

LOUIS R. RIGBY
Mayor
JOHN ZEMANEK
Councilmember At Large A
DOTTIE KAMINSKI
Councilmember At Large B
DANNY EARP
Councilmember District 1



CHUCK ENGELKEN
Councilmember District 2
BILL BENTLEY
Councilmember District 3
KRISTIN MARTIN
Mayor Pro-Tem
Councilmember District 4
JAY MARTIN
Councilmember District 5
NANCY OJEDA
Councilmember District 6

CITY COUNCIL MEETING AGENDA

Notice is hereby given of a Regular Meeting of the La Porte City Council to be held August 27, 2018, beginning at 6:00 PM in the City Hall Council Chambers, 604 W. Fairmont Parkway, La Porte, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action.

1. **CALL TO ORDER**
2. **INVOCATION** - The invocation will be given by Shane Klinkerman, La Porte First Assembly of God.
3. **PLEDGE OF ALLEGIANCE**– The Pledge of Allegiance will be led by Councilmember Chuck Engelken.
4. **PRESENTATIONS, PROCLAMATIONS, and RECOGNITIONS**
 - (a) Recognition - Employee of the 2nd Quarter 2018 - Bianca Cuccerre (Recreation Center Specialist) - City of La Porte Parks and Recreation Department - Mayor Rigby
5. **PUBLIC COMMENTS** (Limited to five minutes per person.)
6. **CONSENT AGENDA** *(All consent agenda items are considered routine by City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember requests an item be removed and considered separately.)*
 - (a) Consider approval or other action regarding minutes of the meeting held August 13-14, 2018 - P. Fogarty
 - (b) Consider approval or other action regarding a Resolution authorizing the resale of tax delinquent property located at Lot 24, Block 70, Town of La Porte - S. Wolny
 - (c) Consider approval or other action awarding Bid #18020 for Northwest Park Pool Building - R. Epting
 - (d) Consider approval or other action awarding Bid #18016 for Carpet and Vinyl Installation - C. Alexander
 - (e) Consider approval or other action regarding a Resolution authorizing the City Manager to execute documents in relation to the 2018-2019 STEP Comprehensive Grant through the Texas Department of Transportation - R. Parker
 - (f) Consider approval or other action regarding a Resolution authorizing the City Manager to execute documents in relation to the 2018-2019 STEP CMV (Commercial Motor Vehicle) Grant through the Texas Department of Transportation - R. Parker
 - (g) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and Sanitary Sewer Service Agreement with Triten Real Estate Partners for its facility at 4100 Malone Drive, in the Bayport Industrial District - D. Pennell
 - (h) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and Sanitary Sewer Service Agreement with Triten Real Estate Partners for its facility at 9701 New Decade Drive, in the Bayport Industrial District - D. Pennell

- (i) Consider approval or other action authorizing the purchase of non-residential size water meters from Core and Main - D. Pennell

7. PUBLIC HEARINGS AND ASSOCIATED ORDINANCES

- (a) Public hearing to receive comments regarding recommendation by the Planning and Zoning Commission to approve zone change request #18-92000007, for a change from General Commercial (GC) to Planned Unit Development (PUD) on a 4.22 acre tract of land located on the east side of S. 16th St., and north of the W. M St. right-of-way and legally described as Lots 1-32, Block 1144 and Lots 17-32 & Tracts 1-16, Block 1143, La Porte Subdivision; consider approval or other action regarding an Ordinance amending Chapter 106 "Zoning" of the Code of Ordinances by changing the zoning classification of a 4.22 acre tract of land located on the east side of S. 16th St., and north of the W. M St. right-of-way and legally described as Lots 1-32, Block 1144 and Lots 17-32 & Tracts 1-16, Block 1143, La Porte Subdivision, from General Commercial (GC) to Planned Unit Development (PUD) - I. Clowes
- (b) Public hearing to receive comments regarding the recommendation by the Planning and Zoning Commission to approve Special Conditional Use Permit #18-91000008 to allow for a Skilled Nursing Facility, to locate on a 6.95-acre tract of land within a PUD zoning district, located on the west side of Underwood Rd., north of Fairmont Pkwy., and south of Caniff Rd. and legally described as Tracts 718B, 719, and 719A, La Porte Outlots; consider approval or other action regarding an Ordinance amending the Code of Ordinances of the City of La Porte, Chapter 106 "Zoning", by granting Special Conditional Use Permit #18-91000008, to allow for a Skilled Nursing Facility to be located on a 6.95-acre tract of land within a PUD zoning district and legally described as Tracts 718B, 719, and 719A, La Porte Outlots - I. Clowes

8. AUTHORIZATIONS

- (a) Consider approval or other action regarding appointment of members to various City boards, committees, and commissions - P. Fogarty

9. REPORTS

- (a) Receive report of the La Porte Development Corporation Board Meeting - Councilmember Nancy Ojeda

10. ADMINISTRATIVE REPORTS

- City Council Meeting, Monday, September 10, 2018
- Drainage and Flooding Committee Meeting, Monday, September 10, 2018
- City Council Meeting, Monday, September 24, 2018
- Fiscal Affairs Committee Meeting, Monday, September 24, 2018
- Planning and Zoning Commission Meeting, Thursday, September 20, 2018
- Zoning Board of Adjustment Meeting, Thursday, September 27, 2018

- 11. **COUNCIL COMMENTS** regarding matters appearing on the agenda; recognition of community members, city employees, and upcoming events; inquiry of staff regarding specific factual information or existing policies – Councilmembers Engelken, Earp, Ojeda, J. Martin, K. Martin, Kaminski, Zemanek, Bentley and Mayor Rigby

12. ADJOURN

The City Council reserves the right to meet in closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code (the Texas open meetings laws).

In compliance with the Americans with Disabilities Act, the City of La Porte will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meeting. Please contact Patrice Fogarty, City Secretary, at 281.470.5019.

CERTIFICATION

I certify that a copy of the August 27, 2018 , agenda of items to be considered by the City Council was posted on the City Hall bulletin board on August 21, 2018.

Patrice Fogarty



**Council Agenda Item
August 27, 2018**

1. **CALL TO ORDER**
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 - (a) Recognition - Employee of the 2nd Quarter 2018 - Bianca Cuccerre (Recreation Center Specialist) - City of La Porte Parks and Recreation Department - Mayor Rigby
5. **PUBLIC COMMENTS** (Limited to five minutes per person.)

Employee of the 2nd Quarter

Bianca Cuccerre

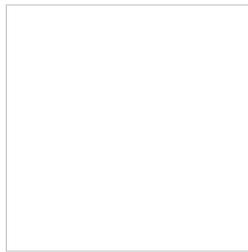
Recreation Center Specialist

Bianca joined the City of La Porte team in June of 2015 as a Customer Service Assistant in the Parks Department. In August of 2016 she was promoted to Recreation Center Specialist and continues in that role to date. Bianca's performance evaluations have been consistently above average and she is always willing to go above and beyond to serve her customers.

In her role, Bianca supports the Marketing and Special Events Coordinator in planning, advertising, and delivering community events. When that Coordinator position was vacant recently, Bianca stepped up to the plate and took on additional responsibilities. She played a lead role in successful events like Airing of the Quilts, the Triathlon, and the Battleship Promotional Booth. She also played a lead role in planning for the Kid's Rodeo and Search for LaFitte's Gold. Her self-initiated work in designing social media and newspaper ads and updating the City website were very impactful.

Bianca additionally stepped up when the City had a Shelter in Place event. Bianca is not part of the formal EOC response team, but she was contacted and immediately left the family event she was attending to come help. Emergency Management Coordinator Kristen Gauthier sent the following note to Bianca's Director Roz Epting, "Roz, I want to thank you for sending Bianca to the EOC last night. Sydney was out of town, Dena couldn't easily get to the EOC, and Thomas hasn't yet been trained on all of our systems. Bianca was a huge help, and I was so thankful to have her there. Social media and the website are two pieces that are difficult to manage when something like this happens, and she immediately helped us get a handle on that. I wanted to thank you and also let you know she did a great job."

Bianca's consistently high performance in her role, and her willingness and ability to step up when needed are incredible assets to the City and the La Porte community. Please join me in congratulating her on being recognized as our Employee of the Quarter.



**Council Agenda Item
August 27, 2018**

- 6. CONSENT AGENDA** *All consent agenda items are considered routine by City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember requests an item be removed and considered separately.)*
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MINUTES OF THE REGULAR MEETING OF THE LA PORTE CITY COUNCIL CONVENING ON AUGUST 13, 2018, AND CONCLUDING ON AUGUST 14, 2018

The City Council of the City of La Porte met in a regular meeting on Monday, August 13, 2018, and concluded said meeting on Tuesday, August 14, 2018, at the City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, beginning each evening at 6:00 p.m., to consider the following items of business:

1. **CALL TO ORDER** – Mayor Rigby called the meeting to order at 6:00 p.m., on Monday, August 13, 2018. Members of Council present: Councilmembers Ojeda, J. Martin, K. Martin, Engelken, Bentley, Zemanek, Kaminski and Earp. Also present were City Secretary Patrice Fogarty and City Manager Corby Alexander.
2. **INVOCATION** – The invocation was given by Assistant City Attorney Clark Askins.
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by Councilmember Bill Bentley.
4. **PUBLIC COMMENTS** (Limited to five minutes per person.)

Chuck Rosa, 812 S. Virginia St., addressed Council and commented on the vehicle citations written by the Police Department; he is pro trucking industry.

Jeff Martin, 3118 Silver Spring Dr., addressed Council on behalf of the Board of Directors of the La Porte Bayshore Chamber of Commerce, and thanked City Council and Staff for their support.

Bill Scott, 1722 Lomax School Rd., addressed Council regarding lowering tax rates in the City.

Steve Gillett, 2601 S. Broadway, addressed Council and commented he is pleased with the current tax rate and services of the City.

5. **CONSENT AGENDA** *(All consent agenda items are considered routine by City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember requests an item be removed and considered separately.)*
 - (a) Consider approval or other action regarding the minutes of the Council Meeting held on July 23, 2018 – P. Fogarty
 - (b) Consider approval or other action authorizing the City of La Porte Mayor to sign a thirty-six (36) month economic development services agreement with the Economic Alliance Houston Port Region beginning July 1, 2018 and ending June 30, 2021 – J. Weeks

- (c) Consider approval or other action regarding an Interlocal Agreement between the City of La Porte and San Jacinto Community College District for use of backup facilities during an emergency or disaster – K. Gauthier

Councilmembers Zemanek and Ojeda had questions on Item B. Assistant City Manager Jason Weeks answered Councilmember Ojeda's questions and advised Councilmember Zemanek he would provide the individual appointed as designee and the process of appointment to the Economic Alliance Houston Port Region.

Councilmember Engelken made a motion to approve Consent Agenda Items pursuant to staff recommendations. Councilmember Jay Martin seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

6. DISCUSSION AND POSSIBLE ACTION

- (a) Consider approval or other action regarding an Ordinance providing for condemnation of a dangerous/substandard building located at 9906 Rocky Hollow Rd., based on the recommendation of the Dangerous Building Inspection Board – M. Kirkwood (This item was postponed from the July 9, 2018, City Council Meeting.)

Deputy Building Official Mike Kirkwood presented a summary.

Councilmember Ojeda made a motion to remove 9906 Rocky Hollow Rd., from the dangerous building list. Councilmember Bentley seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

- (b) Presentation for City of La Porte Fiscal Year 2018-2019 Proposed Budget – M. Dolby

Mayor Rigby proposed 9:00 p.m. as the time to recess each evening until business is concluded, and Council agreed.

Finance Director Michael Dolby began the presentation by providing an overview of the budget.

IT Manager Grady Parker provided information on a project for City-Owned Private Fiber.

Fire Chief Carl Holley presented the 2018-2019 Fiscal Year proposed budget for Fire Suppression and Fire Prevention.

Emergency Medical Services Chief Ray Nolen presented the 2018-2019 Fiscal Year proposed budget for Emergency Medical Services.

Interim Police Chief Ron Parker presented the 2018-2019 Fiscal Year proposed budget for the Police Department.

City Council recessed for a break at 7:30 p.m. and reconvened at 7:43 p.m.

Golf Course Manager Alex Osmond presented the 2018- 2019 Fiscal Year proposed budget for the Golf Course.

Assistant City Manager Jason Weeks presented the 2018-2019 proposed Fiscal Year Budget for the City Manager's Office.

Emergency Management Manager Kristin Gauthier presented the 2018-2019 proposed Fiscal Year Budget for Emergency Management.

Assistant City Manager Jason Weeks presented the 2018-2019 proposed Fiscal Year Budget for Community Investment.

Human Resources Manager Matt Hartleib presented the 2018-2019 Fiscal Year proposed budget for the Human Resources Department.

Municipal Court Judge Denise Mitrano presented the 2018-2019 Fiscal Year proposed budget for the Municipal Court.

IT Manager Grady Parker presented the 2018-2019 Fiscal Year proposed budget for Information Technology.

City Secretary Patrice Fogarty presented the 2018-2019 proposed Fiscal Year Budget for the City Secretary's Office.

Assistant City Manager Jason Weeks presented the 2018-2019 proposed Fiscal Year Budget for Legal.

City Secretary Patrice Fogarty presented the 2018-2019 proposed Fiscal Year Budget for City Council.

Finance Director Michael Dolby presented the 2018-2019 proposed Fiscal Year Budget for the Finance Department.

Director of Public Works, Don Pennell, presented the 2018-2019 Fiscal Year proposed budget for the Public Works Department, including the Street Division; Residential Solid Waste; Commercial Solid Waste; Water Production; Water Distribution; Wastewater Collection; Wastewater Treatment; Airport; La Porte Area Water Authority; and the Vehicle Maintenance and Replacement Funds.

The meeting was recessed at 9:11 p.m. to reconvene on Tuesday, August 14, 2018, at 6:00 p.m.

Tuesday, August 14, 2018

Mayor Rigby reconvened the August 13, 2018, Council meeting at 6:00 p.m. on Tuesday, August 14, 2018. Members of Council present: Councilmembers Engelken, Ojeda, J. Martin, K. Martin, Bentley, Zemanek, Kaminski and Earp. Also present were City Secretary Patrice Fogarty and City Manager Corby Alexander.

City Manager Corby Alexander and Staff provided information requested from the August 13, 2018, meeting regarding the following: cell phone usage; City-Owned Private Fiber; advertisement of community events in the Bay Area Observer; cost analysis for an in-house attorney; memberships at the Golf Course; and vehicles for the Police Department.

Council directed Staff to do the following:

- bring back a discussion about City-Owned Private Fiber in April 2019 during the Budget Retreat;
- add additional funds to budget to run monthly ads in the Bay Area Observer;
- obtain cost analysis for a full-time prosecutor.

City Manager Corby Alexander advised Council he and Golf Course Manager Alex Osmond will work on proposed fees for the Golf Course.

Council agreed continuing with Tahoe vehicles for the Police Department.

Parks and Recreation Director Rosalyn Epting presented the 2018-2019 Fiscal Year proposed budget for the Parks Department that includes Parks Maintenance; Recreation; Special Services; and Administration.

Council agreed to move \$3,128.00 back into Special Services Account 2015.

Councilmember Ojeda commented she, along with Fairmont Park HOA, would like to reinstitute the \$1.00 admission fee at Fairmont Park Swimming Pool.

City Council recessed for a break at 7:31 p.m. and reconvened at 7:44 p.m.

City Planner Ian Clowes presented the 2018-2019 Fiscal Year proposed budget for the Planning Department, which includes GIS and Inspections.

City Manager Corby Alexander provided an overview of the City's tuition reimbursement program.

Human Resources Manager Matt Hartleib presented the proposed 2018-2019 Fiscal Year Budget for Liability and Employee Health Insurance.

Council directed Mr. Hartleib to move forward with the proposed change to pharmacy formulary that was reviewed by the Chapter 172 Employee, Retiree Insurance and Benefits Board. They will also look at options on stop loss coverage.

Economic Development Coordinator Ryan Cramer presented the 2018-2019 Fiscal Year proposed budget for Economic Development. Councilmember Ojeda commented that if the EDC meeting is a short meeting, maybe just provide an appetizer tray instead of a full meal.

Parks and Recreation Director Rosalyn Epting presented the 2018-2019 proposed Fiscal Year Budget for the Hotel-Motel Fund. City Manager Alexander stated we can use some of this money for golf course advertising, because the goal of advertising dollars in this fund is for tourism. When questioned by Councilmember Zemanek, City Manager Alexander stated yes, we can use these funds to advertise for little league tournaments – heads in beds is the criteria to stay focused on with these advertising dollars.

City Manager Corby Alexander presented the 2018-2019 proposed Fiscal Year Budget for Capital Improvement Projects. He added that the \$650,000 for the private fiber network will be removed from this proposed budget, to be brought back next April during pre-budget workshops. What will be placed back in is the annual AT&T fee for this year and possibly next budget.

Councilmember Ojeda brought up a question about the delinquent taxes the City pays on Habitat lots. She asked has the County and LPISD been approached to pay their share, to chip in? Mr. Alexander stated they've been approached, and they have taken the stance that it is unlawful for them to waive their taxes.

Councilmember Ojeda asked to revisit the increase to the advertising budget so as to include both the Bay Area Observer and Around La Porte. She commented what about having one in print and maybe one electronic. That would probably save on advertising costs. Councilmember Zemanek stated that his desire is to share and share alike between the two papers. What's good for one is good for the other. Duplicate advertising may not occur because one paper is a weekly, and the other is a monthly. The weekly will have more varied advertising.

Councilmember Engelken commented he would like to be provided:

- some information on the number of donations for beautification trail system project advertisement that's found on our utility bills – that it has been on there a long time –

and suggests replacing that one with a request for donations to the La Porte Animal Shelter;

- a report of the number of injuries/incidents since the position of the Safety/Risk Specialist; he would like to know what the impact of that position has been as far as the number of preventable accidents, number of recordable injuries and lost time and the dollars associated with each, to see if there's a trend downward to see if the position has paid for itself and/or improved the safety record for the City; and
- He commented he does not want to see another mitigation analysis/study for Brookglen due to the number of times it has been studied in the past. We've done enough analyses to know what the problems are; don't spend the budgeted \$275,000 on another analysis.

Councilmember Earp reviewed in depth more opportunities for additional cuts or more discussion regarding the cuts provided to all of Council by City Manager Alexander and asked for opinions from Council on the following subjects: IT computer software and consulting; Planning and Development director position; Insurance fund and reduction in liability insurance; Legal regarding in-house council; Golf Course regarding an increase in fees; Special Programs; Pharmacy Formulary; Stop Loss Coverage; Motor Pool Lease Fees; Refund back to general fund for drainage interconnect under Wharton Weems; Eliminate CIP project for fencing and sidewalk on Spencer on the north side; Public Works reduction of force; In-house mechanic repairs; Contingency Fund; Tax Collector Assessor position; Franchise Fee (Enterprise); and Fiber Project Proposal.

Mayor Rigby asked if an option can be for a penny decrease a year for 5 years or a penny and a half for 3 years to sustain the budget presented. Councilmember Earp stated he would be in favor of it. City Manager Corby Alexander responded he can work on saving a penny and half for 3 years.

Councilmember Jay Martin commented he has not been approached by any citizen requesting a tax rate reduction and the City is negotiating agreements with the Industrial Districts and now is not the time to do tax cuts.

Councilmember Zemanek commented the LPISD bond election was overwhelmingly embraced by the citizens because it benefited our youth, and maybe it is time for the City to do the same thing. He stated for the average household in La Porte, a \$.05 increase or decrease would be \$3.76/month, and he stated if it was an increase, the IDA folks would pay the increase, as well. He believes the money could be used in several ways, with earmarks for a new standalone fitness center on a separate piece of property; revamp the senior facility; do away with merit increases and, instead, give each employee a \$1,500 stipend paid on their November check; turf baseball fields which will put heads in beds; increase can assist with legal costs and drainage improvements that we need; projects for kids in the summer. He would like Council to consider this and advertise it as enhancements for the community.

Council directed City Manager Corby Alexander to come back at the next council meeting, or call a special meeting, with options for additional cuts and provide information on how close the City is to the tax roll back and how the City can accomplish a savings of a penny.

7. REPORTS

- (a)** Receive report of the Drainage and Flooding Committee Meeting on Monday, August 13, 2018 – Councilmember Jay Martin

Councilmember Jay Martin provided a report on the August 13, 2018, Drainage and Flooding Committee Meeting.

8. ADMINISTRATIVE REPORTS

City Manager Corby Alexander thanked Council and Staff for their patience and support during the budget preparations.

9. COUNCIL COMMENTS regarding matters appearing on the agenda; recognition of community members, city employees, and upcoming events; inquiry of staff regarding specific factual information.

Councilmember Bentley thanked Staff for their work during the budget preparations and commented he would like to see a cost of living for employees built into the budget; Councilmembers Engelken, Earp, Kaminski, and Zemanek thanked Staff for their work during the budget; Councilmember Ojeda thanked Staff and Council for the budget preparations; Councilmember J. Martin thanked City Manager Corby Alexander and Staff for the budget preparations and wished the best to Councilmember K. Martin on the birth of her new baby; Councilmember K. Martin commented she is not in favor of a tax rate reduction and feels the City is in good condition and capital items should be eliminated before control of needed items are taken away from Staff; and Mayor Rigby thanked City Manager Corby Alexander, the Finance Department and Directors for their work preparing the budget; commented this was the first budget for Assistant City Manager Jason Weeks, and he did a good job; and reminded everyone that school begins tomorrow and to look out for the children.

10. ADJOURN

There being no further business, Councilmember Engelken made a motion to adjourn the meeting at 9:23 p.m. Councilmember Zemanek seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

Patrice Fogarty, City Secretary

Passed and approved on August 27, 2018.

Mayor Louis R. Rigby

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>August 27, 2018</u>	<u>Appropriation</u>
Requested By: <u>Shelley Wolny</u>	Source of Funds: _____
Department: <u>Finance</u>	Account Number: _____
Report: ___ Resolution: <u>X</u> Ordinance: _____	Amount Budgeted: _____
Exhibits: <u>Resale 2000-21589</u>	Amount Requested: _____
Exhibits: _____	Budgeted Item: (YES) NO
Exhibits: _____	

SUMMARY & RECOMMENDATION

If a property is sold or struck off to a taxing unit that is party to the judgment, the taxing unit may sell the property at any time by public or private sale. The City of La Porte has had these properties on the public resale list for more than an adequate amount of time and has received a bid for the minimum bid amount set by the judgment or higher; at this time staff is asking the City Council to pass a resolution to approve the sale of the property listed below for the amount that has been offered.

City's tax attorney has double checked the tax statements, and the post-judgment taxes that are due (2000 and 2001) are \$336.19 if paid in August 2018. The \$2 difference is due to the fact that the bid amount is the amount of post-judgment taxes due if paid in June. In the bid, the bidder stated they understand that the taxes increase each month, and therefore, when they pay the post-judgment taxes in September, they will have to pay the September amount that is due.

2000-21589 – Lot 24 Block 79 (0 Martin Luther King Jr. Drive), City of La Porte
– Offer \$1,900 + 2000 & 2001 post-judgement taxes of \$336.19

Action Required by Council:

Consider approval of the Resolution authorizing the sale on the property listed above.

Approved for City Council Agenda

Corby D. Alexander, City Manager

Date

THE STATE OF TEXAS
COUNTY OF HARRIS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

RESOLUTION AND ORDER

WHEREAS, the City of La Porte, La Porte Independent School District, Harris County, Harris County Education Department, Port of Houston of Harris County Authority, Harris County Flood Control District, Harris County Hospital District and San Jacinto Community College District (“Taxing Authorities”) foreclosed on a property (“the property”) through a delinquent tax lawsuit and judgment identified as follows:

Tract 1: Lot 24, Block 79 of the Town of La Porte, according to the Map of Plat thereof recorded in the Office of the County Clerk of said County, to which reference is here made for all purposes, together with all improvements thereon situated. Account No. 023-203-079-0024

WHEREAS, the Taxing Authorities remain unpaid after exhausting all legal means to satisfy the collection of the delinquent taxes due and owing to the Taxing Authorities, including conducting a public auction of the property by the Harris County Constable whereby the property was struck off to the Taxing Authorities and;

WHEREAS, being no bids for the property at the tax sale on June 5, 2001, the City of La Porte, Trustee for itself and the other Taxing Authorities, now holds the property in trust to secure the payment of taxes, penalties, interest and costs owed to all Taxing Authorities participating in the foreclosure judgment;

WHEREAS, the property held in trust by the City of La Porte, Trustee for itself and the other Taxing Authorities, is exempt from taxation and it is in the best interest of the Taxing Authorities to have the property returned to the active tax roll as a taxable property;

WHEREAS, the City of La Porte has received an offer of \$1,900.00 to purchase the property from the Tyrone D. Jones.

NOW, THEREFORE, IT IS ORDERED by the City of La Porte:

1. That all of the above paragraphs are true, correct and in the best interest of the City of La Porte and all the other Taxing Authorities, and as such they are hereby incorporated in full and made part of this Resolution;
2. That the City of La Porte accepts the tax resale offer by Tyrone D. Jones and authorizes the Mayor of the City of La Porte to sign and execute the deed on behalf of the City of La Porte as Trustee for itself and the other Taxing Authorities, to transfer title to the person submitting the offer to purchase the property.

APPROVED, PASSED AND ORDERED this the _____ day of _____, 2018.

LOUIS R. RIGBY, MAYOR
CITY OF LA PORTE

ATTEST: _____
PATRICE FOGARTY, CITY SECRETARY
CITY OF LA PORTE

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your social security number or your driver's license number. (Language pursuant to Section 11.008 of the Texas Property Tax Code)

STATE OF TEXAS

X

X

TAX RESALE DEED

COUNTY OF HARRIS

X

KNOW ALL MEN BY THESE PRESENTS that the CITY OF LA PORTE, TRUSTEE, for itself and LA PORTE INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT AND SAN JACINTO COMMUNITY COLLEGE DISTRICT, acting through its duly elected officials (hereinafter "GRANTOR") as authorized by Section 34.05 of the Texas Property Tax Code, for and in consideration of the sum TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by TYRONE D. JONES (hereinafter "GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and does hereby convey unto said GRANTEE all of the right, title and interest of GRANTOR and all other taxing units interested in the tax foreclosure judgment against the property herein described, acquired by tax foreclosure sale heretofore held under Suit No. 2000-21589, City of La Porte and La Porte Independent School District vs. Melvin Gay, Jr., as Heir to Hazel Gay and Melvin Gay, Sr., Et Al, in the district court of said county, said property described as follows:

Tract 1: Lot 24, Block 79 of the Town of La Porte, according to the Map of Plat thereof recorded in the Office of the County Clerk of said County, to which reference is here made for all purposes, together with all improvements thereon situated. Account No. 023-203-079-0024

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove described property, but only to the extent that they are still in effect and shown of record in the hereinabove mentioned county and state, and to all zoning laws, regulations and ordinances of municipal and/or other governmental authorities, if any, but only to the extent that they are still in effect and relate to the hereinabove described property.

TO HAVE AND TO HOLD the said premises, together with all and singular the rights, privileges, and appurtenances thereto in any manner belonging unto the said GRANTEE, his heirs and assigns forever, so that neither the Grantor, nor any other taxing unit interested in said tax foreclosure judgment, nor any person claiming under it and them, shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

GRANTEE accepts the property in "AS IS, WHERE IS" condition and subject to any environmental conditions that might have or still exist on said property, and subject to any title defects and deficiencies, and also subject to the right of redemption, if any, provided under the Texas Property

Tax Code. GRANTEE acknowledges and agrees that this conveyance is expressly made without warranty.

Taxes for the 2000 and 2001 tax years and also the present tax year are to be paid by GRANTEE herein.

IN TESTIMONY WHEREOF, THE CITY OF LA PORTE, TRUSTEE, for itself and LA PORTE INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT AND SAN JACINTO COMMUNITY COLLEGE DISTRICT has caused these presents to be executed this _____ day of _____, 2018.

CITY OF LA PORTE, TRUSTEE

By: _____
LOUIS R. RIGBY, MAYOR
CITY OF LA PORTE

ACCEPTED:

By: _____
TYRONE D. JONES, GRANTEE

STATE OF TEXAS X

COUNTY OF HARRIS X

This instrument was acknowledged before me on this _____ day of _____, 2018, by Louis R. Rigby, Mayor of the City of La Porte.

Printed Name: _____
Notary Public, State of Texas
My Commission Expires: _____

STATE OF TEXAS

X

COUNTY OF HARRIS

X

This instrument was acknowledged before me on this _____ day of _____, 2018, by Tyrone D. Jones, Grantee.

Printed Name: _____

Notary Public, State of Texas

My Commission Expires: _____

After recording return to:

Tyrone D. Jones
6338 North FM 565 RD
Cove, TX 77523

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW

4828 Loop Central Drive

Suite 600

Houston, TX 77081

Main: 713.844.3400

ANALYSIS OF BID RECEIVED FOR TAX RESALE PROPERTY

Suit No. 2000-21589, City of La Porte and La Porte ISD vs. Melvin Gay, Jr. As Heir to Hazel Gay and Melvin Gay, Sr., Et Al

Legal Description: Tract 1: Lot 24, Block 79 of the Town of La Porte, according to the Map of Plat thereof recorded in the Office of the County Clerk of said County, to which reference is here made for all purposes, together with all improvements thereon situated. Account No. 023-203-079-0024

Situs Address: Dr. Martin Luther King Jr. Dr., La Porte, TX 77571

Bidder: Tyrone D. Jones, 6338 North FM 565 Rd., Cove, TX 77523

Date of Sale:	June 5, 2001
Amount of Bid:	\$1,900.00
Judgment Amount Due:	\$2,096.78
Cost of Sale:	\$0.00
Adjudged Value:	\$1,900.00
% of Total Due:	90.62 %
% of Adjudged Value:	100.00 %

JUDGMENT TAX YEARS:

Entity Name	Amount Due Each Entity	Amount You Will Receive
City of La Porte(1978-1999)	\$755.99	\$685.14
La Porte ISD(1978-1999)	\$895.79	\$811.68
Harris County(1981-1999)	\$388.89	\$352.45
San Jacinto CCD(1981-1999)	\$56.11	\$50.73
Totals	\$2,096.78	\$1,900.00

POST-JUDGMENT TAX YEARS:

Entity	Amount Due Each Entity	Amount You
Name	(As of August 2018)	Will Receive
City of La Porte(2000-2001)	\$76.80	\$76.80
La Porte ISD(2000-2001)	\$176.28	\$176.28
Harris County(2000-2001)	\$69.62	\$69.62
San Jacinto CCD(2000-2001)	\$13.49	\$13.49
Totals	\$336.19	\$336.19

TOTAL AMOUNTS TO BE RECEIVED (AS OF AUGUST 2018):

Entity	Amount You
Name	Will Receive
City of La Porte	\$761.94
La Porte ISD	\$987.96
Harris County	\$422.07
San Jacinto CCD	\$64.22
Totals	\$2,236.19

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW

4828 Loop Central Drive

Suite 600

Houston, TX 77081

Main: 713.844.3400

August 2, 2018

Email: Chips@lgbs.com

Direct: 713.576.7264

Corby Alexander, City Manager
City of La Porte City Manager's Office
604 W. Fairmont Parkway
La Porte, Texas 77571

RE: Tax Resale Bid in Lawsuit No. 2000-21589; City of La Porte and La Porte ISD vs. Melvin Gay, Jr. as Heir to Hazel Gay and Melvin Gay; Account # 023-203-079-0024

Dear Mr. Alexander:

As we have discussed, an offer in the amount of \$1,900.00 has been received from Tyrone D. Jones for a property that is owned in trust by the City of La Porte, La Porte ISD, Harris County and San Jacinto Community College District pursuant to a constable's tax sale. I have attached to this letter the tax resale bid, a tax resale bid analysis, a tax resale resolution for the City, a proposed tax resale deed, and a Harris County Appraisal District map of the subject property. The amount of the tax resale bid is sufficient to allow the City of La Porte to consider acceptance of this bid and conveyance of the subject property by the City, La Porte ISD, Harris County and San Jacinto Community College District.

Therefore, I would respectfully request that this tax resale bid be placed on an upcoming agenda of the City Council of the City of La Porte. I am available to attend the Council Meeting in order to address any questions that arise. A suggested wording of the agenda item is as follows:

Consider approval of a bid by Tyrone D. Jones to acquire a tax resale property described as: Tract 1: Lot 24, Block 79 of the Town of La Porte, according to the Map of Plat thereof recorded in the Office of the County Clerk of said County, to which reference is here made for all purposes, together with all improvements thereon situated. Account No. 023-203-079-0024

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW

4828 Loop Central Drive

Suite 600

Houston, TX 77081

Main: 713.844.3400

Please do not hesitate to contact me if you have any questions, need additional information or would like to meet with me with respect to this or any other matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Chip Sutton", with a long horizontal flourish extending to the right.

Charles Austin "Chip" Sutton
Capital Partner

Enclosures

**OFFICIAL BID FORM-TAX RESALE PROPERTY
CITY OF LOPRTE**

Property Description: Lot 24, Block 79, City of La Porte

Account No.: 023-203-079-0024

Property Address: 0 Dr. Martin Luther King Jr. Dr., La Porte, TX

Amount of Bid: \$1,900.00 plus the 2000 & 2001 post-judgment taxes of \$334.09

By my signature below, I certify that I understand the conditions and limitations of this sale, as well as the restrictions on the use of the property as set forth in the Texas Property Tax code. I further understand that I will become immediately responsible for post-judgment taxes if I am the successful bidder on the property. I further understand that taxes increase each month and additional post-judgment taxes may be due to other tax entities as well. **I agree to indemnify the school district and its attorney and agent from any action or damages arising from the purchase of this property and agree to submit any dispute to the American Arbitration Association for resolution.**

Tyrone D. Jones

Bidder's Name (Please Print or Type) (Name wanted on deed)



Bidder's Signature

6338 North FM 565 RD

Bidder's Address (address wanted on deed)

281.630.7301

Bidder's Telephone

Cove TX 77523

City Zip

June 7, 2018

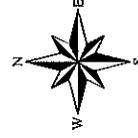
Date

****BIDDER IS AWARE THAT ALL PROPERIES ARE SUBJECT TO POST JUDGMENT TAXES.
ONCE DEED IS RECORDED, A BILL FOR ANY POST JUDGMENT TAX YEARS WILL BE SENT
OUT. ****

Harris County Appraisal District



Geospatial map data maintained by the Harris County Appraisal District is for informational purposes and may not have been prepared for use suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and only represents the approximate location of property boundaries.



Date: 8/1/2018



Lot 24, Block 79, City of La Porte (Lot is in green)

Access Report

Agency

Bid Number

Bid Title

City of La Porte (TX)

18020

Northwest Park Pool Building

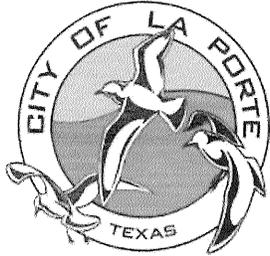
Vendor Name	Accessed First Time	Documents
All Pro General Construction, Inc.	2018-06-29 09:19 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Electrical Systems Management, LLC	2018-06-25 02:54 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Hearn Company	2018-06-07 09:28 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Millis Development & Construction, Inc.	2018-06-12 11:53 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
JDR Management	2018-06-07 09:09 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
North America Procurement Council	2018-06-08 01:12 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Onvia	2018-06-07 01:01 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
DT Construction, LP	2018-06-07 09:20 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
BidClerk	2018-06-07 12:24 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
The Gonzalez Group	2018-06-18 02:22 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Perkens WS Corporation	2018-06-11 12:18 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Ardent Construction, LLC	2018-06-22 09:28 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Oak Commercial Construction LLC	2018-06-13 03:07 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Cox Commercial Construction, LLC	2018-06-14 07:26 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Alliance Steel	2018-06-27 01:21 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Hendee Enterprises	2018-06-07 11:49 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Ramuc Pool Paint	2018-06-27 09:21 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
CMD	2018-06-11 04:47 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Aqueous Engineering	2018-06-20 04:03 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
WMS Aquatics	2018-06-07 04:42 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Galyon Timber and Glulam, Inc.	2018-06-11 08:15 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
CMC Development & Construction Corp	2018-06-10 11:32 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
T.F. Harper & Associates LP	2018-06-14 08:15 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Grand Cayon Minority Contractors Assoc	2018-06-11 12:46 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
TUCON, LLC	2018-06-18 09:20 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Tolunay-Wong Engineers, Inc.	2018-06-20 03:26 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Linbeck Group, LLC	2018-06-08 02:40 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
CONROE WOOD PRODUCTS, INC	2018-06-08 11:54 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
IMS	2018-06-08 09:50 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
ConstructConnect	2018-06-29 06:53 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
aztec remodeling & landscaping company	2018-06-07 11:00 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf

Dean Builders Inc	2018-06-28 11:25 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
ILCOR Builders	2018-06-07 12:39 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Dodge Data & Analytics	2018-06-07 10:07 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
SmartProcure	2018-07-04 11:40 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Construction Software Technologies	2018-06-11 05:00 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
Advanced Starlight International	2018-06-11 10:49 AM CDT	Bid 18020 Northwest Park Pool Building Final.pdf
ArborStakes™	2018-06-25 01:36 PM CDT	Bid 18020 Northwest Park Pool Building Final.pdf

BID TABULATION-BID 18020 NORTHWEST PARK POOL BUILDING

		CMC DEVELOPMENT & CONSTRUCTION CORPORATION	AZTEC REMODELING & LANDSCAPING	TUCON	DEAN BUILDERS	MILLIS DEVELOPMENT & CONSTRUCTION	COX COMMERCIAL CONSTRUCTION	NASH INDUSTRIES CONSTRUCTION	COMEX CORPORATION
Item No.	Description								
1	Northwest Park Pool Building TOTAL BASE BID	\$385,000.00	\$389,040.00	\$443,000.00	\$457,912.27	\$470,255.00	\$513,000.00	\$585,000.00	\$704,000.00
2	Alternate Bid Item-Installation of New Sidewalk TOTAL ALTERNATE BID	\$10,000.00	\$7,000.00	\$11,500.00	\$7,771.68	\$9,337.00	\$13,000.00	\$15,000.00	\$10,000.00
	GRAND TOTAL	\$395,000.00	\$396,040.00	\$454,500.00	\$465,683.95	\$479,592.00	\$526,000.00	\$600,000.00	\$714,000.00

**Request for Proposal
for Construction Services**



City of La Porte

Northwest Park Pool Building

Project No. 18020

Due: Tuesday, July 3, 2018 @ 2:00 PM

**CITY OF LA PORTE
RESPONDENT AFFIDAVIT**

The foregoing prices shall include all labor, materials, equipment, removal, overhead, profit, freight, insurance, etc., to cover the finished work specified in this bid.

All items bid and installed under this procurement must be new and unused and in undamaged condition.

The City of La Porte is tax exempt and no taxes shall be included in the pricing of this solicitation.

Respondent understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the solicitation.

The respondent agrees that this solicitation shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing time for receiving submittals.

The undersigned affirms they are duly authorized to represent this firm, that this proposal has not been prepared in collusion with any other firm, and that the contents contained herein have not been communicated to any other firm prior to the official opening.

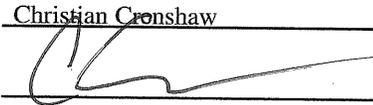
Respectfully submitted:

Business Name: CMC Development & Construction Corporation LLC

Address: 5211 Court Rd

Houston, TX 77053

Printed Name: Christian Cronshaw

Authorized Signature: 

Date: 07/03/2018

**CITY OF LA PORTE
CERTIFICATION OF RESPONDENT**

City of La Porte Ordinance #98-2217 prohibits any expenditure for goods or services by the City of La Porte from any person, firm, or corporation owing any delinquent indebtedness to the City. The undersigned respondent further certifies that it is in compliance with the requirements of said ordinance. A copy of the ordinance may be obtained by contacting the City of La Porte Purchasing Division at 281-470-5126.

If undersigned bidder is not in compliance with Ordinance 98-2217, it hereby assigns to the City of La Porte, the amount of its delinquent indebtedness to the City of La Porte, to be deducted by the City of La Porte from the amounts due the undersigned.

Failure to remit this certification with the response or non-compliance with said ordinance shall be just cause for rejection or disqualification of submitted proposal.

 X The undersigned hereby certifies that it is in compliance with Ordinance 98-2217.

Or

 The undersigned assigns to the City of La Porte, the amount of its delinquent indebtedness, to be deducted by the City of La Porte from the amounts due the undersigned.

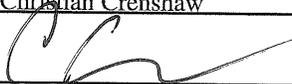
(Initial one of the above)

Business Name: CMC Development & Construction Corporation LLC

Address: 5211 Court Rd

Houston, TX 77053

Printed Name: Christian Crenshaw

Authorized Signature: 

Date: 07/03/2018

CITY OF LA PORTE
PROTECTION OF RESIDENT WORKERS COMPLIANCE

The City of La Porte, Texas actively supports the Immigration and Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S.

The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9).

The Contractor shall establish appropriate procedures and controls so no services or products under the Contract Documents will be performed or manufactured by any worker who is not legally eligible to perform such services or employment.

Business Name: CMC Development & Construction Corporation LLC

Address: 5211 Court Rd
Houston, TX 77053

Printed Name: Christian Creaghaw

Authorized Signature: 

Date: 07/03/2018

CITY OF LA PORTE
INDEMNITY HOLD HARMLESS AGREEMENT

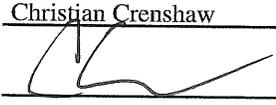
To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the City of La Porte, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney's fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expenses, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by or working as an independent contractor for Contractor or said Subcontractors or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees or independent contractors.

The Contractor expressly understands and agrees that any insurance policies required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City of La Porte, its Council members, officers, agents and employees and herein provided.

Business Name: CMC Development & Construction Corporation LLC

Address: 5211 Court Rd
Houston, TX 77053

Printed Name: Christian Crenshaw

Authorized Signature: 

Date: 07/03/2018

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

N/A

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

N/A

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

N/A

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes

No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

N/A

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 
Signature of vendor doing business with the governmental entity

07/03/2018

Date

References:

Please PRINT or TYPE here, the names, addresses and other contact information of persons in a management capacity where other similar work has been provided within the last five (5) years, or is currently being provided that may be willing to provide a reference and recommendation for your company. Failure to complete and submit this form may be cause to disqualify your proposal. References provided must be for similar events.

At least 2 of the 4 required references should be current and of a similar size and scope. Contractor shall also indicate the date services were performed and a brief description of the type of event, and any other pertinent information involved for each reference provided.

Company Name	Contact	Address	Telephone	E-mail
National Guard Bureau	Major Christian Campbell		281-929-2702	christian.j.campbell2.mil@mail.mil

Company Name	Contact	Address	Telephone	E-mail
Shadow Creek Ranch Dental Office	Lemont Williams		281-766-3137	lzwrealestategroup@gmail.com

Company Name	Contact	Address	Telephone	E-mail
Turning Point	Gabrielle Scott		281-857-1879	gabcscott@gmail.com

Company Name	Contact	Address	Telephone	E-mail
Merzbau Properties	Kelly Klaasmeyer		713-302-6604	kelly@kellyklaasmeyer.com

Company Name	Contact	Address	Telephone	E-mail



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Contractor's Qualification Statement

1 *The phone number, email address, and primary contact of the Bidder's place of business.*

Christian Crenshaw
ccrenshaw@cmccorp.us
713-588-9071

2 *The number of years engaged in the contracting business under the present firm name, and the name of the state where incorporated. Include names of previous firms that principals have been employed.*

2 Years: Texas

3 *A list of property and equipment available to the Bidder to evaluate if the Bidder can complete the Work in accordance with the Bidding Documents.*

All equipment used will be rented or supplied by subcontractors.

4 *The Bidder's performance record giving the description, location, and telephone numbers of similar projects constructed in a satisfactory manner by the Bidder.*

Please see Completed Project lists attached.

5 *A list of projects presently under contract, the approximate contract amount, and percent of completion of each.*

Please see Current Project lists attached.

6 *A list of contracts which resulted in law suits.*

No contracts have resulted in law suits.

7 *A list of contracts defaulted.*

No contracts have been defaulted.

8 *A statement of the Bidder indicating whether or not the Bidder has ever filed bankruptcy while performing Work of like nature or magnitude.*

CMC Development & Construction has never filed for bankruptcy while performing work of like nature or magnitude.



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9 A list of officers of the firm who, while in the employ of the firm or the employ of previous firms, were associated with contracts which resulted in lawsuits, contracts defaulted or filed for bankruptcy.

No officers of our firm were associated with contracts which resulted in lawsuits, contracts defaulted or filed for bankruptcy.

10 The technical experience of personnel guaranteed to be employed in the responsible charge of the Work stating whether the personnel have or have not performed satisfactorily on other contracts of like nature and magnitude of comparable difficulty at similar rate of progress.

Please see resumes of project team attached.



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Completed Projects Lists

Project: Shadow Creek Ranch Dental Office Renovation

Contact: Lemont Williams

Phone: 281-766-3137

Email: lzwrealestategroup@gmail.com

Project Scope: Interior remodel of 3800 sf office due to Hurricane Harvey damage including flooring, painting, and millwork replacement.

Project Cost: \$45,452.00

Completion Date: October 2017

Project Manager: Christian Crenshaw

Project Superintendent: Fenetre Crenshaw

Project: 4210 Dowling Waterproofing and Exterior Renovation

Contact: Kelly Klaasmeyer

Phone: 713-302-6604

Email: kelly@kellyklaasmeyer.com

Project Scope: Exterior waterproofing of warehouse building, demolition and restoration of driveway, added underground utilities for future construction

Project Cost: \$26,487.00

Completion Date: April 2017

Project Manager: Christian Crenshaw

Project Superintendent: Fenetre Crenshaw

Project: Turning Point Fellowship Interior Renovation

Contact: Gabrielle Scott

Phone: 281-857-1879

Email: gabcscott@gmail.com

Project Scope: Interior construction of Fellowship Hall including drywall, flooring, acoustical ceilings, painting and MEP systems

Project Cost: \$200,00.00

Completion Date: May 2016

Project Manager: Christian Crenshaw

Project Superintendent: Fenetre Crenshaw



Developing Tomorrow.

Individuals at CMC Development & Construction have gained experience from various construction projects. The proposed project team have successfully delivered the following projects.

TEXAS A&M UNIVERSITY

Cain Hall Parking Garage

RICE UNIVERSITY

Jesse H. Jones Graduate School

KATY ISD

Seven Lakes High School
Obra D. Tompkins High School

CYPRESS-FAIRBANKS ISD

Cypress Lakes High School
Ninth Grade Center

ANGELTON ISD

Angleton High School
Sports Stadium
Agriculture Building

MENIL

Menil Drawing Institute

FORT BEND ISD

Anne McCormick Elementary School

HOUSTON ISD

Lamar High School Renovation
& Addition

JOHNSON SPACE CENTER

IDIQ Projects

SHELL OIL COMPANY

West Hollow Technology Center

EXXON MOBIL

Exxon Mobil Campus Project

SANCHEZ OIL & GAS

Office Renovation

MOODY GARDENS

Hotel
Aquarium
Ropes Course
Discovery Museum
Ice Tent

EL PASO CORPORATION

El Paso Tower

NORTH CYPRESS MEDICAL CENTER

GEORGE R. BROWN CONVENTION CENTER





Developing Tomorrow.

Current Projects Lists

Project: Ellington Field JRB Bldg 1056 Remodel

Contact: Major Christian Campbell

Phone: 281-929-2702

Email: christian.j.campbell2.mil@mail.mil

Project Scope: Interior remodel of building including flooring, painting, and restrooms remodel.

Project Cost: \$76,000.00

Completion Date: June 2018

FENETRE CRENSHAW, LEED AP BD+C



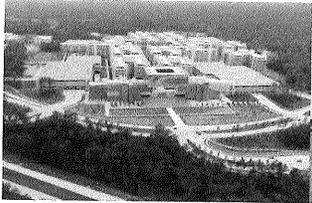
Fenetre Crenshaw has 34 years in the construction industry. Fenetre assures the constant flow of personnel and materials, to plan the work far enough in advance so that the proposed craftsmen will be there when required and to ensure that the proper materials and equipment will be available for them. Fenetre is a LEED Accredited Professional (BD+C) and has worked on a variety of construction projects over several markets including k-12, corporate/commercial, higher education, healthcare, public and public assembly spaces. Fenetre is Co-Owner of CMC Development & Construction Corporation.

Qualifications | Education
34 Years of Industry Experience

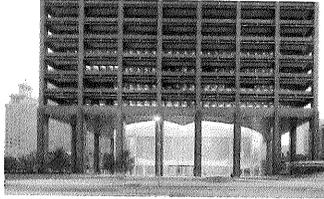
Certifications | Licenses
Journeyman Electrician
LEED Accredited Professional
LEED Bldg Design + Const
OSHA 30-Hour Trained



George R. Brown Convention Center Expansion
Houston, TX



Exxon Mobil Corporation | EMC Project
Spring, TX



El Paso Corporation Tower Renovation
Houston, TX



North Cypress Medical Center
Cypress, TX

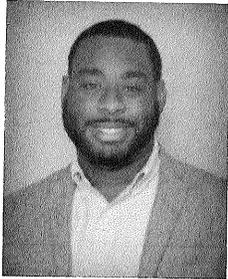
Past Experiences

- Moody Gardens
Hotel Renovations, Ropes Course, Aquarium
Galveston, TX
- NASA Johnson Space Center | IDIQ
Houston, TX
- Cypress Fairbanks ISD | Cypress Lakes HS
Cypress, TX
- Angleton ISD | Angleton High School
Angleton, TX

References

- Angleton ISD
Rudy Santos, Director of Maintenance
(979) 864-8740
rsantos@angletonisd.net
- PBK
Manuel Torres
(713) 965-0608
manuel.torres@pbk.com
- Lone Star College System
Brian Alling, Senior Project Director
(281) 290-3373
brian.alling@lonestar.edu

CHRISTIAN CRENSHAW, M. ENG.



Christian Crenshaw has successfully delivered multiple types of facilities including higher education, commercial, residential and K-12 education. As an American Institute of Constructors Associate Constructor, he has acquired an extensive background in all aspects of building construction and is dedicated to the highest level of quality on every project that he is involved in. With over 6 years of industry experience, Christian knows how to coordinate effectively between all team members and manage projects for success. Christian is Co-Owner of CMC Development & Construction Corporation.

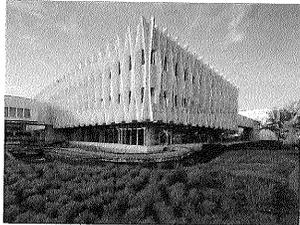
Qualifications | Education
7 Years of Industry Experience

Texas A&M University
*Masters of Engineering,
Construction Engineering &
Management*

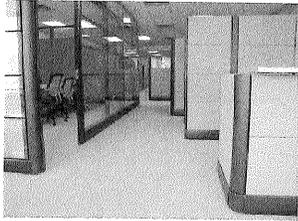
Prairie View A&M University
*Bachelors of Science,
Civil Engineering*

Prairie View A&M University
*Bachelors of Science,
Construction Science*

Certifications | Licenses
AIC Associate Constructor
OSHA 30-Hour Trained



Shell Oil Company | Technology Center
Houston, TX



Sanchez Oil & Gas | Office Build-Out
Houston, TX



Exxon Mobil Corporation | EMC Project
Spring, TX



Sealy & Smith Foundation | UTMB HR Office
\$1.6 Million
Galveston, TX

Past Experiences

- Fort Bend ISD
- Anne Sullivan Elementary
Sugar Land, TX
- Katy ISD
- Tompkins High School
Katy, TX
- Texas A&M University System
- Cain Hall Garage
College Station, TX

References

- Holcomb Enterprises
Sam Holcomb
(281) 808-2566
holcombenterprises@yahoo.com
- LZW Real Estate Group
Lemont Williams
(281) 766-3137
- Impact Economics Partnerships
Aaron Frazier
(203) 815-8064
afrazier@impactep.org

House Bill 89 VERIFICATION

I, Christian Crenshaw (Person's name), the undersigned representative and authorized agent of CMC Development & Construction Corporation LLC (Company or Business name)

being an adult over the age of seventeen (17) years, do hereby verify that the company named above, as required under the provisions of Subtitle F, Title 10, Texas Government Code Chapter 2270:

- 1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract the above named Company, has with City of La Porte, Texas.

Pursuant to Section 2270.001, Texas Government Code:

- 1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

07/03/2018

DATE

[Handwritten Signature]

SIGNATURE OF COMPANY REPRESENTATIVE

BID FORM
BID 18020- Northwest Park Pool Building

DATE: 07/03/2018

Bid of CMC Development & Construction an individual proprietorship, a corporation organized and existing under laws of the State of Texas, a partnership consisting of _____, for the Northwest Park Pool Building, for the City of La Porte, Harris County, Texas.

Gentlemen:

The undersigned bidder has carefully examined the Instructions to Bidders, this Proposal, the General Conditions of Agreement, the Technical Specifications and the drawings for the work herein above described and referred to in the Invitation to Bid and has carefully examined the site of the work and will provide all necessary labor, superintendence, machinery, equipment, tools, materials, services and other means of construction to complete all the work upon which he bids, as called for in the Contract, the Specifications and shown on the drawings, and in the manner prescribed therein and according to the requirements of the City of La Porte.

BASE BID:

1. The furnishing of labor, equipment, and materials necessary for the construction of the new pool building with pre-engineered building, concrete slab, CMU walls to include associated electrical power feed, building and lighting electrical, plumbing, HVAC, bathrooms and accessories as shown on the drawings, complete and in place, for:

TOTAL BASE BID \$ 385,000

Written Three Hundred and Eighty Five Thousand Dollars

ALTERNATE BID ITEM:

- 2 The furnishing of labor, equipment and materials necessary for the installation of new sidewalk from the new pool building to the sidewalk at the basketball courts, including drain pipe at swale as shown on the drawings, complete and in place for:

TOTAL ALTERNATE BID ITEM \$ 10,000

Written Ten Thousand Dollars

It is understood and agreed that the work shall be complete in full within 150 calendar days after the date on which work is to be commenced as established by the Contract Documents.

It is agreed that the contract price may be increased or decreased to cover work added or deleted by order of the Engineer, in accordance with the provisions of the General Conditions of Agreement.

The award may be made on the Base Bid alone or the Base Bid and any or all of the Items listed under

Alternates or Supplementary, if any.

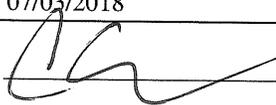
The undersigned agrees that the amounts bid in this proposal will not be withdrawn or modified for sixty (60) days following date of bid opening.

It is understood that the bid security accompanying this proposal shall be returned to the undersigned unless, in case of the acceptance of this proposal the undersigned should fail to enter into a construction contract and execute bonds as provided in the specifications. In the event the undersigned should fail to enter into a construction contract and execute bonds as required within 14 calendar days after the Engineer has given unsigned contracts to the Contractor, it is understood and agreed that the bid security shall be forfeited to the Owner and shall be considered as payment for damages due to delay and other inconveniences suffered by the Owner as a result of such failure on the part of the undersigned.

It is understood that the Owner reserves the right to reject any and all bids.

In the event of Award of the Contract to the undersigned, the undersigned agrees to furnish Performance and Payment Bonds as provided in the Specifications.

The undersigned certifies that the bid prices contained in this proposal have been carefully checked and are submitted as correct and final

Date 07/03/2018
Signed 
By Christian Crenshaw
(Title)

Company CMC Development & Construction Corporation

5211 Court Rd, Houston, TX 77053
(Address)

713-588-9071
(Telephone Number)

ccrenshaw@cmccorp.us
(Email Address)

Courtnee Crenshaw
Witness

SEAL (if Bidder is a Corporation)

Acknowledge receipt of Addenda Below:

Addendum No.	<u>1</u>	<u>2</u>	_____	_____	_____
Date Received	<u>06/25/18</u>	<u>6/29/18</u>	_____	_____	_____

BID BOND

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

SURETY'S NO. N/A

KNOW ALL MEN BY THESE PRESENTS, THAT **CMC Development & Construction**
 Corporation LLC

(hereinafter called the Principal), as Principal and **Navigators Insurance Company**

(hereinafter called the Surety), as Surety, are bound unto the City of La Porte, Texas, a home rule municipal corporation of Harris County, Texas (hereinafter called Obligee) in the amount of **Five Percent of the Greatest Amount Bid** Dollars (\$ **5% G.A.B.**), for the payment whereof said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a Bid to enter into a certain written Contract with Obligee for **Bid #18020 Northwest Park Poll Building**

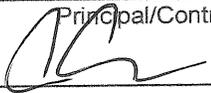
NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully, enter into such written Contract, then this obligation shall be void; otherwise to remain in full force and effect.

IT IS EXPRESSLY UNDERSTOOD AND AGREED that if said Principal should withdraw its Bid anytime after such Bid is opened and before this Bid Bond is returned or before official rejection of such Bid; or, if successful in securing the award thereof, said Principal should fail to enter into the Contract and furnish satisfactory Performance Bond and Payment Bond, and other required contract documents, the Obligee, in either of such events, shall be entitled and is hereby given the right to collect the full amount of this Bid Bond as liquidated damages.

PROVIDED, further that if any legal action be filed upon this Bond, venue shall lie in Harris County, Texas.

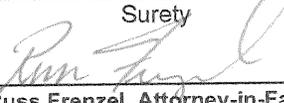
IN WITNESS WHEREOF, the said Principal and Surety do sign and seal this instrument this 3rd
day of July, 2018.

CMC Development & Construction Corporation LLC

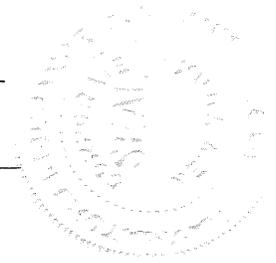
By: 
Principal/Contractor

Address: 5211 Court Rd
Houston, TX 77053

Navigators Insurance Company

By: 
Surety
Russ Frenzel, Attorney-in-Fact

Address: 400 Atlantic Street, 8th Floor
Stamford, CT 06901



NOTE: Attach Power of Attorney

IMPORTANT NOTICE

TO OBTAIN INFORMATION OR TO MAKE A COMPLAINT

You may contract the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at

1-800-252-3439

You may write the Texas Department of Insurance:

**P.O. Box 149104
Austin, Texas 78714-9104
Fax No. (512) 475-1771**

PREMIUM or CLAIM DISPUTES

Should you have a dispute concerning your premium or about a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY

This notice is for information only and does not become a part or condition of the attached document.

Notice of Applicability of Chapter 2253 of the Texas Government Code

These bonds are furnished in an attempt to comply with Chapter 2253 of the Texas Government Code. These bonds shall be construed to comply with such Chapter regarding the rights created, limitations on those rights, and remedies provided. Any provision in the bonds to which this Rider is attached that expands or restricts a right or liability under such Chapter shall be disregarded, and such Chapter shall apply to these bonds.

NAVIGATORS INSURANCE COMPANY

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, that NAVIGATORS INSURANCE COMPANY, a New York Corporation (the "Company"), with offices at 400 Atlantic Street, 8th Floor, Stamford, CT 06901, has made, constituted and appointed and by these presents, does make, constitute and appoint.

Brent Baldwin; William D. Baldwin; Michael B. Hill; Russ Frenzel; Blaine Allen; Brady K. Cox and Brock Baldwin of Dallas, TX

its true and lawful Attorney-in-fact, to have full power to act without other or others, to make, execute, seal and deliver on its behalf, as surety or co-surety, bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of \$20,000,000.00 Dollars.

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its Corporate Seal attested by its Corporate Secretary.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following Resolutions adopted by the Board of Directors of the Company on the 28th day of September 2009:

RESOLVED, that the President, any Senior Vice President or the Vice President & Treasurer (each, a "Senior Officer"), or any person designated by any one of them, is hereby authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company, bonds, undertakings and all contracts of suretyship, and that any Secretary or any Assistant Secretary of the Company be, and that each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the Seal of the Company; and further,

RESOLVED, that the signature of such officers and the Seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile Seal shall be thereafter valid and binding upon the Company with respect to any bond, undertaking or contract of suretyship to which it is attached.

Bonds executed under this Power of Attorney may be executed under facsimile signature and seal pursuant to the following resolution adopted by the Board of Directors of the Company on the 28th day of September 2009:

RESOLVED, that the signature of a Senior Officer of this Company, or any person designated by any one of them, and the Seal of this Company may be affixed or printed on any and all bonds, undertakings, recognizances or other written obligations thereof, on any revocation of any Power of Attorney, or on any certificate relating thereto, by facsimile, and any Power of Attorney, any revocation of any Power of Attorney, bonds, undertakings, recognizances or other written obligation, bearing such facsimile signature or facsimile seal shall be valid and binding on the Company

IN WITNESS WHEREOF, the Company has caused these presents to be duly signed and its corporate seal to be hereunto affixed and attested this 11th day of November, 2016 at Stamford, CT



By: [Signature] Senior Vice President
Attest: [Signature] Assistant Secretary

STATE OF CONNECTICUT ss: STAMFORD
COUNTY OF FAIRFIELD

On the 11th day of November, 2016, before me personally came Emily B. Miner to me known, who being by me duly sworn, did depose and say that she is a Senior Vice President of NAVIGATORS INSURANCE COMPANY, the Company described in and which executed the above instrument, that she knows the seal of said Company, that the seal affixed to the aforesaid instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation, and that she signed his name thereto by like order.

(Notary Seal) By: [Signature] Notary Public
Commission Expires:

MICHELLE MATEUS
NOTARY PUBLIC OF CONNECTICUT
My Commission Expires 10/31/2018

STATE OF CONNECTICUT ss: STAMFORD
COUNTY OF FAIRFIELD

CERTIFICATE

I, Deepa Nayini, the Assistant Secretary of NAVIGATORS INSURANCE COMPANY, a New York corporation (the "Company"), do hereby certify that the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and that I have compared same with the original and that it is a correct transcript therefrom and of the whole of the original and that said Power of Attorney is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto my hand and affixed the corporate seal this 30th day of July, 2018



By: [Signature] Deepa Nayini, Assistant Secretary



SANDER ENGINEERING CORPORATION

CONSULTING ENGINEERS - SURVEYORS
TEXAS BOARD OF PROFESSIONAL ENGINEERS FIRM NO. F-517
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING FIRM NO. 10030300

2901 WILCREST, SUITE 550
HOUSTON, TEXAS 77042

DENNIS W. SANDER, P.E.
President

713-784-4830
FAX 713-784-4052

July 23, 2018

City of La Porte
604 West Fairmont Parkway
La Porte, Texas 77571

Attn: Cherell Daeumer, CPPB
Purchasing Manager

Re: Bid 18020
Northwest Park Pool Building

17-064

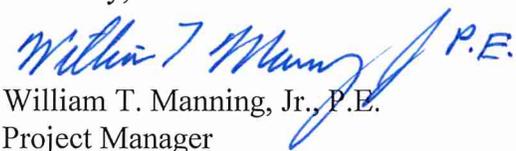
Ms. Daeumer;

As requested, we have reviewed the Bid Proposal submitted by CMC Development & Construction Corporation LLC, who was the apparent low bidder, for the above referenced project. Although we have not previously worked with CMC, we discussed the project with Christian Crenshaw, one of the company's co-owners, and contacted the four references listed in the Bid Proposal. We were able to discuss the company with three of the four references provided. We have not heard from the fourth reference who is currently on vacation overseas. The three references we talked with gave very positive recommendations for the company. They all thought the company did good work, had good communication, was responsive and on schedule. Although, the company itself, which is only two years old, has not done a new building project like the one in this contract, the two co-owners do have experience with construction of similar buildings.

Based on our review of the bid proposal and discussions with the company co-owner and their references, we see no reason why CMC Development & Construction Corporation LLC should not be awarded the construction contract for this project.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

 P.E.
William T. Manning, Jr., P.E.
Project Manager

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>August 27, 2018</u>
Requested By: <u>Corby D. Alexander</u>
Department: <u>City Manager's Office</u>
Report: <input checked="" type="checkbox"/> Resolution: <input type="checkbox"/> Ordinance: <input type="checkbox"/>

Exhibits: Bid Tabulation

Exhibits: Access Report

Exhibits: ~~Continental Flooring Company Bid~~

<u>Budget</u>
Source of Funds: <u>015</u>
Account Number: <u>01560605101100</u>
Amount Budgeted: <u>\$117,000</u>
Amount Requested: <u>\$116,998.50</u>
Budgeted Item: YES NO

SUMMARY & RECOMMENDATION

Background:

Funds were budgeted in FY 2017 for the removal and replacement of the City Hall flooring for \$117,000.

Bid #18016 for Carpet and Vinyl Installation was opened and read on July 3, 2018, two bids were received. One bid was deemed non-responsive as the pricing was not submitted on the required Bid Form and other required forms were not signed or submitted. Notice to bidders was advertised in the June 14 & 21 editions of the Bay Area Observer, posted on Public Purchase and the City's website.

The only responsive bid was received from Continental Flooring Company. Staff would like to recommend the award of the Alternate Bid in the amount of \$116,998.50 which includes vinyl planks in the lobby areas and breakroom and carpet tiles in hallways, conference rooms, offices and Council Chambers. Staff has conducted their due diligence by checking references, which came back excellent.

Action Required by Council:

Consider approval or other action to award Bid #18016 for Carpet and Vinyl Installation to Continental Flooring Company in the amount of \$116,998.50.

Approved for City Council Agenda

Corby D. Alexander, City Manager

Date

Access Report

Agency

Bid Number

Bid Title

City of La Porte (TX)

18016

CARPET AND VINYL INSTALLATION

Vendor Name	Accessed First Time	Documents
Grand Cayon Minority Contractors Assoc	2018-06-20 01:06 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
Hearn Company	2018-06-14 01:13 PM CDT	Bid 18016 Carpet and Viny Installation.pdf
Carpet Plus	2018-06-18 11:08 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
JDR Management	2018-06-14 11:36 PM CDT	Bid 18016 Carpet and Viny Installation.pdf
Contractors Corner, LLC	2018-06-19 10:14 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
North America Procurement Council	2018-06-15 09:55 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
Onvia	2018-06-14 01:01 PM CDT	Bid 18016 Carpet and Viny Installation.pdf
Intex Flooring L.L.C.	2018-06-21 11:29 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
aztec remodeling & landscaping company	2018-06-26 01:02 PM CDT	Bid 18016 Carpet and Viny Installation.pdf
Perkens WS Corporation	2018-06-18 03:43 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
Gomez Floor Covering	2018-06-25 11:13 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
Carpet World	2018-06-14 09:23 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
Texan Floor Service	2018-06-26 10:56 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
ConstructConnect	2018-06-15 08:50 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
Dodge Data & Analytics	2018-06-14 10:08 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
SmartProcure	2018-07-04 12:04 PM CDT	Bid 18016 Carpet and Viny Installation.pdf
Construction Software Technologies	2018-06-25 10:08 PM CDT	Bid 18016 Carpet and Viny Installation.pdf
Advanced Starlight International	2018-06-19 09:53 AM CDT	Bid 18016 Carpet and Viny Installation.pdf
Continental Flooring Company	2018-06-15 12:53 PM CDT	Bid 18016 Carpet and Viny Installation.pdf
Performance Safety Group	2018-06-18 10:50 AM CDT	Bid 18016 Carpet and Viny Installation.pdf

BID TABULATION-BID #18016 CARPET AND VINYL INSTALLATION

				CONTINENTAL FLOORING COMPANY	
Item	Estimated Quantity	Unit	Description	Unit Price	Total Price
1	7975	sqft	Shaw Industries, "Composed-098UV, color, Landscape- 00760 Vinyl planks or approved equal	\$5.35	\$42,666.25
2	18511	sqft	Shaw Industries, Catalyst tile 59579, color TBD, 24 x 24 carpet tiles or approved equal	\$2.91	\$53,867.01
3	7167	LF	Roppe 700 series 4" cove base, color, TBD or approved equal	\$1.56	\$11,180.52
4	1548	sqft	VCT take up & disposal	\$0.50	\$774.00
5	23679	sqft	Carpet take up & disposal	\$0.25	\$5,919.75
6	16	ea	Rubber transitions 12' each	\$30.50	\$488.00
7	1	ea	Floor prep	\$5,050.00	\$5,050.00
8	1	ea	Remove and replace furniture, appliances, filing cabinets, and desks as necessary	\$7,460.37	\$7,460.37
9	1	ea	Delivery fee(if applicable)	\$0.00	\$0.00
Total Base Bid				\$127,406.00	

ALTERNATE BID- Vinyl planks in Lobby Areas and Breakroom Only

				CONTINENTAL FLOORING COMPANY	
Item	Estimated Quantity	Unit	Description	Unit Price	Total Price
1	3798	sqft	Shaw Industries, "Composed-098UV, color, Landscape- 00760 Vinyl planks or approved equal	\$5.35	\$20,319.30
2	22687	sqft	Shaw Industries, Catalyst tile 59579, color TBD, 24 x 24 carpet tiles or approved equal	\$2.91	\$66,019.17
3	7167	LF	Roppe 700 series 4" cove base, color, TBD or approved equal	\$1.56	\$11,180.52
4	1548	sqft	VCT take up & disposal	\$0.50	\$774.00
5	23679	sqft	Carpet take up & disposal	\$0.25	\$5,919.75
6	9	ea	Rubber transitions 12' each	\$30.50	\$274.50
7	1	ea	Floor prep	\$5,050.00	\$5,050.00
8	1	ea	Remove and replace furniture, appliances, filing cabinets, and desks as necessary	\$7,461.26	\$7,461.26
9	1	ea	Delivery fee (if applicable)	\$0.00	\$0.00
Total Alternate Bid				\$116,998.50	

Item If bidding on materials other than the above, state manufacturer, brand, style and number below and attach specifications.

1

2 Carpet Tile-Aladdin/Mohawk "Go Forward Tile"



RESOLUTION

* * * *

WHEREAS, injuries and deaths from traffic crashes bring loss and suffering to the citizens of this community; and

WHEREAS, the cost of such injuries brings economic hardship to families; and

WHEREAS, the community's health care system and emergency response resources are significantly impacted by injuries of traffic crashes; and

WHEREAS, research shows that speed is a causative factor in many traffic crashes; and

WHEREAS, failure to obey traffic control devices, signs and signals at intersections causes many traffic crashes; and

WHEREAS, the National Highway Traffic Safety Administration statistics have shown that reducing speed limit and traffic control violators prevents crashes, saves lives and reduces non-fatal injuries while resulting in economic savings to society;

WHEREAS, the Speed/Intersection Traffic Control STEP includes public education and intensified law enforcement to get the community to comply with speed limits and traffic control devices, signs and signals;

NOW THEREFORE, BE IT RESOLVED that The City of La Porte approves the City Manager to execute all documents for the Speed/ITC STEP Grant for October 1, 2018 through September 30, 2019; joining public and private sector leaders across Texas supporting the campaign; urging all residents and visitors of La Porte to abide by traffic laws, to protect life and the quality of life in this community.

Signed by:

Authorized Official

ATTEST:

APPROVED:

City Secretary

Mayor, City of La Porte

**Texas Department Of Transportation - Traffic Safety
 Electronic Signature Authorization Form**

This form identifies the person(s) who have the authority to sign grant agreements and amendments for the Grant ID listed at the bottom of the page.

Name Of Organization: City of La Porte

Project Title: STEP Comprehensive

Authorizing Authority

The signatory of the Subgrantee hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this agreement and that she/he has full and complete authority to enter into the agreement on behalf of the organization. I authorize the person(s) listed under the section "Authorized to Electronically Sign Grant Agreements and Amendments" to enter into an agreement on behalf of the organization.

Name:	Corby Alexander
Title:	City MANAGER
Signature:	
Date:	

Under the authority of Ordinance or Resolution Number (if applicable)

Authorized to Electronically Sign Grant Agreements and Amendments

List Subgrantee Administrators who have complete authority to enter into an agreement on behalf of the organization.

	Print Name of Subgrantee Administrator in TxDOT Traffic Safety eGrants	Title
1.	MARCUS Upchurch	Project MANAGER
2.	Corby Alexander	City MANAGER
3.	Ronald Parker	Asst. Chief of Police

Texas Traffic Safety eGrants

Fiscal Year 2019

Organization Name: City of La Porte Police Department

Legal Name: City of La Porte

Payee Identification Number: 17460015526006

Project Title: STEP Comprehensive

ID: 2019-LaPorte-S-1YG-00055

Period: 10/01/2018 to 09/30/2019

FOR REVIEW ONLY - NOT A LEGAL DOCUMENT

TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

THE STATE OF TEXAS
THE COUNTY OF TRAVIS

THIS AGREEMENT IS MADE BY and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the Department and the, **City of La Porte** hereinafter called the Subgrantee, and becomes effective then fully executed by both parties. For the purpose of this agreement, the Subgrantee is designated as a(n) **Local Government/Transit District**.

AUTHORITY: Texas Transportation Code, Chapter 723, the Traffic Safety Act of 1967, and the Highway Safety Performance Plan for the Fiscal Year 2019.

Name of the Federal Agency: **National Highway Traffic Safety Administration**

CFDA Number:
CFDA Title:
Funding Source: Section
DUNS: **010804755**
FAIN:

Project Title: **STEP Comprehensive**
This project is **Not Research and Development**

Grant Period: This Grant becomes effective on **10/01/2018** or on the date of final signature of both parties, whichever is later, and ends on **09/30/2019** unless terminated or otherwise modified.

Total Awarded: **\$94,986.80**
Amount Eligible for Reimbursement by the Department: **\$44,977.80**
Match Amount provided by the Subgrantee: **\$50,009.00**

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TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

The signatory of the Subgrantee hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this agreement and that she/he has full and complete authority to enter into this agreement on behalf of the organization.

Subgrantee Signature

By checking this box, I agree to use electronic signatures. Furthermore, I confirm that I have signature authority to execute this document and it is an electronic representation of my signature for all purposes when I use it on documents, including legally binding contracts—just the same as a pen-and-paper signature.

Name:

Title:

Date:

TxDOT Signature

By checking this box, I agree to use electronic signatures. Furthermore, I confirm that I have signature authority to execute this document and it is an electronic representation of my signature for all purposes when I use it on documents, including legally binding contracts—just the same as a pen-and-paper signature.

Name:

Title:

Date:

Texas Traffic Safety Program

GRANT AGREEMENT GENERAL TERMS AND CONDITIONS

Definitions: For purposes of these Terms and Conditions, the "Department" is also known as the "State" and the "prospective primary participant" and the "Subgrantee" is also known as the "Subrecipient" and "prospective lower tier participant"

ARTICLE 1. COMPLIANCE WITH LAWS

The Subgrantee shall comply with all federal, state, and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this agreement, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws and regulations, and licensing laws and regulations. When required, the Subgrantee shall furnish the Department with satisfactory proof of compliance.

ARTICLE 2. STANDARD ASSURANCES

The Subgrantee assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including 2 CFR, Part 200; and the Department's Traffic Safety Program Manual, as they relate to the application, acceptance, and use of federal or state funds for this project. Also, the Subgrantee assures and certifies that:

A. It possesses legal authority to apply for the grant; and that a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained in the application, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide any additional information that may be required.

B. It and its subcontractors will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), as amended, and in accordance with that Act, no person shall discriminate, on the grounds of race, color, sex, national origin, age, religion, or disability.

C. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970, as amended; 42 USC (United States Code) §§4601 et seq.; and United States Department of Transportation (USDOT) regulations, "Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR, Part 24, which provide for fair and equitable treatment of persons displaced as a result of federal and federally assisted programs.

D. It will comply with political activity (Hatch Act) (applies to subrecipients as well as States). The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

E. It will comply with the federal Fair Labor Standards Act's minimum wage and overtime requirements for employees performing project work.

F. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

G. It will give the Department the access to and the right to examine all records, books, papers, or documents related to this Grant Agreement.

H. It will comply with all requirements imposed by the Department concerning special requirements of law, program requirements, and other administrative requirements.

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I. It recognizes that many federal and state laws imposing environmental and resource conservation requirements may apply to this Grant Agreement. Some, but not all, of the major federal laws that may affect the project include: the National Environmental Policy Act of 1969, as amended, 42 USC §§4321 et seq.; the Clean Air Act, as amended, 42 USC §§7401 et seq. and sections of 29 USC; the Federal Water Pollution Control Act, as amended, 33 USC §§1251 et seq.; the Resource Conservation and Recovery Act, as amended, 42 USC §§6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC §§9601 et seq. The Subgrantee also recognizes that the U.S. Environmental Protection Agency, USDOT, and other federal agencies have issued, and in the future are expected to issue, regulations, guidelines, standards, orders, directives, or other requirements that may affect this Project. Thus, it agrees to comply, and assures the compliance of each contractor and each subcontractor, with any federal requirements that the federal government may now or in the future promulgate.

J. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 USC §4012a(a). Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where that insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any form of direct or indirect federal assistance.

K. It will assist the Department in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470 et seq.), Executive Order 11593, and the Antiquities Code of Texas (National Resources Code, Chapter 191).

L. It will comply with Chapter 573 of the Texas Government Code by ensuring that no officer, employee, or member of the Subgrantee's governing board or the Subgrantee's subcontractors shall vote or confirm the employment of any person related within the second degree of affinity or third degree by consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise that person. This prohibition shall not apply to the employment of a person described in Section 573.062 of the Texas Government Code.

M. It will ensure that all information collected, assembled, or maintained by the applicant relative to this project shall be available to the public during normal business hours in compliance with Chapter 552 of the Texas Government Code, unless otherwise expressly provided by law.

N. If applicable, it will comply with Chapter 551 of the Texas Government Code, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.

ARTICLE 3. COMPENSATION

A. The method of payment for this agreement will be based on actual costs incurred up to and not to exceed the limits specified in the Project Budget. The amount included in a Project Budget category will be deemed to be an estimate only and a higher amount can be reimbursed, subject to the conditions specified in paragraph B of this Article. If the Project Budget specifies that costs are based on a specific rate, per-unit cost, or other method of payment, reimbursement will be based on the specified method.

B. All payments will be made in accordance with the Project Budget.

1. The Subgrantee's expenditures may overrun a budget category (I, II, or III) in the approved Project Budget without a grant (budget) amendment, as long as the overrun does not exceed a total of five (5) percent of the maximum amount eligible for reimbursement (TxDOT) in the attached Project Budget for the current fiscal year. This overrun must be off-set by an equivalent underrun elsewhere in the Project Budget.

2. If the overrun is five (5) percent or less, the Subgrantee must provide written notification to the Department, through the TxDOT Electronic Grants Management System (eGrants), prior to the Request for Reimbursement being approved. The notification must indicate the amount, the percent over, and the specific reason(s) for the overrun.

3. Any overrun of more than five (5) percent of the amount eligible for reimbursement (TxDOT) in the attached Project Budget requires an amendment of this Grant Agreement.

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4. The maximum amount eligible for reimbursement shall not be increased above the Grand Total TxDOT Amount in the approved Project Budget, unless this Grant Agreement is amended, as described in Article 5 of this agreement.

5. For Selective Traffic Enforcement Program (STEP) grants only: In the Project Budget, Subgrantees are not allowed to use underrun funds from the TxDOT amount of (100) Salaries, Subcategories A, "Enforcement," or B, "PI&E Activities," to exceed the TxDOT amount listed in Subcategory C, "Other." Also, Subgrantees are not allowed to use underrun funds from the TxDOT amount of (100) Salaries, Subcategories A, "Enforcement," or C, "Other," to exceed the TxDOT amount listed in Subcategory B, "PI&E Activities." The TxDOT amount for Subcategory B, "PI&E Activities," or C, "Other," can only be exceeded within the five (5) percent flexibility, with underrun funds from Budget Categories II or III.

C. To be eligible for reimbursement under this agreement, a cost must be incurred in accordance with the Project Budget, within the time frame specified in the Grant Period of this Grant Agreement, attributable to work covered by this agreement, and which has been completed in a manner satisfactory and acceptable to the Department.

D. Federal or TxDOT funds cannot supplant (replace) funds from any other sources. The term "supplanting," refers to the use of federal or TxDOT funds to support personnel or an activity already supported by local or state funds.

E. Payment of costs incurred under this agreement is further governed by the cost principles outlined in 2 CFR Part 200.

F. The Subgrantee agrees to submit monthly Requests for Reimbursement, as designated in this Grant Agreement, within thirty (30) days after the end of the billing period. The Request for Reimbursement and appropriate supporting documentation must be submitted through eGrants.

G. The Subgrantee agrees to submit the final Request for Reimbursement under this agreement within forty-five (45) days of the end of the grant period.

H. Payments are contingent upon the availability of appropriated funds.

I. Project agreements supported with federal or TxDOT funds are limited to the length of this Grant Period specified in this Grant Agreement. If the Department determines that the project has demonstrated merit or has potential long-range benefits, the Subgrantee may apply for funding assistance beyond the initial agreement period.

Preference for funding will be given to projects based on (1) proposed cost sharing and (2) demonstrated performance history.

ARTICLE 4. LIMITATION OF LIABILITY

Payment of costs incurred under this agreement is contingent upon the availability of funds. If at any time during this Grant Period, the Department determines that there is insufficient funding to continue the project, the Department shall notify the Subgrantee, giving notice of intent to terminate this agreement, as specified in Article 11 of this agreement. If at the end of a federal fiscal year, the Department determines that there is sufficient funding and performance to continue the project, the Department may notify the Subgrantee to continue this agreement.

ARTICLE 5. AMENDMENTS

This agreement may be amended prior to its expiration by mutual written consent of both parties, utilizing the Grant Agreement Amendment in eGrants. Any amendment must be executed by the parties within the Grant Period, as specified in this Grant Agreement.

ARTICLE 6. ADDITIONAL WORK AND CHANGES IN WORK

A. If the Subgrantee is of the opinion that any assigned work is beyond the scope of this agreement and constitutes additional work, the Subgrantee shall promptly notify the Department in writing through eGrants. If the Department finds that such work does constitute additional work, the Department shall advise the Subgrantee and a written amendment to this agreement will be executed according to Article 5, Amendments, to provide

compensation for doing this work on the same basis as the original work. If performance of the additional work will cause the maximum amount payable to be exceeded, the work will not be performed before a written grant amendment is executed.

B. If the Subgrantee has submitted work in accordance with the terms of this agreement but the Department requests changes to the completed work or parts of the work which involve changes to the original scope of services or character of work under this agreement, the Subgrantee shall make those revisions as requested and directed by the Department. This will be considered as additional work and will be paid for as specified in this Article.

C. If the Subgrantee submits work that does not comply with the terms of this agreement, the Department shall instruct the Subgrantee to make any revisions that are necessary to bring the work into compliance with this agreement. No additional compensation shall be paid for this work.

D. The Subgrantee shall make revisions to the work authorized in this agreement that are necessary to correct errors or omissions, when required to do so by the Department. No additional compensation shall be paid for this work.

E. The Department shall not be responsible for actions by the Subgrantee or any costs incurred by the Subgrantee relating to additional work not directly associated with or prior to the execution of an amendment.

ARTICLE 7. REPORTING AND MONITORING

A. Not later than thirty (30) days after the end of each reporting period, the Subgrantee shall submit a performance report through eGrants. Reporting periods vary by project duration and are defined as follows:

1. For short term projects, the reporting period is the duration of the project. Subgrantee shall submit a performance report within 30 days of project completion.
2. For longer projects, the reporting period is monthly. Subgrantee shall submit a performance report within 30 days of the completion of each project month and within 30 days of project completion.
3. For Selective Traffic Enforcement Program (STEP) Wave projects, the reporting period is each billing cycle. Subgrantee shall submit a performance report within 30 days of the completion of each billing cycle.

B. The performance report will include, as a minimum: (1) a comparison of actual accomplishments to the objectives established for the period, (2) reasons why established objectives and performance measures were not met, if appropriate, and (3) other pertinent information, including, when appropriate, an analysis and explanation of cost underruns, overruns, or high unit costs.

C. The Subgrantee shall promptly advise the Department in writing, through eGrants, of events that will have a significant impact upon this agreement, including:

1. Problems, delays, or adverse conditions, including a change of project director or other changes in Subgrantee personnel, that will materially affect the ability to attain objectives and performance measures, prevent the meeting of time schedules and objectives, or preclude the attainment of project objectives or performance measures by the established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Department or federal assistance needed to resolve the situation.
2. Favorable developments or events that enable meeting time schedules and objectives sooner than anticipated or achieving greater performance measure output than originally projected.

D. The Subgrantee shall submit the Final Performance Report through eGrants within thirty (30) days after completion of the grant.

ARTICLE 8. RECORDS

The Subgrantee agrees to maintain all reports, documents, papers, accounting records, books, and other evidence pertaining to costs incurred and work performed under this agreement (called the "Records"), and shall make the Records available at its office for the time period authorized within the Grant Period, as specified in this Grant Agreement. The Subgrantee further agrees to retain the Records for four (4) years from the date of final

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payment under this agreement, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

Duly authorized representatives of the Department, the USDOT, the Office of the Inspector General, Texas State Auditor, and the Comptroller General shall have access to the Records. This right of access is not limited to the four (4) year period but shall last as long as the Records are retained.

ARTICLE 9. INDEMNIFICATION

A. To the extent permitted by law, the Subgrantee, if other than a government entity, shall indemnify, hold, and save harmless the Department and its officers and employees from all claims and liability due to the acts or omissions of the Subgrantee, its agents, or employees. The Subgrantee also agrees, to the extent permitted by law, to indemnify, hold, and save harmless the Department from any and all expenses, including but not limited to attorney fees, all court costs and awards for damages incurred by the Department in litigation or otherwise resisting claims or liabilities as a result of any activities of the Subgrantee, its agents, or employees.

B. To the extent permitted by law, the Subgrantee, if other than a government entity, agrees to protect, indemnify, and save harmless the Department from and against all claims, demands, and causes of action of every kind and character brought by any employee of the Subgrantee against the Department due to personal injuries to or death of any employee resulting from any alleged negligent act, by either commission or omission on the part of the Subgrantee.

C. If the Subgrantee is a government entity, both parties to this agreement agree that no party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds, as well as the acts and deeds of its contractors, employees, representatives, and agents.

ARTICLE 10. DISPUTES AND REMEDIES

This agreement supersedes any prior oral or written agreements. If a conflict arises between this agreement and the Traffic Safety Program Manual, this agreement shall govern. The Subgrantee shall be responsible for the settlement of all contractual and administrative issues arising out of procurement made by the Subgrantee in support of work under this agreement. Disputes concerning performance or payment shall be submitted to the Department for settlement, with the Executive Director or his or her designee acting as final referee.

ARTICLE 11. TERMINATION

A. This agreement shall remain in effect until the Subgrantee has satisfactorily completed all services and obligations described in this agreement and these have been accepted by the Department, unless:

1. This agreement is terminated in writing with the mutual consent of both parties; or
2. There is a written thirty (30) day notice by either party; or
3. The Department determines that the performance of the project is not in the best interest of the Department and informs the Subgrantee that the project is terminated immediately.

B. The Department shall compensate the Subgrantee for only those eligible expenses incurred during the Grant Period specified in this Grant Agreement that are directly attributable to the completed portion of the work covered by this agreement, provided that the work has been completed in a manner satisfactory and acceptable to the Department. The Subgrantee shall not incur nor be reimbursed for any new obligations after the effective date of termination.

ARTICLE 12. INSPECTION OF WORK

A. The Department and, when federal funds are involved, the USDOT, or any of their authorized representatives, have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this agreement and the premises in which it is being performed.

B. If any inspection or evaluation is made on the premises of the Subgrantee or its subcontractor, the Subgrantee shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and

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convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in a manner that will not unduly delay the work.

ARTICLE 13. AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

ARTICLE 14. SUBCONTRACTS

A subcontract in excess of \$25,000 may not be executed by the Subgrantee without prior written concurrence by the Department. Subcontracts in excess of \$25,000 shall contain all applicable terms and conditions of this agreement. No subcontract will relieve the Subgrantee of its responsibility under this agreement.

ARTICLE 15. GRATUITIES

A. Texas Transportation Commission policy mandates that employees of the Department shall not accept any benefit, gift, or favor from any person doing business with or who, reasonably speaking, may do business with the Department under this agreement. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Department's Executive Director.

B. Any person doing business with or who reasonably speaking may do business with the Department under this agreement may not make any offer of benefits, gifts, or favors to Department employees, except as mentioned here above. Failure on the part of the Subgrantee to adhere to this policy may result in termination of this agreement.

ARTICLE 16. NONCOLLUSION

The Subgrantee warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Subgrantee, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. If the Subgrantee breaches or violates this warranty, the Department shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, contingent fee, or gift.

ARTICLE 17. CONFLICT OF INTEREST

The Subgrantee represents that it or its employees have no conflict of interest that would in any way interfere with its or its employees' performance or which in any way conflicts with the interests of the Department. The Subgrantee shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the Department's interests.

ARTICLE 18. SUBGRANTEE'S RESOURCES

A. The Subgrantee certifies that it presently has adequate qualified personnel in its employment to perform the work required under this agreement, or will be able to obtain such personnel from sources other than the Department.

B. All employees of the Subgrantee shall have the knowledge and experience that will enable them to perform the duties assigned to them. Any employee of the Subgrantee who, in the opinion of the Department, is incompetent or whose conduct becomes detrimental to the work, shall immediately be removed from association with the project.

C. Unless otherwise specified, the Subgrantee shall furnish all equipment, materials, supplies, and other

resources required to perform the work.

ARTICLE 19. PROCUREMENT AND PROPERTY MANAGEMENT

The Subgrantee shall establish and administer a system to procure, control, protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this agreement in accordance with its own procurement and property management procedures, provided that the procedures are not in conflict with (1) the Department's procurement and property management standards and (2) the federal procurement and property management standards provided by 2 CFR §§ 200.310-316, 200.318-.324.

ARTICLE 20. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Upon completion or termination of this Grant Agreement, whether for cause or at the convenience of the parties, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc. prepared by the Subgrantee, and equipment and supplies purchased with grant funds shall, at the option of the Department, become the property of the Department. All sketches, photographs, calculations, and other data prepared under this agreement shall be made available, upon request, to the Department without restriction or limitation of their further use.

A. Intellectual property consists of copyrights, patents, and any other form of intellectual property rights covering any databases, software, inventions, training manuals, systems design, or other proprietary information in any form or medium.

B. All rights to Department. The Department shall own all of the rights (including copyrights, copyright applications, copyright renewals, and copyright extensions), title and interests in and to all data, and other information developed under this contract and versions thereof unless otherwise agreed to in writing that there will be joint ownership.

C. All rights to Subgrantee. Classes and materials initially developed by the Subgrantee without any type of funding or resource assistance from the Department remain the Subgrantee's intellectual property. For these classes and materials, the Department payment is limited to payment for attendance at classes.

ARTICLE 21. SUCCESSORS AND ASSIGNS

The Department and the Subgrantee each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of the other party in respect to all covenants of this agreement. The Subgrantee shall not assign, sublet, or transfer interest and obligations in this agreement without written consent of the Department through eGrants.

ARTICLE 22. CIVIL RIGHTS COMPLIANCE

A. Compliance with regulations: The Subgrantee shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (USDOT): 49 CFR, Part 21; 23 CFR, Part 200; and 41 CFR, Parts 60-74, as they may be amended periodically (called the "Regulations"). The Subgrantee agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented by the U.S. Department of Labor regulations (41 CFR, Part 60).

B. Nondiscrimination: (applies to subrecipients as well as States) The State highway safety agency and Subgrantee will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (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), and the Americans with Disabilities Act of 1990 (Pub. L. 101-336), as amended (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Civil Rights Restoration Act of 1987 (Pub. L. 100-259), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities; (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) Sections 523 and 527 of the Public Health Service Act of 1912, as amended (42 U.S.C. 290dd-3 and 290ee-3), relating to

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confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, et seq.), relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

C. Solicitations for subcontracts, including procurement of materials and equipment: In all solicitations either by competitive bidding or negotiation made by the Subgrantee for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subgrantee of the Subgrantee's obligations under this agreement and the regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, age, religion, or disability.

D. Information and reports: The Subgrantee shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the USDOT to be pertinent to ascertain compliance with the Regulations or directives. Where any information required of the Subgrantee is in the exclusive possession of another who fails or refuses to furnish this information, the Subgrantee shall certify that to the Department or the USDOT, whichever is appropriate, and shall set forth what efforts the Subgrantee has made to obtain the requested information.

E. Sanctions for noncompliance: In the event of the Subgrantee's noncompliance with the nondiscrimination provision of this agreement, the Department shall impose such sanctions as it or the USDOT may determine to be appropriate.

F. Incorporation of provisions: The Subgrantee shall include the provisions of paragraphs A. through E. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives. The Subgrantee shall take any action with respect to any subcontract or procurement that the Department may direct as a means of enforcing those provisions, including sanctions for noncompliance. However, in the event a Subgrantee becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Subgrantee may request the Department to enter into litigation to protect the interests of the state; and in addition, the Subgrantee may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 23. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

A. The parties shall comply with the DBE Program requirements established in 49 CFR Part 26.

B. The Subgrantee shall adopt, in its totality, the Department's federally approved DBE program.

C. The Subgrantee shall set an appropriate DBE goal consistent with the Department's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Subgrantee shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.

D. The Subgrantee shall follow all other parts of the Department's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity and attachments found at web address <http://www.txdot.gov/business/partnerships/dbe.html>

E. The Subgrantee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Subgrantee shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of USDOT-assisted contracts. The Department's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Subgrantee of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).

F. Each contract the Subgrantee signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor

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shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

ARTICLE 24. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (applies to subrecipients as well as States)

Instructions for Primary Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ARTICLE 25. CERTIFICATION REGARDING FEDERAL LOBBYING (applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

In executing this agreement, each signatory certifies to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

ARTICLE 26. CHILD SUPPORT CERTIFICATION

Under Section 231.006, Texas Family Code, the Subgrantee certifies that the individual or business entity named in this agreement is not ineligible to receive the specified grant, loan, or payment and acknowledges that this agreement may be terminated and payment may be withheld if this certification is inaccurate. If the above certification is shown to be false, the Subgrantee is liable to the state for attorney's fees and any other damages provided by law or the agreement. A child support obligor or business entity ineligible to receive payments because of a payment delinquency of more than thirty (30) days remains ineligible until: all arrearages have been paid; the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) of Section 231.006, Texas Family Code, as part of a court-supervised effort to improve earnings and child support payments.

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ARTICLE 27. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT REQUIREMENTS

A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

B. The Subgrantee agrees that it shall:

1. Obtain and provide to the State a System for Award Management (SAM) number (48 CFR subpt. 4.11) if this award provides for more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM web-site at: <https://www.sam.gov>
2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

ARTICLE 28. SINGLE AUDIT REPORT

A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR Part 200.

B. If threshold expenditures of \$750,000 or more are met during the Subgrantee's fiscal year, the Subgrantee must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at singleaudits@txdot.gov

C. If expenditures are less than \$750,000 during the Subgrantee's fiscal year, the Subgrantee must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$750,000 expenditure threshold and therefore, are not required to have a single audit performed for FY_____."

D. For each year the project remains open for federal funding expenditures, the Subgrantee will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

ARTICLE 29. BUY AMERICA ACT (applies to subrecipients as well as States)

The State and Subgrantee will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)), which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

ARTICLE 30. RESTRICTION ON STATE LOBBYING (applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or

City of La Porte Police Department
STEP Comprehensive 2019

local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

ARTICLE 31. NONGOVERNMENTAL ENTITY'S PUBLIC INFORMATION [This article applies only to non-profit entities.]

The Subgrantee is required to make any information created or exchanged with the Department pursuant to this Grant Agreement and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the Department. [SB-1368, 83rd Texas Legislature, Regular Session, Effective 9/1/13]

ARTICLE 32. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE (applies to subrecipients as well as States)

The State and each Subgrantee will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

ARTICLE 33. INTERNAL ETHICS AND COMPLIANCE PROGRAM

Subgrantee shall comply with Title 43 Texas Administrative Code §25.906(b). Subgrantee certifies it has adopted an internal ethics and compliance program that satisfies the requirements of Title 43 Texas Administrative Code §10.51 (relating to Internal Ethics and Compliance Program). Subgrantee shall enforce compliance with that program.

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RESPONSIBILITIES OF THE SUBGRANTEE

- A. Carry out all performance measures established in the grant, including fulfilling the law enforcement objectives by implementing the Operational Plan contained in this Grant Agreement.
- B. Submit all required reports to the Department (TxDOT) fully completed with the most current information, and within the required times, as defined in Article 3 and Article 7 of the General Terms and Conditions of this Grant Agreement. This includes reporting to the Department on progress, achievements, and problems in monthly Performance Reports and attaching necessary source documentation to support all costs claimed in Requests for Reimbursement (RFR).
- C. Attend grant related training as requested by the Department.
- D. Attend meetings according to the following:
 - 1. The Department will arrange for meetings with the Subgrantee to present status of activities and to discuss problems and the schedule for the following quarter's work.
 - 2. The project director or other appropriate qualified persons will be available to represent the Subgrantee at meetings requested by the Department.
- E. Support grant enforcement efforts with public information and education (PI&E) activities. Salaries being claimed for PI&E activities must be included in the budget.
- F. When applicable, all newly developed PI&E materials must be submitted to the Department for written approval, through the TxDOT Electronic Grants Management System (eGrants) system messaging, prior to final production. Refer to the Traffic Safety Program Manual regarding PI&E procedures.
- G. For out of state travel expenses to be reimbursable, the Subgrantee must have obtained the written approval of the Department, through eGrants system messaging, prior to the beginning of the trip. Grant approval does not satisfy this requirement.
- H. Maintain verification that all expenses, including wages or salaries, for which reimbursement is requested is for work exclusively related to this project.
- I. Ensure that this grant will in no way supplant (replace) funds from other sources. Supplanting refers to the use of federal funds to support personnel or any activity already supported by local or state funds.
- J. Ensure that each officer working on the STEP project will complete an officer's daily report form. The form should include at a minimum: name, date, badge or identification number, type of grant worked, grant site number, mileage (including starting and ending mileage), hours worked, type of citation issued or arrest made, officer and supervisor signatures.

- K. All STEP agencies must provide the following provision in all daily activity report forms:
"I understand that this information is being submitted to support a claim against a federally-funded grant program. False statements on this form may be prosecutable under 18 USC 1001. This information on this form is true, correct, and complete to the best of my knowledge and ability."
- L. Ensure that no officer above the rank of Lieutenant (or equivalent title) will be reimbursed for enforcement duty, unless the Subgrantee received specific written authorization from the Department, through eGrants system messaging, prior to incurring costs.
- M. Subgrantee may work additional STEP enforcement hours on holidays or special events not covered under the Operational Plan. However, additional work must be approved in writing by the Department, through eGrants system messaging, prior to enforcement. Additional hours must be reported in the Performance Report for the time period for which the additional hours were worked.
- N. If an officer makes a STEP-related arrest during the shift, but does not complete the arrest before the shift is scheduled to end, the officer can continue working under the grant to complete that arrest.
- O. Subgrantees with a traffic unit will utilize traffic personnel for this grant, unless such personnel are unavailable for assignment.
- P. Prior to conducting speed enforcement, the Subgrantee must select and survey enforcement sites that comply with existing state mandated speed limits in accordance with the Texas Transportation Code, Sections 545.352 through 545.356.
- Q. Officers assigned to speed sites should be trained in the use of radar or laser speed measurement devices.
- R. The Subgrantee should have a safety belt use policy. If the Subgrantee does not have a safety belt use policy in place, a policy should be implemented, and a copy maintained for verification during the grant year.
- S. Officers working DWI enforcement must be trained in the National Highway Traffic Safety Administration/International Association of Chiefs of Police Standardized Field Sobriety Testing (SFST). In the case of a first year subgrantee, the officers must be trained, or scheduled to be SFST trained, by the end of the grant year. For second or subsequent year grants, all officers working DWI enforcement must be SFST trained.
- T. The Subgrantee should have a procedure in place for contacting and using drug recognition experts (DREs) when necessary.
- U. The Subgrantee is encouraged to use the DWI On-line Reporting System available through the Buckle Up Texas Web site at www.buckleuptexas.com.

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RESPONSIBILITIES OF THE DEPARTMENT

- A. Monitor the Subgrantee's compliance with the performance obligations and fiscal requirements of this Grant Agreement using appropriate and necessary monitoring and inspections, including but not limited to:
1. review of periodic reports
 2. physical inspection of project records and supporting documentation
 3. telephone conversations
 4. e-mails and letters
 5. quarterly review meetings
 6. eGrants
- B. Provide program management and technical assistance.
- C. Attend appropriate meetings.
- D. Reimburse the Subgrantee for all eligible costs as defined in the project budget. Requests for Reimbursement will be processed up to the maximum amount payable as indicated in the project budget.
- E. Perform an administrative review of the project at the close of the grant period to:
1. Ascertain whether or not the project objectives were met
 2. Review project accomplishments (performance measures completed, targets achieved)
 3. Account for any approved Program Income earned and expended
 4. Identify exemplary performance or best practices

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GOALS AND STRATEGIES

Goal: To increase effective enforcement and adjudication of traffic safety-related laws to reduce crashes, fatalities, and injuries.

Strategies: Increase and sustain high visibility enforcement of traffic safety-related laws.
Increase public education and information campaigns regarding enforcement activities.

Goal: To reduce the number of alcohol impaired and driving under the influence of alcohol and other drug-related crashes, injuries, and fatalities.

Strategy: Increase and sustain high visibility enforcement of DWI laws.

Goal: To increase occupant restraint use in all passenger vehicles and trucks.

Strategy: Increase and sustain high visibility enforcement of occupant protection laws.

Goal: To reduce the number of speed-related crashes, injuries, and fatalities.

Strategy: Increase and sustain high visibility enforcement of speed-related laws.

Goal: To reduce intersection-related motor vehicle crashes, injuries, and fatalities.

Strategy: Increase and sustain high visibility enforcement of Intersection Traffic Control (ITC) laws.

Goal: To reduce Distracted Driving motor vehicle crashes, injuries, and fatalities.

Strategies: Increase and sustain high visibility enforcement of state and local ordinances on cellular and texting devices.
Increase public information and education on Distracted Driving related traffic issues.

I agree to the above goals and strategies.

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BASELINE INFORMATION

Baseline Definition: A number serving as a foundation for subgrantees to measure pre-grant traffic enforcement activity. Baseline information must be provided by the subgrantee in order to identify local traffic enforcement related activity. This information should exclude any activity generated with STEP grant dollars. Once the baseline is established, these figures will be used to compare subsequent year's local and grant traffic enforcement activity.

Note: Baseline data used must be no older than 2016.

Baseline Year (12 months) **From 10/1/2016 To 9/30/2017**

<u>Baseline Measure</u>	<u>Arrests/Citations</u>	<u>Written Warnings</u>	<u>KA Crashes</u>
Driving Under Influence (DUI)	187	0	6
Speed	1661	556	2
Safety Belt	24	2	2
Child Safety Seat	13	0	
Intersection Traffic Control (ITC)	228	34	5
Distracted Driving Citations	0	12	0
Other Elements	4096	408	6

If you have additional attachments, provide them on the "Attachments" page.

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LAW ENFORCEMENT OBJECTIVE/PERFORMANCE MEASURE

Objective/Performance Measure	Target Number	Not Applicable
Reduce the number of Driving Under Influence (DUI) crashes to	3	
Reduce the number of Speed-related crashes to	1	
Reduce the number of Safety Belt-related crashes to	0	
Reduce the number of Child Safety Seat-related crashes to	0	
Reduce the number of ITC-related crashes to	4	
Reduce the number of Distracted Driving-related crashes to		X
Number of Enforcement Hours	1100	

Note: Nothing in this agreement shall be interpreted as a requirement, formal or informal, that a peace officer issue a specified or predetermined number of citations in pursnauce of the Subgrantee's obligations hereunder. Department and Subgrantee acknowledge that Texas Transportation Code Section 720.002 prohibits using traffic-offense quotas and agree that nothing in this Agreement is establishing an illegal quota.

In addition to the STEP enforcement activities, the subgrantee must maintain baseline non-STEP funded citation and arrest activity due to the prohibition of supplanting.

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PI&E OBJECTIVE/PERFORMANCE MEASURE

Objectives/Performance Measure	Target Number
Support Grant efforts with a public information and education (PI&E) program	
a. Conduct presentations	10
b. Conduct media exposures (e.g. news conferences, news releases, and interviews)	10
c. Conduct community events (e.g. health fairs, booths)	3

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OPERATIONAL PLAN

Zone Name : Zone 1
Zone Location : State Hwy 225 from West City Limits to State Hwy 146.
Zone Hours : 24 hours a day; 7 days a week.
Zone Heat Map : (attach) https://www.dot.state.tx.us/apps/egrants/_Upload/790743-Zone1.pdf

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OPERATIONAL PLAN

Zone Name : Zone 2
Zone Location : State Hwy 146 from Northern City Limits to Southern City Limits.
Zone Hours : 24 Hours a day; 7 days a week
Zone Heat Map : (attach) https://www.dot.state.tx.us/apps/egrants/_Upload/790980-Zone2.pdf

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OPERATIONAL PLAN

Zone Name : Zone 3

Zone Location : From Underwood and P Street to Spencer Hwy. Spencer Hwy to Luella. Luella to Fairmont Pkwy. Fairmont Pkwy East to Bay Area Blvd. Bay Area Blvd (road name changes to Sens Rd.) North to P Street. P Street West to Underwood.

Zone Hours : 24 Hours a day; 7 days a week

Zone Heat

Map : https://www.dot.state.tx.us/apps/egrants/_Upload/790987-Zone3.pdf
(attach)

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OPERATIONAL PLAN

Zone Name : Zone 4

Zone Location : From Sens Rd (name changes to Bay Blvd) and State Hwy 225 South to Fairmont Pkwy. Fairmont Pkwy. East to 16th St. 16th St South to Wharton Weems. Wharton Weems to State Hwy 146. State Hwy 146 to McCabe. McCabe to S. Broadway. S. Broadway to Barbours Cut. Barbours Cut to State Hwy 146. State Hwy 146 to State Hwy 225. State Hwy 225 to Sens Rd.

Zone Hours : 24 Hours a day; 7 days a week

Zone Heat

Map : https://www.dot.state.tx.us/apps/egrants/_Upload/791000-Zone4.pdf
(attach)

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BUDGET SUMMARY

Budget Category		TxDOT	Match	Total
Category I - Labor Costs				
(100)	Salaries:	\$44,977.80	\$23,447.35	\$68,425.15
(200)	Fringe Benefits:	\$0	\$17,821.65	\$17,821.65
	Sub-Total:	\$44,977.80	\$41,269.00	\$86,246.80
Category II - Other Direct Costs				
(300)	Travel:	\$0	\$8,740.00	\$8,740.00
(400)	Equipment:	\$0	\$0	\$0
(500)	Supplies:	\$0	\$0	\$0
(600)	Contractual Services:	\$0	\$0	\$0
(700)	Other Miscellaneous:	\$0	\$0	\$0
	Sub-Total:	\$0	\$8,740.00	\$8,740.00
Total Direct Costs:		\$44,977.80	\$50,009.00	\$94,986.80
Category III - Indirect Costs				
(800)	Indirect Cost Rate:	\$0	\$0	\$0
Summary				
	Total Labor Costs:	\$44,977.80	\$41,269.00	\$86,246.80
	Total Direct Costs:	\$0	\$8,740.00	\$8,740.00
	Total Indirect Costs:	\$0	\$0	\$0
Grand Total		\$44,977.80	\$50,009.00	\$94,986.80
	Fund Sources (Percent Share):	47.35%	52.65%	
Salary and cost rates will be based on the rates submitted by the Subgrantee in its grant application in Egrants.				

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>August 27, 2018</u>
Requested By: <u>Ron Parker</u>
Department: <u>Police</u>
Report: <u> </u> Resolution: <u> X </u> Ordinance: <u> </u>

<u>Budget</u>
Source of Funds: <u>Grant Fund</u>
Account Number: <u>03252535211020</u>
Amount Budgeted: <u>\$12,000</u>
Amount Requested: <u>\$12,000</u>
Budgeted Item: <u>YES</u> NO

Exhibits: Commercial Motor Vehicle
STEP Resolution

Exhibits: Texas Traffic Safety Program Grant
Agreement

Exhibits

SUMMARY & RECOMMENDATION

The La Porte Police Department has made its annual application for the TXDOT "S.T.E.P. CMV" grant concerning overtime reimbursement for Commercial Motor Vehicles for the fiscal year 2018-19. This will be the first year this the department has applied for this grant. TXDOT has preliminarily approved the award and forwarded the attached grant agreement for City Council's consideration and approval.

The grant will reimburse the City up to \$12,000 with matching contributions from the City of \$4,233.60.

Although the grant pays only base salary, as in past years, the police department will continue to meet the match through administrative costs, employee benefits, mileage, fuel, and City funded Speed and Intersection Control overtime.

Action Required by Council:

Authorize Resolution for City Manager to sign grant award and other documents for Commercial Motor Vehicle STEP grant.

Approved for City Council Agenda

Corby Alexander, City Manager

Date



RESOLUTION

* * * *

WHEREAS, injuries and deaths from commercial motor vehicle traffic violations and crashes bring loss and suffering to the citizens of this community; and

WHEREAS, the cost of such injuries brings economic hardship to families and communities; and

WHEREAS, the community's health care system and emergency response resources are significantly impacted by injuries of commercial motor vehicle traffic crashes; and

WHEREAS, research shows that speed is a causative factor in many commercial motor vehicle traffic crashes; and

WHEREAS, failure to obey traffic control devices, signs and signals at intersections causes many commercial motor vehicle traffic crashes;

WHEREAS, the National Highway Traffic Safety Administration statistics have shown that reducing speed limit and traffic control violators prevents crashes, saves lives and reduces non-fatal injuries while resulting in economic savings to society; and

WHEREAS, the Commercial Motor Vehicle STEP includes public education and intensified law enforcement to get the community and drivers of commercial motor vehicles to comply with speed limits and traffic control devices, signs and signals therefore protecting the occupants of commercial motor vehicles and others on the roadways;

NOW THEREFORE, BE IT RESOLVED that the City of La Porte approves the City Manager to execute all documents for CMV STEP Grant for October 1, 2018 through September 30, 2019; joining public and private sector leaders across Texas supporting the campaign; urging all residents and visitors of La Porte to abide by traffic laws, to protect life and the quality of life in this community.

Signed by:

Authorized Official

ATTEST:

APPROVED:

City Secretary

Mayor, City of La Porte

**Texas Department Of Transportation - Traffic Safety
 Electronic Signature Authorization Form**

This form identifies the person(s) who have the authority to sign grant agreements and amendments for the Grant ID listed at the bottom of the page.

Name Of Organization: City of La Porte

Project Title: STEP CMV

Authorizing Authority	
The signatory of the Subgrantee hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this agreement and that she/he has full and complete authority to enter into the agreement on behalf of the organization. I authorize the person(s) listed under the section "Authorized to Electronically Sign Grant Agreements and Amendments" to enter into an agreement on behalf of the organization.	
Name:	Corby ALEXANDER
Title:	City MANAGER
Signature:	
Date:	
Under the authority of Ordinance or Resolution Number (if applicable)	

Authorized to Electronically Sign Grant Agreements and Amendments		
List Subgrantee Administrators who have complete authority to enter into an agreement on behalf of the organization.		
	Print Name of Subgrantee Administrator in TxDOT Traffic Safety eGrants	Title
1.	MARCUS Upchurch	S6T./Project Admin
2.	Corby Alexander	CITY MANAGER
3.	Ronald Parker	Asst. Chief Parker

Texas Traffic Safety eGrants

Fiscal Year 2019

Organization Name: City of La Porte Police Department

Legal Name: City of La Porte

Payee Identification Number: 17460015526006

Project Title: STEP CMV

ID: 2019-LaPorte-S-CMV-00011

Period: 10/01/2018 to 09/30/2019

FOR REVIEW ONLY - NOT A LEGAL DOCUMENT

TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

THE STATE OF TEXAS
THE COUNTY OF TRAVIS

THIS AGREEMENT IS MADE BY and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the Department and the, **City of La Porte** hereinafter called the Subgrantee, and becomes effective then fully executed by both parties. For the purpose of this agreement, the Subgrantee is designated as a(n) **Local Government/Transit District**.

AUTHORITY: Texas Transportation Code, Chapter 723, the Traffic Safety Act of 1967, and the Highway Safety Performance Plan for the Fiscal Year 2019.

Name of the Federal Agency: **National Highway Traffic Safety Administration**

CFDA Number:
CFDA Title:
Funding Source: Section
DUNS: **010804755**
FAIN:

Project Title: **STEP CMV**
This project is **Not Research and Development**

Grant Period: This Grant becomes effective on **10/01/2018** or on the date of final signature of both parties, whichever is later, and ends on **09/30/2019** unless terminated or otherwise modified.

Total Awarded: **\$16,233.60**
Amount Eligible for Reimbursement by the Department: **\$12,000.00**
Match Amount provided by the Subgrantee: **\$4,233.60**

FOR REVIEW ONLY - NOT A LEGAL DOCUMENT

TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

The signatory of the Subgrantee hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this agreement and that she/he has full and complete authority to enter into this agreement on behalf of the organization.

Subgrantee Signature

By checking this box, I agree to use electronic signatures. Furthermore, I confirm that I have signature authority to execute this document and it is an electronic representation of my signature for all purposes when I use it on documents, including legally binding contracts—just the same as a pen-and-paper signature.

Name:

Title:

Date:

TxDOT Signature

By checking this box, I agree to use electronic signatures. Furthermore, I confirm that I have signature authority to execute this document and it is an electronic representation of my signature for all purposes when I use it on documents, including legally binding contracts—just the same as a pen-and-paper signature.

Name:

Title:

Date:

Texas Traffic Safety Program

GRANT AGREEMENT GENERAL TERMS AND CONDITIONS

Definitions: For purposes of these Terms and Conditions, the "Department" is also known as the "State" and the "prospective primary participant" and the "Subgrantee" is also known as the "Subrecipient" and "prospective lower tier participant"

ARTICLE 1. COMPLIANCE WITH LAWS

The Subgrantee shall comply with all federal, state, and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this agreement, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws and regulations, and licensing laws and regulations. When required, the Subgrantee shall furnish the Department with satisfactory proof of compliance.

ARTICLE 2. STANDARD ASSURANCES

The Subgrantee assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including 2 CFR, Part 200; and the Department's Traffic Safety Program Manual, as they relate to the application, acceptance, and use of federal or state funds for this project. Also, the Subgrantee assures and certifies that:

A. It possesses legal authority to apply for the grant; and that a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained in the application, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide any additional information that may be required.

B. It and its subcontractors will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), as amended, and in accordance with that Act, no person shall discriminate, on the grounds of race, color, sex, national origin, age, religion, or disability.

C. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970, as amended; 42 USC (United States Code) §§4601 et seq.; and United States Department of Transportation (USDOT) regulations, "Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR, Part 24, which provide for fair and equitable treatment of persons displaced as a result of federal and federally assisted programs.

D. It will comply with political activity (Hatch Act) (applies to subrecipients as well as States). The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

E. It will comply with the federal Fair Labor Standards Act's minimum wage and overtime requirements for employees performing project work.

F. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

G. It will give the Department the access to and the right to examine all records, books, papers, or documents related to this Grant Agreement.

H. It will comply with all requirements imposed by the Department concerning special requirements of law, program requirements, and other administrative requirements.

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STEP CMV 2019

I. It recognizes that many federal and state laws imposing environmental and resource conservation requirements may apply to this Grant Agreement. Some, but not all, of the major federal laws that may affect the project include: the National Environmental Policy Act of 1969, as amended, 42 USC §§4321 et seq.; the Clean Air Act, as amended, 42 USC §§7401 et seq. and sections of 29 USC; the Federal Water Pollution Control Act, as amended, 33 USC §§1251 et seq.; the Resource Conservation and Recovery Act, as amended, 42 USC §§6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC §§9601 et seq. The Subgrantee also recognizes that the U.S. Environmental Protection Agency, USDOT, and other federal agencies have issued, and in the future are expected to issue, regulations, guidelines, standards, orders, directives, or other requirements that may affect this Project. Thus, it agrees to comply, and assures the compliance of each contractor and each subcontractor, with any federal requirements that the federal government may now or in the future promulgate.

J. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 USC §4012a(a). Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where that insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any form of direct or indirect federal assistance.

K. It will assist the Department in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470 et seq.), Executive Order 11593, and the Antiquities Code of Texas (National Resources Code, Chapter 191).

L. It will comply with Chapter 573 of the Texas Government Code by ensuring that no officer, employee, or member of the Subgrantee's governing board or the Subgrantee's subcontractors shall vote or confirm the employment of any person related within the second degree of affinity or third degree by consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise that person. This prohibition shall not apply to the employment of a person described in Section 573.062 of the Texas Government Code.

M. It will ensure that all information collected, assembled, or maintained by the applicant relative to this project shall be available to the public during normal business hours in compliance with Chapter 552 of the Texas Government Code, unless otherwise expressly provided by law.

N. If applicable, it will comply with Chapter 551 of the Texas Government Code, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.

ARTICLE 3. COMPENSATION

A. The method of payment for this agreement will be based on actual costs incurred up to and not to exceed the limits specified in the Project Budget. The amount included in a Project Budget category will be deemed to be an estimate only and a higher amount can be reimbursed, subject to the conditions specified in paragraph B of this Article. If the Project Budget specifies that costs are based on a specific rate, per-unit cost, or other method of payment, reimbursement will be based on the specified method.

B. All payments will be made in accordance with the Project Budget.

1. The Subgrantee's expenditures may overrun a budget category (I, II, or III) in the approved Project Budget without a grant (budget) amendment, as long as the overrun does not exceed a total of five (5) percent of the maximum amount eligible for reimbursement (TxDOT) in the attached Project Budget for the current fiscal year. This overrun must be off-set by an equivalent underrun elsewhere in the Project Budget.

2. If the overrun is five (5) percent or less, the Subgrantee must provide written notification to the Department, through the TxDOT Electronic Grants Management System (eGrants), prior to the Request for Reimbursement being approved. The notification must indicate the amount, the percent over, and the specific reason(s) for the overrun.

3. Any overrun of more than five (5) percent of the amount eligible for reimbursement (TxDOT) in the attached Project Budget requires an amendment of this Grant Agreement.

City of La Porte Police Department
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4. The maximum amount eligible for reimbursement shall not be increased above the Grand Total TxDOT Amount in the approved Project Budget, unless this Grant Agreement is amended, as described in Article 5 of this agreement.

5. For Selective Traffic Enforcement Program (STEP) grants only: In the Project Budget, Subgrantees are not allowed to use underrun funds from the TxDOT amount of (100) Salaries, Subcategories A, "Enforcement," or B, "PI&E Activities," to exceed the TxDOT amount listed in Subcategory C, "Other." Also, Subgrantees are not allowed to use underrun funds from the TxDOT amount of (100) Salaries, Subcategories A, "Enforcement," or C, "Other," to exceed the TxDOT amount listed in Subcategory B, "PI&E Activities." The TxDOT amount for Subcategory B, "PI&E Activities," or C, "Other," can only be exceeded within the five (5) percent flexibility, with underrun funds from Budget Categories II or III.

C. To be eligible for reimbursement under this agreement, a cost must be incurred in accordance with the Project Budget, within the time frame specified in the Grant Period of this Grant Agreement, attributable to work covered by this agreement, and which has been completed in a manner satisfactory and acceptable to the Department.

D. Federal or TxDOT funds cannot supplant (replace) funds from any other sources. The term "supplanting," refers to the use of federal or TxDOT funds to support personnel or an activity already supported by local or state funds.

E. Payment of costs incurred under this agreement is further governed by the cost principles outlined in 2 CFR Part 200.

F. The Subgrantee agrees to submit monthly Requests for Reimbursement, as designated in this Grant Agreement, within thirty (30) days after the end of the billing period. The Request for Reimbursement and appropriate supporting documentation must be submitted through eGrants.

G. The Subgrantee agrees to submit the final Request for Reimbursement under this agreement within forty-five (45) days of the end of the grant period.

H. Payments are contingent upon the availability of appropriated funds.

I. Project agreements supported with federal or TxDOT funds are limited to the length of this Grant Period specified in this Grant Agreement. If the Department determines that the project has demonstrated merit or has potential long-range benefits, the Subgrantee may apply for funding assistance beyond the initial agreement period.

Preference for funding will be given to projects based on (1) proposed cost sharing and (2) demonstrated performance history.

ARTICLE 4. LIMITATION OF LIABILITY

Payment of costs incurred under this agreement is contingent upon the availability of funds. If at any time during this Grant Period, the Department determines that there is insufficient funding to continue the project, the Department shall notify the Subgrantee, giving notice of intent to terminate this agreement, as specified in Article 11 of this agreement. If at the end of a federal fiscal year, the Department determines that there is sufficient funding and performance to continue the project, the Department may notify the Subgrantee to continue this agreement.

ARTICLE 5. AMENDMENTS

This agreement may be amended prior to its expiration by mutual written consent of both parties, utilizing the Grant Agreement Amendment in eGrants. Any amendment must be executed by the parties within the Grant Period, as specified in this Grant Agreement.

ARTICLE 6. ADDITIONAL WORK AND CHANGES IN WORK

A. If the Subgrantee is of the opinion that any assigned work is beyond the scope of this agreement and constitutes additional work, the Subgrantee shall promptly notify the Department in writing through eGrants. If the Department finds that such work does constitute additional work, the Department shall advise the Subgrantee and a written amendment to this agreement will be executed according to Article 5, Amendments, to provide

compensation for doing this work on the same basis as the original work. If performance of the additional work will cause the maximum amount payable to be exceeded, the work will not be performed before a written grant amendment is executed.

B. If the Subgrantee has submitted work in accordance with the terms of this agreement but the Department requests changes to the completed work or parts of the work which involve changes to the original scope of services or character of work under this agreement, the Subgrantee shall make those revisions as requested and directed by the Department. This will be considered as additional work and will be paid for as specified in this Article.

C. If the Subgrantee submits work that does not comply with the terms of this agreement, the Department shall instruct the Subgrantee to make any revisions that are necessary to bring the work into compliance with this agreement. No additional compensation shall be paid for this work.

D. The Subgrantee shall make revisions to the work authorized in this agreement that are necessary to correct errors or omissions, when required to do so by the Department. No additional compensation shall be paid for this work.

E. The Department shall not be responsible for actions by the Subgrantee or any costs incurred by the Subgrantee relating to additional work not directly associated with or prior to the execution of an amendment.

ARTICLE 7. REPORTING AND MONITORING

A. Not later than thirty (30) days after the end of each reporting period, the Subgrantee shall submit a performance report through eGrants. Reporting periods vary by project duration and are defined as follows:

1. For short term projects, the reporting period is the duration of the project. Subgrantee shall submit a performance report within 30 days of project completion.

2. For longer projects, the reporting period is monthly. Subgrantee shall submit a performance report within 30 days of the completion of each project month and within 30 days of project completion.

3. For Selective Traffic Enforcement Program (STEP) Wave projects, the reporting period is each billing cycle. Subgrantee shall submit a performance report within 30 days of the completion of each billing cycle.

B. The performance report will include, as a minimum: (1) a comparison of actual accomplishments to the objectives established for the period, (2) reasons why established objectives and performance measures were not met, if appropriate, and (3) other pertinent information, including, when appropriate, an analysis and explanation of cost underruns, overruns, or high unit costs.

C. The Subgrantee shall promptly advise the Department in writing, through eGrants, of events that will have a significant impact upon this agreement, including:

1. Problems, delays, or adverse conditions, including a change of project director or other changes in Subgrantee personnel, that will materially affect the ability to attain objectives and performance measures, prevent the meeting of time schedules and objectives, or preclude the attainment of project objectives or performance measures by the established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Department or federal assistance needed to resolve the situation.

2. Favorable developments or events that enable meeting time schedules and objectives sooner than anticipated or achieving greater performance measure output than originally projected.

D. The Subgrantee shall submit the Final Performance Report through eGrants within thirty (30) days after completion of the grant.

ARTICLE 8. RECORDS

The Subgrantee agrees to maintain all reports, documents, papers, accounting records, books, and other evidence pertaining to costs incurred and work performed under this agreement (called the "Records"), and shall make the Records available at its office for the time period authorized within the Grant Period, as specified in this Grant Agreement. The Subgrantee further agrees to retain the Records for four (4) years from the date of final

payment under this agreement, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

Duly authorized representatives of the Department, the USDOT, the Office of the Inspector General, Texas State Auditor, and the Comptroller General shall have access to the Records. This right of access is not limited to the four (4) year period but shall last as long as the Records are retained.

ARTICLE 9. INDEMNIFICATION

A. To the extent permitted by law, the Subgrantee, if other than a government entity, shall indemnify, hold, and save harmless the Department and its officers and employees from all claims and liability due to the acts or omissions of the Subgrantee, its agents, or employees. The Subgrantee also agrees, to the extent permitted by law, to indemnify, hold, and save harmless the Department from any and all expenses, including but not limited to attorney fees, all court costs and awards for damages incurred by the Department in litigation or otherwise resisting claims or liabilities as a result of any activities of the Subgrantee, its agents, or employees.

B. To the extent permitted by law, the Subgrantee, if other than a government entity, agrees to protect, indemnify, and save harmless the Department from and against all claims, demands, and causes of action of every kind and character brought by any employee of the Subgrantee against the Department due to personal injuries to or death of any employee resulting from any alleged negligent act, by either commission or omission on the part of the Subgrantee.

C. If the Subgrantee is a government entity, both parties to this agreement agree that no party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds, as well as the acts and deeds of its contractors, employees, representatives, and agents.

ARTICLE 10. DISPUTES AND REMEDIES

This agreement supersedes any prior oral or written agreements. If a conflict arises between this agreement and the Traffic Safety Program Manual, this agreement shall govern. The Subgrantee shall be responsible for the settlement of all contractual and administrative issues arising out of procurement made by the Subgrantee in support of work under this agreement. Disputes concerning performance or payment shall be submitted to the Department for settlement, with the Executive Director or his or her designee acting as final referee.

ARTICLE 11. TERMINATION

A. This agreement shall remain in effect until the Subgrantee has satisfactorily completed all services and obligations described in this agreement and these have been accepted by the Department, unless:

1. This agreement is terminated in writing with the mutual consent of both parties; or
2. There is a written thirty (30) day notice by either party; or
3. The Department determines that the performance of the project is not in the best interest of the Department and informs the Subgrantee that the project is terminated immediately.

B. The Department shall compensate the Subgrantee for only those eligible expenses incurred during the Grant Period specified in this Grant Agreement that are directly attributable to the completed portion of the work covered by this agreement, provided that the work has been completed in a manner satisfactory and acceptable to the Department. The Subgrantee shall not incur nor be reimbursed for any new obligations after the effective date of termination.

ARTICLE 12. INSPECTION OF WORK

A. The Department and, when federal funds are involved, the USDOT, or any of their authorized representatives, have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this agreement and the premises in which it is being performed.

B. If any inspection or evaluation is made on the premises of the Subgrantee or its subcontractor, the Subgrantee shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and

City of La Porte Police Department
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convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in a manner that will not unduly delay the work.

ARTICLE 13. AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

ARTICLE 14. SUBCONTRACTS

A subcontract in excess of \$25,000 may not be executed by the Subgrantee without prior written concurrence by the Department. Subcontracts in excess of \$25,000 shall contain all applicable terms and conditions of this agreement. No subcontract will relieve the Subgrantee of its responsibility under this agreement.

ARTICLE 15. GRATUITIES

A. Texas Transportation Commission policy mandates that employees of the Department shall not accept any benefit, gift, or favor from any person doing business with or who, reasonably speaking, may do business with the Department under this agreement. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Department's Executive Director.

B. Any person doing business with or who reasonably speaking may do business with the Department under this agreement may not make any offer of benefits, gifts, or favors to Department employees, except as mentioned here above. Failure on the part of the Subgrantee to adhere to this policy may result in termination of this agreement.

ARTICLE 16. NONCOLLUSION

The Subgrantee warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Subgrantee, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. If the Subgrantee breaches or violates this warranty, the Department shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, contingent fee, or gift.

ARTICLE 17. CONFLICT OF INTEREST

The Subgrantee represents that it or its employees have no conflict of interest that would in any way interfere with its or its employees' performance or which in any way conflicts with the interests of the Department. The Subgrantee shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the Department's interests.

ARTICLE 18. SUBGRANTEE'S RESOURCES

A. The Subgrantee certifies that it presently has adequate qualified personnel in its employment to perform the work required under this agreement, or will be able to obtain such personnel from sources other than the Department.

B. All employees of the Subgrantee shall have the knowledge and experience that will enable them to perform the duties assigned to them. Any employee of the Subgrantee who, in the opinion of the Department, is incompetent or whose conduct becomes detrimental to the work, shall immediately be removed from association with the project.

C. Unless otherwise specified, the Subgrantee shall furnish all equipment, materials, supplies, and other

resources required to perform the work.

ARTICLE 19. PROCUREMENT AND PROPERTY MANAGEMENT

The Subgrantee shall establish and administer a system to procure, control, protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this agreement in accordance with its own procurement and property management procedures, provided that the procedures are not in conflict with (1) the Department's procurement and property management standards and (2) the federal procurement and property management standards provided by 2 CFR §§ 200.310-316, 200.318-324.

ARTICLE 20. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Upon completion or termination of this Grant Agreement, whether for cause or at the convenience of the parties, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc. prepared by the Subgrantee, and equipment and supplies purchased with grant funds shall, at the option of the Department, become the property of the Department. All sketches, photographs, calculations, and other data prepared under this agreement shall be made available, upon request, to the Department without restriction or limitation of their further use.

A. Intellectual property consists of copyrights, patents, and any other form of intellectual property rights covering any databases, software, inventions, training manuals, systems design, or other proprietary information in any form or medium.

B. All rights to Department. The Department shall own all of the rights (including copyrights, copyright applications, copyright renewals, and copyright extensions), title and interests in and to all data, and other information developed under this contract and versions thereof unless otherwise agreed to in writing that there will be joint ownership.

C. All rights to Subgrantee. Classes and materials initially developed by the Subgrantee without any type of funding or resource assistance from the Department remain the Subgrantee's intellectual property. For these classes and materials, the Department payment is limited to payment for attendance at classes.

ARTICLE 21. SUCCESSORS AND ASSIGNS

The Department and the Subgrantee each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of the other party in respect to all covenants of this agreement. The Subgrantee shall not assign, sublet, or transfer interest and obligations in this agreement without written consent of the Department through eGrants.

ARTICLE 22. CIVIL RIGHTS COMPLIANCE

A. Compliance with regulations: The Subgrantee shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (USDOT): 49 CFR, Part 21; 23 CFR, Part 200; and 41 CFR, Parts 60-74, as they may be amended periodically (called the "Regulations"). The Subgrantee agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented by the U.S. Department of Labor regulations (41 CFR, Part 60).

B. Nondiscrimination: (applies to subrecipients as well as States) The State highway safety agency and Subgrantee will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (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), and the Americans with Disabilities Act of 1990 (Pub. L. 101-336), as amended (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Civil Rights Restoration Act of 1987 (Pub. L. 100-259), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities; (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) Sections 523 and 527 of the Public Health Service Act of 1912, as amended (42 U.S.C. 290dd-3 and 290ee-3), relating to

confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, et seq.), relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

C. Solicitations for subcontracts, including procurement of materials and equipment: In all solicitations either by competitive bidding or negotiation made by the Subgrantee for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subgrantee of the Subgrantee's obligations under this agreement and the regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, age, religion, or disability.

D. Information and reports: The Subgrantee shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the USDOT to be pertinent to ascertain compliance with the Regulations or directives. Where any information required of the Subgrantee is in the exclusive possession of another who fails or refuses to furnish this information, the Subgrantee shall certify that to the Department or the USDOT, whichever is appropriate, and shall set forth what efforts the Subgrantee has made to obtain the requested information.

E. Sanctions for noncompliance: In the event of the Subgrantee's noncompliance with the nondiscrimination provision of this agreement, the Department shall impose such sanctions as it or the USDOT may determine to be appropriate.

F. Incorporation of provisions: The Subgrantee shall include the provisions of paragraphs A. through E. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives. The Subgrantee shall take any action with respect to any subcontract or procurement that the Department may direct as a means of enforcing those provisions, including sanctions for noncompliance. However, in the event a Subgrantee becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Subgrantee may request the Department to enter into litigation to protect the interests of the state; and in addition, the Subgrantee may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 23. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

A. The parties shall comply with the DBE Program requirements established in 49 CFR Part 26.

B. The Subgrantee shall adopt, in its totality, the Department's federally approved DBE program.

C. The Subgrantee shall set an appropriate DBE goal consistent with the Department's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Subgrantee shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.

D. The Subgrantee shall follow all other parts of the Department's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity and attachments found at web address <http://www.txdot.gov/business/partnerships/dbe.html>

E. The Subgrantee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Subgrantee shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of USDOT-assisted contracts. The Department's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Subgrantee of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).

F. Each contract the Subgrantee signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor

shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

ARTICLE 24. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (applies to subrecipients as well as States)

Instructions for Primary Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ARTICLE 25. CERTIFICATION REGARDING FEDERAL LOBBYING (applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

In executing this agreement, each signatory certifies to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

ARTICLE 26. CHILD SUPPORT CERTIFICATION

Under Section 231.006, Texas Family Code, the Subgrantee certifies that the individual or business entity named in this agreement is not ineligible to receive the specified grant, loan, or payment and acknowledges that this agreement may be terminated and payment may be withheld if this certification is inaccurate. If the above certification is shown to be false, the Subgrantee is liable to the state for attorney's fees and any other damages provided by law or the agreement. A child support obligor or business entity ineligible to receive payments because of a payment delinquency of more than thirty (30) days remains ineligible until: all arrearages have been paid; the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) of Section 231.006, Texas Family Code, as part of a court-supervised effort to improve earnings and child support payments.

ARTICLE 27. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT REQUIREMENTS

A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

B. The Subgrantee agrees that it shall:

1. Obtain and provide to the State a System for Award Management (SAM) number (48 CFR subpt. 4.11) if this award provides for more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM web-site at: <https://www.sam.gov>
2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

ARTICLE 28. SINGLE AUDIT REPORT

A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR Part 200.

B. If threshold expenditures of \$750,000 or more are met during the Subgrantee's fiscal year, the Subgrantee must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at singleaudits@txdot.gov

C. If expenditures are less than \$750,000 during the Subgrantee's fiscal year, the Subgrantee must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$750,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."

D. For each year the project remains open for federal funding expenditures, the Subgrantee will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

ARTICLE 29. BUY AMERICA ACT (applies to subrecipients as well as States)

The State and Subgrantee will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)), which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

ARTICLE 30. RESTRICTION ON STATE LOBBYING (applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or

City of La Porte Police Department
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local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

ARTICLE 31. NONGOVERNMENTAL ENTITY'S PUBLIC INFORMATION [This article applies only to non-profit entities.]

The Subgrantee is required to make any information created or exchanged with the Department pursuant to this Grant Agreement and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the Department. [SB-1368, 83rd Texas Legislature, Regular Session, Effective 9/1/13]

ARTICLE 32. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE (applies to subrecipients as well as States)

The State and each Subgrantee will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

ARTICLE 33. INTERNAL ETHICS AND COMPLIANCE PROGRAM

Subgrantee shall comply with Title 43 Texas Administrative Code §25.906(b). Subgrantee certifies it has adopted an internal ethics and compliance program that satisfies the requirements of Title 43 Texas Administrative Code §10.51 (relating to Internal Ethics and Compliance Program). Subgrantee shall enforce compliance with that program.

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RESPONSIBILITIES OF THE SUBGRANTEE

- A. Carry out all performance measures established in the grant, including fulfilling the law enforcement objectives by implementing the Operational Plan contained in this Grant Agreement.
- B. Submit all required reports to the Department (TxDOT) fully completed with the most current information, and within the required times, as defined in Article 3 and Article 7 of the General Terms and Conditions of this Grant Agreement. This includes reporting to the Department on progress, achievements, and problems in monthly Performance Reports and attaching necessary source documentation to support all costs claimed in Requests for Reimbursement (RFR).
- C. Attend grant related training as requested by the Department.
- D. Attend meetings according to the following:
 - 1. The Department will arrange for meetings with the Subgrantee to present status of activities and to discuss problems and the schedule for the following quarter's work.
 - 2. The project director or other appropriate qualified persons will be available to represent the Subgrantee at meetings requested by the Department.
- E. Support grant enforcement efforts with public information and education (PI&E) activities. Salaries being claimed for PI&E activities must be included in the budget.
- F. When applicable, all newly developed PI&E materials must be submitted to the Department for written approval, through the TxDOT Electronic Grants Management System (eGrants) system messaging, prior to final production. Refer to the Traffic Safety Program Manual regarding PI&E procedures.
- G. For out of state travel expenses to be reimbursable, the Subgrantee must have obtained the written approval of the Department, through eGrants system messaging, prior to the beginning of the trip. Grant approval does not satisfy this requirement.
- H. Maintain verification that all expenses, including wages or salaries, for which reimbursement is requested is for work exclusively related to this project.
- I. Ensure that this grant will in no way supplant (replace) funds from other sources. Supplanting refers to the use of federal funds to support personnel or any activity already supported by local or state funds.
- J. Ensure that each officer working on the STEP project will complete an officer's daily report form. The form should include at a minimum: name, date, badge or identification number, type of grant worked, grant site number, mileage (including starting and ending mileage), hours worked, type of citation issued or arrest made, officer and supervisor signatures.

- K. All STEP agencies must provide the following provision in all daily activity report forms:
"I understand that this information is being submitted to support a claim against a federally-funded grant program. False statements on this form may be prosecutable under 18 USC 1001. This information on this form is true, correct, and complete to the best of my knowledge and ability."
- L. Ensure that no officer above the rank of Lieutenant (or equivalent title) will be reimbursed for enforcement duty, unless the Subgrantee received specific written authorization from the Department, through eGrants system messaging, prior to incurring costs.
- M. Subgrantee may work additional STEP enforcement hours on holidays or special events not covered under the Operational Plan. However, additional work must be approved in writing by the Department, through eGrants system messaging, prior to enforcement. Additional hours must be reported in the Performance Report for the time period for which the additional hours were worked.
- N. If an officer makes a STEP-related arrest during the shift, but does not complete the arrest before the shift is scheduled to end, the officer can continue working under the grant to complete that arrest.
- O. Subgrantees with a traffic unit will utilize traffic personnel for this grant, unless such personnel are unavailable for assignment.
- P. Prior to conducting speed enforcement, the Subgrantee must select and survey enforcement sites that comply with existing state mandated speed limits in accordance with the Texas Transportation Code, Sections 545.352 through 545.356.
- Q. Officers assigned to speed sites should be trained in the use of radar or laser speed measurement devices.
- R. The Subgrantee should have a safety belt use policy. If the Subgrantee does not have a safety belt use policy in place, a policy should be implemented, and a copy maintained for verification during the grant year.
- S. Officers working DWI enforcement must be trained in the National Highway Traffic Safety Administration/International Association of Chiefs of Police Standardized Field Sobriety Testing (SFST). In the case of a first year subgrantee, the officers must be trained, or scheduled to be SFST trained, by the end of the grant year. For second or subsequent year grants, all officers working DWI enforcement must be SFST trained.
- T. The Subgrantee should have a procedure in place for contacting and using drug recognition experts (DREs) when necessary.
- U. The Subgrantee is encouraged to use the DWI On-line Reporting System available through the Buckle Up Texas Web site at www.buckleuptexas.com.

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RESPONSIBILITIES OF THE DEPARTMENT

- A. Monitor the Subgrantee's compliance with the performance obligations and fiscal requirements of this Grant Agreement using appropriate and necessary monitoring and inspections, including but not limited to:
1. review of periodic reports
 2. physical inspection of project records and supporting documentation
 3. telephone conversations
 4. e-mails and letters
 5. quarterly review meetings
 6. eGrants
- B. Provide program management and technical assistance.
- C. Attend appropriate meetings.
- D. Reimburse the Subgrantee for all eligible costs as defined in the project budget. Requests for Reimbursement will be processed up to the maximum amount payable as indicated in the project budget.
- E. Perform an administrative review of the project at the close of the grant period to:
1. Ascertain whether or not the project objectives were met
 2. Review project accomplishments (performance measures completed, targets achieved)
 3. Account for any approved Program Income earned and expended
 4. Identify exemplary performance or best practices

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GOALS AND STRATEGIES

Goal: To reduce commercial motor vehicle crashes, injuries, and fatalities involving vehicles with a vehicle body type of "Semi-Trailer" or "Truck-Tractor"

Increase public information and education on sharing the road with commercial motor vehicles (CMV).

Strategies:

Increase public education and information campaigns regarding enforcement activities.

Increase and sustain high visibility enforcement of traffic safety-related laws.

X Agency agrees to the above goals and strategies.

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BASELINE INFORMATION

Baseline Definition: A number serving as a foundation for subgrantees to measure pre-grant traffic enforcement activity. Baseline information must be provided by the subgrantee in order to identify local traffic enforcement related activity. This information should exclude any activity generated with STEP grant dollars. Once the baseline is established, these figures will be used to compare subsequent year's local and grant traffic enforcement activity.

Note: Baseline data used must be no older than 2016.

Baseline Year (12 months) **From 10/1/2016 to 9/30/2017**

<u>Baseline Measure</u>	<u>Arrests/Citations</u>	<u>Written Warnings</u>	<u>KA Crashes</u>
Commercial Motor Vehicle (non STEP)	138	50	2
Other Elements (non STEP)	6299	1010	0

If you have additional attachments, provide them on the "Attachments" page

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LAW ENFORCEMENT OBJECTIVE/PERFORMANCE MEASURE

Objective/Performance Measure	Target Number
Reduce the number of crashes that involve a CMV to	1
Number of Enforcement Hours	240

Note: Nothing in this agreement shall be interpreted as a requirement, formal or informal, that a peace officer issue a specified or predetermined number of citations in pursuance of the Subgrantee's obligations hereunder. Department and Subgrantee acknowledge that Texas Transportation Code Section 720.002 prohibits using traffic-offense quotas and agree that nothing in this Agreement is establishing an illegal quota.

In addition to the STEP enforcement activities, the subgrantee must maintain baseline non-STEP funded citation and arrest activity due to the prohibition of supplanting.

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PI&E OBJECTIVE/PERFORMANCE MEASURE

Objectives/Performance Measure	Target Number
Support Grant efforts with a public information and education (PI&E) program	
a. Conduct presentations	5
b. Conduct media exposures (e.g. news conferences, news releases, and interviews)	10
c. Conduct community events (e.g. health fairs, booths)	3

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OPERATIONAL PLAN

Zone Name : Zone 1
Zone Location : State Hwy 225 from West City Limits to State Hwy 146, Including Sens Rd to P Street.
Zone Hours : 24 hours a day; 7 Days a Week
Zone Heat Map : https://www.dot.state.tx.us/apps/egrants/_Upload/791452-Zone1.pdf
(attach)

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OPERATIONAL PLAN

Zone Name : Zone 2
Zone Location : State Hwy 146 from Northern City Limits to Southern City Limits.
Zone Hours : 24 hours a day; 7 Days a Week
Zone Heat Map : (attach) https://www.dot.state.tx.us/apps/egrants/_Upload/791455-Zone2.pdf

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OPERATIONAL PLAN

Zone Name : Zone 3

Zone Location : From Underwood and P Street to Spencer Hwy. Spencer Hwy to Luella. Luella to Fairmont Pkwy. Fairmont Pkwy East to Bay Area Blvd. Bay Area Blvd (road name changes to Sens Rd.) North to P Street. P Street West to Underwood.

Zone Hours : 24 hours a day; 7 Days a Week

Zone Heat

Map : https://www.dot.state.tx.us/apps/egrants/_Upload/791456-Zone3.pdf
(attach)

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OPERATIONAL PLAN

Zone
Name : Zone 4

Zone
Location : From Sens Rd (name changes to Bay Blvd) and State Hwy 225 South to Fairmont Pkwy. Fairmont Pkwy. East to 16th St. 16th St South to Wharton Weems. Wharton Weems to State Hwy 146. State Hwy 146 to McCabe. McCabe to S. Broadway. S. Broadway to Barbours Cut. Barbours Cut to State Hwy 146. State Hwy 146 to State Hwy 225. State Hwy 225 to Sens Rd.

Zone
Hours : 24 hours a day; 7 Days a Week

Zone Heat

Map : https://www.dot.state.tx.us/apps/egrants/_Upload/791459-Zone4.pdf
(attach)

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BUDGET SUMMARY

Budget Category		TxDOT	Match	Total
Category I - Labor Costs				
(100)	Salaries:	\$12,000.00	\$0	\$12,000.00
(200)	Fringe Benefits:	\$0	\$3,129.60	\$3,129.60
	Sub-Total:	\$12,000.00	\$3,129.60	\$15,129.60
Category II - Other Direct Costs				
(300)	Travel:	\$0	\$1,104.00	\$1,104.00
(400)	Equipment:	\$0	\$0	\$0
(500)	Supplies:	\$0	\$0	\$0
(600)	Contractual Services:	\$0	\$0	\$0
(700)	Other Miscellaneous:	\$0	\$0	\$0
	Sub-Total:	\$0	\$1,104.00	\$1,104.00
Total Direct Costs:		\$12,000.00	\$4,233.60	\$16,233.60
Category III - Indirect Costs				
(800)	Indirect Cost Rate:	\$0	\$0	\$0
Summary				
	Total Labor Costs:	\$12,000.00	\$3,129.60	\$15,129.60
	Total Direct Costs:	\$0	\$1,104.00	\$1,104.00
	Total Indirect Costs:	\$0	\$0	\$0
Grand Total		\$12,000.00	\$4,233.60	\$16,233.60
	Fund Sources (Percent Share):	73.92%	26.08%	
Salary and cost rates will be based on the rates submitted by the Subgrantee in its grant application in Egrants.				

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>August 27, 2018</u>
Requested By: <u>Don Pennell</u>
Department: <u>Public Works</u>
Report: _____ Resolution: _____ Ordinance: _____

<u>Budget</u>
Source of Funds: <u>N/A</u>
Account Number: <u>N/A</u>
Amount Budgeted: <u>N/A</u>
Amount Requested: <u>N/A</u>
Budgeted Item: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Exhibits:

- Area Map
- Approved IDA – Ordinance No. 2007-IDA-17
- Water-Sewer Service Application
- Water Service Agreement
- Sewer Service Agreement

SUMMARY & RECOMMENDATION

Triten Real Estate Partners, approached the City for new water service agreement and sewer service agreement for the BNCL II facility at 4100 Malone Drive, in the Bayport Industrial District. The company intends to construct loading docks with paved driveways and parking spaces.

Council has approved a policy to provide water and sanitary sewer service to companies located outside the city limits and within the City’s industrial districts (ETJ). These companies are required by the policy to maintain a current Industrial District Agreement (IDA) with the City. Additionally, the applicant is subject to an administrative fee of \$6,000 per agreement, for a total combined fee of \$12,000. As required, a non-refundable payment of twenty-five percent (25%) of the total administrative fees has been received, with the remaining balance (\$9,000) to be paid upon approval of the water/sewer service agreements.

Based on the stated demand for domestic uses, the average monthly volume for potable water is 91,500 gallons. Under the terms of the policy, the company will pay one and one-half (1-1/2) times the City’s current utility rate for service. The company will pay two (2) times the City’s current utility rate for service for any additional monthly usage beyond 91,500 gallons.

Based on the stated demand for domestic uses, the average monthly volume for domestic sanitary sewer service is 77,775 gallons. Under the terms of the policy, the company will pay one and one-half (1-1/2) times the City’s current utility rate for service. The company will pay two (2) times the City’s current utility rate for service for any additional monthly usage beyond 77,775 gallons.

The terms of Triten Real Estate Partners’ Water Service Agreement and Sanitary Sewer Service Agreement will expire on December 31, 2019, plus any renewals or extensions thereof. However, these agreements will automatically expire at such time as there is no effective Industrial District Agreement between the parties, or if the City exercises its right of termination.

Action Required by Council:

Consider approval or other action, authorizing the City Manager to execute a Water Service Agreement, and Sanitary Sewer Service Agreement, with Triten Real Estate Partners for its facility at 4100 Malone Drive, in the Bayport Industrial District.

Approved for City Council Agenda

Corby D. Alexander

Date



City of La Porte
 604 W. Fairmont Parkway
 La Porte, TX 77571
 (281) 471-5020
 www.laportetx.gov

La Porte GIS Mapping



Source: Esri, DigitalGlobe, GeoEye, Earthstar/GeoGraphics, CNES/Airbus DS, USDA, AeroGRID, IGN, and the GIS User Community

Legend

1" = 376'



Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2501.102. The user is encouraged to independently verify all information contained in this product. The City of La Porte makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of La Porte from any damage, loss, or liability arising from such use.

ORDINANCE NO. 2007-IDA-17

AN ORDINANCE AUTHORIZING THE EXECUTION BY THE CITY OF LA PORTE OF AN INDUSTRIAL DISTRICT AGREEMENT WITH BAYPORT NORTH INDUSTRIAL PARK II, LTD, A TEAXS LIMITED PARTNERSHIP FOR THE TERM COMMENCING JANUARY 1, 2008, AND ENDING DECEMBER 31, 2019, MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT, FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW, AND PROVIDING AN EFFECTIVE DATE HEROF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE:

Section 1. North Bayport Industrial Park II, Ltd., a Texas Limited Partnership has executed an industrial district agreement with the City of La Porte, for the term commencing January 1, 2008, and ending December 31, 2019, a copy of which is attached hereto, incorporated by reference herein, and made a part hereof for all purposes.

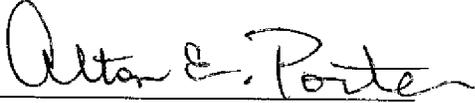
Section 2. The Mayor, the Assistant City Manager, the City Secretary, and the City attorney of the City of La Porte, be and they are hereby, authorized and empowered to execute and deliver on behalf of the City of La Porte, the industrial district agreement with the corporation named in Section 1 hereof.

Section 3. The City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the city for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 4. This Ordinance shall be effective from and after its passage and approval, and it is so ordered.

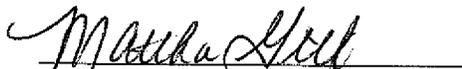
PASSED and **APPROVED**, this 3rd day of December, 2007.

CITY OF LA PORTE



Alton Porter, Mayor

ATTEST:


Martha Gillett, City Secretary

APPROVED:


Knox Askins, City Attorney

RECEIVED

NOV 19 2007

La Porte Tax Office

NO. 2007-IDA- 17 §
STATE OF TEXAS §
COUNTY OF HARRIS §

INDUSTRIAL DISTRICT AGREEMENT

This AGREEMENT made and entered into by and between the CITY OF LA PORTE, TEXAS, a municipal corporation of Harris County, Texas, hereinafter called "CITY", and North Bayport Industrial Park II, Ltd., a Texas limited partnership, hereinafter called "COMPANY",

W I T N E S S E T H:

WHEREAS, it is the established policy of the City Council of the City of La Porte, Texas, to adopt such reasonable measures from time to time as are permitted by law and which will tend to enhance the economic stability and growth of the City and its environs by attracting the location of new and the expansion of existing industries therein, and such policy is hereby reaffirmed and adopted by this City Council as being in the best interest of the City and its citizens; and

WHEREAS, pursuant to its policy, City has enacted Ordinance No. 729, designating portions of the area located in its extraterritorial jurisdiction as the "Battleground Industrial District of La Porte, Texas", and Ordinance No. 842A, designating portions of the area located in its extraterritorial jurisdiction as the "Bayport Industrial District of La Porte, Texas", hereinafter collectively called "District", such Ordinances being in compliance with the Municipal Annexation Act of Texas, codified as Section 42.044, Texas Local Government Code; and

WHEREAS, Company is the owner of land within a designated Industrial District of the City of La Porte, said land being legally described on the attached Exhibit "A" (hereinafter "Land"); and said Land being more particularly shown on a plat attached as Exhibit "B", which plat describes the ownership boundary lines; a site layout, showing all improvements, including pipelines and railroads, and also showing areas of the Land previously annexed by the City of La Porte; and

WHEREAS, City desires to encourage the expansion and growth of industrial plants within said Districts and for such purpose desires to enter into this Agreement with Company pursuant to Ordinance adopted by the City Council of said City and recorded in the official minutes of said City;

FINAL DRAFT: November 1, 2007

NOW, THEREFORE, in consideration of the premises and the mutual agreements of the parties contained herein and pursuant to the authority granted under the Municipal Annexation Act and the Ordinances of City referred to above, City and Company hereby agree with each other as follows:

I.

City covenants, agrees and guarantees that during the term of this Agreement, provided below, and subject to the terms and provisions of this Agreement, said District shall continue to retain its extraterritorial status as an industrial district, at least to the extent that the same covers the Land belonging to Company and its assigns, unless and until the status of said Land, or a portion or portions thereof, as an industrial district may be changed pursuant to the terms of this Agreement. Subject to the foregoing and to the later provisions of this Agreement, City does further covenant, agree and guarantee that such industrial district, to the extent that it covers said Land lying within said District and not now within the corporate limits of City, shall be immune from annexation by City during the term hereof (except as hereinafter provided) and shall have no right to have extended to it any services by City, and that all Land, including that which has been heretofore annexed, shall not have extended to it by ordinance any rules and regulations (a) governing plats and subdivisions of land, (b) prescribing any building, electrical, plumbing or inspection code or codes, or (c) attempting to exercise in any manner whatever control over the conduct of business thereon; provided, however, any portion of Land constituting a strip of land 100' wide and contiguous to either Fairmont Parkway, State Highway 225, or State Highway 146, shall be subject to the rules and regulations attached hereto as Exhibit "C" and made a part hereof; and provided, however, it is agreed that City shall have the right to institute or intervene in any administrative and/or judicial proceeding authorized by the Texas Water Code, the Texas Clean Air Act, the Texas Health & Safety Code, or other federal or state environmental laws, rules or regulations, to the same extent and to the same intent and effect as if all Land covered by this Agreement were not subject to the Agreement.

II.

In the event that any portion of the Land has heretofore been annexed by City, Company agrees to render and pay full City ad valorem taxes on such annexed Land and improvements, and tangible personal property.

Under the terms of the Texas Property Tax Code (S.B. 621, Acts of the 65th Texas Legislature, Regular Session, 1979, as amended), the appraised value for tax purposes of the annexed portion of Land, improvements, and tangible personal property shall be determined by the Harris County Appraisal District. The parties hereto recognize that said Appraisal District has no authority to appraise the Land, improvements, and tangible personal property in the unannexed area for the purpose of computing the "in lieu"

payments hereunder. Therefore, the parties agree that the appraisal of the Land, improvements, and tangible personal property in the unannexed area shall be conducted by City, at City's expense, by an independent appraiser of City's selection. The parties recognize that in making such appraisal for "in lieu" payment purposes, such appraiser must of necessity appraise the entire (annexed and unannexed) Land, improvements, and tangible personal property.

Nothing herein contained shall ever be interpreted as lessening the authority of the Harris County Appraisal District to establish the appraised value of Land, improvements, and tangible personal property in the annexed portion, for ad valorem tax purposes.

III.

A. The properties upon which the "in lieu of" taxes are assessed are more fully described in subsections 1, 2, and 3 of subsection C, of this Paragraph III (sometimes collectively called the "Property"); provided, however, pollution control equipment installed on the Land which is exempt from ad valorem taxation pursuant to the provisions of Sec. 11.31 of the Texas Property Tax Code is exempt from ad valorem taxation and "in lieu of taxes" hereunder. Property included in this Agreement shall not be entitled to an agricultural use exemption for purposes of computing "in lieu of taxes" hereunder.

B. On or before the later of December 31, 2008, or 30 days from mailing of tax bill and in like manner on or before each December 31st thereafter, through and including December 31, 2019, Company shall pay to City an amount of "in lieu of taxes" on Company's Property as of January 1st of the current calendar year ("Value Year").

C. Company and City agree that the following percentages ("Percentage Amount") shall apply during each of the Value Years:

Value Year 2008:	62%
Value Year 2009:	62%
Value Year 2010:	62%
Value Year 2011:	62%
Value Year 2012:	62%
Value Year 2013:	62%
Value Year 2014:	63%
Value Year 2015:	63%
Value Year 2016:	63%
Value Year 2017:	63%
Value Year 2018:	63%
Value Year 2019:	63%

Company agrees to pay to City an amount of "in lieu of taxes" on Company's land, improvements and tangible personal property in the unannexed area equal to the sum of:

1. Percentage Amount of the amount of ad valorem taxes which would be payable to City if all of the Company's Land and improvements which existed on January 1, 2008, and each January 1 thereafter of the applicable Value Year during the term of this Agreement, (excluding amounts which would be so payable with respect to any Substantial Increase in value of such Land and improvements to which subparagraph 2, below applies), had been within the corporate limits of City and appraised each year by City's independent appraiser, in accordance with the applicable provisions of the Texas Property Tax Code; and
2. (a) On any Substantial Increase in value of the Land, improvements, and tangible personal property (excluding inventory) dedicated to new construction, in excess of the appraised value of same on January 1, 2007, resulting from new construction (exclusive of construction in progress, which shall be exempt from taxation), for each Value Years following completion of construction in progress, an amount equal to Twenty-five percent (25%), if construction is completed in Value years 2008 through 2013; and Twenty percent (20%), if construction is completed in Value years 2014 through 2019, of the amount of ad valorem taxes which would be payable to City if all of said new construction had been within the corporate limits of City and appraised by City's independent appraiser, in accordance with the applicable provisions of the Texas Property Tax Code.

In the case of new construction which is completed in Value Year 2016 or later, and provided, further, that City and Company enter into an Industrial District Agreement after the expiration of this Industrial District Agreement, then, and in such events, such new construction shall be entitled to additional Value Years under the new Agreement at a Twenty percent (20%) valuation under this subparagraph (a), for a total of six (6) Value Years, but not extending beyond Value Year 2022.

- (b) A Substantial Increase in value of the Land, improvements, and tangible personal property (excluding inventory) as used in subparagraph 2(a) above, is defined as an increase in value that is the lesser of either:
 - i. at least Five percent (5%) of the total appraised value of Land and improvements, on January 1, 2007; or
 - ii. a cumulative value of at least \$3,500,000.00.

For the purposes of this Agreement, multiple projects that are completed in a Value Year can be cumulated to arrive at the amount for the increase in value.

- (c) If existing Property values have depreciated below the Property value established on January 1, 2007, an amount equal to the amount of the depreciation will be removed from the calculation under this subparagraph 2 to restore the value to the January 1, 2007, value; and
3. Percentage Amount of the amount of ad valorem taxes which would be payable to City on all of the Company's tangible personal property of every description, located in an industrial district of City, including, without limitation, inventory, (including inventory in a federal Foreign Trade Zone and including Freeport exempted inventory), oil, gas, and mineral interests, items of leased equipment, railroads, pipelines, and products in storage located on the Land, if all of said tangible personal property which existed on January 1, 2008, and each January 1 thereafter of the applicable Value Year during the term of this Agreement, (excluding amounts which would be so payable with respect to any Substantial Increase in value of such tangible personal property to which subparagraph 2, above applies), had been within the corporate limits of City and appraised each year by the City's independent appraiser, in accordance with the applicable provisions of the Texas Property Tax Code.

with the sum of 1, 2 and 3 reduced by the amount of City's ad valorem taxes on the annexed portion thereof as determined by appraisal by the Harris County Appraisal District.

4. Notwithstanding the above, should City elect to grant the freeport inventory exemption authorized by Article VIII, Section 1-j of the Texas Constitution and Section 11.251 of the Texas Property Tax Code to taxpayers within the City limits, then the freeport inventory exemption shall apply to parties to this Agreement. Further, should inventory or any other class or type of property become exempt from taxation by constitutional amendment or act of the Texas Legislature (including, but not limited to, Article VIII, Section 1-n, of the Texas Constitution and Section 11.253 of the Texas Property Tax Code), such class or type of property shall be exempt for purposes of this Agreement, unless the City Council of the City of La Porte shall by Ordinance provide for the continued taxation of such property under the authority of any applicable provisions of the Texas Constitution and Texas Statutes.

5. City and Company acknowledge circumstances might require the City to provide emergency services to Company's Property described on Exhibit "A" attached hereto. Emergency services are limited to fire, police, and public works emergency services. If Company is not a member of Channel Industries Mutual Aid Association (CIMA), Company agrees to reimburse City for its costs arising out of any emergency response requested by Company to Company's property, and to which City agrees to respond. If Company is a member of CIMA, the obligations of Company and City shall be governed by the CIMA agreement, to which agreement City is a party.

IV.

This Agreement shall extend for a period beginning on the 1st day of January, 2008, and continuing thereafter until December 31, 2019, unless extended for an additional period or periods of time upon mutual consent of Company and City as provided by the Municipal Annexation Act; provided, however, that in the event this Agreement is not so extended for an additional period or periods of time on or before August 31, 2019, the agreement of City not to annex property of Company within the District shall terminate. In that event, City shall have the right to commence immediate annexation proceedings as to all of Company's property covered by this Agreement, notwithstanding any of the terms and provisions of this Agreement.

Company agrees that if the Texas Municipal Act, Section 42.044, Texas Local Government Code, is amended after January 1, 1994, or any new legislation is thereafter enacted by the Legislature of the State of Texas which imposes greater restrictions on the right of City to annex land belonging to Company or imposes further obligations on City in connection therewith after the annexation of such land, Company will waive the right to require City to comply with any such additional restrictions or obligations and the rights of the parties shall be then determined in accordance with the provisions of said Texas Municipal Annexation Act as the same existed January 1, 1994.

V.

This Agreement may be extended for an additional period or periods by agreement between City and Company and/or its assigns even though it is not extended by agreement between City and all of the owners of all land within the District of which it is a part.

VI.

A. In the event Company elects to protest the valuation for tax purposes set on its said properties by City or by the Harris County Appraisal District for any year or years during the terms hereof, nothing in this Agreement shall preclude such protest and

Company shall have the right to take all legal steps desired by it to reduce the same.

Notwithstanding such protest by Company, and except as otherwise provided in Article VI(B), Company agrees to pay to City on or before the date therefor hereinabove provided, at least the total of (a) the total amount of ad valorem taxes on the annexed portions, plus (b) the total amount of the "in lieu of taxes" on the unannexed portions of Company's hereinabove described property which would be due to City in accordance with the foregoing provisions of this Agreement on the basis of renditions which shall be filed by Company.

When the City or Harris County Appraisal District (as the case may be) valuation on said property of Company has been so finally determined, either as the result of final judgment of a court of competent jurisdiction or as the result of other final conclusion of the controversy, then within thirty (30) days thereafter Company shall make payment to City of any additional payment due hereunder, or City shall make payment to Company of any refund due, as the case may be, based on such final valuation, together with applicable penalties, interests, and costs.

B. Should Company disagree with any appraisal made by the independent appraiser selected by City pursuant to Article II above (which shall be given in writing to Company), Company shall, within twenty (20) calendar days of receiving City's invoice, give written notice to the City of such disagreement. In the event Company does not give such written notice of disagreement within such time period, the appraisal made by said independent appraiser shall be final and controlling for purposes of the determination of "in lieu of taxes" payments to be made under this Agreement.

Should Company give such notice of disagreement, Company shall also submit to the City with such notice a written statement setting forth what Company believes to be the market value of Company's hereinabove described property. Both parties agree to thereupon enter into good faith negotiations in an attempt to reach an agreement as to the market value of Company's property for "in lieu" purposes hereunder. If, after the expiration of thirty (30) days from the date the notice of disagreement was received by City, the parties have not reached agreement as to such market value, the parties agree to submit the dispute to final arbitration as provided in subparagraph 1 of this Article VI(B).

Notwithstanding any such disagreement by Company, Company agrees to pay to City on or before December 31 of each year during the term hereof, at least the total of (a) the ad valorem taxes on the annexed portions, plus (b) the total amount of the "in lieu" payments which would be due hereunder on the basis of Company's written valuations statement submitted to City by Company hereunder, or the total assessment and "in lieu of taxes" thereon for the last preceding year, whichever is higher.

1. A Board of Arbitrators shall be created composed of one person named by Company, one by City, and a third to be named by those two. In case of no agreement on this arbitrator in 10 days, the parties will join in a written request that the Chief Judge of the U.S. District Court for the Southern District of Texas appoint the third arbitrator who, (as the "Impartial Arbitrator") shall preside over the arbitration proceeding. The sole issue to be determined in the arbitration shall be resolution of the difference between the parties as to the fair market value of Company's property for calculation of the "in lieu" payment and total payment hereunder for the year in question. The Board shall hear and consider all relevant and material evidence on that issue including expert opinion, and shall render its written decision as promptly as practicable. That decision shall then be final and binding upon the parties, subject only to judicial review as may be available under the Texas General Arbitration Act (Chapter 171, "General Arbitration", Texas Civil Practice and Remedies Code). Costs of the arbitration shall be shared equally by the Company and the city, provided that each party shall bear its own attorneys fees.

VII.

City shall be entitled to a tax lien on Company's above described property, all improvements thereon, and all tangible personal property thereon, in the event of default in payment of "in lieu of taxes" payments hereunder, which shall accrue penalty and interest in like manner as delinquent taxes, and which shall be collectible by City in the same manner as provided by law for delinquent taxes.

VIII.

This Agreement shall inure to the benefit of and be binding upon City and Company, and upon Company's successors and assigns, affiliates and subsidiaries, and shall remain in force whether Company sells, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the property belonging to it within the territory hereinabove described, and the agreements herein contained shall be held to be covenants running with the land owned by Company situated within said territory, for so long as this Agreement or any extension thereof remains in force. Company shall give City written notice within ninety (90) days, with full particulars as to property assigned and identity of assignee, of any disposition of the Land, and assignment of this Agreement.

IX.

If City enters into an Agreement with any other landowner with respect to an industrial district or enters into a renewal of any

existing industrial district agreements after the effective date hereof and while this Agreement is in effect, which contains terms and provisions more favorable to the landowner than those in this Agreement, Company and its assigns shall have the right to amend this Agreement and City agrees to amend same to embrace the more favorable terms of such agreement or renewal agreement.

X.

The parties agree that this Agreement complies with existing laws pertaining to the subject and that all terms, considerations and conditions set forth herein are lawful, reasonable, appropriate, and not unduly restrictive of Company's business activities. Without such agreement neither party hereto would enter into this Agreement. In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, articles or other parts of this Agreement or the application thereof to any person, firm, corporation or circumstances shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrase, clause, sentence, paragraph, section, article or other part of the Agreement shall be deemed to be independent of and separable from the remainder of this Agreement and the validity of the remaining parts of this Agreement shall not be affected thereby.

XI.

Upon the commencement of the term of this Agreement, all other previously existing industrial district agreements with respect to said Land shall terminate.

XII.

Notices by a party to the other party hereto, shall be mailed or delivered as follows:

To the City of La Porte:

City Manager
City of La Porte
604 West Fairmont Parkway
La Porte, TX 77571

To Company:

North Bayport Industrial Park II, Ltd.
(COMPANY)
Attention: Department
2780 Skypark Drive, Suite 460
Torrance, CA 90505

Company shall promptly notify City of any change of ownership of Property, any assignment of this Agreement, and of any change of billing address.

Company shall notify City annually, on or before June 1, of any changes to the following information:

Plant Manager

Mr. Bob Klassen
Name: Sunbelt Commercial Builders, Inc.
Address: 11650 Jones Road, Suite H
Houston, TX 77070
Phone: (281) 890-4781
Fax: (281) 890-7116
Email: suncombltd@aol.com

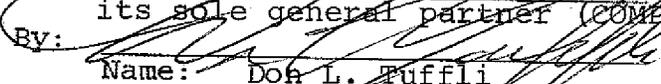
Tax Agent/Billing Contact

Mr. Harvey English
Name: Commercial Tax Network
Address: 12615 Jones Road, Suite 204
Houston, TX 77070
Phone: (281) 897-1119
Fax: (281) 897-0004
Email: h.english@commercialtax.com

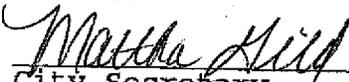
ENTERED INTO effective the 1st day of January, 2008.

North Bayport Industrial Park II, Ltd.,
a Texas limited partnership, by Oakwood
Nevada, LLC, dba Nevada Oakwood, LLC,
its sole general partner (COMPANY)

By:


Name: Don L. Tuffli
Title: Manager/President
Address: 2780 Skypark Drive, Suite 460
Torrance, CA 90505

ATTEST:


Madda Hill
City Secretary

CITY OF LA PORTE

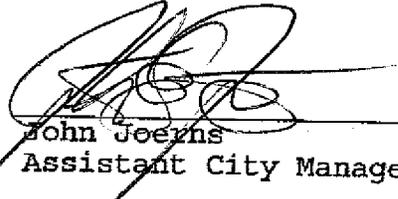
By:


Alton E. Porter
Mayor

APPROVED:


Knox W. Askins
City Attorney
City of La Porte

By:


John Joerns
Assistant City Manager

P.O. Box 1218
La Porte, TX 77572-1218
281.471.1886
281.471.2047 fax
knoxaskins@comcast.net

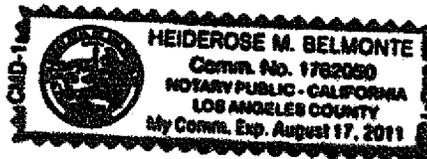
CITY OF LA PORTE
604 West Fairmont Parkway
La Porte, TX 77571

California
STATE OF TEXAS §
Los Angeles §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 16th day of Nov, 2007, by _____, _____ corporation, a _____ corporation, on behalf of said entity.

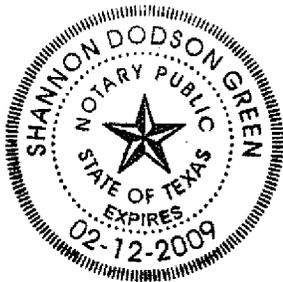
Heiderose M Belmonte
Notary Public, State of Texas
California

STATE OF TEXAS §
COUNTY OF HARRIS §



This instrument was acknowledged before me on the 17 day of April, 2008, by Alton E. Porter, Mayor of the City of La Porte, a municipal corporation, on behalf of said entity.

[Signature]
Notary Public, State of Texas



"EXHIBIT A"

(Metes and Bounds Description of Land)

U
Contract
M

Notice of Confidentiality Rights: If you are a natural person, you may remove or strike any or all of the following information from this instrument before it is filed for record in the public records: Your social security number or your driver's license number.

CORRECTION SPECIAL WARRANTY DEED

Date: Executed January 9, 2007 but effective December 4, 2006

Grantors: Tuffli Company, Inc.

Grantors' Mailing Address: 2780 Skypark Drive, Suite 460
Torrance, California 90505

Grantee: North Bayport Industrial Park II, Ltd., a Texas limited partnership

Grantee's Mailing Address: 2780 Skypark Drive, Suite 460
Torrance, California 90505

Consideration: \$10 and other good and valuable consideration, the receipt of which is acknowledged.

Property (including improvements and appurtenant easements, if any): 187.6711 acres, more or less out of the William M. Jones Survey, A-482, Harris county, Texas, together with: (i) all buildings, improvements and fixtures; and (ii) all rights, privileges, and appurtenances pertaining to the Property, including Grantor's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way.

Reservations from Conveyance: None in this deed.

Exceptions to Conveyance and Warranty: Subject to those easements, conditions, rights-of-way, restrictions reservations and matters of record which are applicable to the Property, but only to the extent that same are applicable to and enforceable against the Property, as well as taxes for the current year which Grantee assumes and agrees to pay and subsequent assessments for the current year and prior years due to changes in land usage and ownership (subsequent to the Effective Date), or both, the payment of which Grantee assumes, subject to the agreement of Grantor and Grantee to readjust the proration of taxes when the final taxable value of the property tax rate for the year has been established.

20070038097

Grantor, for the consideration and subject to the Reservations from Conveyance and Exceptions to Conveyance and Warranty, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold unto Grantee and Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors and assigns to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, 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 Exceptions to Conveyance and Warranty.

THE PROPERTY IS CONVEYED "AS IS, WHERE IS" WITH ALL FAULTS. THE GRANTOR MAKES NO REPRESENTATION OR WARRANTY (EXCEPT FOR THE WARRANTY OF TITLE IN THIS SPECIAL WARRANTY DEED) CONCERNING THE VALUE OF THE PROPERTY, THE CONDITION OF ANY IMPROVEMENTS ON THE PROPERTY, THE ENVIRONMENTAL CONDITION OF THE PROPERTY, THE PRESENCE OR ABSENCE OF ANY HYDROCARBONS, ASBESTOS, HAZARDOUS MATERIALS OR TOXIC SUBSTANCES ON THE PROPERTY, THE PRESENCE OR ABSENCE OF UNDERGROUND STORAGE TANKS, THE SUITABILITY OF THE PROPERTY FOR A PARTICULAR PURPOSE, THE MERCHANTABILITY OF THE PROPERTY, THE PRESENCE OR ABSENCE OF ANY GROUND FAULTS OR THE GEOLOGICAL CONDITION OF THE PROPERTY. THE GRANTOR MAKES NO REPRESENTATION NOR SHOULD ANY REPRESENTATION BE IMPLIED AS A RESULT OF A COURSE OF CONDUCT OF THE GRANTOR OR GRANTEE OR DUE TO INDUSTRY USAGE AND PRACTICE. THE GRANTEE IS FAMILIAR WITH THE TYPE OF PROPERTY BEING CONVEYED. THE GRANTEE BY ACCEPTING THIS DEED WAIVES ANY RIGHT OR CAUSE OF ACTION THAT MAY ARISE UNDER THE TEXAS DECEPTIVE TRADE PRACTICES/CONSUMER PROTECTION ACT. THE GRANTEE BY ACCEPTING THIS DEED RELEASES THE GRANTOR FROM ANY CLAIM OR CAUSE OF ACTION RELATED TO THE CONDITION OF THE IMPROVEMENTS, EVEN IF THE CONDITION OF THE IMPROVEMENTS HAS CHANGED AS A RESULT OF THE NEGLIGENCE, INTENTIONAL NEGLECT OR INTENTIONAL ACTIONS OR INACTIONS OF THE GRANTOR. THE GRANTEE BY ACCEPTING THIS DEED RELEASES THE GRANTOR FROM ANY CLAIM OR CAUSE OF ACTION RELATED TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY OR BY THE PRESENCE OF ANY HAZARDOUS MATERIALS OR TOXIC SUBSTANCES ON THE PROPERTY. EXCEPT FOR THIS DISCLAIMER OF WARRANTIES AND RELEASE OF CLAIMS, WHICH DO SURVIVE, ALL OTHER AGREEMENTS AND REPRESENTATIONS ARE MERGED INTO THIS DEED. THE GRANTEE ACKNOWLEDGES TO THE GRANTOR THAT IT HAS BEEN GIVEN AN ADEQUATE OPPORTUNITY TO INSPECT THE PROPERTY AND HAS DETERMINED TO RELY SOLELY ON ITS OWN INSPECTION OF THE PROPERTY AND NOT ON ANY STATEMENTS OF THE GRANTOR OR ANY AGENT OR REPRESENTATIVE OF THE GRANTOR. The term "Hazardous Materials" means any substance (a) the presence of which requires reporting, investigations, or remediation under any current federal, state or local statute, regulation or ordinance, or (b) which are currently defined as hazardous substances, toxic substances, regulated substances, pollutants, or contaminants under any current federal, state or local statute, regulation or ordinance, including hydrocarbons and asbestos.

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

This Correction Special Warranty Deed is excuted to add the word "Ltd." to the name of the Grantee. No other change has been made.

Tuffli Company, Inc.

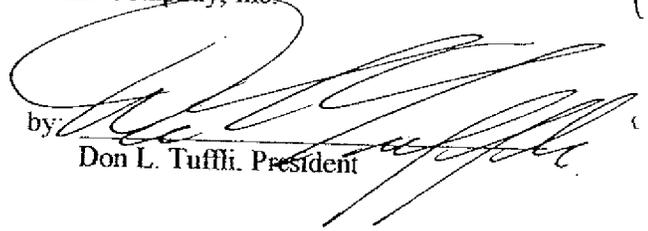
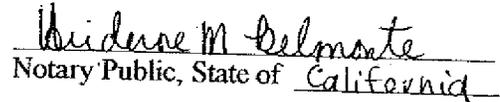
by 
Don L. Tuffli, President

EXHIBIT LIST:

Exhibit A _____ Property Description

THE STATE OF CALIFORNIA §
COUNTY OF LOS ANGELES §

This instrument was acknowledged before me on the 9th day of January 2007 by Don L. Tuffli, President of Tuffli Company, Inc.


Notary Public, State of California

Return to:

J. M. Little
Attorney at Law, P.C.
5718 Westheimer, Suite 1840
Houston, Texas 77057



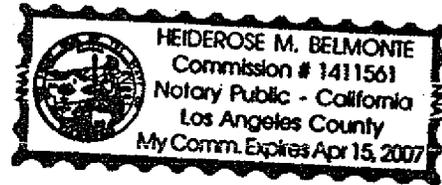


EXHIBIT A

METES & BOUNDS DESCRIPTION
187.6711 ACRES OUT OF
THE WILLIAM M. JONES SURVEY, A-482
HARRIS COUNTY, TEXAS

All that certain 187.6711 acres of land out of the William M. Jones Survey, A-482, Harris County, Texas and being more particularly described by metes and bounds as follows (all bearings are based on the City of La Porte Survey Monumentation & Mapping Program):

BEGINNING at a found 5/8" iron rod with cap marked No. 2764 located in the most westerly line of a 230' Harris County Flood Control District Fee Strip as recorded in Volume 8260, Page 124 Harris County Deed Records at its intersection with the south right-of-way line of Fairmont Parkway (250' wide), from which the City of La Porte Survey Marker No. LPSM 99, having State Plane Coordinates $X=3,241,150.119$, $Y=681,564.919$ bears $S 86^{\circ} 46' 20'' W - 5,049.08'$;

THENCE $S 07^{\circ} 16' 23'' E - 1,125.31'$, with the west line of said 230' Harris County Flood Control District Fee Strip, to a found 5/8" iron rod with cap marked No. 2765 for angle point;

THENCE $S 34^{\circ} 59' 04'' E - 809.94'$, continuing with the west line of said 230' Harris County Flood Control District Fee Strip, to a set 5/8" iron rod with cap for corner;

THENCE $S 55^{\circ} 00' 56'' W - 59.37'$ to a set 5/8" iron rod with cap marking the Point of Curvature of a curve to the left having a central angle of $58^{\circ} 36' 05''$, a radius of 687.00', a chord bearing of $S 25^{\circ} 42' 53'' W$, a chord distance of 672.43';

THENCE in a southerly direction with said curve for an arc distance of 702.66' to a set 5/8" iron rod with cap for corner;

THENCE $S 87^{\circ} 27' 55'' W - 3,391.55'$, with the south line of the said William M. Jones Survey, to a set 5/8" iron rod with cap;

THENCE $N 01^{\circ} 56' 14'' W - 2,305.67'$, 98' east and parallel with the east right-of-way line of Underwood Road (50' wide), according to the plat thereof filed at Film Code No. 437010, Harris County Map Records, to a set 5/8" iron rod with cap located in the south right-of-way line of said Fairmont Parkway at its intersection with the west end of a 20' cut back line;

THENCE $N 38^{\circ} 06' 56'' E - 30.62'$, with the said cut back line, to a set 5/8" iron rod with cap for corner marking a point on a curve to the right having a central angle of $08^{\circ} 34' 41''$, a radius of 5,920.79, a chord bearing of $N 82^{\circ} 33' 16'' E$, a chord distance of 885.60';

THENCE in an easterly direction of said curve of Fairmont Parkway right-of-way an arc distance of 886.42' to a found 5/8" iron rod for corner;

THENCE $N 86^{\circ} 50' 09'' E - 2,028.04'$, with said south right-of-way of Fairmont Parkway to a found 5/8" iron rod for angle point;

THENCE N 86° 59' 50" E - 278.16', to the POINT OF BEGINNING and containing 187.6711 acres (8,174,954 square feet) of land, more or less.

Compiled from survey by:
PREJEAN & COMPANY, INC.
Surveying / Mapping
256-4-9bp2.mb
November 9, 2006
Revised: November 15, 2006

(The rest of this page intentionally blank)

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in the number Sequence on the date and at the stamped location by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County Texas on

JAN 18 2007



Beverly B. Kaufman
COUNTY CLERK
HARRIS COUNTY, TEXAS

FILED

2007 JAN 18 PM 3:39

Beverly B. Kaufman
COUNTY CLERK
HARRIS COUNTY, TEXAS

"EXHIBIT B"

Attach Plat reflecting the ownership boundary lines; a site layout, showing all improvements, including pipelines and railroads, and also showing areas of the Land previously annexed by the City of La Porte.)

RULES AND REGULATIONS

Any portion of Land constituting a strip of land 100' wide and contiguous to either Fairmont Parkway, State Highway 225, or State Highway 146 shall be subject to the following rules and regulations pertaining to new signage, screening, driveways and median crossovers. These rules and regulations shall apply after the effective date of this Agreement when Company develops or constructs improvements on vacant Land described in Exhibit "A" which is adjacent to Fairmont Parkway, State Highway 225, or State Highway 146.

1. Any sign erected in said 100' strip of land shall be subject to the following provisions:
 - ◆ One freestanding identification sign shall be permitted for each side of an industrial establishment that fronts on an improved public right-of-way.
 - ◆ Freestanding identification signs for single tenant buildings shall not exceed 150 square feet in area.
 - ◆ One freestanding identification sign for identifying multiple businesses is allowable at the intersection of improved public rights-of-way.
 - ◆ Freestanding identification signs for multiple businesses shall not exceed 350 square feet.
 - ◆ Freestanding identification signs shall not exceed 45 feet in height.
 - ◆ Minimum setback for sign construction shall be ten (10) feet from property lines.
2. When Land adjacent to said 100' strip is developed, the initial 50' of said strip beyond any existing pipeline easement contiguous to either Fairmont Parkway, State Highway 225, or State Highway 146 shall be screened by one of the following techniques:
 - a) Leaving in place existing trees, vegetation, underbrush, etc. to provide a thorough and effective visual screening of the development. Existing trees shall, together with other vegetation and underbrush, create a continuous visual screen.

"EXHIBIT C"
Page 2 of 3

- b) The use of earthen berms with approximately 3:1 side slopes, 50' wide at the base and 8' high. The berms may be landscaped with a combination of trees, shrubs, and ground cover. All berms and landscaping will be maintained by the property owners.
- c) A screening plan, to be approved by the City, that includes a combination of trees, shrubs, and ground cover that after 5 years growth will be at least 20 feet in height and shall, together with shrubs and ground cover, create a continuous visual screen. Provided, however, in public utility easements or rights-of-way, the vegetation shall be installed and maintained in a manner which is acceptable to the public utility company, and does not interfere with the operation and maintenance of the public utility facilities.

For items b and c above, the actual length of required screening along the roadway will be equal to the length of the new development that is parallel to the roadway. Screening shall not be required for new development that is to the rear of or behind existing facilities.

In all cases the 50' strip, along the entire roadway frontage, shall be dedicated as a landscape easement and shall be kept free from any improvements except for approved driveway access and identification signs.

For cases of new development or improvements where a 50' landscape easement is not available or practical, Company shall meet with City to determine a suitable landscaping alternative.

- d) In the case of land contiguous to Fairmont Parkway, in addition to the other requirements of these Rules and Regulations, Company shall dedicate to City by Plat a ten foot (10') wide pedestrian and bicycle easement, extending along Company's Fairmont Parkway boundary, within the fifty foot (50') landscape easement. The pedestrian easement shall not be within any pipeline facility, except for necessary crossings.
3. Driveways opening from said strip of land onto State Highway 225 or State Highway 146 shall be subject to the rules and regulations of the Texas Department of Transportation and provisions of the City's Code of Ordinances, whichever is more restrictive.

Driveways opening from said strip of land onto Fairmont Parkway shall be subject to the rules and regulations of Harris County and provisions of the City's Code of Ordinances, whichever is more restrictive.

"EXHIBIT C"
Page 3 of 3

4. Driveways opening from said strip of land onto Fairmont Parkway shall be approved by the City and may require the installation of separate acceleration/deceleration lanes.
5. Installation of a median crossover on Fairmont Parkway shall be subject to the approval of both Harris County and City.

Subj: **RE: Need for plats for Tuffli ownerships**
 Date: 5/14/2008 2:09:26 PM Central Daylight Time
 From: cbr@tuffli.com
 To: SunComBld@aol.com
 CC: powellk@laportetx.gov

BNIP 1

- 0009 1. Ordinance No. 2007-IDA-10 / Oakwood Capital, LP, a Texas limited partnership / IL120-728-000-
 Unitor, 9400 New Century Drive, Pasadena, TX 77507 (Reserve C-2 / 8.5811 Acres / 373,792
 SF) 10/13/00 Purchase
- 0010 2. Ordinance No. 2007-IDA-11 / Don & Martha Tuffli Family Trust, a California trust / IL120-728-000-
 Calpine, 4100 Underwood Road, Pasadena, TX 77507 (Reserve A-1 / 5.1853 Acres / 225,870
 SF) 3/19/01 Purchase
- 0011 3. Ordinance No. 2007-IDA-12 / DTMT One, LLC, a Texas limited liability company / IL120-728-000-
 Brand, 4700 New West Drive, Pasadena, TX 77507 (Reserve B-1 / 8.7018 Acres / 379,051 SF)
 12/17/01 Purchase
4. Ordinance No. 2007-IDA-13 / Tuffli Company, Inc., a California corporation / IL120-728-000-0020
 Vacant Land, 9711 New Century Drive, Pasadena, TX 77507 (Reserve A-3 / 3.3451 Acres /
 145,714 SF) 9/2/03 Purchase
5. Ordinance No. 2007-IDA-14 / Three Sisters Trust, a California trust / IL120-728-000-0022
 Vacant Land, New Century Drive, Pasadena, TX 77507 (Reserve A-4 / 7.1526 Acres / 311,566
 SF) 8/9/05 Purchase
- 0025 6. Ordinance No. 2007-IDA-15 / DTMT Two, LLC, a Texas limited liability company/ IL120-728-000-
 9560 & 9602 New Decade Drive, Pasadena, TX 77507 (Reserve E-1 / 9.4086 Acres / 409,839
 SF) 2/27/07 Purchase

BNIP 2

7. Ordinance No. 2007-IDA-16 / Tuffli Company, Inc., a California Corporation
 (Tract 1 = 347.2 acres or 15,125,546 SF / Tract 2 = 16.96 acres or 738,918 SF)
8. Ordinance No. 2007-IDA-17 / North Bayport Industrial Park II, Ltd., a Texas limited partnership
 (187.6711 acres or 8,174,954 SF)
9. Ordinance No. 2007-IDA-73 / North Bayport Pasadena IP, Ltd., a Texas Limited Partnership
 (5.2148 acres or 227,159 SF)

Bob:

I think we have a Land Title Survey for Items 1-6. I'm not sure about 7 & 8; although, I have a Plat of Survey dated 9/24/97 and Land Title & Partial Topographic Survey dated 10/4/01 for Item 7. Item 9 is fine.

Regards,

Craig B. Reynolds, CPM, RPA, CCIM
 Tuffli Company, Inc.
 2780 Skypark Drive, Suite 460
 Torrance, California 90505
 (310) 326-4747 Telephone
 (310) 326-5113 Facsimile
cbr@tuffli.com

From: SunComBld@aol.com [mailto:SunComBld@aol.com]

Sent: Wednesday, May 14, 2008 10:15 AM

To: cbr@tuffli.com; owelk@laportetx.gov

Subject: Need for plats for Tuffli ownerships

Craig:

Please give me a brief description/location/tenant name for each of listed ownerships in Kathy's email. I can't seem to keep track of who owns what. I most likely have full size plats in our office that I can copy and get to Kathy.

Kathy:

I get to La Porte about 3-4 times per week so will deliver plats to your office.

Regards,

Bob Klassen, Pres.

Sunbelt Commercial Builders, Inc.

11650-H Jones Road

Houston, Texas 77070

713-703-6109 (C)

281-890-4781 (O)

281-890-7116 (F)

Wondering what's for Dinner Tonight? [Get new twists on family favorites at AOL Food.](#)

- City Use Only -

Rec'd by: _____ Date: _____
Date of Initial Review Meeting: _____
Date of Internal Review Meeting: _____
Request Meets Policy Guidelines?: Y or N
Date of Notification to Company: _____

**APPLICATION for WATER / SEWER SERVICE to COMPANIES
WITH AN INDUSTRIAL DISTRICT AGREEMENT (IDA)**

Note: Submittal of partial or incomplete information may delay processing of your application

1.) COMPANY NAME (per Applicant's IDA w/ City):

Name: Triten Real Estate Partners

Phone #: (832) 615-1447

Fax #: _____

E-Mail: MPendley@triten.com

Company Address: 3657 Briarpark Dr.

Suite 300, Houston TX 77042

2.) *SITE TENANT (if other than "Company"):

Company Name: _____

Phone #: _____

Fax #: _____

Address: _____

Contact Name: _____

3.) PROPERTY DATA (If available, include any survey, plat, site plan, map or sketch of the subject site with this form):

*Company's Industrial District Agreement No.: 2007 - IDA - _____

*Site Address: 4100 MALONE DRIVE, PASADENA TX 77507

Site HCAD ID(s): 1 3 1 - 1 8 0 - 0 0 2 - 0 0 0 1 ; _____ - _____ - _____ - _____ ;

_____ - _____ - _____ - _____ ; _____ - _____ - _____ - _____

Total Site Acreage (Per Exhibit "A" of Company's IDA): 14.86 Acres

4.) SITE FACILITY INFORMATION (If available, include any site plan or sketch of the subject facility with this form):

New Construction

Describe Project: Proposed loading dock with paved driveways and parking spaces

New Tenant Requesting **Additional** Water and/or Sanitary Sewer Allocation

(Specify reason(s) for additional allocation request: _____

*Full-time Regular + Full-time Contract Employees who will occupy this facility: Estimated at Sixty (60) Total Full-Time Employees

**Current Amount of Water Allocated to Company by existing Water Service Agreement: _____ gallons per month

**Current Amount of Sewer Allocated to Company by existing Sewer Service Agreement: _____ gallons per month

5.) WATER SERVICE IS REQUESTED to COMPANY'S SITE FOR THE FOLLOWING PURPOSE(S):

Domestic Uses (i.e. Drinking, Flushing, Etc.)

Other (describe): Fire uses for hydrant and break tank; Landscaping irrigation

6.) SANITARY SEWER SERVICE IS REQUESTED to COMPANY'S SITE FOR THE FOLLOWING PURPOSE(S):

Domestic Uses (i.e. Wastewater from domestic uses)

Other (describe): _____

* An Administrative Fee of \$100 per employee is assessed for each agreement (Min Fee = \$5,000; Max Fee = \$15,000)

**If Applicable

STATE OF TEXAS §

COUNTY OF HARRIS §

**CITY OF LA PORTE
WATER SERVICE AGREEMENT**

This AGREEMENT made and entered into by and between the CITY OF LA PORTE, TEXAS, a municipal corporation of Harris County, Texas, hereinafter called "CITY", and CRP/TREP Fairmont Owner, L.P., a Delaware limited liability company hereinafter called "COMPANY".

I.

COMPANY is the owner of certain real property which is situated within the CITY'S Battleground or Bayport Industrial District and not within the corporate limits of the CITY. CITY and COMPANY are parties to a current Industrial District Agreement.

II.

COMPANY is desirous of purchasing potable water from CITY for usual human domestic uses. Previous planning considerations for the long-range potable water supply of CITY did not include the needs of properties located outside the corporate limits of CITY. COMPANY recognizes that CITY cannot at this time provide permanent and unlimited water service. CITY agrees, however, to provide limited potable water service to COMPANY. For and in consideration of furnishing domestic potable water by CITY, the parties hereto agree as follows, to-wit:

III.

COMPANY has made certain representations to CITY as to the number of employees that will be located at the COMPANY'S property as of the date of this agreement, upon which representations CITY has relied in entering into this Agreement.

Upon review of these representations, the City has determined the following:

Number of Full-Time Employees on site	60
+ Number of Full-Time Contract Employees on site	0
= Total On-Site Full-Time Employees	60
Potable Water Approved for Domestic Use (Total on-site Employees times 50 gpd per employee)	3,000
Total Amount of Potable Water Approved for COMPANY (Average Daily Volume, gpd)	3,000

IV.

CITY has determined that adequate resources are available to CITY to furnish potable water to COMPANY based on the following terms and conditions, to-wit:

- (A) COMPANY shall pay to CITY a one-time administrative fee of \$ 6,000.
- (B) The total amount of potable water approved to COMPANY is established at 3,000 () gallons per day. This number is based on an average of fifty (50) gallons per employee per day as established by CITY.
- (C) The average monthly volume of 91,500 () gallons is established by multiplying the average daily volume by a factor of 30.5, which shall be used to facilitate CITY'S utility service billings.
- (D) Nothing contained in this Agreement shall obligate CITY to furnish more than the average monthly volume of 91,500 () gallons. Repeated consumption greater than the established average monthly volume may result in termination of service.
- (E) COMPANY shall pay the standard water tap/meter fee based on CITY'S current tap/meter fee schedule. Upon final approval of COMPANY'S on-site and/or off-site utility construction by CITY, COMPANY shall pay the CITY'S standard water deposit fee through CITY'S Utility Billing Division prior to receiving water service from CITY.
- (F) The cost of water up to the average monthly volume of 91,500 () gallons shall be billed at one hundred fifty percent (150%) of the CITY'S rate as established from time to time for commercial customers inside its corporate limits.
- (G) The cost of water for amounts used in excess of the established average monthly volume shall be billed at two hundred percent (200%) of the CITY'S rate as established from time to time for commercial customers inside its corporate limits.
- (H) COMPANY shall submit a preliminary site plan showing the total acreage of the tract including present and proposed improvements and a suitable location map of the site. COMPANY'S development may be subject to certain additional requirements as described in Exhibit A. These requirements shall be shown on the final site plan and approved by City.
- (I) COMPANY'S site design and site development will, in certain cases, be subject to specific "Rules and Regulations" as defined in Exhibit "C" of COMPANY'S Industrial District Agreement with CITY.
- (J) All plumbing installed by COMPANY connected to the domestic water line from CITY, shall meet all applicable State of Texas and CITY plumbing code requirements.
- (K) A reduced pressure zone backflow preventer shall be installed and maintained by COMPANY to protect CITY from any possible cross-connections.
- (L) COMPANY'S potable water supply system will be segregated from any existing and future fire protection system.

- (M) The total cost for the engineering design and construction of any potable water main, service line, back flow preventer, meter or other required appurtenances will be the responsibility of COMPANY.
- (N) COMPANY agrees to be bound by all applicable ordinances of CITY, relative to the furnishing of potable water to customers within the corporate limits of CITY.
- (O) There shall be no resale of water provided by CITY, nor any extension of service lines by COMPANY to serve other parties.
- (P) CITY'S personnel shall have the right of prior review and approval of COMPANY'S plans and specifications for the plumbing system(s). CITY shall have the right to inspect any and all work related to the furnishing of potable water to COMPANY.
- (Q) CITY shall have the right to interrupt or temporarily suspend said water service to COMPANY if an emergency arises and there is not an adequate water supply to meet the needs of the citizens of La Porte.
- (R) CITY reserves the right to enforce its drought contingency plan on all water customers at CITY'S sole discretion.
- (S) CITY does not guarantee its water system to provide specific water pressure and/or water volume requirements of COMPANY.

V.

All expenses of the installation of the meter; service lines from the main to the meter; and from the meter to COMPANY'S facilities, shall be solely at the expense of COMPANY. COMPANY shall own and maintain all service lines and plumbing facilities beyond the meter. CITY shall own the meter.

VI.

In the event a State or Harris County license, permit, or permission to install the water main is revoked, or relocation or adjustment is required, CITY will not be responsible for the expense of such relocation, adjustment, or replacement.

VII.

CITY reserves the right of entry at all reasonable times for the purpose of inspection of COMPANY'S water facilities, reading its water meter(s) and to observe compliance with the terms and conditions of this Agreement. When exercising its right of entry, CITY shall notify COMPANY in advance. CITY also agrees to follow established health and safety policies in effect at COMPANY'S facility.

VIII.

CITY reserves the right to terminate this agreement in the event of violation of the terms and provisions hereof by COMPANY. CITY will provide COMPANY with written notice of any defects and COMPANY shall have the opportunity to cure any defects. Failure to correct defects

within ten (10) calendar days from date of written notice by CITY may result in termination of Agreement. CITY shall have the right to summarily correct, at COMPANY'S expense, any defect or deficiency, when in its opinion the integrity of the public water supply is threatened.

IX.

Upon receipt of written notice of termination, COMPANY shall have up to six (6) months to prepare for transition to another water supply. If the transition is not complete within said six-month period, CITY shall have the right to terminate water service at its sole discretion.

X.

In the event of any conflict between the terms and provisions of this Water Service Agreement and the terms and provisions of the Industrial District Agreement between the parties, the terms and provisions of the Water Service Agreement shall control, to the extent of such conflict. The term of this Agreement shall expire on December 31, 2019 plus any renewals and extensions thereof. However, this Agreement shall automatically expire at such time as there is no effective Industrial District Agreement between the parties or if CITY exercises its right of termination.

ENTERED INTO effective the _____ day of _____, _____.



Signature of Company's Authorized Representative

Printed Name: Scott Arnoldy

Company Representative's Title: Authorized Signatory

Company's Address:

3657 Briarpark Dr. Suite 300

Houston, Texas 77042

ATTEST:

CITY OF LA PORTE

Patrice Fogarty
City Secretary

Louis R. Rigby
Mayor

APPROVED:

Knox W. Askins
City Attorney

By:

Corby Alexander
City Manager

EXHIBIT “A”
to Water Service Agreement

The Water Service Agreement is hereby amended and supplemented to include the following additional requirements agreed to by CITY and COMPANY. These requirements represent contractual obligations of COMPANY to receive water service from CITY per the terms of the Water Service Agreement and this addendum. COMPANY shall fulfill each of the following additional requirements as set forth below.

Additional Requirements of COMPANY:

1.

Initial for Approval:

CITY APPROVAL: _____

COMPANY APPROVAL:  _____

STATE OF TEXAS §

COUNTY OF HARRIS §

**CITY OF LA PORTE
SANITARY SEWER SERVICE AGREEMENT**

This AGREEMENT made and entered into by and between the CITY OF LA PORTE, TEXAS, a municipal corporation of Harris County, Texas, hereinafter called "CITY", and CRP/TREP Fairmont Owner, L.P., a Delaware limited liability company hereinafter called "COMPANY".

I.

COMPANY is the COMPANY of certain real property, which is situated in CITY'S Battleground or Bayport Industrial District and not within the corporate limits of the CITY. CITY and COMPANY are parties to a current Industrial District Agreement.

II.

COMPANY is desirous of purchasing sanitary sewer service from CITY for usual human domestic uses. COMPANY recognizes that CITY cannot at this time provide permanent and unlimited sanitary sewer service. CITY agrees, however, to provide limited sanitary sewer service to COMPANY. For and in consideration of furnishing sanitary sewer service by CITY, the parties hereto agree as follows, to-wit:

III.

COMPANY has made certain representations to CITY as to the number of employees, as of the date of this agreement, upon which representations CITY has relied in entering into this Agreement.

Upon review of these representations, the City has determined the following:

Number of Employees on-site	<u>60</u>
Number of Contract Employees	<u>0</u>
Total on-site Employees	<u>60</u>
Sanitary Sewer Desired for Domestic Use (Total on-site times 50 gpd per employee)	<u>3,000</u>
Total Amount of Sanitary Sewer Approved For COMPANY (Average Daily Volume, gpd)	<u>2,550</u>

IV.

CITY has determined that adequate facilities are available to allow CITY to furnish sanitary sewer to COMPANY based on the following terms and conditions, to-wit:

- (A). COMPANY shall pay to CITY a one-time administrative connection charge of \$ 6,000.
- (B). COMPANY shall pay the standard sewer tap fee based on CITY'S current sewer tap fee schedule. Upon final approval of COMPANY'S on-site and/or off-site utility construction by CITY, COMPANY shall pay the CITY'S standard sewer deposit fee through CITY'S Utility Billing Division prior to receiving sewer service from CITY.
- (C). The average daily volume is established at 3,000 () gallons per day. This number is based on an average of fifty (50) gallons per employee per day established by CITY.
- (D). The average monthly volume is calculated to be eighty-five percent (85%) of the average daily volume multiplied by a factor of 30.5, which shall be used to facilitate service billings.
- (E). The cost of sanitary sewer service up to the average monthly volume of 77,775 () gallons shall be one hundred fifty percent (150%) of the CITY'S rate as established from time to time for commercial customers inside its corporate limits.
- (F). The cost of sanitary sewer service for amounts in excess of the established average monthly volume shall be two hundred percent (200%) of the CITY'S rate as established from time to time for commercial customers inside its corporate limits.
- (G). Nothing contained in this Agreement shall obligate CITY to furnish more than the average monthly volume of 77,775 (). Repeated sanitary sewer delivery greater than the established average monthly volume may result in termination of service.
- (H). COMPANY agrees that during periods when the CITY'S collection system is surcharged, the CITY may require the suspension of use of the sanitary sewer system for periods not to exceed thirty-six hours.
- (I). CITY shall have the right to interrupt or temporarily suspend said sanitary sewer service to COMPANY if an emergency arises and there is not an adequate sewer collection or treatment capacity to meet the needs of the citizens of La Porte.
- (J). COMPANY shall file application with CITY for an Industrial Waste Permit and hereby agrees to be bound by CITY'S Industrial Waste Ordinance (Chapter 74, Article II of the Code of Ordinances) and any subsequent amendments or revisions.
- (K). Owner shall install a sanitary sewer sampling well in accordance with CITY'S standards to ensure no sewer waste, other than domestic waste enters its sanitary sewer system.
- (L). The total cost for the engineering design and construction of any sanitary sewer main, service line, lift station, meter or other required appurtenances will be the responsibility of COMPANY.

- (M). COMPANY agrees that it shall be bound by all applicable ordinances of CITY, relative to the furnishing of sanitary sewer service to customers within the corporate limits of CITY.
- (N). COMPANY shall install a sanitary sewer sampling well in accordance with CITY's standards.
- (O). All plumbing installed by COMPANY connected to the sanitary sewer line from CITY, shall meet all applicable State of Texas and CITY plumbing code requirements. CITY'S engineering and code enforcement personnel shall have the right of prior review and approval of COMPANY'S plans and specifications for the plumbing system(s). CITY plumbing inspectors shall have the right to inspect any and all work related to the furnishing of sanitary sewer service to COMPANY.
- (P). There shall be no resale of the sanitary sewer service provided by CITY, nor any extension of service lines by COMPANY to serve other parties.
- (Q). COMPANY shall submit a certified site plan showing the total acreage of the tract including present and proposed improvements and a suitable location map of the site. COMPANY'S development project may be subject to certain additional requirements as described in Exhibit "A", attached. These requirements shall be shown on the site plan and approved by City.

V.

All expenses of the installation of service lines from the main to the COMPANY'S facilities shall be solely at the expense of COMPANY. COMPANY shall own and maintain all service lines and plumbing facilities.

VI.

In the event a State or Harris County license, permit, or permission to install the sanitary sewer main is revoked, or relocation or adjustment is required, CITY will not be responsible for the expense of such relocation, adjustment, or replacement.

VII.

CITY reserves the right of entry at all reasonable times for the purpose of inspection of COMPANY'S sanitary sewer facilities, and to observe compliance with the terms and conditions of this Agreement. When exercising its right of entry, CITY shall notify COMPANY in advance. CITY also agrees to follow established health and safety policies in effect at COMPANY'S facility.

VIII.

CITY reserves the right to terminate this agreement in the event of violation of the terms and provisions hereof by COMPANY. CITY will provide COMPANY with written notice of any defects and COMPANY shall have the opportunity to cure any defects. Failure to correct defects within ten (10) days may result in termination of Agreement. CITY shall have the right to summarily correct, at COMPANY'S expense, any defect or deficiency, when in its opinion the integrity of the public sanitary sewer system is threatened.

IX.

Upon receipt of written notice of termination, COMPANY shall have up to six (6) months to prepare for transition to another sanitary sewer service provider. If the transition is not complete within said six-month period, CITY shall have the right to terminate sanitary sewer service at its sole discretion.

X.

In the event of any conflict between the terms and provisions of this Sanitary Sewer Service Agreement and the terms and provisions of the Industrial District Agreement between the parties, the terms and provisions of the Sanitary Sewer Service Agreement shall control, to the extent of such conflict. The term of this Agreement shall terminate on December 31, 2019. However, this Agreement shall automatically expire at such time as there is no effective Industrial District Agreement between the parties or if CITY exercises its right of termination.

ENTERED INTO effective the _____ day of _____, _____.



Signature of Company's Authorized Representative

Printed Name: Scott Arnoldy

Company Representative's Title: Authorized Signatory

Company's Address:

3657 Briarpark Dr. Suite 300

Houston, Texas 77042

ATTEST:

CITY OF LA PORTE

Patrice Fogarty
City Secretary

Louis R. Rigby
Mayor

APPROVED:

Knox W. Askins
City Attorney

By: _____

Corby Alexander
City Manager

EXHIBIT “A”
to Sanitary Sewer Service Agreement

The Sanitary Service Agreement is hereby amended and supplemented to include the following additional requirements agreed to by CITY and COMPANY. These requirements represent contractual obligations of COMPANY to receive sewer service from CITY per the terms of the Sanitary Service Agreement and this addendum. COMPANY shall fulfill each of the following additional requirements as set forth below.

Additional Requirements of COMPANY:

- 1.

Initial for Approval:

CITY APPROVAL: _____

COMPANY APPROVAL:  _____

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>August 27, 2018</u>
Requested By: <u>Don Pennell</u>
Department: <u>Public Works</u>
Report: _____ Resolution: _____ Ordinance: _____

<u>Budget</u>	
Source of Funds:	<u>N/A</u>
Account Number:	<u>N/A</u>
Amount Budgeted:	<u>N/A</u>
Amount Requested:	<u>N/A</u>
Budgeted Item:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Exhibits:

- Area Map
- Approved IDA – Ordinance No. 2007-IDA-40
- Water-Sewer Service Application
- Water Service Agreement
- Sewer Service Agreement

SUMMARY & RECOMMENDATION

Triten Real Estate Partners, approached the City for new water service agreement and sewer service agreement for the BNCL I facility at 9701 New Decade Drive, in the Bayport Industrial District. The company intends to construct loading docks with paved driveways and parking spaces.

Council has approved a policy to provide water and sanitary sewer service to companies located outside the city limits and within the City's industrial districts (ETJ). These companies are required by the policy to maintain a current Industrial District Agreement (IDA) with the City. Additionally, the applicant is subject to an administrative fee of \$5,000 per agreement, for a total combined fee of \$10,000. As required, a non-refundable payment of twenty-five percent (25%) of the total administrative fees has been received, with the remaining balance (\$7,500) to be paid upon approval of the water/sewer service agreements.

Based on the stated demand for domestic uses, the average monthly volume for potable water is 45,750 gallons. Under the terms of the policy, the company will pay one and one-half (1-1/2) times the City's current utility rate for service. The company will pay two (2) times the City's current utility rate for service for any additional monthly usage beyond 45,750 gallons.

Based on the stated demand for domestic uses, the average monthly volume for domestic sanitary sewer service is 38,888 gallons. Under the terms of the policy, the company will pay one and one-half (1-1/2) times the City's current utility rate for service. The company will pay two (2) times the City's current utility rate for service for any additional monthly usage beyond 38,888 gallons.

The terms of Triten Real Estate Partners' Water Service Agreement and Sanitary Sewer Service Agreement will expire on December 31, 2019, plus any renewals or extensions thereof. However, these agreements will automatically expire at such time as there is no effective Industrial District Agreement between the parties, or if the City exercises its right of termination.

Action Required by Council:

Consider approval or other action, authorizing the City Manager to execute a Water Service Agreement, and Sanitary Sewer Service Agreement, with Triten Real Estate Partners for its facility at 9701 New Decade Drive, in the Bayport Industrial District.

Approved for City Council Agenda

Corby D. Alexander

Date



SITE LOCATION

Legend

- Street Names
-  City Limits
-  Railroad
-  Drainage Channels
-  Parcels

Sources: Esri, HERE, DeLorme, USGS, Intermap, INC Japan, METI, Esri China (Hong Kong), Esri Korea, Esri NGCC, © OpenStreetMap contributors, and the GIS User Community

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2501.102. The user is encouraged to independently verify all information contained in this product. The City of La Porte makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of La Porte from any damage, loss, or liability arising from such use.



City of La Porte
 604 W. Fairmont Parkway
 La Porte, TX 77571
 (281) 471-5020
 www.laportetx.gov

La Porte GIS Mapping

1" = 752'



ORDINANCE NO. 2007-IDA-40

AN ORDINANCE AUTHORIZING THE EXECUTION BY THE CITY OF LA PORTE OF AN INDUSTRIAL DISTRICT AGREEMENT WITH BNIP NEW DECADE VENTURE, LTD, A TEXAS LIMITED PARTNERSHIP FOR THE TERM COMMENCING JANUARY 1, 2008, AND ENDING DECEMBER 31, 2019, MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT, FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW, AND PROVIDING AN EFFECTIVE DATE HEROF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE:

Section 1. BNIP New Decade Venture, Ltd, a Texas Corporation has executed an industrial district agreement with the City of La Porte, for the term commencing January 1, 2008, and ending December 31, 2019, a copy of which is attached hereto, incorporated by reference herein, and made a part hereof for all purposes.

Section 2. The Mayor, the Assistant City Manager, the City Secretary, and the City attorney of the City of La Porte, be and they are hereby, authorized and empowered to execute and deliver on behalf of the City of La Porte, the industrial district agreement with the corporation named in Section 1 hereof.

Section 3. The City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the city for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 4. This Ordinance shall be effective from and after its passage and approval, and it is so ordered.

PASSED and **APPROVED**, this 3rd day of December, 2007.

CITY OF LA PORTE



Alton Porter, Mayor

ATTEST:



Martha Gillett, City Secretary

APPROVED:



Knox Askins, City Attorney

RECEIVED

NOV 21 2007

La Porte Tax Office

NO. 2007-IDA-40 §
STATE OF TEXAS §
COUNTY OF HARRIS §

INDUSTRIAL DISTRICT AGREEMENT

This AGREEMENT made and entered into by and between the CITY OF LA PORTE, TEXAS, a municipal corporation of Harris County, Texas, hereinafter called "CITY", and BNIP New Decade Venture, Ltd, a Texas Limited Partnership corporation, hereinafter called "COMPANY",

W I T N E S S E T H:

WHEREAS, it is the established policy of the City Council of the City of La Porte, Texas, to adopt such reasonable measures from time to time as are permitted by law and which will tend to enhance the economic stability and growth of the City and its environs by attracting the location of new and the expansion of existing industries therein, and such policy is hereby reaffirmed and adopted by this City Council as being in the best interest of the City and its citizens; and

WHEREAS, pursuant to its policy, City has enacted Ordinance No. 729, designating portions of the area located in its extraterritorial jurisdiction as the "Battleground Industrial District of La Porte, Texas", and Ordinance No. 842A, designating portions of the area located in its extraterritorial jurisdiction as the "Bayport Industrial District of La Porte, Texas", hereinafter collectively called "District", such Ordinances being in compliance with the Municipal Annexation Act of Texas, codified as Section 42.044, Texas Local Government Code; and

WHEREAS, Company is the owner of land within a designated Industrial District of the City of La Porte, said land being legally described on the attached Exhibit "A" (hereinafter "Land"); and said Land being more particularly shown on a plat attached as Exhibit "B", which plat describes the ownership boundary lines; a site layout, showing all improvements, including pipelines and railroads, and also showing areas of the Land previously annexed by the City of La Porte; and

WHEREAS, City desires to encourage the expansion and growth of industrial plants within said Districts and for such purpose desires to enter into this Agreement with Company pursuant to Ordinance adopted by the City Council of said City and recorded in the official minutes of said City:

FINAL DRAFT: November 1, 2007

NOW, THEREFORE, in consideration of the premises and the mutual agreements of the parties contained herein and pursuant to the authority granted under the Municipal Annexation Act and the Ordinances of City referred to above, City and Company hereby agree with each other as follows:

I.

City covenants, agrees and guarantees that during the term of this Agreement, provided below, and subject to the terms and provisions of this Agreement, said District shall continue to retain its extraterritorial status as an industrial district, at least to the extent that the same covers the Land belonging to Company and its assigns, unless and until the status of said Land, or a portion or portions thereof, as an industrial district may be changed pursuant to the terms of this Agreement. Subject to the foregoing and to the later provisions of this Agreement, City does further covenant, agree and guarantee that such industrial district, to the extent that it covers said Land lying within said District and not now within the corporate limits of City, shall be immune from annexation by City during the term hereof (except as hereinafter provided) and shall have no right to have extended to it any services by City, and that all Land, including that which has been heretofore annexed, shall not have extended to it by ordinance any rules and regulations (a) governing plats and subdivisions of land, (b) prescribing any building, electrical, plumbing or inspection code or codes, or (c) attempting to exercise in any manner whatever control over the conduct of business thereon; provided, however, any portion of Land constituting a strip of land 100' wide and contiguous to either Fairmont Parkway, State Highway 225, or State Highway 146, shall be subject to the rules and regulations attached hereto as Exhibit "C" and made a part hereof; and provided, however, it is agreed that City shall have the right to institute or intervene in any administrative and/or judicial proceeding authorized by the Texas Water Code, the Texas Clean Air Act, the Texas Health & Safety Code, or other federal or state environmental laws, rules or regulations, to the same extent and to the same intent and effect as if all Land covered by this Agreement were not subject to the Agreement.

II.

In the event that any portion of the Land has heretofore been annexed by City, Company agrees to render and pay full City ad valorem taxes on such annexed Land and improvements, and tangible personal property.

Under the terms of the Texas Property Tax Code (S.B. 621, Acts of the 65th Texas Legislature, Regular Session, 1979, as amended), the appraised value for tax purposes of the annexed portion of Land, improvements, and tangible personal property shall be determined by the Harris County Appraisal District. The parties hereto recognize that said Appraisal District has no authority to appraise the Land, improvements, and tangible personal property in the unannexed area for the purpose of computing the "in lieu"

payments hereunder. Therefore, the parties agree that the appraisal of the Land, improvements, and tangible personal property in the unannexed area shall be conducted by City, at City's expense, by an independent appraiser of City's selection. The parties recognize that in making such appraisal for "in lieu" payment purposes, such appraiser must of necessity appraise the entire (annexed and unannexed) Land, improvements, and tangible personal property.

Nothing herein contained shall ever be interpreted as lessening the authority of the Harris County Appraisal District to establish the appraised value of Land, improvements, and tangible personal property in the annexed portion, for ad valorem tax purposes.

III.

A. The properties upon which the "in lieu of" taxes are assessed are more fully described in subsections 1, 2, and 3 of subsection C, of this Paragraph III (sometimes collectively called the "Property"); provided, however, pollution control equipment installed on the Land which is exempt from ad valorem taxation pursuant to the provisions of Sec. 11.31 of the Texas Property Tax Code is exempt from ad valorem taxation and "in lieu of taxes" hereunder. Property included in this Agreement shall not be entitled to an agricultural use exemption for purposes of computing "in lieu of taxes" hereunder.

B. On or before the later of December 31, 2008, or 30 days from mailing of tax bill and in like manner on or before each December 31st thereafter, through and including December 31, 2019, Company shall pay to City an amount of "in lieu of taxes" on Company's Property as of January 1st of the current calendar year ("Value Year").

C. Company and City agree that the following percentages ("Percentage Amount") shall apply during each of the Value Years:

Value Year 2008:	62%
Value Year 2009:	62%
Value Year 2010:	62%
Value Year 2011:	62%
Value Year 2012:	62%
Value Year 2013:	62%
Value Year 2014:	63%
Value Year 2015:	63%
Value Year 2016:	63%
Value Year 2017:	63%
Value Year 2018:	63%
Value Year 2019:	63%

Company agrees to pay to City an amount of "in lieu of taxes" on Company's land, improvements and tangible personal property in the unannexed area equal to the sum of:

1. Percentage Amount of the amount of ad valorem taxes which would be payable to City if all of the Company's Land and improvements which existed on January 1, 2008, and each January 1 thereafter of the applicable Value Year during the term of this Agreement, (excluding amounts which would be so payable with respect to any Substantial Increase in value of such Land and improvements to which subparagraph 2, below applies), had been within the corporate limits of City and appraised each year by City's independent appraiser, in accordance with the applicable provisions of the Texas Property Tax Code; and

2. (a) On any Substantial Increase in value of the Land, improvements, and tangible personal property (excluding inventory) dedicated to new construction, in excess of the appraised value of same on January 1, 2007, resulting from new construction (exclusive of construction in progress, which shall be exempt from taxation), for each Value Years following completion of construction in progress, an amount equal to Twenty-five percent (25%), if construction is completed in Value years 2008 through 2013; and Twenty percent (20%), if construction is completed in Value years 2014 through 2019, of the amount of ad valorem taxes which would be payable to City if all of said new construction had been within the corporate limits of City and appraised by City's independent appraiser, in accordance with the applicable provisions of the Texas Property Tax Code.

In the case of new construction which is completed in Value Year 2016 or later, and provided, further, that City and Company enter into an Industrial District Agreement after the expiration of this Industrial District Agreement, then, and in such events, such new construction shall be entitled to additional Value Years under the new Agreement at a Twenty percent (20%) valuation under this subparagraph (a), for a total of six (6) Value Years, but not extending beyond Value Year 2022.

- (b) A Substantial Increase in value of the Land, improvements, and tangible personal property (excluding inventory) as used in subparagraph 2(a) above, is defined as an increase in value that is the lesser of either:
 - i. at least Five percent (5%) of the total appraised value of Land and improvements, on January 1, 2007; or
 - ii. a cumulative value of at least \$3,500,000.00.

For the purposes of this Agreement, multiple projects that are completed in a Value Year can be cumulated to arrive at the amount for the increase in value.

- (c) If existing Property values have depreciated below the Property value established on January 1, 2007, an amount equal to the amount of the depreciation will be removed from the calculation under this subparagraph 2 to restore the value to the January 1, 2007, value; and
3. Percentage Amount of the amount of ad valorem taxes which would be payable to City on all of the Company's tangible personal property of every description, located in an industrial district of City, including, without limitation, inventory, (including inventory in a federal Foreign Trade Zone and including Freeport exempted inventory), oil, gas, and mineral interests, items of leased equipment, railroads, pipelines, and products in storage located on the Land, if all of said tangible personal property which existed on January 1, 2008, and each January 1 thereafter of the applicable Value Year during the term of this Agreement, (excluding amounts which would be so payable with respect to any Substantial Increase in value of such tangible personal property to which subparagraph 2, above applies), had been within the corporate limits of City and appraised each year by the City's independent appraiser, in accordance with the applicable provisions of the Texas Property Tax Code.

with the sum of 1, 2 and 3 reduced by the amount of City's ad valorem taxes on the annexed portion thereof as determined by appraisal by the Harris County Appraisal District.

4. Notwithstanding the above, should City elect to grant the freeport inventory exemption authorized by Article VIII, Section 1-j of the Texas Constitution and Section 11.251 of the Texas Property Tax Code to taxpayers within the City limits, then the freeport inventory exemption shall apply to parties to this Agreement. Further, should inventory or any other class or type of property become exempt from taxation by constitutional amendment or act of the Texas Legislature (including, but not limited to, Article VIII, Section 1-n, of the Texas Constitution and Section 11.253 of the Texas Property Tax Code), such class or type of property shall be exempt for purposes of this Agreement, unless the City Council of the City of La Porte shall by Ordinance provide for the continued taxation of such property under the authority of any applicable provisions of the Texas Constitution and Texas Statutes.

5. City and Company acknowledge circumstances might require the City to provide emergency services to Company's Property described on Exhibit "A" attached hereto. Emergency services are limited to fire, police, and public works emergency services. If Company is not a member of Channel Industries Mutual Aid Association (CIMA), Company agrees to reimburse City for its costs arising out of any emergency response requested by Company to Company's property, and to which City agrees to respond. If Company is a member of CIMA, the obligations of Company and City shall be governed by the CIMA agreement, to which agreement City is a party.

IV.

This Agreement shall extend for a period beginning on the 1st day of January, 2008, and continuing thereafter until December 31, 2019, unless extended for an additional period or periods of time upon mutual consent of Company and City as provided by the Municipal Annexation Act; provided, however, that in the event this Agreement is not so extended for an additional period or periods of time on or before August 31, 2019, the agreement of City not to annex property of Company within the District shall terminate. In that event, City shall have the right to commence immediate annexation proceedings as to all of Company's property covered by this Agreement, notwithstanding any of the terms and provisions of this Agreement.

Company agrees that if the Texas Municipal Act, Section 42.044, Texas Local Government Code, is amended after January 1, 1994, or any new legislation is thereafter enacted by the Legislature of the State of Texas which imposes greater restrictions on the right of City to annex land belonging to Company or imposes further obligations on City in connection therewith after the annexation of such land, Company will waive the right to require City to comply with any such additional restrictions or obligations and the rights of the parties shall be then determined in accordance with the provisions of said Texas Municipal Annexation Act as the same existed January 1, 1994.

V.

This Agreement may be extended for an additional period or periods by agreement between City and Company and/or its assigns even though it is not extended by agreement between City and all of the owners of all land within the District of which it is a part.

VI.

A. In the event Company elects to protest the valuation for tax purposes set on its said properties by City or by the Harris County Appraisal District for any year or years during the terms hereof, nothing in this Agreement shall preclude such protest and

Company shall have the right to take all legal steps desired by it to reduce the same.

Notwithstanding such protest by Company, and except as otherwise provided in Article VI(B), Company agrees to pay to City on or before the date therefor hereinabove provided, at least the total of (a) the total amount of ad valorem taxes on the annexed portions, plus (b) the total amount of the "in lieu of taxes" on the unannexed portions of Company's hereinabove described property which would be due to City in accordance with the foregoing provisions of this Agreement on the basis of renditions which shall be filed by Company.

When the City or Harris County Appraisal District (as the case may be) valuation on said property of Company has been so finally determined, either as the result of final judgment of a court of competent jurisdiction or as the result of other final conclusion of the controversy, then within thirty (30) days thereafter Company shall make payment to City of any additional payment due hereunder, or City shall make payment to Company of any refund due, as the case may be, based on such final valuation, together with applicable penalties, interests, and costs.

B. Should Company disagree with any appraisal made by the independent appraiser selected by City pursuant to Article II above (which shall be given in writing to Company), Company shall, within twenty (20) calendar days of receiving City's invoice, give written notice to the City of such disagreement. In the event Company does not give such written notice of disagreement within such time period, the appraisal made by said independent appraiser shall be final and controlling for purposes of the determination of "in lieu of taxes" payments to be made under this Agreement.

Should Company give such notice of disagreement, Company shall also submit to the City with such notice a written statement setting forth what Company believes to be the market value of Company's hereinabove described property. Both parties agree to thereupon enter into good faith negotiations in an attempt to reach an agreement as to the market value of Company's property for "in lieu" purposes hereunder. If, after the expiration of thirty (30) days from the date the notice of disagreement was received by City, the parties have not reached agreement as to such market value, the parties agree to submit the dispute to final arbitration as provided in subparagraph 1 of this Article VI(B).

Notwithstanding any such disagreement by Company, Company agrees to pay to City on or before December 31 of each year during the term hereof, at least the total of (a) the ad valorem taxes on the annexed portions, plus (b) the total amount of the "in lieu" payments which would be due hereunder on the basis of Company's written valuations statement submitted to City by Company hereunder, or the total assessment and "in lieu of taxes" thereon for the last preceding year, whichever is higher.

1. A Board of Arbitrators shall be created composed of one person named by Company, one by City, and a third to be named by those two. In case of no agreement on this arbitrator in 10 days, the parties will join in a written request that the Chief Judge of the U.S. District Court for the Southern District of Texas appoint the third arbitrator who, (as the "Impartial Arbitrator") shall preside over the arbitration proceeding. The sole issue to be determined in the arbitration shall be resolution of the difference between the parties as to the fair market value of Company's property for calculation of the "in lieu" payment and total payment hereunder for the year in question. The Board shall hear and consider all relevant and material evidence on that issue including expert opinion, and shall render its written decision as promptly as practicable. That decision shall then be final and binding upon the parties, subject only to judicial review as may be available under the Texas General Arbitration Act (Chapter 171, "General Arbitration", Texas Civil Practice and Remedies Code). Costs of the arbitration shall be shared equally by the Company and the city, provided that each party shall bear its own attorneys fees.

VII.

City shall be entitled to a tax lien on Company's above described property, all improvements thereon, and all tangible personal property thereon, in the event of default in payment of "in lieu of taxes" payments hereunder, which shall accrue penalty and interest in like manner as delinquent taxes, and which shall be collectible by City in the same manner as provided by law for delinquent taxes.

VIII.

This Agreement shall inure to the benefit of and be binding upon City and Company, and upon Company's successors and assigns, affiliates and subsidiaries, and shall remain in force whether Company sells, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the property belonging to it within the territory hereinabove described, and the agreements herein contained shall be held to be covenants running with the land owned by Company situated within said territory, for so long as this Agreement or any extension thereof remains in force. Company shall give City written notice within ninety (90) days, with full particulars as to property assigned and identity of assignee, of any disposition of the Land, and assignment of this Agreement.

IX.

If City enters into an Agreement with any other landowner with respect to an industrial district or enters into a renewal of any

existing industrial district agreements after the effective date hereof and while this Agreement is in effect, which contains terms and provisions more favorable to the landowner than those in this Agreement, Company and its assigns shall have the right to amend this Agreement and City agrees to amend same to embrace the more favorable terms of such agreement or renewal agreement.

X.

The parties agree that this Agreement complies with existing laws pertaining to the subject and that all terms, considerations and conditions set forth herein are lawful, reasonable, appropriate, and not unduly restrictive of Company's business activities. Without such agreement neither party hereto would enter into this Agreement. In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, articles or other parts of this Agreement or the application thereof to any person, firm, corporation or circumstances shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrase, clause, sentence, paragraph, section, article or other part of the Agreement shall be deemed to be independent of and separable from the remainder of this Agreement and the validity of the remaining parts of this Agreement shall not be affected thereby.

XI.

Upon the commencement of the term of this Agreement, all other previously existing industrial district agreements with respect to said Land shall terminate.

XII.

Notices by a party to the other party hereto, shall be mailed or delivered as follows:

To the City of La Porte:

City Manager
City of La Porte
604 West Fairmont Parkway
La Porte, TX 77571

To Company:

BNIP New Decade Venture, Ltd
a Texas Limited Partnership

(COMPANY)
Attention: Donald E. Dennis, Jr
3721 Briapark #155
Houston, Texas 77042

Company shall promptly notify City of any change of ownership of Property, any assignment of this Agreement, and of any change of billing address.

Company shall notify City annually, on or before June 1, of any changes to the following information:

Plant Manager
Carol Riekert
Name: Custom Catalytic Solutions
Address: 9601 New Decade Dr
Pasadena, Texas 77607
Phone: 713-474-2760
Fax:
Email: cdr@customcatalytic.com

Tax Agent/Billing Contact

Name: Dave Dennis
Address: 3721 Briarpark #155
Houston, Texas 77042
Phone: 713-273-8989
Fax: 713-273-8990
Email: dmdennis@archwayprop.com

ENTERED INTO effective the 1st day of January, 2008.

BNIP New Decade Venture, Ltd

By: Donald E. Dennis, Jr, Inc., Its General Partner
(COMPANY)

By: Donald E. Dennis, Jr
Name: Donald E. Dennis, Jr
Title: President
Address: 3721 Briarpark #155
Houston, Texas 77042

ATTEST:

Matthew Askins
City Secretary

CITY OF LA PORTE
By: Alton E. Porter
Alton E. Porter
Mayor

APPROVED:

Knox W. Askins
Knox W. Askins
City Attorney
City of La Porte

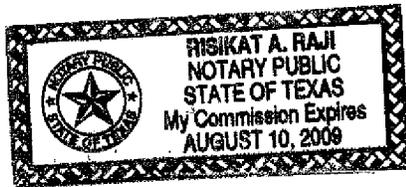
By: John Joerns
John Joerns
Assistant City Manager

P.O. Box 1218
La Porte, TX 77572-1218
281.471.1886
281.471.2047 fax
knoxaskins@comcast.net

CITY OF LA PORTE
604 West Fairmont Parkway
La Porte, TX 77571

STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 21 day of November, 2007, by DONALD E. DENNIS, JR., PRESIDENT of DONALD E. DENNIS, JR. INC. corporation, a Texas corporation, on behalf of said entity.



Risikat A Raji
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 17 day of April, 2008, by Alton E. Porter, Mayor of the City of La Porte, a municipal corporation, on behalf of said entity.

[Signature]
Notary Public, State of Texas



"EXHIBIT A"

(Metes and Bounds Description of Land)

"EXHIBIT C"

Page 1 of 3

RULES AND REGULATIONS

Any portion of Land constituting a strip of land 100' wide and contiguous to either Fairmont Parkway, State Highway 225, or State Highway 146 shall be subject to the following rules and regulations pertaining to new signage, screening, driveways and median crossovers. These rules and regulations shall apply after the effective date of this Agreement when Company develops or constructs improvements on vacant Land described in Exhibit "A" which is adjacent to Fairmont Parkway, State Highway 225, or State Highway 146.

1. Any sign erected in said 100' strip of land shall be subject to the following provisions:
 - ◆ One freestanding identification sign shall be permitted for each side of an industrial establishment that fronts on an improved public right-of-way.
 - ◆ Freestanding identification signs for single tenant buildings shall not exceed 150 square feet in area.
 - ◆ One freestanding identification sign for identifying multiple businesses is allowable at the intersection of improved public rights-of-way.
 - ◆ Freestanding identification signs for multiple businesses shall not exceed 350 square feet.
 - ◆ Freestanding identification signs shall not exceed 45 feet in height.
 - ◆ Minimum setback for sign construction shall be ten (10) feet from property lines.
2. When Land adjacent to said 100' strip is developed, the initial 50' of said strip beyond any existing pipeline easement contiguous to either Fairmont Parkway, State Highway 225, or State Highway 146 shall be screened by one of the following techniques:
 - a) Leaving in place existing trees, vegetation, underbrush, etc. to provide a thorough and effective visual screening of the development. Existing trees shall, together with other vegetation and underbrush, create a continuous visual screen.

"EXHIBIT C"
Page 2 of 3

- b) The use of earthen berms with approximately 3:1 side slopes, 50' wide at the base and 8' high. The berms may be landscaped with a combination of trees, shrubs, and ground cover. All berms and landscaping will be maintained by the property owners.
- c) A screening plan, to be approved by the City, that includes a combination of trees, shrubs, and ground cover that after 5 years growth will be at least 20 feet in height and shall, together with shrubs and ground cover, create a continuous visual screen. Provided, however, in public utility easements or rights-of-way, the vegetation shall be installed and maintained in a manner which is acceptable to the public utility company, and does not interfere with the operation and maintenance of the public utility facilities.

For items b and c above, the actual length of required screening along the roadway will be equal to the length of the new development that is parallel to the roadway. Screening shall not be required for new development that is to the rear of or behind existing facilities.

In all cases the 50' strip, along the entire roadway frontage, shall be dedicated as a landscape easement and shall be kept free from any improvements except for approved driveway access and identification signs.

For cases of new development or improvements where a 50' landscape easement is not available or practical, Company shall meet with City to determine a suitable landscaping alternative.

- d) In the case of land contiguous to Fairmont Parkway, in addition to the other requirements of these Rules and Regulations, Company shall dedicate to City by Plat a ten foot (10') wide pedestrian and bicycle easement, extending along Company's Fairmont Parkway boundary, within the fifty foot (50') landscape easement. The pedestrian easement shall not be within any pipeline facility, except for necessary crossings.
3. Driveways opening from said strip of land onto State Highway 225 or State Highway 146 shall be subject to the rules and regulations of the Texas Department of Transportation and provisions of the City's Code of Ordinances, whichever is more restrictive.

Driveways opening from said strip of land onto Fairmont Parkway shall be subject to the rules and regulations of Harris County and provisions of the City's Code of Ordinances, whichever is more restrictive.

"EXHIBIT C"

Page 3 of 3

4. Driveways opening from said strip of land onto Fairmont Parkway shall be approved by the City and may require the installation of separate acceleration/deceleration lanes.
5. Installation of a median crossover on Fairmont Parkway shall be subject to the approval of both Harris County and City.



01-09-2007 DATE
 MARK S. BROWN
 5553 R.P.L.S. NO.

I HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS THE ACTUAL CONDITIONS FOUND ON THE GROUND AT THE TIME OF THE SURVEY AND ALL IMPROVEMENTS LIE WHOLLY WITHIN THE PROPERTY LINES, EXCEPT AS SHOWN.

THIS PROFESSIONAL SERVICE SUBSTANTIALLY CONFORMS TO THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR CATEGORY 1A, CONDITION 2 SURVEY.

GENERAL NOTES

- BEARINGS SHOWN BASED ON RECORD PLAT.
- NO PORTION OF THE SUBJECT SITE IS LOCATED WITHIN THE 100 YEAR SPECIAL FLOOD HAZARD AREA ACCORDING TO THE MOST RECENT OFFICIAL INSURANCE RATE MAP, DATED 11-06-1996, MAP NUMBER 48201C0940, ZONE(S) "X", PROMULGATED BY THE ADMINISTRATOR OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OF THE UNITED STATES. ANY REFERENCE TO THE 100 YEAR FLOOD PLAIN OR FLOOD HAZARD ZONES, ARE AN ESTIMATE BASED ON DATA PROVIDED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE PROGRAM AND SHOULD NOT BE INTERPRETED AS A STUDY OR DETERMINATION OF THE FLOODING PROPENSITIES OF THIS PROPERTY.
- SEE SEPARATE LEGAL DESCRIPTION FOR ADDITIONAL NARRATIVE.
- FOR ADDITIONAL BUILDING RESTRICTIONS, SEE RESTRICTIVE COVENANTS, V.5920.P.165, AMENDED IN V.8470.P.238 HDR; C-086907, D-350136.D-876057, V-400560.V-111543, U-138141.F.C.#437010 HCMR.
- UTILITIES SHOWN HEREON ARE BASED ON CITY OF LA PORTE AND UTILITY COMPANY DRAWINGS WITH FIELD TIES TO EXISTING SURFACE FIXTURES. ALL UTILITIES SHOULD BE FIELD VERIFIED PRIOR TO CONSTRUCTION.
- SITE SUBJECT TO ENVIRONMENTAL STANDARDS FOR THE INDUSTRIAL AREA KNOWN AS "BAYPORT" HARRIS COUNTY, TEXAS, RECORDED UNDER V.5920.P.165 AMENDED IN V.8470.P.238 HDR; D-876057, V-400560, C-086907, D-350136.
- SITE SUBJECT TO A COVENANT AND AGREEMENT NOT TO DRILL OR OPERATE OR CAUSE THE DRILLING OR OPERATION OF ANY WATER WELL ON THE SUBJECT PROPERTY, UNLESS AS OTHERWISE PROVIDED THEREIN, AS RECORDED UNDER H-111543.
- SUBJECT PROPERTY IS LOCATED WITHIN CLEAR LAKE CITY WATER AUTHORITY, AT OR PRIOR TO CLOSING, SELLER IS TO FURNISH A PROPERLY EXECUTED AND ACKNOWLEDGED NOTICE IN COMPLIANCE WITH THE PROVISIONS SET FORTH IN SEC. 49.452 V.T.C.A. WATER CODE, WHICH NOTICE MUST ALSO BE SIGNED AND ACKNOWLEDGED BY THE PURCHASER AND SUBSEQUENTLY THEREOF MUST BE FILED FOR RECORD.
- SITE SUBJECT TO TERMS, CONDITIONS, PROVISIONS, AND OBLIGATIONS OF GRANTEE THEREIN TO PERFORM CERTAIN COVENANTS AS SET FORTH IN INSTRUMENT RECORDED UNDER H-111543.
- SITE SUBJECT TO ANNUAL MAINTENANCE CHARGE PAYABLE TO BAYPORT INDUSTRIAL PARK OWNERS ASSOCIATION IN INSTRUMENT RECORDED UNDER U-138141.
- SITE CONTAINS NO NATURAL WATER COURSES.
- SURVEY PERFORMED WITHOUT BENEFIT OF CURRENT TITLE REPORT.

RESTRICTED RESERVE "D" (RESTRICTED TO INDUSTRIAL USE) 21.9 ACRES (954,046 S.F.)

24.5223 ACRES
 VANTAGE DEVELOPMENT #38, INC.
 TO
 CARSON BAYPORT I LP
 Z-476874 025-23-0203
 07-25-2006

TRACT 2
 RAILROAD EASEMENT NO. 1
 18,860 S.F.
 (Y-629953)

TRACT 1
 10,000 ACRES
 (435,600 S.F.)

RESTRICTED RESERVE "C" (RESTRICTED TO INDUSTRIAL USE) 38.1 ACRES (1,660,484 S.F.)

8.5811 ACRES
 BAYPORT NORTH INDUSTRIAL PARK, L.P.
 TO
 OAKWOOD CAPITAL, L.P.
 U-682353 535-24-3950
 10-12-2000

10,000 ACRES
 TERRANOVA FOREST PRODUCTS, INC.
 TO
 ROCKIN R REAL ESTATE INVESTORS OF TEXAS, LLC
 X-502326 583-77-0558
 04-01-2004



METES & BOUNDS DESCRIPTION
 10,000 ACRES BEING OUT OF RESTRICTED RESERVE "C" BAYPORT NORTH INDUSTRIAL PARK HARRIS COUNTY, TEXAS

All that certain 10,000 acres of land being out of Restricted Reserve "C", Bayport North Industrial Park according to the plat thereof filed at Film Code No. 437010, Harris County Map Records, also being out of that certain called 110,5334 acre tract of land described in a deed dated 11-08-1999 from Don L. Tuffli, Trustee to Bayport North Industrial Park, L.P. filed for record in the Official Public Records of Real Property of Harris County, Texas, at Clerk's File No. U-074535, Film Code No. 529-10-2591 and that certain called 45.99 acre tract of land described in a deed dated 11-08-1999 from Don L. Tuffli, Trustee to Bayport North Industrial Park, L.P. filed for record in the Official Public Records of Real Property of Harris County, Texas, at Clerk's File No. U-074533, Film Code No. 529-10-2596 being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8" iron rod with cap located in the north right-of-way line of New Decade Drive (60' wide) at its intersection with the east end of a 20' cut back line for the east right-of-way line of New West Drive (60' wide); thence N 87° 26' 41" E - 508.89', with the said north right-of-way line of New Decade Drive to a found 5/8" iron rod with cap for corner marking the POINT OF BEGINNING of the herein described tract;

THENCE N 01° 56' 01" W - 635.98', with the east line of a certain called 6.9179 acre tract of land described in a deed dated 03-22-2002 from Bayport North Industrial Park, L.P. to GSL Investment, Inc. filed for record in the Official Public Records of Real Property of Harris County, Texas, at Clerk's File No. V-720330, Film Code No. 550-78-1730 to a found 5/8" iron rod for corner;

THENCE N 88° 03' 59" E - 688.98', with the south line of a certain called 10,0000 acre tract of land described in a deed dated 01-27-2000 from Bayport North Industrial Park, L.P. to Terranova Forest Products filed for record in the Official Public Records of Real Property of Harris County, Texas, at Clerk's File No. U-208180, Film Code No. 530-49-3800 to a found 5/8" iron rod with cap for corner;

THENCE S 01° 56' 01" E - 628.50' to a found 5/8" iron rod with cap for corner;

THENCE S 87° 26' 41" W - 689.02', with the aforementioned north right-of-way line of New Decade Drive to the POINT OF BEGINNING and containing 10,000 acres (435,600 square feet) of land, more or less.

TRACT 5 - 6.9179 ACRES
 GSL INDUSTRIAL PARTNERS, L.P.
 TO
 GSL PARTNERS SUB SEVEN, L.P.
 W-305394 560-74-0370
 11-22-2002

RESIDUE OF 45.59 ACRES
 DON L. TUFFLI, TRUSTEE
 TO
 BAYPORT NORTH INDUSTRIAL PARK, L.P.
 U-074536 529-10-2596
 11-08-1999

REPLATED RESTRICTED RESERVE "E" (RESTRICTED TO INDUSTRIAL USE) 25.6 ACRES (1,114,057 S.F.)

LEGEND

- H.C.M.R. INDICATES HARRIS COUNTY MAP RECORDS
- H.C.D.R. INDICATES HARRIS COUNTY DEED RECORDS
- I.P. INDICATES IRON PIES
- I.R. INDICATES IRON ROD
- I.R./CAP INDICATES IRON ROD WITH ALUMINUM CAP
- FND INDICATES FOUND
- VOL INDICATES VOLUME
- P.G. INDICATES PAGE
- 50 FT. INDICATES SQUARE FEET
- S.F. INDICATES SQUARE FEET
- P.T. INDICATES POINT OF TANGENCY
- R/W INDICATES RIGHT-OF-WAY
- U.E. INDICATES UTILITY EASEMENT
- P.C. INDICATES POINT OF CURVATURE
- P.T. INDICATES POINT OF TANGENCY
- W.L.E. INDICATES WATER LINE EASEMENT
- S.W.B.T. INDICATES SOUTHWESTERN BELL TELEPHONE
- H.L. & P. INDICATES HOUSTON LIGHTING & POWER COMPANY
- S.S.E. INDICATES SANITARY SEWER EASEMENT
- A.E. INDICATES AERIAL EASEMENT
- S.T.S.E. INDICATES STORM SEWER EASEMENT
- TPM INDICATES SWEET PAINT MARK
- EPM INDICATES ENTEN PAINT MARK
- C/O INDICATES CLEAN OUT
- WM= WATER METER
- FH= FIRE HYDRANT
- WV= WATER VALVE
- TRAFFIC SIGN
- SOUTHWESTERN BELL MANHOLE
- TELEPHONE ENCLOSURE
- POWER POLE #/DOWN GUY
- STORM/SANITARY SEWER MANHOLE
- TYPE B-B INLET
- TYPE B INLET
- GAS METER
- G/L= GROUND LIGHT

REVISED: 01-09-2007

PREJEAN & COMPANY, INC.
 surveying / mapping
 9324 WESTWIND DRIVE
 HOUSTON, TX 77055
 713-467-MAPS

ASBUILT SURVEY

10,000 ACRES BEING OUT OF RESTRICTED RESERVE "C" BAYPORT NORTH INDUSTRIAL PARK
 FILM CODE NO. 437010 H.C.M.R.
 HARRIS COUNTY, TEXAS

DATE: 06-08-2005 SCALE: 1" = 50' JOB No.: 256-1-3A1

2007-IDA-40

- City Use Only -

Rec'd by: _____ Date: _____
Date of Initial Review Meeting: _____
Date of Internal Review Meeting: _____
Request Meets Policy Guidelines?: Y or N
Date of Notification to Company: _____

**APPLICATION for WATER / SEWER SERVICE to COMPANIES
WITH AN INDUSTRIAL DISTRICT AGREEMENT (IDA)**

Note: Submittal of partial or incomplete information may delay processing of your application

1.) COMPANY NAME (per Applicant's IDA w/ City):

Name: Triten Real Estate Partners

Phone #: (832) 615-1447

Fax #: _____

E-Mail: MPendley@triten.com

Company Address: 3657 Briarpark Dr.

Suite 300, Houston TX 77042

2.) *SITE TENANT (if other than "Company"):

Company Name: _____

Phone #: _____

Fax #: _____

Address: _____

Contact Name: _____

3.) PROPERTY DATA (If available, include any survey, plat, site plan, map or sketch of the subject site with this form):

*Company's Industrial District Agreement No.: 2007 - IDA - _____

*Site Address: 9701 NEW DECADE DRIVE, PASADENA TX 77507

Site HCAD ID(s): 1 2 0 - 7 2 8 - 0 0 0 - 0 0 3 2 ; _____ - _____ - _____ - _____ ;

_____ - _____ - _____ - _____ ; _____ - _____ - _____ - _____

Total Site Acreage (Per Exhibit "A" of Company's IDA): 5.77 Acres

4.) SITE FACILITY INFORMATION (If available, include any site plan or sketch of the subject facility with this form):

New Construction

Describe Project: Proposed loading dock with paved driveways and parking spaces

New Tenant Requesting Additional Water and/or Sanitary Sewer Allocation

(Specify reason(s) for additional allocation request: _____

*Full-time Regular + Full-time Contract Employees who will occupy this facility: Estimated at Thirty (30) Total Full-Time Employees

**Current Amount of Water Allocated to Company by existing Water Service Agreement: _____ gallons per month

**Current Amount of Sewer Allocated to Company by existing Sewer Service Agreement: _____ gallons per month

5.) WATER SERVICE IS REQUESTED to COMPANY'S SITE FOR THE FOLLOWING PURPOSE(S):

Domestic Uses (i.e. Drinking, Flushing, Etc.)

Other (describe): Fire uses for hydrant and break tank; Landscaping Irrigation

6.) SANITARY SEWER SERVICE IS REQUESTED to COMPANY'S SITE FOR THE FOLLOWING PURPOSE(S):

Domestic Uses (i.e. Wastewater from domestic uses)

Other (describe): _____

* An Administrative Fee of \$100 per employee is assessed for each agreement (Min Fee = \$5,000; Max Fee = \$15,000)

**If Applicable

STATE OF TEXAS §

COUNTY OF HARRIS §

**CITY OF LA PORTE
WATER SERVICE AGREEMENT**

This AGREEMENT made and entered into by and between the CITY OF LA PORTE, TEXAS, a municipal corporation of Harris County, Texas, hereinafter called "CITY", and CRP/TREP New Decade Owner, L.P., a Delaware limited liability company hereinafter called "COMPANY".

I.

COMPANY is the owner of certain real property which is situated within the CITY'S Battleground or Bayport Industrial District and not within the corporate limits of the CITY. CITY and COMPANY are parties to a current Industrial District Agreement.

II.

COMPANY is desirous of purchasing potable water from CITY for usual human domestic uses. Previous planning considerations for the long-range potable water supply of CITY did not include the needs of properties located outside the corporate limits of CITY. COMPANY recognizes that CITY cannot at this time provide permanent and unlimited water service. CITY agrees, however, to provide limited potable water service to COMPANY. For and in consideration of furnishing domestic potable water by CITY, the parties hereto agree as follows, to-wit:

III.

COMPANY has made certain representations to CITY as to the number of employees that will be located at the COMPANY'S property as of the date of this agreement, upon which representations CITY has relied in entering into this Agreement.

Upon review of these representations, the City has determined the following:

Number of Full-Time Employees on site	30
+ Number of Full-Time Contract Employees on site	0
= Total On-Site Full-Time Employees	30
Potable Water Approved for Domestic Use (Total on-site Employees times 50 gpd per employee)	1,500
Total Amount of Potable Water Approved for COMPANY (Average Daily Volume, gpd)	1,500

IV.

CITY has determined that adequate resources are available to CITY to furnish potable water to COMPANY based on the following terms and conditions, to-wit:

- (A) COMPANY shall pay to CITY a one-time administrative fee of \$ 5,000.
- (B) The total amount of potable water approved to COMPANY is established at 1,500 () gallons per day. This number is based on an average of fifty (50) gallons per employee per day as established by CITY.
- (C) The average monthly volume of 45,750 () gallons is established by multiplying the average daily volume by a factor of 30.5, which shall be used to facilitate CITY'S utility service billings.
- (D) Nothing contained in this Agreement shall obligate CITY to furnish more than the average monthly volume of 45,750 () gallons. Repeated consumption greater than the established average monthly volume may result in termination of service.
- (E) COMPANY shall pay the standard water tap/meter fee based on CITY'S current tap/meter fee schedule. Upon final approval of COMPANY'S on-site and/or off-site utility construction by CITY, COMPANY shall pay the CITY'S standard water deposit fee through CITY'S Utility Billing Division prior to receiving water service from CITY.
- (F) The cost of water up to the average monthly volume of 45,750 () gallons shall be billed at one hundred fifty percent (150%) of the CITY'S rate as established from time to time for commercial customers inside its corporate limits.
- (G) The cost of water for amounts used in excess of the established average monthly volume shall be billed at two hundred percent (200%) of the CITY'S rate as established from time to time for commercial customers inside its corporate limits.
- (H) COMPANY shall submit a preliminary site plan showing the total acreage of the tract including present and proposed improvements and a suitable location map of the site. COMPANY'S development may be subject to certain additional requirements as described in Exhibit A. These requirements shall be shown on the final site plan and approved by City.
- (I) COMPANY'S site design and site development will, in certain cases, be subject to specific "Rules and Regulations" as defined in Exhibit "C" of COMPANY'S Industrial District Agreement with CITY.
- (J) All plumbing installed by COMPANY connected to the domestic water line from CITY, shall meet all applicable State of Texas and CITY plumbing code requirements.
- (K) A reduced pressure zone backflow preventer shall be installed and maintained by COMPANY to protect CITY from any possible cross-connections.
- (L) COMPANY'S potable water supply system will be segregated from any existing and future fire protection system.

- (M) The total cost for the engineering design and construction of any potable water main, service line, back flow preventer, meter or other required appurtenances will be the responsibility of COMPANY.
- (N) COMPANY agrees to be bound by all applicable ordinances of CITY, relative to the furnishing of potable water to customers within the corporate limits of CITY.
- (O) There shall be no resale of water provided by CITY, nor any extension of service lines by COMPANY to serve other parties.
- (P) CITY'S personnel shall have the right of prior review and approval of COMPANY'S plans and specifications for the plumbing system(s). CITY shall have the right to inspect any and all work related to the furnishing of potable water to COMPANY.
- (Q) CITY shall have the right to interrupt or temporarily suspend said water service to COMPANY if an emergency arises and there is not an adequate water supply to meet the needs of the citizens of La Porte.
- (R) CITY reserves the right to enforce its drought contingency plan on all water customers at CITY'S sole discretion.
- (S) CITY does not guarantee its water system to provide specific water pressure and/or water volume requirements of COMPANY.

V.

All expenses of the installation of the meter; service lines from the main to the meter; and from the meter to COMPANY'S facilities, shall be solely at the expense of COMPANY. COMPANY shall own and maintain all service lines and plumbing facilities beyond the meter. CITY shall own the meter.

VI.

In the event a State or Harris County license, permit, or permission to install the water main is revoked, or relocation or adjustment is required, CITY will not be responsible for the expense of such relocation, adjustment, or replacement.

VII.

CITY reserves the right of entry at all reasonable times for the purpose of inspection of COMPANY'S water facilities, reading its water meter(s) and to observe compliance with the terms and conditions of this Agreement. When exercising its right of entry, CITY shall notify COMPANY in advance. CITY also agrees to follow established health and safety policies in effect at COMPANY'S facility.

VIII.

CITY reserves the right to terminate this agreement in the event of violation of the terms and provisions hereof by COMPANY. CITY will provide COMPANY with written notice of any defects and COMPANY shall have the opportunity to cure any defects. Failure to correct defects

within ten (10) calendar days from date of written notice by CITY may result in termination of Agreement. CITY shall have the right to summarily correct, at COMPANY'S expense, any defect or deficiency, when in its opinion the integrity of the public water supply is threatened.

IX.

Upon receipt of written notice of termination, COMPANY shall have up to six (6) months to prepare for transition to another water supply. If the transition is not complete within said six-month period, CITY shall have the right to terminate water service at its sole discretion.

X.

In the event of any conflict between the terms and provisions of this Water Service Agreement and the terms and provisions of the Industrial District Agreement between the parties, the terms and provisions of the Water Service Agreement shall control, to the extent of such conflict. The term of this Agreement shall expire on December 31, 2019 plus any renewals and extensions thereof. However, this Agreement shall automatically expire at such time as there is no effective Industrial District Agreement between the parties or if CITY exercises its right of termination.

ENTERED INTO effective the _____ day of _____, _____.



Signature of Company's Authorized Representative

Printed Name: Scott Arnoldy

Company Representative's Title: Authorized Signatory

Company's Address:

3657 Briarpark Dr. Suite 300

Houston, Texas 77042

ATTEST:

CITY OF LA PORTE

Patrice Fogarty
City Secretary

Louis R. Rigby
Mayor

APPROVED:

Knox W. Askins
City Attorney

By:

Corby Alexander
City Manager

EXHIBIT “A”
to Water Service Agreement

The Water Service Agreement is hereby amended and supplemented to include the following additional requirements agreed to by CITY and COMPANY. These requirements represent contractual obligations of COMPANY to receive water service from CITY per the terms of the Water Service Agreement and this addendum. COMPANY shall fulfill each of the following additional requirements as set forth below.

Additional Requirements of COMPANY:

- 1.

Initial for Approval:

CITY APPROVAL: _____

COMPANY APPROVAL:  _____

STATE OF TEXAS §

COUNTY OF HARRIS §

**CITY OF LA PORTE
SANITARY SEWER SERVICE AGREEMENT**

This AGREEMENT made and entered into by and between the CITY OF LA PORTE, TEXAS, a municipal corporation of Harris County, Texas, hereinafter called "CITY", and CRP/TREP New Decade Owner, L.P., a Delaware limited liability company hereinafter called "COMPANY".

I.

COMPANY is the COMPANY of certain real property, which is situated in CITY'S Battleground or Bayport Industrial District and not within the corporate limits of the CITY. CITY and COMPANY are parties to a current Industrial District Agreement.

II.

COMPANY is desirous of purchasing sanitary sewer service from CITY for usual human domestic uses. COMPANY recognizes that CITY cannot at this time provide permanent and unlimited sanitary sewer service. CITY agrees, however, to provide limited sanitary sewer service to COMPANY. For and in consideration of furnishing sanitary sewer service by CITY, the parties hereto agree as follows, to-wit:

III.

COMPANY has made certain representations to CITY as to the number of employees, as of the date of this agreement, upon which representations CITY has relied in entering into this Agreement.

Upon review of these representations, the City has determined the following:

Number of Employees on-site	<u>30</u>
Number of Contract Employees	<u>0</u>
Total on-site Employees	<u>30</u>
Sanitary Sewer Desired for Domestic Use (Total on-site times 50 gpd per employee)	<u>1,500</u>
Total Amount of Sanitary Sewer Approved For COMPANY (Average Daily Volume, gpd)	<u>1,275</u>

IV.

CITY has determined that adequate facilities are available to allow CITY to furnish sanitary sewer to COMPANY based on the following terms and conditions, to-wit:

- (A). COMPANY shall pay to CITY a one-time administrative connection charge of \$ 5,000.
- (B). COMPANY shall pay the standard sewer tap fee based on CITY'S current sewer tap fee schedule. Upon final approval of COMPANY'S on-site and/or off-site utility construction by CITY, COMPANY shall pay the CITY'S standard sewer deposit fee through CITY'S Utility Billing Division prior to receiving sewer service from CITY.
- (C). The average daily volume is established at 1,500 () gallons per day. This number is based on an average of fifty (50) gallons per employee per day established by CITY.
- (D). The average monthly volume is calculated to be eighty-five percent (85%) of the average daily volume multiplied by a factor of 30.5, which shall be used to facilitate service billings.
- (E). The cost of sanitary sewer service up to the average monthly volume of 38,888 () gallons shall be one hundred fifty percent (150%) of the CITY'S rate as established from time to time for commercial customers inside its corporate limits.
- (F). The cost of sanitary sewer service for amounts in excess of the established average monthly volume shall be two hundred percent (200%) of the CITY'S rate as established from time to time for commercial customers inside its corporate limits.
- (G). Nothing contained in this Agreement shall obligate CITY to furnish more than the average monthly volume of 38,888 (). Repeated sanitary sewer delivery greater than the established average monthly volume may result in termination of service.
- (H). COMPANY agrees that during periods when the CITY'S collection system is surcharged, the CITY may require the suspension of use of the sanitary sewer system for periods not to exceed thirty-six hours.
- (I). CITY shall have the right to interrupt or temporarily suspend said sanitary sewer service to COMPANY if an emergency arises and there is not an adequate sewer collection or treatment capacity to meet the needs of the citizens of La Porte.
- (J). COMPANY shall file application with CITY for an Industrial Waste Permit and hereby agrees to be bound by CITY'S Industrial Waste Ordinance (Chapter 74, Article II of the Code of Ordinances) and any subsequent amendments or revisions.
- (K). Owner shall install a sanitary sewer sampling well in accordance with CITY'S standards to ensure no sewer waste, other than domestic waste enters its sanitary sewer system.
- (L). The total cost for the engineering design and construction of any sanitary sewer main, service line, lift station, meter or other required appurtenances will be the responsibility of COMPANY.

- (M). COMPANY agrees that it shall be bound by all applicable ordinances of CITY, relative to the furnishing of sanitary sewer service to customers within the corporate limits of CITY.
- (N). COMPANY shall install a sanitary sewer sampling well in accordance with CITY's standards.
- (O). All plumbing installed by COMPANY connected to the sanitary sewer line from CITY, shall meet all applicable State of Texas and CITY plumbing code requirements. CITY'S engineering and code enforcement personnel shall have the right of prior review and approval of COMPANY'S plans and specifications for the plumbing system(s). CITY plumbing inspectors shall have the right to inspect any and all work related to the furnishing of sanitary sewer service to COMPANY.
- (P). There shall be no resale of the sanitary sewer service provided by CITY, nor any extension of service lines by COMPANY to serve other parties.
- (Q). COMPANY shall submit a certified site plan showing the total acreage of the tract including present and proposed improvements and a suitable location map of the site. COMPANY'S development project may be subject to certain additional requirements as described in Exhibit "A", attached. These requirements shall be shown on the site plan and approved by City.

V.

All expenses of the installation of service lines from the main to the COMPANY'S facilities shall be solely at the expense of COMPANY. COMPANY shall own and maintain all service lines and plumbing facilities.

VI.

In the event a State or Harris County license, permit, or permission to install the sanitary sewer main is revoked, or relocation or adjustment is required, CITY will not be responsible for the expense of such relocation, adjustment, or replacement.

VII.

CITY reserves the right of entry at all reasonable times for the purpose of inspection of COMPANY'S sanitary sewer facilities, and to observe compliance with the terms and conditions of this Agreement. When exercising its right of entry, CITY shall notify COMPANY in advance. CITY also agrees to follow established health and safety policies in effect at COMPANY'S facility.

VIII.

CITY reserves the right to terminate this agreement in the event of violation of the terms and provisions hereof by COMPANY. CITY will provide COMPANY with written notice of any defects and COMPANY shall have the opportunity to cure any defects. Failure to correct defects within ten (10) days may result in termination of Agreement. CITY shall have the right to summarily correct, at COMPANY'S expense, any defect or deficiency, when in its opinion the integrity of the public sanitary sewer system is threatened.

IX.

Upon receipt of written notice of termination, COMPANY shall have up to six (6) months to prepare for transition to another sanitary sewer service provider. If the transition is not complete within said six-month period, CITY shall have the right to terminate sanitary sewer service at its sole discretion.

X.

In the event of any conflict between the terms and provisions of this Sanitary Sewer Service Agreement and the terms and provisions of the Industrial District Agreement between the parties, the terms and provisions of the Sanitary Sewer Service Agreement shall control, to the extent of such conflict. The term of this Agreement shall terminate on December 31, 2019. However, this Agreement shall automatically expire at such time as there is no effective Industrial District Agreement between the parties or if CITY exercises its right of termination.

ENTERED INTO effective the _____ day of _____, _____.



Signature of Company's Authorized Representative

Printed Name: Scott Arnoldy

Company Representative's Title: Authorized Signatory

Company's Address:

3657 Briarpark Dr. Suite 300

Houston, Texas 77042

ATTEST:

CITY OF LA PORTE

Patrice Fogarty
City Secretary

Louis R. Rigby
Mayor

APPROVED:

Knox W. Askins
City Attorney

By: _____

Corby Alexander
City Manager

EXHIBIT “A”
to Sanitary Sewer Service Agreement

The Sanitary Service Agreement is hereby amended and supplemented to include the following additional requirements agreed to by CITY and COMPANY. These requirements represent contractual obligations of COMPANY to receive sewer service from CITY per the terms of the Sanitary Service Agreement and this addendum. COMPANY shall fulfill each of the following additional requirements as set forth below.

Additional Requirements of COMPANY:

- 1.

Initial for Approval:

CITY APPROVAL: _____

COMPANY APPROVAL:  _____

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: August 27, 2018

Requested By: Don Pennell

Department: Public Works

Report: Resolution: Ordinance:

Exhibit: Sole Source Letter

Budget

Source of Funds: 002 - 003

Account Number: 002-6176-515-4005

Account Number: 002-6176-515-8026

Account Number: 003-7085-533-4005

Amount Budgeted: \$100,000

Amount Requested: \$ 100,000

Budgeted Item: Yes

SUMMARY & RECOMMENDATION

The City's Automated Meter Reading system is comprised solely of Neptune water meters and products. Components of other manufacturers are not compatible with the Neptune system. Core and Main of Houston is the only distributor in southeast Texas, defining them as sole source supplier for Neptune Products.

Due to an increase in commercial development and replacement of old inaccurate commercial meters the purchase of water meters larger than 3/4 inch is approaching and will exceed \$50,000 this fiscal year. In December 2017, Council approved purchase of Neptune water meters from the exclusive Houston-area distributor, Core and Main. The agenda request only referenced normal residential size meters. Total expenditure for commercial meters in FY 17-18 is estimated at \$75,000.

Project Benefits, Liabilities, and Operating Cost:

Benefits:

- The proposed project provides the continuation and development of the established Neptune AMR system throughout the City.

Action Required of City Council:

Consider approval or other action authorizing the purchase of non-residential size meters from Core and Main. Expense not to exceed budgeted amounts.

Approved for City Council Agenda

Corby D. Alexander, City Manager

Date



NEPTUNE
TECHNOLOGY GROUP

July 16, 2018

Ashley Lovercheck
City of La Porte
604 West Fairmont Parkway
La Porte, TX 77571

Core & Main is the sole authorized distributor in the State of Texas for Neptune RF meter reading equipment and software, Neptune water meters and Neptune parts.

Core & Main is authorized by Neptune to submit an offer for Neptune water meters, software and related products.

Thank you for your interest in Neptune products. If you have any questions, please contact your local Core & Main representative, Jose Hernandez, at 713-378-0129, your local Neptune representative, Rex Baxter, at 281-794-4267, or Neptune's bid department at 334-283-6555.

Sincerely,

Lawrence M. Russo
VP, Finance

LMR/jsk

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: August 27, 2018

Requested By: Ian Clowes

Department: Planning and Development

Report: X **Resolution:** **Ordinance:** X

Appropriations

Source of Funds: N/A

Account Number: N/A

Amount Budgeted: N/A

Amount Requested: N/A

Budgeted Item: N/A

Exhibits: **Ordinance**
 P&Z Recommendation Letter
 Applicant Information and Request
 Aerial Map
 Zoning Map
 Land Use Map

SUMMARY & RECOMMENDATION

Steve Adkisson, applicant, on behalf of Carrington F. Weems, owner, is seeking approval of a Zone Change from the General Commercial (GC) zoning district to the Planned Unit Development (PUD) zoning district. The property in question is located on the east side of S. 16th St., north of the W. M St. ROW and is legally described as Lots 1-32, Block 1144 and Lots 17-32 & Tracts 1-16, Block 1143, La Porte Subdivision.

The property is currently undeveloped. The applicant, along with the owner of the property, would like to change the zoning to PUD with a Special Conditional Use Permit (SCUP) to follow at a later date, allowing them to construct 2 spec office warehouse facilities, each roughly 30,000 square feet, on the 4.22 acre tract. If approved. The applicant will apply for a street/alley closure for the remaining city ROW (15th St. and 2 allies).

Staff did not receive any returned comment sheets in opposition or in favor of the proposed request.

The Planning and Zoning Commission, at their July 19, 2018 regular meeting, voted 5-3 to recommend approval of the proposed Zone Change.

Action Required by Council:

1. Conduct public hearing.

2. Consider action on a recommendation by the Planning and Zoning Commission to approve an Ordinance for zone change request #18-92000007, for a 4.22 acre tract of land located north of the W. M St. ROW and is legally described as Lots 1-32, Block 1144 and Lots 17-32 & Tracts 1-16, Block 1143, La Porte Subdivision.

Approved for City Council Agenda

Corby D. Alexander, City Manager

Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 106 “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF LA PORTE, BY CHANGING THE ZONING CLASSIFICATION OF A 4.22 ACRE TRACT OF LAND LOCATED ON THE EAST SIDE OF S. 16TH ST. AND NORTH OF THE W. M STREET R.O.W. AND LEGALLY DESCRIBED AS LOTS 1-32, BLOCK 1144 AND LOTS 17-32 & TRACTS 1-16, BLOCK 1143, LA PORTE SUBDIVISION, FROM GENERAL COMMERCIAL (GC) TO PLANNED UNIT DEVELOPMENT (PUD); MAKING CERTAIN FINDINGS OF FACT RELATED TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE, TEXAS:

Section 1. Chapter 106 “Zoning” of the Code of Ordinances is hereby amended by changing the zoning classification of the following described property, to wit: a 4.22 acre tract of land located north of the W. M Street R.O.W. and legally described as Lots 1-32, Block 1144 and Lots 17-32 & Tracts 1-16, Block 1143, La Porte Subdivision, Harris County, Texas, from General Commercial (GC) to Planned Unit Development (PUD).

Section 2. All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 3. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council is posted at a place convenient to the public at the City Hall of the city for the time required by law preceding this meeting, as required by Chapter 551, TX. Gov’t Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 5. The City Council of the City of La Porte hereby finds that public notice was properly mailed to all owners of all properties located within two hundred feet (200’) of the properties under consideration in compliance with code provisions.

Section 6. It is directed that the Official Zoning Map of the City of La Porte, Texas be changed to reflect the zoning classification established by this ordinance

Section 7. The City Council of the City of La Porte hereby finds, determines, and declares that all prerequisites of law have been satisfied and hereby determines and declares that the amendments to the City of La Porte Zoning Map and Classification contained in this Ordinance as amendments thereto are desirable and in furtherance of the goals and objectives stated in the City of La Porte's Comprehensive Plan.

Section 8. This ordinance shall be effective after its passage and approval.

PASSED AND APPROVED this the _____ day of AUGUST, 2018.

CITY OF LA PORTE, TEXAS

By: _____
Louis R. Rigby, Mayor

ATTEST:

Patrice Fogarty, City Secretary

APPROVED:

Clark Askins, Assistant City Attorney



July 20, 2018

Honorable Mayor Rigby and City Council
City of La Porte

RE: Zone Change Request #18-92000007

Dear Mayor Rigby and City Council:

The La Porte Planning and Zoning Commission held a public hearing at the July 19, 2018 meeting on a zone change request by Steve Adkisson, applicant, on behalf of Carrington F. Weems, owner; for a zone change of property legally described Lots 1-32, Block 1144 and Lots 17-32 & Tracts 1-16, Block 1143, La Porte Subdivision, from General Commercial (GC) to Planned Unit Development (PUD). The site is a 4.22 acre tract of land located on the east side of S. 16th St., north of the W. M St. ROW.

The Commission voted 5-3 to recommend approval of the proposed zone change. Commissioners Follis, Smith, and Martin voted against the motion to approve.

Respectfully submitted,

Ian Clowes, City Planner
On Behalf of the Planning and Zoning Commission

cc: Richard Mancilla, Director of Planning and Development
Department File



Zone Change Application

Planning and Development Department

PROJECT INFORMATION

Address where zone change is being requested: 4.22 acres, 0 N. 16th St., La Porte TX 77571

Legal description where zone change is being requested: Lots 1-32, Blk 1144, Lots 17-32 & Tracts 1-16

HCAD Parcel Number where zone change is being requested: 0242030430001

Zoning District: General Commercial Lot area: 4.22 acres

A request for approval of a zone change is hereby made to the City of La Porte.

Description of Request: Change current zoning from General Commercial to PUD

Attached hereto is a Project Description Letter describing the project and outlining the reasons why such SCUP should be approved.

PROPERTY OWNER(S) INFORMATION

Name: F. Carrington Weems

Company (if applicable): _____

Address: 1603 W. Clay St.

City: Houston State: TX Zip: 77019-4915

Phone: 713-528-6386 Email: _____

AUTHORIZED AGENT (If other than owner)

Name: Steve Adkisson

Company (if applicable): Adkisson Group, Inc.

Address: 12651 Briar Forest Dr., Suite 250

City: Houston State: TX Zip: 77077

Phone: 832-413-4475 Email: [REDACTED]

OWNER(S) & AGENT CERTIFICATION

I hereby depose and state under the penalties of perjury that all statements, proposals and/or plans submitted with/or contained in this application are true and correct and the application is complete to the best of my knowledge and belief.

Agent's Signature: [Signature] Date: _____

Owner(s)' Signature(s): [Signature] Date: 6/6/18

STAFF USE ONLY:

Case Number:
18-9200007

Date Application Received:
Ms 6/20/18



Zone Change Application
Planning and Development Department

AFFIDAVIT OF POSTING
PLANNING AND ZONING COMMISSION PUBLIC HEARING

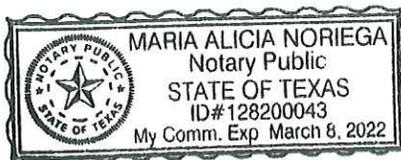
STATE OF TEXAS
COUNTY OF HARRIS
CITY OF LA PORTE

The undersigned hereby duly swears on oath and says:

- 1. A public hearing sign was provided to me by the City of La Porte's Planning and Development Department. I hereby attest that said sign will be posted on the following described property, which is subject to the application:
ADDRESS: 4.22 acres, 0 N. 16th St., La Porte TX 77571
LEGAL DESCRIPTION: Lots 1-32, Blk 1144, Lots 17-32 & Tracts 1-16
2. In accordance with the provisions of Section 106-194 of the city's Code of Ordinances, I hereby attest that said sign will be posted on the described property for no less than fifteen (15) days prior to the scheduled public hearing; starting at least on the following date: July 1, 2018
3. Said sign shall be placed on the property within 20 feet of the abutting street.
4. Said sign shall remain legible and visible for the entire fifteen (15) day posting period. If sign is damaged or missing, I hereby attest that I will contact the City of La Porte for a replacement sign.

Applicant's Signature
Stephen Adkisson
Applicant's Printed Name

Subscribed and sworn before me this 8 day of JUNE, 2018, by Stephen Adkisson (Print Applicant's Name).



(Seal)

Notary Public
My commission expires: 6/8/18

June 12, 2018

Mr. Ian Clowes
City Planner
Planning and Development Department
City of La Porte, Texas
604 W. Fairmont Parkway
La Porte, Texas 77571

RE: Justification for Zoning Change from General Commercial to PUD with SCUP, Lots 1-32 of Block 1143 and Lots 1-32 of Block 1144 (including two 15' Alleys and the 15th Street ROW)

Dear Mr. Clowes,

Please allow this letter to satisfy the requirements outlined in the City of La Porte Zone Change Application that is the subject of this letter.

Adkisson Group has the tracts referenced above under contract for purchase that we will develop ourselves into a small business park with two free standing metal buildings.

The following information is provided to justify or outline our request:

1. The development is anticipated to include two free-standing tilt wall/metal buildings, each approximately 30,000sf
 - a. Parking sufficient to meet current code requirements;
 - b. On site detention (approx. 0.75 acres) to meeting engineering requirements that will outfall into the 16th Street storm system;
 - c. Water and sanitary sewer utilities available in the 16th St. ROW sufficient for the development;
 - d. Ingress/egress drive on 16th St. sufficient to meet current requirements;
2. Adjacent property uses are as follows: (West) Light Industrial, (South) Planned Unit Development, (North) General Commercial, (East) General Commercial;
3. The proposed usage of these buildings is based on the following NAICS Codes:
 - 339** (*Misc. Manufacturing*);
 - 4231** (*Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers*);
 - 4236** (*Household Appliances and Electrical and Electronic Goods Merchant Wholesalers*);
 - 4237** (*Hardware, and Plumbing and Heating Equipment and Supplies Wholesalers*);
 - 4238** (*Machinery, Equipment, and Supplies Merchant Wholesaler*);

4243 (*Apparel, Piece Goods, and Notions Merchant Wholesalers*);
4244 (*Grocery and Related Product Merchant Wholesalers*);
423990 (*Other Misc. Durable Goods Merchant Wholesalers*);
424499 (*Other Misc. Nondurable Goods Merchant Suppliers*);
424690 (*Other Chemical and Allied Products Merchant Wholesalers*);
4885 (*Freight Transportation Arrangement*);
488991 (*Packing and Crating*);
493 (*Warehousing and Storage*);
541380 (*Testing Laboratories*);

4. Numerous tracts within blocks of the site are either Light Industrial or Heavy Industrial including the Bayport Industrial District;
5. The site is on 16th St., which is designated as a High Frequency Truck route; and
6. The site contains other property designated as 60' ROW for 15th Street as well as two 15' alleys and we have not only begun abandonment and closure through the Street and Alley Closure (SAC).
7. The operator will not utilize now allow any on site ground container storage.

It is our belief that this request is both consistent and compatible with the surrounding land uses and will be an attribute to the City of La Porte as it retains jobs within the community and repurposes vacant land to a higher usage.

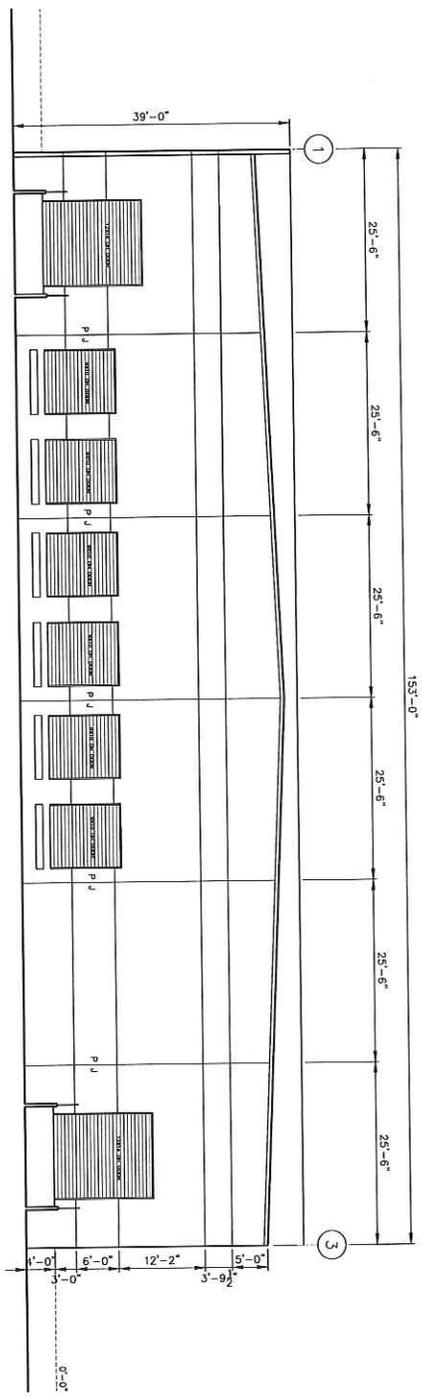
Sincerely,

Steve Adkisson

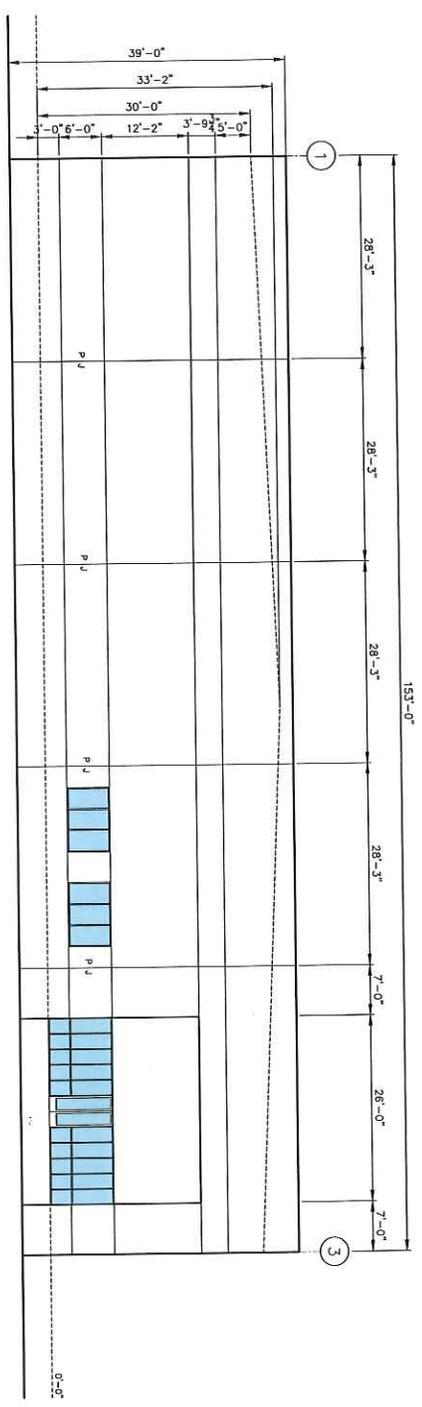
Attachments:

- Property Survey
- Site Plan
- Elevations

EAST ELEVATION
1/8" = 1'-0"



WEST ELEVATION
1/8" = 1'-0"



NO.	DATE	DESCRIPTION

OFFICE WAREHOUSE BUILDING
14TH STREET
LA PORTE, TX 77571



DRAWING TITLE
ELEVATIONS
EXHIBIT B

DESIGNED BY
CHECKED BY
DATE
JOB NO.
DRAWING NO.

05/09/18

A3.1



EXHIBIT C

FLUP MAP

**Zone Change
#18-92000007**

**NE Corner
S. 16th and W. M**

 Subject Property



This product is for informational purposes and may not have been prepared for or be suitable for legal purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries

1 inch = 212 feet



**JULY 2018
PLANNING DEPARTMENT**

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>August 27, 2018</u>
Requested By: <u>Ian Clowes</u>
Department: <u>Planning and Development</u>
Report: <input checked="" type="checkbox"/> Resolution: <input type="checkbox"/> Ordinance: <input checked="" type="checkbox"/>

<u>Appropriations</u>	
Source of Funds:	<u>N/A</u>
Account Number:	<u>N/A</u>
Amount Budgeted:	<u>N/A</u>
Amount Requested:	<u>N/A</u>
Budgeted Item:	<u>N/A</u>

- Exhibits:**
- Ordinance**
 - Proposed SCUP**
 - P&Z Recommendation Letter**
 - Applicant Information and Request**
 - Aerial Map**
 - Zoning Map**
 - Land Use Map**

SUMMARY & RECOMMENDATION

Applicant, Kathryn Edwards of BGE Kerry R. Gilbert & Associates, applicant, on behalf of Don Stephens of Aldersgate Trust, is seeking approval of a SCUP to allow for a skilled nursing facility to locate in the Planned Unit Development (PUD) Zoning District. The property in question is a 6.95 acre tract of land located on the west side of Underwood Rd., north of Fairmont and south of Caniff Rd. and is legally described as Tracts 718B, 719, and 719A, La Porte Outlots.

The property is currently undeveloped and zoned Planned Unit Development (PUD). The applicant is interested in developing a skilled nursing facility on the site. The proposed development will include a 51,000-sq. ft. building with approximately 124 beds and 62 rooms. The facility will primarily be used by patients who are transitioning between hospital care and independent living. It will have a compliment of up to 130 professionals and will provide full laundry, dining, and kitchen services in addition to the medical services. The facility will be a single building composed of all brick and stone elevations (see attached). The one-story building will also incorporate a traditional pitched roof design that is consistent with the surrounding residential areas.

To date, staff has not received any notices in opposition or in favor of the proposed SCUP application.

The Planning and Zoning Commission, at their July 19, 2018 regular meeting, voted 8-0 to recommend approval of the proposed SCUP, as presented. Also, Summerwinds HOA spoke at the meeting and are in favor of this development. The proposed SCUP document includes a list of seven conditions of approval. Below is a list of all included conditions:

1. A site development plan shall be submitted in accordance with applicable requirements of the City of La Porte's Development Ordinance and shall comply with all provisions of Chapter 106, "Zoning" of the City's Code of Ordinances and all other department reviews and applicable laws and ordinances of the City of La Porte and the State of Texas.
2. Permitted use on site will be described as Nursing Care Facilities (Skilled Nursing Facilities) NAICS code 623110.
3. The underlying zoning will be NC. All NC development requirements will need to be met.
4. Buildings constructed along Caniff Rd. will be restricted to 1 story.
5. Buildings not along Caniff Rd. may not exceed 2 stories.
6. All necessary documentation for building permit review must be submitted in conjunction with the city's building permit application process.
7. Any substantive modifications to this Special Conditional Use Permit will require an amendment to this SCUP in accordance with Chapter 106, "Zoning" of the City's Code of Ordinances.

Action Required by Council:

1. Conduct public hearing.
2. Consider approval or other action on a recommendation by the Planning and Zoning Commission to approve an Ordinance for SCUP #18-91000008

Approved for City Council Agenda

Corby D. Alexander, City Manager

Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LA PORTE, CHAPTER 106, MORE COMMONLY REFERRED TO AS THE ZONING ORDINANCE OF THE CITY OF LA PORTE, BY GRANTING SPECIAL CONDITIONAL USE PERMIT NO. 18-9100008, TO ALLOW FOR A NURSING CARE FACILITY (SKILLED NURSING FACILITY) USE IN A PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT, ON A 6.95 ACRE TRACT OF LAND AND BEING LEGALLY DESCRIBED AS TRACTS 718B, 719, AND 719A, LA PORTE OUTLOTS, LA PORTE, HARRIS COUNTY, TEXAS; MAKING CERTAIN FINDINGS OF FACT RELATED TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE, TEXAS:

Section 1. Chapter 106 “Zoning” of the Code of Ordinances is hereby amended by granting Special Conditional Use Permit #18-9100008, attached hereto as Exhibit A and incorporated by reference for all purposes, to allow for a Nursing Care Facility (Skilled Nursing Facility) use on a 6.95 acre tract of land, said tract being legally described as Tracts 718B, 719, and 719A, La Porte Outlots, La Porte, Harris County, Texas, and situated within a Planned Unit Development (PUD) zoning district.

Section 2. All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 3. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council is posted at a place convenient to the public at the City Hall of the city for the time required by law preceding this meeting, as required by Chapter 551, TX. Gov’t Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 5. The City Council of the City of La Porte hereby finds that public notice was properly mailed to all owners of all properties located within two hundred feet (200') of the properties under consideration.

Section 6. The City Council of the City of La Porte hereby finds, determines, and declares that all prerequisites of law have been satisfied and hereby determines and declares that the amendments to the City of La Porte Zoning Classification contained in this Ordinance as amendments thereto are desirable and in furtherance of the goals and objectives stated in the City of La Porte's Comprehensive Plan.

Section 7. This ordinance shall be effective after its passage and approval.

PASSED AND APPROVED this the 27th day of AUGUST, 2018.

CITY OF LA PORTE, TEXAS

By: _____
Louis R. Rigby, Mayor

ATTEST:

Patrice Fogarty, City Secretary

APPROVED:

Clark Askins, Assistant City Attorney

EXHIBIT A

City of La Porte
Special Conditional Use Permit #18-91000008

This permit is issued to: Smithers Merchant Builders, LP
Owner or Agent

21726 Hardy Oak Blvd, San Antonio, TX 78258
Address

For Development of: La Porte Skilled Nursing Facility
Development Name

SW Corner of Caniff Rd. and Underwood Rd.
Address

Legal Description: A 6.95 acre tract of land legally described Tracts 718B, 719, and 719A,
La Porte Outlots, Harris County, La Porte, TX

Zoning: PUD, Planned Unit Development

Use: Skilled Nursing Facility

Permit Conditions:

This Special Conditional Use Permit (SCUP) is applicable for the subject property, a copy of which shall be maintained in the files of the City’s Planning and Development Department upon approval. Project development shall be in accordance with the following conditions:

1. A site development plan shall be submitted in accordance with applicable requirements of the City of La Porte’s Development Ordinance and shall comply with all provisions of Chapter 106, “Zoning” of the City’s Code of Ordinances and all other department reviews and applicable laws and ordinances of the City of La Porte and the State of Texas.
2. Permitted use on site will be described as Nursing Care Facilities (Skilled Nursing Facilities) NAICS code 623110.
3. The underlying zoning will be NC. All NC development requirements will need to be met.
4. Buildings constructed along Caniff Rd. will be restricted to 1 story.
5. Buildings not along Caniff Rd. may not exceed 2 stories.
6. All necessary documentation for building permit review must be submitted in conjunction with the city’s building permit application process.
7. Any substantive modifications to this Special Conditional Use Permit will require an amendment to this SCUP in accordance with Chapter 106, “Zoning” of the City’s Code of Ordinances.

Failure to start construction of the site within 12 months after issuance or as scheduled under the terms of a special conditional use permit shall void the permit as approved, except upon an extension of time granted after application to the Planning and Zoning Commission.

If contract or agreement is terminated after completion of any stage and there is ample evidence that further development is not contemplated, the ordinance establishing such special conditional use permit may be rescinded by the City Council, upon its own motion or upon the recommendation of the Planning and Zoning Commission of the City of La Porte, and the previous zoning of the entire tract shall be in full effect on the portion which is undeveloped.

Validation Date: _____

Director of Planning and Development

City Secretary



July 20, 2018

Honorable Mayor Rigby and City Council
City of La Porte

RE: Special Conditional Use Permit Request #18-91000008

Dear Mayor Rigby and City Council:

The La Porte Planning and Zoning Commission held a regular meeting on July 19, 2018 to hear a Special Conditional Use Permit request by Kathryn Edwards of BGE Kerry R. Gilbert & Associates, applicant; on behalf of Don Stephens of Aldersgate Trust, owner; for a Special Conditional Use Permit to allow for a skilled nursing facility use. The subject site is located north of Fairmont and south of Caniff Rd., and is legally described as Tracts 718B, 719, and 719A, La Porte Outlots. The subject site is zoned Planned Unit Development (PUD).

The Commission voted 8-0 to recommend approval of the proposed SCUP.

Respectfully submitted

Ian Clowes, City Planner
On behalf of the Planning and Zoning Commission

cc: Richard Mancilla, Director of Planning and Development
Department File



Special Conditional Use Permit Application

Planning and Development Department

PROJECT INFORMATION

Address where SCUP is being requested: SE Corner of Caniff Road and Underwood Road @Fairmont Parkway, La Porte, Texas
Legal description where SCUP is being requested: TRS 718B 719 & 719A LA PORTE OUTLOTS
HCAD Parcel Number where SCUP is being requested: 0231460000719
Zoning District: Planned Unit Development Lot area: 6.95 Ac

A request for approval of a Special Conditional Use Permit is hereby made to the City of La Porte.

Description of Request: The SCUP request is for a 51,000 sq. ft. Skilled Nursing Facility on the subject property. The development is intended for for patients who are transitioning between hospital care and independent living. The project will consist of approximately 124 beds with a 120 to 130 person staff. It will adhere to all the necessary development regulations.

Attached hereto is a Project Description Letter describing the project and outlining the reasons why such SCUP should be approved.

PROPERTY OWNER(S) INFORMATION

Name: Attn: Don Stephens
Company (if applicable): Aldersgate Trust
Address: 1440 Lake Front Circle, Suite 140
City: The Woodlands State: TX Zip: 77380
Phone: 281-210-0138 Email: [REDACTED]

AUTHORIZED AGENT (If other than owner)

Name: Kathryn Edwards
Company (if applicable): BGE| Kerry R. Gilbert & Associates
Address: 23501 Cinco Ranch Blvd. Suite A-250
City: Katy State: TX Zip: 77494
Phone: 281-579-0340 Email: [REDACTED]

OWNER(S) & AGENT CERTIFICATION

I hereby depose and state under the penalties of perjury that all statements, proposals and/or plans submitted with/or contained in this application are true and correct and the application is complete to the best of my knowledge and belief.

Agent's Signature: Kathryn Edwards Date: 06/20/18

Owner(s)' Signature(s): Don Stephens, TRUSTEE Date: 06/20/18

STAFF USE ONLY:

Case Number: **18-91000008**

Date Application Received:



Special Conditional Use Permit Application

Planning and Development Department

AFFIDAVIT OF POSTING PLANNING AND ZONING COMMISSION PUBLIC HEARING

STATE OF TEXAS
COUNTY OF HARRIS
CITY OF LA PORTE

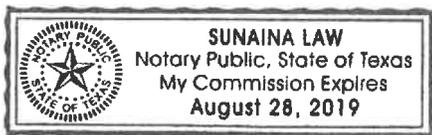
The undersigned hereby duly swears on oath and says:

1. A public hearing sign was provided to me by the City of La Porte's Planning and Development Department. I hereby attest that said sign will be posted on the following described property, which is subject to the application:
ADDRESS: SE Corner of Caniff Road and Underwood Road @Fairmont Parkway, La Porte, Texas
LEGAL DESCRIPTION: TRS 718B 719 & 719A LA PORTE OUTLOTS
2. In accordance with the provisions of Section 106-194 of the city's Code of Ordinances, I hereby attest that said sign will be posted on the described property for no less than fifteen (15) days prior to the scheduled public hearing; starting at least on the following date: July 9, 2018.
3. Said sign shall be placed on the property within 20 feet of the abutting street.
4. Said sign shall remain legible and visible for the entire fifteen (15) day posting period. If sign is damaged or missing, I hereby attest that I will contact the City of La Porte for a replacement sign.

Kathryn Edwards
Applicant's Signature

Kathryn Edwards
Applicant's Printed Name

Subscribed and sworn before me this 20th day of June, 2018, by Kathryn Edwards (Print Applicant's Name).



(Seal)

Sunaina Law
Notary Public

My commission expires: August 28, 2019



June 20, 2018

Richard Mancilla, P.E.
Director, Planning and Development Department
City of La Porte
604 W. Fairmont Parkway
La Porte, TX 77571

RE: La Porte Skilled Nursing Facility SCUP_ SE Corner of Caniff Rd. and Underwood Rd

On behalf of Smithers Merchant Builders, LP and Aldersgate Trust, BGE | Kerry R. Gilbert & Associates respectfully submits this letter along with the Special Conditional Use Permit application and Site Plan for a proposed Skilled Nursing Facility on ±6.96 acres located at the South East corner of Caniff Rd and Underwood Rd. The project is immediately east of the First United Methodist Church of La Porte, north of the Jack in the Box and Shell Gas Station and west of Fairmont Oaks. North of the tract, separated by Caniff Rd, is the Summer Winds subdivision. The property is currently zoned as a Planned Unit Development (PUD) which requires a Special Conditional Use Permit prior to development.

The proposed project is a 51,000-sq. ft. Skilled Nursing Facility with approximately 124 beds and 62 rooms. The facility will primarily be used by patients who are transitioning between hospital care and independent living. It will have a compliment of up to 130 professionals and will provide full laundry, dining, and kitchen services in addition to the medical services. The facility will be a single building composed of all brick and stone elevations (see attached). The one-story building will also incorporate a traditional pitched roof design that is consistent with the surrounding residential areas. Primary access to the facility will be from the Caniff Road, visitors will enter through the northeast entrance while staff and deliveries will enter the site through the northwestern entrance. It is anticipated that access to Caniff will be from Underwood which is a primary arterial. Visitors will exit the site via either the Caniff Road or Underwood driveway, whereas delivery vehicles will exit the site through the southeastern driveway onto Underwood. The parking is located on three sides of the building, with visitor parking in the front and staff parking in the rear; the south side parking will be for overflow from either visitors or staff. Parking was not provided on the north side of the building to reduce the opportunity for headlights impacting the residential development to the north.

The use is compatible with the neighboring church site, the residential homes and the commercial uses at the corner of Underwood and Fairmont Parkway. Due to the character of the use, there will be minimal traffic impact to surrounding areas. The employee shifts will be broken up throughout the day, limiting any single times of high traffic influx. In addition, the visiting hours are typically 8am to 8pm, which ensures minimal traffic to the site early in the morning or late in the evening, further decreasing any potential of negative impact to residents. The site will include its own private access and will not require, nor allow for, cut-through traffic from the church and/or commercial use.

Furthermore, the character of the skilled nursing facility use successfully creates a transitional use between the residential neighborhoods and the commercial areas. It provides a low impact use that acts as a buffer between the residential areas and the high impact commercial areas along Fairmont. In addition, because of the residential and commercial qualities of the skilled nursing facility, it is compatible with the existing commercial uses.

Serving. Leading. Solving.™

23501 Cinco Ranch Boulevard | Suite A-250 | Katy, Texas 77494 | 281-579-0340

The project will be developed within the current development standards for the City of La Porte. This includes an on-site detention basin to address any increase to storm water as a result of the project's construction, fire protection infrastructure (fire sprinkler system, etc.), the necessary screening and landscaping requirements, parking for staff, visitors and residents, exterior lighting and all other applicable regulations.

Comprehensive Plan Compliance

The City of La Porte Comprehensive Plan depicts this tract as NC (Neighborhood Commercial), comparable to the NC Zoning district in the zoning ordinance. The intent of this district is to provide services for residents and to have uses that are compatible with surrounding residential uses. The proposed skilled nursing facility will be a transitional use between traditional residential and commercial/service oriented uses, which is consistent with the intent of the comprehensive plan. It will be a use that can benefit residents in the area who are in recovery from medical procedures by providing care and rehabilitation services within their community. It will also provide job opportunities for residents of the area. All of this is achieved without negatively impacting the existing uses in proximity of the subject property.

Expiration

Due to development coordination and financing needs with financial institutions, we respectfully request no official expiration date of for the SCUP. However, a general timeline estimate and/or build by dates may be provided to ensure progress of the development.

Conclusion

This SCUP creates the opportunity for the development of a use that will be strongly compatible with all adjacent land uses, will provide a service for residents of La Porte and will produce no negative impact to the surrounding areas.

The La Porte Zoning Ordinance cites the following three criteria for approval of a Special Conditional Use Permit:

1. *The specific use will be compatible with and not injurious to the use and enjoyment of other property, nor significantly diminish or impair property values within the immediate vicinity.*

Response: The proposed location and land use within the SCUP is compatible with or superior to the existing surrounding uses and is consistent with the City's Comprehensive Plan. Property values will not be impaired within the immediate vicinity.

2. *The conditions placed on such use as specified in each district have been met by the applicant.*

Response: The conditions stipulated within the SCUP will be adhered to by the developer and will be enforced by City staff during development process. The project has already made steps to address comments received from staff to date and will make any other changes deemed necessary.

3. *The applicant has agreed to meet any additional conditions imposed, based on specific site constraints and necessary to protect the public interest and welfare of the community.*

Response: The development will comply with all City codes, except as consistent with standards discussed herein, during all phases of the project.



Based on the conditions included within this SCUP application, approval of this SCUP conforms to the City's Comprehensive Plan and meets the criteria for approval. We respectfully request your review and favorable consideration of this request. Please let us know if you have any questions or require any additional information.

Regards,

A handwritten signature in blue ink that reads "Kathryn Edwards". The signature is written in a cursive style.

Kathryn Edwards

Enclosure:
Preliminary Elevations
Project Site Plan



EXHIBIT A

AERIAL MAP

**SCUP
18-91000008**

**Underwood Dr.
@ Fairmont Pkwy.**

Legend

 Subject Parcel



This product is for informational purposes and may not have been prepared for or be suitable for legal purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries

1 inch = 281 feet



**JULY 2018 PLANNING
DEPARTMENT**

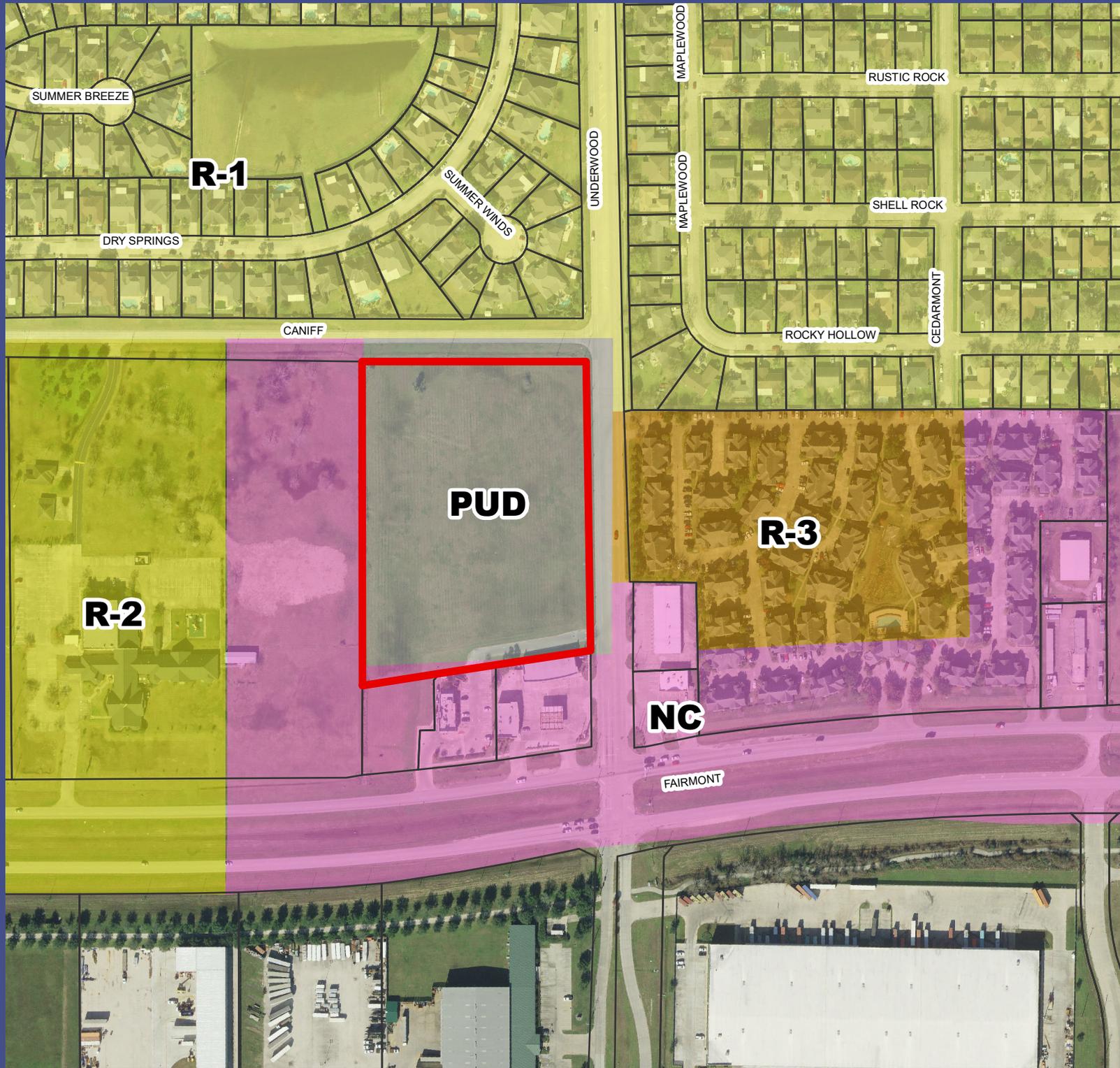


EXHIBIT B

ZONING MAP

**SCUP
18-9100008**

**Underwood Dr.
@ Fairmont Pkwy.**

Legend

 Subject Parcel



This product is for informational purposes and may not have been prepared for or be suitable for legal purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries

1 inch = 281 feet



**JULY 2018 PLANNING
DEPARTMENT**

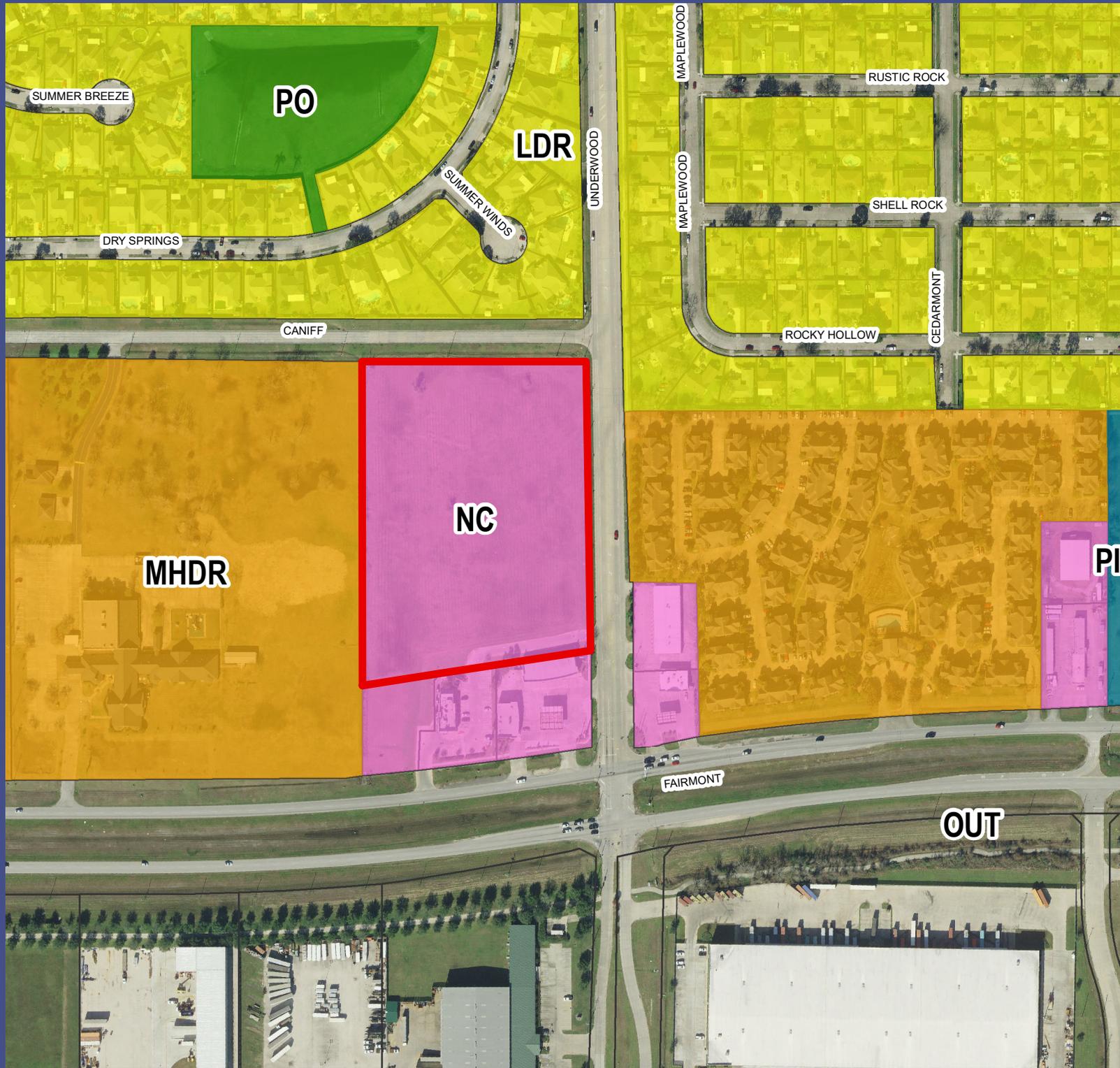


EXHIBIT C

FLUP MAP

**SCUP
18-91000008**

**Underwood Dr.
@ Fairmont Pkwy.**

Legend

 Subject Parcel



This product is for informational purposes and may not have been prepared for or be suitable for legal purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries

1 inch = 281 feet



**JULY 2018 PLANNING
DEPARTMENT**

REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested <u>August 27, 2018</u>	<u>Appropriation</u>
Requested By: <u>Patrice Fogarty</u>	Source of Funds: <u>N/A</u>
Department: <u>City Secretary</u>	Account Number: <u>N/A</u>
Report <input checked="" type="checkbox"/> Resolution: <input type="checkbox"/> Ordinance: <input type="checkbox"/>	Amount Budgeted: <u>N/A</u>
Exhibit:	Amount Requested: <u>N/A</u>
	Budgeted Item: YES NO

SUMMARY & RECOMMENDATION

The La Porte City Council is authorized to make appointments to boards, commissions and committees. Staff has determined the following individuals have agreed to volunteer for another term should Council wish to appoint them.

Regarding the **Airport Advisory Board** – Consider new appointments or reappointing Hector Villarreal to Position 4, and Van Wigginton to Position 5, to three-year terms expiring August 31, 2021.

Regarding the **Building Codes Appeals Board** – Consider new appointments or reappointing Paul Larson to Position 3, and Mike Mosteit to Position 4, to three-year terms expiring August 31, 2021, or until successors have been appointed and qualified.

Regarding the **Civil Service Commission** – Consider ratifying the City Manager’s appointment of Keith Trainer to a three-year term expiring August 31, 2021.

Regarding the **Chapter 172 Employee Retiree Insurance and Benefits Committee** – Consider new appointment or reappointing Aaron Corrales to Retiree Representative to a two-year term expiring August 31, 2020, or until a successor has been appointed and qualified.

Regarding the **Economic Alliance Houston Port Region** – Consider appointing Mayor Rigby as the City of La Porte’s designee to the Board of Directors of the Economic Alliance Houston Port Region. Each of the 11 member cities of the Economic Alliance Houston Port Region is represented on the Board by their Mayor. Mayor Rigby has been serving as the City’s representative and wants to continue.

Regarding the **Fire Code Review Committee** – Consider ratifying Jeff Brown as appointee of Council District 2, Andy Wilborn as appointee of Council District 3, Mark Follis as appointee of Council District 4, Jim Bridge as appointee of Council District 5, Bryan Moore as appointee of At Large A, and Lynn Green as appointee of the Mayor, to three-year terms expiring August 31, 2021, or until a successor has been appointed and qualified.

Regarding the **La Porte Fire Control Prevention & Emergency Medical Services District Board** – Consider new appointments or reappointing Danny Campise, Thomas Dye III, and Johnny Jones, to two-year terms expiring August 31, 2020, or until successors have been appointed and qualified.

Regarding the **La Porte Area Water Authority** – Consider new appointments or reappointing Stephanie Bellew to Member 4 position, and Ken Schlather to Member 5 position, to two-year terms expiring August 31, 2020, or until successors have been appointed and qualified.

Regarding the **La Porte Development Corporation Board (EDC)** – Consider new appointments or reappointing Danny Earp, Venessa Guerrero, and Shelley Fuller to two-year terms expiring August 31, 2020, or until successors have been appointed and qualified.

Regarding the **La Porte Tax Reinvestment Zone Number One (TIRZ 1)** – Consider new appointments or reappointing Barry Beasley to Position 2, Horace Leopard to Position 4, J.J. Meza to Position 6, and Chester Pool to Position 7, to two-year terms expiring August 31, 2020, or until successors have been appointed and qualified.

FYI: TIRZ bylaws state if you are a Board member on the TIRZ, you are also a Board member on the Redevelopment Authority.

Regarding the **La Porte Redevelopment Authority** – Consider ratifying Mayor Rigby’s reappointment of Barry Beasley to Position 2, Horace Leopard to Position 4, J.J. Meza to Position 6, Chester Pool to Position 7, and appointment of David Janda, LPISD’s appointee, to two-year terms expiring August 31, 2020, or until successors have been appointed and qualified. (Harris County’s appointment position is vacant at this time.)

FYI: While the ISD and County must appoint their representative to a position on the TIRZ Board, the Mayor must appoint all members (including Harris County’s and LPISD’s) to the La Porte Redevelopment Authority, with the consent and approval of City Council.

On the TIRZ Board, the City has the first 6 appointments, and other taxing authorities get the other three. On the Redevelopment Authority, the City appoints all members.

Regarding the **Planning and Zoning Commission** – Consider new appointments or reappointing Hal Lawler as the Mayor’s appointee, who shall also serve as chairman, Richard Warren as the Council District 2 appointee, and Jo Ann Pitzer as the Council District 3 appointee, to three-year terms expiring August 30, 2021, or until successors have been appointed and qualified.

Regarding the **Southeast Texas Housing Finance Corporation Board of Directors** – Consider new appointment or reappointing Betty Moore as a director to a one-year term expiring on August 31, 2019, or until a successor has been appointed and qualified.

Regarding the **Zoning Board of Adjustment** – Consider new appointments or reappointing Chester Pool to Position 1, Thomas Deen to Position 2, Rod Rothermel to Position 3, and Dennis Oian to Position 4, to two-year terms expiring August 31, 2020, or until successors have been appointed and qualified.

Additionally, the Alternate 1 position on the **Zoning Board of Adjustment** is vacant, leaving an unexpired term ending August 31, 2019. Consider an appointment to fill the vacancy through August 31, 2019, or until a successor has been appointed and qualified.

Action Required by Council:

Consider making appointments to various boards, committees and commissions.

Approved for City Council Agenda

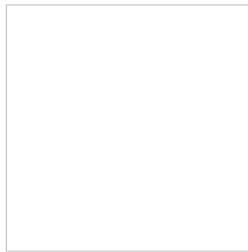
Corby D. Alexander, City Manager

Date



**Council Agenda Item
August 27, 2018**

9 (a) Receive report of the La Porte Development Corporation Board Meeting – Councilmember Nancy Ojeda



**Council Agenda Item
August 27, 2018**

10. ADMINISTRATIVE REPORTS

- City Council Meeting, Monday, September 10, 2018
- Drainage and Flooding Committee Meeting, Monday, September 10, 2018
- City Council Meeting, Monday, September 24, 2018
- Fiscal Affairs Committee Meeting, Monday, September 24, 2018
- Planning and Zoning Commission Meeting, Thursday, September 20, 2018
- Zoning Board of Adjustment Meeting, Thursday, September 27, 2018

11. COUNCIL COMMENTS regarding matters appearing on the agenda; recognition of community members, city employees, and upcoming events; inquiry of staff regarding specific factual information or existing policies – Councilmembers Engelken, Earp, Ojeda, J. Martin, K. Martin, Kaminski, Zemanek, Bentley and Mayor Rigby

12. ADJOURN
