reimbursable Expenses Schedule

The Reimbursable Expenses Schedule for Services performed under the Agreement is:

Fax	<u>\$0.12</u> /Page
Copies 8½" x 11"	<u>\$0.10</u> /Page
Copies of Drawings 24" x 36"	<u>\$0.50</u> /Sheet
Copies of Drawings 11" x 17"	<u>\$0.20</u> /Sheet
Mileage	<u>\$0.55</u> /Mile
Survey Equipment: Total Station	<u>\$ 60.00</u> /Hour
Survey Equipment: Faro Scanner	<u>\$ 450.00</u> /Hour
Survey Equipment: Line Locator	<u>\$ 50.00</u> /Hour
Confined Space Equipment	\$ NA/Day + Expenses
CAD Charge	\$ N/A /Hour
Soil Gas Kit	\$ N/A /Day
Soil Sampling	\$ N/A /Sample
Groundwater Sampling	\$ N/A /Sample
Consultants	At Cost
Long Distance Phone Calls	At Cost
Meals & Lodging	At Cost
Travel Expenses (other than mileage)	At Cost

EXHIBIT D
TO MASTER SERVICES AGREEMENT NO. 18-02

**SCHEDULE OF DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY
OF RESIDENT PROJECT REPRESENTATIVE**

The following duties, responsibilities, and limitations of authority may be incorporated in the Service Order for a Specific Project:

Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative (“**RPR**”) to assist Engineer in observing progress and quality of the Work. The RPR shall provide full-time or part-time representation as indicated in the Service Order. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions.
- B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for PCCA against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of PCCA and the Contractor. RPR shall generally communicate with PCCA only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer and PCCA concerning acceptability of such schedules.
 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor’s safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison*
 - a. Serve as Engineer's and PCCA's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as PCCA's liaison with Contractor when Contractor's operations affect PCCA's on-Site operations.
 - c. Assist in obtaining from PCCA additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer and PCCA regarding such RFIs. Report to Engineer and PCCA when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's and PCCA's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer and PCCA. Transmit Engineer's and PCCA's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work*
 - a. Report to Engineer and PCCA whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract

Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer and PCCA of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer and PCCA for addressing such Work; and
- c. Advise Engineer and PCCA of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups*

- a. Consult with Engineer and PCCA in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate PCCA's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer and PCCA appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer and PCCA.

11. *Records*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more

detail as in the case of observing test procedures; and send copies to Engineer and PCCA.

- c. As requested by PCCA to Engineer, photograph or video work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Specific Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer and PCCA.

12. *Reports*

- a. Furnish to Engineer and PCCA periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer and PCCA proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and PCCA copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer and PCCA of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to PCCA, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Construction Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Construction Contract Documents, and have these documents delivered to Engineer for review and forwarding to PCCA prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's and PCCA's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion, submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's and PCCA's visit to the Site in the company of, PCCA, and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer and PCCA concerning acceptance and issuance of the Notice of Acceptability of the Work (**Exhibit E**).

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of PCCA or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer and/or PCCA.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

EXHIBIT E
TO MASTER SERVICES AGREEMENT NO. 18-02

NOTICE OF ACCEPTABILITY OF WORK

PROJECT TITLE:

PCCA PROJECT NUMBER:

MASTER SERVICES AGREEMENT NO.:

SERVICE ORDER NO.:

DATE OF CONSTRUCTION AGREEMENT:

DATE OF NOTICE

To: Port of Corpus Christi Authority (PCCA)

And To: *(Insert name of Contractor)* (Contractor)

From: *(Insert name of Engineer)* (Engineer)

The undersigned (Engineer) hereby gives notice to PCCA and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Construction Contract Documents and the terms and conditions set forth on the reverse side hereof. Engineer further recommends PCCA issue a Notice of Final Acceptance to the Contractor.

Engineer: _____

By: _____

Name: _____

Title: _____

Date: _____

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work (“**Notice**”) on the front side of this sheet is expressly made subject to the following terms and conditions to which all persons who receive said notice and rely thereon agree:

1. Said Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. Said Notice reflects and is an expression of the professional judgment of Engineer.
3. Said Notice is given as to the best of Engineer’s knowledge, information, and belief as of the date hereof.
4. Said Notice is based entirely on and expressly limited by the Scope of Services Engineer has been employed by PCCA to perform or furnish during construction of the Project (including observation of the Contractor’s Work) under Engineer’s Agreement with PCCA and under the Construction Contract referenced on the reverse hereof, and applies only to facts that are within Engineer’s knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under Engineer’s Agreement with PCCA and the Construction Contract referenced on the reverse hereof.
5. Said Notice affirms Contractor’s performance under the Construction Contract referenced on the reverse hereof but is not an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents.
6. Said Notice affirms that the design of the Project complies with all City of Corpus Christi building codes regardless of whether or not the Project is located within the city limits of the City of Corpus Christi.

EXHIBIT F
TO MASTER SERVICES AGREEMENT NO. 18-02
AMENDMENT TO SERVICE ORDER NO. _____

1. Background Data:

- a. Commencement Date of Service Order:
- b. PCCA:
- c. Engineer:
- d. Specific Project:

2. Description of Modifications

[Include the following paragraphs that are applicable and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Engineer shall perform the following Services: []
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Service Order and previous amendments, if any, is modified as follows: []
- c. The responsibilities of PCCA with respect to the Service Order are modified as follows: []
- d. For the additional services or the modifications to services set forth above, PCCA shall pay Engineer the following additional or modified compensation: []
- e. The schedule for rendering services under this Service Order is modified as follows: []
- f. Other portions of the Service Order (including previous amendments, if any) are modified as follows: []

[List other Attachments, if any]

3. Service Order Summary (Reference only)

- | | | |
|----|----------------------------------|-------|
| a. | Original Service Order amount: | \$[] |
| b. | Net change for prior amendments: | \$[] |
| c. | This amendment amount: | \$[] |
| d. | Adjusted Service Order amount: | \$[] |

The foregoing Service Order Summary is for reference only and does not alter the terms of the Service Order.

PCCA and Engineer hereby agree to modify the above-referenced Service Order as set forth in this Amendment. All provisions of the Agreement and Service Order not modified by this or previous Amendments remain in effect. The effective date of this Amendment is _____.

PORT OF CORPUS CHRISTI AUTHORITY

ENGINEER:

By: _____

By: _____

Title: _____

Title: _____

Date
Signed: _____

Date
Signed
: _____

**SERVICE ORDER
PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 18-02**

PROJECT NAME: *Fire Pressurization at Oil Docks 1, 2 and 15*
PROJECT NO.: *14-023A*
SERVICE ORDER NO. *1*
COMMENCEMENT DATE: *March 20, 2018*

This Service Order is executed by any between the Port of Corpus Christi Authority of Nueces County, Texas (“PCCA”) and *Govind Development, LLC* (“**Engineer**”). PCCA and Engineer agree that all of the Services authorized by this Service Order shall be subject to the terms and conditions of PCCA’s Master Services Agreement No. 18-02 between PCCA and Engineer, as amended (“**Agreement**”). Upon execution of this Service Order, the Agreement shall be incorporated into and be considered part of this Service Order as if set forth herein in its entirety. Any capitalized terms in this Service Order that are not defined herein shall have the meanings given to them in the Agreement. If there is any inconsistency between the terms of this Service Order and the terms of the Agreement, the terms of this Service Order will control.

Engineer will provide the Services described in the Services of Engineer below in connection with the Specific Project described below.

1. Description of Specific Project:

Fire Pressurization Upgrades at Oil Docks 1, 2, and 15

Services of Engineer (Scope of Services)

A. The specific services to be provided or furnished by Engineer under this Service Order are:

Set forth in “Part 1—Services” of **Exhibit A**, “*Engineer’s Services for Service Order*,” modified for this specific Service Order, and attached to and incorporated as part of this Service Order.

PCCA's Responsibilities

PCCA shall have those responsibilities set forth in Section 5.01 of the Agreement, subject to the following: **N/A**

Service Order Schedule

In addition to any schedule provisions provided in **Exhibit A** or elsewhere, the parties shall meet the following schedule:

Engineer will perform field visits as needed for construction oversight and as required for testing observation and reporting requirements.

Engineer shall provide weekly updates on status of visits to site and Contractor submittals of clarification and interpretations, differing site conditions, shop drawings and other submittals. Additionally, Engineer shall report on inspection and testing results and any proposed change proposals or claims.

Engineer shall provide record drawings to PCCA within 15 days of construction project completion.

Method of Compensation

A. PCCA shall pay Engineer for services rendered under this Service Order using the following method of compensation:

☐ Lump Sum plus Named Reimbursable Expenses, if any; or

☒ Standard Hourly Rates with a Ceiling Price.

B. If this is a Lump Sum Service Order, PCCA shall pay Engineer the following lump sum amount for the services described in this Service Order: \$ n/a. In addition, PCCA shall reimburse Engineer for the following Named Reimbursable Expenses (if any): *Not applicable*

C. If this is an Hourly Rates Service Order, the Ceiling Price for this Service Order is \$16,000.

D. If this is an Hourly Rates Service Order, the estimated amount of compensation payable for each category of services rendered under this Service Order is as follows:

Description of Service	Amount
Study and Report Phase (A1.01 of Ex. A)	\$[0.00]
Preliminary Design Phase (A1.02 of Ex. A)	\$[0.00]
Final Design Phase (A1.03 of Ex. A)	\$[0.00]
Bidding or Negotiating Phase (A1.04 of Ex. A)	\$[0.00]
Construction Phase (A1.05 of Ex. A)	\$[16,000]
Resident Project Representative Services (A1.05(A)(1) of Ex. A)	\$[0.00]
Post-Construction Phase (A1.06 of Ex. A)	\$[0.00]
Commissioning Phase (A1.07 of Ex. A)	\$[0.00]
Other Services (list as appropriate) (A2.01 of Ex. A)	\$[0.00]
Reimbursable Expenses	\$[0.00]
ESTIMATED TOTAL COMPENSATION	\$[16,000]

E. The terms of payment are set forth in Article 4 of the Agreement.

Other Modifications to the Agreement or the Exhibits to the Agreement:

Not applicable

Exhibits or Attachments to this Service Order: Exhibit A

Documents (other than the Agreement) Incorporated by Reference: N/A

Terms and Conditions

Execution of this Service Order by PCCA and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Service Order signed by PCCA.

[Signature page follows this page]

IN WITNESS WHEREOF, each Party has executed this Service Order effective for all purposes as of the Commencement Date.

PCCA:

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

By:_____

Name: Sean Strawbridge

Title: Chief Executive Officer

Date Signed:_____

Address for giving notice:

222 Power Street
Corpus Christi, Texas 78401
Attention: Director of Engineering Services

PCCA's Designated Representative:

Bert Perez

Title: Senior Project Engineer

Phone Number: 361/885-6132

Facsimile Number:_____

E-Mail: bert@pocca.com

Engineer:

Govind Development, LLC

By:_____

Name: Ajmer S. Kular, P.E.

Title: Vice President

Date Signed:_____

Address for giving notice:

9510 Leopard St.
Corpus Christi, Texas 78401

Engineer's Designated Representative:

Ajmer Kular, P.E.

Title: Vice President

Phone Number: 361/241-2777

Facsimile Number:_____

E-Mail: akular@govinddevelopment.com

EXHIBIT A
ENGINEER'S SERVICES FOR SERVICE ORDER

PART I – SERVICES

A1.05 *Construction Phase*

A. Engineer shall:

Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:

- (a) Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep PCCA informed of the progress of the Work.
- (b) The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for PCCA a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

Compatibility with Design Concept: If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design

concept of the completed Project as a functioning whole, then inform PCCA of such incompatibility, and provide recommendations for addressing such Work.

Clarifications and Interpretations: Accept from Contractor and PCCA submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or an amendment or supplement to the Construction Contract Documents.

Differing Site Conditions: Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews, obtain information, and prepare findings, conclusions, and recommendations for PCCA's use, subject to the limitations and responsibilities under the Agreement and the Construction Contract.

Shop Drawings, Samples, and Other Submittals: Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

Substitutes and "or-equal": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.

Inspections and Tests:

- (a) Receive and review certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
- (b) Pursuant to the terms of the Construction Contract, recommend additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

Change Proposals and Claims: (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after

receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to PCCA and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to PCCA regarding engineering or technical matters pertaining to Claims.

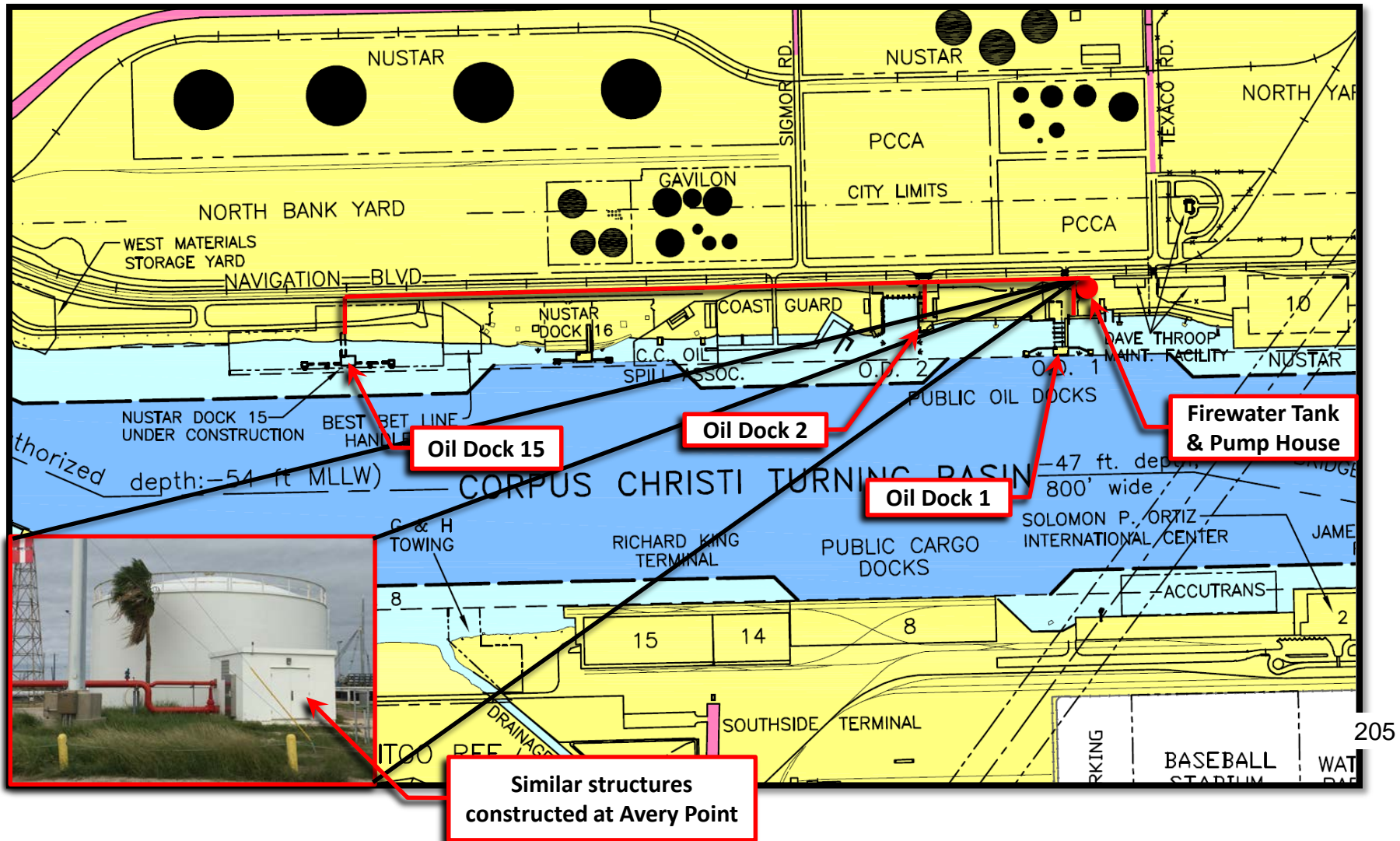
Preparing Record Drawings, and furnishing such Record Drawings to PCCA.



PORT CORPUS CHRISTI®

Moving America's Energy

Fire Pressurization at Oil Docks 1, 2 & 15



DATE: March 20, 2018
TO: Port Commission
FROM: Russell Cordo, Harbor Master
russell@pocca.com
(361) 885-6152

Approve Fifth Amendment to Professional Consulting Services Contract with AECOM for additional Scope of Work Related to the Waterway Planning Study

SUMMARY: Staff requests approval of the Fifth Amendment to Consulting Services Contract with AECOM in an amount of \$148,865 and time extension through October 31, 2018, to complete additional scope requests of the Waterway Planning Study of the Corpus Christi Ship Channel System.

BACKGROUND: The Port of Corpus Christi Authority issued a Request for Proposals (“RFP”) seeking a qualified firm to work with the Port Authority, the Aransas-Corpus Christi Pilots Association, the 8th District United States Coast Guard, Port Authority customers, terminal operators, and other industry partners to perform a Waterway Planning Study of the Corpus Christi Ship Channel System (“Waterway Planning Study”). The selected firm performed the Waterway Planning Study on behalf of the Port Authority and the Waterway Planning Committee (“WPC”), which is a subcommittee of the South Texas Waterway Advisory Committee (“STWAC”). A Consulting Services Contract with AECOM was approved by the Commission September 29, 2016 to develop and provide to the PCCA a Waterway Planning Study of the Corpus Christi Ship Channel System.

In June, 2017, Consultant completed an initial study of the capacity of the Waterway Planning of Corpus Christi Ship Channel System (CCSCS) for the Port of Corpus Christi Authority, and the expected benefit of deepening and widening the channel over time. This project was completed, although with additional open requests from stakeholders that could not be addressed due to lack of time, budget restraints and some requests falling outside the scope of the original study. This proposal for follow-up work will attempt to address these previously unmet requests, including but not limited to, updating stakeholder information, examining the impact to vessel traffic resulting from Suez, LNG and VLCC vessels, and a more in depth and detailed analysis of demurrage costs. In addition, the channel modeling simulation will incorporate new technical features resulting in a deeper granularity with regards to the simulation of future vessel movements and

their impact to the Corpus Christi Ship Channel.

Based on new input and additional service requests, an increase not exceed to exceed \$140,865 and a time extension through October 31, 2018 is requested.

CONFORMITY TO PORT POLICY: Yes

EMERGENCY: No

FINANCIAL IMPACT: Additional \$148,865.00 expenditure through October 31, 2018.

STAFF RECOMMENDATION: Staff recommends approval of the Fifth Amendment to Consulting Services Contract with AECOM in the amount of \$148,865 and time extension through October 31, 2018, to complete additional scope requests of the Waterway Planning Study of the Corpus Christi Ship Channel System.

DEPARTMENTAL CLEARANCES:

Originating Department	Harbor Master's Office
Reviewed & Approved	Russell Cordo
Legal	Dane Bruun
Senior Staff	John LaRue
	Sean Strawbridge
	Dennis DeVries
	Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Fifth Amendment to Consulting Services Contract

FIFTH AMENDMENT AND SUPPLEMENT OF CONSULTING SERVICES CONTRACT

This Fifth Amendment and Supplement of Consulting Services Contract (the “***Amendment***”) is made effective as of March 20, 2018 (“***Amendment Date***”) by and between the Port of Corpus Christi Authority of Nueces County, Texas, a navigation district operating under Article XVI, Section 59 of the Texas Constitution (“***Authority***”), and AECOM Technical Services, Inc. (“***Consultant***”). Authority and Consultant are sometimes individually referred to herein as a “***Party***” and collectively as the “***Parties***”.

WHEREAS, Authority and Consultant entered into a Consulting Services Contract dated September 29, 2016 (the “***Agreement***”), under the terms of which the Consultant agreed to perform the services described in the Scope of Services attached to the Agreement as **Exhibit A** in connection with the Authority's Waterway Planning Study of the Corpus Christi Ship Channel System (the “***Project***”);

NOW, THEREFORE, for a good and valuable consideration, the Parties hereby agree as follows:

A. Effective as of the Amendment Date, **Attachment Five** to this Amendment, which is Consultant's Supplemental Proposal, shall constitute and be deemed to be new **Attachment Five** to the Agreement.

B. Section 1 of the Agreement is amended in its entirety to read as follows:

1. **CONTRACT:** Authority hereby engages the Consultant and the Consultant hereby accepts its engagement for the purpose of developing and providing to Authority a Waterway Planning Study of the Corpus Christi Ship Channel System (“Services”) as more particularly described in the scope of services set forth in Exhibit A to this Contract and in the “Additional Services” set forth in and Attachments One through Attachment Five to this Contract which is incorporated herein by reference.

C. Section 2 of the Agreement is amended in its entirety to read as follows:

2. **PERIOD OF SERVICE:** The Consultant shall complete the Services on or before October 31, 2018 (the “Deadline”), unless the Authority agrees to extend the Deadline for good reason; provided, however, that the Authority may terminate this Contract at any time in accordance with Section 14. Time is of the essence in performance of this Contract. There will be no obligation established between Authority and the Consultant for performance of the Services until Authority provides the Consultant with a written notice to proceed which shall be issued upon execution of this Contract and receipt by the Authority of appropriate Certificates of Insurance and other documentation as may be required herein. The term of this contract (“Term”) shall begin on the Effective Date and shall end on the first to occur of the following: (1) the Deadline, as the same may have been extended by the Authority, (2) the date on which, in the opinion of Authority, all of the Services have been rendered, (3) the date on which this Contract is terminated by the Authority pursuant to Section 14, or (4) the date on which this Contract is terminated by the Consultant pursuant to Section 14.

D. Section 7 of the Agreement is amended in its entirety to read as follows:

7. **COMPENSATION:** The compensation to be paid Consultant for providing the Services shall be the compensation described in Exhibit B and Attachments One through

Attachment Five hereto, which are incorporated herein by reference; provided, however, the total paid to Consultant for the Services shall not exceed Four Hundred Fifty Four Thousand Four Hundred Sixty Eight and 00/100 Dollars (\$454,468.00). Consultant will obtain the approval of Authority's Project Representative relative to incurring travel and other expenses before incurring such costs.

E. This Amendment shall be binding on the successors and assigns of the Parties.

F. Except as specifically amended hereby, all terms and conditions of the Agreement shall remain in full force and effect. In the event of any conflict between the terms and conditions of this Amendment and the terms and conditions of the Agreement, the terms and conditions of this Amendment shall control.

G. This Amendment maybe executed in multiple counterparts, each of which will be considered to be an original. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document. The Parties may provide signatures to this Amendment by facsimile or Adobe ".pdf" file and such facsimile or Adobe ".pdf" file signatures shall be deemed to be the same as original signatures.

In Witness Whereof, the Parties have caused this Amendment to be executed by their duly authorized representatives effective for all purposes as of the 20th day of March 2018.

PORT OF CORPUS CHRISTI AUTHORITY

By: _____
Sean Strawbridge, Chief Executive Officer

AECOM Technical Services, Inc.

By: _____

ATTACHMENT FIVE

In June, 2017, Consultant completed an initial study of the capacity of the Waterway Planning of Corpus Christi Ship Channel System (CCSCS) for the Port of Corpus Christi Authority (Authority), and the expected benefit of deepening and enlarging the channel over time. This project was completed with a number of additional open requests from stakeholders that could not be met due to a lack of time and budget in the study because they were outside the original scope of the study. This proposal for follow-up work will attempt to address these previously unmet requests and also upgrade the analysis with new technical features included in the channel model.

Work Plan

1) ***Develop and test new model functionality.*** Consultant proposes to add the following features to our Vessel Network Model (VNM). These were discussed in detail during a WebEx scoping meeting held on November 28, 2017, and revised on a WebEx held on Feb 14, 2018.

- a. **Vessel "look ahead" to release capacity:** This feature will allow ships to begin moving based on the anticipated future position of oncoming ships. The model currently only releases capacity after a ship has passed a given point, but in real life, pilots can anticipate the position of other ships as well as planned destination and behave accordingly. This will be a user defined variable that can be adjusted, and the point of look-ahead will be shown graphically in the model.
- b. **Dynamic vessel draft adjustment vs cargo tonnage:** The draft of each vessel will dynamically change based on the weight of cargo transferred. Ships in the model will dynamically change color to indicate current draft so that model users can verify the draft of all ships in the port. The model will calculate individual meet events based on the combined draft of each vessel attempting to meet in specific reach of a channel. This feature will allow the user to allocate annual tonnage to specific ships in the model and verify that the intended amount of cargo is indeed being handled.

Consultant will add these features into the Vessel Network Model and develop a number of test datasets to review each feature and verify that they are working as desired. Consultant expects to review these test cases with the Port and pilots via WebEx as necessary. Consultant will provide working copies of the testbed models to Authority to allow the Port to run these models on their own and independently confirm that they are working as intended.

At the conclusion of this phase of work, Consultant will travel to Corpus Christi to review these new features in detail, and also to review progress on the Port-wide data gathering exercise described below in Step 2.

2) ***Review recent Port-wide vessel and cargo data.*** Consultant will work with the authority to identify the most useful baseline dataset. We may wish to ignore the 2nd half of 2017 for example due to extraordinary circumstances related to Hurricane Harvey. We will focus on the total number of vessels by terminal, and the total amount of cargo by type handled port-wide. We will also attempt to get data on arriving and departing draft by vessel, and data on coastal barge activity by terminal. We will consolidate and incorporate relevant sources of market data provided by the Authority, which are expected to include the 2018 Energy Information Administration Forecast.

Consultant will also work with the Authority to understand the "with project" capabilities of each of the existing berths to ensure that any future loadings developed for this study are plausible in terms of what ships operate from each berth, and what draft they are able to develop.

3) **Collect fresh data from major current tenants** (expected to be the top 8 to 10 identified in cooperation with Authority staff). This data request will cover:

- a. Current and projected future volumes and mix of ships.
- b. Transfer rate for each ship and barge, including coastal barges
- c. Ship shape parameters to better analyze draft vs cargo relationships
- d. Demurrage costs by ship
- e. Berth unavailability due to landside capacity limitations, or maintenance

Consultant will follow up on the survey request with a WebEx meeting with each key tenant to explain the survey in more detail.

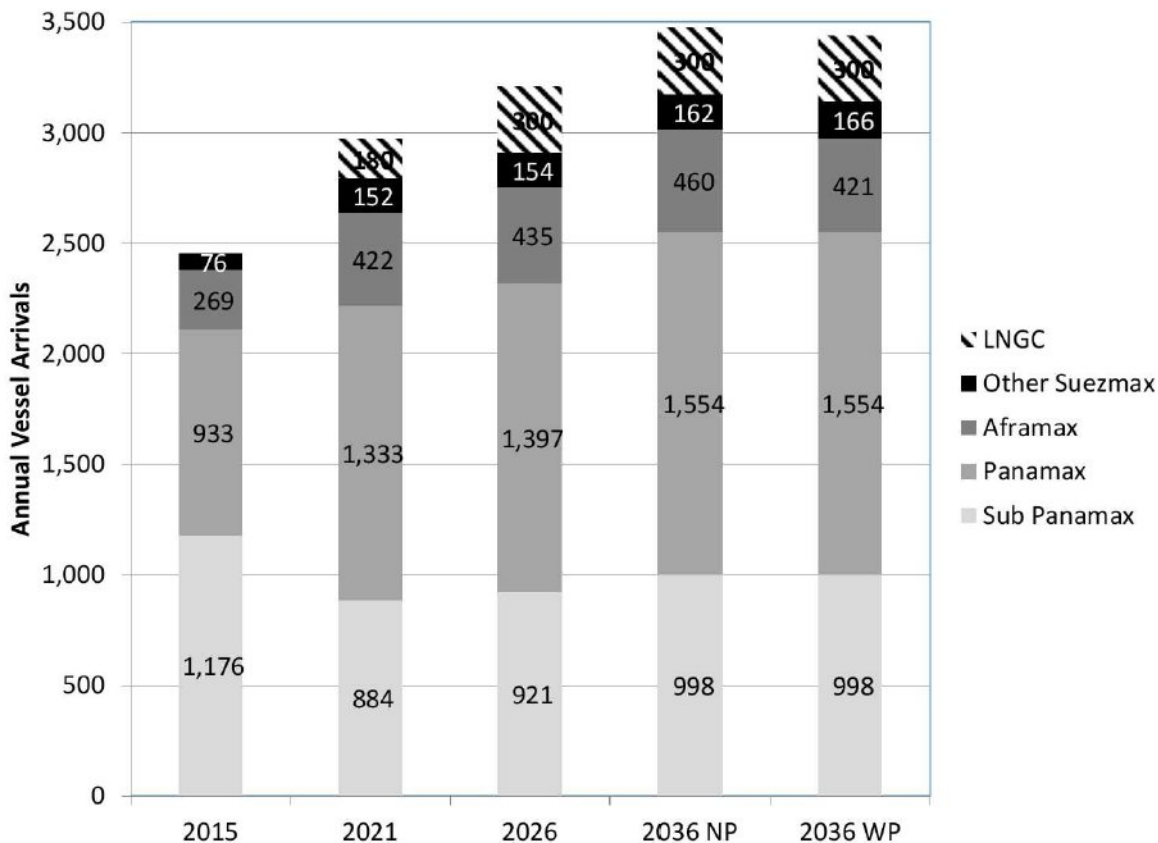
Consultant will work with Authority to confirm and add to tenant input (taking care not to share any confidential data), especially on new projects, and to validate data given by individual tenants vs port-wide public data.

4) **Simulate up to 15 future cargo loading scenarios** (combination of total cargo, cargo per vessel, and operating rules). These will consist of two overall Port volumes based on future years (likely to be 5 and 10 years into the future), and two different mixes of vessels for each year (big ships vs small ships).

The previous study identified vessels ranging in size from ocean barges to Suezmax and LNGC vessels. Consultant expects that we will have at least one additional category of vessels of for this study to describe vessels larger than Suezmax (VLCC etc.). For each class of vessel we will work with the Authority and Pilots to define the key physical parameters of each vessel and the resources and rules required for movement of each vessel. The table below shows an example of this from the original study. We will develop an expanded version of this table as part of the new study that will include VLCCs and any other new classes of vessels defined during this study.

Rule	LNGC	<u>Suezmax</u>	Aframax	Panamax	Handy	Sub -handy	ATB (Ocean Barge)
Tugs inbound	4	3	2.5	2	2	2	
Tugs outbound	4	3	2.5	2	1.5		
Pilots @ day	2	2	1.5	1.5			
Pilots @ night	NA	NA	2	1.5			
Typical beam (ft.)	154	158	138	106	90	75	75
Daylight only YIN	y	y	Y for	N	N	N	N
Demurrage (\$000/day)	40	40	30	25	20	20	20

The original study had a single vessel mix for each year, as shown below. This study will use two different mixes of vessels for each year to better understand the sensitivity of overall port performance vs the use of larger or smaller ships to move cargo.



Consultant will review the base case model scenarios with the Authority and Pilots prior to commencing any simulation runs.

This matrix of four combinations will serve as the base set of analysis cases. Consultant will use one or two examples from this group to test sensitivity to different operating rules such as convoy movements, or night travel for Suezmax vessels, or one-way vs two-way travel for LNG ships. Consultant expects to analyze up to 15 overall model cases once these sensitivity runs are included. We will apply each of these loadings to both the “no project” case and the long term dredge plan to widen and deepen the entire channel so up to 30 individual simulation models will be developed as part of this task.

- 5) **Review initial results in a live review meeting in Corpus Christi.** The primary outputs from the model will be mean delay per vessel. Consultant will combine these delays with demurrage per vessel to get overall demurrage per year port-wide. We will also track this for each terminal on a confidential basis and provide these results back to individual terminals (but not the public or other terminals’ representatives) as appropriate. Overall data can be presented as either hours of delay by vessel class, or demurrage cost, or both depending on the Port's preference.

- 6) *Re-run updated cases as needed based on Authority and tenant feedback and develop a draft final report*
- 7) *Review and address report comments received within an agreed upon timeline*
- 8) *Present an executive summary to the Port's Board of Commissioners*

Our team will be led by Mark Sisson, PE, as project manager. Mark will be primarily supported by a local representative Joelle Francois and lead analyst and model developer Rodrigo DeCastilho. Other Consultant staff will be used as needed.

EXHIBIT B

FEE SCHEDULE

Schedule and Fees

An estimated project schedule (in weeks) is shown below. With prompt feedback and availability from the Authority and key users, this study can be completed in approximately 17 weeks. The schedule may be extended based on timing of feedback and ability to schedule all key parties for review meetings. Given the challenge in scheduling all key stakeholders personnel for reviews and meetings, an overall schedule closer to 25-30 weeks may be more realistic.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Model upgrade and testing																	
Port-wide data collection																	
Review meeting 1																	
Key tenant data collection																	
Future scenario development																	
Initial model runs and results reporting																	
Review Meeting 2																	
Sensitivity case runs and reporting																	
Final report																	
Final board presentation																	

Consultant proposes to use the same contract terms as our original study or as Amendment No. 5 to our original contract. We will bill for the project on a time and expense basis not to exceed \$140,865. The table below shows estimated fees by task.

Model upgrade and testing	\$ 11,600
Port-wide data collection	\$ 12,265
Review meeting 1	\$ 17,200
Key tenant data collection	\$ 15,040
Future scenario development	\$ 9,240
Initial model runs and results	\$ 15,400
Review Meeting 2	\$ 15,550
Sensitivity case runs and reporting	\$ 12,870
Final report	\$ 21,050
Final presentation	\$ 10,650
Total	\$ 140,865

The costs above include both time and expected expenses for three trips to Corpus Christi. The middle trip could potentially take place at Consultant's Oakland office at a savings to Authority of approximately \$10,000.

Hourly rates in 2018 for personnel expected to perform the bulk of this study are as follows:

Mark Sisson: \$225/hr Joelle Francois: \$165/hr

Rodrigo DeCastilho: \$160/hr

Model Executable Ownership

In addition to the testbed models to be provided to Authority as part of Step 1, Consultant is willing to provide a working copy of the model executable and all final data files, including excel files used to generate data, at no charge. We will however charge for training, support, and model upgrades according to our standard rates. Scope and fees for these services are not included in this proposal but can be negotiated at a later date with the Authority.

DATE: March 20, 2018
TO: Port Commission
FROM: Tom Mylett
tom@pocca.com
(361) 885-6180

Approve Grant Applications for Various Port Security Projects under the Port Security Grant Program FY-18

SUMMARY: Staff recommends the Port Commission approve the submission of **five** project applications to FEMA for grant money in the Fiscal Year 2018 Port Security Grant Program.

BACKGROUND: The Port has been building security improvements and infrastructure with grant funding since 2002. The submittal date for the FY-18 security grant project applications is yet to be announced. There is anticipated to be a total of \$100,000,000 allocated to Department of Homeland Security for the Port Security Grant Program. This likely will again be a competitive award process, with the goal of FEMA “to ensure the most highly effective, risk based maritime security projects are funded.” Any one port or entity covered by an Area Maritime Security Plan can submit no more than one application which may contain no more than five projects. FEMA, as in past years, will evaluate, act on applications, and will likely announce awards during the fourth quarter of FY2018. These projects will require 25% matching funds from the PCCA; however there is no requirement that the Port must accept an award if it is offered.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: This project supports Strategic Goal 2 to provide facilities and services to meet customer needs.

EMERGENCY: No

FINANCIAL IMPACT: Grant funding allows leveraging Port funds at a 3 to 1 ratio. There is no requirement for the Port to accept an award from Port Security Grant Program.

STAFF RECOMMENDATION: Staff recommends that the following projects, listed in order of priority, be submitted for funding under the FY-18 Port Security Grant Program:

- **Project 1: Security Equipment Maintenance and Upkeep** – The PCCA has received previous grant funding to install security fencing, lighting, surveillance equipment, access control, vessel tracking, etc. Most of this installed equipment has a finite life cycle. This project would provide for the repair or replacement of aging security equipment. Grant Program Directorate Information Bulletin No. 293 allows for the use of grant funds for the repair, replacement, and maintenance of security equipment funded through Department of Homeland Security grants. The funding plan is \$525,000 Federal and \$175,000 PCCA match for a total cost of \$700,000.
- **Project 2: Fire Boat** – With the expansion and growth in the La Quinta/Eastern regions of PCCA, the need exists for a quick-response fire boat capable of handling rougher waters. The need for a marine firefighting asset has been recognized by the Security Committee. Staff recommends the purchase of a vessel that can serve this purpose, which will provide an effective stopgap measure in fast response to a critical incident. The funding plan is \$3,629,802 Federal, \$1,209,934 Port match, for total cost of \$4,839,736.
- **Project 3: Patrol Boat** – PCCA has two port security grant funded, all weather patrol boats each of which are approximately 10 years old. Strategic planning includes a tentative plan for port security patrol (land and water) in the La Quinta/Outer Harbor and eastern Ship Channel region. Staff recommends the purchase of a patrol boat through the grant program. The funding plan is \$1,174,478 Federal, \$391,493 Port match, for total cost of \$1,565,971.
- **Project 4: Lighting and Surveillance Cameras at Critical Docks and Rail Storage Yards** – Provide lighting and surveillance to highly sensitive critical docks and storage yards to facilitate active security surveillance of critical areas in need of security monitoring, some of which are adjacent to a busy intermodal roadway. The funding plan is \$615,000 Federal and \$205,000 PCCA match, for a total of \$820,000.
- **Project 5: San Patricio County Region Port Security Command Center:** The PCCA has experienced significant growth of critical infrastructure & key resources in the northeastern region of the PCCA along the La Quinta Channel. This growth has involved the construction of a Liquified Natural Gas (LNG) facility owned by Cheniere which is anticipated to begin receiving vessels FY2018; the construction of an iron processing facility in operation now (voestalpine); the completion of a steel pipe manufacturing facility (TPCO); and the current development of an ethylene processing plan (Exxon/Sabir). There are several more projects in development for the northeastern region of the PCCA. With the increase in maritime commerce along the Ship Channel and La Quinta Channel, close proximity of residential areas, coupled with the increased vehicular and rail commerce, the PCCA needs a central security command center for that region of

the PCCA. This project will solely involve the development of the minimal size command center structure, exterior lighting and fencing. The funding plan is \$1,722,628 Federal and \$574,210 Port match for a total cost of \$2,296,838.

Staff recommends submittal of the five projects identified herein for the Department of Homeland Security FY-18 appropriations. The total cost for these projects is \$10,222,545 (\$7,666,908 Federal and \$2,555,637 PCCA match).

DEPARTMENTAL CLEARANCES:

Originating Department	Port Security
Reviewed & Approved	Tom Mylett
Senior Executive Staff	Sean Strawbridge John LaRue Dennis DeVries

Port Security Committee

LIST OF SUPPORTING DOCUMENTS:

N/A

DATE: March 20, 2018
TO: Port Commission
FROM: Sam Esquivel, Real Estate Services Manager
Sam@pocca.com
(361) 885-6140

Approve a Lease Agreement with the United States of America, through the Department of Homeland Security, United States Coast Guard, to Locate a Maritime Navigational Aid at La Quinta to the West of the No. 14 Dredge Material Placement, San Patricio County, Texas.

SUMMARY: Staff requests an approval of a Lease Agreement with the United States of America through the U.S. Coast Guard (USCG) for a 50' X 50' plot of land or 0.57 acre Leased Premises for the operation of a maritime navigational aid for La Quinta Ship Channel, as depicted on the attached exhibit. The primary term of the Lease Agreement will begin April 1, 2018 and end December 31, 2018. The Lease may, at the option of the Government, be renewed annually through December 31, 2028. No rental fee is assessed for this Lease Agreement since the range marker serves as navigational aid for the benefit of the general public.

BACKGROUND: To facilitate commerce at La Quinta Terminal the PCCA constructed temporary range markers which have been in place for several years. With the anticipated vessel traffic related to Cheniere's LNG Project, the USCG is seeking to improve the existing Aids to Navigation (AtoN) by constructing a new permanent AtoN. The arrangement is beneficial for both parties in that the range marker aids in the navigation of La Quinta Ship Channel and serves as a navigational aid for the benefit of the general public.

ALTERNATIVES: None

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan (Strategic Goal #2 – Provide facilities and services to meet customer needs to provide surface infrastructure and services to support maritime and industrial development).

EMERGENCY: N/A

FINANCIAL IMPACT: No rental fee is assessed. Navigational aid is for the benefit of the general public.

STAFF RECOMMENDATION: Staff recommends approval of the Lease Agreement with United States of America, through the Department of Homeland Security, United States

Coast Guard to locate a Maritime Navigational Aid at La Quinta to the West of the No. 14 Dredge Material Placement, San Patricio County, Texas.

DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel Kent Brinton David L. Krams, P.E.
Legal	Dane Bruun
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Lease Agreement

Approve a Lease Agreement with the United States of America, through the Department of Homeland Security, United States Coast Guard, to Locate a Maritime Navigational Aid at La Quinta to the West of the No. 14 Dredge Material Placement, San Patricio County, Texas.



U.S. GOVERNMENT
LEASE FOR REAL PROPERTY

DATE OF LEASE Date of Execution

LEASE No. HSCG82-18-1-0006
La Quinta Range A Inner RRL Land

THIS LEASE, made and entered into this date by and between PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS, acting herein by and through its Port Commissioners, (hereinafter called the "Lessor"), whose address is P.O. Box 1541, Corpus Christi, Texas 78469 and whose interest in the property hereinafter described is that of a leasehold, and by the authority of 14 U.S.C. § 672 the UNITED STATES OF AMERICA, acting by and through a duly authorized official of the Department of Homeland Security, United States Coast Guard (hereinafter called the "Government"):

WITNESSETH: The parties, hereto for the consideration hereinafter mentioned, covenant and agree as follows:

1. The Lessor hereby leases to the Government the following described premises, hereinafter referred to as the "Premises".

A parcel of land for the Government's Aid to Navigation (AtoN) structure described as follows:

La Quinta Range A Inner RFL land parcel described as (centered) in state plane coordinates as follows: X Axis=1375127.96 and Y Axis =17211500.75. A 50' X 50' plot of land or 0.057 Acres, together with the improvements there on, See attached Exhibit A.

2. TO HAVE AND TO HOLD the said premises with their appurtenances for the term beginning on April 1, 2018, through December 31, 2018, subject to termination and renewal rights as may be hereinafter set forth. Subject to the continued needs, this Lease may, at the option of the Government, be renewed annually through December 31, 2028. The Government's option shall deemed exercised and the lease renewed each year for one (1) year to a maximum time of ten (10) years provided notice be given in writing to the Lessor at least thirty (30) days before the end of the original lease term; all other terms and conditions of this lease shall remain the same during the renewal term unless otherwise agreed to by all the parties with a signed modification to this lease.

3. **CONSIDERATION.** The Consideration for this lease shall be the operation and maintenance of this property to be used by Aids to Navigation equipment for the benefit of the general public in accordance with the terms and conditions hereinafter set forth.

4. **NOTICE.** The Government may terminate this lease, at any time by giving at least thirty (30) days notice in writing to the Lessor. Said notice shall be computed commencing from the date of receipt of termination notice.

5. **CONDITION.** This lease will continue with the same terms and conditions, unless and until the Government shall give notice of termination in accordance with paragraph 4, provided that adequate appropriations are available from year to year for payment of rentals, if applicable, and provided further that this lease shall in no event extend beyond December 31, 2028. A Supplemental Agreement will be utilized to make changes/adjustments to this lease.

6. **COMPLIANCE WITH APPLICABLE LAW.** The Lessor shall comply with all Federal, state and local laws applicable to the Lessor as owner or lessor, or both, of the Premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. The Government will comply with all Federal, state and local laws applicable to and enforceable against it as a tenant under this lease; provided that nothing in this lease shall be construed as a waiver of any sovereign immunity of the Government. This lease shall be governed by Federal Law.

7. **MAILING.** Mailing refers to Certified Mail with a return receipt and the date of acceptance being the start date.

8. **CHANGE OF OWNERSHIP NOTIFICATION.** Lessor will notify Government within thirty (30) days of any transfer of ownership of the described property.

9. **SUCCESSORS BOUND.** The Lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, and successors.

10. **INDEMNIFICATION.** The Government, in the manner and to the extent provided by the Federal Tort Claims Act (28 U.S.C. § 2671-2680), as amended, shall be liable for, and shall hold the Lessor harmless from claims for damage or loss of property, personal injury or death caused by the acts or omissions of the Government, its officers, employees and agents in the use of the leased premises.

11. **INGRESS/EGRESS.** Lessor hereby grants to the Government, its contractors and other duly assigned personnel, the right of ingress and egress (both vehicular and pedestrian) necessary or convenient for the installation, use, maintenance, repair, operation, and replacement of Government-owned equipment across Lessor's property.

12. **GOVERNMENT INSPECTION.** The Government reserves the right, at any time after the lease is signed and during the term of the lease, to inspect the leased premises and all other areas to which access is necessary to ensure a safe and healthy work environment for the Government equipment and the Lessor's performance under this lease.

13. **PERFORMANCE FAILURE.** If Lessor fails to cure or remedy any failure to perform any service, to provide any item, or meet any requirement of the lease within thirty (30) days of Government's written notice to Lessor, Government may deduct any cost incurred for the service or item, including administrative costs, from rental payments or Government may perform the service, provide the item, or meet the requirement, either directly or through a contract.

14. **DESTRUCTION OF SPACE.** If the leased area is partially or totally destroyed or damaged by fire or other casualty so that the leased space is untenantable, as determined by the Government, the Government will provide the Lessor a maximum of one hundred and twenty (120) days to rebuild with any replacement equipment due, subject to tenantable condition as determined by the Government. During this period, no lease charge is to be incurred by the Government. Any such payments, by the Government, to the Lessor will be promptly returned to the Government. The Government may terminate the lease upon 15 calendar days written notice to the Lessor and no further rental will be due if the new tower and systems are not fully functional by the end of the one hundred and twenty (120) day period.

15. **TENANTABLE CONDITION.** The Lessor shall maintain the demised premises in good repair and tenantable condition. Upon request of the U.S.C.G. Contracting Officer, the Lessor shall provide written documentation that the Premises have been maintained, tested, and are operational.

16. **ANTI-DEFICIENCY ACT (31 U.S.C. § 1341, as amended).** Nothing in this lease shall constitute an obligation of funds of the United States in advance of an appropriation thereof.

17. **INSURANCE.** The Government is a self-insured entity.

18. **TAXES AND ASSESSMENTS.** The Government is not responsible or liable for any real property or personal property taxes, personal taxes, nor assessments levied or assessed upon or against the leased premises.

19. **CONDITIONS OF USE.** The Government is responsible for meeting all applicable Federal, State and local safety and other codes, and for obtaining all applicable Federal, State, and local permits, licenses, or other authorization required for operation of its equipment.

20. **EQUIPMENT INSTALLATIONS, MAINTENANCE, INTERFERENCE, AND REMOVAL.** The Government is solely responsible for all costs connected with the installation and maintenance of all Government-owned equipment located on the Leased premises. Installation and operation of Government equipment shall be done according to applicable government codes and accepted industry standards. The Government shall have title to all improvements placed or erected on the leased property, and the right to dispose of such improvements by abandonment, sale, removal or offsite use upon revocation, expiration or surrender of this lease.

21. **WARRANTY.** Lessor makes no warranty, express or implied, as to the suitability of the leased premises for the Government's intended use or purpose and expressly disclaims any such warranty.

22. **SUBLETTING/ASSIGNMENT.** Government may not sublet or assign the leased premises.

23. **LEASE ADMINISTRATION.** Administration of subject lease will be accomplished by: Commanding Officer (rp), U.S. Coast Guard, Civil Engineering Unit Miami, 15608 SW 117th Avenue, Miami, FL 33177.

24. **SEVERABILITY.** If any term or provision of this lease is held invalid or unenforceable, the remainder of this lease shall not be affected thereby and each term and/or provision hereof shall be valid and enforced to the fullest extent permitted by law.

25. **DISPUTES (DEC 1998).** This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. § 601-613). Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

a. "Claim", as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (b)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

b. (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.
Contracting Officer.

(2) (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

c. For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

d. The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

e. If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative disputes resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

f. The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required), or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.21, interest shall be paid from the date that the Contracting officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided for in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

26. POINTS OF CONTACT. Contact information for the Government: Commander, U. S. Coast Guard, Civil Engineering Unit Miami, Attn: Mr. Jeffrey Reyes, Real Property, 15608 SW 117th Avenue, Miami, FL 33177 Phone (305) 278-6705. Coast Guard Technical Point of Contact – D8 Waterways Management Mr George Rau, Phone 504-671-2110, Email: George.a.rau@uscg.mil, Contact information for the Lessor: Mr Erin F Hall, Phone: 361-429-1091, Email: erin@pocca.com

27. ASSIGNMENT OF CLAIMS (JAN 1986).

a. The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. § 3727, 41 U.S.C. § 15 (hereafter referred to as "the Act"), may assign its right to be paid amounts due or to become due as a result of the performance by contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

b. Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

c. The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such in writing.

(i) When the date for commencement of rent falls on the 15th day of the month or earlier, the initial monthly rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.

(ii) When the date for commencement of rent falls after the 15th day of the month, the initial monthly rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.

28. CLAUSES. This lease incorporates by reference the applicable clauses in GSA Form 3517A ("General Clauses"), with the same force and affect as if they were given in full text. Upon request, the Government will make the full text available or the full text may be found at <http://www.gsa.gov/leasingform>.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR: PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS

BY _____
SEAN C. STRAWBRIDGE Chief Executive Officer

IN PRESENCE OF:

BY _____
(Signature) (Address)

UNITED STATES OF AMERICA DEPARTMENT OF HOMELAND SECURITY/US COAST GUARD

BY _____
(Signature) (Official title)

STANDARD FORM 2
FEBRUARY 1965 EDITION



D.M.P.A. 14
LEVEE TOE

INNER RANGE REAR LIGHT
POINT OF COMMENCEMENT
X=1375127.96
Y=17211500.75

POINT OF BEGINNING

N 64°59'53" E
50.0'

N 69°59'45" W
35.4'

N 25°07' W
50.0'

S 25°07' E
50.0'

S 64°59'53" W
50.0'

±60'

N 77°32'3" W EXISTING
ATON ALIGNMENT AS-BUILT

PCCA PROPERTY
BOUNDARY

EXISTING
INNER RANGE
REAR LIGHT
X=1375229.50
Y=17211478.30

02
01/01

INNER RANGE REAR LIGHT

SCALE
0 10' 20'



PORT CORPUS CHRISTI

PORT OF CORPUS CHRISTI AUTHORITY

LA QUINTA SHIP CHANNEL EXTENSION 226
REAR RANGE LEASE

SCALE: AS NOTED

DWN. BY: BLV

EXHIBIT A

DATE: 3/7/2018

DWG. NO. 3:14:13 PM

DATE: March 20, 2018
TO: Port Commission
FROM: Sam Esquivel, Real Estate Services Manager
Sam@pocca.com
(361) 885-6140

Approve Sixth Modification of Lease Agreement with Corpus Christi Terminal Railroad, Inc. to Relocate to a 1.2-acre Tract South of Joe Fulton International Corridor and West of Mike Carrell Road, Nueces County, Texas.

SUMMARY: Staff is requesting a Sixth Modification of Lease Agreement with Corpus Christi Terminal Railroad, Inc. (CCTR) to correct an error to the document title. The document was inadvertently titled Fifth Modification when in fact it should have been titled Sixth Modification. The purpose of this item is to correct the error in the title of the previous documents.

BACKGROUND: At November 14, 2017 meeting of the Port Commission of the Port of Corpus Christi Authority approved the Fifth Modification of Lease Agreement with Corpus Christi Terminal Railroad, Inc. to relocate to a 1.2-acre tract south of Joe Fulton International Corridor and west of Mike Carrell Road to facilitate the Lease Agreement with Maverick Terminals Corpus, LLC (Maverick). Maverick was granted a 41-acre lease premises located on the north side of the Inner Harbor to develop a terminal facility. The far eastern portion of the Maverick lease premises encroaches on the CCTR lease. The relocation of CCTR provides the highest and best use of PCCA land by allowing Maverick to develop a Terminal site on the land.

ALTERNATIVES: None

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan (Strategic Goal #2 – Provide facilities and services to meet customer needs to provide surface infrastructure and services to support maritime and industrial development).

EMERGENCY: N/A

FINANCIAL IMPACT: The cost of the CCTR relocation will be at the expense of PCCA as part of the relocation of CCTR to accommodate the construction of a new terminal for a new PCCA customer.

STAFF RECOMMENDATION: Staff recommends approval of the Sixth Modification of Lease Agreement with Corpus Christi Terminal Railroad, Inc. to relocate to 1.2-acre Tract South of Joe Fulton International Corridor and West of Mike Carrell Road

DEPARTMENTAL CLEARANCES:

Originating Department Real Estate Services

Reviewed & Approved Sam Esquivel
 Kent Brinton

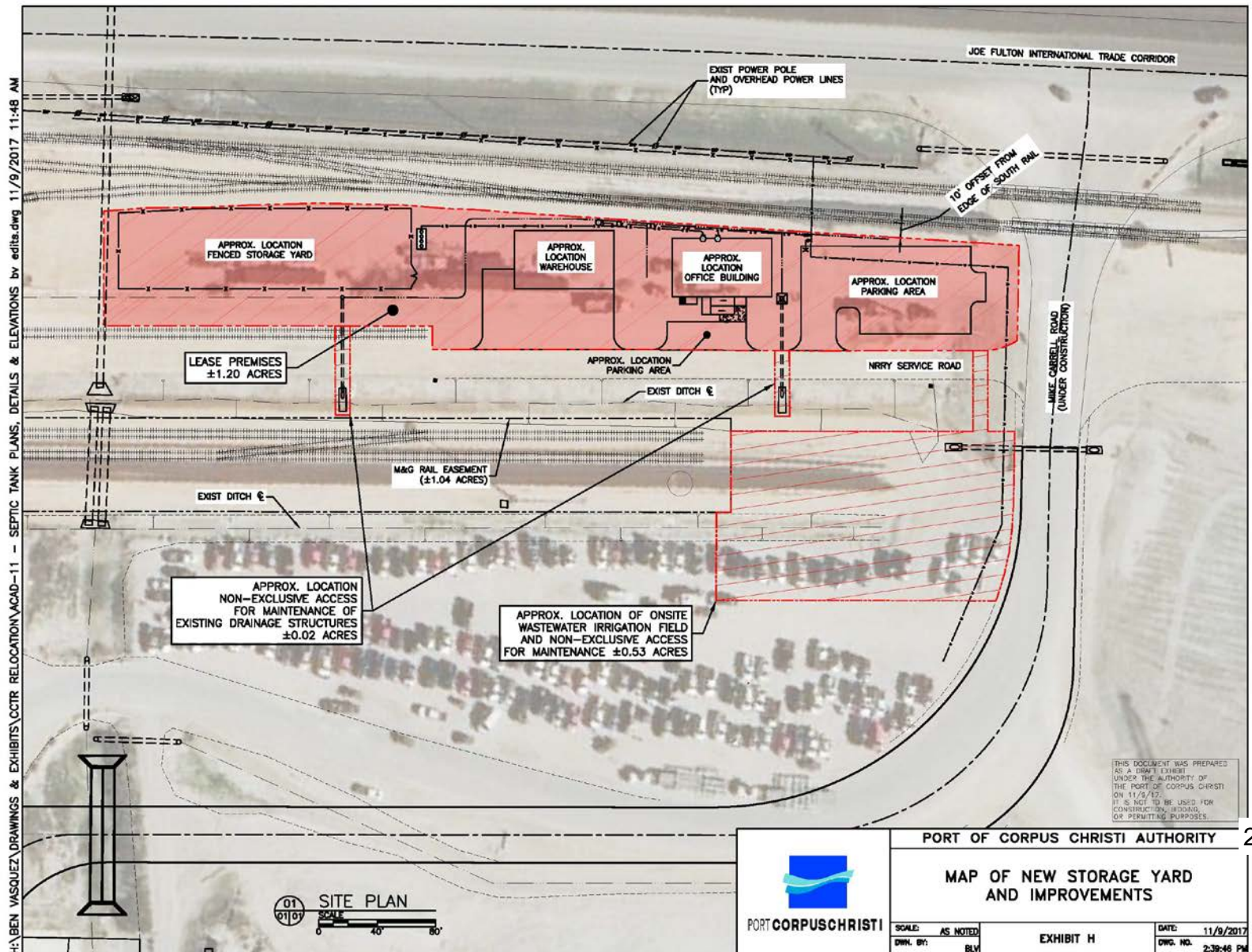
Legal Jimmy Welder

Senior Staff John P. LaRue
 Sean Strawbridge
 Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Fifth Modification of Lease Agreement

Approve Sixth Modification of Lease Agreement with Corpus Christi Terminal Railroad, Inc. to Relocate to a 1.2-acre Tract South of Joe Fulton International Corridor and West of Mike Carrell Road, Nueces County, Texas.



**SIXTH MODIFICATION OF LEASE AGREEMENT
BETWEEN THE PORT OF CORPUS CHRISTI AUTHORITY
AND CORPUS CHRISTI TERMINAL RAILROAD, INC.**

This Sixth Modification of Lease Agreement (“Agreement”) is entered into between the Port of Corpus Christi Authority of Nueces County, Texas, a political subdivision of the State of Texas (“Authority”), and Corpus Christi Terminal Railroad, Inc., a Delaware corporation (“Lessee” or “Railroad”), effective as of the 20th day of March, 2018 (“Modification Date”).

RECITALS

WHEREAS, Authority and Lessee (collectively, the “Parties” and individually, a “Party”) entered into a lease agreement on the 25th day of July, 1997 (the “Original Lease Agreement”), under which Authority leased to Lessee certain railroad property and facilities in the Inner Harbor of the Port of Corpus Christi, which are described in detail in the Original Lease Agreement (“Leased Premises”); and

WHEREAS, under the terms of the Original Lease Agreement and related agreements, Lessee is obligated to maintain a Class III common carrier terminal switching operation on the Leased Premises; and

WHEREAS, Authority and Lessee have amended the Original Lease Agreement by entering into the First Modification of Lease Agreement made effective as of August 3, 2002 (“First Modification”); the Second Modification of Lease Agreement executed by Lessee on July 21, 2004, and Authority on August 10, 2004 (“Second Modification”); the Third Modification of Lease Agreement made effective as of August 3, 2007 (“Third Modification”); the Fourth Modification of Lease Agreement made effective as of May 13, 2014 (“Fourth Modification”); and the Fifth Modification of Lease Agreement made effective as of May 1, 2016 (“Fifth Modification”); and

WHEREAS, the Original Lease Agreement as amended by the First Modification, Second Modification, Third Modification, Fourth Modification and Fifth Modification is referred to herein as the “Lease”; and

WHEREAS, in Section 10.01 of the General Conditions attached to the Lease as Exhibit B, the Authority agreed to make available to Lessee the metal building and storage yard area located along Navigation Boulevard east of the old Common Interchange Yard (collectively, the “Current Storage Yard and Buildings”); and

WHEREAS, the Authority has offered to construct and relocate Lessee to the new location described in this Agreement (“New Storage Yard and Facilities”) at the Authority’s cost; and

WHEREAS, Lessee is willing to relocate to the New Storage Yard and Facilities on the terms and conditions specified herein; and

WHEREAS, at its meeting on November 14, 2017, the Authority's Port Commission approved an amendment to the Lease (the "November 2017 Amendment") that was never executed by the Parties and that will never be executed by the Parties; and

WHEREAS, this Agreement contains the entire agreement of the Parties with respect to the subject matter of the November 2017 Amendment;

NOW, THEREFORE, for good and valuable consideration, Authority and Lessee agree as follows:

A. Upon the Authority's completion of the construction of the New Storage Yard and Facilities, the Railroad will vacate the Current Storage Yard and Buildings and relocate to the New Storage Yard and Facilities, at the Authority's sole cost and expense.

B. Section 1.01 of the Lease is hereby amended and restated in its entirety to read as follows:

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 the railroad property and facilities in Nueces County, Texas, identified as "Port Authority Tracks Leased to Short Line Railroad for Operations and Maintenance" on Exhibit A attached hereto, including all rail, switches, ballast, ties, switch ties, track fixtures and components thereof, and all improvements thereon.

*In addition to the real property described in the first paragraph of this Section 1.01, the Authority hereby leases to Lessee approximately 1.2 acres of real property in Nueces County, Texas, which is shown on the map attached hereto as Exhibit H, including all improvements now or hereafter constructed thereon by the Authority ("**New Storage Yard**"). The real property and improvements described in the first and second paragraphs of this Section 1.01 are collectively referred to in the Lease as the "**Leased Premises**."*

TO HAVE AND TO HOLD the Leased Premises for a primary term of five years, beginning on the 3rd day of August, 1997, and (subject to earlier termination as herein provided) ending at midnight, Central Time, the 2nd day of August, 2002. In addition, Authority hereby grants to Lessee the option to renew the term of this lease agreement for four (4) additional option periods of five (5) years each, beginning on the first day after the expiration of the primary term and each option period thereafter. The four option periods are as follows:

<u>Option Period</u>	<u>Begins</u>	<u>Ends</u>
First	August 3, 2002	August 2, 2007
Second	August 3, 2007	August 2, 2012
Third	August 3, 2012	August 2, 2017
Fourth	August 3, 2017	August 2, 2022

The right to 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 period of this lease agreement. Annual rent shall be determined for each option period pursuant to Section 3.03 of this lease agreement.

C. Section 10.01 of the General Conditions attached to the Lease as Exhibit B is hereby amended in its entirety to read as follows:

10.01. NEW STORAGE YARD AND IMPROVEMENTS. PCCA is constructing the following improvements on the New Storage Yard at its cost: parking, an office building, a warehouse, a storage shed, and a fenced storage yard. Upon PCCA's completion of these improvements, which is expected to occur no later than April 2018, the Railroad may take possession of the New Storage Yard and the improvements thereon for the remaining term of the Lease. Railroad's use of the New Storage Yard and the improvements thereon shall be without additional charge; provided, however, that all security, maintenance, upkeep, insurance, and utilities on the New Storage Yard, including the costs thereof, shall be the sole responsibility of the Railroad.

D. The map of the New Storage Yard and Facilities attached to this Agreement as **Exhibit H** shall be deemed to be a new Exhibit H attached to the Lease.

E. The foregoing modifications to the Lease will become effective as of November 14, 2017.

F. The Lease as modified by this instrument shall continue in full force and effect.

[Signature Page Follows this Page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers effective as of the Modification Date.

AUTHORITY

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

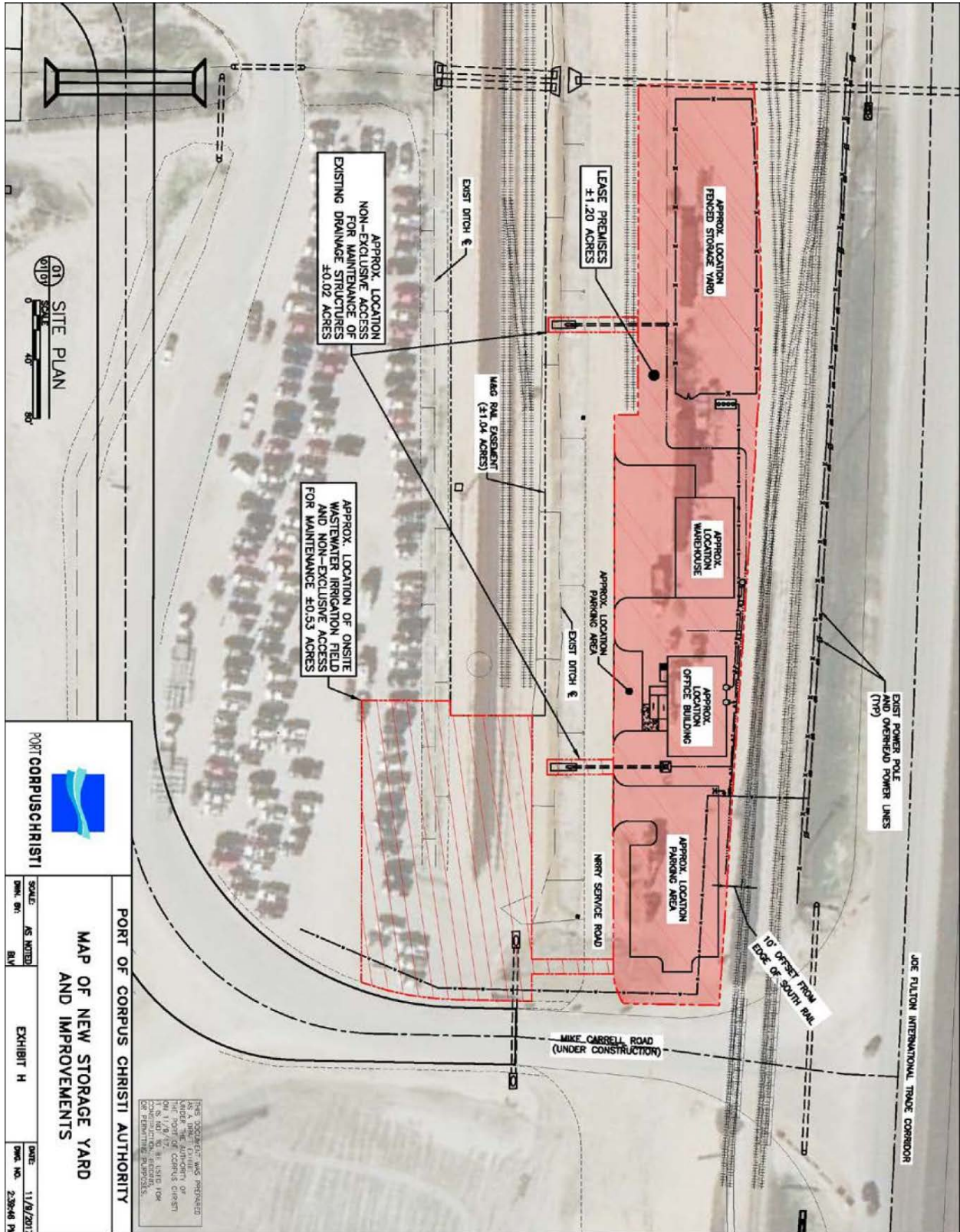
By: _____
Sean Strawbridge
Chief Executive Director

LESSEE

Corpus Christi Terminal Railroad, Inc.

By: _____
Andy Chunko, Sr.
VP Coastal Region

EXHIBIT H **MAP OF THE NEW STORAGE YARD AND FACILITIES**



DATE: March 20, 2018

TO: Port Commission

FROM: Sarah L. Garza, Director of Environmental Planning & Compliance
sarah@pocca.com
(361) 885-6163

***Ratify Permanent Pipeline Project Proposal Nomination to the
U.S. Army Corps of Engineers in Response to the Solicitation for
Non-Federal Sponsor Nomination of Pilot Projects for
Beneficial Use of Dredge Materials.***

SUMMARY: Staff requests the Port Commission ratify the PCCA's submission of a project proposal nomination for a pilot project to install a permanent pipeline for conveying dredge material to Nueces Bay for beneficial use of dredged materials for shoreline nourishment in the Nueces Delta and for protection and creation of new habitat in Nueces Bay.

BACKGROUND: In mid-February, Port staff became aware of the U.S. Army Corps of Engineers (Corps) solicitation in accordance with the provisions of Section 1122(a)-(h) of the Water Resources Development Act of 2016 inviting non-Federal sponsors to nominate projects for the beneficial use of dredge material pilot program. The proposal deadline was March 12, 2018. The Corps will select ten projects as part of the pilot program that represent all geographic areas of responsibility. The program will complete upon completion of the ten selected projects. The program is to encourage the beneficial use of dredge material in innovative ways that serve specific purposes benefiting the environment and the community.

Port staff have suggested a project to install a pipeline that will allow the transmission of dredge material from the Corpus Christi Inner Harbor Ship Channel to Nueces Bay. Currently, all material dredged from the Inner Harbor is placed in upland placement areas. This project would allow the use of the material in partnership with the Coastal Bend Bays and Estuaries Program (CBBEP) for nourishment of the Nueces Delta and allow material to be used on Port property for mitigation efforts in response to developments in the ship channel. A permanent pipeline would allow efficient and cost-effective means with which to get much needed sediments to Nueces Bay. Additionally, the solicitation requested association with a Corps water resources development project. This proposed project meets four of the six listed purposes, including reducing storm damage to property and infrastructure; protecting, restoring, and creating aquatic ecosystem habitats; stabilizing stream systems and enhancing shorelines; and supporting risk management adaptation strategies. Additionally, this project reduces the cost of dredging and dredge material placement through innovative uses and placement alternatives that produce public economic or environmental benefits.

The implementation guidance describes that costs to convey material will be the responsibility of the Corps but costs associated with plantings and additional construction or improvements of the beneficial use site will be the responsibility of the non-Federal sponsor. In this case, CBBEP and Port staff have had previous conversations about the possibility of providing dredge material for their current Nueces Delta Shoreline project that has already been funded. Additionally, Port staff are working on mitigation projects in response to requirements on individual permits from the Corps for development in the Nueces Bay. A component of these projects is an available supply of sediments to create and enhance marsh areas. This is a cost effective option that could be a permanent solution for projects now and in the future.

ALTERNATIVES: N/A.

CONFORMITY TO PORT POLICY: Conforms to Strategic Plan Goal #5 (Be an Environmental Leader), Strategic Objective 5B (Continue to Meet and Exceed Regulatory Standards), Action Item 2 (Develop and Implement Regulatory Strategy for Future Environmental Regulations).

EMERGENCY: N/A.

FINANCIAL IMPACT: At this time, there is not expected to be an additional financial impact to the Port if this project is selected. Upon selection there will be further negotiations of the responsibilities including financial responsibilities. However, staff does not believe that the costs of the pipeline would be the Port Authority responsibility based on review of the implementation guidance. Further, this project would provide a sustainable solution for dredge material placement for some of the future dredging projects in the Inner Harbor, including the Corpus Christi Ship Channel Improvement Project, where one does not currently exist.

STAFF RECOMMENDATION: Staff recommends approval of the project proposal nomination for a pilot project to install a permanent pipeline for conveying dredge material to Nueces Bay for beneficial use of dredged materials for shoreline nourishment in the Nueces Delta and protection and creation of new habitat in Nueces Bay.

DEPARTMENTAL CLEARANCES:

Originating Department	Environmental Planning & Compliance
Reviewed By	Sarah Garza
Legal	N/A
Senior Staff	John LaRue Sean Strawbridge

LIST OF SUPPORTING DOCUMENTS:

None.

DATE: March 20, 2018

TO: Port Commission

FROM: David L. Krams, P.E.
Krams@pocca.com
(361) 885-6134

**ANTICIPATED
STAFF PRESENTER:** Carlos Martinez, P.E.
Senior Design Engineer

Award a Construction Contract to Mitchell Energy Services, the Lowest and Best Bidder Based on Bids Received March 6, 2018, in the Amount of \$67,933.40 for the Security Grant 15 – Bulk Terminal Fencing – Additional Fencing Project.

SUMMARY: Staff recommends the award of a construction contract to Mitchell Energy Services for the additional security fencing improvements at the Bulk Terminal under Security Grant 15. On March 6, 2018, we received four responses to our Notice to Bidders (see attached Bid Tabulation Sheet). Mitchell Energy Services submitted the lowest and best bid in the amount of \$67,933.40.

BACKGROUND: In 2015, the Port of Corpus Christi Authority received a U.S. Department of Homeland Security grant for various security projects, which included security fencing at Bulk Terminal. The initial scope of work for security fencing at the Bulk Terminal was completed in April 2017, leaving \$196,399.75 of available federal grant funds remaining. The scope of work for this new additional fencing project includes the installation of approximately 1,200 linear feet of 8-foot tall security fencing and swing gates along Kirskey Road to improve access control to secure areas of the Bulk Terminal. See attached map exhibit.

ALTERNATIVES: None.

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan (Strategic Goal # 2 – Provide facilities and services to meet customer needs) and improves security at port facilities.

EMERGENCY: No, however, this is a time sensitive project that needs to be completed no later than August 31, 2018 in order to receive the awarded remaining federal funding.

FINANCIAL IMPACT: The 2018 budget included \$196,851 for this capital project. The project is covered by a Security Grant from the Federal Government with 25 percent of

the cost being paid by PCCA (approximately \$16,983.35) and 75 percent of the cost reimbursable by the federal government (approximately \$50,950.05).

STAFF RECOMMENDATION: Staff recommends a contract be awarded to Mitchell Energy Services in the amount of \$67,933.40. Staff further recommends that the Director of Engineering Services be granted a 9 percent contingency (\$6,114.00) in accordance with the PCCA's standard contingency guidelines for general construction projects.

This will be the first project that Mitchell Energy Services has done for the PCCA; however, staff has received positive reports from the company's references.

DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	David Krams
	Carlos Martinez
	Tom Mylett
	Brett Flint
Legal	Standard Construction Contract template used
Senior Staff	John LaRue
	Sean Strawbridge
	Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Map and Photo Exhibit
Bid Tabulation Sheet



BID TABULATION FOR
Security Grant 15 Bulk Terminal Fencing - Additional Fencing
PROJECT NO. 15-061E
Bid Opening: March 06, 2018 - 2:00 PM

Company Name	Bid Bond or Check	Base Bid ^A
Mitchell Energy Services	5%	\$67,933.40
U.S. Fence & Gate, Inc.	5%	\$84,390.00
D&C Fence Company, Inc.	Check	\$88,379.40
ABBA Construction, LLC.	5%	\$115,108.00

* Project to be complete within 30 days of the date of said Notice to Proceed.

^A **BASE BID:** The base bid scope of work consists of installing 1,280 linear feet of 8 foot tall security fencing with concrete curb and manual swing gates at the PCCA Bulk Terminal, as specified in the project drawings. This is a Lump Sum bid item.

Read By: Lynn Angerstein

Tabulated By: Carlos Martinez, P.E.

Checked & Prepared By: Lucy Betancourt

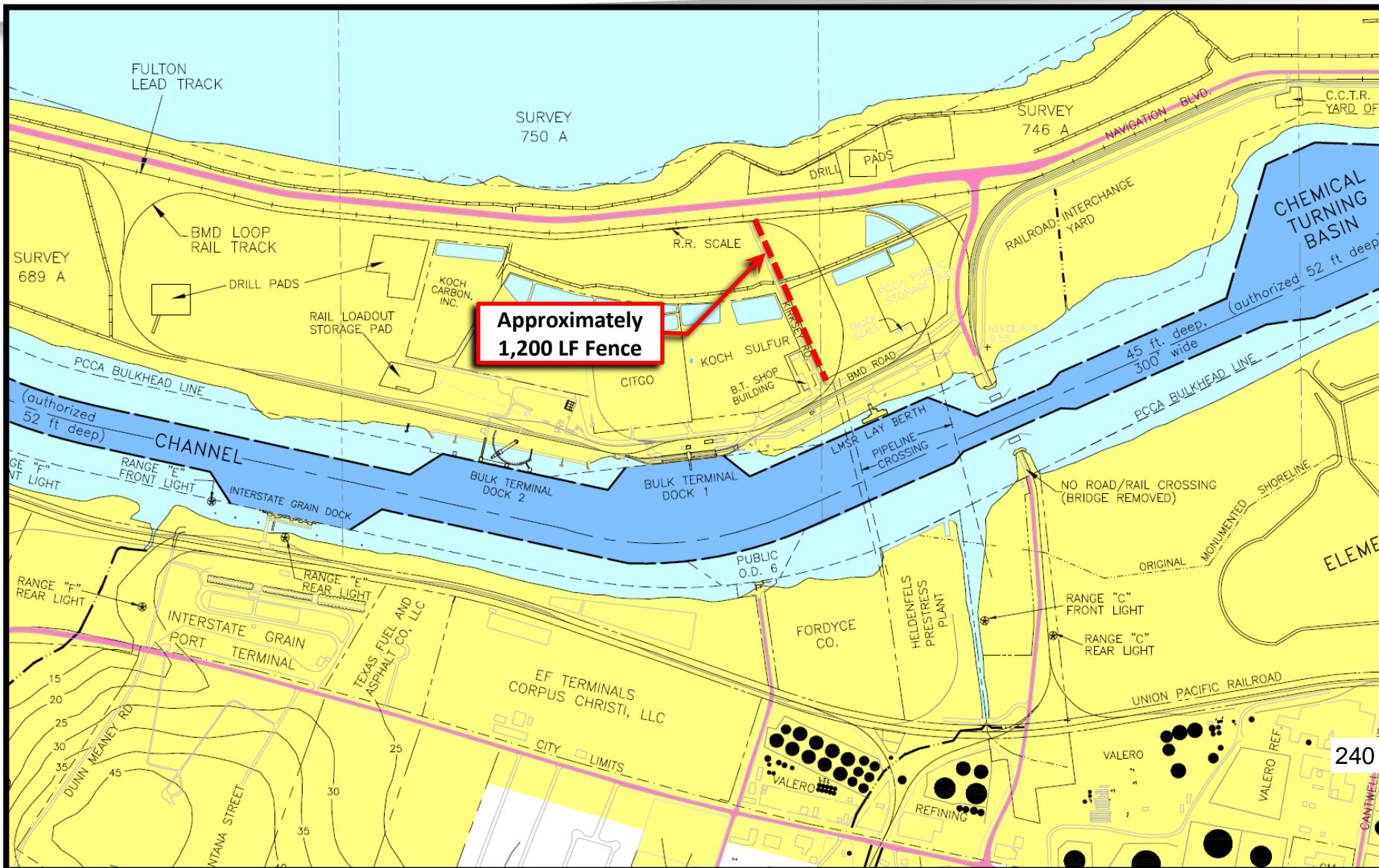
Date: March 6, 2018



PORT CORPUS CHRISTI®

Moving America's Energy

Security Grant 15 – Bulk Terminal Fencing Additional Fencing



DATE: March 20, 2018

TO: Port Commission

FROM: Eric Battersby
Manager of Bulk Terminal
ebattersby@pocca.com
(361) 885-6222

Award a Contract in the amount of \$100,000 to J.M. Davidson, LTD., the Lowest and Best Bidder Based on Bids Received on February 20, 2018, for Maintenance Painting at the Bulk Terminal

SUMMARY: Staff requests award of a unit rate contract to J.M. Davidson, LTD. to perform sandblasting, painting and associated work at the Bulk Terminal. The total cost for these services will not exceed \$100,000 for one year.

BACKGROUND: Since 1991, staff has conducted an ongoing maintenance program of sandblasting and painting at the Bulk Terminal. Because of the harsh marine environment, the corrosive effects of petroleum coke, and the age of the gantry crane, ship loader, and conveyor belt systems, the structures at this facility need constant repair and painting. The contract format that has successfully been used in the past is structured to establish unit rates for various levels of skilled painters/blasters to sandblast and paint according to PCCA specifications and environmental requirements for the typical maintenance painting tasks. In addition, the contract includes a number of supplemental or additive costs that address specific situations that may occur in difficult areas or challenging conditions (e.g., additional personnel, specialty equipment, specialty materials, overtime hourly multiplier, etc. required for a particular maintenance painting task). The bid unit prices remain in effect for twelve months, which allows staff flexibility in the amount of painting that can be achieved within the contract time period.

ALTERNATIVES: Function performed by staff

CONFORMITY TO PORT POLICY: Conforms to the PCCA's Strategic Plan Strategic Goal #2 – Provide Facilities and Services to Meet Customer Needs

EMERGENCY: No.

FINANCIAL IMPACT: This project is included in the 2018 budget under General Maintenance at the Bulk Terminal, which has \$100,000 allocated for this ongoing maintenance projects.

STAFF RECOMMENDATION: On February 28, 2018, the PCCA received one response to our Notice to Bidders to perform sandblasting, painting and associated work at the Bulk Terminal (see attached Bid Tabulation). J.M. Davidson, LTD. submitted the lowest total evaluated bid of \$28,141.48 (stated in the contract documents as the basis for award). The total evaluated bid is a hypothetical mix of the base bid and additive bid items based on what staff estimates most likely will occur within a certain time period and is used to measure the cost competitiveness of the contractor's rates. The hourly rates submitted in J.M. Davidson's bid are comparable to rates submitted and awarded in previous years when the project had received multiple bids.

Staff recommends that a one year contract be awarded to J.M. Davidson, LTD., in an amount not to exceed \$100,000 with the option of two additional one year renewals with a maximum amount not to exceed \$300,000. J.M. Davidson, LTD. is locally owned and operated that has successfully performed numerous projects for the PCCA in the past, including maintenance painting services at the Bulk Terminal for the past five years with similar maintenance painting contracts.

DEPARTMENTAL CLEARANCES:

Operating Department	Bulk Terminal
Reviewed & Approved	Eric Battersby
Procurement	Lynn Angerstein
Legal	Dane Bruun
Senior Staff	Tom Mylett
	Jarl Pedersen
	Dennis DeVries
	Sean Strawbridge
	John LaRue

LIST OF SUPPORTING DOCUMENTS:

Bid Tabulation



**BID TABULATION FOR
MAINTENANCE PAINTING AT THE BULK TERMINAL
PROJECT NO. 18-501A
Bid Opening: February 28, 2018 at 3:00 PM**

Company Name	Bid Bond or Check	Base Bid ^A				Materials/Third Party Markup ^B	Overtime Multiplier ^C	Total Evaluated Bid ^D	Qualification Statement Submitted	Addendum No. 1
		Item 1			Item 2					
		1a	1b	1c						
JM Davidson, Ltd.	5% GAB	\$31.80	\$30.61	\$25.44	\$6,250.00	10/%	1.45	\$28,141.48	X	X

*Project to be complete within 365 days of the date of the written Notice to Proceed

The following unit prices will be established to perform maintenance painting, including necessary pollution prevention controls, at the Bulk Terminal as directed by the PCCA.

^ABid Item 1a - Working Foreman Hourly Rate

^ABid Item 1b - Skilled Sandblaster/Painter Hourly Rate

^ABid Item 1c - Helper/Laborer Hourly Rate

^ABid Item 2 - Project Mobilization/Demobilization, Insurance, Bonds and etc. (One-time payment bid item)

^BMATERIALS / THIRD-PARTY MARKUP: Materials, vendor provided items, third-party equipment and sub-contractors items purchased, leased or contracted by Contractor and invoiced to PCCA will be cost plus markup percentage.

^COVERTIME MULTIPLIER: Overtime will be administered by applying a multiplier (up to 2 decimal points e.g. 1.15, 2.01) to only the hourly rates listed in Item A-1 of this Bid.

^DEVALUATED BID: (200 HR x \$/HR of Item A-1a) + (200 HR x \$/HR of Item A-1b) + (200 HR x \$/HR of Item A-1c) + (30 HR x OT Multiplier x \$/HR of Item A-1a) + (30 HR x OT Multiplier x \$/HR of Item A-1b) + (30 HR x OT Multiplier x \$/HR of Item A-1c) + Bid Item A-2 + (\$5,000 x Markup % Bid Item B)

Read By: Lynn Angerstein, Manager of Procurement Services

Date: February 28, 2018

DATE: March 20, 2018
TO: Port Commission
FROM: Eric Battersby
ebattersby@pocca.com
(361) 885-6222

**Authorization for Solicitation by Request for Proposals for Bulk Terminal
Storage Pad Operator Services**

SUMMARY: Staff is seeking Port Commission authorization to solicit proposals from qualified firms to perform Storage Pad Operator Services for the Bulk Terminal by Request for Proposals.

BACKGROUND: The PCCA currently oversees management of both private, leased petroleum coke storage pads and public dry bulk transient storage pads within the Bulk Terminal facility. As part of the long-term strategic plan to provide operational efficiencies for multiple customers, the PCCA will manage all petroleum coke storage pads with the assistance of a third-party operator. The third-party operator will provide additional manpower and material handling heavy equipment necessary to perform pad management and material loadout services. Proposals will be evaluated based on published evaluation criteria; for example, specific services, management plan, and price.

ALTERNATIVES: Alternate contracting options or continue with current operation

CONFORMITY TO PORT POLICY: PCCA Strategic Goal #4A –Proactively Pursue Diversified Port-related Economic Development Opportunities and #3B - Operate the Port's Facilities in a Safe, Secure, and Efficient Manner

EMERGENCY: No.

FINANCIAL IMPACT: More efficiency in operation resulting in economies of scale

STAFF RECOMMENDATION: Staff recommends authorization to issue formal solicitation in the form of a Request for Proposals for Storage Pad Operator Services for the Bulk Terminal.

DEPARTMENTAL CLEARANCES:

Originating Department	Bulk Terminal
Reviewed & Approved	Eric Battersby, Manager of Bulk Terminal Tom Mylett Lynn Angerstein
Legal	Dane Bruun
Senior Staff	John LaRue Sean Strawbridge Dennis J. DeVries Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS: None

DATE: March 20, 2018
TO: Port Commission
FROM: Danielle Hale
dhale@pocca.com
(361) 885-6612

Authorization for Solicitation by Request for Proposals for Debris Management Services

SUMMARY: Staff seeks Port Commission authorization to solicit proposals from qualified firms to perform Debris Management Services as described in the Federal Emergency Management Agency (FEMA) Public Assistance Debris Management Guide (FEMA-325).

BACKGROUND: The PCCA is seeking debris management services for debris generated events including, but not limited to, hurricanes, tornados, hail storms, and catastrophic fires and explosions. Services may include large-scale debris removal, separation, storage, processing and disposal of both submerged and unsubmerged debris. The immediate need is waterway debris clearing as a result of Hurricane Harvey and assistance with federal and state reporting and reimbursement efforts.

ALTERNATIVES: Alternate contracting options

CONFORMITY TO PORT POLICY: PCCA Strategic Goal #3B –Operate the Port's Facilities in a Safe, Secure, and Efficient Manner #1a Assure/ensure the security of Port property, port personnel, and the port waterways serving port Authority owned facilities

EMERGENCY: No.

FINANCIAL IMPACT: Anticipated FEMA reimbursable

STAFF RECOMMENDATION: Staff recommends authorization to issue a Request for Proposal for Debris Management Services.

DEPARTMENTAL CLEARANCES:

Originating Department Emergency Management

Reviewed & Approved	Danielle Hale Tom Mylett Lynn Angerstein Sarah Garza
Legal Senior Staff	Dane Bruun John LaRue Sean Strawbridge Dennis J. DeVries Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS: None

DATE: March 20, 2018
TO: Port Commission
FROM: Danielle Hale
dhale@pocca.com
(361) 885-6612

Authorization for Solicitation by Request for Proposals for Debris Monitoring and Recovery Services

SUMMARY: Staff seeks Port Commission authorization to solicit proposals from qualified firms to perform Debris Monitoring and Recovery Services as described in the Federal Emergency Management Agency (FEMA) Public Assistance Debris Management Guide (FEMA-325).

BACKGROUND: The PCCA is seeking monitoring operations and recovery services for debris generated events including, but not limited to, hurricanes, tornados, hail storms, and catastrophic fires and explosions. All debris removal shall be monitored in accordance with all applicable local, State and Federal law, standards and regulations. Debris removal may include vegetative debris, wet debris, construction and demolition debris, recyclable debris, white goods, hazardous waste, reduced debris, ash residue, soil, mud and sand, vehicles and vessels, putrescent debris, infectious waste, garbage and chemical, biological, radiological, and nuclear contaminated debris.

ALTERNATIVES: Alternate contracting options

CONFORMITY TO PORT POLICY: PCCA Strategic Goal #3B –Operate the Port’s Facilities in a Safe, Secure, and Efficient Manner #1a Assure/ensure the security of Port property, port personnel, and the port waterways serving port Authority owned facilities

EMERGENCY: No.

FINANCIAL IMPACT: Anticipated FEMA reimbursable

STAFF RECOMMENDATION: Staff recommends authorization to issue a Request for Proposals for Debris Monitoring and Recovery Services.

DEPARTMENTAL CLEARANCES:

Originating Department	Emergency Management
Reviewed & Approved	Danielle Hale Tom Mylett Lynn Angerstein Sarah Garza
Legal	Dane Bruun
Senior Staff	John LaRue Sean Strawbridge Dennis J. DeVries Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS: None

DATE: March 20, 2018

TO: Port Commission

FROM: Sam Esquivel, Real Estate Services Manager
Sam@pocca.com
(361) 885-6140

**Approve a 30.07-acre Marina Lease Agreement with the City of Port Aransas
Located in Port Aransas, Nueces County, Texas.**

SUMMARY: The City of Port Aransas has requested a Lease Agreement for 30.07-acres for marina purposes. The Lease term will be for a period of thirty (30) years commencing on April 1, 2018 and ending on March 31, 2048.

BACKGROUND: On January 31, 1958, the PCCA leased 49.15 acres to the City of Port Aransas for a 30-year term. The lease acreage was intended to become the majority of the City's marina and public green space. The Lease was later modified to include an additional 1.583 acres for the development of Roberts Point Park, thereby increasing the Leased Premises to 50.73-acres. By Lease instrument dated December 1, 1976, the lease dated January 31, 1958 was cancelled effective November 30, 1976, and a new 30-year term began December 1, 1976, ending November 30, 2006. Subsequently, effective January 1, 1987, the lease was cancelled, and a new 30-year term began on January 1, 1987, ending December 31, 2017. By instrument executed on May 21, 1987, but dated to be effective June 1, 1987, City and Authority effectively released 20.66 acres from the terms of the 1987 Lease and entered into a new perpetual lease for said 20.66 acres, for so long as, the 20.66 acres are used for park purposes (Park Lease). The May 21, 1987 Park Lease thereby reduced the Marina Lease to 30.07-acres. On February 20, 2017 the Port Commission approved an Amendment of Lease with the City of Port Aransas to extend the Marina Lease to March 31, 2018 to finalize the commercial terms for a new long-term Lease

ALTERNATIVES: Do not approve.

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan; Strategic Goal #2 – Provide facilities and services to meet customer needs to provide surface infrastructure and services to support maritime and industrial development and Strategic Goal #3 Build and sustain productive relationships with all stakeholders.

EMERGENCY: N/A

FINANCIAL IMPACT: The City of Port Aransas will pay the PCCA ten percent (10%) of the City's Gross Marina Revenues for each lease year. The annual Percentage Rent payment shall be due and payable each lease year by the City to the Authority within 30 days after the close of the City's fiscal year (September 30).

STAFF RECOMMENDATION: Staff recommends approval of the Lease Agreement with the City of Port Aransas for 30.07-acre for marina purposes located in Port Aransas, Nueces County, Texas.

DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel Kent Britton
Legal	Bruce Hawn
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Lease Amendment

Approve a 30.07-acre Marina Lease Agreement with the City of Port Aransas Located in Port Aransas, Nueces County, Texas.



LEASE AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF NUECES §

This **LEASE AGREEMENT** ("**Lease**") is made effective as of the 1st day of April, 2018 ("**Effective Date**") by and between the **PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS**, pursuant to authorization by its Port Commissioners ("**Authority**"), and the **CITY OF PORT ARANSAS, TEXAS**, a Texas home rule municipality ("**City**"). Authority and City each herein called a "**Party**" and together the "**Parties**".

WHEREAS, by instrument dated effective January 1, 1987 Authority leased 50.73 acres of land to the City for marina purposes ("**1987 Lease**"); and

WHEREAS, by instrument executed on May 21, 1987, but dated to be effective June 1, 1987, City and Authority effectively released 20.66 acres from the terms of the 1987 Lease and entered into a new lease for said 20.66 acres, perpetual in nature provided said 20.66 acres is used for park purposes ("**Park Lease**"). The 1987 Lease as amended by the Park Lease shall hereinafter be referred to as the "**Marina Lease**".

WHEREAS, the Marina Lease, as amended expires on March 31, 2018; and

WHEREAS, the Parties desire to enter into a new lease for a period of thirty (30) years commencing on April 1, 2018 and ending on March 31, 2048; and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that effective April 1, 2018, the following lease is hereby made.

I.

Authority, in consideration of the rents to be paid and upon the terms, covenants, and conditions hereinafter set forth, hereby leases to City and City hereby leases from Authority for a term beginning on the 1st day of April, 2018 and ending on the 31st day of March, 2048, the following described land located in Nueces County, Texas, to-wit:

30.07 acres of land more or less (the "**Property**"), out of 50.73 acres of land originally leased by Authority to City by the 1987 Lease. The description of said 50.73-acres is more particularly described and depicted in Exhibit "A" attached hereto, SAVE AND EXCEPT from said 50.73-acre tract, the 20.66 acre Park Lease tract described and depicted in Exhibit "B".

The Property hereby leased may be used for all purposes necessary, proper, convenient or expedient in connection with the construction, operation and maintenance of channels, canals, boat basins, wharfs, docks, berthing facilities for small boats, marine railways, marine service stations and

any uses related to the operation and maintenance of a boat basin and harbor and for all other uses necessary, convenient or beneficial to the City of Port Aransas, Texas (the “**Marina Purposes**”).

II.

For the rights and privileges granted to it hereunder, City shall pay to the Authority a rental as follows:

A. City agrees to pay Authority rent for each lease year, or fractional part thereof, of the thirty (30) year term of this Lease. The rent payable, for each lease year, or fractional part thereof, will be ten percent (10%) of the City’s Gross Marina Revenues (hereinafter defined) for each lease year (the “**Percentage Rent**”). The annual Percentage Rent payment shall be due and payable each lease year by the City to the Authority within 30 days after the close of the City’s fiscal year (September 30).

B. As used herein the term “**lease year**” means April 1 through the following March 31 of each year (12-month period) of the Lease commencing on April 1, 2018.

C. As used herein the term “**Gross Marina Revenues**” means for each lease year the dollar aggregate of all revenues derived from City’s: (i) provision of services on the Property; (ii) sales conducted on the property; and (iii) use, sub-lease, license, rental, and operation of the Property for any of the Marina Purposes. City agrees to keep a permanent, accurate set of books and records of all Gross Marina Revenues available for Authority’s inspection. City shall permit Authority and Authority’s representatives to examine or audit such records at any and all reasonable times, and shall, upon Authority’s request, explain the methods of keeping the records.

D. In addition to the Percentage Rent, City, each lease year during the term of this Lease agrees to provide Authority with two (2) adjacent safe and readily accessible boat docks and slips capable of berthing two of the Authority’s patrol boats.

III.

City shall have the right, power and authority to dig, dredge and cut away such portions of the land covered by this lease as may be necessary to provide channels and a small boat harbor and related facilities. Before performing any dredging or any filling of submerged areas and before building any structures on the Property for which a Department of the Army permit is necessary and before constructing park facilities, City shall submit plans for such dredging or filling and for such structures and planned facilities to the Authority for its approval. In this connection it is anticipated that the access to the Property for navigation purposes from the Corpus Christi Ship Channel shall be only through the Government Basin and channel which now exists on a part of the Property and that approval of Authority will not be given for construction of docks, wharfs, and other navigation facilities along the north side of the Property fronting on the Corpus Christi Ship Channel.

IV.

City agrees that in the use of the Property it will not do or cause to be done anything that will adversely affect the use, development, and expansion of the Corpus Christi Ship Channel.

V.

This lease is granted to the City of Port Aransas in order that such City itself may use and develop the lands for small boat harbor facilities and it is specifically understood that this lease shall not be assigned without the consent in writing of Authority, save and except that the rights of City under this lease may be assigned in any mortgage, deed of trust or other security device made by City to secure revenue bonds or other evidences of indebtedness, if any, issued by City for the construction of facilities to be owned by City on the lands covered by this lease.

Without the consent of Authority, City shall have the right to sublet portions of the premises upon such rentals and considerations as City shall see fit.

VI.

A. City has inspected the Property and has conducted any environmental site assessment it desired. As of the Effective Date of this Lease, City understands and agrees that the Property is being leased in an “As Is Where Is” condition, and City accepts the Property in the condition it exists on the Effective Date as reasonably suited and fit for City’s intended uses of Property. City acknowledges that Authority has made no express warranties with regard to the Property, except as expressly set forth in this Lease. To the maximum extent permitted by applicable law, Authority hereby disclaims, and City waives the benefit of, any implied warranties, including implied warranties of habitability, or fitness or suitability for City’s intended uses of the Property.

B. City further understands and agrees that improvements, grading, filling, dredging, removal of existing improvements, repairs, maintenance dredging, location and relocation of utility lines, construction, maintenance and repair of bulkheads, piers, docks, slips, and any other improvements to the Property, shall be made and performed by City at the sole cost and expense of City. City further understands and agrees that the “As-Is, Where Is” condition of the Property includes any contamination on the Property, including structures, surface soil or subsurface strata, groundwater, surface water 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 and by entering into this Agreement, City acknowledges that it is relying solely on its prior history with and operation of the Property, as well as, its own inspection and investigation into the condition of the Property.

VII.

City’s currently existing Base Map currently shows more than half of Harbor Island as being within the City limits of the City. Harbor Island is currently zoned as “HI” by Section 25-121 of the Port Aransas City Code (the “**Code**”). City acknowledges the importance of Harbor Island to the operation and development of the Port of Corpus Christi; and recognizes that any changes in the zoning of Harbor Island further restricting the uses to which property within the Harbor Island District may be put will have a significant adverse impact on the Authority and on Authority’s development of the Port of Corpus Christi. Accordingly, the Parties hereto agree, that this Lease will immediately terminate in the event, the City, during the term of this Lease, changes the zoning of Harbor Island to place Harbor Island into any other zoning district set forth in Article III of the Code, other than HI; or changes or modifies the Harbor Island District Regulations set forth in said section 25-121 of the Code as they existed on January 1, 2018,

such that the Harbor Island District Regulations become more restrictive as to the uses to which property within the HI District may now be put.

VIII.

Various owners of land in Blocks Eighteen (18), Nineteen (19), Seventy-Six (76) and One Hundred Forty-Two (142) of Mustang Island Survey, which lands adjoin on the south the premises covered by this lease, have entered into or may enter into instruments of "mutual conveyances" with Authority entitling the owners of those lands which are subject to such mutual conveyances to certain rights of access to the lands covered by this lease and the channels and basins constructed thereon for certain uses and purposes and subject to certain conditions as are specified in such mutual conveyances, reference to which are here made. This lease is made subject to the rights of all parties to such mutual conveyances covering lands in the said blocks on Mustang Island and Authority hereby assigns to City the rights of Authority to grant franchises or permits under the conditions as specified in said mutual conveyances for terms of years not to exceed the term of this lease. Authority hereby assigns to City the full right to grant such permits or franchises as fully as if the Authority itself granted the same, which said franchises or permits when granted will be fully binding upon Authority for the term thereof not to exceed, however, the term of this lease. City shall have the full right to collect rentals for commercial uses as may be provided in said franchises and permits. All revenues received from the grant of any franchises or permits shall be considered part of Gross Marina Revenues.

IX.

City hereby waives all liabilities (including strict liability), actions, demands, damages, penalties, fines, losses, claims, costs, expenses (including reasonable attorneys' and experts' fees and expenses), suits, settlements or judgments of any nature whatsoever (including claims for personal injury, bodily injury, real and personal property damage and economic loss) ("Claims") which arise or may arise in its favor against Authority, its Port Commissioners, directors, managers, employees and agents ("Authority Parties") during the Term of this Lease for any loss of, or damage to, any of its property located within or upon, or constituting a part of, the Property, to the extent that such loss or damage is or would have been covered by any property insurance which City is required to carry under this Lease (whether or not City actually carries such insurance or self-insures for the loss or damage). City agrees to immediately give to each insurance company which has issued to it policies of fire and extended coverage insurance 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.

X.

A. To the extent allowed by law, City shall defend, indemnify and hold harmless the Authority Parties from and against, and City shall be responsible for, any and all Claims which may be brought or instituted or asserted against the Authority Parties based on or arising out of or relating to any of the following events (each being referred to herein as an "Indemnified Event"): (i) the failure on the part of the City or any of its sublessees or their respective owners, officers, managers, employees, agents, invitees, guests, contractors, subcontractors or licensees ("City Parties") to comply with the provisions of Applicable

Laws applicable to the Property or the City's improvements on the Property constructed or owned by City ("City Facilities"), or (ii) any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property occurring on the Property or the City's Facilities, or (iii) any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property arising out City's operations on the Property or City's use of the Property for Marina Purposes.

B. Notwithstanding anything to the contrary contained in Section X. A., it is expressly provided and agreed by and between the Parties that City shall not be obligated to indemnify and hold harmless the Authority Parties from and against their own negligence, and that neither the Authority nor the City waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under laws of the State of Texas.

C. Notwithstanding anything to the contrary contained in Section X. A., City shall be relieved of its obligation of indemnity (but not its obligation to defend) with respect to any Claim to the extent, but only to the extent, of (i) the amount actually recovered from one or more insurance carriers and either paid to the Authority Parties or paid for benefit of the Authority Parties in reduction of such Claim, or (ii) the percentage of responsibility attributed to the Authority Parties with respect to causing or contributing to cause the Indemnified Event for which the Claim was made.

D. City's indemnity obligations under this Section X shall not be limited by a limitation on the amount or type of damages, compensation or benefits owed by City to any employee of City under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts.

E. The obligations of the City under this Section X shall survive the expiration or any earlier termination of the term of this Lease.

XI.

Without limiting the indemnity obligations or liabilities of Lessee, or its insurers, provided herein, Lessee agrees to procure and maintain at its sole expense during the Term of the Lease the policies of insurance described in **Exhibit C** attached hereto and in at least the minimum amounts specified in **Exhibit C**.

XII.

The Parties hereto agree that all provisions of this Lease Agreement are material; and further agree that if any part of this Lease is held to be invalid, illegal, or unenforceable in any respect then this Lease will not be reformed, but shall terminate in its entirety and be of no further force and effect.

This Lease is granted with the understanding that the lands included herein are needed and will be used by the City of Port Aransas in the construction and maintenance of channels, boat basins and small boat facilities in addition to the present "Government Basin" and other basins now dredged and existing on the lands included in this lease.

WITNESS the date and year first above mentioned.

AUTHORITY:

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

By: _____
Sean C. Strawbridge
Chief Executive Officer

Date: _____

CITY:

CITY OF PORT ARANSAS, TEXAS

By: _____
Name: _____
Title: _____

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on this _____ day of _____, 2018, by Sean C. Strawbridge as Chief Executive Officer of PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS, a navigation district and political subdivision of the State of Texas, on behalf of said navigational district.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on the _____ day of _____, 2018, by _____, _____, a Texas home-rule municipality, on behalf of said municipality

Notary Public, State of Texas

EXHIBIT "A"

50.73 more or less acres of land more or less, lying along the north shore of Mustang Island, Nueces County Texas, within the city limits of Port Aransas, Texas, 20-1/2 miles N. 83°E from the County Court House of Nueces County at Corpus Christi, Texas. Said tract lies east of the right-of-way of Cotter Street leading to the Ferry Landing, north of Port of Corpus Christi Authority south bulkhead line of the Port Aransas Canal, west of the Federal authorized and dredged Turtle Cove Canal and Basin, and south of the Port Aransas-Corpus Christi Waterway, all being a portion of the lands patented by the State of Texas to Port of Corpus Christi Authority by Patent No. 217, dated January 24, 1950, and recorded in the Deed Records, Nueces County, Volume 455, Pages 586-588, and described by metes and bounds as follows:

Beginning at a point, which bears N. 83° 52' W. 877.51 feet from U.S.E.D. Triangulation Station 30+53.78 (1956), said point being the intersection of a northerly extension of the east right-of-way line of Cotter Street with a line 725.0 feet south of and parallel to the centerline of the 250 foot channel of the Port Aransas-Corpus Christi Waterway, for the northwest corner of this tract, with Coordinates X= 2,462,592.82 and Y = 792,608.33.

Thence, S. 12° 26' 31" E. a distance of 363.74 feet, with the east right-of-way line of Cotter Street to a point, which point is the beginning of a left curve having a radius of 616.20 feet.

Thence, with said left curve having a radius of 616.20 feet and chord bearing S. 31° 35' 51" E. 404.20 feet to a point, which point is the intersection of the east right-of-way line of Cotter Street with the Port of Corpus Christi Authority south bulkhead line of the Port Aransas Canal, for a corner of this tract.

Thence, N. 87° 06' 29" E. along the Port of Corpus Christi Authority south bulkhead line of the Port Aransas Canal, a distance of 1106.48 feet to a point, said point being an angle point in the south bulkhead line for a corner of this tract.

Thence, continuing along the south bulkhead line of the Port Aransas Canal, N. 74° 34' 25" E. a distance of 604.83 feet to a point, which point is the southwest corner of the Government Basin at Port Aransas, Texas, for a corner of this tract.

Thence, N. 56° 00' 32" E. a distance of 666.22 feet along the southeasterly edge of the Government Basin to an angle point in the Government Basin.

Thence, N. 86° 00' 32" E. a distance of 148.04 feet along the southerly edge of the Government Basin to a point, which point is the intersection of the southerly edge of the Government Basin with the most westerly edge of the original Turtle Cove Canal and Basin, for the southeasterly corner of this tract.

Thence, N. 3° 59' 28" W. along the westerly edge of the Turtle Cove Canal and Basin, a distance of 300.00 feet to a point for a corner of this tract.

Thence, S. 86° 00' 32" W. along the northerly edge of the Government Basin, a distance of 50.00 feet, to a point for a corner of this tract.

Thence, parallel to and 100.00 feet west of the centerline of the original Turtle Cove Canal N. 3° 59' 28" W. a distance of 374.78 feet to a point, said point being the northeast corner of this tract, with Coordinates X = 2,465,174.36 and Y = 793,177.90.

Thence, S. 77° 33' 21" W., 559.05 feet along a meandering shoreline to a point.

Thence, N. 17° 47' 53" W., 60.59 feet along same shoreline to a point.

Thence, S. 76° 09' 07" W., 441.03 feet along same shoreline to a point.

Thence, S. 47° 05' 00" W., 97.65 feet along same shoreline to a point.

Thence, S. 77° 33' 19" W, 169.47 feet along same shoreline to a point.

Thence, N. 84° 12' 02" W., 181.99 feet along same shoreline to a point.

Thence, S. 79° 57' 56" W., 212.24 feet along same shoreline to a point.

Thence, S. 67° 18' 04" W., 133.25 feet along same shoreline to a point.

Thence, S. 83° 54' 54" W., 234.33 feet along same shoreline to a point.

Thence, S. 50° 37' 11" W., 150.41 feet along same shoreline to a point.

Thence, S. 77° 33' 21" W., 501.36 feet, parallel to and 725 feet south of the centerline of the Port Aransas-Corpus Christi Ship Channel, to the place of beginning; Said tract of land containing 50.73 acres of land more or less.

All bearings are based on Grid North for Texas, South Zone as established by the U.S. Coast and Geodetic Survey.

EXHIBIT "A"

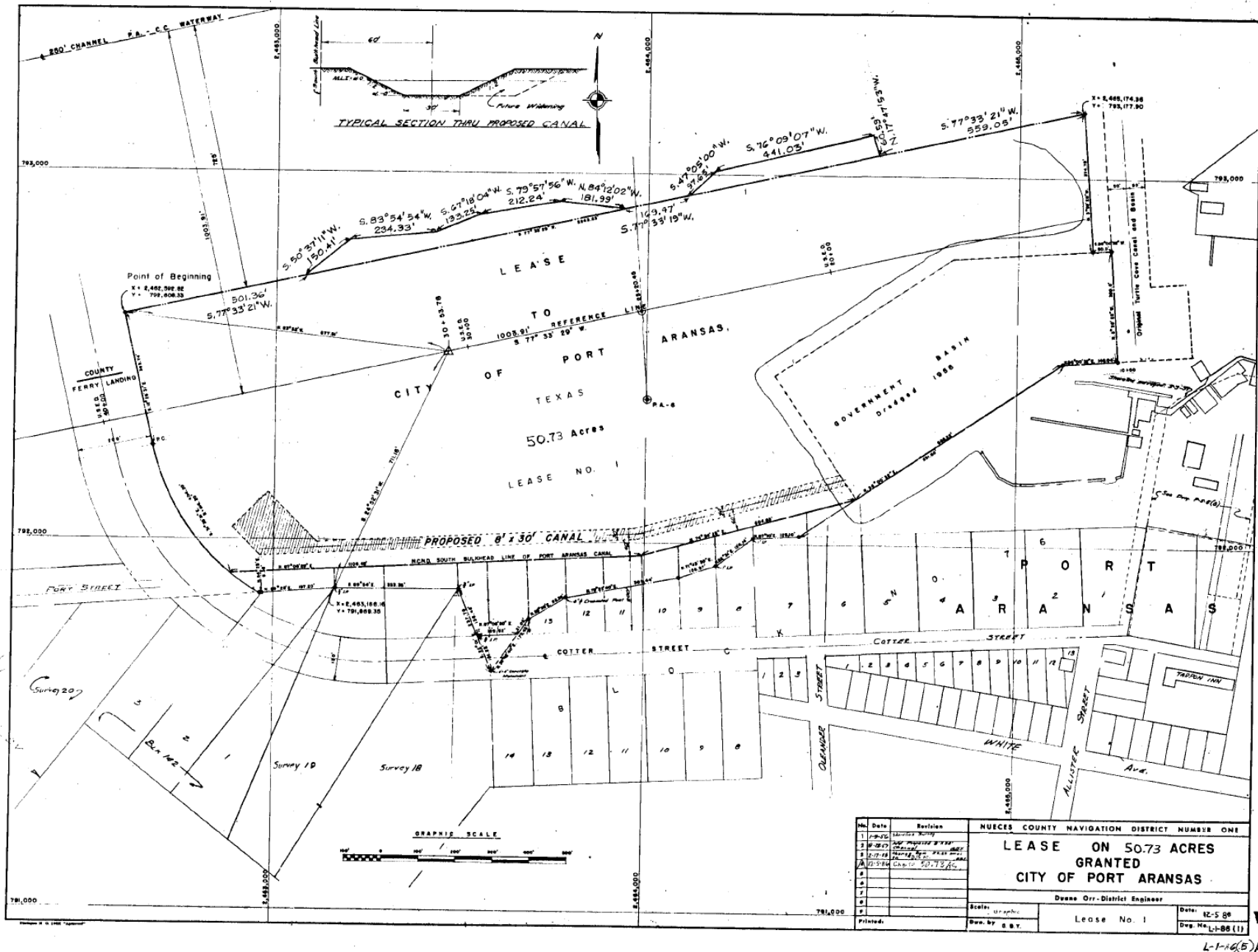


EXHIBIT "B"

Metes and Bounds Description

Said tract being 20.66 acres of land lying along the north shore of Mustang Island, Nueces County Texas, within the city limits of Port Aransas, Texas, 20½ miles N. 83° E. from the County Court House of Nueces County at Corpus Christi, Texas. Said tract lies east of the right-of-way of Cotter street leading to the Ferry Landing, north of the Port of Corpus Christi Authority's south bulkhead line of the Port Aransas Canal, west of the Federal authorized and dredged Turtle Cove Canal and Basin, and south of the Port Aransas-Corpus Christi Waterway, all being a portion of the lands patented by the State of Texas to the Port of Corpus Christi Authority by Patent No. 217, dated January 24, 1950 and recorded in the Deed Records, Nueces County, Volume 455, Pages 586-588, and described by metes and bounds as follows:

Beginning at a point, which bears N. 83° 52' 00" W 877.51 feet from U.S.E.D. Triangulation Station 30+53.78 (1956). Said point being the intersection of a northerly extension of the east right-of-way line of Cotter Street with a line 725.0 feet south of and parallel to the centerline of the 500 foot channel of the Port Aransas-Corpus Christi Waterway, for the northwest corner of this tract, with Coordinates x=2,462,592.82 and y=792,608.33.

Thence S 12° 26' 31" E., 363.74 feet, with the east right-of-way line of Cotter Street to a point of curvature. Said P.C. being the southwest corner of this tract and the beginning of a curve to the left having a radius of 616.20 feet.

Thence N. 75° 48' 29" E., 370.00 feet to a point.

Thence N. 85° 36' 00" E., 546.44 feet to a point.

Thence N. 87° 57' 09" E., 300.00 feet to a point on an existing bulkhead. Said bulkhead being on the north line of the Port Aransas Municipal Boat Basin.

Thence N. 83° 43' 57" E., 322.57 feet to a point on said existing bulkhead.

Thence N. 54° 36' 45" E., 249.44 feet to a point on said existing bulkhead.

Thence, N. 31° 43' 12" W., 95.91 feet to a point on said existing bulkhead and being an inside corner of this tract.

Thence, N. 55° 14' 24" E., 364.82 feet to a point.

Thence, S. 82° 21' 03" E., 30.00 feet to a point. Said point being the southeast corner of this tract.

Thence, N. 07° 38' 57" E., 84.68 feet to a point.

Thence, N. 28° 23' 14" W., 127.15 feet to a point on a line. Said line being 725.00 feet south of and parallel to the centerline of the 500 foot Port Aransas-Corpus Christi Ship Channel.

EXHIBIT "B"

Thence, N. 17° 47' 53" W., 60.59 feet to a point. Said point being at the shoreline of the Port Aransas-Corpus Christi Ship Channel and the northeast corner of this tract.

Thence, S. 76° 09' 07" W., 441.03 feet along a meandering shoreline to a point.

Thence, S. 47° 05' 00" W., 97.65 feet along same shoreline to a point.

Thence, S. 77° 33' 19" W., 169.47 feet along same shoreline to a point.

Thence, N. 84° 12' 02" W., 181.99 feet along same shoreline to a point.

Thence, S. 79° 57' 56" W., 212.24 feet along same shoreline to a point.

Thence, S. 67° 18' 04" W., 133.25 feet along same shoreline to a point.

Thence, S. 83° 54' 54" W., 234.33 feet along same shoreline to a point.

Thence, S. 50° 37' 11" W., 150.41 feet along same shoreline to a point.

Thence, S. 77° 33' 21" W., 501.36 feet, parallel to and 725.00 feet south of the centerline of the Port Aransas-Corpus Christi Ship Channel, to the place of beginning, said tract of land containing 20.34 acres of land more or less.

All bearings are based on Grid North for Texas, South Zone as established by the U.S. Coast and Geodetic Survey.

There is attached hereto a plat designated as drawing number L-1-235 (1) dated May 18, 1987, which further describes this tract for all purposes necessary, proper, convenient or expedient in connection with the construction, operation and maintenance of channels, canals, boat basins, wharves, docks, berthing facilities, for small boats, marine railways, marine service stations, and any uses related to the operation and maintenance of a boat basin and harbor and for all other uses necessary, convenient or beneficial to the City of Port Aransas, Texas.

EXHIBIT "C"

INSURANCE

Without limiting the indemnity obligations or liabilities of Lessee, or its insurers, provided herein, Lessee agrees to procure and maintain at its sole expense during the Term of the Lease the following policies of insurance (sometimes collectively referred to in this Exhibit as the "**Policies**") and in at least the minimum amounts specified below:

	<u>TYPE OF INSURANCE</u>	<u>LIMITS OF LIABILITY</u>
A.	Workers' Compensation	Statutory
B.	Employer's Liability	\$1,00,000 per Occurrence \$1,00,000 Aggregate
C.	Commercial General Liability	\$1,000,000 per Occurrence \$2,000,000 Aggregate

The CGL Policy will provide contractual liability coverage at the aforementioned limits.

D.	Business Automobile Liability	\$1,000,000 per Occurrence
----	-------------------------------	----------------------------

Automobile liability insurance coverage will include all owned, non-owned, and hired vehicles.

E.	Pollution Liability Insurance	\$1,000,000 per Occurrence \$2,000,000 Aggregate
----	-------------------------------	---

F. Property Insurance Property insurance with no exclusions, except the standard printed exclusions, covering all loss, damage or destruction to the Lessee's Real and Personal Property, including Equipment, on the leased property in an amount equal to 100% of the Full Replacement Cost (hereinafter defined) of Lessee's Real and Personal Property, including Equipment, on the leased property, or in such greater amount as may be necessary to avoid the effect of the co-insurance provisions of the applicable policy or policies. The term "Full Replacement Cost" shall mean the actual replacement cost, including the cost of demolition and debris removal and without deduction for depreciation.

Each policy must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the Authority, its Port Commissioners, officers and employees ("**Authority Parties**"). Additionally, the Authority Parties shall be designated as an Additional Insured or *Additional Covered Party (Risk Pool/Joint Self-Insurance Fund)* either by a blanket additional insured or a specific endorsement on all policies, except for Worker's Compensation, Employer's Liability, and Commercial Property Insurance. If the work of Lessee's employees falls within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or the Federal Employer's Liability Act, Lessee shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts. Each policy, except Workers' Compensation, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insureds with respect to claims arising under this Lease.

The insurance required as listed above shall apply to any contractor or subcontractor performing work on the Leased Premises for or on behalf of Lessee, and Lessee shall ensure that any such contractor or subcontractor is aware of and is in compliance with the insurance requirements during any period such contractor or subcontractor is on the Leased Premises at Lessee's request. Lessee's insurance provider shall give the Lessee at least thirty (30) day's prior written notice of any cancellation, nonrenewal, or material modification of each of the policies and Lessee shall then notify the Authority of same, Attention: Risk Manager.

The company writing each of the Policies must possess a current rating with A.M. Best Company of at least "A-, VII", unless the company providing the coverage is a *Risk Pool or Joint Self-Insurance Fund*. Lessee's liability shall not be limited to the specified amounts of insurance required herein.