

**CITY OF TEXAS CITY
REGULAR CALLED CITY COMMISSION MEETING**

*** * AGENDA * ***

**WEDNESDAY, DECEMBER 16, 2009 - 5:00 P.M.
KENNETH T. NUNN COUNCIL ROOM - CITY HALL**

1. INVOCATION

2. PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS AND PRESENTATIONS

a. Service Awards:

Damian McNeel	Library	10 years
Mickey House	Police Department	15 years
Debra McGrew	Police Department	15 years
Timothy Williams	Public Works	30 years

4. REPORTS

a. Quarterly Investment Report for the quarter ending September 30, 2009. (Finance)

5. CONSENT AGENDA: All of the following items on the Consent Agenda are considered to be routine by the City Commission and will be enacted by one motion. There will not be separate discussion of these items unless a Commission Member or citizen so requests. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary.

a. Consider approval of the minutes from the December 2, 2009 Regular Called City Commission Meeting.

b. Consider approval of Resolution No. 09-138 authorizing the purchase and delivery of one (1) 1500 GPM Pierce Contender Pumper with foam capability to be purchased through the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program. (Fire Dept.)

c. Consider approval of Resolution No. 09-139 authorizing the renewal, (fifth year) of the 2009-2010 HGAC Training Grant Agreement (reimbursement) between the Texas City Law Enforcement Academy-Texas City Police Department and Houston-Galveston Area Council (H-GAC). (Police Dept.)

d. Consider approval of Resolution No. 09-140 authorizing the Mayor to execute an Interlocal Agreement with Dickinson Independent School District approving a four year Lease Agreement for the Dickinson Independent School District swim team's use of the natatorium facility. (Management Services)

e. Consider approval of Resolution No. 09-141 authorizing the Mayor to execute an Agreement with Texas City Radio Control Club to design, fabricate and install a utility building at Holland Park .

f. Consider approval of Resolution No. 09-142 authorizing the conveyance of a 4.9217 acre tract (Animal Shelter) to the County of Galveston . (Public Works)

g. Consider approval of Resolution No. 09-143 authorizing the Mayor the execute a contract between the Galveston County Health District and the City of Texas City for water pollution control and abatement services . (Utility Dept.)

h. Consider approval of Resolution No. 09-144 authorizing the City of Texas City to purchase a portion of the

- n. Consider approval of **Resolution No. 09-144** approving the **Single Family Mortgage Revenue Bond Program Series 2009A for the Southeast Texas Housing Finance Corporation.** (SETH)
- i. Consider approval of a **Resolution No. 09-145** authorizing the Mayor to execute an Engineering Services Agreement with HDR/Claunch & Miller for **Phase 12 of the Sanitary Sewer Rehabilitation Program** .
(Transportation and Planning)

6. **REGULAR ITEMS**

7. **PUBLIC COMMENTS**

8. **MAYOR'S COMMENTS**

9. **COMMISSIONERS' COMMENTS**

NOTICE OF ANY SUBJECT APPEARING ON THIS AGENDA REGARDLESS OF HOW THE MATTER IS STATED MAY BE ACTED UPON BY THE CITY COMMISSION.

NOTICE: The City of Texas City will furnish free transportation to handicapped individuals via a 4-door sedan for anyone wishing to attend the City Commission meetings. Call 948-3111, City Secretary's Office before noon on Monday preceding the meeting to make arrangements.

I CERTIFY THAT THE ABOVE NOTICE OF THE MEETING WAS POSTED ON THE BULLETIN BOARD IN THE MUNICIPAL BUILDING, 1801 9TH AVENUE NORTH, TEXAS CITY, TEXAS ON THE DATE LISTED BELOW AT 5:00 P.M.

/s/ Pamela A. Lawrence
PAMELA A. LAWRENCE
CITY SECRETARY

DATED: December 11, 2009

3. a.

CITY COMMISSION AGENDA

Date: 12/16/2009

Service Awards

Submitted For: Rachel Wyatt
Department: Human Resources

Submitted By: Rachel Wyatt,
Human
Resources

Information

ACTION REQUEST (Brief Summary)

Damian McNeel	Library	10 years
Mickey House	Police Department	15 years
Debra McGrew	Police Department	15 years
Timothy Williams	Public Works	30 years

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

4. a.

CITY COMMISSION AGENDA

Date: 12/16/2009

Quarterly Investment Report for the quarter ending September 30, 2009.

Submitted For: Cheryl Hunter
Department: Finance

Submitted By: Cheryl Hunter,
Finance

Information

ACTION REQUEST (Brief Summary)

Quarterly Investment Report for the quarter ending September 30, 2009.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

5. a.

CITY COMMISSION AGENDA

Date: 12/16/2009

December 2, 2009 City Commission Minutes

Submitted By: Pam Lawrence, Administration

Department: Administration

Information

ACTION REQUEST (Brief Summary)

Consider approval of the minutes from the December 2, 2009 Regular Called City Commission Meeting.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Link: [12-2-09 City Commission Minutes](#)

REGULAR CALLED CITY COMMISSION MEETING

*** * M I N U T E S * ***

**WEDNESDAY, DECEMBER 2, 2009 – 5:00 P.M.
KENNETH T. NUNN COUNCIL ROOM – CITY HALL**

A **Regular Called Meeting of the City Commission** was held on **Wednesday, December 2, 2009, at 5:00 P.M.** in the Kenneth T. Nunn Council Room in City Hall, Texas City, Texas, with the following in attendance: Mayor Matthew T. Doyle; Commissioners: Dee Ann Haney, Mike Land, Donald Singleton, and Rick Wilkenfeld. Commissioners John W. Wilson and Dedrick Johnson were not able to attend.

The **Mayor** called upon **Pastor Wayne Clements, Memorial Lutheran Church**, to offer the **Invocation**. The Mayor thanked Pastor Clements for his attendance and for offering the invocation. **Mayor Doyle** led all present in the **recitation of the Pledge of Allegiance**.

PROCLAMATIONS AND PRESENTATIONS

Mayor Doyle made the following announcements:

December 3 the Christmas Parade will be held at 5:00 p.m.

December 4 the Hospice Tree Lighting will be held at 6:00 p.m. at Amburn Road

December 8 the Chamber will hold its Open House at 5:00 p.m.

December 9 Sterling Chemical will hold its Open House

December 12 Dedication of Gleanings from the Harvest will be held at 3:00 p.m.

December 16 the Senior Citizens Luncheon will be held at the Convention Center at 11:00 a.m.

The **Mayor** declared a quorum present and called the meeting to order at 5:00 p.m.; the public hearing was officially declared opened.

PUBLIC HEARING

- a. Stan Winter/Southlake PUD request to rezone from "A" (Single Family Residential) to PUD (Planned Unit Development) for a mixed use development; being 434.97 acres out of the W.G. Banks Survey, Abst. 36, P.G. Merritt Survey, Abst. 155 and the J.S. Sherman Survey, Abst. 181; located between FM 646 and FM 517, Texas City, Texas.

Mr. Carroll reported that this public hearing had been continued due to the fact that final disposition of this item was omitted from the November 18th agenda. The City Commission has heard all the data presented by the Planning Board, Zoning Board, Staff and Developer. There are no controversial issues relevant to this agenda item; this item is ready for the Commission's final disposition. The consensus from the Zoning Commission was to recommend approval.

The Mayor asked if there were anyone that wished to speak for or against this rezoning; there were none.

Commissioner Land made a MOTION to CLOSE the PUBLIC HEARINGS; the motion was SECONDED by Commissioner Singleton. All present voted AYE. MOTION CARRIED.

PRELIMINARY ZONING APPROVAL

- a. Stan Winter/Southlake PUD request to rezone from "A" (Single Family Residential) to PUD (Planned Unit Development) for a mixed use development.

Commissioner Land made a MOTION to APPROVE the PRELIMINARY APPROVAL of Stan Winter/Southlake PUD request to rezone from "A" (Single Family Residential) to PUD (Planned Unit Development) for a mixed use development; the motion was SECONDED by Commissioner Haney. All present voted AYE. MOTION CARRIED.

CONSENT AGENDA: All of the following items on the Consent Agenda are considered to be routine by the City Commission and will be enacted by one motion. There will not be separate discussion of these items unless a Commission Member or citizen so requests. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary.

- a. Consider approval of the **Minutes** from the November 18, 2009 Regular Called City Commission Meeting.
- b. Consider approval of **Resolution No. 09-137** reappointing **Gary Meyer** to serve as the City of Texas City's representative on the Board of Directors of the **Southeast Texas Housing Finance Corporation (SETH)**.

RESOLUTION NO. 09-137

A RESOLUTION REAPPOINTING GARY MEYER TO SERVE AS THE CITY OF TEXAS CITY'S REPRESENTATIVE ON THE BOARD OF DIRECTORS OF THE SOUTHEAST TEXAS HOUSING FINANCE CORPORATION FOR A TERM OF THREE (3) YEARS; AUTHORIZING THE MAYOR TO EXECUTE THE GENERAL CERTIFICATE OF LOCAL GOVERNMENTAL UNIT; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

- c. Consider approval of **Resolution No. 09-135** awarding the **annual contract** for **Recycled Crushed Concrete**.

RESOLUTION NO. 09-135

A RESOLUTION AWARDING A BID AND AUTHORIZING THE MAYOR TO ENTER INTO AN ANNUAL CONTRACT FOR RECYCLED CRUSHED CONCRETE; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

- d. Consider approval of **Resolution No. 09-134** awarding the **annual contract** for **Police Department Uniforms**.

RESOLUTION NO. 09-134

A RESOLUTION AWARDING BIDS FOR POLICE DEPARTMENT UNIFORMS AND GEAR TO LONE STAR UNIFORMS, INC.; AUTHORIZING THE MAYOR TO ENTER INTO ANNUAL CONTRACTS FOR THESE ITEMS; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

- e. Consider approval of **Resolution No. 09-136** approving the appointments of board members to the City Corporations.

RESOLUTION NO. 09-136

A RESOLUTION APPROVING THE APPOINTMENT AND/OR REAPPOINTMENT OF BOARD MEMBERS TO TEXAS CITY HARBOUR FOREIGN TRADE ZONE CORPORATION, TEXAS CITY HARBOUR AUTHORITY AND TEXAS CITY CULTURAL ARTS FOUNDATION; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

Lindsay Owens was appointed as board member to the Texas City Cultural Arts Foundation; Jason Haley was appointed as a board member to the Texas City Harbour Foreign Trade Zone Corporation and as an alternate board member to the Texas City Harbour Authority.

Commissioner Land made a MOTION to APPROVE the CONSENT AGENDA; the motion was SECONDED by Commissioner Wilkenfeld. All present voted AYE. MOTION CARRIED.

REGULAR ITEMS

- a. Consider approval of **Ordinance No. 09-37 amending the Code of Ordinances, City of Texas City**, Section 122-91. Installation of Grease Trap/Interceptor Compliance, Division 3, **Grease Trap and Grease Interceptor Program**.

Todd Hoover, Director of Utilities, reported that this amendment would address the requirement of new or existing food preparation facilities that would be expanded or renovated to design and install a grease trap/interceptor required by plumbing codes. The grease trap/interceptor shall be inspected by the Utilities Department prior to the establishment receiving a Certificate of Occupancy. The Utilities Department will also insure that the existing grease trap/interceptors are operated and maintained in accordance to the manufacturer's recommendations. Lastly, these subject facilities shall construct an adequate sampling port at each grease trap/interceptor. Sampling ports must be installed to pull free falling liquid samples during peak flow. The objective of the grease trap/interceptor is to remove fats oils and grease to prevent clogging and stoppage of the wastewater and collection system and wastewater treatment facility.

ORDINANCE NO. 09-37

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TEXAS CITY, CHAPTER 122 (UTILITIES), BY AMENDING ARTICLE II, SEWERS AND SEWAGE DISPOSAL, DIVISION 3, GREASE TRAP AND GREASE INTERCEPTOR PROGRAM, SECTION 122.91, INSTALLATION OF GREASE TRAP/INTERCEPTORS COMPLIANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; DISPENSING WITH THE REQUIREMENT FOR READING THIS ORDINANCE ON THREE (3) SEPARATE DAYS; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION AND PUBLICATION BY CAPTION ONLY IN THE OFFICIAL NEWSPAPER OF THE CITY.

Commissioner Singleton made a MOTION to APPROVE Ordinance No. 09-37 amending the Code of Ordinances, City of Texas City, Section 122-91. Installation of Grease Trap/Interceptor Compliance, Division 3, Grease Trap and Grease Interceptor Program; the motion was SECONDED by Commissioner Haney. All present voted AYE. MOTION CARRIED.

Cheryl Hunter, Financial Director, addressed items b. and c. The City sold the Certificates of Obligation that were approved in the budget of an amount of \$6,565,000.00. In addition to those, the City did a Refunding Issue totaling \$7,520,000.00. The total bond proceeds that were sold today were \$14,085,000.00. The bonds were sold to underwriters FTN and Samco. We will see a net savings of about \$581,000.00 on the refunding issues. We are refunding three separate issues. Those proceeds will go to refund \$2 million of our 1994 series, \$2.265 million of our 1995 series, and \$3.335 million of our 2000 series. That is a savings of \$529,000.00. Those bonds were sold today - we have a true interest cost of 1.70619%. The certificates are sold at a little higher rate of 3.389035%. The City did very well on both of those sales.

Ms. Hunter introduced Joe Morrow and Phillip Martin of First Southwest. Mr. Morrow reported on the results of the sale. He passed out booklets to the Commission. Referring to a graph in the booklet, Tab A Bond Buyer Index, this is a graph we use in the municipal bond industry to track the direction of interest rates - this is a history of it over the last ten years. You can see we are down near historical lows. Tab B is a summary. \$7,520,000.00 – General Obligation Refunding Bonds these sold with a true interest cost of 1.706%. The Summary of Savings: Total Par Amount of Bonds Refunded - \$7,600,000.00; the Gross Savings – \$581,638.00; Average Annual Savings – \$94,500.00; the Net Present Value Savings – \$529,450.00; the Present Value as a Percentage of Refunded Bonds – 6.971%. One of the measures we use for efficiency of the refunding, we take the Net Present Value Savings and divide it by the Par Amount of Bonds that we are refunding. The general rule of thumb at 3% consider it at 4% you may want to consider it strongly and anything over 5% we would recommend that you get it as quickly as you can – being right at 7% this is a very efficient refunding. On page 3 in Section C there is a savings table that illustrates the savings that you will get on an annual basis through the year 2015. After asking if there were any questions, Mr. Morrow said that they would recommend that the Commission approve the offer of Samco Capital Market to purchase the bonds and lock in the savings. Mr. Morrow reported that the Certificates of Obligation were sold at \$6,565,000.00; the True Interest Cost is 3.917% on a 20-year obligation. Mr. Morrow commented that that was among the lowest 20 year deals that he has seen this year. Mr. Morrow recommended that the Commission accept the offer by Samco Capital Market, who sold the bonds on the City's behalf today, and lock down the rate of 3.197%.

- b. Consider approval of **Ordinance No. 09-38** authorizing the issuance of City of Texas City, **General Obligation Refunding Bonds, Series 2010**.

ORDINANCE NO. 09-38

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEXAS CITY, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010; AUTHORIZING THE REDEMPTION PRIOR TO MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS; AND CONTAINING OTHER MATTERS RELATING THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

- c. Consider approval of **Ordinance No. 09-39** authorizing the issuance of City of Texas City, **Certificates of Obligation, Series 2010**.

ORDINANCE NO. 09-39

ORDINANCE OF THE CITY OF TEXAS CITY, TEXAS, AUTHORIZING THE ISSUANCE OF CERTIFICATES OF OBLIGATION, SERIES 2010

Commissioner Land made a MOTION to APPROVE Ordinance No. 09-38 authorizing the issuance of City of Texas City, General Obligation Refunding Bonds, Series 2010 and Ordinance No. 09-39 authorizing the issuance of City of Texas City, Certificates of Obligation, Series 2010; the motion was SECONDED by Commissioner Haney. All present voted AYE. MOTION CARRIED.

PUBLIC COMMENTS

Barbara White, citizen of Texas City, spoke of her appreciation to everyone that helped with the Thanksgiving Feast.

MAYOR'S COMMENTS

The Mayor reiterated that the Christmas Parade will be held tomorrow; he thanked Jay Williams in advance for organizing the Christmas events. The Mayor informed that public that they will notice something different this year - we put permanent lighting in the trees. It probably won't look as spectacular but it will look pretty nice; the other touch that we are going to put out front is yellow bows on all 47 lit trees in remembrance of our troops that are overseas.

COMMISSIONERS' COMMENTS

Having no further business, **Commissioner Haney made a MOTION to ADJOURN at 5:28 p.m.; the motion was SECONDED by Commissioner Land. All present voted AYE. MOTION CARRIED.**

MATTHEW T. DOYLE, MAYOR

ATTEST:

Pamela A. Lawrence, City Secretary

pal: 12-04-2009

CITY COMMISSION AGENDA

Date: 12/16/2009

1500 GPM Pierce Contender Pumper for Fire Dept

Submitted For: Joseph Gorman
Department: Fire Department

Submitted By: Jane Tull, Fire
Department

Information

ACTION REQUEST (Brief Summary)

Authorize the purchase of One (1) 1500 GPM Pierce Contender Pumper, with foam capability, from Martin Apparatus, Inc. in the amount of 404,269.00. This apparatus is being purchased through the H.G.A.C. Buy Program.

BACKGROUND

Proposed fire apparatus is funded currently in the FY09-10 budget and is intended to replace a 1986 1250 GPM Seagraves Pumper.

ANALYSIS

All contracts available to members of HGAC Buy Program have been awarded by virtue of a public competitive procurement process compliant with state statutes.

ALTERNATIVES CONSIDERED

None.

Attachments

Link: [Res 09-138](#)

RESOLUTION NO. 09-138

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) 1500 GPM PIERCE CONTENDER PUMPER, THROUGH THE HOUSTON-GALVESTON AREA COUNCIL (H-GAC) COOPERATIVE PURCHASING PROGRAM, FOR THE FIRE DEPARTMENT; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, the Fire Department desires to purchase one (1) 1500 GPM Pierce Contender Pumper and funds are available in the FY 09-10 budget;

WHEREAS, this pumper is intended to replace a 1986 1250 GPM Seagraves Pumper.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission of the City of Texas City, Texas, hereby approves the expenditure of \$404,269.00 through the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program, for purchase of one (1) 1500 GPM Pierce Contender Pumper.

SECTION 2: That this equipment is to be utilized by the Fire Department.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 16th day of December, 2009.

Matthew T. Doyle, Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Pamela A. Lawrence
City Secretary

Ronald F. Plackemeier
City Attorney

CITY COMMISSION AGENDA

Date: 12/16/2009

HGAC and TCLETA Contractor Training Intergovernmental Agreement

Submitted For: Robert Burby
Department: Police Department

Submitted By: Carla Costello,
Police
Department

Information

ACTION REQUEST (Brief Summary)

Consider and approval of the renewal, (fifth year) of the 2009-2010 HGAC Training Grant agreement (reimbursement) between the Teras City Law Enforcement Academy-Texas City Police Department and HGAC. The amount of funding to be made available for reimbursement is \$15,351.00 for this funding period.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Link: [Res 09-139](#)

Link: [tcpdhgac09](#)

RESOLUTION NO. 09-139

A RESOLUTION ACCEPTING THE HOUSTON-GALVESTON AREA COUNCIL GRANT IN THE AMOUNT OF \$15,351.00, FOR TEXAS CITY POLICE DEPARTMENT LAW ENFORCEMENT TRAINING ACADEMY; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, the Houston-Galveston Area Council provides a Grant No. SF-08-A10-14719-10, titled Law Enforcement Training Project to aid in the payment of providing regional law enforcement training and instruction to law enforcement personnel in the Houston-Galveston Area Council who are eligible for certification upon completion of a course by the Texas Commission on Law Enforcement Officer Standards and Education, TCLEOSE; and

WHEREAS, the Texas City Police Department applied for such funding, and the Houston-Galveston Area Council has agreed to a reimbursement of \$15,351.00 as outlined in the Houston-Galveston Area Council General Provisions Intergovernmental Agreement attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission of the City of Texas City hereby approves the acceptance of the \$15,351.00 grant from the Houston-Galveston Area Council as outlined in Exhibit "A", attached hereto and made a part hereof for all intents and purposes.

SECTION 2: That the Mayor is authorized to execute said agreement.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 16th day of December, 2009.

Matthew T. Doyle, Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Pamela A. Lawrence
City Secretary

Ronald F. Plackemeier
City Attorney

**HOUSTON-GALVESTON AREA COUNCIL
GENERAL PROVISIONS
INTERGOVERNMENTAL AGREEMENT**

This Intergovernmental Agreement is made and entered into this 1st day of September, 2009, by and between the Houston-Galveston Area Council, hereinafter referred to as H-GAC, having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and the City of Texas City, hereinafter referred to as the Contractor and Service Provider, having its principal place of business at 1004 9th Avenue North, Texas City, Texas 77590.

WITNESSETH:

WHEREAS, H-GAC hereby engages the Contractor to perform certain services in accordance with the specifications of the Agreement;

WHEREAS, H-GAC is responsible for closely monitoring the Service Provider and the exercise of reasonable care to enforce all terms and conditions of the grant. Service Provider agrees to fully cooperate in the monitoring process.

WHEREAS, the Contractor has agreed to perform such services in accordance with the specifications of the Agreement;

NOW, THEREFORE, H-GAC and the Contractor do hereby agree as follows:

ARTICLE 1 LEGAL AUTHORITY

The Contractor warrants and assures H-GAC that it possesses adequate legal authority to enter into this Agreement. The Contractor's governing body, where applicable, has authorized the signatory official(s) to enter into this Agreement and bind the Contractor to the terms of this Agreement and any subsequent amendments hereto.

ARTICLE 2 APPLICABLE LAWS

The Contractor agrees to conduct all activities under this Agreement in accordance with all applicable rules, regulations, directives, standards, ordinances and laws in effect or promulgated during the term of this Agreement. Such standards and laws shall include, to the extent applicable, the Uniform Grant Management Standards ("UGMS") promulgated by the State of Texas and the state and federal statutes referenced therein.

All licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and the Service Provider must comply with all applicable state and federal laws and local ordinances. Failure to comply with this requirement shall be treated as a default.

ARTICLE 3 INDEPENDENT CONTRACTOR

The execution of this Agreement and the rendering of services prescribed by this Agreement do not change the independent status of H-GAC or the Contractor. No provision of this Agreement or act of H-GAC in performance of the Agreement shall be construed as making the Contractor the agent, servant or employee of H-GAC, the State of Texas or the United States Government. Employees of the Contractor are subject to the control and supervision of the Contractor. The Contractor is solely responsible for employee payrolls and claims arising there from. The Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Contractor pertaining to this Agreement or which would adversely affect the Contractor's ability to perform services under this Agreement.

ARTICLE 4 WHOLE AGREEMENT

The General Provisions, Special Provisions and Attachments, as provided herein, constitute the complete agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

ARTICLE 5 SCOPE OF SERVICES

The services to be performed by the Contractor are outlined in the Special Provisions of this Agreement.

ARTICLE 6 REPORTING REQUIREMENTS

Reporting requirements are set forth in the Special Provisions of this Agreement. If the Contractor fails to submit to H-GAC in a timely and satisfactory manner any report required by this Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may withhold payments otherwise due and owing the Contractor. If H-GAC withholds such payments, it shall notify the Contractor of its decision and the reasons therefore. Payments withheld pursuant to this Article may be held by H-GAC until such time as the delinquent obligations for which funds are withheld are fulfilled by the Contractor. The Contractor's failure to timely submit any report may also be considered cause for termination of this Agreement.

ARTICLE 7 PAYMENTS

The Contractor agrees that payments are predicated upon properly documented and verified proof of performance delivered and costs incurred by the Contractor in accordance with the terms of this Agreement and shall be paid in accordance with the Compensation and Method of Payment in the Special Provisions.

ARTICLE 8 NON FUNDING CLAUSE

Each payment obligation of H-GAC created by this Agreement is conditioned upon the availability of state or federal funds appropriated or allocated for the payment of such obligations. H-GAC shall not be otherwise obligated or liable for any future payments due or for any damages as a result of interruption of payment or termination under this Article. If sufficient State or Federal funds are not allocated or otherwise available from H-GAC, Contractor shall have no further obligation to perform its duties under this contract.

ARTICLE 9 INSURANCE

The Contractor shall maintain insurance coverage for work performed or services rendered under this Agreement as specified in the Special Provisions.

ARTICLE 10 REPAYMENTS

The Contractor understands and agrees that it shall be liable to repay and shall repay upon demand to H-GAC any amounts determined by H-GAC, its independent auditors, or any agency of state or federal government to have been paid in violation of the terms of this Agreement.

ARTICLE 11 SUBCONTRACTS

Except as may be set forth in the Special Provisions, the Contractor agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Agreement or any right, title, obligation or interest it may have therein to any third party without prior written approval of H-GAC.

The Contractor acknowledges that H-GAC is not liable to any subcontractor(s) of the Contractor.

The Contractor shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Agreement as if the performance rendered was rendered by the Contractor.

ARTICLE 12 AUDIT

As a recipient of state or federal assistance through this Agreement, the Contractor acknowledges that it is subject to the Single Audit Act of 1996, P.L. 98-502, (hereinafter referred to as "Audit Act"), OMB Circular No. A-133, and the State of Texas Single Audit Circular incorporated in UGMS.

The Contractor shall have an audit made in accordance with the Single Audit, requirements of the most recently adopted UGMS and OMB Circular A-133 for any of its fiscal years in which Contractor expends more than \$500,000 in combined state or federal financial assistance.

The Contractor will provide H-GAC a copy of the single audit on request, including management letter and reporting package required by federal and state rules within thirty (30) days after receipt of the auditor's report, or nine months after the end of the audit period.

H-GAC reserves the right to conduct or cause to be conducted an independent audit of all funds distributed under this Agreement which may be performed by the local government audit staff, a certified public accountant firm, or other auditors as designated by the H-GAC. Such audit will be conducted in accordance with State law, regulations, and policy, and generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any costs disallowed or overpayment as a result of audit or inspection of records kept by the Contractor on work performed under this Agreement.

ARTICLE 13 EXAMINATION OF RECORDS

The Contractor shall maintain during the course of the work, complete and accurate records of all of the Contractor's costs and documentation of items, which are chargeable to H-GAC under this Agreement. H-GAC, through its staff or designated public accounting firm, the State of Texas and the United States Government, shall have the right at any reasonable time to inspect, copy and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by it. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Agreement. The records to be thus maintained and retained by the Contractor shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Contractor's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Contractor's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third party's charges.

The Contractor further agrees to include in all its subcontracts permitted pursuant to Article 11 hereof, a provision to the effect that the subcontractor agrees that H-GAC and its duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract or until all audit findings have been resolved, have access to and the right to examine and copy any directly pertinent books, documents, papers, invoices and records of such subcontractor involving transactions relating to the subcontract.

ARTICLE 14 RETENTION OF RECORDS

The Contractor shall maintain all records pertinent to this Agreement, including but not limited to those records enumerated in Article 13, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than three (3) calendar years from the later of the date of

acceptance of the final contract closeout or the date of the final audit required under Article 12 of this Agreement. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three (3) year period, whichever is later.

ARTICLE 15 CHANGES AND AMENDMENTS

Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation; provided, if the Contractor may not legally comply with such change, the Contractor may terminate its participation herein as authorized by Article 16.

H-GAC may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder and/or the Compensation to be paid for services described in this Contract. The Contractor's Authorized Official or his/her designee, is hereby authorized to accept funding for additional classes in accordance with the attached Law Enforcement Training Schedule (Attachment A), which is hereby incorporated into this contract by this reference for all purposes. Such changes that are mutually agreed upon by and between H-GAC and the Contractor in writing shall be incorporated into this Agreement.

ARTICLE 16 TERMINATION PROCEDURES

The Contractor acknowledges that this Agreement may be terminated under the following circumstances:

A. Convenience

H-GAC may terminate this Agreement in whole or in part without cause at any time by written notice by certified mail to the Contractor whenever for any reason H-GAC determines that such termination is in the best interest of H-GAC. Upon receipt of notice of termination, all services hereunder of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination. In the event of termination in whole, the Contractor shall prepare a final invoice within thirty (30) days of such termination reflecting the services actually performed which have not appeared on any prior invoice. Such invoice shall be satisfactory to the Executive Director or his designee. H-GAC agrees to pay the Contractor, in accordance with the terms of the Agreement, for services actually performed and accruing to the benefit of H-GAC, less payment of any compensation previously paid.

The Contractor may cancel or terminate this Agreement upon thirty (30) days written notice by certified mail to H-GAC. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC. In the event of such termination prior to completion of the Agreement provided for herein, H-GAC agrees to pay for work actually performed and invoiced in accordance with the terms of this Agreement, less payment of any compensation previously paid.

B. Default

H-GAC may, by written notice of default to the Contractor, terminate the whole or any part of the Agreement in any one of the following circumstances:

- (1) If the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or
- (2) If the Contractor fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Agreement that completion of the services herein specified within the agreement term is significantly

endangered, and in either of these two instances does not cure such failure within a period of ten (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

In the event of such termination, all services of the Contractor and its employees and subcontractors shall cease and the Contractor shall prepare a final invoice reflecting the services actually performed pursuant to the Agreement, which have not appeared on any prior invoice. Such invoice must be satisfactory to the Executive Director of H-GAC or his designee. H-GAC agrees to pay the Contractor, in accordance with the terms of this Agreement, for services actually performed and accruing to the benefit of H-GAC as reflected on said invoice, less payment of any compensation previously paid and less any costs or damages incurred by H-GAC as a result of such default, including an amount agreed to in writing by H-GAC and the Contractor to be necessary to complete the services herein specified, in addition to that which would have been required had the Contractor completed the services herein specified.

ARTICLE 17 SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 18 COPYRIGHTS

The state or federal awarding agency and H-GAC reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state or federal government or H-GAC purposes:

- (a) The copyright of all maps, data, reports, research or other work developed under this Agreement; and
- (b) Any copyrights or rights of use to copyrighted material, which the Contractor purchases with funding under this Agreement. All such data and material shall be furnished to H-GAC on request.

ARTICLE 19 OWNERSHIP OF MATERIALS

Except as may be specified in the Special Provisions, all data, reports, research, etc., developed by the Contractor as a part of its work under this Agreement shall become the property of the H-GAC upon completion of this Agreement, or in the event of termination or cancellation hereof, at the time of payment under article 8 for work performed. All such data and material shall be furnished to H-GAC on request.

ARTICLE 20 FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with the H-GAC.

ARTICLE 21 NON-DISCRIMINATION AND EQUAL OPPORTUNITY

The Contractor agrees to comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of

the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (I) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Agreement; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement.

ARTICLE 22 CONFLICT OF INTEREST

No officer, member or employee of the Contractor or subcontractors, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or approval of this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Agreement.

ARTICLE 23 POLITICAL ACTIVITY; LOBBYING

No funds provided under this Agreement may be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with state or local legislators. The Contractor, if a recipient of federal assistance exceeding \$100,000 through an H-GAC subcontract, will comply with section 319, Public Law 101-121 (31 U.S.C. 1352).

ARTICLE 24 SECTARIAN INVOLVEMENT PROHIBITED

The Contractor shall ensure that no funds under this Agreement are used, either directly or indirectly, in the support of any religious or anti-religious activity, worship, or instruction.

ARTICLE 25 CRIMINAL PROVISIONS AND SANCTIONS

The Contractor agrees that it will perform the Agreement activities in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of the funding entity. The Contractor agrees to promptly notify H-GAC of suspected fraud, abuse or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof and to notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Contractor from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Contractor further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation and any other duly authorized investigative unit in carrying out a full investigation of all such incidents.

ARTICLE 26 TITLES NOT RESTRICTIVE

The titles assigned to the various Articles of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Agreement.

ARTICLE 27 ACKNOWLEDGEMENT OF FUNDING SOURCE

The Contractor shall give credit to H-GAC as the funding source for this Agreement in all oral presentations, written documents, publicity, and advertisements regarding any of the Contractor's activities, which arise from this Agreement.

ARTICLE 28 DISPUTES

Any and all disputes concerning questions of fact or of law arising under this Agreement which are not disposed of by agreement shall be decided by the Executive Director of H-GAC or his designee, who shall commit his decision to writing and provide notice thereof to the Contractor. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Contractor requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the Contractor shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Contractor may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with H-GAC's final decision.

ARTICLE 29 GOVERNING LAW; VENUE

This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas, unless the laws of the State of Texas specifically establish venue in some other county.

ARTICLE 30 ORDER OF PRIORITY

In the case of any conflict between the General Provision, the Special Provisions, and Attachments to this Agreement, the following order of priority shall be utilized: Special Provision, General Provisions, and Attachments.

SIGNATURES:

H-GAC and the Contractor have executed the Agreement as of the date first written above.

Jack Steele, Executive Director
Houston-Galveston Area Council

Mayor, Texas City

Date

Date

**HOUSTON-GALVESTON AREA COUNCIL
REGIONAL LAW ENFORCEMENT TRAINING
SPECIAL CONTRACT PROVISIONS**

ARTICLE 1 INTRODUCTION

This contract is by and between the Houston-Galveston Area Council, Grantee or Planning Agency, and the Texas City Law Enforcement Training Academy and in aid of Criminal Justice Division (CJD) Grant No. SF-08-A10-14719-10, titled Law Enforcement Training Project. It is understood by all parties that payment obligations created by this contract are conditional upon the availability of State or Federal funds appropriated or allocated for the payment of such obligations. The term of this contract shall commence on September 1, 2009, and shall end on August 31, 2010, unless extended or terminated as otherwise provided for in this contract.

This contract shall automatically terminate on the grant expiration date or any extension date thereof granted by CJD or upon termination of the underlying grant by CJD. All services billed hereunder must be rendered within the grant period.

ARTICLE 2 SCOPE OF SERVICES

The Contractor covenants and agrees to provide regional law enforcement training set forth in this contract and Attachment A. The Planning Agency hereby agrees to engage the Contractor and the Contractor agrees to perform regional law enforcement training hereinafter set forth pursuant to the provisions of the grant from the Office of the Governor, Criminal Justice Division. The services to be performed by the Contractor are herewith outlined as follows.

- (a). **Project Task:** The Contractor shall provide training and instruction to law enforcement personnel in the H-GAC region. The Contractor shall provide such instruction only to students who are eligible or who would be eligible for certification upon completion of a course, by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE).
- (b). **Work Product:** In performing the services specified herein, the Contractor shall provide instruction in the courses as described in the Law Enforcement Training Schedule which is attached hereto and is a part of the Contract. Times within the Contract performance period and locations in the region for conduct of the courses specified shall be mutually agreed upon by the Planning Agency and the Contractor.
- (c). The content and presentation of each course shall comply fully with all applicable rules and regulations of TCLEOSE.
- (d). The Contractor may, at its sole discretion, elect to grant academic credit for courses offered under this agreement. However, such granting of academic credit shall in no way relieve the Contractor of its obligation to meet the terms of this Contract, the request for proposal and the rules and regulations of TCLEOSE. Contractor's election to grant academic credit shall not increase cost of the course presentation to H-GAC or the student.

- (e). The Contractor shall be responsible for the timely distribution of announcements of contracted course(s) to potential trainees.
- (f). The Contractor shall require trainees to complete Instructor Evaluation Questionnaires for each course. The Questionnaire shall be the design of the Contractor. A summary of these forms shall be furnished to the Planning Agency on request.

ARTICLE 3 PERFORMANCE PERIOD

The period of this Contract shall commence on September 1, 2009 and continue in force until August 31, 2010, unless extended by the Planning Agency as provided in Article 4.

ARTICLE 4 CONTRACT EXTENSION

H-GAC may at its option offer a contract extension at the completion of the initial performance period. Contract extensions may be offered if all contract conditions have been satisfactorily met during the initial performance period, if the service remains a priority service for funding by H-GAC, and if no outstanding audit or monitoring findings are unresolved. Such extension shall be the option of H-GAC with the Contractor given the right of first refusal. Terms of compensation and performance will be renegotiated in conformance with available federal funding, priorities identified by H-GAC for the period of the contract extension, and H-GAC's current policies regarding funding such services at the time the extension is offered. If H-GAC elects to exercise such option, it shall by delivering a Notice of Renewal to the Contractor at least 30 days prior to the end of the initial Performance Period.

ARTICLE 5 COORDINATION OF TRAINING PROJECT

The Planning Agency shall provide coordination of training activities, including overall monitoring and implementation of the training program. The H-GAC training Coordinator shall act as liaison between the area law enforcement agencies and the Contractor, and the Office of the Governor, Criminal Justice Division.

The Contractor shall provide a staff coordinator of services under this contract who holds a valid Instructor certificate from the TCLEOSE and who shall act as liaison between the Contractor and the Planning Agency. The Contractor shall immediately notify the Planning agency in writing of any change in the TCLEOSE certification.

ARTICLE 6 COMPENSATION

The Planning Agency agrees to pay the Contractor the total sum not to exceed Fifteen Thousand Three Hundred and Fifty One Dollars (\$15,351) for services described in this Contract, subject to amendment or change of this Agreement in accordance with Article 15 of the General Provisions.

ARTICLE 7 METHOD OF PAYMENT

The Planning Agency shall make payments to the Contractor in the following manner:

- (a). Contractor shall be paid actual documented cost of each course conducted as listed in the Law Enforcement Training Schedule. In no event shall the payment for a course exceed the amount shown in that chart unless an amendment has been put in place. Contractor shall not be paid for any individual course until that course has been conducted and completed. Contractor shall bill the Planning Agency for fully documented and substantiated costs of all courses conducted within thirty (30) days of course completions. Contractor shall include with each billing the following:

1. A copy of the Report of Training Form submitted to TCLEOSE attesting to:
 - a. Attendance by each trainee, and
 - b. Successful completion of the course
 2. A list of all instructors presenting materials during the course, showing names,, subject(s) presented, and hours of instruction.
 3. H-GAC's reimbursement form (Attachment B) to be completed and submitted with the total cost billed, identifying the course(s) completed, number of students and other information as indicated.
- (b). No course shall be conducted unless documented proof of currently valid TCLEOSE certification covering that course is in possession of the Planning Agency at least fifteen (15) days prior to the first class day of that course.
- (c). All intermediate and advanced courses shall be open to all local law enforcement officers on an equal basis. Special peace officers may attend courses on the same basis as local peace officers if space is available.
- (d). Each intermediate and advanced course shall have at least the minimum number and, at most, the maximum number of registrants as specified in the Law Enforcement Training Schedule for that course. The maximum number has been determined according to the nature of the course, for effective training.
- (e). Part-time peace officers and special peace officers may attend intermediate and advanced courses if space is available after all full time, commissioned peace officer applicants have been accommodated according to (c), above.
- (f). In the event a course fails to have the minimum number of registrants as specified by the Law Enforcement Training Schedule when the class commences, the Contractor will notify H-GAC in writing (e-mail/mail) a request to continue below minimum enrollment.

If a Contractor chooses to conduct a scheduled course with less than the minimum number of students a Below Minimum Enrollment Form must be submitted to H-GAC (e-mail/mail) with prior approval.

- (g). Contract shall not exceed the sum of Fifteen Thousand Three Hundred and Fifty One Dollars (\$15,351) be paid to the Contractor as payment for conducting and completing the courses described in the Law Enforcement Training Schedule unless amended by the planning agency and contractor as provided in article 15 of general provisions.

ARTICLE 8 PERSONNEL

The Contractor shall furnish all necessary personnel with the professional classification, qualifications, skill and expertise required to perform the services to be rendered pursuant to Article 2 of the Special Contract Provisions. The Contractor shall be responsible for completion of the services to be rendered and will provide all necessary supervision and coordination of activities that may be required to complete the services. The Contractor shall not subcontract work to be performed as described by Article 2 of the Special Contract Provisions without prior written consent of H-GAC.

ARTICLE 9 SUBCONTRACTS

The Contractor shall furnish to the Planning Agency a copy of the completed "Agreement for Consultant/Instructor" when the Contractor uses the services of a person as an instructor or consultant when that person is not part of the regular instructional staff of the contracting institution. Copies of the Agreement shall be kept on file at the Law Enforcement Academy. Copies of these shall be furnished to the Planning Agency upon request.

ARTICLE 10 COPYRIGHTS AND RIGHTS IN DATA

When activities involved in the services provided for in this Contract produce original books, manuals, films, computer programs (including executable computer programs and supporting data in any form) or other copyrightable material, the Contractor may copyright such, but the Governor's Office of General Counsel and Criminal Justice reserves a royalty-free, non-exclusive and irrevocable license to produce, publish and use such materials and to authorize others to do so.

Provisions appropriate to effectuate the purpose of this condition must be in all employment contracts, consultant agreements and other subcontracts emanating from this Contract.

ARTICLE 11 LABOR STANDARDS

The Contractor will comply with the Fair Labor Standards Act of 1938 (29 USC 676 et.seq.).

ARTICLE 12 AGE DISCRIMINATION

The Contractor will comply with the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.).

ARTICLE 13 INSURANCE

The Contractor represents to H-GAC that it self-insures its general liability exposure including bodily injury, death and property damage. The limits of liability are set in part by the Texas Tort Claims Act. The Contractor self-insures workers compensation and employer's liability under the Texas Workers Compensation Act.

ARTICLE 14 ASSIGNMENT

The provisions of this contract shall not be assignable without the prior written consent of the other party. Written consent on the part of H-GAC shall be in the form of a motion or resolution, adopted by the Board of Directors of H-GAC.

ARTICLE 15 RECORDS RETENTION

Records shall be retained for at least **THREE (3) YEARS** following the closure of the most recent audit report and until any outstanding litigation; audit or claim has been resolved. Records are subject to inspection by H-GAC, CJD, or any state or federal agency authorized to inspect same.

SIGNATURES:

H-GAC and the Contractor have executed this agreement in multiple copies, each of which is an original

ACCEPTED BY:

MAYOR

HOUSTON-GALVESTON AREA COUNCIL

Signature _____

Signature _____

Name _____

Name Jack Steele

Title _____

Title Executive Director

Date _____

Date _____

ATTACHMENT A

HOUSTON-GALVESTON AREA COUNCIL

2010 LAW ENFORCEMENT TRAINING SCHEDULE

City of Texas City

<u>Course Title</u>	<u>Course Number</u>	<u>Course Hours</u>	<u>Minimum Enrollment</u>	<u>Bid Cost</u>	<u>Reimbursement Amount</u>
ARREST SEARCH & SEIZURE	2108	16	20	\$929.61	\$557.77
BASIC HOSTAGE NEGOTIATION	3302	40	15	\$2,585.52	\$1,551.31
BASIC POLICE INSTRUCTOR	1014	40	15	\$2,334.32	\$1,400.59
CHILD ABUSE INVESTIGATION & PREVENTION	2105	24	20	\$1,512.15	\$907.29
CRIME SCENE SEARCH	2106	40	20	\$2,334.32	\$1,400.59
CRISIS INTERVENTION	3841	16	20	\$825.53	\$495.32
FIELD TRAINING OFFICER	3702	40	15	\$2,334.32	\$1,400.59
FORENSIC COURTROOM TESTIMONY & Demeanor	2057	16	20	\$3,719.76	\$2,231.86
NEW SUPERVISORS COURSE	3737	24	15	\$1,410.59	\$846.35
POLICE PROFICIENCY	3232 & 3939	16	20	\$884.52	\$530.71
SPECIAL INVESTIGATIVE TOPICS	3232	8	20	\$423.02	\$253.81
SEXUAL ASSAULT & ABUSE	3201	24	20	\$2,116.40	\$1,269.84
SPANISH FOR LAW ENFORCEMENT	2109	24	20	\$2,340.15	\$1,404.09
TASER CERTIFICATION	3300	8	15	\$423.02	\$253.81
USE OF FORCE	2107	24	20	\$1,410.59	\$846.35

\$15,350.28

CITY COMMISSION AGENDA

Date: 12/16/2009

Resolution Approving Interlocal Agreement with DISD for Use of Natatorium

Submitted By: Nick Finan, Management Services

Department: Management Services

Information

ACTION REQUEST (Brief Summary)

City previously approved a five-month rental to DISD for use of the natatorium for the 2009/2010 swim season. Staff requests City Commission to consider and approve agreement for next four year.

BACKGROUND

Back in September, the City Commission approved an Interlocal Agreement with DISD to rent the Natatorium to DISD for the 2009/2010 swim season. It was understood the City would work with DISD to enter a longer term agreement to allow Dickinson High School use of the pool for multiple years. This Agreement is exactly the same as the current Agreement except for the rental fee. The fee escalates from \$8,500.00 for the current swim season to \$12,000.00 for the five-month swim season over the next four years. The Agreement may be extended for an additional five-year term upon agreement of a fee escalation.

Currently, TCISD and DISD Superintendents and High School coaches are satisfied with the arrangement.

DISD is expected to approve this Agreement on Monday, December 14, 2009.

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Link: [Res 09-140](#)

Link: [Lease Agreement \(four year\)](#)

RESOLUTION NO. 09-140

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A FOUR-YEAR LEASE AGREEMENT WITH DICKINSON INDEPENDENT SCHOOL DISTRICT (“DISD”) FOR THE USE OF THE CITY’S NATATORIUM FOR DISD’S SWIM TEAM; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, the City of Texas City previously approved a five-month Lease Agreement with Dickinson Independent School District for use of the City’s Natatorium for the 2009-2010 swim season; and

WHEREAS, Texas City Independent School District and Dickinson Independent School District Superintendents and High School coaches are satisfied with the arrangement; and

WHEREAS, staff requests the City Commission to consider approval of a Lease Agreement between the City and Dickinson Independent School District for a four-year period, under the same conditions as the previous Lease Agreement, with the exception of fees escalating from \$8,500.00 for the current swim season to \$12,000.00, and allowing for an additional five-year term upon agreement of a fee escalation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission of the City of Texas City, Texas, hereby approves the four-year Lease Agreement with Dickinson Independent School District in substantially the same form as Exhibit “A”, attached hereto and made a part hereof for all intents and purposes.

SECTION 2: That the Mayor is authorized to execute said agreement.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 16th day of December, 2009.

Matthew T. Doyle, Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Pamela A. Lawrence
City Secretary

Ronald F. Plackemeier
City Attorney

LEASE AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

THIS LEASE AGREEMENT ("Agreement") is made effective _____, 2009, by and between the City of Texas City ("the City"), and Dickinson Independent School District ("District"), pursuant to TEX. EDUC. CODE § 45.109 and the Texas Interlocal Cooperation Act ("Act"), TEX GOVT. CODE § 791.000, et. seq.;

WHEREAS, the City and District endeavor, to the greatest extent possible, to maximize the taxpayers' resources by sharing certain available resources, such as the use of public facilities;

WHEREAS, the building and operation of the Matthew T. Doyle Natatorium would benefit the students and parents of the District by providing a location that the District can use for participation of the District's swim team and its home swim meets. This is not to be construed to include tournaments or invitational swim meets and/or any other water-related sport suitable for the natatorium facilities, including but not limited to, instructional classes, life-saving, etc.;

WHEREAS, the District and the City desire to enter into an agreement specifying the means of the cooperation of the Matthew T. Doyle Natatorium facilities and the terms of the use of the natatorium facilities by the District;

NOW, THEREFORE, for and in consideration of the mutual covenants herein expressed the City and the District agree as follows:

ARTICLE I.

1.1 Leased Premises. The City is the owner of a certain real property and fixtures constructed thereon located at 1900 Fifth Avenue North, Texas City, Texas known as the Lowry Center (the "Center"). The Center is presently the site for swimming and indoor athletic facilities for the City of Texas City. The City and the Texas City Economic Development Corporation has expanded the Center to include the Matthew T. Doyle Natatorium and indoor athletic facilities for the use and enjoyment by the citizens of Texas City. The facilities were constructed by the City, are a fixture to the real property, and are the sole property of the City. Subject to and upon the terms and conditions set forth herein, the City hereby leases the facilities, as defined below, to the District to be utilized by the District for aquatic purposes as determined by the District according to the terms of this Agreement. For purposes of this Agreement, the term "Facilities" is defined to include the Matthew T. Doyle Natatorium facilities including, but not limited to, the swimming pool, spectator seating, men's and women's restrooms, men's and women's dress/locker rooms, first aid office, and pool equipment/storage

rooms, but shall not include the existing Lowry Center facilities and subsequent non-natatorium additions and renovations, and the gymnasium.

ARTICLE II.

2.1 Term. Subject to and upon the terms and conditions set forth herein including the termination right set out in Section 2.2 below, this Agreement shall extend for a four-year period, to include the school years 2010-11 through the 2013-14 high school swim season. Upon agreement by both parties, this lease may be extended for an additional five-year term, with costs to be negotiated at time of extension. During this term the use shall be limited to the swim season for high school competition between the period of September 15th (or thereabouts) until February 15th (or thereabouts).

2.2 Right of Termination. The Agreement may be terminated by either party upon thirty (30) days written notice to the other party. In the event that the City terminates this Agreement or the District terminates this Agreement due to the City's default, the City shall refund to the District a pro-rated share of the consideration paid by the District.

2.3 Use. The District and the City acknowledge that the Facilities are public facilities of the City of Texas City and subject to public use, and shall be utilized by the City for recreational purposes (including a year-round swim club). The District and the City agree that the District shall receive tertiary priority (to be defined as subject to the City and TCISD's use and activities) for use of the Facilities aquatic purposes as determined by the District, limited to the District's swim team and its home swim meets. This is not to be construed to include tournaments or invitational swim meets and/or any other water-related sport suitable for the natatorium facilities, including but not limited to, instructional classes, life-saving, etc. The City agrees that public access to the facilities shall be restricted during use by the District according to a schedule provided to the City by the District within a reasonable time prior to the anticipated use. The City agrees to use its best efforts to accommodate the District for use during unscheduled times, or times where the schedule was provided to the City without reasonable time prior to the anticipated use. Nothing herein shall require displacement of a prior scheduled City/TCISD event or program after the District has provided the City with a schedule on or before the District's anticipated use of the Facilities. The Facilities, and the use thereof, are expressly excluded from any other interlocal agreement between the City and the District providing for the "shared-use" of City recreational facilities.

2.4 Supervision. During any general public access to the Facilities, the City agrees to provide, at the sole risk and expense of the City, any and all necessary and appropriate supervision. During any District use, the District agrees to provide, at the sole risk and expense of the District, any and all necessary and appropriate supervision for District activities. The above notwithstanding, the City staff may assist the District in conjunction with its use of the Facility, as the City budget and personnel needs will allow.

ARTICLE III.

3.1 Consideration. The District and the City agree that the District shall pay \$11,000.00 each year for the the 2010-2011 and 2011-2012 swim season and \$12,000.00 each year for the 2012-2013 and 2013-2014 swim season, with payment to be made each year on or before the start date of the swim season.

ARTICLE IV.

4.1 Maintenance. The District and the City agree that the City, at its own expense and risk, shall clean and maintain the Facilities while this Agreement is in effect. The District and the City agree that the City shall arrange for utility and telephone service and pay all costs related to these services. The City shall pay all operational costs including, but not limited to: water, chemicals, utilities, maintenance items, etc.

4.2 Repairs. The District and the City agree that the City will pay for any necessary repairs or aesthetic maintenance, located either inside or outside the Facilities, for as long as this Agreement is in effect.

4.3 Modifications to Leasehold. The District and the City agree that structural modifications to the Facilities may not be made by the City unless prior written approval is received from the District, which approval shall not be unreasonably withheld. Upon termination of this Agreement, the District will remove any and all District property; however, the Facilities remain, at all times, the property of the City.

ARTICLE V.

5.1 Insurance. The City and District acknowledge that each entity maintains appropriate annual insurance coverage, which may include self-insurance, for the use of the facilities. During the District's use of the Facilities, the District shall be responsible for the acts and omissions of its employees, officials, agents, and students to the same extent it is responsible for their actions during school events on school district property. The District shall similarly be responsible for any injury and harm to its employees, officials, agents and students to the same extent as during school events on District property. During the City's use of the Facilities, the City shall be responsible for the acts and omissions of its employees, officials, agents, and citizens to the same extent it is responsible for their actions on City property. The City shall similarly be responsible for any injury and harm to its employees, officials, agents, and citizens to the same extent as on City property.

5.2 No Waiver of Immunity. Nothing herein shall be deemed in any manner to constitute a waiver of sovereign, governmental, or any other immunity or affirmative defense that may be asserted by the District or the City. Nor shall this provision be in any manner construed to create a cause of action for the benefit of any person not a party to this Agreement, or to create any rights for the benefit of any person not a party to this Agreement not otherwise existing at law. Nothing in this Agreement shall be deemed to enlarge either the

District's or the City's liability under the Texas Tort Claims Act, TEX. CIV. PRAC. & REM. CODE ANN., § 101.001 *et. seq.* (Vernon 1997).

5.3 Damage by Fire or Other Casualty. In the event that the Facilities are damaged but not substantially damaged, by fire or other peril, including an act of God, the City shall repair the damage without undue delay and this Agreement shall remain in full force and effect. If the facilities are totally destroyed or substantially damaged by fire or other peril, including an act of God, either the City or the District may elect to terminate this Agreement. Upon termination under this Section, the City shall reimburse the District according to the terms specified in Section 2.2. Proper insurance for the Facilities, for an amount not less than fair market value of the Facilities, shall be maintained by the City at all times for the duration of this Agreement.

ARTICLE VI.

6.1 District's Default. In the event the District shall be in default in the performance of any obligation on its part to be performed under the terms hereof, which default continues for thirty (30) days following notice of demand for correction thereof (provided that such cure period shall be extended if the default cannot reasonably be corrected within such period and the District diligently pursues correcting the default from the date of notice from the City until correction), the City may exercise any and all remedies granted by law, including termination of this Agreement and such other remedies provided by the laws and courts of the State of Texas. Termination under this Section is subject to the terms specified in Section 2.2.

6.2 City's Default. In the event the City shall be in default in the performance of any obligation on its part to be performed under the terms hereof, which default continues for thirty (30) days following notice of demand for correction thereof (provided that such cure period shall be extended if the default cannot reasonably be corrected within such period and the City diligently pursues correcting the default from the date of notice from the District until correction), the District may exercise any and all remedies granted by law, including termination of this Agreement and such other remedies provided by the laws and courts of the State of Texas. Termination under this Section is subject to the terms specified in Section 2.2.

ARTICLE VII.

7.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties and no oral or written representation between the parties made prior to or after execution of this Agreement shall be given any force and effect unless reduced to writing herein.

7.2 Amendment. This Agreement may be modified or amended upon the mutual consent of the parties evidenced in writing.

7.3 Severability. The invalidity of any part of this Agreement will not cause the remaining parts to be invalid.

7.4 Choice of Law. This Agreement is governed by the laws of the State of Texas, and venue for any legal proceeding relating to this Agreement or the obligations thereunder shall lie in Galveston County, Texas.

7.5 Notices. Notices to be provided pursuant to the Agreement shall be given certified mail, return receipt requested to the following individuals:

Matthew T. Doyle, Mayor
City of Texas City
P.O. Drawer 2608
Texas City, Texas 77592

Leland Williams, Ed.D., Superintendent
Dickinson Independent School District
P. O. Drawer Z
Dickinson, Texas 77539

7.6 Authority. The parties hereto represent that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into this Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Agreement.

7.7 Interlocal Provisions. The parties agree that this Agreement complies with the Act. City and District agree to pay any payments made pursuant to this Agreement from current revenues. The parties agree that each party is paying fair compensation for the services rendered and facilities used. The City and the District are authorized by law to perform the functions or services to be performed under this Agreement.

EXECUTED this the _____ day of _____, 2009.

DICKINSON INDEPENDENT SCHOOL
DISTRICT

CITY OF TEXAS CITY

By: _____
Leland Williams, Ed.D., Superintendent

By: _____
Mayor, City of Texas City

Attest:

Attest:

By: _____

By: _____

CITY COMMISSION AGENDA

Date: 12/16/2009

Approve Agreement with Texas City Radio Control Club for Holland Road Improvement

Submitted For:	Ron Plackemeier, City Attorney	Submitted By:	Linda Jennings, City Attorney Office
Department:	City Attorney Office		

Information

ACTION REQUEST (Brief Summary)

Consider approval of an Agreement with Texas City Radio Control Club to design, fabricate and install a utility building at Holland Park.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Link: [Res 09-141](#)

Link: [TCRCC Agreement](#)

Link: [TCRCC Promissory Note](#)

Link: [TCRCC.Proposal](#)

Link: [TCRCC.New Bldg](#)

Link: [TCRCC.Bleachers](#)

RESOLUTION NO. 09-141

A RESOLUTION APPROVING AN AGREEMENT WITH TEXAS CITY RADIO CONTROL CLUB (TCRCC) FOR THE DESIGN, FABRICATION AND INSTALLATION OF A UTILITY BUILDING AT HOLLAND PARK; PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, the Texas City Radio Control Club (TCRCC) desires to design, fabricate and install a utility building at Holland Park (7500 Humble Camp Road); and

WHEREAS, Harvey Cappel, P.E. has agreed to be the general contractor and construction manager for the building with the cost of the building estimated not to exceed \$45,315.00; and

WHEREAS, TRCRR is requesting a long-term zero interest loan under the terms and conditions set forth in the Agreement and Promissory Note attached hereto as Exhibit "A" and made a part hereof.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission hereby approves the Agreement with TCRCC for the design, fabrication and installation of a utility building at Holland Park, under the terms and conditions set forth in Exhibit "A".

SECTION 2: That the Mayor, or designee, is hereby authorized to execute any documentation necessary to enter into this Agreement.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 16th day of December, 2009.

Matthew T. Doyle, Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Pamela A. Lawrence
City Secretary

Ronald F. Plackemeier
City Attorney

AGREEMENT

1. **Parties to the Agreement.** This agreement is between the Texas City Radio Control Club (TCRCC), located in Texas City, Texas, and the City of Texas City. For the purposes of this agreement, Texas City Radio Control Club will be designated as TCRCC and the City of Texas City will be designated as City.
2. **The Work to be Done.** By the terms of this agreement, TCRCC will design, fabricate and install a utility building at Holland Park, as follows:
 - A. TCRCC will provide all engineering and construction management for the project.
 - B. Harvey Cappel, P.E., a licensed Professional Engineer, will be the general contractor and construction manager.
 - C. The building will be City permitted and constructed to meet all applicable codes including, but not limited to, IBC, IECC, FEMA, NEC, ADA and TDI Windstorm Certified. The building design will incorporate features for maximum security and minimum potential damage from high winds and flood water.
3. **Consideration.** The total cost of the building project will not exceed the current estimate of \$45,315.00 (budgeted amount). Any expenditures that exceed the budgeted amount will be paid 100% by TCRCC.
4. **Financing of Project.**

TCRCC will execute a Promissory Note (copy attached) to the City for the amount of \$45,315.00. City will finance the project via a long-term zero interest loan to TCRCC, with details as follows:

 - A. On January 14, 2010, TCRCC will make the first loan payment of \$5,000.00.
 - B. City will match this with a \$5,000.00 reduction in the loan amount to be repaid.

- C. After the initial \$10,000.00 reduction in the amount of the loan, TCRCC will make loan payments, beginning on January 15, 2011, in the amount of \$2,000.00 annually, until the entire balance is paid.
 - D. In the unlikely event that TCRCC membership temporarily drops to a level where this \$2,000.00 annual payment exceeds 60% of TCRCC's annual collected dues, then the annual loan payment amount will be temporarily reduced to an amount equal to 60% of TCRCC's annually collected dues.
5. **Ownership.** All improvements will be owned by the City of Texas City.
6. **Remedies of Parties.** If TCRCC or City is displeased with the facet of work or performance by the other party, either TCRRR or City has the option of terminating the contract. The procedure for this is as follows:
- A. The party with a grievance will first notify the other party with a registered letter detailing the problem(s).
 - B. The party receiving the letter will have four (4) weeks from the letter date to respond and offer a solution.
 - C. If the proposed solution is satisfactory to the other party, the problem must be corrected within two (2) weeks.
 - D. If the solution is unsatisfactory, or if, at the end of two weeks, the issue has not been resolved, the aggrieved party has the option of unilaterally canceling this agreement.
 - E. If the agreement is canceled, monies due from one party to the other must be paid promptly. City is not required to refund monies for items partially complete and may bill for items in progress that were not previously billed.

7. **Use.**

As it has been for the past 38 years (since 1971), TCRCC will be the responsible user of Holland Park, including this new utility building and will continue to control the Radio Control Flying activities. This control of flying activities, which will require “flying” users to have Liability Insurance via membership in Academy of Model Aeronautics (AMA) and abide by TCRCC club rules, is required for safe operation of the facility. Otherwise the use will be the same as other City parks, which assures that park facilities are secure, safe for family use and free for use by the public.

8. **Venue.** Any litigation must be filed and based in Galveston County, Texas.

9. **Signatories to the Agreement.** The following persons declare by their signatures that they are legally empowered to sign this agreement for TCRCC and City, respectively, and they by their signatures approve all of the elements of this agreement.

COMPLETED on this ____ day of _____, 2009.

TEXAS CITY RADIO CONTROL CLUB:

CITY OF TEXAS CITY

By:_____

By:_____

Matthew T. Doyle, Mayor

Spokesman if different than above

Witness:

PROMISSORY NOTE

\$45,315.00

TEXAS CITY, TEXAS _____, 2009

FOR VALUE RECEIVED, **Texas City Radio Control Club (TCRCC)** promises to pay to the order of the **City of Texas City (City)** at 1801 – 9th Avenue North, Texas City, Texas 77590, the principal sum of Forty-Five Thousand Three Hundred Fifteen and 00/100 Dollars (\$45,315.00), with no interest thereon, principal payable as follows:

1. Payment in the sum of Five Thousand and 00/100 Dollars (\$5,000.00) on or before January 14, 2010;
2. Payment in the sum of Two Thousand and 00/100 Dollars (\$2,000.00) to become payable on the 15th day of January 2011, and a like installment to become payable on the same day of each year thereafter until this note has been fully paid.

Upon the receipt of the initial payment of Five Thousand and 00/100 Dollars (\$5,000.00), City shall match the amount and the principal sum shall be reduced to Thirty-Five thousand Three Hundred Fifteen and 00/100 Dollars (\$35,315.00).

In the event the membership of TCRCC declines and the Two Thousand and 00/100 Dollars (\$2,000.00) annual payment beginning January 15, 2011 exceeds sixty percent (60.0%) of the collected dues, the annual payment amount shall be temporarily reduced to an amount equal to sixty percent (60.0%) of the collected dues.

Failure to pay any one of said installments, or any part thereof, when due, or failure to carry out any of the undertakings agreed to be done by TCRCC in the Agreement by and between TCRCC and City of even date herewith and given as security for the payment of this note, shall be resolved pursuant to Section 6 "Remedies of the Parties" of the Agreement (Agreement).

In the event the Agreement is terminated, all payments tendered by TCRCC to the City shall be retained by the City, and the City may invoice for items in progress not previously invoiced. All improvements conducted under the Agreement shall be the property of the City.

TEXAS CITY RADIO CONTROL CLUB

By: _____

Proposal for new building at Holland Park (updated 12-2-09)

To: City of Texas City (The City)

From: Texas City Radio Control Club (TCRCC) a 501C-7 Corporation.

Re: New utility building at Holland Park (7500 Humble Camp Road)

Background

Holland Park, a Texas City owned park, has been used primarily for the purpose of safe and professionally controlled "radio control" model airplane flying activities since about 1971, 38 years. The flying activities are controlled by the Texas City Radio Control Club (TCRCC).

Radio control model airplanes today are no longer kid's toys. Some models can be as large as ½ size of a full scale airplane. They can weigh up to 55 pounds and fly as fast as 200 mph (these are the upper limits imposed on us by our Liability Insurance). The cost can be up to \$10,000 for one model airplane or helicopter. This is no longer a sport that can be safely practiced in an empty lot in town. Holland Park being very remote from any concentration of houses or highway traffic is an ideal and very safe place for this activity. The clubs history of safety attests to this. Similar City/County park facilities exist in other nearby areas such as Hitchcock, Alvin, LaPorte and Clear Lake (NASA). Much like Little League we share each others facilities with multiple memberships.

The TCRCC club that operates the Texas City field is sanctioned by the Academy of Model Aeronautics (AMA) a national organization. All club members are required to belong to AMA which, with the club sanction, provides each member with liability insurance of \$2,500,000 per occurrence. The club is serious in its responsible use of the park and the activities at the park are very well controlled and safe. The club membership families consists of Doctors, Engineers, NASA Scientist, Airline Pilots, Skilled Craftsman, students and good citizens of all types from the very young to the very old. We meet once per month in the Captains room of the Nessler Center.

We currently maintain a membership of about 90 with annual dues averaging about \$70 per member (we offer half price dues for seniors and kids). Historically practically all our dues have gone into the maintenance and the improvement of the park. The park today is a first class Radio Control Model Airplane flying facility because of the money and work contributed by our membership. All our activities are free to the public and the public is always invited when we are using the Park.

Our Need

We are in desperate need of a larger building to use as a utility building to:

- 1) Hold our regular monthly club, board and committee meetings.
- 2) Conduct safety meetings.
- 3) Conduct training activities for new pilots and school club students.
- 4) Provide an air/heat conditioned relief area for our elderly club members and visitors during the hot summer and cold winter months.

We have been trying for years to do this on our own but have failed. Hurricane Ike and recent vandalism depleted much of our savings planned for a new building.

Ike did the following to us: (Holland Park is outside the protection levy.)

- 1) Floated our concession stand off its blocks and damaged the AC unit.
- 2) Floated everything we own, tables, chairs, benches, airplane stands, frequency control board, trash cans and porta potties off into the woods and marsh.
- 3) Destroyed two coin operated cold drink machines.
- 4) Destroyed two refrigerators.
- 5) Destroyed one electric range.
- 6) Destroyed one Microwave.
- 7) Destroyed our well pump and tank.
- 8) Destroyed one riding lawnmower.
- 9) Destroyed one weedeater.
- 10) Flooded two other riding lawn mowers requiring expensive service.
- 11) Destroyed grounds keeping supplies in our maintenance shed.

Just before the storm we were vandalized and lost a new \$3,500 John Deere riding lawnmower and a \$400 model airplane.

We have just about recovered from these disasters without any insurance or government money from anyone. But this did seriously deplete our building fund savings for a new building.

We still however have the need and a plan for the new building we want and with this proposal we are asking the City to consider participating with us in obtaining the building. Our biggest problem is the up-front cost and our inability to borrow money as a small corporation/club.

After several months of hard work by our building committee we have a plan, which recently received an over 80% club voting membership approval, as follows:

- 1) The building will be 50 foot wide by 24 foot deep (1200 SF). See attached sketch(s).
- 2) It will have two 16 foot garage doors facing the field runway so club members and visitors can watch all the activities from a semi climate controlled area.
- 3) Construction will be conventional wood frame with special features to address potential wind storms, flooding and vandalism.
- 4) Climate control will be with 3 AC/Heat window units secured to discourage vandalism.
- 5) The building will comply with American Disabilities Act (ADA) regarding accessibility.
- 6) No park trees will be damaged or removed.
- 7) At this time there will be no water or sewer service to the building since, except for non-potable well water; these services are not available at this park site.

We have firm bids for about 95% of the completed project from local (Texas City) contractors and suppliers. Some of the work is planned for club volunteers. The estimated cost of the completed project is \$45,315. See attached detailed estimate. We have also received approval, with a building permit, from Texas City Building Official, Brian Falk concerning all applicable building Codes.

Along with the obvious benefits to our club the City will also benefit from this project in the following ways:

- 1) The Nessler Center Captain's room will be freed up for other citizen's use since all our future meetings will be held in the new utility building.
- 2) Our Park now has two 15' wide x 8 seats high aluminum seat bleachers (in like new condition) which will no longer be needed. Both will be given up by the club to be relocated to one or two City sports parks such as soccer or junior football fields.
- 3) The new building will improve the Holland Radio Control Park to a level possibly unequaled in the State. Our facility will be without question the finest in the South Texas area.
- 4) The club will donate all its financial participation in the project to the City making the building a City owned property.
- 5) The club will maintain the building (except utilities and insurance) without cost to the City as it now does with the current buildings and facilities at the park.

Our proposal to the City is this:

- 1) TCRCC will provide via. Harvey Cappel PE, the project management, engineering and purchasing for all necessary activities related to the complete construction of the building. The Cities' activities will be limited to construction draw approvals and liaison with the club as required for accounting etc. purposes.
- 2) The City will pay, on a construction draw basis, the entire installed cost of the building, not to exceed \$45,315.
- 3) TCRCC will repay to the City all but \$5,000 of the cost of the building by making a first year payment of \$5,000 and thereafter making annual zero interest loan payments of \$2,000 year until the entire remaining balance (not to exceed \$35,315) is completely paid.
- 4) In the unlikely event the club membership reduces to a level making this payment too much for a smaller club the payment under these circumstances will be limited to 40% of the clubs annually collected dues. This temporary reduced payment will obviously increase the number of years required to complete the final payout.
- 5) The first payment of \$5,000 will be due on January 15, 2010 and then the \$2,000 payments will be due annually on January 15 each year until the balance is completely paid.
- 6) The City will always own the building.

By this plan the City should be completely repaid for the building in about 18 years. The TCRCC club is basically asking the City for an 18 year, interest free, loan and payment of \$5,000 of the total cost of the building. TCRCC pay the remaining cost of the building. The TCRCC club believes its proposal represents a fair sharing of the cost of a mutually beneficial facility that will make the activities at Holland Park better and safer for TCRCC, the City and the general public.

And finally this project request is not without precedent. About two years ago Galveston County built a new 18' x 60' (1080 SF) covered shed with concrete slab at the Jack Brooks Park for the much smaller Hitchcock Radio Control Club. The County paid 100% of the cost of the project.

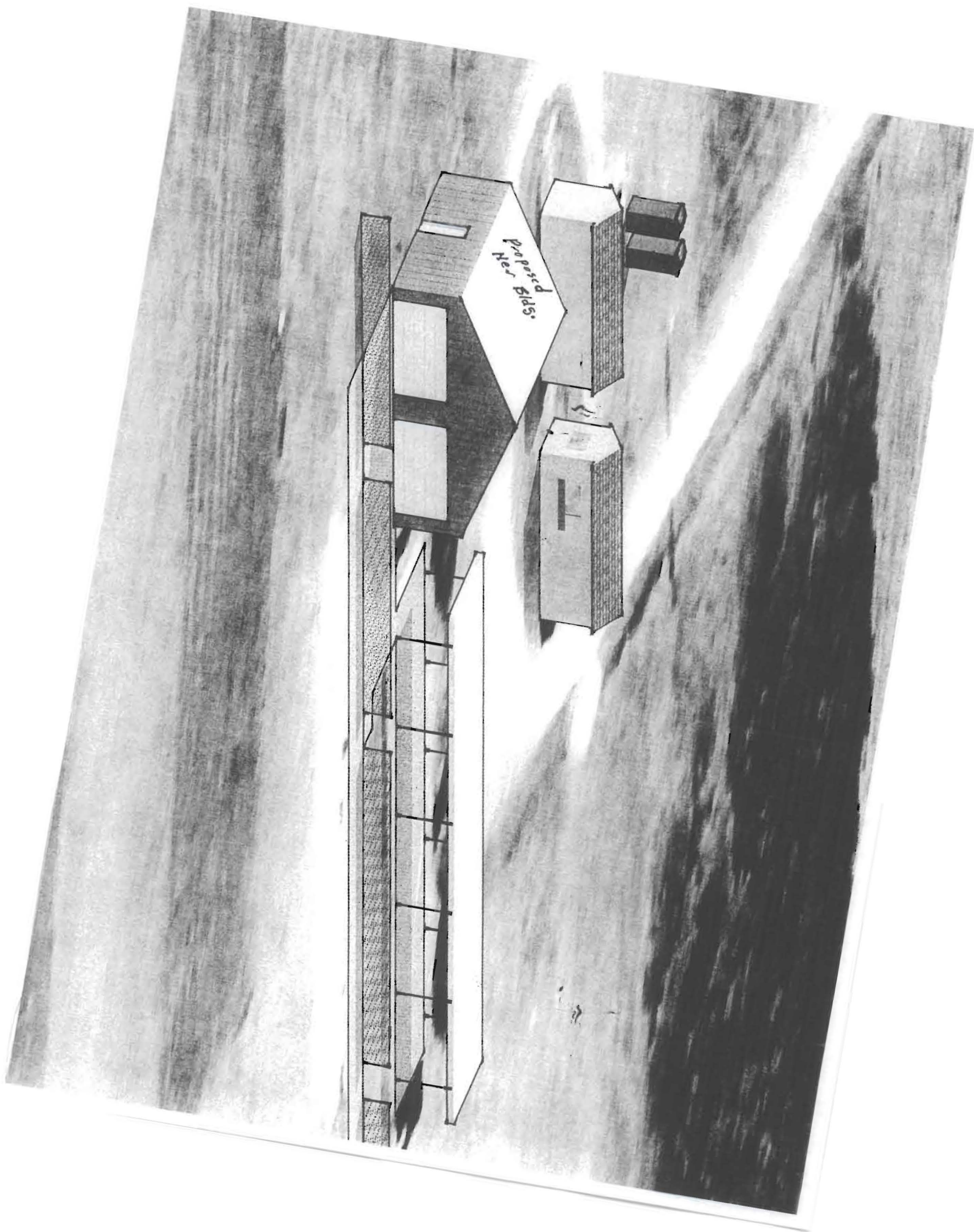
To better understand our need and proposal please feel free to visit Holland Park to meet some of our members and witness the TCRCC model airplane flying activities at any time. The best time, to see the most, will be weekends but quite often we have members using the park daily.

You may contact the TCRCC club via:

Mike Grassmuck (TCRCC Club President) 409 739-5986
Harvey Cappel PE (Building Committee Chairman) 409 939-4271

TCRCC BUILDING ESTIMATE
24 FT X 50 FT = 1200 SF

<u>ITEM NO.</u>	<u>ITEM DESCRIPTION</u>	<u>BID/EST. COST</u>	<u>NOTES</u>
1	Wood frame building	24,350	Firm bid Higginbotham
2	Garage doors (3)	2,879	Firm bid Hall Door
3	Insulation	1,806	Firm bid Higginbotham
4	AC Units 3 x 1-1/2 ton	1,960	Frigidaire AC + Heat
5	Painting inside and out	0	Included in building bid
6	Electrical	3,000	Matrl. + Club Labor
7	Plumbing	0	None Required
8	Concrete Foundation	5,100	Firm bid R O Hernandez
9	Flat work + ADA ramp	2,100	Firm bid R O Hernandez
10	Engineering + Mgmt.	0	Harvey Cappel PE
11	Permits	0	Harvey Cappel PE
12	Windstorm Certificate WPI-8	0	Harvey Cappel PE
13	IBC/IECC Energy Cert.	0	Harvey Cappel PE
SUB TOTAL		41,195	
CONTINGENCY 10%		4,120	
GRAND TOTAL BUILDING		\$ 43,315	





CITY COMMISSION AGENDA

Date: 12/16/2009

Consider approval of conveyance of 4.9217 acre tract (Animal Shelter) to Galveston County

Submitted For: Tommy Maris
Department: Public Works

Submitted By: Linda
Jennings, City
Attorney Office

Information

ACTION REQUEST (Brief Summary)

Consider approval of conveyance of 4.9217 acre tract (Animal Shelter) to the County of Galveston. (Public Works)

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Link: [Res 09-142](#)

Link: [Deed](#)

Link: [Exhibit A Easement](#)

Link: [Exhibit B Easement](#)

Link: [Easement A survey](#)

Link: [Easement B survey](#)

RESOLUTION NO. 09-142

A RESOLUTION APPROVING THE CONVEYANCE OF THE CITY'S INTEREST IN A 4.9217 ACRE TRACT (KNOWN AS THE ANIMAL SHELTER) TO THE COUNTY OF GALVESTON; AUTHORIZING THE MAYOR TO EXECUTE A SPECIAL WARRANTY DEED; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, the County of Galveston desires to build a bigger and better animal shelter facility for the citizens of Galveston County; and

WHEREAS, the current County Animal Shelter is located on 25th Avenue North in Texas City; and

WHEREAS, the City of Texas City deems it in the best public interest and a public purpose to donate the 4.9217 acre tract where the County Animal Shelter is now located to the County of Galveston for expansion of the County Animal Shelter;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission declares it in the best public interest and a public purpose to convey the City's interest in the real property known as the Animal Shelter, described on Exhibit "A", attached hereto and made a part hereof for all intents and purposes to the County of Galveston.

SECTION 2: That the Mayor is hereby authorized to execute a Special Warranty Deed to convey said property.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 16th day of December, 2009.

Matthew T. Doyle, Mayor
City of Texas City, Texas

ATTEST:

Pamela A. Lawrence
City Secretary

APPROVED AS TO FORM:

Ronald F. Plackemeier
City Attorney

SPECIAL WARRANTY DEED

Date: _____

Grantor: **City of Texas City, a municipal corporation**
 1801 – 9th Avenue North
 Texas City (Galveston County) Texas 77590

Grantee: **County of Galveston**

Consideration: Cash and other good and valuable consideration.

Property (including any improvements):

A 4.9217 acre tract of land out of and a part of Lots 1, 2, 5 and 6, Block 2 of Subdivision "C" out of the Kohfeldt Resubdivision in the Hamlet Ferguson Survey, according to the map or plat thereof recorded in Plat Record 10, Map No. 35, of the Galveston County Map records, and being more fully described by metes and bounds as follows:

BEGINNING at the Southwest corner of a 6.1470 acre tract conveyed to the Texas City Municipal Corporation and recorded in Film Code No. 001-12-0386 G.C.D.R. and being in the North right of way line of Loop 197 (100' R.O.W.);

THENCE South 87 degrees 57 minutes 49 seconds West along and with the North right of way line of said Loop 197, a distance of 254.44 feet to a 5/8" iron rod found for an angle point of the herein described tract;

THENCE South 87 degrees 53 minutes 40 seconds West and continuing along and with the North right of way line of said Loop 197, a distance of 19.60 feet to a 5/8" iron rod found for the Southwest corner of the herein described tract;

THENCE North 02 degrees 06 minutes 20 seconds West, a distance of 557.52 feet to a 5/8" iron rod found for the Northwest corner of the tract herein described;

THENCE North 87 degrees 57 minutes 49 seconds East, a distance of 509.71 feet to a 5/8" iron rod found for the Northeast corner of the herein described tract;

THENCE South 16 degrees 44 minutes 29 seconds West, a distance of 369.58 feet to a 5/8" iron rod found for an exterior corner of the herein described tract;

THENCE South 87 degrees 57 minutes 49 seconds West, a distance of 116.00 feet to a 5/8" iron rod found for an interior corner of the herein described tract;

THENCE South 02 degrees 02 minutes 11 seconds East, a distance of 207.49 feet to the PLACE OF BEGINNING.

SAVE AND EXCEPT:

A 0.6898 acre (30,046 sq. ft.) tract out of Lot 5, Block 2, Subdivision "C" of the Kohfeldts Resubdivision in the Hamlet Ferguson Survey, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Plat Record 10, Map No. 35, of the Map Records of Galveston County, Texas, and being out of that certain tract as conveyed to the Texas City Municipal Corporation, signed and executed on January 14, 1983 and said 0.6898 acre tract being more particularly described by metes and bounds on **Exhibit "A"**, Levee Easement, attached hereto and incorporated herein.

A 0.4879 acre (21,253 sq. ft.) tract out of Lot 6, Block 2, Subdivision "C" of the Kohfeldts Resubdivision in the Hamlet Ferguson Survey, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Plat Record 10, Map No. 35, of the Map Records of Galveston County, Texas, and being out of that certain tract as conveyed to the Animal Shelter, in Film Code No. 007-91-2247 G.C.D.R. and said 0.4879 acre tract being more particularly described by metes and bounds on **Exhibit "B"**, Levee Easement, attached hereto and incorporated herein.

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty:

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2010, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes, but not subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantor assumes.

Grantor, subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, by authority of Resolution No. 09-142, passed and approved by the City Commission of the City of Texas City on December 16, 2009, for mutual consideration, the receipt of which is hereby acknowledged, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's,

successors, and assigns forever. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is BY, THROUGH, OR UNDER Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

CITY OF TEXAS CITY

By: _____

Matthew T. Doyle, Mayor
City of Texas City, Texas

STATE OF TEXAS *

COUNTY OF GALVESTON *

On the _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared **Matthew T. Doyle**, known to me or satisfactorily proven to be the person whose name is subscribed to this instrument and acknowledged that he in his capacity as the Mayor of the City of Texas City, Texas executed the same for the purpose contained therein.

Notary Public, State of Texas

EXHIBIT "A"

LEVEE EASEMENT

A 0.6898 Acre (30046 Sq.. Ft.) tract out of Lot 5, Block 2, Subdivision "C" of the Kohfeldts Resubdivision in the Hamlet Ferguson Survey, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Plat Record 10, Map No. 35, of the Map Records of Galveston County, Texas, and being out of that certain tract as conveyed to the Texas City Municipal Corporation, signed and executed on 01-14-1983 and said 0.6898 acre tract being more particularly described by metes and bounds on attached Exhibit "A"

COMMENCING at the Southeast corner of said Texas City Municipal Corp. tract, same being the Southwest corner of a 6.1470 acre tract conveyed to the Texas City Municipal Corporation and recorded in Film Code No. 001-12-0386 G.C.D.R. and said point being S 87°57'49"W, 450.26' from the point of intersection of the West right of way line of 34th Street North (Not Open) with the North right of way line of Loop 197 (100' R.O.W.);

Thence North 02°02'11" West along and with the West line of said 6.1470 acre tract, same being the East line of said Texas City Municipal Corp. tract, a distance of 21.79' to the Point Of Beginning of the tract herein described:

Thence South 87°57'31" West, a distance of 274.06' to a point for the Southwest corner of the tract herein described and being in the West line of said Texas City Municipal Corp. tract:

Thence North 02°06'20" West along and with the West line of said Texas City Municipal Corp. tract, a distance of 62.59' to a point for the most Southerly Northwest corner of the herein described tract;

Thence North 85°21'02" East, a distance of 203.47' to a point for an interior corner of the herein described tract:

Thence North 00°49'27" East, a distance of 169.64' to a point for the most Northerly Northwest corner of the herein described tract;

THENCE North 87°57'49" East, a distance of 62.41' to a point for the Northeast corner of the herein described tract and being in the East line of said Texas City Municipal Corp. tract;

THENCE South 02°02'11" East along and with the East line of said Texas City Municipal Corp. tract, a distance of 241.28' to the Point Of Beginning of the herein described tract.

Basis of Bearing: Grid North Texas State Plane Coordinate System, NAD83, South Central Zone.

EXHIBIT "B"
LEVEE EASEMENT

A 0.4879 Acre (21,253 Sq.. Ft.) tract out of Lot 6, Block 2, Subdivision "C" of the Kohfeldts Resubdivision in the Hamlet Ferguson Survey, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Plat Record 10, Map No. 35, of the Map Records of Galveston County, Texas, and being out of that certain tract as conveyed to the Animal Shelter, in Film Code No. 007-91-2247 G.C.D.R. and said 0.4879 acre tract being more particularly described by metes and bounds as follows:

COMMENCING at the point of intersection of the West right of way line of 34th Street North (60' R.O.W. Not Open) with the North right of way line of Loop 197 (100' R.O.W.);

Thence South 87°57'49" West along and with the North right of way line of said Loop 197, a distance of 450.26' to the Southwest corner of a 6.1470 acre tract conveyed to the Texas City Municipal Corporation and recorded in Film Code No. 001-12-0386 G.C.D.R.;

Thence North 02°02'11" West along and with the West line of said 6.1470 acre tract, a distance of 207.49' to a 5/8" iron rod set for the Point Of Beginning of the tract herein described, same being the Southwest corner of said Animal Shelter tract:

Thence continuing North 02°02'11" West along and with the West line of said Animal Shelter tract, a distance of 55.58' to a point for the Northwest corner of the tract herein described:

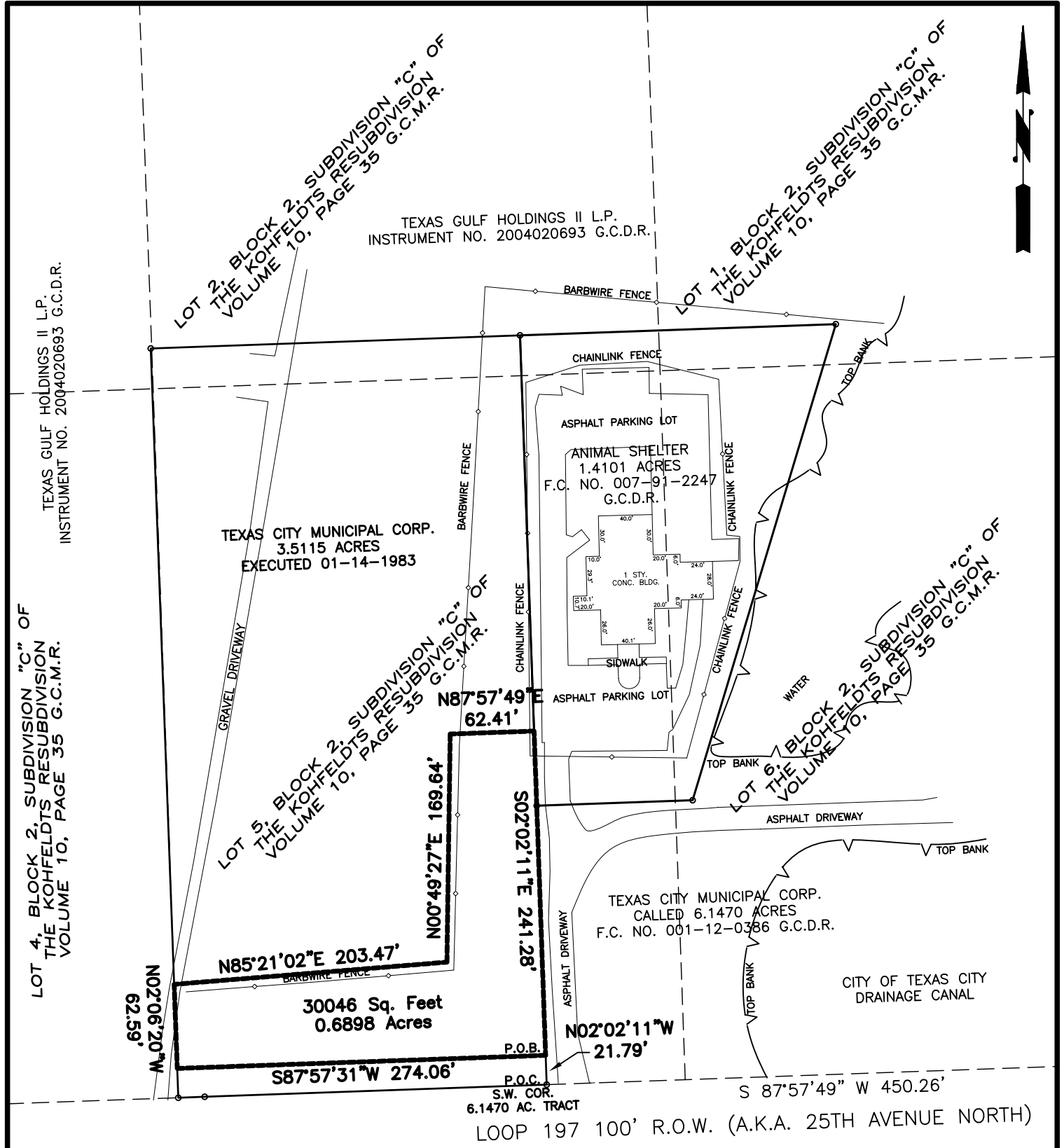
Thence North 87°57'49" East, a distance of 86.39' to a point for corner of the herein described tract;

Thence North 16°44'29" East parallel to the East line of said Animal Shelter tract, a distance of 310.98' to a point for the Northwest corner of the herein described tract and being in the North line of said Animal Shelter tract;

Thence North 87°57'49" East along and with the North line of said Animal Shelter tract, a distance of 48.51' to a point for the Northeast corner of the tract herein described, same being the Northeast corner of said Animal Shelter Tract;

Thence South 16°44'29" West along and with the East line of said Animal Shelter tract, a distance of 369.68' to a point for the Southeast corner of the tract herein described, same being the Southeast corner of said Animal Shelter Tract:

Thence South 87°57'49" West along and with South line of said Animal Shelter tract, a distance of 116.00' to the PLACE OF BEGINNING.



LEVEE EASEMENT

A 0.6898 Acre (30046 Sq.. Ft.) tract out of Lot 5, Block 2, Subdivision "C" of the Kohfeldts Resubdivision in the Hamlet Ferguson Survey, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Plat Record 10, Map No. 35, of the Map Records of Galveston County, Texas, and being out of that certain tract as conveyed to the Texas City Municipal Corporation, signed and executed on 01-14-1983 and said 0.6898 acre tract being more particularly described by metes and bounds on attached Exhibit "A"

Basis of Bearing: Grid North Texas State Plane Coordinate System, NAD83, South Central Zone.

I, the undersigned, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this survey was made on the ground of the property legally described hereon and is true and correct to the best of my knowledge and belief.

[Signature of Robert D. Ellis]

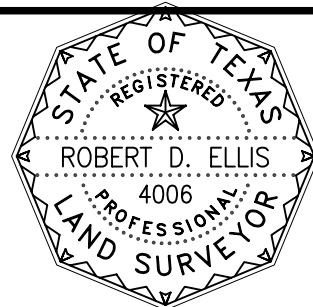
Robert D. Ellis, R.P.L.S.
Tx. Reg. No. 4006

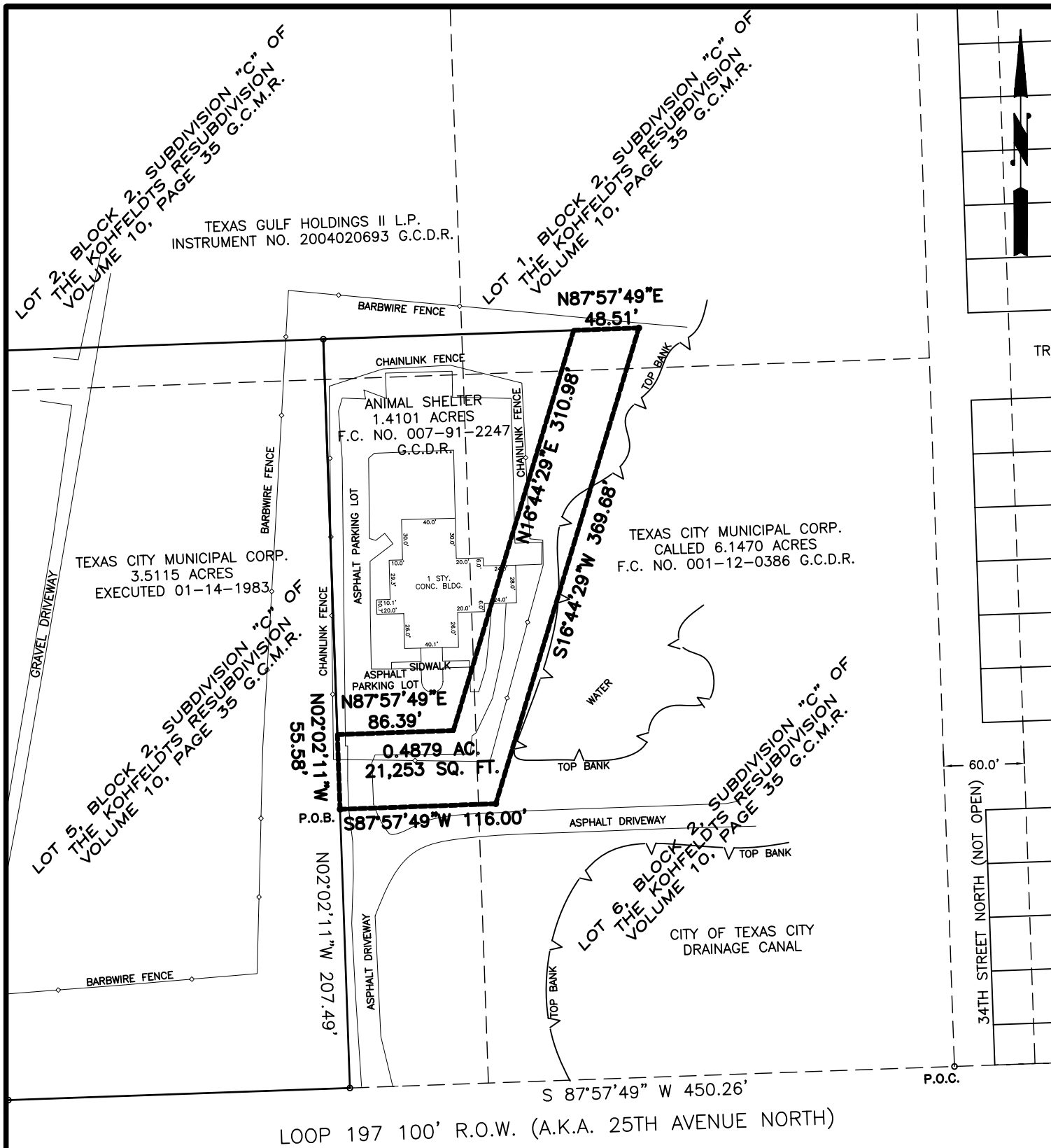
This original work is protected under copyright laws, Title 17 United States Code Sections 101 and 102. All violators will be prosecuted to the fullest extent of the law. This survey is being provided solely for the use of the recipients named above and no license has been created, express or implied, to copy the survey except as is necessary in conjunction with the original transaction, which shall take place within thirty (30) days from the date herein.

Date: 9-22-09
Scale: 1" = 100'

ELLIS SURVEYING SERVICES

8419 Emmett F. Lowry
Texas City, Texas 77591
Tel.: 409-938-8700
Fax: 866-678-7685





LEVEE EASEMENT

A 0.4879 Acre (21,253 Sq.. Ft.) tract out of Lots 5 and 6, Block 2, Subdivision "C" of the Kohfeldts Resubdivision in the Hamlet Ferguson Survey, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Plat Record 10, Map No. 35, of the Map Records of Galveston County, Texas, and being out of that certain tract as conveyed to the Animal Shelter, in Film Code No. 007-91-2247 G.C.D.R. and said 0.4879 acre tract being more particularly described by metes and bounds on attached Exhibit "B"

Basis of Bearing: Grid North Texas State Plane Coordinate System, NAD83, South Central Zone.

I, the undersigned, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this survey was made on the ground of the property legally described hereon and is true and correct to the best of my knowledge and belief.

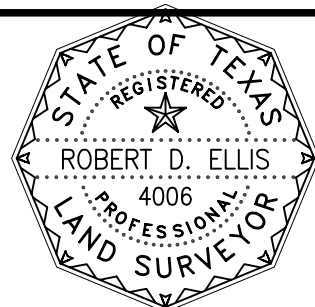
Robert D. Ellis, R.P.L.S.
Tx. Reg. No. 4006

This original work is protected under copyright laws, Title 17 United States Code Sections 101 and 102. All violators will be prosecuted to the fullest extent of the law. This survey is being provided solely for the use of the recipients named above and no license has been created, express or implied, to copy the survey except as is necessary in conjunction with the original transaction, which shall take place within thirty (30) days from the date herein.

Date: 10-08-09
Scale: 1" = 100'

ELLIS SURVEYING SERVICES

8419 Emmett F. Lowry
Texas City, Texas 77591
Tel.: 409-938-8700
Fax: 866-678-7685



CITY COMMISSION AGENDA

Date: 12/16/2009

Contract for Water Pollution Control and Abatement

Submitted By: Todd Hoover, Utilities

Department: Utilities

Information

ACTION REQUEST (Brief Summary)

Consider approval of contract between the Galveston County Health District and the City of Texas City for water pollution control and abatement services.

BACKGROUND

The City of Texas City is a member of the Galveston County Health District and responsible for the quality of the water within its jurisdiction and has elected to contract for water quality services with the Galveston County Health District.

ANALYSIS

The CITY will agree to pay PERFORMING PARTY an annual fee of one 0.70 cents/capita based upon the January 1, 2008 Population Estimate as projected by the Texas State data Center and Office of the State Demographer.
(Population) 44,391 X (Per Capita Cost) 0.70 = (Total Contract Price) \$31,073.70

ALTERNATIVES CONSIDERED

Attachments

Link: [Res 09-143](#)

Link: [2010 Water Pollution Control and Abatement Contract](#)

RESOLUTION NO. 09-143

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE GALVESTON COUNTY HEALTH DISTRICT FOR WATER POLLUTION CONTROL AND ABATEMENT FOR THE FISCAL YEAR 2010; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, the Interlocal Cooperation Act of the State of Texas provides that political subdivisions of the State may contract or agree with another local government to perform governmental functions and services in accordance with the provisions of the Act; and

WHEREAS, the Galveston County Health District and the City of Texas City have agreed to contract water pollution control and abatement services; and

WHEREAS, the Galveston County Health District organized the Water Pollution and Abatement Control program in 1972 and is charged with performing water quality monitoring and pollution abatement activities for Galveston County and its contracted political subdivisions, and is supported through the county general fund and contracted political subdivision contributions; and

WHEREAS, the City of Texas City is a member of the Galveston County Health District and responsible for the quality of the water within its jurisdiction and has elected to contract for water quality services with the Galveston County Health District.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission of the City of Texas City, Texas, hereby approves the Contract for Water Pollution Control and Abatement Services with the Galveston County Health District.

SECTION 2: That the Mayor is authorized to execute an agreement in substantially the same form as attached as Exhibit "A", attached hereto and made a part hereof for all intents and purposes.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 16th day of December, 2009.

Matthew T. Doyle, Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Pamela A. Lawrence
City Secretary

Ronald F. Plackemeier
City Attorney

Contract for Water Pollution Control and Abatement

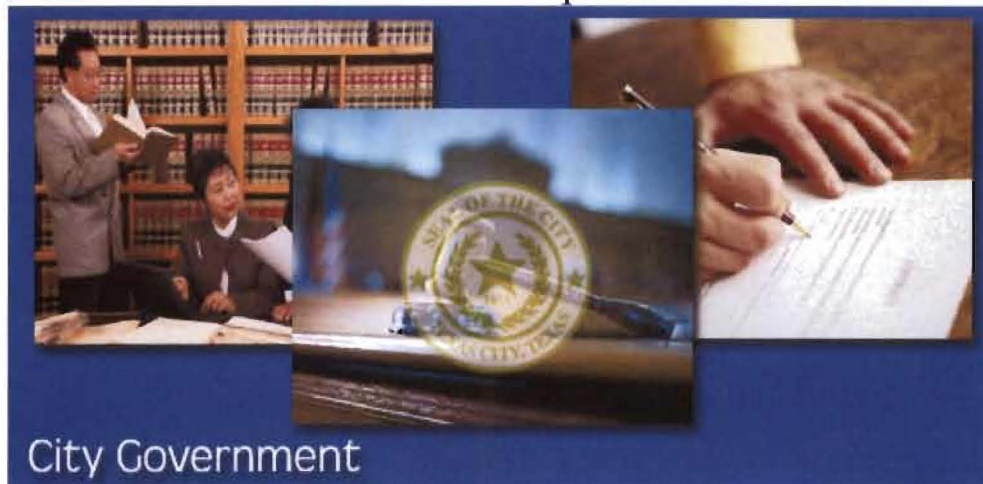
Fiscal Year 2010

Contract Term:
October 1, 2009 – September 30, 2010

Work to be Performed by:



Work to be Completed for:



CONTRACT FOR WATER POLLUTION CONTROL AND ABATEMENT SERVICES

This agreement is entered into and between the Galveston County Health District and the City of Texas City.

WITNESSETH

Whereas, the Interlocal Cooperation Act of the State of Texas provides that political subdivisions of the State may contract or agree with another local government to perform governmental functions and services in accordance with the provisions of the Act; and

Whereas, the Galveston County Health District and the City of Texas City have agreed to contract water pollution control and abatement services; and

Whereas, the Galveston County Health District organized the Water Pollution and Abatement Control program in 1972 and is charged with performing water quality monitoring and pollution abatement activities for Galveston County and its contracted political subdivisions, and is supported through the county general fund and contracted political subdivision contributions; and

Whereas, the City of Texas City is a member of the Galveston County Health District and responsible for the quality of the water within its jurisdiction and has elected to contract for water quality services with the Galveston County Health District.

Now, Therefore, for and in consideration of the mutual covenants herein expressed, the parties agree as follows:

STATEMENT OF SERVICES

The Galveston County Health District Air and Water Pollution Control Services Division (hereinafter called PERFORMING PARTY), through the Water Pollution Control and Abatement program, agrees to perform the following services for the City of Texas City (hereinafter called CITY):

1. Complaint Response

1.1. Investigate and resolve water quality related complaints:

1.1.1 The PERFORMING PARTY will respond to all water quality related complaints within jurisdictional limits of the CITY received or referred, as expeditiously as possible.

1.1.2. The PERFORMING PARTY will document each and every complaint received and that documentation will specifically contain information relative to the nature of the complaint and, if possible, corrective action taken.

1.1.3 The PERFORMING PARTY will protect from disclosure information regarding the identity of a complainant to the extent allowed by the Texas Public Information Act, Govt. Code Chapter 522. In the event that information, which tends to identify a complainant, is requested pursuant to the Texas Public Information Act, the Performing Party will seek to protect that information through a request for opinion from the Legal Services Division of the County of Galveston.

1.1.4. The PERFORMING PARTY will immediately coordinate with the RESPONSIBLE PERSON (Exhibit A), as necessary, on action to respond to any complaints that are substantial in terms of concentration, duration, or potential health impacts.

1.1.5. In cases, which present or may present an imminent and substantial danger to the health and welfare of persons or to the environment, the PERFORMING PARTY may utilize their authority to seek enforcement action(s) through the court systems in Galveston County.

1.1.6. The PERFORMING PARTY will cooperate with both state and federal agencies, as necessary. The PERFORMING PARTY is not an agent of any state or federal agency

1.2. Reporting

1.2.1 The PERFORMING PARTY will submit a monthly re-cap to the CITY of all complaints received during the previous calendar month. The report will be submitted by the fifteenth (15th) calendar day following the end of the month. The report will be submitted to the RESPONSIBLE PERSON.

1.3. Training

1.3.1 The PERFORMING PARTY will be responsible for ensuring that its staff is adequately trained and qualified in order to perform designated tasks.

2. **Monitoring**

2.1. Monitor storm water quality

2.1.1. The PERFORMING PARTY will conduct storm water monitoring of major water conveyance systems. The sample collection will occur in the mixing zone.

2.1.2. The PERFORMING PARTY will provide annually information to the CITY pinpointing the locations of all of the storm water monitoring locations throughout the jurisdictional boundaries of the CITY.

2.1.3. The PERFORMING PARTY will submit all storm water quality samples to the Galveston County Health District Public Health Laboratory for analysis. Analysis will include the following tests: Biochemical Oxygen Demand, Total Suspended Solids, pH, Enterococcus Bacteria, or E. Coli. The PERFORMING PARTY reserves the right to change the laboratory tests as needed to assist in the identification of pollutants.

2.2. Reporting

2.2.1. The PERFORMING PARTY will submit to the CITY, on a quarterly basis, sample result data for each storm water-monitoring site located within the jurisdictional boundaries of the CITY. The report will be submitted to the RESPONSIBLE PERSON.

2.3. Training

2.3.1. See subsection 1.3.

3. **Inspections and Investigations**

3.1. Inspections of POTWs

3.1.1. The PERFORMING PARTY will conduct one announced comprehensive inspection per fiscal year at each POTW within the jurisdictional boundaries of the CITY. The inspection will be consistent with the inspection protocol currently used by the Region 12 TCEQ Water Quality Section.

3.1.3. The PERFORMING PARTY will immediately coordinate with the RESPONSIBLE PERSON, as necessary, on action to respond to any concerns identified through the inspection process that are substantial in terms of concentration, duration, or potential health impacts.

3.2 Pre-Treatment Program Inspections

3.2.1 The PERFORMING PARTY will conduct one unannounced inspection at 50% of the identified grease traps associated with Galveston County Health District permitted food establishments within the jurisdictional boundaries of the CITY.

3.2.2. The PERFORMING PARTY will immediately coordinate with the REPSONSIBLE PERSON, as necessary, on action to respond to any problems identified during the inspection process that are substantial in terms of concentration, duration, or potential health impacts.

3.2.3. In cases which violate any rule, regulation, law or ordinance or any case which may present an imminent and substantial danger to the health and welfare of persons or the environment, the PERFORMING PARTY may utilize their authority to seek enforcement action(s) through the court system.

3.3. Investigations of Non-Point Source Water Pollution

3.3.1. The PERFORMING PARTY will assist the CITY on an “as-needed” basis to investigate sources of Non Point Source Water Pollution. The PERFORMING PARTY will be notified by the RESPONSIBLE PERSON to request assistance.

3.3.2. The PERFORMING PARTY will immediately coordinate with the RESPONSIBLE PERSON, as necessary, on action to respond to any concerns identified through the investigation process that are substantial in terms of concentration, duration, or potential health impacts

3.4. Inspections of significant state permitted discharges **other** than Publically Owned Treatment Works (POTW)

3.4.1. The PERFORMING PARTY will provide to the CITY a listing of all significant state permitted discharges within its jurisdictional boundaries.

3.4.2. The PERFORMING PARTY will conduct one comprehensive inspection per fiscal year at all identified significant state permitted discharges. The comprehensive inspection will include the collection of influent and effluent samples, record review and a walk-thru inspection to observe general housekeeping and plant operation.

3.4.3. The PERFORMING PARTY will immediately coordinate with the appropriate department of the CITY, as necessary, on action to respond to any problems identified during the inspection process that are substantial in terms of concentration, duration, or potential health impacts.

3.4.4. In cases, which present or may present an imminent and substantial danger to the health and welfare of persons or to the environment, the PERFORMING PARTY may utilize their authority to seek enforcement action(s) through the civil court system in Galveston County.

3.5. Investigations initiated as a result of storm water monitoring

3.5.1. The PERFORMING PARTY will conduct investigations based upon results of the quarterly storm water monitoring. The PERFORMING PARTY will review all storm water monitoring results to identify water segments that may be adversely impacted. The purpose of the investigation is to detect and eliminate sources of water pollution.

3.5.2. The PERFORMING PARTY will immediately coordinate with the RESPONSIBLE PERSON, as necessary on action to respond to any concerns identified through the investigation process that are substantial in terms of concentration, duration, or potential health impacts.

3.6. Reporting

3.6.1. The PERFORMING PARTY will provide to the RESPONSIBLE PERSON a copy of reports drafted for the following types of inspections: POTW inspections, investigations of non-point source pollution, investigations at significant state permitted discharges, and investigations initiated as a result of storm water monitoring. These reports will be submitted within thirty (30) days following the conclusion of the inspection or investigation. Problems identified during the POTW inspection will be discussed with the appropriate RESPONSIBLE PERSON or its delegate prior to the PERFORMING PARTY water investigator leaving the inspection. A summary report detailing the results of the pre-treatment inspection program will be submitted prior to the end of the contract term.

3.7. Training

3.7.1. See subsection 1.3.

4. **Annual Summary**

4.1. The PERFORMING PARTY will submit an annual summary of its activities within the CITY jurisdiction completed during the fiscal year. The final draft will be due on or before the end of May 2011. A draft will be submitted to the RESPONSIBLE PERSON of the CITY for review prior to finalization.

5. **Water Pollution Control Oversight Committee (Oversight Committee)**

5.1. The PERFORMING PARTY will sponsor and participate in an annual Oversight Committee meeting. The meeting will be scheduled in the month of May 2010 at the Environmental Conference Room, Galveston County Health District Environmental Center, 1205 Oak Street, La Marque, Texas. The meeting agenda will be mailed out prior to the meeting. The aforementioned date may be modified or amended upon the mutual consent of a majority of the contracted political subdivisions.

5.2. The Oversight Committee meeting will be the forum used to distribute and discuss annual summaries, contracts, other pertinent information, and to discuss any concerns identified by the CITY.

5.3. The Oversight Committee membership will be comprised of a representative from each contracted entity. The CITY will notify the PERFORMING PARTY on their selection of an Oversight Committee participant prior to the meeting by completing the form included as Exhibit B.

5.4. The PERFORMING PARTY reserves the right to schedule "ad-hoc" meetings, as necessary, throughout the contract term. The PERFORMING PARTY will be responsible for planning these meetings and will be responsible for providing notification to the CITY.

TERM AND TERMINATION

This agreement shall begin on 1 October 2009 and expire on 30 September 2010.

Either party may terminate this agreement at any time, with or without cause, upon thirty (30) days prior written notice to the other party.

Upon termination of this agreement, neither party shall have any further obligation hereunder except that CITY shall owe payment to PERFORMING PARTY for services provided prior to the date of termination.

COMPENSATION

The CITY agrees to pay PERFORMING PARTY an annual fee of one 0.70 cents/capita based upon the January 1, 2008 Population Estimate as projected by the Texas State data Center and Office of the State Demographer.

January 2008 Population Estimate for the City of Texas City: **44,391 population**

(Population)**44,391** X (Per Capita Cost)**0.70** = (Total Contract Price) **\$31,073.70**

PERFORMING PARTY shall invoice the CITY.

MISCELLANEOUS

This agreement constitutes the entire agreement between the parties and no oral representation between the parties made prior to or after the execution of this agreement will be given any force and effect unless reduced to writing herein.

This agreement may be modified or amended upon the mutual consent of the parties as evidenced in writing.

Any invalidity of any part of this agreement will not cause the remaining parts hereof to be invalid.

This agreement is governed by the laws of the State of Texas and venue shall lie in Galveston County.

The Annual Summary submission to the CITY will survive the termination of this contract.

IN WITNESS WHEREOF, the CITY and PERFORMING PARTY have signed two (2) originals of this agreement. One counterpart has been delivered to the CITY and one counterpart has been delivered to PERFORMING PARTY.

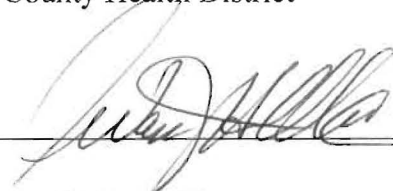
This Agreement will be effective on October 1, 2009, which is the Effective Date of the Agreement.

PERFORMING PARTY
Galveston County Health District

CITY
City of Texas City

By

Signature: _____



By

Signature: _____

Name: W. Jay Holland, III

Name: Mathew T. Doyle

Title: Chief Operating Officer

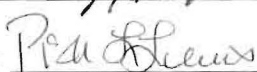
Title: Mayor, City of Texas City

Date: _____

9/10/2009

Date: _____

Attest: _____



Pisa Lewis
Administrative Officer

Attest: _____

Exhibit A

(Please complete and return to the Air and Water Pollution Control Services Division
PO Box 939, La Marque, Texas 77568 or Fax 409.938.2271)

City of Texas City Responsible Person

Name:

Department:

Mailing Address:

Telephone:

Fax:

Email:

Exhibit B

(Please complete and return to the Air and Water Pollution Control Services Division
PO Box 939, La Marque, Texas 77568 or Fax 409.938.2271)

City of Texas City Representative to the Annual Water Pollution
Oversight Committee: (If different than the RESPONSIBLE
PERSON, please submit prior to the meeting)

Name:

Department:

Mailing Address:

Telephone:

Fax:

Email:

CITY COMMISSION AGENDA

Date: 12/16/2009

Single Family Mortgage Revenue Program Series 2009A

Submitted For: Cheryle Hunter
Department: Finance

Submitted By: Susan Sensat,
Administration

Information

ACTION REQUEST (Brief Summary)

Consider approval of **Resolution No. 09-XXX** approving the **Single Family Mortgage Revenue Bond Program Series 2009A for the Southeast Texas Housing Finance Corporation.** (SETH)

BACKGROUND

The US Treasury Department has allocated to SETH an amount of \$24,549,050 to issue tax-exempt bonds for the 2009 Single Family Mortgage Revenue Bond Program. In order to meet the deadlines set by the Federal Government, SETH (and most agencies across the nation) must issue taxable bonds before December 23, 2009 and convert those to tax-exempt bonds in January 2010. It is a most difficult program to accomplish within the timelines, but a very needed program to assist out moderate income first-time homebuyers with the ability to make their dream of homeownership come true.

The Mayor must execute a **General and No litigation Certificate for the City of Texas City** which must be completed and returned to SETH as soon as possible but no later than December 21, 2009 in order for SETH to complete the transaction and be approved by the Texas Attorney General's Office.

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Link: [Res 09-144](#)

Link: [SETH ltr](#)

Link: [No Litigation Certificate](#)

RESOLUTION NO. 09-144

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A GENERAL AND NO LITIGATION CERTIFICATE FOR SOUTHEAST TEXAS HOUSING FINANCE CORPORATION (SETH) TO ISSUE BONDS FOR THE 2009 SINGLE FAMILY MORTGAGE REVENUE BOND PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE DOCUMENTS NECESSARY; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, the U. S. Treasury Department has allocated to SETH an amount of \$24,549,050 to issue tax-exempt bonds for the 2009 Single Family Mortgage Revenue Bond Program; and

WHEREAS, in order to meet the deadlines set by the Federal Government, SETH must issue taxable bonds before December 23, 2009 and convert those to tax exempt bonds in January 2010; and

WHEREAS, Southeast Texas Housing Finance Corporation (SETH) has requested that the City execute a General and No Litigation Certificate stating that there is no pending litigation, to the City's knowledge, to restrain or enjoin the issuance, sale or delivery of the Bonds.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission hereby authorizes the Mayor to execute the General and No Litigation Certificate of the City of Texas City in the form attached hereto as Exhibit "A", and made a part hereof for all intents and purposes.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 16th day of December, 2009.

Matthew T. Doyle, Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Pamela A. Lawrence

Ronald F. Plackemeier

City Secretary

City Attorney



SOUTHEAST TEXAS HOUSING FINANCE CORPORATION

December 7, 2009

Mayor Matthew T. Doyle
City of Texas City
1801 9th Avenue
Texas City, TX 77590

Re: The Southeast Texas Housing Finance Corporation's
Single Family Mortgage Revenue Bond Program
Series 2009A

Dear Mayor Doyle:

The Local Housing Finance Agencies have been unable to issue tax-exempt Mortgage Revenue Bonds for the past two years because of the absence of investors due to the financial market crisis. As you are aware, The Southeast Texas Housing Finance Corporation (SETH) has a very successful history in providing first-time homebuyers with competitive mortgage rates and down payment assistance for almost 28 years.

As part of the Homeowner Affordability and Stability Plan announced by the Federal Government in February of this year, a program to support state and local housing finance agencies (HFA's) began October 19, 2009. After taking eight (8) months to roll-out the program, we are caught in a time-crunch to complete the actions necessary to secure that the U.S. Treasury through Fannie Mae, Freddie Mac and the Federal Housing Finance Agency will purchase the tax-exempt bonds to make our program a reality because the authority for the Treasury Department to implement this program expires 12/31/09.

The U.S. Treasury Department has allocated to SETH an amount of \$24,549,050 to issue tax-exempt bonds for the 2009 Single Family Mortgage Revenue Bond Program. In order to meet the deadlines set by the Federal Government, SETH (and most agencies across the nation) must issue taxable bonds before December 23, 2009 and convert those to tax-exempt bonds in January 2010. It is a most difficult program to accomplish within the timelines, but a very needed program to assist our moderate income first-time homebuyers with the ability to make their dream of homeownership come true.

Therefore, please find enclosed **four (4)** copies of the **General and No Litigation Certificate** which must be completed and returned to office **as soon as possible, but no later than December 21, 2009**. I know this time period is very short, but it is necessary in order for SETH to complete the transaction and it be approved by the Texas Attorney General's Office.

I will be very happy to discuss this very difficult program with you or answer any questions you or your staff have about the program. Do not hesitate to contact either myself or Nell Turk in our office. Please let us know of your ability to meet the timeline if there is difficulty.

Sincerely,

Ron Williams
Executive Director

XC: Gary Meyer, board member

GENERAL AND NO LITIGATION CERTIFICATE OF THE CITY OF TEXAS CITY

We hereby certify that we are duly elected or appointed and acting officers of the City of Texas City, Texas (the "*Local Governmental Unit*"). We do hereby further certify that:

1. This Certificate is for the benefit of the Attorney General of the State of Texas (the "*Attorney General*") and all persons interested in the validity of the proceedings of The Southeast Texas Housing Finance Corporation (the "*Corporation*") related to the issuance by the Corporation of its bonds entitled "The Southeast Texas Housing Finance Corporation Single Family Mortgage Revenue Bonds (Guaranteed Mortgage-Backed Securities Program) Series 2009A" issued in an aggregate principal amount not to exceed \$24,549,050 (the "*Bonds*").

2. The City Commissioners (the "*Governing Body*") of the Local Governmental Unit authorized the creation of the Corporation as a joint housing finance corporation pursuant to the Texas Housing Finance Corporations Act, Texas Local Government Code, Chapter 394, as amended (the "*Act*"), and approved the Articles of Incorporation (and all amendments thereto).

3. The Local Governmental Unit has appointed Gary Meyer to act as a member of the board of directors of the Corporation. That individual is a resident of a city or county which is a member of the Corporation.

4. The Governing Body has taken no action pursuant to the Act, including Section 394.016(c) thereof, or otherwise, to limit the effectiveness of the resolution authorizing the issuance of the Bonds or in any way affecting the proceedings relating to the issuance of the Bonds.

5. The Governing Body has not created any other Corporation with the power to make home mortgages or loans to lending institutions, the proceeds of which are to be used to make home mortgage or loans on residential developments.

6. No litigation is pending, or to our knowledge threatened, in any court in any way affecting the existence of the Corporation or seeking to restrain or to enjoin the issuance, sale or delivery of the Bonds, or in any way contesting or affecting the validity or enforceability of the Bonds or the financing documents to which the Corporation is a party, or contesting in any way the completeness or accuracy of the statements made in the offering document relating to the Bonds, or contesting the powers of the Corporation or its authority with respect to the financing documents to which it is party.

7. Each of the undersigned officers of the Local Governmental Unit hereby certifies that he or she is the duly elected or appointed incumbent of the office appearing below his or her signature and that the signature of the other officer appearing below is the true and correct signature of such person.

8. The Attorney General of the State of Texas is hereby authorized and directed to date this certificate concurrently with the date of his approval of the Bonds and this Certificate shall be deemed for all purposes to be accurate and correct on and as of that date and on and as of the date of the initial issuance and delivery of the Bonds to the initial purchasers thereof.

[Remainder of Page Intentionally Left Blank]

EXECUTED AND DELIVERED AS OF THE DATE SET FORTH BELOW.

CITY OF TEXAS CITY, TEXAS

By _____
Mayor Matthew T. Doyle

ATTEST

By _____
[Deputy] City Clerk

DO NOT DATE THIS PAGE

Date of this
Certificate: _____

CITY COMMISSION AGENDA

Date: 12/16/2009

Engineering Services Agreement with HDR/Claunch & Miller for Sewer Rehab, Ph 12

Submitted For: Doug Kneupper
Department: Transportation and Planning

Submitted By: Doug
Kneupper,
Transportation
and Planning

Information

ACTION REQUEST (Brief Summary)

Consider approval of a Resolution authorizing the Mayor to execute an Engineering Services Agreement with HDR/Claunch & Miller for Phase 12 of the Sanitary Sewer Rehabilitation Program.

BACKGROUND

40 percent of this project is the typical, annual sewer rehabilitation work. Utility Department staff have identified locations throughout the City where old, deteriorated lines should be lined and rehabilitated.

The remaining portion of this project is preparing the sewer rehabilitation construction drawings for the two County Road Bond projects (9th Ave. and 6th Street). HDR will prepare the necessary engineering documents for the sewer line work and then coordinate with the County's Engineering firm selected to do the road projects. The sewer rehabilitation and roadway work will then be bid as a single project.

ANALYSIS

There is sufficient funding within the utility budget to perform this engineering work and the construction. We will initially attempt to have the 9th Ave. and 6th Street sewer rehab work paid for from the County Bond Funds, then more of the utility funding can be directed at the annual sewer rehabilitation program.

ALTERNATIVES CONSIDERED

Attachments

Link: [Res 09-145](#)

Link: [HDR Agreement](#)

RESOLUTION NO. 09-145

A RESOLUTION APPROVING AN ENGINEERING CONTRACT WITH HDR/CLAUNCH & MILLER, INC. TO PERFORM ENGINEERING SERVICES FOR PHASE 12 OF THE SANITARY SEWER REHABILITATION PROGRAM; PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, Phase 12 of the Sanitary Sewer Rehabilitation Program is 40 percent typical annual sewer rehabilitation work where the Utility Department staff has identified locations where old, deteriorated sanitary lines should be lined and rehabilitated; and

WHEREAS, the remaining portion of this project is preparing the sewer rehabilitation constructions drawings for the two County Road Bond projects (9th Avenue and 6th Street); and

WHEREAS, HDR/Claunch & Miller, Inc. will prepare the necessary engineering documents for the sewer line work and then coordinate with the County's Engineering firm selected to do the road projects; and

WHEREAS, the sewer rehabilitation and roadway work will then be bid as a single project; and

WHEREAS, there are sufficient funds within the utility budget to perform this engineering work and the construction; additionally to pursue the 9th Avenue and 6th Street sewer rehab work to be paid from County Bond Funds, then more of the utility funding being directed to the annual sewer rehabilitation program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission of the City of Texas City, Texas, hereby approves the Engineering Contract with HDR/Claunch & Miller, Inc. to perform engineering services for Phase 12 of the Sanitary Sewer Rehabilitation Program in substantially the same form as attached as Exhibit "A", attached hereto and made a part hereof for all intents and purposes.

SECTION 2: That the Mayor is authorized to execute the Engineering Contract.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 16th day of December, 2009.

Matthew T. Doyle, Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Pamela A. Lawrence
City Secretary

Ronald F. Plackemeier
City Attorney

THE STATE OF TEXAS

COUNTY OF GALVESTON

AGREEMENT FOR SERVICES

This Agreement entered into as of the ____ day of _____, A.D., 2009, by and between HDR Engineering, Inc. ("Consultant"), and the City of Texas City, Texas, ("Client").

WITNESSETH:

WHEREAS, the Client has requested various services of the Consultant with respect to Engineering Services for the City of Texas City Proposal for Engineering Services for the City of Texas City's "Sanitary Sewer Rehabilitation Project – Phase XII ("Project")".

NOW, THEREFORE, *Client* and *Consultant* hereby agree as follows:

1. Engagement of Consultant - *Consultant* hereby agrees to perform the services required under the scope of work related to the *Project*, and to provide *Client* with copies of the information, opinions, and other such documents made the basis of the scope of services, which is set out in Attachment "A" and made a part of this contract. *Consultant* agrees to initiate the following services that are set out in Attachment "A" upon receipt of an executed copy of this Agreement.
2. Availability of Information - *Client* agrees to provide *Consultant* with all available information pertinent to the *Project*. *Client* will also provide copies of reports, drawings, and other data, and will, at *Consultant's* request, provide written authorization to review *Client's* files relative to the *Project* which may be in possession of third parties. *Consultant* agrees to return all original documents to *Client* upon completion of the *Project*, but reserves the right to make and keep reproducible copies of all such material.

3. Access to Facilities - *Client* will provide access for the *Consultant* to enter the property and facilities of *Client*, as necessary for *Consultant* to perform services as required under the *Project*.
4. Instruments of Service - All documents prepared in accordance with this contract including exhibits, field notes, laboratory data, original drawings, and specifications are the property of the *Client*. The *Consultant* is given the right to use any of this data in connection with future engineering projects. The *Consultant* may retain copies of reproducible of any information prepared for this *Project*.
5. Fee - The *Consultant's* fee for the scope of services as stated in Attachment "A" provided by *Consultant* under this Agreement as set out in Attachment "A" and being the amount of: \$41,250.00 for Design Services and Miscellaneous and \$50,030.00 for Construction Phase Services.
6. Payment and Fee Schedule - The *Consultant* will submit a monthly invoice for services rendered.
7. Terms of Payment - Payment of fees as determined under Paragraph 5 herein above shall be due and payable by *Client* within thirty (30) days following receipt of *Consultant's* monthly invoice.
8. Additional Services - Additional services beyond those described in the Scope of Services will be invoiced on the basis of direct labor cost times a factor of 3.05 and direct cost plus 15%.
9. Insurance - *Consultant* shall maintain Worker's Compensation and Liability Insurance in accordance with Attachment "B".

10. Termination - The *Client* may terminate this contract at any time by giving notice in writing to the *Consultant*. In that case, all finished or unfinished documents and other materials produced under this contract shall become the *Client's* property. If the contract is terminated by the *Client* in accordance with this provision, *Consultant* shall be paid for all services performed to the date of termination.
11. Governing Law - This Agreement shall be deemed to have been made under, and shall be construed and interpreted in accordance with the laws of the State of Texas. The venue of any suit for enforcement or construction of this contract shall be in Galveston County, Texas.
12. Indemnification - FOR CONSIDERATION RECEIVED, Consultant agrees to indemnify, save, and hold harmless the City of Texas City, Texas, its employees, officials, and agents from any and all claims, actions, damages, lawsuits, proceedings, judgments, or liabilities, for personal injury, death, or property damage to the extent or degree on a comparative basis of fault resulting from the negligent acts or omissions of the Consultant or negligent acts or omissions of others under the Consultant's supervision or control, arising out of the performance of this agreement.

In the event of any cause of action or claim asserted by a party to this Agreement or any third party, the City will provide the Consultant timely notice of such claim, dispute or notice. Thereafter, should Consultant be obligated to indemnify the City, the undersigned shall at its own expense, faithfully and completely defend and protect the City against any and all liabilities arising from this claim, cause of action or notice.

If the undersigned should fail to so defend, the City may defend, pay or settle the claim or other cause of action with full rights of recourse against the undersigned for any and all fees, costs, expenses, and payments arising from Consultant's negligence, or the negligence of

others under the Consultant's supervision and control, including but not limited to attorney fees and settlement payments, made or agreed to be paid, in order to discharge the claim, cause of action, dispute or litigation.

13. Home Rule Municipality

The City is a municipality incorporated under the laws of the State of Texas, and all laws regulating and concerning Texas municipalities apply, including budgetary laws, The City Charter and The City Code. Consultant acknowledges that the City may only act through its City Commission or a duly authorized representative of City Commission, and that any act of an employee or officer of the City that is not duly authorized is void.

ENTERED INTO AND AGREED by the parties hereto as the day and year first written.

HDR ENGINEERING, INC.
Consultant

BY: _____

CHRISTOPHER E. CLAUNCH, P.E.
Senior Vice President

CITY OF TEXAS CITY, TEXAS
Client

BY: _____

MAYOR OF CITY OF TEXAS CITY

ATTEST: _____
City Secretary

ATTACHMENT "A"

December 9, 2009

Mr. Doug Kneupper, P.E.
City Engineer
City of Texas City
928 5th Avenue North
Texas City, Texas 77592

Re: Proposal for Engineering Services for the City of Texas City's "Sanitary Sewer Rehabilitation Project – Phase XII" (including improvements along 9th Avenue between 14th Street and Bay Street & along 6th Street between Texas Avenue and 11th Avenue)

Dear Mr. Kneupper:

As requested, HDR Engineering, Inc., hereinafter HDR|Claunch & Miller (HDR|C&M) is pleased to submit this proposal for performing engineering services for the above referenced Phase of Texas City's Sanitary Sewer Replacement and Rehabilitation Program. The proposal is based on our understanding of the project as discussed in our previous meetings and conversations. This phase consists of providing engineering design and construction phase services associated with the rehabilitation of sanitary sewer lines at various locations throughout the City. This proposal also addresses the design and construction phase services of the sanitary sewer improvements associated with the 9th Avenue Paving Improvements Project and the 6th Street Paving Improvement Project.

GENERAL OVERVIEW

This project is part of an ongoing Sewer Line Replacement and Rehabilitation Program in the City of Texas City (City). Approximately 321,000 L.F. of sanitary sewer lines at various locations throughout the City have been replaced to date or currently under construction as part of this program and the 2001 Bond Program. This phase is a continuation of the program. This proposal includes providing engineering design services for the rehabilitation of existing sanitary sewer lines at locations throughout the City. The sanitary sewer lines designated for rehabilitation will be identified by City staff based on on-going maintenance efforts, deteriorated sanitary sewer lines, problem lines, and lines not rehabilitated as part of previous projects.

This proposal also includes providing engineering design and construction administration services associated with the sanitary improvements for the "9th Avenue Paving & Drainage Project (between 14th Street to Bay Street)", and the "6th Street Paving & Drainage Project (between Texas Avenue to 11th Avenue)" that are part of the Galveston County Bond Program

Projects. At this time, it is our understanding that the sanitary sewer improvements associated with paving and drainage projects will be funded by the City through this project. The waterline design work associated with these projects is included in the Waterline Replacement Project – Phase 10 proposal. Following is a summary of the sanitary sewer improvements associated with the paving projects:

9th Avenue Paving Improvements Project (between 14th Street to Bay Street)

- Project involves the rehabilitation of 1,920 linear feet of 8-inch to 12-inch and 350 linear feet of 21-inch sanitary sewer crossing 9th Avenue between 14th Street and 10th Street. The estimated construction cost for performing the improvements is \$150,000.

6th Street Paving Improvement Project (between Texas Avenue to 11th Avenue)

- Project involves rehabilitation of 960 linear feet of 8-inch and 925 linear feet of 18-inch sanitary sewer crossing 6th Street from Texas Avenue to 11th Avenue. The estimated construction cost for performing the improvements is \$100,000.

HDR/C&M will utilize schematic layout maps for the drawings portion of the construction documents. HDR/C&M will obtain geotechnical investigation data, and any additional information provided by the consultant designing the paving improvements for the two Galveston County Bond Projects for preparing the design.

The total budget allocated for the Sanitary Sewer Rehabilitation Project – Phase XII project is \$500,000, which includes construction costs, engineering, surveying, construction phase services and other costs. Based on preliminary cost estimates performed by HDR/C&M and including the estimated construction cost for the sewer improvements associated with the 9th Avenue and 6th Street paving project, it is estimated that an additional 3,175 L.F. of small diameter sanitary sewer lines can be rehabilitated as part of this phase. In summary, a total of 7,330 L.F. of sanitary sewer lines will be rehabilitated as part of this project at an estimated construction of \$408,700.

The methods of main line rehabilitation that will be examined would involve in place rehabilitation techniques such as sliplining, pipe bursting and cured in place liner.

The City of Texas City will provide HDR/C&M any available television inspection data on the sanitary sewer lines designated for rehabilitation to aid with the design. Therefore, HDR/C&M will design the rehabilitation of the designated sanitary sewer lines based on site reconnaissance survey, examination of project area, and review of available television inspection data, and maintenance data from City. To this end, the City also desires that schematic layout maps in lieu of obtaining detailed topographic survey information be utilized for the drawings portion of the construction documents. Where it is determined that more detailed information will be required, then survey work will be obtained and included in the design package. The television inspection and associated review and evaluation, verification, or adjustment of rehabilitation methods will be performed during the construction phase. The bid documents will be prepared to allow the

City to add, delete or change the rehabilitation methods during the construction phase based on the results of the evaluation of television inspection videotapes.

As discussed with City staff, it is City's desire that HDR/C&M continue to provide one on-site representative to observe the construction of the proposed Water Line Replacement Project - Phase 10 and the proposed Sanitary Sewer Rehabilitation Project - Phase XII. To facilitate this option, the sewer rehabilitation project and the waterline replacement project will be designed and bid concurrently, under separate construction contracts. This will facilitate utilizing one on-site representative for both the projects. HDR/C&M's on-site representative will observe both the projects that should be occurring simultaneously; therefore, a budget for increased site representation is included for the sanitary sewer portion of this project. The budget for the waterline project and the sewer project will be utilized for providing the site representation services. The estimated construction duration for the sanitary sewer portion is four months and the estimated construction duration for the waterline project is eleven months. In the event the projects are not constructed concurrently, this will impact the overall site representation budget and services. HDR/C&M will coordinate with the City for additional services if this should occur.

This proposal addresses the engineering services HDR/C&M will provide the City during the Design and Construction Phases, as well as associated Surveying and other services necessary to support the project. Costs for performing geotechnical work for the Waterline Replacement Project - Phase 10 and Sanitary Sewer Rehabilitation Project - Phase XII are included as part of the waterline project. The proposal is separated into Basic Services (expected normal engineering services) and Special Services.

SCOPE OF SERVICES

I. DESIGN PHASE SERVICES

A. Design Services

- Obtain utility information on sanitary sewer lines designated for rehabilitation.
- Obtain available record drawings on sanitary sewer lines designated for rehabilitation from the City.
- Obtain information from the consultant performing the design services for the 9th Avenue Paving Improvement Project and 6th Street Paving Improvement Project.
- Coordinate with consultant for information on proposed improvements.
- Coordinate with other governmental entities, which may be impacted by the project.
- Meet with City of Texas City to discuss and finalize design criteria and acquire pertinent information regarding the Project.

- Perform field reconnaissance of the sanitary sewer line locations areas to obtain information on surface features and any other information that would impact construction. The information gathered from the field visit will be included in the schematic layout drawings that would aid the design efforts. Detailed topographic survey of the project areas is not part of this scope.
- Obtain and examine maintenance data on sanitary sewer lines considered for rehabilitation.
- Perform manhole inspections along the lines designated for rehabilitation. These inspections will be for general deterioration and condition purposes. Obtain available manhole inspection data from the City.
- Review and evaluate manhole inspection data and recommend suitable rehabilitation methods.
- Prepare project specifications, drawings, bid documents and construction drawings based on anticipated improvements.
- The design shall include the sanitary sewer lines from the 9th Avenue and 6th Street work and those identified by the City that can be rehabilitated with the available construction budget of approximately \$408,700. HDR|C&M will endeavor to inform the City of Texas City of the cost estimate as the project progresses.
- Coordinate with the City of Texas City during the design phase. Provide draft documents for their review and comments.
- Coordinate with Texas Commission on Environmental Quality (TCEQ) during the design phase. Furnish necessary documentation to TCEQ for their review and approval.
- Incorporate appropriate comments from pertinent entities into the final bid documents.
- Prepare final cost estimate for the project.
- Furnish three (3) sets of construction documents to the City.

B. Special Services - Design Phase

1. Reproduction

- Costs for reproduction will be charged under special services for reproduction of plans, specifications and reports beyond the three (3) sets of construction documents provided (as listed in the design services) to the City.

- Reproduction for review sets, submittals to the City, governmental agencies, and utility companies will be included in the cost for reproduction.

II. CONSTRUCTION PHASE SERVICES

A. Basic Services

1. Construction Administration:

- Assist the City in obtaining bids for the project. The City will advertise the project and will absorb all related advertising costs. HDR|C&M will coordinate with the City and will assist in developing the wording of the advertisement.
- Dispense construction documents from HDR|C&M's office to potential bidders.
- During the bidding process, provide information to and answer questions from potential bidders concerning the Project's construction documents and prepare addendums as necessary.
- Conduct a pre-bid conference for potential bidders.
- Evaluate the bids and the qualifications of the apparent low bidders and advise the City as to the acceptability of the apparent low bidder.
- Conduct a pre-construction conference for the project.
- Act as the City's Project representative during the construction phase.
- Review and respond accordingly to all submittals as required by the contract specifications.
- Prepare change orders necessitated by field conditions.
- Review the contractor's pay estimates, evaluate the completion of work and make payment recommendations to the City.
- Visit the site at intervals appropriate to the various stages of construction to observe the progress and quality of executed work and to determine in general if such work is proceeding in accordance with the Contract Documents. Part time site representation is not included in this scope.
- HDR|C&M will not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor(s) or the safety precautions and programs incident to the work of the Contractor(s). HDR|C&M's

effort will be directed toward providing a greater degree of confidence for the City that the completed work of Contractor(s) will conform to the Contract Documents, but HDR/C&M will not be responsible for the failure of Contractor(s) to perform the work in accordance with the Contract Documents. During site visits and on the basis of on-site observations HDR/C&M shall keep the City informed of the progress of the work, shall endeavor to guard the City against defects and deficiencies in such work and may disapprove or reject work failing to conform to the Contract Documents.

- Conduct a final inspection of the Project and make a recommendation for Final Payment on the project.
- Require and monitor Contractor in maintaining a set of record plans. Engineer shall provide one set of reproducible record plans.

B. Special Services

1. Construction Materials Testing:

- Construction testing is included in this proposal as a budgetary item. It is anticipated that a separate construction testing firm mutually agreeable to the City and HDR/C&M will be utilized as a subcontractor to HDR/C&M to perform the testing services. The City has the option to contract directly with the materials testing firm.

2. Construction Evaluation:

- Review and evaluate pre-rehabilitation television inspection provided by the Contractor and verify the method of rehabilitation. It is anticipated that approximately 7,330 L.F. of sanitary sewer pipe will be reviewed and evaluated as part of the project (includes 9th Avenue and 6th Street work). Provide documentation of the review and coordinate with the Contractor during construction. Evaluation of the pre-rehabilitation television inspection provides the City access to the Contractor's normal pre-construction video inspection tapes and provides the City the ability to verify, enhance, augment, or change the rehabilitation prior to construction.
- Coordinate with the City on the findings of the pre-rehabilitation television inspection.
- Coordinate the rehabilitation efforts with the Contractor.
- Review post-rehabilitation television inspection of approximately 7,330 L.F. of sanitary sewer pipe (includes 9th Avenue and 6th Street work). Evaluation of post construction inspection videotapes will verify adequacy of the repair and provide a good measure of quality control.

- Document deterioration of sanitary sewer lines not rehabilitated as part of this project for incorporation into future projects.

3. Increased Site Representation:

- Provide one construction observer (on-site representative) to observe the daily progress of construction activities and to assist in the interpretation of plans and specifications. HDR's site representative will be on the job site observing the progress of the Waterline Replacement Project – Phase 10 and the Sanitary Sewer Rehabilitation project – Phase XII. The actual hours may vary depending on the level of construction activity. HDR personnel will coordinate with the City and the Construction Contractor regarding the construction activities.
- Provide engineering and technical office personnel support throughout construction. These office personnel, consisting of Professional Engineers and design staff, provide on-site support to address contractor's questions, resident's concerns and conflicts uncovered in the field.
- The on-site representative(s) will be on-site daily during construction activity.
- In the event of rain days where construction may be hindered or stopped, the representative will be on-site long enough to verify that inclement weather has occurred and the associated impact on the contractor and construction.
- The on-site representative shall maintain daily reports in a format satisfactory to the City.
- The on-site representative will attend meetings with the Contractor and the City such as pre-construction conference, progress meetings, and other project related meetings where his presence is requested by the City.
- The on-site representative will take periodic photographs of the construction progress and of key items of concern.
- The on-site representative will estimate quantities installed for use in reviewing monthly pay estimates.
- The on-site representative will aid in the coordination of activities of the testing laboratory.
- The on-site representative will coordinate with the City and the Contractor for construction scheduling, resident notification and complaints.
- The on-site representative will assist in the performance of a final inspection, the preparation of a punch list and subsequent follow up inspections.

FEE

The fee is separated into: Design Phase, and Construction Phase. Due to the nature and magnitude of this project, it is recommended that a miscellaneous services fee amount be authorized to cover additional tasks and costs, which may occur during the progress of the work. Such tasks and costs will only be performed upon authorization from the City.

1. DESIGN PHASE

The Design Phase Fees are:

Design Services: Lump Sum	\$38,750.00
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Special Services:

*Reproduction: Cost plus 15%	\$ 1,500.00
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*Miscellaneous: Hourly and cost plus 15%	<u>\$ 1,000.00</u>
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Total Design Phase Amount	\$41,250.00
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2. CONSTRUCTION PHASE SERVICES

Construction Phase Fees are:

Construction Administration Services: Lump Sum	\$7,280.00
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Special Services:

*Increased Site Representation: Hourly and cost plus 15% plus mileage	\$30,500.00
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*Pre and Post Construction T.V. Tape Evaluation: (Hourly and cost plus 15%)	\$8,250.00
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*Materials Testing: (Cost plus 15%)	<u>\$4,000.00</u>
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Total Construction Phase Amount	\$50,030.00
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*At this time the magnitude of these tasks are not known. Therefore budgetary amounts are provided. These figures may increase or decrease depending upon actual work required. If an increase becomes necessary it can be accomplished by utilizing available funds from other line items that have under run, or funds from the miscellaneous special services line item or by contract amendment.

The increased site representation budgetary fees are based on providing a site representative an average of 20 hours/week for the 120 calendar day project duration. The fee includes hourly costs for a site representative, supervisory and administrative services, and mileage. Hourly charges for on-site field representative shall be charged based on a raw labor rate times a multiplier of 2.99. Mileage will be charged at the prevailing IRS rate.

Overtime for site representative personnel and hourly employees will be charged at 1.5 times normal rate. Overtime is defined as time over 40 hours within a one-week period (Sunday to Saturday). Hourly charges shall be charged based on a raw labor rate times a multiplier of 3.05, reimbursable expenses will be charged at cost plus 15%.

HDR|Claunch & Miller appreciates the opportunity to submit this proposal and we look forward to continuing working with the City of Texas City on this very important project.

Sincerely,

HDR|CLAUNCH & MILLER

A handwritten signature in black ink that reads "Madhu Kilambi". The signature is written in a cursive, flowing style.

Mr. Madhu Kilambi, P.E.
Senior Project Manager

cc: Mr. Todd Hoover – City of Texas City
Mr. Tom Kessler, P.E. – City of Texas City

FEE SCHEDULE

Design Phase

Basic:

Design Services	Lump Sum	\$38,750.00
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Special:

*Reproduction	(Cost plus 15%)	\$1,500.00
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*Miscellaneous Services	(Hourly and cost plus 15%)	<u>\$1,000.00</u>
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TOTAL	\$41,250.00
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Construction Phase

Basic:

Construction Administration	Lump Sum	\$7,280.00
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Special:

*Pre & Post Construction T.V. Inspection Evaluation	Hourly and cost plus 15%	\$8,250.00
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*Materials Testing	Cost plus 15%	\$4,000.00
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*Increased Site Representation	Hourly cost plus 15% plus mileage	<u>\$30,500.00</u>
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TOTAL	\$50,030.00
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TOTAL ENGINEERING SERVICES	\$91,280.00
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***Budgetary Amounts.**

All of the hourly cost plus fees presented above should be utilized as budgetary amounts. In the event one line item under runs then that amount should be available to cover the amount of another category that may over run.

ATTACHMENT "B"
INSURANCE LIMITS

1. General Liability	Each Occurrence:	\$1,000,000
	Damage to Rented Premises	\$1,000,000
	Medical Expenses (any one person)	\$10,000
	Personal and Adv. Injury	\$1,000,000
	General Aggregate:	\$2,000,000
	Products - Comp/Op Agg:	\$2,000,000
2. Automobile Liability	Combined Single Limit:	\$1,000,000
3. Excess Liability Umbrella Form	Each Occurrence:	\$3,000,000
	Aggregate:	\$3,000,000
4. Worker's Compensation and Employers Liability	Each Accident:	\$500,000
	Disease - Each Employee:	\$500,000
	Disease - Policy Limit:	\$500,000
5. Professional Liability	Each Claim	\$1,000,000
	Policy Year Aggregate	\$1,000,000