

**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



**DARYL LEONARD**  
Councilmember District 3  
**KRISTIN MARTIN**  
Councilmember District 4  
**JAY MARTIN**  
Mayor Pro-Tem  
Councilmember District 5  
**MIKE CLAUSEN**  
Councilmember District 6

## **CITY COUNCIL MEETING AGENDA**

**Notice is hereby given of a Regular Meeting of the La Porte City Council to be held May 23, 2016, 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 Brian Christen, Fairmont Park Church - Broadway.
- 3. PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance will be led by Councilmember Chuck Engelken.
- 4. PRESENTATIONS, PROCLAMATIONS, and RECOGNITIONS**
  - (a)** Proclamation - National Bike Month in the City of La Porte - Mayor Rigby
  - (b)** Recognition - Employee of the First Quarter 2016 - Christopher Sandoval - City of La Porte Police 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 the minutes of the meeting held on May 9, 2016 - P. Fogarty
  - (b)** Consider approval or other action awarding Bid No.16014 for La Porte FY 2016 Street Overlay - S. Valiante
  - (c)** Consider approval or other action awarding Bid No. 16012 for D Street and 4th Street Paving and Drainage Improvements - S. Valiante
  - (d)** Consider approval or other action regarding a three (3) year lease agreement with Dell Financial Services for computer equipment - R. Valdez
  - (e)** Consider approval or other action regarding an Ordinance vacating, abandoning, and closing the entire east/west and north/south alleys in Block 1112, Town of La Porte, and a portion of the east/west alley in Block 1113, Town of La Porte; and abandoning in place an existing 8" sanitary sewer main located in the north/south alley of Block 1112, Town of La Porte - T. Tietjens
  - (f)** Consider approval or other action regarding an Ordinance vacating, abandoning, and closing a portion of the East A Street right-of-way - B. Sterling

- (g) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 4111 Malone Dr., in the Bayport Industrial District - B. Sterling
- (h) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 4033 Malone Dr., in the Bayport Industrial District - B. Sterling
- (i) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 10322 New Decade Dr., in the Bayport Industrial District - B. Sterling
- (j) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 10344 New Decade Dr., in the Bayport Industrial District - B. Sterling

**7. PUBLIC HEARINGS AND ASSOCIATED ORDINANCES**

- (a) Public hearing to receive comments regarding the recommendation by the Planning and Zoning Commission to amend Chapter 106, "Zoning" of the Code of Ordinances of the City of La Porte, Texas by amending provisions related to zoning permits; amendment procedures; special exceptions; notification of conforming status; official zoning map; commercial and industrial uses; location of heavy truck uses; interpretation of zoning district boundaries; yard requirements parking design standards; development of towers; and building exterior design standards; and consider approval or other action regarding an Ordinance amending Chapter 106, "Zoning" of the Code of Ordinances of the City of La Porte, Texas by amending provisions related to zoning permits; amendment procedures; special exceptions; notification of conforming status; official zoning map; commercial and industrial uses; location of heavy truck uses; interpretation of zoning district boundaries; yard requirements parking design standards; development of towers; and building exterior design standards - E. Ensey

**8. DISCUSSION AND POSSIBLE ACTION**

- (a) Discussion and possible action regarding an Ordinance appointing a member of the City Council to serve as Mayor Pro-Tem of the City of La Porte, Texas, for the period of June 1, 2016, through May 31, 2017 - P. Fogarty
- (b) Discussion and possible action regarding proposed concept design for the Wharton Weems Blvd., entryway monument - T. Leach

**9. REPORTS**

- (a) Receive report of the La Porte Development Corporation Board - Councilmember Engelken

**10. ADMINISTRATIVE REPORTS**

- Zoning Board of Adjustment Meeting, Thursday, May 26, 2016
- Memorial Day Observed, Monday, May 30, 2016

- 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, Clausen, J. Martin, K. Martin, Kaminski, Zemanek, Leonard and Mayor Rigby

**12. EXECUTIVE SESSION**

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, in accordance with the authority contained in:

**Texas Government Code, Section 551.071(2)** – Consultations with Attorney: Meet with City Attorney to discuss legal issues presented by use of Harris County issued overweight/oversize permits by commercial motor vehicles operating in La Porte corporate limits.

**13. RECONVENE** into regular session and consider action, if any, on item(s) discussed in executive session.

**14. 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 May 23, 2016, agenda of items to be considered by the City Council was posted on the City Hall bulletin board on May 17, 2016.

*Patrice Fogarty*



**Council Agenda Item  
May 23, 2016**

1. **CALL TO ORDER**
2. **INVOCATION** – The invocation will be given by Brian Christen, Fairmont Park Church - Broadway.
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance will be led by Councilmember Chuck Engelken.
4. **PRESENTATIONS, PROCLAMATIONS, and RECOGNITIONS**
  - (a) Proclamation - National Bike Month in the City of La Porte - Mayor Rigby
  - (b) Recognition - Employee of the First Quarter 2016 - Christopher Sandoval - City of La Porte Police Department - Mayor Rigby
5. **PUBLIC COMMENTS** (Limited to five minutes per person.)

\*\*\*\*\*

# *Office of the Mayor*



## *Proclamation*

### *“National Bike Month in the City of La Porte”*

Whereas, the bicycle is an economical, healthy, convenient, and environmentally sound form of transportation and an excellent tool for recreation and enjoyment of La Porte's scenic beauty; and

Whereas, creating a bicycle-friendly community has been shown to improve citizens' health, well-being, and quality of life; and improve traffic safety, all while reducing pollution, and congestion on our streets and roads; and

Whereas, La Porte's trail system enhances tourism by bringing visitors to our local restaurants, hotels, retail establishments, and cultural and scenic attractions; thereby providing economic, health, transportation, tourism, and scenic benefits; and

Whereas, in addition to its scenic beauty, La Porte's sixteen mile Hike and Bike Trail system has also been regionally recognized by HGACs "Mobility Now" TV series for its safe design as a system largely segregated from vehicular traffic while still connecting neighborhoods to schools, parks, beaches and employment centers.

Whereas, the City of La Porte, Texas, the League of American Bicyclists, area schools, parks and recreation departments, public health districts, hospitals, companies and civic groups are promoting bicycling during the month of May 2016; and

Whereas, these groups are also promoting greater public awareness of bicycle operation and safety education in an effort to reduce collisions, injuries, and fatalities and improve health and safety for everyone on the road;

Now therefore, I, Louis Rigby, Mayor of the City of La Porte, do hereby proclaim May 2016 as National Bike Month, and declare that Friday, May 27<sup>th</sup> is Bike to Work Day in La Porte.

In Witness Whereof: I have hereto set my hand and caused the Seal of the City to be affixed hereto, this the 23<sup>rd</sup> day of May 2016.

**CITY OF LA PORTE**

---

*Louis R. Rigby, Mayor*

---

## Employee of the 1<sup>st</sup> Quarter – 2016 Christopher Sandoval

Officer Christopher Sandoval joined the City of La Porte team in February 2007 and is currently assigned to the Patrol division evening shift. He was previously nominated for Employee of the Quarter in 2009, and has consistently scored Above Expectations on his annual performance evaluations.

On the evening of February 11, 2016, Officer Sandoval was dispatched to a welfare concern regarding an elderly male. While en route to the call, additional information from Precinct 8 indicated the subject may be attempting to take his own life in his garage. Upon arrival to the scene, Officer Sandoval observed no vehicles in the driveway and a closed garage door. Placing his ear to the garage door, he heard what sounded like an idling motor and smelled vehicle exhaust. Moving quickly, Officer Sandoval made contact with the subject's wife at the front door to the home. She stated she did not know the whereabouts of her husband. Officer Sandoval immediately made entry to the house and accessed the garage where he found the subject seated in the running vehicle. He activated the garage door opener to allow fresh air to enter and contacted dispatch to have La Porte EMS respond. Officer Sandoval made contact with the subject who was lethargic but responsive. La Porte EMS later confirmed that if not for the actions of Officer Sandoval, the subject would have succeeded in ending his life.

Officer Sandoval's thoroughness and decisive action resulted in a saved life that evening. His consistent level of performance and service to the community, are wonderful reflections on the La Porte Police Department and the entire City of La Porte team. Please join me in recognizing him as the City of La Porte Employee of the Quarter.



**Council Agenda Item  
May 23, 2016**

- 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 the minutes of the meeting held on May 9, 2016 - P. Fogarty
  - (b) Consider approval or other action awarding Bid No.16014 for La Porte FY 2016 Street Overlay - S. Valiante
  - (c) Consider approval or other action awarding Bid No. 16012 for D Street and 4th Street Paving and Drainage Improvements - S. Valiante
  - (d) Consider approval or other action regarding a three (3) year lease agreement with Dell Financial Services for computer equipment - R. Valdez
  - (e) Consider approval or other action regarding an Ordinance vacating, abandoning, and closing the entire east/west and north/south alleys in Block 1112, Town of La Porte, and a portion of the east/west alley in Block 1113, Town of La Porte; and abandoning in place an existing 8" sanitary sewer main located in the north/south alley of Block 1112, Town of La Porte - T. Tietjens
  - (f) Consider approval or other action regarding an Ordinance vacating, abandoning, and closing a portion of the East A Street right-of-way - B. Sterling
  - (g) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 4111 Malone Dr., in the Bayport Industrial District - B. Sterling
  - (h) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 4033 Malone Dr., in the Bayport Industrial District - B. Sterling
  - (i) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 10322 New Decade Dr., in the Bayport Industrial District - B. Sterling
  - (j) Consider approval or other action authorizing the City Manager to execute a Water Service Agreement and a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 10344 New Decade Dr., in the Bayport Industrial District - B. Sterling

\*\*\*\*\*

**LOUIS RIGBY**  
Mayor  
**JOHN ZEMANEK**  
Councilmember At Large A  
**DOTTIE KAMINSKI**  
Councilmember At Large B  
**DANNY EARP**  
Councilmember District 1  
**CHUCK ENGELKEN**  
Councilmember District 2



**DARYL LEONARD**  
Councilmember District 3  
**KRISTIN MARTIN**  
Councilmember District 4  
**JAY MARTIN**  
Mayor Pro-Tem  
Councilmember District 5  
**MIKE CLAUSEN**  
Councilmember District 6

## **MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LA PORTE MAY 9, 2016**

The City Council of the City of La Porte met in a regular meeting on **Monday, May 9, 2016**, at the City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, at **6:00 p.m.** to consider the following items of business:

Mayor Rigby called the meeting to order at 6:00 p.m. Members of Council present: Councilmembers Engelken, Earp, Zemanek, Clausen, K. Martin, Leonard, Kaminski and J. Martin. Also present were City Secretary Patrice Fogarty, City Manager Corby Alexander, and Assistant City Attorney Clark Askins.

2. **INVOCATION** – The invocation was given by Thomas Park, Fairmont Park Church.
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by Councilmember Daryl Leonard.
4. **PRESENTATIONS, PROCLAMATIONS, and RECOGNITIONS**
  - (a) Proclamation – Public Works Week – Mayor Rigby

Mayor Rigby presented a proclamation to Public Works Director Sharon Valiante in honor of Public Works Week.

- (b) Proclamation – Emergency Medical Services Week – Mayor Rigby

Mayor Rigby presented a proclamation to City Manager Corby Alexander in honor of Emergency Medical Services Week.

- (c) Proclamation – National Police Week – Mayor Rigby

Mayor Rigby presented a proclamation to Police Chief Ken Adcox in honor of National Police Week.

5. **PUBLIC COMMENTS** (Limited to five minutes per person.)

Philip Dunn, 701 San Jacinto St., addressed Council with problems of vehicles parking at Lighthouse Baptist Church parking lot and requested assistance from the City.

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 special called city council meeting held on April 16, 2016, and the minutes of the regular meeting held on April 25, 2016 – P. Fogarty
  - (b) Consider approval or other action regarding project updating the City's technology infrastructure – R. Valdez

- (c) Consider approval or other action regarding acceptance of a deed conveying the east 141 feet of the 80-foot wide former Madison right-of-way back to the City of La Porte – C. Alexander

Regarding Item B, Councilmember Earp asked what all is included in the proposed project. IT Manager Rene Valdez responded it is a combination of a number of projects to include a new phone system; cooling systems and new technology.

Regarding Item B, Councilmembers Zemanek and Earp requested additional information on the cooling system.

Councilmember Leonard moved to approve the Consent Agenda items A&C pursuant to staff recommendations. Councilmember Engelken seconded. **MOTION PASSED UNANIMOUSLY 9/0.**

Councilmember Earp moved to approve the Consent Agenda item B project as presented with the exception of the air conditioning portion and requested Staff to go back and qualify the air conditioning and bring it back at a later date. Councilmember Zemanek seconded. **MOTION PASSED UNANIMOUSLY 9/0.**

## 7. PUBLIC HEARING AND ASSOCIATED ORDINANCES

- (a) Public hearing to receive comments regarding the recommendation by the Planning and Zoning Commission to amend Chapter 86, "Development Regulations" of the Code of Ordinances of the City of La Porte, Texas by adopting comprehensive guidelines, rules and regulation for subdivision and development of land in the City of La Porte; consider approval or other action regarding an Ordinance amending Chapter 86, "Development Regulations" of the Code of Ordinances of the City of La Porte, Texas by adopting comprehensive guidelines, rules and regulation for subdivision and development of land in the City of La Porte – E. Ensey

The public hearing opened at 6:32 p.m.

City Planner Eric Ensey presented a summary and recommendation by the Planning and Zoning Commission.

Councilmember Zemanek moved to continue the public hearing to the June 27, 2016, meeting. Councilmember Clausen seconded. **MOTION PASSED UNANIMOUSLY 9/0.**

Councilmember Zemanek moved to postpone action until the June 27, 2016, meeting. Councilmember K. Martin seconded. **MOTION PASSED UNANIMOUSLY 9/0.**

## 8. REPORTS

- (a) Presentation of report of 2015 Hazardous Materials Commodity Flow Study – K. Gauthier

Emergency Management Coordinator Kristin Gauthier presented a summary, and David Bierling from Texas A&M Transportation Institute presented a PowerPoint presentation.

- (b) Receive report of the Fiscal Affairs Committee – Councilmember Engelken

Councilmember Engelken provided a report of the Fiscal Affairs Committee meeting held prior to the City Council meeting.

## 9. ADMINISTRATIVE REPORTS

There were no additional reports.

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

Councilmembers Leonard, Earp, Clausen, J. Martin and K. Martin congratulated Public Works, Emergency Medical Services and the Police Department on their recognitions; Councilmember Engelken congratulated the departments and commented he appreciates Pastor Dunn's comments and hopes to see a resolution in the Friday Memo; Councilmember Kaminski congratulated the departments and commented she enjoyed the celebration at Five Points and advised Pastor Dunn that Staff will be getting back with him; Councilmember Zemanek congratulated the departments on their recognitions and commented he is glad all of Council is back and doing okay health wise; and Mayor Rigby commented the Public Service Recognition lunch was well attended; he thanked all the departments for their hard work and everyone who prepared for Sylvan Beach Day.

11. **ADJOURN** - There being no further business, Councilmember Engelken made a motion to adjourn the meeting at 7:15 p.m. Councilmember Leonard seconded. **MOTION PASSED UNANIMOUSLY 9/0.**

---

Patrice Fogarty, City Secretary

Passed and approved on May 9, 2016.

---

Mayor Louis R. Rigby

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested:	<u>May 23, 2016</u>	Appropriation
Requested By:	<u>Sharon Valiante</u>	Source of Funds: <u>033</u>
Department:	<u>Public Works</u>	Account Number: <u>033.9892.886.1100</u>
Report: <input checked="" type="radio"/>	Resolution: <input type="radio"/> Ordinance: <input type="radio"/>	Amount Budgeted: <u>\$1,000,000</u>
Other: <input type="radio"/>		Amount Requested: <u>\$643,179</u>
<b>Attachments :</b>		Budgeted Item: <input checked="" type="radio"/> YES <input type="radio"/> NO

1. Bid Tabulation
2. Map and Resurfacing Plan
3. Vendor Access Report

---

### SUMMARY & RECOMMENDATIONS

Advertised, sealed bid proposals for La Porte FY 2016 Street Overlay were opened and read on April 26, 2016. Bid requests were advertised in the Bay Area Observer, posted on the City of La Porte website site and Public Purchase with six (6) contractors returning bids.

Forde Construction submitted the lowest bid in the amount of \$584,778.60 for the Base Bid. Staff recommends that the project be awarded to Forde Construction in the amount of \$584,778.60 with a total authorization of \$643,179, which includes a 10% project contingency.

Type D Asphalt price went down 4% from FY 14 to FY 16.

Project Benefits, Liabilities, and Operating Cost:

Benefits:

- The proposed project provides maintenance and rehabilitation of existing public facilities anticipated by the residents with the street tax renewal.

Liabilities of Maintaining the Status Quo:

- The scope and cost of the proposed work would likely increase if the proposed resurfacing work is deferred for an extended period of time.

Operating Costs:

- No new facilities will be added with this project.

Other Considerations:

- Staff plans to also surface the North C Street ROW and adjacent area of the fire training facility with this project.
-

**Action Required of Council:**

Consider approval or other action authorizing the City Manager to execute a contract with Forde Construction Company Inc. for \$643,179 including the project contingency of 10%.

---

**Approved for City Council Agenda**

---

**Corby D. Alexander, City Manager**

---

**Date**

**BID TABULATION**  
**BID 16014 LA PORTE FY 2016 STREET OVERLAY**

Bid Opening: April 26, 2016			Forde Construction		Hayden Paving		AAA Asphalt Paving		Angel Brothers		TLC Trucking and Contracting		Durwood Greene Construction	
<b>Base Bid Items</b>	<b>Estimated Quantity</b>	<b>Unit of Measure</b>	<b>Unit Price</b>	<b>Extended</b>	<b>Unit Price</b>	<b>Extended</b>	<b>Unit Price</b>	<b>Extended</b>						
1. Mobilization	1	LS	\$31,500.00	\$31,500.00	\$12,000.00	\$12,000.00	\$10,000.00	\$10,000.00	\$41,000.00	\$41,000.00	\$38,125.00	\$38,125.00	\$70,000.00	\$70,000.00
2. 2" HMAC, Type D Asphalt	5480	Ton	\$77.00	\$421,960.00	\$83.28	\$456,374.40	\$93.50	\$512,380.00	\$87.00	\$476,760.00	\$109.00	\$597,320.00	\$110.00	\$602,800.00
3. 2" Pavement and Subgrade Milling and Removal	47544	SY	\$0.90	\$42,789.60	\$1.85	\$87,956.40	\$1.50	\$71,316.00	\$1.75	\$83,202.00	\$2.69	\$127,893.36	\$3.00	\$142,632.00
4. 8" Pavement and Subgrade Milling and Removal	1191	SY	\$7.00	\$8,337.00	\$6.86	\$8,170.26	\$6.00	\$7,146.00	\$13.00	\$15,483.00	\$10.00	\$11,910.00	\$15.00	\$17,865.00
5. Lime Stabilized Subgrade	1340	SY	\$9.50	\$12,730.00	\$6.93	\$9,286.20	\$6.50	\$8,710.00	\$5.50	\$7,370.00	\$10.00	\$13,400.00	\$15.00	\$20,100.00
6. Lime 8%	75	Ton	\$147.00	\$11,025.00	\$150.00	\$11,250.00	\$200.00	\$15,000.00	\$163.00	\$12,225.00	\$187.50	\$14,062.50	\$250.00	\$18,750.00
7. Traffic Control	1	LS	\$5,000.00	\$5,000.00	\$20,000.00	\$20,000.00	\$10,000.00	\$10,000.00	\$3,500.00	\$3,500.00	\$51,062.50	\$51,062.50	\$29,500.00	\$29,500.00
8. Recycled Crushed Concrete Base 6" Thickness	357	Ton	\$66.00	\$23,562.00	\$78.13	\$27,892.41	\$54.00	\$19,278.00	\$93.00	\$33,201.00	\$65.00	\$23,205.00	\$50.00	\$17,850.00
9. 6" Proposed Pavement and Subgrade Removal (as directed)	750	SY	\$9.50	\$7,125.00	\$5.55	\$4,162.50	\$10.00	\$7,500.00	\$1.00	\$750.00	\$45.54	\$34,155.00	\$22.00	\$16,500.00
10. Type A Asphalt Base Course (as directed)	250	Ton	\$83.00	\$20,750.00	\$85.00	\$21,250.00	\$97.00	\$24,250.00	\$93.00	\$23,250.00	\$126.25	\$31,562.50	\$115.00	\$28,750.00
<b>TOTAL BASE BID</b>			<b>\$584,778.60</b>		<b>\$658,342.17</b>		<b>\$685,580.00</b>		<b>\$696,741.00</b>		<b>\$942,695.86</b>		<b>\$964,747.00</b>	



**Access Report**

Agency

Bid Number

Bid Title

City of La Porte (TX)

16014

La Porte FY 2016 Street Overlay

<b>Vendor Name</b>	<b>Accessed First Time</b>	<b>Documents</b>
BidClerk	2016-04-22 01:29 AM CDT	
AMTEK	2016-04-05 09:23 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Polston Applied Technologies CA-TX	2016-04-07 11:28 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Hayden Paving, Inc.	2016-04-18 01:37 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Southern Crushed Concrete, LLC	2016-04-08 02:18 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Perkens WS Corporation	2016-03-31 12:15 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
North America Procurement Council	2016-03-31 07:39 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Aztec Engineering Group	2016-03-31 01:52 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
TLC Trucking & Contracting, Inc.	2016-04-15 08:38 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Onvia	2016-03-31 04:51 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
The Blue Book Building & Construction	2016-03-31 02:59 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Angel Brothers Enterprises, Ltd.	2016-04-04 02:16 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
iSqFt / AGC Houston	2016-04-21 02:47 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
All Points Inspection Services, Inc.	2016-04-21 04:12 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
iSqFt and Houston AC	2016-04-05 09:06 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Dale Dobbins	2016-04-01 07:04 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Taylor & Taylor Construction	2016-04-04 12:47 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Century Asphalt, Ltd.	2016-03-31 08:54 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Hearn Company	2016-03-31 11:15 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
GW Phillips Construction, INC.	2016-04-06 03:09 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
AAA Asphalt Paving Inc.	2016-03-31 08:50 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Reed Construction Data	2016-04-21 06:37 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Durwood Greene Construction Co.	2016-04-08 11:34 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
Forde Construction Company	2016-04-11 01:06 PM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf
AAA Asphalt Paving Inc	2016-04-26 11:01 AM CDT	Bid 16014 La Porte FY 2016 Street Overlay Final.pdf

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>          May 23, 2016          </u>
Requested By: <u>          Sharon Valiante          </u>
Department: <u>          Public Works          </u>
Report: <u>      </u> Resolution: <u>      </u> Ordinance: <u>      </u>

<u>Budget</u>	
Source of Funds:	<u>003, 019, 051</u>
	003-9892-531-1100
	019-9892-531-1100
Account Number:	<u>051-7071-531-1100</u>
	100,000
	200,000
Amount Budgeted:	<u>650,000</u>
	100,000
	182,043
Amount Requested:	<u>650,000</u>
Total:	932,043
Budgeted Item:	<b>YES</b> NO

- Exhibit D St & 4<sup>th</sup> Project Location Map
- Exhibit: Bid Recommendation & Bid Tabulation
- Exhibit: Tolunay-Wong Proposal for Materials Testing

---

### SUMMARY & RECOMMENDATION

City Council authorized a design services contract with Cobb Fendley in the amount of \$75,585 on November 10, 2014 for the design of the D Street and 4<sup>th</sup> Street Paving and Drainage improvements (the City used a RFQ process to select Cobb Fendley). Staff provided Council with a construction estimate equal to \$950,000 with the 2014 design services agenda request. Tonight’s request is to authorize project construction with a total funding allocation equal to \$932,043.

Bid #16012 for the D Street & 4<sup>th</sup> Street Paving and Drainage Improvements was opened and read on April 12, 2016. The bid was advertised in the Bay Area Observer on March 24 & April 7, posted on Public Purchase and the City’s website. Thirty-two vendors accessed the bid, and 4 bids were received. G. W. Phillips Concrete Construction submitted the lowest and best total bid at \$874,149.50, which includes the base bid (\$858,714.50) Extra Work (\$1,860) and Alternate Bid Items (\$13,575).

The Extra Work Items are typical construction materials (cement stabilized sand and reinforced concrete pipe) that would expect to see an “over-run” and will be used only if necessary. The Alternate Bid Items will address where needed the following: “Where there are trees or bushes in or at the edge of the right of way conflicting with sidewalk construction.” Residents will be consulted as the project progresses, and a sound and reasonable decision will be made in reference to removal, relocating, replacing and in some cases routing the sidewalk around the existing tree or bush with crushed granite paving”. Staff believe the tree/bush alternate is the best solution for addressing conflicts with existing trees/bushes as it places the burden of “quality” on the contractor for a one year period.

The design and construction of this project is similar in nature to the reconstruction of 3<sup>rd</sup> Street in 2014.

Contingency: Staff is requesting a \$43,708 contingency equal to 5.0%.

Materials Testing: Tolunay-Wong Engineers, Inc. submitted a price proposal for subgrade and concrete testing in the amount of \$14,185. As professional engineers, Tolunay-Wong Engineers, Inc. falls within the purchasing category of Professional Services. Procurement of this firm was conducted via separate RFQ process as part of the 3<sup>rd</sup> Street project.

Final Project Cost: \$874,149.50 total bid + \$43,708.00 contingency + \$14,185.00 materials testing = \$932,042.50.

**Benefits:**

The project will address several of the lowest rated concrete street segments identified in the 2013 comprehensive street inspection report.

**Liabilities:**

Deferring the project construction would add to future year maintenance responsibilities unless substituted with a like project. The streets included in this project were constructed over 60-years ago. Two-thirds of the City's concrete streets, with an estimated value of over \$75-million for roadway pavement alone, were constructed more than 40-years ago.

**Operating Costs:**

Slight decrease in operating/maintenance costs.

---

**Action Required by Council:**

Consider approval or other action to award Bid #16012 to G.W. Phillips Concrete Construction, for the improvement of sections of D Street and 4<sup>th</sup> Street and authorize the City Manager to enter into a construction contract in the amount of \$879,149.50 with a total project funding allocation equal to \$932,042.50 including a \$43,708 construction contingency and materials testing expense of \$14,185.

---

**Approved for City Council Agenda**

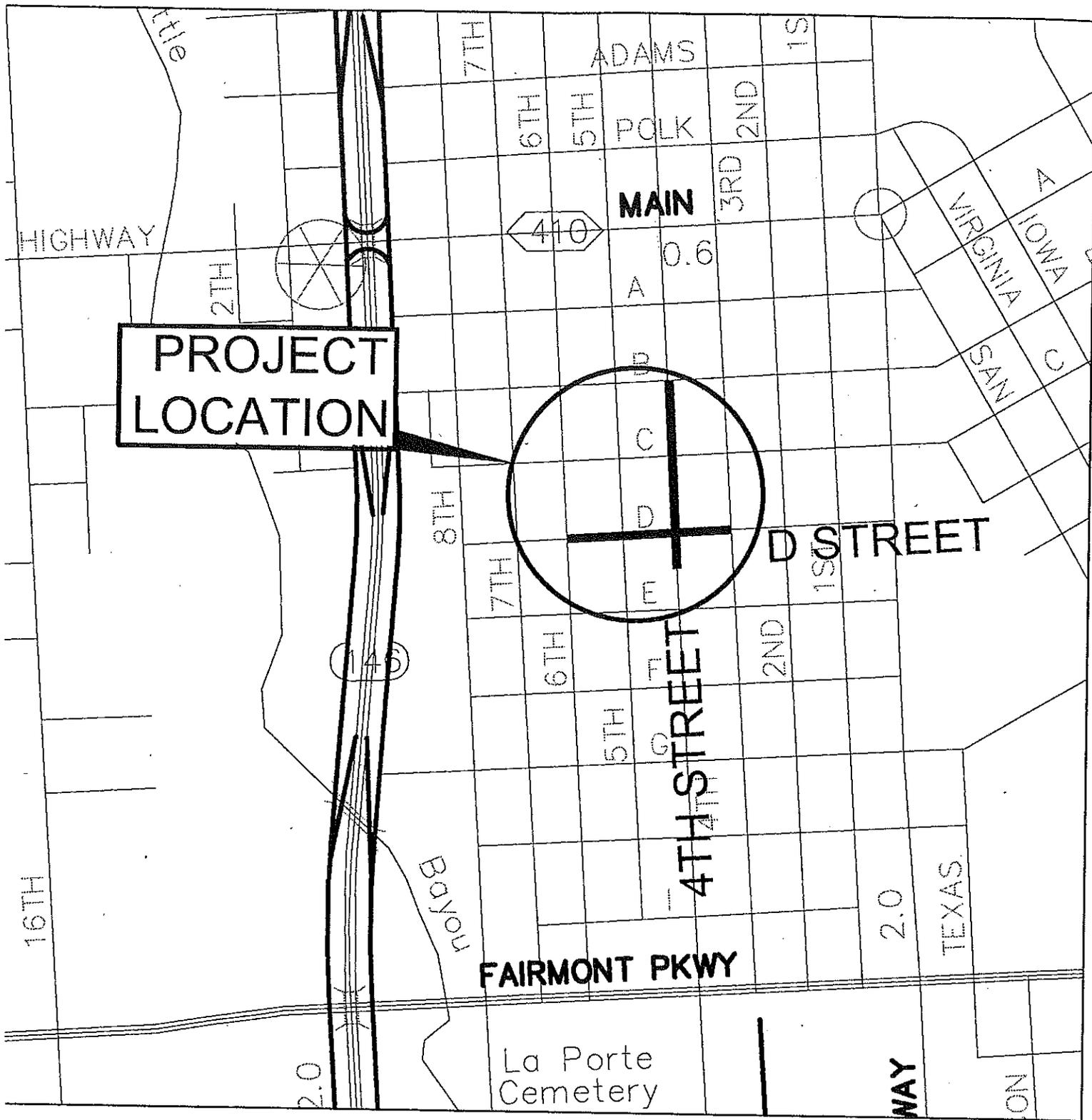
---

**Corby D. Alexander**

---

**Date**

# PROJECT AREA



KEY MAP. 579 B C

April 18, 2016

Mr. Don Pennell  
City of La Porte Public Works Office  
2963 N. 23<sup>rd</sup> Street  
La Porte, Texas 77571

**BY EMAIL**

Re: Contract Award Recommendation  
D Street and 4<sup>th</sup> Street Paving and Drainage Improvements  
CFA Project No. 1412-049-00

Dear Mr. Pennell:

We have reviewed the bids for the referenced project and have prepared the bid tabulation. There was a mathematical error in the bid by G. W. Phillips Concrete Construction for Bid Item 58. In accordance with Article 14.2 of the Contract, the summation of the bid items was corrected which resulted in a total bid price of \$874,149.50. Upon correcting the total bid price, G. W. Phillips Concrete Construction remained the low bidder. Based on our review of the bids and qualifications of the bidder, we recommend that the Contract be awarded to G. W. Phillips Concrete Construction. If you have any questions or require additional information, I can be contacted at 713-462-3242.

Sincerely,

COBB, FENDLEY & ASSOCIATES, INC.

A handwritten signature in blue ink that reads "Jason Eldridge".

Jason Eldridge, P.E.  
Project Engineer

Attachment

CLIENT: City of La Porte PROJECT: D Street and 4th Street Paving and Drainage Improvements BID DATE: 4/12/16				Bidder No. 1		Bidder No. 2		Bidder No. 3		Bidder No. 4	
A. BASE BID ITEMS				G.W. Phillips Concrete Construction Inc.		Precise Services, Inc.		MAR-CON Services, Inc.		Angel Brothers Enterprises, Inc.	
GENERAL ITEMS											
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1	Mobilization (Max 5% of Total Base Bid Price) (01502)	LS	1		\$0.00	\$34,500.00	\$34,500.00	\$37,520.30	\$37,520.30	\$40,000.00	\$40,000.00
2	Traffic Control and Regulations (01555)	LS	1	\$8,000.00	\$8,000.00	\$9,500.00	\$9,500.00	\$157,095.70	\$157,095.70	\$10,500.00	\$10,500.00
3	Storm Water Pollution Prevention Control, Including TPDES Requirements (01410) (01570)	LS	1	\$2,500.00	\$2,500.00	\$2,900.00	\$2,900.00	\$4,931.40	\$4,931.40	\$15,000.00	\$15,000.00
4	Tree and Plant Protection, Including tree and stump removal, root pruning (01562)	LS	1	\$4,000.00	\$4,000.00	\$25,000.00	\$25,000.00	\$5,600.00	\$5,600.00	\$18,000.00	\$18,000.00
5	Trench Safety (02260)	LF	723	\$2.00	\$1,446.00	\$7.00	\$5,061.00	\$0.20	\$144.60	\$1.00	\$723.00
6	Roadway Excavation (02315)	CY	695	\$8.00	\$5,560.00	\$12.00	\$8,340.00	\$10.00	\$6,950.00	\$26.00	\$18,070.00
7	Ditch Excavation, including regrading ditch (02315)	CY	35	\$10.00	\$350.00	\$38.50	\$1,347.50	\$38.40	\$1,344.00	\$60.00	\$2,100.00
8	Block Sodding (02922)	SY	3,500	\$4.50	\$15,750.00	\$5.00	\$17,500.00	\$3.40	\$11,900.00	\$4.00	\$14,000.00
9	Adjusting Water Valve Box to Finished Grade (Valve boxes that need to be replaced will be supplied by Public Works) (02086)	EA	1	\$300.00	\$300.00	\$250.00	\$250.00	\$122.10	\$122.10	\$150.00	\$150.00
10	Adjusting Manhole Rim to Finished Grade (02086)	EA	5	\$500.00	\$2,500.00	\$350.00	\$1,750.00	\$271.60	\$1,358.00	\$350.00	\$1,750.00
11	Reflective Pavement Marker Type I (W) 24-Inch (Solid), To be located at each stop sign within the project limits (02767)	LF	140	\$6.00	\$840.00	\$10.00	\$1,400.00	\$7.80	\$1,092.00	\$10.00	\$1,400.00
<b>GENERAL ITEMS SUBTOTAL</b>				<b>\$41,246.00</b>		<b>\$107,548.50</b>		<b>\$228,058.10</b>		<b>\$121,693.00</b>	
<b>PAVING</b>											
12	6-Inch Reinforced Concrete Pavement, Complete-in-Place (02751)	SY	6,898	\$44.00	\$303,512.00	\$40.00	\$275,920.00	\$37.90	\$261,434.20	\$51.00	\$351,798.00
13	6-Inch Lime Stabilized Subgrade (02336)	SY	7,670	\$3.50	\$26,845.00	\$4.90	\$37,583.00	\$3.30	\$25,311.00	\$4.50	\$34,515.00
14	Lime (8% Lime by Dry Weight of Soil) (02336)	TON	144	\$165.00	\$23,760.00	\$175.00	\$25,200.00	\$163.50	\$23,544.00	\$170.00	\$24,480.00
15	4-Inch Concrete Sidewalk (02775)	SF	13,500	\$5.00	\$67,500.00	\$4.00	\$54,000.00	\$4.70	\$63,450.00	\$6.00	\$81,000.00
16	Decomposed Granite Sidewalk (SS1094)	SF	175	\$3.00	\$525.00	\$4.00	\$700.00	\$7.50	\$1,312.50	\$20.00	\$3,500.00
17	6-Inch Concrete Driveways (02754)	SY	330	\$50.00	\$16,500.00	\$60.00	\$19,800.00	\$51.90	\$17,127.00	\$85.00	\$28,050.00
18	Concrete Ramps, Type 7 (02775)	EA	11	\$1,000.00	\$11,000.00	\$925.00	\$10,175.00	\$922.30	\$10,145.30	\$1,400.00	\$15,400.00
19	Concrete Ramps, Type 9 (02775)	EA	4	\$1,300.00	\$5,200.00	\$925.00	\$3,700.00	\$977.40	\$3,909.60	\$1,600.00	\$6,400.00
20	4" x 12" Concrete Curb (02771)	LF	3,770	\$3.75	\$14,137.50	\$2.60	\$9,802.00	\$3.00	\$11,310.00	\$3.00	\$11,310.00
21	4" x 12" Concrete Curb and Gutter (02771)	LF	202	\$28.00	\$5,656.00	\$50.00	\$10,100.00	\$22.20	\$4,484.40	\$34.00	\$6,868.00
22	6-Inch Concrete Curb and Gutter (02771)	LF	20	\$34.00	\$680.00	\$50.00	\$1,000.00	\$29.30	\$586.00	\$34.00	\$680.00
23	6-Inch Concrete Curb (02771)	LF	60	\$3.00	\$180.00	\$2.60	\$156.00	\$7.70	\$462.00	\$3.00	\$180.00
24	1-1/2" Thick Asphalt Pavement (02741)	TON	22	\$175.00	\$3,850.00	\$200.00	\$4,400.00	\$226.40	\$4,980.80	\$375.00	\$8,250.00
25	6-Inch Black Base (Type B) (02711)	TON	88	\$120.00	\$10,560.00	\$200.00	\$17,600.00	\$149.10	\$13,120.80	\$157.00	\$13,816.00
<b>PAVING ITEMS SUBTOTAL</b>				<b>\$489,905.50</b>		<b>\$470,136.00</b>		<b>\$441,177.60</b>		<b>\$586,247.00</b>	
<b>DEMOLITION</b>											
26	Remove and Dispose of Reinforced Concrete Pavement (All Thicknesses); Including Concrete Curbs (02221)	SY	6,460	\$9.00	\$58,140.00	\$2.40	\$15,504.00	\$3.20	\$20,672.00	\$4.00	\$25,840.00
27	Remove and Dispose of Asphalt Pavement including Base (02221)	SY	770	\$5.00	\$3,850.00	\$1.50	\$1,155.00	\$4.00	\$3,080.00	\$8.50	\$6,545.00
28	Remove and Dispose of Driveways (All Material Types) (All Thicknesses) (02221)	SY	330	\$9.00	\$2,970.00	\$2.00	\$660.00	\$7.70	\$2,541.00	\$11.50	\$3,795.00
29	Remove and Dispose of Storm Sewer (RCP) (15-Inch, 18-Inch and 24-Inch) (02221)	LF	154	\$15.00	\$2,310.00	\$28.50	\$4,389.00	\$13.10	\$2,017.40	\$10.00	\$1,540.00
30	Remove and Dispose of Storm Sewer (RCP) (48-Inch) (02221)	LF	320	\$26.00	\$8,320.00	\$40.00	\$12,800.00	\$30.80	\$9,856.00	\$14.00	\$4,480.00
31	Remove and Dispose of Inlets (All Types) (02221)	EA	10	\$500.00	\$5,000.00	\$525.00	\$5,250.00	\$288.90	\$2,889.00	\$375.00	\$3,750.00
32	Cut, Plug and Abandon Water Line, All Sizes (02516)	EA	8	\$200.00	\$1,600.00	\$970.00	\$7,760.00	\$484.70	\$3,877.60	\$400.00	\$3,200.00
33	Remove Fire Hydrant Assembly	EA	2	\$500.00	\$1,000.00	\$690.00	\$1,380.00	\$484.70	\$969.40	\$500.00	\$1,000.00
34	Remove Gate Valve, All Sizes	EA	8	\$500.00	\$4,000.00	\$650.00	\$5,200.00	\$302.00	\$2,416.00	\$125.00	\$1,000.00
<b>DEMOLITION ITEMS SUBTOTAL</b>				<b>\$87,190.00</b>		<b>\$54,098.00</b>		<b>\$48,318.40</b>		<b>\$51,150.00</b>	
<b>STORM SEWER</b>											
35	Type A Inlet (All Depths) (02632)	EA	8	\$2,600.00	\$20,800.00	\$2,277.86	\$18,222.88	\$1,549.50	\$12,396.00	\$1,450.00	\$11,600.00
36	Concrete Manhole, Type "C" (All Depths) (02082)	EA	1	\$2,800.00	\$2,800.00	\$2,277.86	\$2,277.86	\$3,261.10	\$3,261.10	\$2,900.00	\$2,900.00
37	Type "C-1" Inlet (All Depths) (02632) (02633)	EA	12	\$1,900.00	\$22,800.00	\$2,277.86	\$27,334.32	\$3,152.50	\$37,830.00	\$3,500.00	\$42,000.00
38	Reinforced Concrete Pipe, C-76, Class III (24-Inch) (Open-Cut) (02631)	LF	401	\$80.00	\$32,080.00	\$108.90	\$43,668.90	\$82.70	\$33,162.70	\$77.00	\$30,877.00
39	Reinforced Concrete Pipe, C-76, Class III (30-Inch) (Open-Cut) (02631)	LF	322	\$94.00	\$30,268.00	\$135.93	\$43,769.46	\$98.60	\$31,749.20	\$116.00	\$37,352.00
<b>STORM SEWER ITEMS SUBTOTAL</b>				<b>\$108,748.00</b>		<b>\$135,273.42</b>		<b>\$118,399.00</b>		<b>\$124,729.00</b>	
<b>WATER ITEMS</b>											
40	2-Inch PVC Water Line (Open-Cut Construction) (02511)	LF	10	\$21.00	\$210.00	\$98.75	\$987.50	\$32.20	\$322.00	\$25.00	\$250.00
41	4-Inch PVC Water Line (Open-Cut Construction) (02511)	LF	25	\$23.00	\$575.00	\$41.00	\$1,025.00	\$39.20	\$980.00	\$40.00	\$1,000.00
42	6-Inch PVC Water Line (Open-Cut Construction) (02511)	LF	100	\$24.00	\$2,400.00	\$50.25	\$5,025.00	\$49.10	\$4,910.00	\$42.00	\$4,200.00
43	6-Inch PVC Water Line (Trenchless Construction) (02511)	LF	50	\$85.00	\$4,250.00	\$39.75	\$1,987.50	\$70.30	\$3,515.00	\$42.00	\$2,100.00
44	6-Inch Ductile Iron Pipe Water Line (Trenchless Construction) (02511)	LF	100	\$160.00	\$16,000.00	\$68.25	\$6,825.00	\$40.10	\$4,010.00	\$58.00	\$5,800.00
45	8-Inch PVC Water Line (Open-Cut Construction) (02511)	LF	115	\$26.00	\$2,990.00	\$79.50	\$9,142.50	\$29.20	\$3,358.00	\$57.00	\$6,555.00
46	8-Inch PVC Water Line (Trenchless Construction) (02511)	LF	885	\$90.00	\$79,650.00	\$51.25	\$45,356.25	\$35.30	\$31,240.50	\$46.00	\$40,710.00
47	4-Inch Gate Valve and Box (02521)	EA	3	\$850.00	\$2,550.00	\$1,150.00	\$3,450.00	\$825.00	\$2,475.00	\$800.00	\$2,400.00
48	6-Inch Gate Valve and Box (02521)	EA	3	\$1,200.00	\$3,600.00	\$1,375.00	\$4,125.00	\$907.30	\$2,721.90	\$950.00	\$2,850.00
49	8-Inch Gate Valve and Box (02521)	EA	1	\$1,650.00	\$1,650.00	\$2,050.00	\$2,050.00	\$1,296.00	\$1,296.00	\$1,275.00	\$1,275.00
50	6" x 6" Tapping Sleeve and Valve (02512)	EA	1	\$2,200.00	\$2,200.00	\$5,125.00	\$5,125.00	\$3,512.00	\$3,512.00	\$4,350.00	\$4,350.00
51	2-Inch Wet Connections (02513)	EA	4	\$350.00	\$1,400.00	\$850.00	\$3,400.00	\$639.10	\$2,556.40	\$250.00	\$1,000.00
52	4-Inch Wet Connections (02513)	EA	2	\$600.00	\$1,200.00	\$970.00	\$1,940.00	\$673.80	\$1,347.60	\$375.00	\$750.00
53	6-Inch Wet Connections (02513)	EA	1	\$750.00	\$750.00	\$1,150.00	\$1,150.00	\$701.30	\$701.30	\$450.00	\$450.00
54	Fire Hydrant Assembly (02520)	EA	2	\$3,700.00	\$7,400.00	\$3,650.00	\$7,300.00	\$3,918.00	\$7,836.00	\$4,550.00	\$9,100.00
<b>WATER ITEMS SUBTOTAL</b>				<b>\$126,825.00</b>		<b>\$98,888.75</b>		<b>\$70,781.70</b>		<b>\$82,790.00</b>	
<b>SANITARY ITEMS</b>											

55	Rehabilitate Sanitary Sewer Manhole, Including New Cone, Rings, 32" Cover and Frame, Set to Grade (02555)	EA	1	\$4,800.00	\$4,800.00	\$1,700.00	\$1,700.00	\$1,200.70	\$1,200.70	\$1,100.00	\$1,100.00
<b>SANITARY ITEMS SUBTOTAL</b>				<b>\$4,800.00</b>		<b>\$1,700.00</b>		<b>\$1,200.70</b>		<b>\$1,100.00</b>	
<b>TOTAL BASE BID</b>				<b>\$858,714.50</b>		<b>\$867,644.67</b>		<b>\$907,935.50</b>		<b>\$967,709.00</b>	
<b>B. EXTRA WORK ITEMS</b>											
56	Cement Stabilized Sand for Subgrade, Complete-in-Place (Engineer's Approval Required)	CY	10	\$30.00	\$300.00	\$54.67	\$546.70	\$56.30	\$563.00	\$85.00	\$850.00
57	Reinforced Concrete Pipe, C-76, Class III (18-Inch) (Open-Cut) (02631)	LF	24	\$65.00	\$1,560.00	\$115.38	\$2,769.12	\$68.30	\$1,639.20	\$65.00	\$1,560.00
<b>TOTAL EXTRA WORK ITEMS</b>				<b>\$1,860.00</b>		<b>\$3,315.82</b>		<b>\$2,202.20</b>		<b>\$2,410.00</b>	
<b>C. ADD ALTERNATE ITEMS</b>											
58	Relocate Sago Palm (Sta. 2+50 LT)	EA	5	\$45.00	\$225.00	\$307.51	\$1,537.55	\$336.00	\$1,680.00	\$360.00	\$1,800.00
59	Sago Palms (1.5 Gal)	EA	5	\$60.00	\$300.00	\$56.95	\$284.75	\$364.00	\$1,820.00	\$390.00	\$1,950.00
60	Relocate Cedar Tree (Sta. 2+60 LT)	EA	1	\$1,200.00	\$1,200.00	\$1,822.29	\$1,822.29	\$560.00	\$560.00	\$2,400.00	\$2,400.00
61	Eastern Cedar Tree (4-inch)	EA	1	\$1,200.00	\$1,200.00	\$1,366.72	\$1,366.72	\$392.00	\$392.00	\$1,600.00	\$1,600.00
62	Pecan Tree Removal (Sta. 4+45 LT)	EA	1	\$2,600.00	\$2,600.00	\$968.09	\$968.09	\$379.30	\$379.30	\$900.00	\$900.00
63	Crape Myrtle (15 Gal)	EA	1	\$350.00	\$350.00	\$227.79	\$227.79	\$420.00	\$420.00	\$450.00	\$450.00
64	Relocate Oak Tree (Sta. 6+30 RT)	EA	1	\$2,600.00	\$2,600.00	\$1,822.29	\$1,822.29	\$560.00	\$560.00	\$2,400.00	\$2,400.00
65	Oak Tree (Red) (4-inch)	EA	1	\$1,700.00	\$1,700.00	\$1,366.72	\$1,366.72	\$392.00	\$392.00	\$1,600.00	\$1,600.00
66	Oak Tree (White) (4-inch)	EA	1	\$1,700.00	\$1,700.00	\$1,366.72	\$1,366.72	\$392.00	\$392.00	\$1,600.00	\$1,600.00
67	Pecan Tree (4-inch)	EA	1	\$1,700.00	\$1,700.00	\$1,594.51	\$1,594.51	\$616.00	\$616.00	\$1,850.00	\$1,850.00
<b>TOTAL ADD ALTERNATE ITEMS</b>				<b>\$13,575.00</b>		<b>\$12,357.43</b>		<b>\$7,211.30</b>		<b>\$16,550.00</b>	
<b>A. TOTAL BASE BID</b>				<b>\$858,714.50</b>		<b>\$867,644.67</b>		<b>\$907,935.50</b>		<b>\$967,709.00</b>	
<b>B. TOTAL EXTRA WORK ITEMS</b>				<b>\$1,860.00</b>		<b>\$3,315.82</b>		<b>\$2,202.20</b>		<b>\$2,410.00</b>	
<b>C. TOTAL ADD ALTERNATE ITEMS</b>				<b>\$13,575.00</b>		<b>\$12,357.43</b>		<b>\$7,211.30</b>		<b>\$16,550.00</b>	
<b>TOTAL BID PRICE (A, B, &amp; C)</b>				<b>\$874,149.50</b>		<b>\$883,317.92</b>		<b>\$917,349.00</b>		<b>\$986,669.00</b>	

4-26-2016

City of La Porte  
2963 North 23<sup>rd</sup> Street  
La Porte, Texas  
(Via e-Mail: [pennelld@laportetx.gov](mailto:pennelld@laportetx.gov))

Attn: Mr. Don Pennell

**Re: Construction Materials Testing Services For:  
D Street and 4<sup>th</sup> Street Paving and Drainage Project  
TWE Proposal No. P16-L030**

Mr.: Pennell

Tolunay-Wong Engineers (TWE) appreciates the opportunity to submit our detailed proposal to provide construction materials testing and inspection services for the above referenced project.

Upon your favorable review, we would appreciate the opportunity to meet with you to discuss the details of our proposal, as well as answer any questions you may have regarding its content. As always, our proposed scope of services and estimated quantities are negotiable as they are based upon information available to us at this time.

We appreciate your consideration for this project. If we may be of immediate assistance, please do not hesitate to contact this office.

Respectfully submitted,

**Tolunay-Wong Engineers, Inc.**



Michael Melendez  
Project Manager – Houston Area Industrial  
[mmelendez@tweinc.com](mailto:mmelendez@tweinc.com)

---

## INTRODUCTION

TWE understands the importance of this project to your company and the special needs associated with construction of a project of this type. Of particular importance is for the overall project team to be comprised of experienced professionals working together toward a common objective. This objective is to obtain a quality project, meeting the intent of the project specifications, as well as completion on schedule and within budget.

From our laboratory facility, we will provide experienced engineering technicians to perform the on-site testing and inspection services. Additionally, we meet the requirements of ASTM E-329 “Standard Practice for Inspection and Testing Agencies for Concrete, Steel and Bituminous Materials Used in Construction” regarding qualifications of the testing laboratory.

## WORK PLAN

TWE’s approach to providing materials testing services is to assign qualified engineering technicians, directed by Senior Professional Engineers, experienced in their respective disciplines. Our assigned Project Manager will provide communication, service direction, and overall project coordination. It is presumed that the contractor and ready-mixed concrete producer will be encouraged to provide their own formalized quality control program separate and apart from our acceptance inspection/testing program stated herein.

We anticipate providing the majority of the required testing services for this particular project on a **“Call-Out”** basis. The anticipated services required on this project are as follows:

- A. In-Place Soil Compaction (nuclear method)
- B. Cast In-Place Concrete Inspection/Testing

All reports of materials tests and inspection services provided will be issued to appropriate members of the project team. In the event individual reports indicate potential problems or items of non-conformance to the project specifications, you will be contacted as soon as possible.

## COST ESTIMATE & GENERAL NOTES

In this section of the proposal you will find our cost estimate. Additional services or tests requested and not specifically addressed in Section III of this proposal will be invoiced per the standard fees set forth in our 2016 Fee Schedule.

Based on information provided to us at this time and an estimated construction schedule, we have established what we believe is the most realistic cost estimate for this project. Please remember that the units stated are only an **estimate**. Due to factors beyond our control such as weather, unforeseen conditions, subcontractor expertise, subcontractor scheduling, etc., the cost of our services may vary from the estimated amount.

We estimate the cost of the construction materials testing for our proposed Scope of Services will be **\$14,185.00** as detailed in the following section, although all services will be invoiced on a time and materials basis.

A minimum 4-hour labor equivalent charge is applicable for all field testing and inspection services. Overtime rates for field personnel are applicable for all hours worked in excess of 8 hours per day, weekends, and holidays and are assessed at 1.5 times the standard rates. All field hours will be charged portal to portal from our laboratory facility. All sample pick-ups will be charged travel time from portal to portal and will include associated vehicle charges. Engineering consultation and evaluation in connection with any laboratory testing service will be charged at a rate of approximately one hour for each 20 hours of field work performed.

Our prices include copies of the reports distributed via e-mail in accordance with your instructions. Additional copies can be mailed at \$0.50 per page. Direct expenses incurred in connection with the project will be invoiced at cost plus 15% for handling. Travel and lodging expenses for out of town assignments will be invoiced at cost plus 15% or \$150.00 per day, whichever is greater. Our terms are net 30 days upon receipt of invoice. Invoices will be submitted on a monthly basis.

## COST SETIMATE SUMMARY

SERVICE DESCRIPTION	UNITS	UNIT RATE	COST
<b>D Street</b>			
Construction Materials Technician , Hr. <sup>1,2</sup>	96	\$40.00	\$3,840.00
Nuclear Gauge, day	5	\$50.00	\$250.00
Vehicle charge, day	11	\$50.00	\$550.00
Proctors, Ea.	3	\$155.00	\$465.00
Unconfined Compression – Stabilized Soils <sup>3</sup>	4	\$45.00	\$180.00
Comp. Strength of Concrete Test Cylinders, Ea. <sup>4,5</sup>	28	\$20.00	\$560.00
Sample Pick Up, trip	2	\$125.00	\$250.00

<b>4th Street</b>			
Construction Materials Technician , Hr. <sup>1,2</sup>	96	\$40.00	\$3,840.00
Nuclear Gauge, day	5	\$50.00	\$250.00
Vehicle charge, day	11	\$50.00	\$550.00
Proctors, Ea.	2	\$155.00	\$310.00
Unconfined Compression – Stabilized Soils <sup>3</sup>	4	\$45.00	\$180.00
Comp. Strength of Concrete Test Cylinders, Ea. <sup>4,5</sup>	28	\$20.00	\$560.00
Sample Pick Up, trip	2	\$125.00	\$250.00
Lime Determination, Ea.	2	\$200.00	\$400.00
Cores, Ea. Min 3	4	\$90.00	\$360.00
Core Measurement, Ea.	4	\$10.00	\$40.00
Project Manager, Hr. <sup>6</sup>	9.0	\$100.00	\$900.00
Admin, Hr. <sup>6</sup>	9.0	\$50.00	\$450.00
<b>TOTAL ESTIMATE</b>			<b>\$14,185.00</b>

#### ASSUMPTIONS

The cost estimate is based on the following unit rates, our experience on similar projects and the following assumptions:

1. 10 days of Soil testing at 8.0 hours
2. 2 days of Concrete testing at 8.0 hours
3. Cement-Sand molded for strength test / 1 set of 4
4. Cylinders - Paving / 4 sets of 4 (16 total)
5. Cylinders – Sidewalk / 3 sets of 4 (12 total)
6. 1 hr. for every 20 hrs. worked

**CLOSING**

Tolunay-Wong Engineers has established a reputation for excellence in the materials engineering field through a business philosophy based on quality professional services responsive to the needs of our clients. We thank you for the opportunity to serve you with this philosophy.

Accepted by: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

PO/Authorization: \_\_\_\_\_

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: _____
Requested By: <u>Rene Valdez</u>
Department: <u>Information Technology</u>
Report: <u>X</u> Resolution: _____ Ordinance: _____

<u>Budget</u>
Source of Funds: <u>IT Budget</u>
Account Number: <u>001-6066-519-2093</u>
Amount Budgeted: <u>\$140,000.00</u>
Amount Requested: <u>\$29,488.64</u>
Budgeted Item: X YES NO

Exhibits: Dell Master Lease Agreement

Exhibits: Dell Financial Services Lease Proposal

Exhibits PCMG's BuyBoard Award Letter

### SUMMARY & RECOMMENDATION

In 2008, the City began utilizing a State of Texas Department of Information Resources (DIR) contract with Dell Computers to replace computer workstations throughout the City, including desktops and laptops. The City entered into a three-year lease agreement with Dell for the computer replacement program. The lease agreement provides the City with continued customer support and maintenance work, when needed. City Council first approved use of the DIR contract for this project on November 10, 2008. The cost may vary each year depending on the required level of specialty for each computer (Ex: Engineering, Police laptops, etc.). This lease would replace 68 computers or roughly 26% of the City's fleet of computers.

The original lease agreement with Dell was for a term of 3 years. (See the Exhibits for a copy of the Master Lease Agreement). Dell has partnered with PCM Gov to provide leasing and financial services, as in the past, the three installments will be paid to Dell Financial Services. The equipment will be purchased through PCM Gov utilizing their BuyBoad contract 498-15.

The yearly payment will be \$29,488.64 for a total lease payment of \$88,465.92 over the 3-year term, for this portion of the computer fleet (See the Exhibits for a copy of the Dell Financial Services Lease Proposal).

---

#### Action Required by Council:

Consider approval or other action of a three (3) year lease agreement with Dell Financial Services for computer equipment through PCM Gov.

---

#### Approved for City Council Agenda

\_\_\_\_\_  
Corby D. Alexander, City Manager

\_\_\_\_\_  
Date

LESSOR: DELL FINANCIAL SERVICES L.L.C.

Payment Address:  
Payment Processing Center  
4319 Collection Center Dr.  
Chicago, IL 60693

LESSEE: City of La Porte, Texas

Principal Address:  
604 W Fairmont Pkwy  
\*  
La Porte, TX 77572  
Fax: \*  
Attention: \*

This Master Lease Agreement (this "Agreement"), effective as of the Effective Date set forth above, is between the Lessor and Lessee named above. Capitalized terms have the meaning set forth in this Agreement.

## 1. LEASE.

Lessor hereby leases to Lessee and Lessee hereby leases the equipment ("Products"), Software (defined below), and services or fees, where applicable, as described in any lease schedule ("Schedule"). Each Schedule shall incorporate by reference the terms and conditions of this Agreement and contain such other terms as are agreed to by Lessee and Lessor. Each Schedule shall constitute a separate lease of Products ("Lease"). In the event of any conflict between the terms of a Schedule and the terms of this Agreement, the terms of the Schedule shall prevail. Lessor reserves all rights to the Products not specifically granted to Lessee in this Agreement or in a Schedule. Execution of this Agreement does not create an obligation of either party to lease to or from the other.

## 2. ACCEPTANCE DATE; SCHEDULE.

(a) Subject to any right of return provided by the Product seller ("Seller") named on the Schedule, Products are deemed to have been irrevocably accepted by Lessee upon delivery to Lessee's ship to location ("Acceptance Date"). Lessee shall be solely responsible for unpacking, inspecting and installing the Products.

(b) Lessor shall deliver to Lessee a Schedule for Products. Lessee agrees to sign or otherwise authenticate (as defined under the Uniform Commercial Code, "UCC") and return each Schedule by the later of the Acceptance Date or five (5) days after Lessee receives a Schedule from Lessor. If the Schedule is not signed or otherwise authenticated by Lessee within the time provided in the prior sentence, then upon written notice from Lessor and Lessee's failure to cure within five (5) days of such notice, Lessor may require the Lessee to purchase the Products by paying the Product Cost charged by the Seller, plus any shipping charges, Taxes or Duties (defined below) and interest at the Overdue Rate accruing from the date the Products are shipped through the date of payment. If Lessee returns any leased Products in accordance with the Seller's return policy, it will notify Lessor. When Lessor receives a credit from the Seller for the returned Product, the Schedule will be deemed amended to reflect the return of the Product and Lessor will adjust its billing records and Lessee's invoice for the applicable Lease. In addition, Lessee and Lessor agree that a signed Schedule may be amended by written notice from Lessor to Lessee provided such notice is (i) to correct the serial (or service tag) number of Products or (ii) to adjust the related Rent (defined below) on the Schedule (any increase up to 15% or any decrease) caused by any change made by Lessee in Lessee's order with the Seller.

## 3. TERM.

The initial term (the "Primary Term") for each Lease shall begin on the date set forth on the Schedule as the Commencement Date (the "Commencement Date"). The period beginning on the Acceptance Date and ending on the last day of the Primary Term, together with any renewals or extensions thereof, is defined as the "Lease Term". The Lease is non-cancelable by Lessee, except as expressly provided in Section 5.

## 4. RENT; TAXES; PAYMENT OBLIGATION.

(a) The rental payment amount ("Rent"), and the payment period for each installment of Rent ("Payment Period") shall be stated in the Schedule. A prorated portion of Rent calculated based on a 30-day month, 90-day quarter or 360-day year (as appropriate) for the period from the Acceptance Date to

the Commencement Date shall be added to the first payment of Rent. All Rent and other amounts due and payable under this Agreement or any Schedule shall be paid to Lessor in lawful funds of the United States of America at the payment address for Lessor set forth above or at such other address as Lessor may designate in writing from time to time. Whenever Rent and other amounts payable under a Lease are not paid when due, Lessee shall pay interest on such amounts at a rate equal to the lesser of 1% per month or the highest such rate permitted by applicable law ("Overdue Rate"). Rent shall be due and payable whether or not Lessee has received an invoice showing such Rent is due. Late charges and reasonable attorney's fees necessary to recover Rent and other amounts owed hereunder are considered an integral part of this Agreement.

(b) EACH LEASE SHALL BE A NET LEASE. In addition to Rent, Lessee shall pay sales, use, excise, purchase, property, added value or other taxes, fees, levies or assessments lawfully assessed or levied against Lessor or with respect to the Products and the Lease ("collectively "Taxes"), and customs, duties or surcharges on imports or exports (collectively, "Duties"), plus all expenses incurred in connection with Lessor's purchase and Lessee's use of the Products, including but not limited to shipment, delivery, installation, and insurance. Unless Lessee provides Lessor with a tax exemption certificate acceptable to the relevant taxing authority prior to Lessor's payment of such Taxes, Lessee shall pay to Lessor all Taxes and Duties upon demand by Lessor. Lessor may, at its option, invoice Lessee for estimated personal property tax with the Rent Payment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Products.

(c) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5, LESSEE'S OBLIGATION TO PAY ALL RENT AND OTHER AMOUNTS WHEN DUE AND TO OTHERWISE PERFORM AS REQUIRED UNDER THIS AGREEMENT AND EACH SCHEDULE SHALL BE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM, INTERRUPTION, DEFERMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER WHETHER ARISING OUT OF ANY CLAIMS BY LESSEE AGAINST LESSOR, LESSOR'S ASSIGNS, THE SELLER, OR THE SUPPLIER OR MANUFACTURER OF THE PRODUCTS, TOTAL OR PARTIAL LOSS OF THE PRODUCTS OR THEIR USE OR POSSESSION, OR OTHERWISE. If any Product is unsatisfactory for any reason, Lessee shall make its claim solely against the Seller of such Product (or the Licensor in the case of Software, as defined below) and shall nevertheless pay Lessor or its assignee all amounts due and payable under the Lease.

## 5. APPROPRIATION OF FUNDS.

(a) Lessee intends to continue each Schedule for the Primary Term and to pay the Rent and other amounts due thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to pay all Rent during the Primary Term can be obtained and agrees to do all things lawfully within its power to obtain and maintain funds from which the Rent and other amounts due may be paid.

(b) Lessee may terminate a Schedule in whole, but not in part by giving at least sixty (60) days notice prior to the end of the then current Fiscal Period (as defined in the Lessee's Secretary/Clerk's Certificate provided to Lessor) certifying that: (1) sufficient funds were not appropriated and budgeted by Lessee's governing body or will not otherwise be available to continue the Lease beyond the current Fiscal Period; and (2) that the Lessee has exhausted all funds legally available for payment of the Rent beyond the current Fiscal Period. Upon termination of the Schedule, Lessee's obligations under the Schedule (except those that expressly

survive the end of the Lease Term) and any interest in the Products shall cease and Lessee shall surrender the Products in accordance with Section 8. Notwithstanding the foregoing, Lessee agrees that, without creating a pledge, lien or encumbrance upon funds available to Lessee in other than its current Fiscal Period, it will use its best efforts to take all action necessary to avoid termination of a Schedule, including making budget requests for each Fiscal Period during each applicable Lease Term for adequate funds to meet its Lease obligations and to continue the Schedule in force.

(c) Lessor and Lessee intend that the obligation of Lessee to pay Rent and other amounts due under a Lease constitutes a current expense of Lessee and is not to be construed to be a debt in contravention of any applicable constitutional or statutory limitation on the creation of indebtedness or as a pledge of funds beyond Lessee's current Fiscal Period.

#### 6. LICENSED MATERIALS.

Software means any operating system software or computer programs included with the Products (collectively, "Software"). "Licensed Materials" are any manuals and documents, end user license agreements, evidence of licenses, including without limitation, any certificate of authenticity and other media provided in connection with such Software, all as delivered with or affixed as a label to the Products. Lessee agrees that this Agreement and any Lease (including the sale of any Product pursuant to any purchase option) does not grant any title or interest in Software or Licensed Materials. Any use of the terms "sell," "purchase," "license," "lease," and the like in this Agreement or any Schedule with respect to Licensed Materials shall be interpreted in accordance with this Section 6.

#### 7. USE; LOCATION; INSPECTION.

Lessee shall (a) comply with all terms and conditions of any Licensed Materials and (b) possess and operate the Products only (i) in accordance with the Seller's supply contract and any service provider maintenance and operating manuals, documentation and applicable laws; and (ii) for the business purposes of Lessee. Lessee agrees not to move Products from the location(s) specified in the Schedule without providing Lessor with at least 30 days prior written notice, and then only to a location within the continental United States and at Lessee's expense. Without notice to Lessor, Lessee may temporarily use laptop computers at other locations, including outside the United States, provided Lessee complies with the United States Export Control Administration Act of 1979 and the Export Administration Act of 1985, as those Acts are amended from time to time (or any successor or similar legislation). Provided Lessor complies with Lessee's reasonable security requirements, Lessee shall allow Lessor to inspect the premises where the Products are located from time to time during reasonable hours after reasonable notice in order to confirm Lessee's compliance with its obligations under this Agreement.

#### 8. RETURN.

At the expiration or earlier termination of any Schedule, and except for Products purchased pursuant to any purchase option under the Lease, if any, Lessee will (a) remove all proprietary data from the Products; and (b) return them to Lessor at a place within the contiguous United States designated by Lessor. Upon return of the Products, Lessee's right to the operating system Software in returned Products will terminate and Lessee will return the Products with the original certificate of authenticity (attached and unaltered) for the original operating system Software. Lessee agrees to deinstall and package the Products for return in a manner which will protect them from damage. Lessee shall pay all costs associated with the packaging and return of the Products and shall promptly reimburse Lessor for all costs and expenses for missing or damaged Products or operating system Software. If Lessee fails to return all of the Products at the expiration of the Lease Term or earlier termination (other than for non-appropriation) in accordance with this Section, the Lease Term with respect to the Products that are not returned shall continue to be renewed as described in the Schedule.

#### 9. RISK OF LOSS; MAINTENANCE; INSURANCE.

(a) From the time the Products are delivered to Lessee's ship to location until the Products are returned to Lessor's designated return location or purchased by Lessee, Lessee agrees: (i) to assume the risk of loss or damage to the Products; (ii) to maintain the Products in good operating condition and appearance, ordinary wear and tear excepted, (iii) to comply with all requirements necessary to enforce all warranty rights; and (iv) to promptly repair any repairable damage to the Products. For the Lease Term, Lessee shall ensure that the Products are covered by a manufacturer approved maintenance agreement or, with Lessor's prior consent, are self-maintained in

accordance with the standards set forth herein. At all times, Lessee shall provide the following insurance: (x) casualty loss insurance for the Products for no less than the Stipulated Loss Value (defined below) naming Lessor as a loss payee; (y) liability insurance with respect to the Products for no less than an amount as required by Lessor, with Lessor named as an additional insured; and (z) such other insurance as may be required by law which names Lessee as an insured and Lessor as an additional insured. Upon Lessor's prior written consent, Lessee may provide this insurance pursuant to Lessee's existing self insurance policy or as provided for under state law. Lessee shall provide Lessor with either an annual certificate of third party insurance or a written description of its self insurance policy or relevant law, as applicable. The certificate of insurance will provide that Lessor shall receive at least ten (10) days prior written notice of any material change to or cancellation of the insurance policy or Lessee's self-insurance program, if previously approved by Lessor. If Lessee does not give Lessor evidence of insurance in accordance with the standards herein, Lessor has the right, but not the obligation, to obtain such insurance covering Lessor's interest in the Products for the Lease Term, including renewals. If Lessor obtains such insurance, Lessor will add a monthly, quarterly or annual charge (as appropriate) to the Rent to reimburse Lessor for the insurance premium and Lessor's then current insurance administrative fee.

(b) If the Products are lost, stolen, destroyed, damaged beyond repair or in the event of any condemnation, confiscation, seizure or expropriation of such Products ("Casualty Products"), Lessee shall promptly (i) notify Lessor of the same and (ii) pay to Lessor the Stipulated Loss Value for the Casualty Products. The Stipulated Loss Value is an amount equal to the sum of (a) all Rent and other amounts then due and owing (including interest at the Overdue Rate from the due date until payment is received) under the Lease, plus (b) the present value of all future Rent to become due under the Lease during the remainder of the Lease Term, plus (c) the present value of the estimated in place Fair Market Value of the Product at the end of the Primary Term as determined by Lessor; plus (d) all other amounts to become due and owing during the remaining Lease Term. Unless priced as a tax-exempt Schedule, each of (b) and (c) shall be calculated using the federal funds rate target reported in the Wall Street Journal on the Commencement Date of the applicable Schedule. The discount rate applicable to tax-exempt Schedules shall be federal funds rate target reported in the Wall Street Journal on the Commencement Date of the applicable Schedule less 100 basis points.

#### 10. ALTERATIONS.

Lessee shall, at its expense, make such alterations to the Products during the Lease Term as are legally required or provided at no charge by Seller. Lessee may make other alterations, additions or improvements to the Products provided that any alteration, addition or improvement shall be readily removable and shall not materially impair the value or utility of the Products. Upon the return of any Product to Lessor, any alteration, addition or improvement that is not removed by Lessee shall become the property of Lessor free and clear of all liens and encumbrances.

#### 11. REPRESENTATIONS AND WARRANTIES OF LESSEE.

Lessee represents, warrants and covenants to Lessor and will provide to Lessor at Lessor's request all documents deemed necessary or appropriate by Lessor, including Certificates of Insurance, financial statements, Secretary or Clerk Certificates, essential use information or documents (such as affidavits, notices and similar instruments in a form satisfactory to Lessor) and Opinions of Counsel (in substantially such form as provided to Lessee by Lessor and otherwise satisfactory to Lessor) to the effect that, as of the time Lessee enters into this Agreement and each Schedule that:

(a) Lessee is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of its state and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder as in effect and applicable to the Agreement or any Schedule, with full power and authority to enter into this Agreement and any Schedules and perform all of its obligations under the Leases;

(b) This Agreement and each Schedule have been duly authorized, authenticated and delivered by Lessee by proper action of its governing board at a regularly convened meeting and attended by the requisite majority of board members, or by other appropriate official authentication, as applicable, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement against Lessee;

(c) This Agreement and each Schedule constitute the valid, legal and binding obligations of Lessee, enforceable in accordance with their terms;

(d) No other approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by Lessee of the Agreement or any Schedule and the transactions contemplated thereby;

(e) Lessee has complied with such public bidding requirements and other state and federal laws as may be applicable to the Agreement and any Schedule and the acquisition by Lessee of the Products;

(f) The entering into and performance of the Agreement or any Schedule will not (i) violate any judgment, order, law or regulation applicable to Lessee; (ii) result in any breach of, or constitute a default under, any instrument to which the Lessee is a party or by which it or its assets may be bound; or (iii) result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or on the Products, other than those created pursuant to this Agreement;

(g) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best of Lessee's knowledge and belief is there any basis therefor, which if determined adversely to Lessee will have a material adverse effect on the ability of Lessee to fulfill its obligations under the Agreement or any Schedule;

(h) The Products are essential to the proper, efficient and economic operation of Lessee or to the services which Lessee provides to its citizens. Lessee expects to make immediate use of the Products, for which it has an immediate need that is neither temporary nor expected to diminish during the applicable Lease Term. The Products will be used for the sole purpose of performing one or more of Lessee's governmental or proprietary functions consistent within the permissible scope of Lessee's authority; and

(i) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds to make all Rent payments and other obligations under this Agreement and any Schedule during the current Fiscal Period, and such funds have not been expended for other purposes.

## 12. WARRANTY ASSIGNMENT; EXCLUSION OF WARRANTIES; LIMITATIONS ON LIABILITY; FINANCE LEASE.

(a) Provided no Event of Default has occurred and is continuing, Lessor assigns to Lessee for the Lease Term the benefit of any Product warranty and right of return provided by any Seller.

(b) LESSEE ACKNOWLEDGES THAT LESSOR DID NOT SELECT, MANUFACTURE, SUPPLY OR LICENSE ANY PRODUCT AND THAT LESSEE HAS MADE THE SELECTION OF PRODUCTS BASED UPON ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS ANY RELIANCE ON STATEMENTS MADE BY LESSOR OR ITS AGENTS. LESSOR LEASES THE PRODUCTS AS-IS AND MAKES NO WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LESSEE HEREBY WAIVES ANY CLAIM IT MIGHT HAVE AGAINST LESSOR OR ITS ASSIGNEE FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY OR WITH RESPECT TO ANY PRODUCTS.

(c) IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY SCHEDULE OR THE SALE, LEASE OR USE OF ANY PRODUCTS EVEN IF LESSOR IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT.

(d) Lessee agrees that it is the intent of both parties that each lease qualify as a statutory finance lease under Article 2A of the UCC. Lessee acknowledges either (i) that Lessee has reviewed and approved any written supply contract covering the Products purchased from the Seller for lease to Lessee or (ii) that Lessor has informed or advised Lessee, in writing, either previously or by this Agreement, that Lessee may have rights under the supply contract evidencing the purchase of the Products and that Lessee should contact the Seller for a description of any such rights. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LESSEE HEREBY WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UCC.

## 13. EVENTS OF DEFAULT.

It shall be an event of default hereunder and under any Schedule ("Event of Default") if:

(a) Lessee fails to pay any Rent or other amounts payable under this Agreement or any Schedule within 15 days after the date such payment is due;

(b) Any representation or warranty made by Lessee to Lessor in connection with this Agreement, any Schedule or any other Documents is at the time made materially untrue or incorrect;

(c) Lessee fails to comply with any other obligation or provision of this Agreement or any Schedule and such failure shall have continued for 30 days after notice from Lessor;

(d) Lessee (i) is generally not paying its debts as they become due or (ii) takes action for the purpose of invoking the protection of any bankruptcy or insolvency law, or any such law is invoked against or with respect to Lessee or its property and such petition is not dismissed within 60 days;

(e) Any provision of this Agreement ceases to be valid and binding on Lessee, is declared null and void, or its validity or enforceability is contested by Lessee or any governmental agency or authority whereby the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee denies any further liability or obligation under this Agreement; or

(f) Lessee is in default under any other lease, contract, or obligation now existing or hereafter entered into with Lessor or Seller or any assignee of Lessor.

## 14. REMEDIES; TERMINATION.

(a) Upon an Event of Default under any Schedule, all of Lessee's rights (including its rights to the Products), but not its obligations thereunder, shall automatically be canceled without notice and Lessor may exercise one or more of the following remedies in its sole discretion:

(i) require Lessee to return any and all such Products in accordance with Section 8, or if requested by Lessor, to assemble the Products in a single location designated by Lessor and to grant Lessor the right to enter the premises where such Products are located (regardless of where assembled) for the purpose of repossession;

(ii) sell, lease or otherwise dispose of any or all Products (as agent and attorney-in-fact for Lessee to the extent necessary) upon such terms and in such manner (at public or private sale) as Lessor deems advisable in its sole discretion ("Disposition");

(iii) declare immediately due and payable as a pre-estimate of liquidated damages for loss of bargain and not as a penalty, the Stipulated Loss Value of the Products in lieu of any further Rent, in which event Lessee shall pay such amount to Lessor within 10 days after the date of Lessor's demand; or

(iv) proceed by appropriate court action either at law or in equity (including action for specific performance) to enforce the performance by Lessee or recover damages associated with such Event of Default or exercise any other remedy available to Lessor in law or in equity.

(b) Lessee shall pay all costs and expenses arising or incurred by Lessor, including reasonable attorney fees, in connection with or related to an Event of Default or the repossession, transportation, re-furbishing, storage and Disposition of any or all Products ("Default Expenses"). In the event Lessor recovers proceeds (net of Default Expenses) from its Disposition of the Products, Lessor shall credit such proceeds against the owed Stipulated Loss Value. Lessee shall remain liable to Lessor for any deficiency. With respect to this Section, to the extent the proceeds of the Disposition (net of Default Expenses) exceed the Stipulated Loss Value owed under the Lease, or Lessee has paid Lessor the Stipulated Loss Value, the Default Expenses and all other amounts owing under the Lease, Lessee shall be entitled to such excess and shall have no further obligations with respect to such Lease. All rights of Lessor are cumulative and not alternative and may be exercised by Lessor separately or together.

## 15. QUIET ENJOYMENT.

Lessor shall not interfere with Lessee's right to possession and quiet enjoyment of Products during the relevant Lease Term, provided no Event of Default has occurred or is continuing. Lessor represents and warrants that as of the Commencement Date of the applicable Schedule, Lessor has the right to lease the Products to Lessee.

## 16. INDEMNIFICATION.

To the extent permitted by law, Lessee shall indemnify, defend and hold Lessor, its assignees, and their respective officers, directors, employees, representatives and agents harmless from and against, all claims, liabilities, costs or expenses, including legal fees and expenses (collectively, "Claims"),

arising from or incurred in connection with this Agreement, any Schedule, or the selection, manufacture, possession, ownership, use, condition, or return of any Products (including Claims for personal injury or death or damage to property, and to the extent Lessee is responsible, Claims related to the subsequent use or Disposition of the Products or any data in or alteration of the Products. This indemnity shall not extend to any loss caused solely by the gross negligence or willful misconduct of Lessor. Lessee shall be responsible for the defense and resolution of such Claim at its expense and shall pay any amount for resolution and all costs and damages awarded against or incurred by Lessor or any other person indemnified hereunder; provided, however, that any person indemnified hereunder shall have the right to participate in the defense of such Claim with counsel of its choice and at its expense and to approve any such resolution. Lessee shall keep Lessor informed at all times as to the status of the Claim.

#### 17. OWNERSHIP; LIENS AND ENCUMBRANCES; LABELS.

As between Lessor and Lessee, title to the Products (other than the Licensed Materials) is and shall remain with Lessor. Products are considered personal property and Lessee shall, at Lessee's expense, keep the Products free and clear of liens and encumbrances of any kind (except those arising through the acts of Lessor) and shall immediately notify Lessor if Lessor's interest is subject to compromise. Lessee shall not remove, cover, or alter plates, labels, or other markings upon Products by Lessor, Seller or any other supplier.

#### 18. NON-PERFORMANCE BY LESSEE.

If Lessee shall fail to perform any of its obligations hereunder or under any Schedule, Lessor shall have the right but not the obligation to effect such performance and Lessee shall promptly reimburse Lessor for all out of pocket and other reasonable expenses incurred in connection with such performance, with interest at the Overdue Rate.

#### 19. NOTICES.

All notices shall be given in writing and, except for billings and communications in the ordinary course of business, shall be delivered by overnight courier service, delivered personally or sent by certified mail, return receipt requested, and shall be effective on the date of receipt unless mailed, in which case the effective date will be four (4) Business Days after the date of mailing. Notices to Lessor by Lessee shall be sent to: Dell Financial Services L.L.C., Legal Department, One Dell Way, Round Rock, TX 78682, or such other mailing address designated in writing by Lessor. Notice to Lessee shall be to the address on the first page of this Agreement or such other mailing address designated in writing by Lessee.

#### 20. ASSIGNMENT.

(a) LESSEE MAY ASSIGN THIS AGREEMENT OR ANY SCHEDULE, OR SUBLEASE ANY PRODUCT(S) WITH THE PRIOR WRITTEN CONSENT OF LESSOR (SUCH CONSENT NOT TO BE UNREASONABLY WITHHELD). LESSOR, AT ITS SOLE DISCRETION, MAY ASSESS AN ADMINISTRATIVE FEE FOR ANY APPROVED ASSIGNMENT OR SUBLEASE. No assignment or sublease shall in any way discharge Lessee's obligations to Lessor under this Agreement or Schedule.

(b) Lessor may at any time without notice to Lessee, but subject to the rights of Lessee, transfer, assign, or grant a security interest in any Product, this Agreement, any Schedule, or any rights and obligations hereunder or thereunder in whole or in part. Lessee hereby consents to such assignments, agrees to comply fully with the terms thereof, and agrees to execute and deliver promptly such acknowledgments, opinions of counsel and other instruments reasonably requested to effect such assignment.

(c) Subject to the foregoing, this Agreement and each Schedule shall be binding upon and inure to the benefit of Lessor, Lessee and their successors and assigns.

#### 21. GOVERNING LAW; JURISDICTION AND VENUE; WAIVER OF JURY TRIAL.

THIS AGREEMENT AND EACH SCHEDULE SHALL BE GOVERNED BY TEXAS LAW WITHOUT REGARD TO ITS CONFLICTS OF LAW PRINCIPLES AND, TO THE EXTENT APPLICABLE, THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. LESSEE CONSENTS TO THE JURISDICTION OF ANY FEDERAL COURT LOCATED IN HARRIS COUNTY, TEXAS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURT, AND FURTHER WAIVES ANY RIGHT TO A TRIAL BY JURY.

#### 22. MISCELLANEOUS.

(a) The headings used in this Agreement are for convenience only and shall have no legal effect. This Agreement shall be interpreted without any strict construction in favor of or against either party.

(b) The provisions of Sections 6, 8, 11, 12(b), 12(c), 12(d), 16, 21 and 22 shall continue in full force and effect even after the termination or expiration of this Agreement or any Schedule.

(c) Failure of Lessor at any time to require Lessee's performance of any obligation shall not affect the right to require performance of that obligation. No term, condition or provision of this Agreement or any Schedule shall be waived or deemed to have been waived by Lessor unless it is in writing and signed by a duly authorized representative of Lessor. A valid waiver is limited to the specific situation for which it was given.

(d) Lessee shall furnish such financial statements of Lessee (prepared in accordance with generally accepted accounting principles) and other information as Lessor may from time to time reasonably request.

(e) If any provision(s) of this Agreement is deemed invalid or unenforceable to any extent (other than provisions going to the essence of this Agreement) the same shall not in any respect affect the validity, legality or enforceability (to the fullest extent permitted by law) of the remainder of this Agreement and the parties shall use their best efforts to replace such illegal, invalid or unenforceable provision with an enforceable provision approximating, to the extent possible, the original intent of the parties.

(f) Unless otherwise provided, all obligations hereunder shall be performed or observed at the respective party's expense.

(g) Lessee shall take any action reasonably requested by Lessor for the purpose of fully effectuating the intent and purposes of this Agreement or any Schedule. If any Lease is determined to be other than a true lease, Lessee hereby grants to Lessor a first priority security interest in the Products and all proceeds thereof. Lessee acknowledges that by signing this Agreement, Lessee has authorized Lessor to file any financing statements or related filings as Lessor may reasonably deem necessary or appropriate. Lessor may file a copy of this Agreement or any Schedule in lieu of a financing statement.

(h) This Agreement and any Schedule may be signed in any number of counterparts each of which when so executed or otherwise authenticated and delivered shall be an original but all counterparts shall together constitute one and the same instrument. To the extent each Schedule would constitute chattel paper as that term is defined in the UCC, no security interest may be created through the transfer or control or possession, as applicable, of a counterpart of a Schedule other than the original in Lessor's possession marked by Lessor as either "original" or "Counterpart Number 1".

(i) This Agreement and the Schedules hereto between Lessor and Lessee set forth all of the understandings and agreements between the parties and supersede and merge all prior written or oral communications, understandings, or agreements between the parties relating to the subject matter contained herein. Except as permitted herein, this Agreement and any Schedule may be amended only by a writing duly signed or otherwise authenticated by Lessor and Lessee.

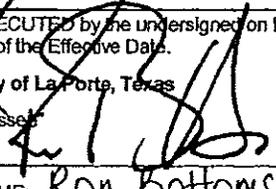
(j) If Lessee delivers this signed Master Lease, or any Schedule, amendment or other document related to the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated

or marked as the authoritative copy of the Document.

EXECUTED by the undersigned on the dates set forth below, to be effective as of the Effective Date.

City of La Porte, Texas

"Lessee"

BY: 

NAME: Ron Bottoms

TITLE: City Manager

DELL FINANCIAL SERVICES L.L.C.

"Lessor"

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_



Prepared For:

CITY OF LA PORTE, TEXAS

May 3, 2016

Thank you for giving Dell Financial Services L.L.C. ("DFS") the opportunity to provide a technology financing solution. Enclosed is a financing proposal for your new technology needs. We look forward to discussing this opportunity in further detail with you. If you have any questions, please contact me at the phone number or email address below.

Term	36
Option	FMV
Payments:	Annual
Consolidation:	Monthly
Payments Due:	Advance
Interim Rent:	None

Quote Number	Summary Product Description	Product Price	Quantity	Extended Price	Rate Factor	Payments
S9553775	Latitude 14 Rugged	\$ 1,800.00	2	\$3,600.00	0.33235	\$1,196.46
S9553847	Dell Latitude E5570	\$ 1,591.00	32	\$50,912.00	0.34339	\$17,482.67
S9553888	OptiPlex 7040 MT	\$ 790.00	30	\$23,700.00	0.33840	\$8,020.08
S9553913	Precisions Workstations T5810	\$ 2,052.98	4	\$8,211.92	0.33968	\$2,789.42
<b>TOTALS</b>				<b>\$86,423.92</b>		<b>\$29,488.64</b>

Proposal Expiration Date:

June 2, 2016

Leasing and financing provided by Dell Financial Services L.L.C. or its affiliate or designee ("DFS") to qualified customers. Offers may not be available or may vary in certain countries. Where available, offers may be changed without notice and are subject to product availability, credit approval, execution of documentation provided by and acceptable to DFS, and may be subject to minimum transaction size. Offers not available for personal, family or household use. Dell and the Dell logo are trademarks of Dell Inc. Proposal is property of DFS, contains confidential information and shall not be duplicated or disclosed in whole or part. Proposal is not a firm offer of financing. Pricing and rates based upon the final amount, configuration and specification of the supplied equipment, software, services or fees. Prorata payment may be due in the first payment cycle. Proposal excludes additional costs to customer such as shipping, maintenance, filing fees, applicable taxes, insurance and similar items. Proposal valid through the expiration date shown above, or if none is specified, for 30 calendar days from date of presentation.

End of Term Options:

Fair Market Value (FMV) Lease:

- Exercise the option to purchase the products at the then fair market value.
- Return all products to lessor at the lessee's expense.
- Renew the lease on a month to month or fixed term basis.

Caren Wright

FSR

Dell | Financial Services

office + 512-728-6628

[caren\\_wright@dell.com](mailto:caren_wright@dell.com)

Additional Information:

**LEASE QUOTE:** The Lease Quote is exclusive of shipping costs, maintenance fees, filing fees, licensing fees, property or use taxes, insurance premiums and similar items which shall be for Lessee's account. Lessee will pay payments and all other amounts without set-off, abatement or reduction for any reason whatsoever. Additionally, Lessee shall declare and pay all sales, use and personal property taxes to the appropriate taxing authorities. **If you are sales tax exempt, please provide a copy of your Exemption Certificate with the Lease Contract.** If Lessee provides the appropriate tax exemption certificates to DFS, sales and use taxes will not be collected by DFS. However, if your taxing authority assesses a **personal property tax** on leased equipment, and if DFS pays that tax under your lease structure, **Lessee must reimburse DFS for that tax expense in connection with the Lessee's lease.**

**PURCHASE ORDER:** The Purchase Order must be made out to Dell Financial Services L.L.C., One Dell Way, RR8-23, Round Rock, TX 78682. The Purchase Order will need to include the quote number, quantity and description of the equipment. Please be sure to indicate that the PO is for a lease order and shows the type of lease, the term length, and payment frequency. The date of the lease quote referenced should be included. Please be sure to include any applicable shipping costs as a line item and include your address as the SHIP TO destination.

**INSURANCE:** The risk of loss on the equipment is borne solely by the Lessee. Lessee shall be required to purchase and maintain during the Term (i) comprehensive public liability insurance naming Lessor as additional insured; and (ii) "all-risk" physical damage insurance in a minimum amount of the Purchase Price, naming DFS as first loss payee.

**APPROPRIATION COVENANT:** The Lease will contain an appropriation of funds clause. The Lessee will covenant that it shall do all things legally within its power to obtain and maintain funds from which the payments may be paid.

**DOCUMENTATION:** In addition to a duly executed Agreement, other documents as reasonably requested by DFS may be required, such as but not limited to, opinions of counsel, IRS tax exemption forms (if applicable), and audited financials.

**PROPOSAL VALIDITY / APPROVALS:** This is a proposal based upon market conditions and is valid for 30 days, is subject to final credit approval, review of the economics of the transaction, and execution of mutually acceptable documentation.



P.O. Box 400  
Austin, TX 78767-0400  
800.695.2919 | 512.467.0222 | Fax: 800.211.5454  
buyboard.com

November 12, 2015

**Sent Via E-mail: sarita.binsted@pcmg.com**

Sarita Binsted  
PCM Gov, Inc.  
14120 Newbrook Drive Suite 100  
Chantilly, VA 20151

**Proposal Name & Number:** Technology Equipment and Supplies, Software, Telecommunications Products, and Asset Disposal and Recovery No. 498-15

Congratulations, your company has been successful on the above referenced proposal! This contract will be effective January 1, 2016. The contract documents are those identified in Section 3 of the General Terms and Conditions of the specifications.

To see the items your company has been awarded, please review the proposal tabulation No. 498-15 on the following web-site: [www.buyboard.com/vendor](http://www.buyboard.com/vendor). Only items marked as awarded to your company can be sold through the BuyBoard contract. In addition, on this website you will find the membership list which will provide you with the names of all entities with membership in our purchasing cooperative.

Attached to this letter you will find the following documents:

Vendor Quick Reference Sheet  
Electronic Catalog Format Instructions  
Vendor Billing Procedures

**Receipt of a purchase order directly from a Cooperative member is not within the guidelines of the Cooperative.** Accepting orders directly from member entities may result in a violation of the State of Texas competitive bid statute and cancellation of the proposal award therefore all orders must be processed through the Cooperative in order to comply. We request your assistance in immediately forwarding by fax (1-800-211-5454) to the cooperative any orders received directly from member entities. If by chance an order sent directly to you has been unintentionally processed, please fax it to the Cooperative (1-800-211-5454) and note it as **RECORD ONLY** to prevent duplication.

**Per proposal specifications, awarded vendors will have 60 days to submit their electronic catalog including pricing. If the electronic data is not provided within 60 days of notice of award, we reserve the right to inactivate any company's award information from the BuyBoard until such time the electronic data is received.**

On behalf of the Texas Association of School Boards, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, please contact BuyBoard Procurement Staff at 800-695-2919.

Sincerely,

Arturo Salinas  
BuyBoard Procurement Director

# REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: May 23, 2016

Requested By: Tim Tietjens

Department: Planning

Report:  Resolution:  Ordinance:

## Appropriation

Source of Funds: N/A

Account Number: N/A

Amount Budgeted: N/A

Amount Requested: N/A

Budgeted Item:  YES  NO

## Exhibits:

1. Ordinance
2. Deed
3. Appraisal Summary
4. Centerpoint Energy Response
5. AT&T Response
6. Comcast Response
7. Area Map

---

## SUMMARY:

The City has received and processed an application from First Assembly of God La Porte to vacate, abandon and close the entire alley in Block 1112, Town of La Porte, and the westernmost 92' of the east/west alley in Block 1113, Town of La Porte (see Area Map).

Staff's review of the closing application has determined that an existing 8" sanitary sewer located within the alley of Block 1112 should be abandoned in place. Additionally, each of the City's franchised utility companies (Centerpoint Energy, Comcast and AT&T) have responded to the closing request with letters of no objection.

In accordance with Section 62-32 of the City's Code of Ordinances, an appraisal has been performed to determine fair market value of the subject alleys. The report has established a value of \$3.00 per square foot for 9,728 square feet of alleyways subject to abandonment. Closing fees in the amount of \$21,888 (75% of appraised value) have been and placed in escrow with the City pending final consideration and action by Council.

---

## ACTION REQUIRED OF COUNCIL:

Consider approval of an ordinance or other action vacating, abandoning, and closing the entire alley in Block 1112, Town of La Porte, and the westernmost 92' of the east/west alley in Block 1113, Town of La Porte; abandoning an existing 8" sanitary sewer main in the alley of Block 1112, Town of La Porte; and authorizing the City Manager to execute a deed to the applicant for the abandoned alleys.

---

## Approved for City Council Agenda

---

Corby D. Alexander, City Manager

---

Date

**ORDINANCE NO. 2016-\_\_\_\_\_**

**AN ORDINANCE VACATING, ABANDONING AND CLOSING THE ENTIRE EAST/WEST AND NORTH/SOUTH ALLEYS IN BLOCK 1112, TOWN OF LA PORTE, AND A PORTION OF THE EAST/WEST ALLEY IN BLOCK 1113, TOWN OF LA PORTE, ABANDONING IN PLACE AN EXISTING 8" SANITARY SEWER MAIN LOCATED IN THE NORTH/SOUTH ALLEY OF BLOCK 1112, TOWN OF LA PORTE; AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DEED TO THE ADJOINING LANDOWNER; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.**

WHEREAS, the City Council of the City of La Porte has been requested to close certain rights-of-way by the record owner of the property abutting the hereinafter described alleys in Block 1112, Town of La Porte and Block 1113, Town of La Porte;

WHEREAS, the City Council of the City of La Porte has determined and does hereby find, determine, and declare that the hereinafter described alleys in Block 1112, Town of La Porte and Block 1113, Town of La Porte, is not suitable, needed, or beneficial to the public as a public road, street, or alley, and the closing of hereinafter described alleys in Block 1112, Town of La Porte and Block 1113, Town of La Porte, is for the protection of the public and for the public interest and benefit, and that the hereinafter described alleys in Block 1112, Town of La Porte and Block 1113, Town of La Porte, should be vacated, abandoned, and permanently closed.

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

**Section 1.** Under and by virtue of the power granted to the City of La Porte under its home rule charter and Chapter 253, Section 253.001, Texas Local Government Code, the hereinafter described alleys in Block 1112, Town of La Porte and Block 1113, Town of La Porte, is hereby permanently vacated, abandoned, and closed by the City of La Porte, being generally illustrated on Exhibit "A" incorporated herein, and further described to wit:

TRACT ONE:

Being a 4,144 square foot tract of land out of Block 1112, Town of La Porte, being more particularly described by metes and bounds as follows:

BEGINNING at the southwest corner of Lot 21, Block 1112, Town of La Porte, said point being located at the intersection of the easternmost line of the north/south alley in Block 1112, Town of La Porte, and the north line of the West "K" Street Right-of-Way (60' wide);

THENCE in a northerly direction along the west line of Lots 12 through and including Lot 21, Block 1112, Town of La Porte, a distance of 259 feet to its intersection with the northwest corner of Lot 12, Block 1112, Town of La Porte;

THENCE in a westerly direction across the north/south alley of Block 1112, Town of La Porte, a distance of 16 feet to its intersection with the northeast corner of Lot 31, Block 1112, Town of La Porte;

THENCE in a southerly direction along the east line of Lots 31 through and including Lot 22, Block 1112, Town of La Porte, a distance of 259 feet to its intersection with the southeast corner of Lot 22, Block 1112, Town of La Porte, said point being located on the north line of the West "K" Street Right-of-Way;

THENCE in an easterly direction along the north line of the West "K" Street Right-of-Way, a distance of 16 feet to the POINT OF BEGINNING of the herein described tract.

TRACT TWO:

BEGINNING at the southwest corner of Lot 1, Block 1112, Town of La Porte, said point being located at the intersection of the easternmost line of the Oregon Street Right-of-Way and the north line of the east/west alley in Block 1112, Town of La Porte;

THENCE in an easterly direction along the south line of Lots 1 through and including Lot 11, Block 1112, Town of La Porte, a distance of 266 feet, along the north line of the east/west alley in Block 1112, Town of La Porte, to its intersection with the west line of the abandoned Montana Street Right-of-Way, said point being located at the southeast corner of Lot 11, Block 1112, Town of La Porte;

THENCE in a southerly direction across the east/west alley of Block 1112, Town of La Porte, a distance of 16 feet to its intersection with the northeast corner of Lot 12, Block 1112, Town of La Porte, said point being located on the west line of the abandoned Montana Street Right-of-Way;

THENCE in a westerly direction along the south line of the east/west alley in Block 1112, Town of La Porte, a distance of 266 feet to its intersection with the east line of the Oregon Street Right-of-Way;

THENCE in a northerly direction along the east line of the Oregon Street Right-of-Way, a distance of 16 feet to the POINT OF BEGINNING of the herein described tract.

TRACT THREE:

BEGINNING at the southwest corner of Lot 1, Block 1113, Town of La Porte, said point being located at the intersection of the easternmost line of the abandoned Montana Street Right-of-Way and the north line of the east/west alley in Block 1113, Town of La Porte;

THENCE in an easterly direction along the north line of the east/west alley in Block 1113, Town of La Porte, a distance of 92 feet to a point located on the south line of Lot 4, Block 1113, Town of La Porte;

THENCE in a southerly direction across the east/west alley of Block 1113, Town of La Porte, a distance of 16 feet to its intersection with a point located on the north line of Lot 31, Block 1113, Town of La Porte;

THENCE in a westerly direction along the south line of the east/west alley in Block 1113, Town of La Porte, a distance of 92 feet to its intersection with the east line of the abandoned Montana Street Right-of-Way;

THENCE in a northerly direction along the east line of the abandoned Montana Street Right-of-Way, a distance of 16 feet to the POINT OF BEGINNING of the herein described tract.

**Section 2.** The City of La Porte hereby abandons an existing 8" sanitary sewer main located within the north/south alley of Block 1112, Town of La Porte;

**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 \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.

CITY OF LA PORTE

By:

\_\_\_\_\_  
Louis R. Rigby, Mayor

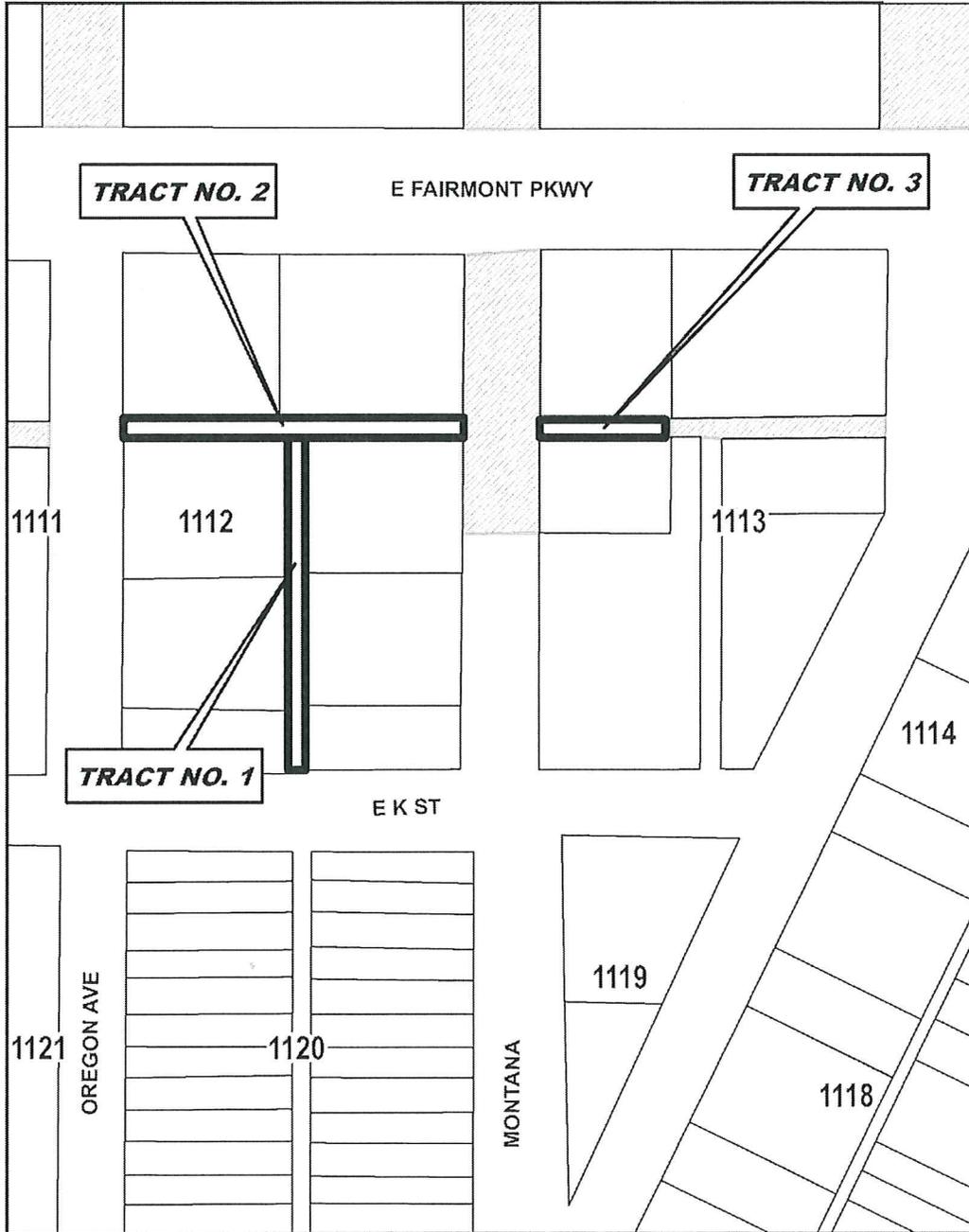
ATTEST:

\_\_\_\_\_  
Patrice Fogarty, City Secretary

APPROVED:

  
\_\_\_\_\_  
Knox W. Askins, City Attorney

# EXHIBIT "A"



## DEED WITHOUT WARRANTY

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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.

Effective Date: May 23, 2016

Grantor: City of La Porte, a municipal corporation

Mailing Address: 604 West Fairmont Parkway, La Porte, TX 77571

Grantee: First Assembly of God – La Porte, Texas, a Texas non-profit corporation

Mailing Address: 316 E. Fairmont Parkway, La Porte, Texas 77571

Consideration: Ten and No/100 Dollars (\$10.00) cash and other good and valuable considerations

Property (including any improvements):

The entire alley in Block 1112, Town of La Porte, Harris County, Texas, and a portion of the East/West alley in Block 1113, Town of La Porte, Harris County, Texas, being further described by metes and bounds on Exhibit "A" attached hereto and as shown on a Plat attached hereto as Exhibit "B", reference to which is made for all purposes, which was vacated, abandoned and closed by City of La Porte Ordinance No. 2016-\_\_\_\_\_, approved by the City Council of the City of La Porte on the 23<sup>rd</sup> day of May, 2016.

Reservations from and Exception to Conveyance and Warranty: This conveyance is made subject to all and singular the restrictions, conditions, oil, gas, and other mineral reservations, easements, and covenants, if any, applicable to and enforceable against the above described property as reflected by the records of the county clerk of the aforesaid county.

Grantor for the consideration and subject to the reservations from and exceptions to conveyance, conveys to Grantee the property without express or implied warranty, and all warranties that might arise by common law and the warranties in §5.023 of the Texas Property Code (or its successor) are excluded.

Attest:

City of La Porte

\_\_\_\_\_  
Patrice Fogarty  
City Secretary

By: \_\_\_\_\_  
Corby D. Alexander  
City Manager

Approved:

  
\_\_\_\_\_  
Knox W. Askins  
City Attorney

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me on \_\_\_\_\_, 2016, by Corby D. Alexander, City Manager of the City of La Porte, a municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**AFTER RECORDING RETURN TO:**

ASKINS & ASKINS, P.C.  
P.O. Box 1218  
La Porte, TX 77572-1218

**PREPARED IN THE LAW OFFICE OF:**

ASKINS & ASKINS, P.C.  
P.O. Box 1218  
La Porte, TX 77572-1218

## **EXHIBIT "A"**

### **TRACT ONE:**

Being a 4,144 square foot tract of land out of Block 1112, Town of La Porte, being more particularly described by metes and bounds as follows:

BEGINNING at the southwest corner of Lot 21, Block 1112, Town of La Porte, said point being located at the intersection of the easternmost line of the north/south alley in Block 1112, Town of La Porte, and the north line of the West "K" Street Right-of-Way (60' wide);

THENCE in a northerly direction along the west line of Lots 12 through 21, Block 1112, Town of La Porte, a distance of 259 feet to its intersection with the northwest corner of Lot 12, Block 1112, Town of La Porte;

THENCE in a westerly direction across the north/south alley of Block 1112, Town of La Porte, a distance of 16 feet to its intersection with the northeast corner of Lot 31, Block 1112, Town of La Porte;

THENCE in a southerly direction along the east line of Lots 22 through 31, Block 1112, Town of La Porte, a distance of 259 feet to its intersection with the southeast corner of Lot 22, Block 1112, Town of La Porte, said point being located on the north line of the West "K" Street Right-of-Way;

THENCE in an easterly direction along the north line of the West "K" Street Right-of-Way, a distance of 16 feet to the POINT OF BEGINNING of the herein described tract.

### **TRACT TWO:**

BEGINNING at the southwest corner of Lot 1, Block 1112, Town of La Porte, said point being located at the intersection of the easternmost line of the Oregon Street Right-of-Way and the north line of the east/west alley in Block 1112, Town of La Porte;

THENCE in an easterly direction along the south line of Lots 1 through 11, Block 1112, Town of La Porte, a distance of 266 feet, along the north line of the east/west alley in Block 1112, Town of La Porte, to its intersection with the west line of the abandoned Montana Street Right-of-Way, said point being located at the southeast corner of Lot 11, Block 1112, Town of La Porte;

THENCE in a southerly direction across the east/west alley of Block 1112, Town of La Porte, a distance of 16 feet to its intersection with the northeast corner of Lot 12, Block 1112, Town of La Porte, said point being located on the west line of the abandoned Montana Street Right-of-Way;

THENCE in a westerly direction along the south line of the east/west alley in Block 1112, Town of La Porte, a distance of 266 feet to its intersection with the east line of the Oregon Street Right-of-Way;

THENCE in a northerly direction along the east line of the Oregon Street Right-of-Way, a distance of 16 feet to the POINT OF BEGINNING of the herein described tract.

### **TRACT THREE:**

BEGINNING at the southwest corner of Lot 1, Block 1113, Town of La Porte, said point being located at the intersection of the easternmost line of the abandoned Montana Street Right-of-Way and the north line of the east/west alley in Block 1113, Town of La Porte;

THENCE in an easterly direction along the north line of the east/west alley in Block 1113, Town of La Porte, a distance of 92 feet to a point located on the south line of Lot 4, Block 1113, Town of La Porte;

THENCE in a southerly direction across the east/west alley of Block 1113, Town of La Porte, a distance of 16 feet to its intersection with a point located on the north line of Lot 31, Block 1113, Town of La Porte;

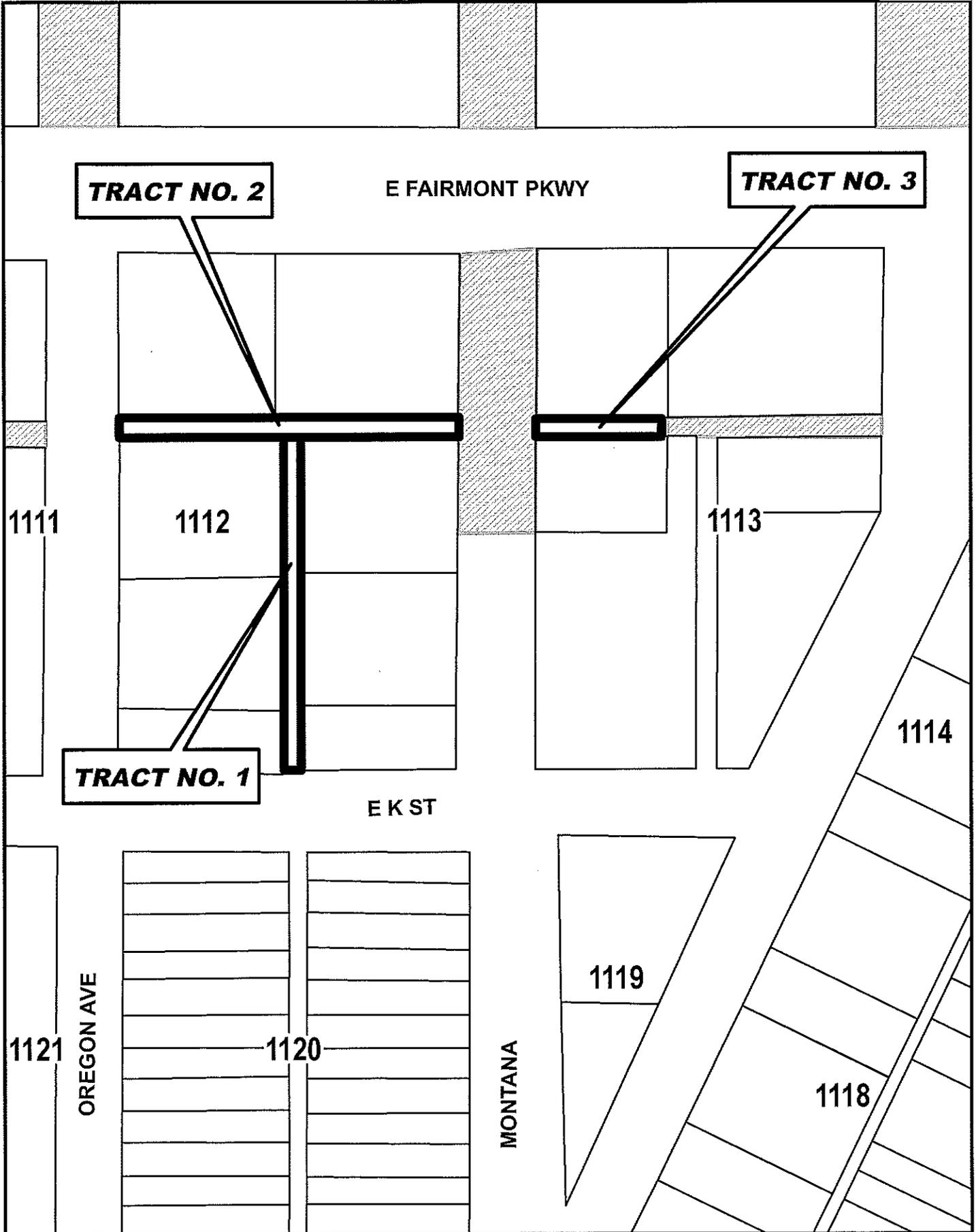
THENCE in a westerly direction along the north line of Lot 31, Block 1113, Town of La Porte, a distance of 92 feet to its intersection with the east line of the abandoned Montana Street Right-of-Way;

THENCE in a northerly direction along the east line of the abandoned Montana Street Right-of-Way, a distance of 16 feet to the POINT OF BEGINNING of the herein described tract.

# EXHIBIT "B"



NOT TO SCALE



**R.C. Chuoke & Associates, Inc.**  
Appraisers & Consultants

P.O. Box 1447  
League City, Texas 77574

Office- 281-338-9633  
Fax- 281-338-9533

April 13, 2016

City of La Porte  
P.O. Box 1115  
La Porte, Texas 77572

RE: Restricted Appraisal regarding the estimated **Market Value** of the entire alley in Block 1112 and the westernmost 92' of the east/west alley in Block 1113, both in the Town of La Porte, Harris County, Texas.

Dear Sirs:

In accordance with your request, I have inspected the following described property for the purpose of estimating the **Market Value** following described property as of the date of this Restricted Appraisal. As per our agreement, the data and analysis is presented in an abbreviated Restricted Appraisal format and is not intended to contain the full analysis.

**BRIEF LEGAL DESCRIPTION OF PROPERTY**

Known as the entire alley in Block 1112 and the westernmost 92' of the east/west alley in Block 1113, both in the Town of La Porte, Harris County, Texas Harris County, Texas. (See site plan in addenda).

I hereby certify that I have personally inspected the property described via a street inspection and that all data gathered by my investigation is from sources believed reliable and true. In preparing this Restricted Appraisal, a study of comparable sales and other related market data was performed.

.....Page 2 Continued.....

It should clearly be understood that this letter only constitutes only a statement of the final value and that does not presume to be the complete analysis of the subject property nor a complete appraisal format and is subject to the preparation of a detailed appraisal report.

The market values in the subject neighborhood appear to vary generally from +-\$2.00 PSF to over \$6.00 PSF for tracts generally similar to the subject property with locations that range from primary to secondary type roadways. The area has general access public utilities. The subject site appears to be generally flat and level. The subject property is not located in the 100 year flood plain. The Highest and Best Use of the subject property is determined to be for use as an alleyways and street right of ways or for use by adjacent property owners due to its configuration. Adjacent property uses are commercial and special purpose in nature. The immediately surrounding property of the subject lots is currently used as a church facility. The client and intended user of this appraisal is the City of La Porte only. The intended use is to estimate the current market value of the subject property of this analysis as described above for use in right of way abandonment procedures. There has been no transfer of the subject property noted for the past 36 months per appraisal district records. The effective date of the appraisal is April 10, 2016. The new effective date of the report is April 13, 2016. The estimated exposure time is up to 24 months.

After a review of the comparable sales it is my opinion the estimated unit value range of between **\$2.00 PSF to \$4.00 PSF** would be placed on the subject property with a mid-range value of **\$3.00 PSF** being indicated for the subject property before any discounting. Therefore the unit market value of the subject tract is estimated at **\$3.00 PSF which is based on 100% fee simple ownership with no discounting applied.**

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Chris Chuoke".

---

Chris Chuoke, President  
R.C. CHUOKE & ASSOCIATES, INC.



August 13, 2015

Chris Rhodes  
Civil-Surv Land Surveying  
5909 W. Loop South, Suite 200  
Bellaire, Texas 77401

Re: Alley Closure in Block 1112, a Portion of an Alley in Block 1113 of the Town of La Porte, and a Portion of Montana Street  
File No. 91516

Dear Mr. Rhodes:

The City of LaPorte, Texas has been asked to close and abandon the alley located in Block 1112 and a portion of the alley in Block 1113, in Town of La Porte, a subdivision according to the map or plat thereof recorded under Volume 60, Page 112, of the Deed Records of Harris County, Texas, and a portion of Montana Street.

CenterPoint Energy Houston Electric, LLC, CenterPoint Energy Resources Corporation, d/b/a CenterPoint Energy Texas Gas Operations and CenterPoint Energy Intrastate Pipelines, Inc., herein collectively called "CenterPoint Energy", has investigated the request and determined that there are facilities located within the alley(s) to be abandoned. However, the requestor has submitted payment for the removal of these facilities. Therefore, once the facilities have been removed, CenterPoint Energy will offer no objection to the abandonment of the shaded area(s) on the attached Exhibit prepared by Civil-Surv Land Surveying.

This letter of no objection shall become null and void in the event two (2) years has transpired from the above date, and this abandonment has not been completed. CenterPoint Energy also respectfully requests that the City of LaPorte, Texas forward a copy of the final abandonment ordinance to CenterPoint Energy in order that we may complete our process and update our map records.

Yours truly,

A handwritten signature in cursive script that reads "Rosemary Valdez".

Rosemary Valdez, SR/WA  
Right of Way Agent  
Surveying & Right of Way  
713-207-6027

Enclosures



AT&T Texas  
510 Arkansas Street  
Room 200  
South Houston, TX 77587

T: 713.943.4931  
F: 713.943.5699

January 22, 2016

Chris Rhodes  
Civil-Surv Land Surveying, L.C.  
5909 West Loop South  
Suite 200  
Bellaire, Texas 77401

**RE: "Consent to Abandon" of the 16' Alleys and Right-of-Way located at the address known as 316 E. Fairmont Parkway, Harris County, Texas. (R.O.W. Job # LP 00415-M)**

Dear Mr. Rhodes,

Southwestern Bell Telephone Company (SWBT) offers **No Objection** to the abandonment of the 16' wide alley from Oregon Street to Montana Street, and from Montana Street east 97 feet, the 16' alley from K Street between Oregon Street and Montana Street, north 250', and the 175' of Montana Street adjacent to and north of K Street, located within 2 tracts of land totaling 2.9534 acres, being all of Lots 1-31, Block 1112, and Lots 1-4 and the west 97 feet of Lots 29-31 of Block 1113, Town of LaPorte, according to the map or plat thereof recorded in Volume 60, Page 112 of the Deed Records of Harris County, Texas, and a portion of Montana Street as abandoned by Harris county clerk's file No. V940646, in the J. Hunter Survey Abstract No. 35, City of LaPorte, Harris County, Texas, as shown on Exhibit prepared by Civil-Surv Land Surveying, L.C., and described in your Acceptance Letter dated March 23<sup>rd</sup>, 2015.

I have included a Release of Easement document for the release of Southwestern Bell Telephone Company's interests in the Alley. The release is for the owner to keep and it will be the owner's responsibility to have the release recorded. If you have any questions or need any additional information please contact me at the above address or by telephone at 713 943-4931 or by email at sm8285@att.com

Sincerely,

  
Sonya Merrill  
Manager-Engineering Design  
Right-of-Way

Attachment:



March 30, 2016

Ms. Brian Sterling  
GIS Manager  
604 W. Fairmont Parkway  
La Porte, TX 77571

- Re: No Objection to the closure of the following City of La Porte right(s)-of-way: 16 feet from Oregon Street to Montana Street and from Montana Street East 97 feet, 16 feet from "K" Street between Oregon Street and Montana Street heading north 250 feet.

To Whom It May Concern,

Please accept this letter as notification that Comcast of Houston LLC, herein referred to as Comcast has no objections to the closure of the following City of La Porte right(s)-of-way: 16 feet from Oregon Street to Montana Street and from Montana Street East 97 feet, 16 feet from "K" Street between Oregon Street and Montana Street heading north 250 feet providing that Comcast is compensated for the cost of relocation of facilities and the wreck out of conflicting facilities within the limits of this proposed closure. Please reference the attached exhibit of two tracts of land totaling 2.9534 acres depicting the right-of-way to be abandon.

Please feel free to contact me at 713-637-5025 with any questions that you may have.

Sincerely,

A handwritten signature in blue ink that reads "Chris Grey".

Chris Grey  
Construction Supervisor, Design and Serviceability

**ABBREVIATIONS**

H.C.C.F. = HARRIS COUNTY CLERK'S FILE  
 H.C.D.R. = HARRIS COUNTY DEED RECORDS  
 H.C.M.R. = HARRIS COUNTY MAP RECORDS  
 L = LENGTH  
 No. = NUMBER  
 PG. = PAGE  
 R.O.W. = RIGHT OF WAY  
 S.F. = SQUARE FEET  
 VOL. = VOLUME  
 FND. = FOUND  
 I.R. = IRON ROD  
 C.I.R. = CAPPED IRON ROD

**LEGEND**

MANHOLE  
 CLEAN OUT  
 POWER POLE  
 DOWN GUY  
 AREA LIGHT  
 TELEPHONE ENCLOSURE  
 TELEPHONE CABLE MARKER  
 GAS METER  
 GAS VALVE  
 ELECTRIC BOX  
 OVERHEAD ELECTRIC LINE  
 OVERHANG

**EXHIBIT**  
 OF TWO TRACTS OF LAND TOTALING  
**2.9534 ACRES**

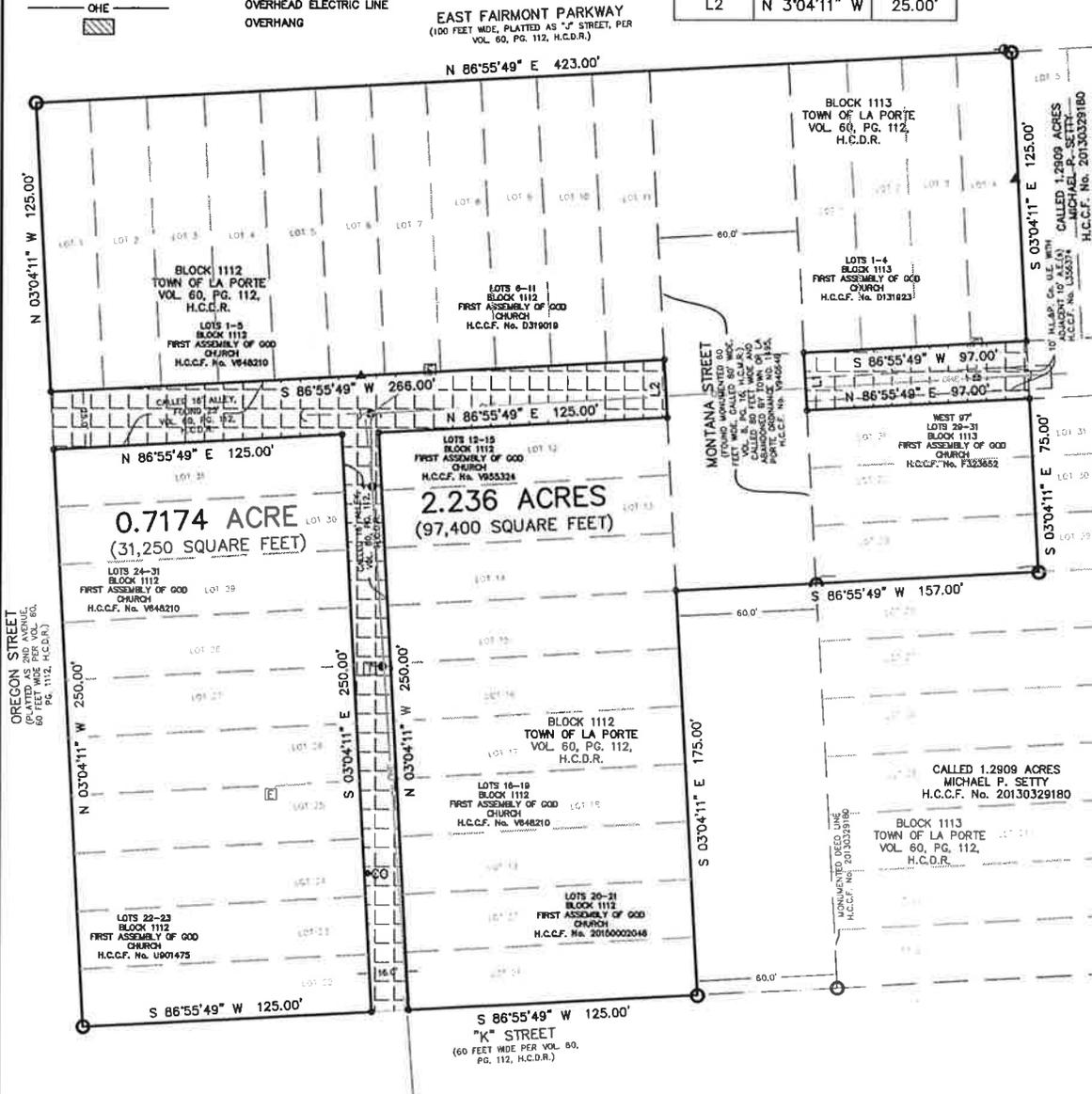
BEING ALL OF LOTS 1-31, BLOCK 1112, AND LOT 1-4 AND THE WEST 97 FEET OF LOTS 29-31 OF BLOCK 1113, TOWN OF LA PORTE, VOLUME 60, PAGE 112, OF THE H.C.D.R., AND A PORTION OF MONTANA STREET AS ABANDONED BY H.C.C.F. No. V940646, IN THE

**J. HUNTER SURVEY**  
**ABSTRACT NO. 35**

CITY OF LA PORTE, HARRIS COUNTY, TEXAS

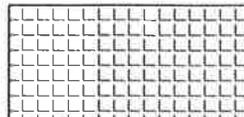
SCALE 1" = 60'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S 3°04'11" E	25.00'
L2	N 3°04'11" W	25.00'



**NOTES**

1. THIS SURVEY WAS PREPARED WITH THE BENEFIT OF A TITLE REPORT PREPARED BY ABSTRACT SERVICES OF HOUSTON, FILE No. 2014-09-0010, DATED SEPTEMBER 09, 2014, WITH REGARD TO ANY RECORDED EASEMENTS, RIGHTS-OF-WAY OR SETBACKS AFFECTING THE SUBJECT PROPERTY. NO ADDITIONAL RESEARCH REGARDING THE EXISTENCE OF EASEMENTS, RESTRICTIONS, OR OTHER MATTERS OF RECORD HAS BEEN PERFORMED BY THE SURVEYOR.
2. BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE.



AREAS OF PROPOSED ABANDONMENT

**CIVIL-SURV**  
 LAND SURVEYING, L.C.

5909 WEST LOOP SOUTH, SUITE 200  
 BELLAIRE, TEXAS 77401  
 PH. (713) 839-9181; FAX. (713) 839-9020  
 Email: chris@civil-surv.net  
 TBPLS#10143800

# AREA MAP



NOT TO SCALE



## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: May 9, 2016

Requested By: Brian Sterling

Department: Planning

Report:  Resolution:  Ordinance:

### Appropriation

Source of Funds: N/A

Account Number: N/A

Amount Budgeted: N/A

Amount Requested: N/A

Budgeted Item:  YES  NO

### Exhibits:

1. Ordinance
2. Deed
3. Appraisal Summary
4. Centerpoint Energy Response
5. AT&T Response
6. Comcast Response
7. Area Map

---

### SUMMARY:

The City has processed an application from Mr. Mike Henley to vacate, abandon and close a 7,500 square foot portion of the East "A" Street Right-of-Way situated between the south line of Lot 14, Block 85, Bayfront Addition to La Porte, the north line of Lot 40, Block 40, Bayfront Addition to La Porte and the west line of the Donaldson Avenue Right-of-Way.

Staff's review of the application has determined no City utilities are located within the closing area. The City's franchised utility companies (Centerpoint Energy, Comcast and AT&T) have each provided letters of "no objection" to the closing request.

In accordance with Sections 62-32 of the City's Code of Ordinances, an appraisal of the East "A" Street Right-of-Way has been obtained by the City in order to establish fair market value. The appraisal report has established a value of \$1.35 per square foot for the subject right-of-way. Closing fees in the amount of \$7,593.75 have been paid by the applicant and placed in escrow pending final consideration and action by Council based upon the 75% of fair market value established by current ordinance requirements.

---

### ACTION REQUIRED OF COUNCIL:

Consider approval of an ordinance or other action vacating, abandoning, and closing a portion of the East "A" Street Right-of-Way, and authorize the City Manager to execute a deed to the applicant for the East "A" Street Right-of-Way.

---

### **Approved for City Council Agenda**

---

Corby D. Alexander, City Manager

---

Date

ORDINANCE NO. 2016-\_\_\_\_\_

**AN ORDINANCE VACATING, ABANDONING AND CLOSING A PORTION OF THE EAST "A" STREET RIGHT-OF-WAY AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DEED TO THE ADJOINING LANDOWNER, FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.**

WHEREAS, the City Council of the City of La Porte has been requested by the record owner of the property abutting the hereinafter described portion of the East "A" Street Right-of-Way, and;

WHEREAS, the City Council of the City of La Porte has determined and does hereby find, determine, and declare that the hereinafter described portion of the East "A" Street Right-of-Way is not suitable, needed, or beneficial to the public as a public road, street, or alley, and the closing of hereinafter described portion of the East "A" Street Right-of-Way is for the protection of the public and for the public interest and benefit, and that the hereinafter described portion of the East "A" Street Right-of-Way should be vacated, abandoned, and permanently closed.

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

**Section 1.** Under and by virtue of the power granted to the City of La Porte under its home rule charter and Chapter 253, Section 253.001, Texas Local Government Code, the hereinafter described portion of the East "A" Street Right-of-Way is hereby permanently vacated, abandoned, and closed by the City of La Porte, being generally illustrated on Exhibit "A" incorporated herein, and further described to wit:

Being a 7,500 square foot tract of land out of the East "A" Street Right-of-Way, Bayfront Addition to La Porte, being more particularly described by metes and bounds as follows:

BEGINNING at the southwesterly corner of Lot 14, Block 85, Bayfront Addition to La Porte, said point being located at the intersection of the easternmost alley line of Block 85, Bayfront Addition to La Porte and the northerly line of the East "A" Street Right-of-Way (60' wide);

THENCE in a northeasterly direction along the northerly line of the East "A" Street Right-of-Way, a distance of 125 feet to its intersection with the westerly line of the Donaldson Avenue Right-of-Way;

THENCE in a southeasterly direction along the westerly line of the Donaldson Avenue Right-of-Way, a distance of 60 feet to its intersection with the southerly line of the East "A" Street Right-of-Way;

THENCE in a southwesterly direction along the southerly line of the East "A" Street Right-of-Way, a distance of 125 feet to its intersection with the southwesterly corner of Lot 40, Block 76, Bayfront Addition to La Porte;

THENCE in a northwesterly direction across the East "A" Street Right-of-Way, a distance of 60 feet to the POINT OF BEGINNING of the herein described tract.

**Section 2.** 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 3.** This ordinance shall be effective from and after its passage and approval, and it is so ordered.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.

CITY OF LA PORTE

By:

\_\_\_\_\_  
Louis R. Rigby, Mayor

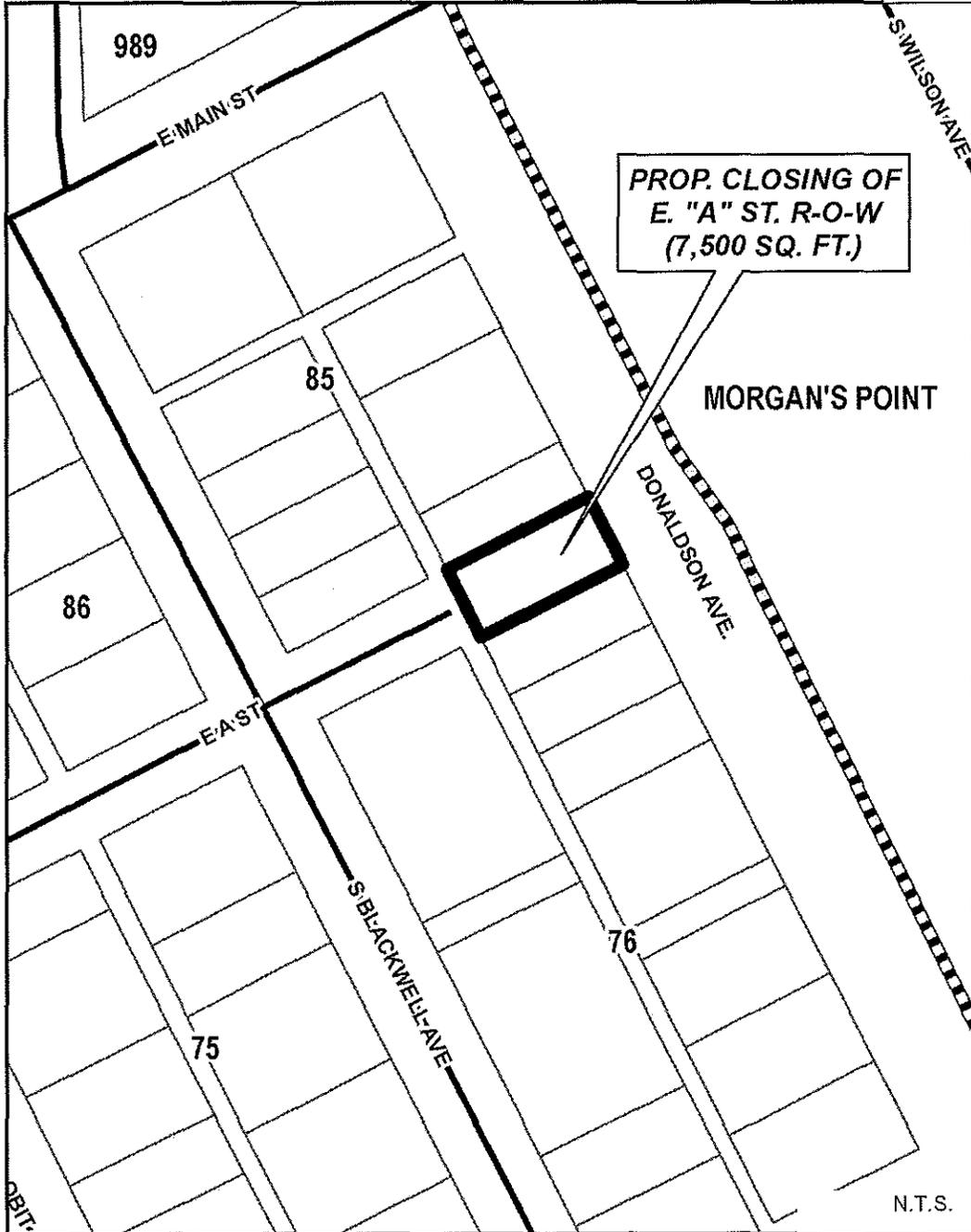
ATTEST:

\_\_\_\_\_  
Patrice Fogarty, City Secretary

APPROVED:

  
\_\_\_\_\_  
Knox W. Askins, City Attorney

# EXHIBIT "A"



## DEED WITHOUT WARRANTY

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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.

Effective Date: \_\_\_\_\_, 2016

Grantor: City of La Porte, Texas, a municipal corporation

Mailing Address: 604 West Fairmont Parkway, La Porte, TX 77571

Grantee: Michael Henley and wife, Tammy Henley

Mailing Address: 201 S. Blackwell Street, La Porte, Texas 77571-5704

Consideration: Ten and No/100 Dollars (\$10.00) cash  
and other good and valuable considerations

Property (including any improvements):

A 7,500 square foot tract of land out of the East "A" Street Right-of-Way, Bayfront Addition to La Porte, being further described by metes and bounds on Exhibit "A" attached hereto and as shown on a Plat attached hereto as Exhibit "B", reference to which is made for all purposes, which was vacated, abandoned and closed by City of La Porte Ordinance No. 2016-\_\_\_\_\_, approved by the City Council of the City of La Porte on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Reservations from and Exception to Conveyance and Warranty: This conveyance is made subject to all and singular the restrictions, conditions, oil, gas, and other mineral reservations, easements, and covenants, if any, applicable to and enforceable against the above described property as reflected by the records of the county clerk of the aforesaid county.

Grantor for the consideration and subject to the reservations from and exceptions to conveyance, conveys to Grantee the property without express or implied warranty, and all warranties that might arise by common law and the warranties in §5.023 of the Texas Property Code (or its successor) are excluded.

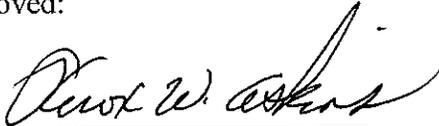
Attest:

City of La Porte

\_\_\_\_\_  
Patrice Fogarty  
City Secretary

By: \_\_\_\_\_  
Corby D. Alexander  
City Manager

Approved:

  
\_\_\_\_\_  
Knox W. Askins  
City Attorney

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

This instrument was acknowledged before me on \_\_\_\_\_, 2016, by Corby D. Alexander, City Manager of the City of La Porte, a municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**AFTER RECORDING RETURN TO:  
OF:**

ASKINS & ASKINS, P.C.  
P.O. Box 1218  
La Porte, TX 77572-1218

**PREPARED IN THE LAW OFFICE**

ASKINS & ASKINS, P.C.  
P.O. Box 1218  
La Porte, TX 77572-1218

## EXHIBIT "A"

Being a 7,500 square foot tract of land out of the East "A" Street Right-of-Way, Bayfront Addition to La Porte, being more particularly described by metes and bounds as follows:

BEGINNING at the southwesterly corner of Lot 14, Block 85, Bayfront Addition to La Porte, said point being located at the intersection of the easternmost alley line of Block 85, Bayfront Addition to La Porte and the northerly line of the East "A" Street Right-of-Way (60' wide);

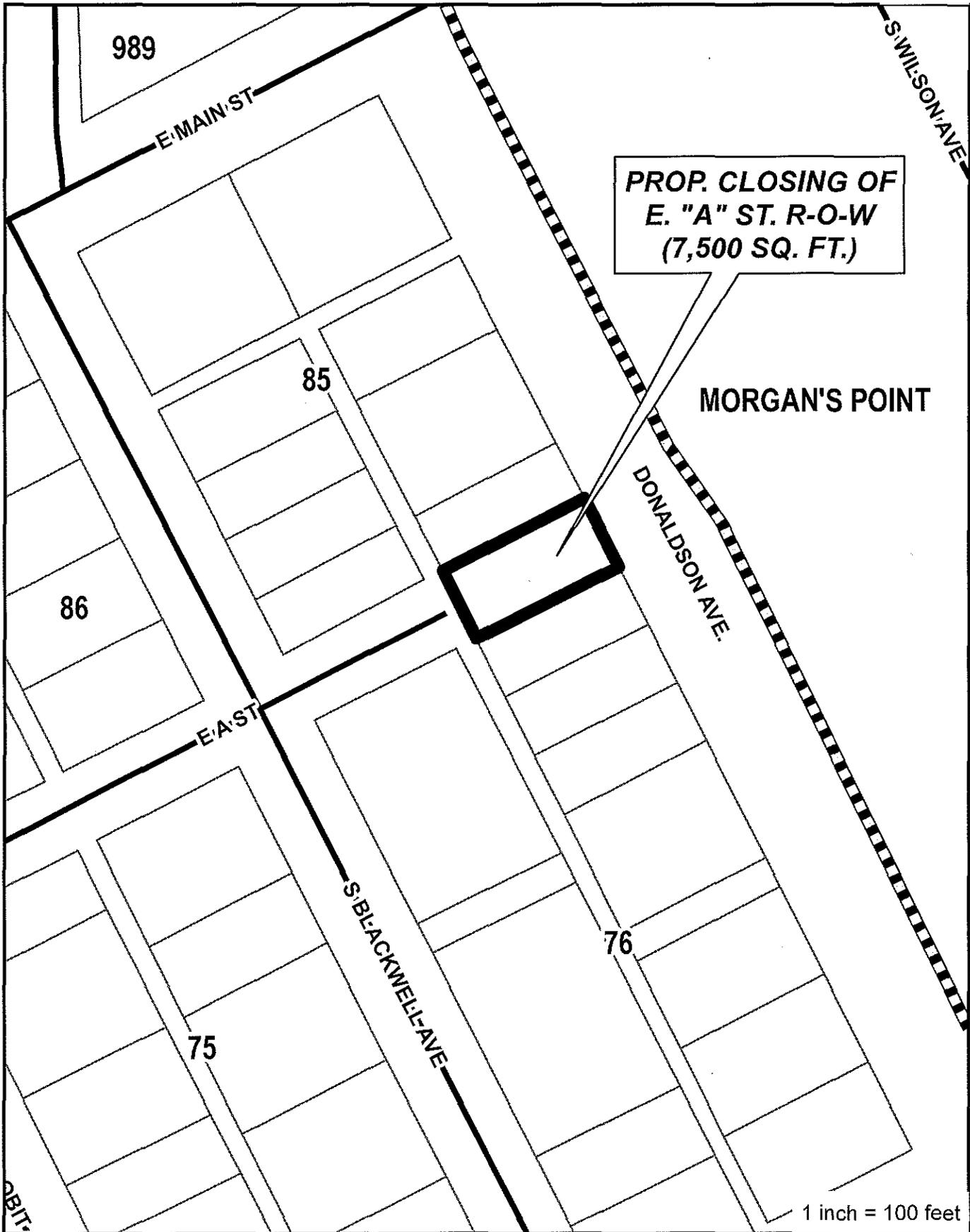
THENCE in a northeasterly direction along the northerly line of the East "A" Street Right-of-Way, a distance of 125 feet to its intersection with the westerly line of the Donaldson Avenue Right-of-Way;

THENCE in a southeasterly direction along the westerly line of the Donaldson Avenue Right-of-Way, a distance of 60 feet to its intersection with the southerly line of the East "A" Street Right-of-Way;

THENCE in a southwesterly direction along the southerly line of the East "A" Street Right-of-Way, a distance of 125 feet to its intersection with the southwesterly corner of Lot 40, Block 76, Bayfront Addition to La Porte;

THENCE in a northwesterly direction across the East "A" Street Right-of-Way, a distance of 60 feet to the POINT OF BEGINNING of the herein described tract.

# EXHIBIT "B"



**PROP. CLOSING OF  
E. "A" ST. R-O-W  
(7,500 SQ. FT.)**

**MORGAN'S POINT**

1 inch = 100 feet

# **R.C. Chuoke & Associates, Inc.**

**Appraisers & Consultants**

**P.O. Box 1447  
League City, Texas 77574**

**Office- 281-338-9633  
Fax- 281-338-9533**

May 7, 2016

City of La Porte  
P.O. Box 1115  
La Porte, Texas 77572

RE: Restricted Appraisal regarding the estimated **Market Value** of a portion of the unopened East "A" Street right of way at Donaldson Avenue, La Porte, Harris County, Texas.

Dear Sirs:

In accordance with your request, I have inspected the following described property for the purpose of estimating the **Market Value** following described property as of the date of this Restricted Appraisal. As per our agreement, the data and analysis is presented in an abbreviated Restricted Appraisal format and is not intended to contain the full analysis.

## **BRIEF LEGAL DESCRIPTION OF PROPERTY**

Known as portion of the unopened East "A" Street right of way adjoining the north west line of Donaldson Avenue between Block 85 and Block 76, Bayfront to La Porte, Harris County, Texas. (See site plan in addenda).

I hereby certify that I have personally inspected the property described via a street inspection and that all data gathered by my investigation is from sources believed reliable and true. In preparing this Restricted Appraisal, a study of comparable sales and other related market data was performed.

.....Page 2 Continued.....

It should clearly be understood that this letter only constitutes only a statement of the final value and that does not presume to be the complete analysis of the subject property nor a complete appraisal format and is subject to the preparation of a detailed appraisal report.

Sales of generally similar properties in the subject neighborhood were researched that had locations that range from primary to secondary type roadways. The subject's market area generally has access public utilities. The subject site appears to be generally flat and level and is not located in the 100 year flood plain. The Highest and Best Use of the subject property is determined to be for use a street right of way or for use by adjacent property owners due to its configuration. Adjacent property uses on the north, east and west boundaries of the subject property are single family detached houses. The client and intended user of this appraisal is the City of La Porte only. The intended use is to estimate the current market value of the subject property of this analysis as described above for use in street abandonment procedures. There has been no transfer of the subject property noted for the past 36 months per appraisal district records. The effective date of the appraisal and original inspection is November 23, 2015. The new effective date of the report is January 28, 2016. The estimated exposure time is up to 24 months.

A unit value range of between \$1.62 PSF to \$2.03 PSF was noted from the comparable lot sales before any adjustments were made. All of the comparable lot sales were effectively unimproved lots with frontage and access on paved public streets. These sales were considered superior to the subject property due to the subject property and were adjusted downward for this aspect. After adjustments, it is my opinion the estimated unit value range for the subject property would be between **\$1.22 PSF to \$1.53 PSF** with an estimated mid-range value of **\$1.35 PSF** before any additional discounting by the City.

Therefore the unit market value of the subject tract is estimated at **\$1.35 PSF which is based on 100% fee simple ownership with no discounting applied.**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Chris Chuoke". The signature is written in a cursive style with a large initial "C".

---

Chris Chuoke, President  
R.C. CHUOKE & ASSOCIATES, INC.



October 22, 2015

Mike & Tammy Henley  
201 S. Blackwell  
LaPorte, Texas 77571

Re: Street & Alley Closure at South "A" aka East "A"  
File No. 91569

Dear Mr. & Ms. Henley:

The City of LaPorte, Texas has been asked to close and abandon a portion of South A.

CenterPoint Energy Houston Electric, LLC, CenterPoint Energy Resources Corporation, d/b/a CenterPoint Energy Texas Gas Operations and CenterPoint Energy Intrastate Pipelines, Inc., herein collectively called "CenterPoint Energy", has investigated the request and determined that there are facilities located within the area to be abandoned. However, an easement to accommodate these facilities has been granted as shown on the attached CenterPoint Energy Sketch No. 15-0698. Therefore, CenterPoint Energy will offer no objection to the abandonment of the area as outlined in red on the attached area map "E. "A" St. Closing (Henley).

This letter of no objection shall become null and void in the event two (2) years has transpired from the above date, and this abandonment has not been completed. CenterPoint Energy also respectfully requests that the City of LaPorte, Texas forward a copy of the final abandonment ordinance to CenterPoint Energy in order that we may complete our process and update our map records.

Yours truly,

A handwritten signature in blue ink that reads "Rosemary Valdez".

Rosemary Valdez, SR/WA  
Right of Way Agent  
713-207-6027

Enclosures







AT&T Texas  
510 Arkansas Street  
Room 200  
South Houston, TX 77587

T: 713.943.4931  
F: 713.943.5699

September 23, 2015

Mike Henley  
201 S. Blackwell  
LaPorte, Texas 77571

**RE: "Consent to Abandon"** of 7,500 square foot portion of E "A" Street located between S Blackwell Ave. and S Donaldson Ave., LaPorte, Harris County, Texas. (R.O.W. Job # LP 00915-M)

Dear Mr. Henley,

Southwestern Bell Telephone Company (SWBT) offers **No Objection** to the abandonment of 7,500 square foot portion of E "A" Street, located between Lots 14 & 15, Block 85, Bayfront to LaPorte, an addition in Harris County, Texas according to the map or plat thereof recorded in Harris County Clerk's File No. 006-175-000-0014 of the Deed Records of Harris County, Texas, and between Lots 39 & 40, Block 76, Bayfront to LaPorte, an addition in Harris County, Texas according to the map or plat thereof recorded in Harris County Clerk's File No.006-166-000-0039 of the Deed Records of Harris County, Texas as described in your acceptance letter dated July 2<sup>nd</sup>, 2015.

If you have any questions or need any additional information please contact me at the above address or by telephone at 713 943-4931 or by email at sm8285@att.com

Sincerely,

Sonya Merrill  
Manager-Engineering Design  
Right-of-Way



November 28, 2015

Mr. Mike Henley and Ms. Tammy Henley  
201 S. Blackwell  
La Porte, Texas 77571

Re: Comcast no objection statement to the pending right of way closure of Avenue A  
between alleyway and Donaldson, La Porte, Texas.

To Whom It May Concern,

Please accept this letter as notification that Comcast of Houston LLC, herein referred to  
as Comcast, has no objection to the closures of the right of way closure of Avenue A  
between the alleyway and Donaldson, La Porte, Texas with an easement provided for  
Comcast's existing facilities within the limits of this proposed closure.

Please feel free to contact me at 713-637-5025 with any questions that you may have.

Sincerely,

A handwritten signature in black ink that reads "Chris Grey". The signature is fluid and cursive, with a large loop at the end of the last name.

Chris Grey  
Construction Supervisor, Design and Serviceability

# AREA MAP



## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: May 23, 2016

Requested By: Brian Sterling

Department: Planning

Report:      Resolution:      Ordinance:     

### Appropriation

Source of Funds:     N/A    

Account Number:     N/A    

Amount Budgeted:     N/A    

Amount Requested:     N/A    

Budgeted Item:      YES   X   NO

**Exhibits:**

- **Water Service Agreement**
- **Sanitary Sewer Service Agreement**
- **Area Map**

---

### SUMMARY & RECOMMENDATION

Carson Bayport 3, LLC has approached the City for water and sanitary sewer service to its proposed facility at 4111 Malone Dr. in the Bayport Industrial District (see Area Map). The company estimates employing up to 50 full-time positions at this site.

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. Carson Bayport 3, LLC has an existing IDA with the City for the subject site (2007-IDA-142). Administrative fees in the amount of \$5,000 for each agreement have been received.

Based on Carson Bayport 3, LLC's stated demand for domestic uses, the average daily volume for potable water and sanitary sewer is 2,500 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 terms of Carson Bayport 3, LLC's 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 a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 4111 Malone Dr. in the Bayport Industrial District.

---

**Approved for City Council Agenda**

---

**Corby Alexander, City Manager**

---

**Date**

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 CARSON BAYPORT 3, LLC (4111 Malone Dr.), 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	<u>50</u>
+ Number of Full-Time Contract Employees on site	<u>0</u>
= Total On-Site Full-Time Employees	<u>50</u>
Potable Water Approved for Domestic Use (Total on-site Employees times 50 gpd per employee)	<u>2,500</u>
Total Amount of Potable Water Approved for COMPANY (Average Daily Volume, gpd)	<u>2,500</u>

## 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 TWO THOUSAND FIVE HUNDRED (2,500) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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.

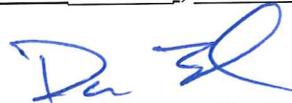
## IX.

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 3 day of MAY, 2016.



Signature of Company's Authorized Representative

Printed Name: DANIEL G. ZOCH

Company Representative's Title: SR. VICE PRESIDENT

Company's Address:

9821 KATY FRWY, STE 440  
HOUSTON, TX 77024

ATTEST:

CITY OF LA PORTE

\_\_\_\_\_

Patrice Fogarty  
City Secretary

\_\_\_\_\_

Louis R. Rigby  
Mayor

APPROVED:

\_\_\_\_\_

Knox W. Askins  
City Attorney

By:

\_\_\_\_\_

Corby D. 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:** N/A

**Initial for Approval:**

CITY APPROVAL: \_\_\_\_\_

COMPANY APPROVAL:   DZ

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 **CARSON BAYPORT 3, LLC (4111 Malone Dr.)**, 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	<b><u>50</u></b>
Number of Contract Employees	<b><u>0</u></b>
Total on-site Employees	<b><u>50</u></b>
Sanitary Sewer Desired for Domestic Use (Total on-site times 50 gpd per employee)	<b><u>2,500</u></b>
Total Amount of Sanitary Sewer Approved For COMPANY (Average Daily Volume, gpd)	<b><u>2,500</u></b>

## 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 TWO THOUSAND FIVE HUNDRED (2,500) 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 TWO THOUSAND ONE HUNDRED TWENTY FIVE (2,125) 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 TWO THOUSAND ONE HUNDRED TWENTY FIVE (2,125). 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 3 day of MAY, 2016.



\_\_\_\_\_  
Signature of Company's Authorized Representative

Printed Name: DANIEL G. ZOCH

Company Representative's Title: SR. VICE PRESIDENT

Company's Address:

9821 KATY FRWY, STE 440  
HOUSTON, TX 77024

ATTEST:

CITY OF LA PORTE

\_\_\_\_\_

Patrice Fogarty  
City Secretary

\_\_\_\_\_

Louis R. Rigby  
Mayor

APPROVED:

\_\_\_\_\_

Knox W. Askins  
City Attorney

By: \_\_\_\_\_

Corby D. 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:**

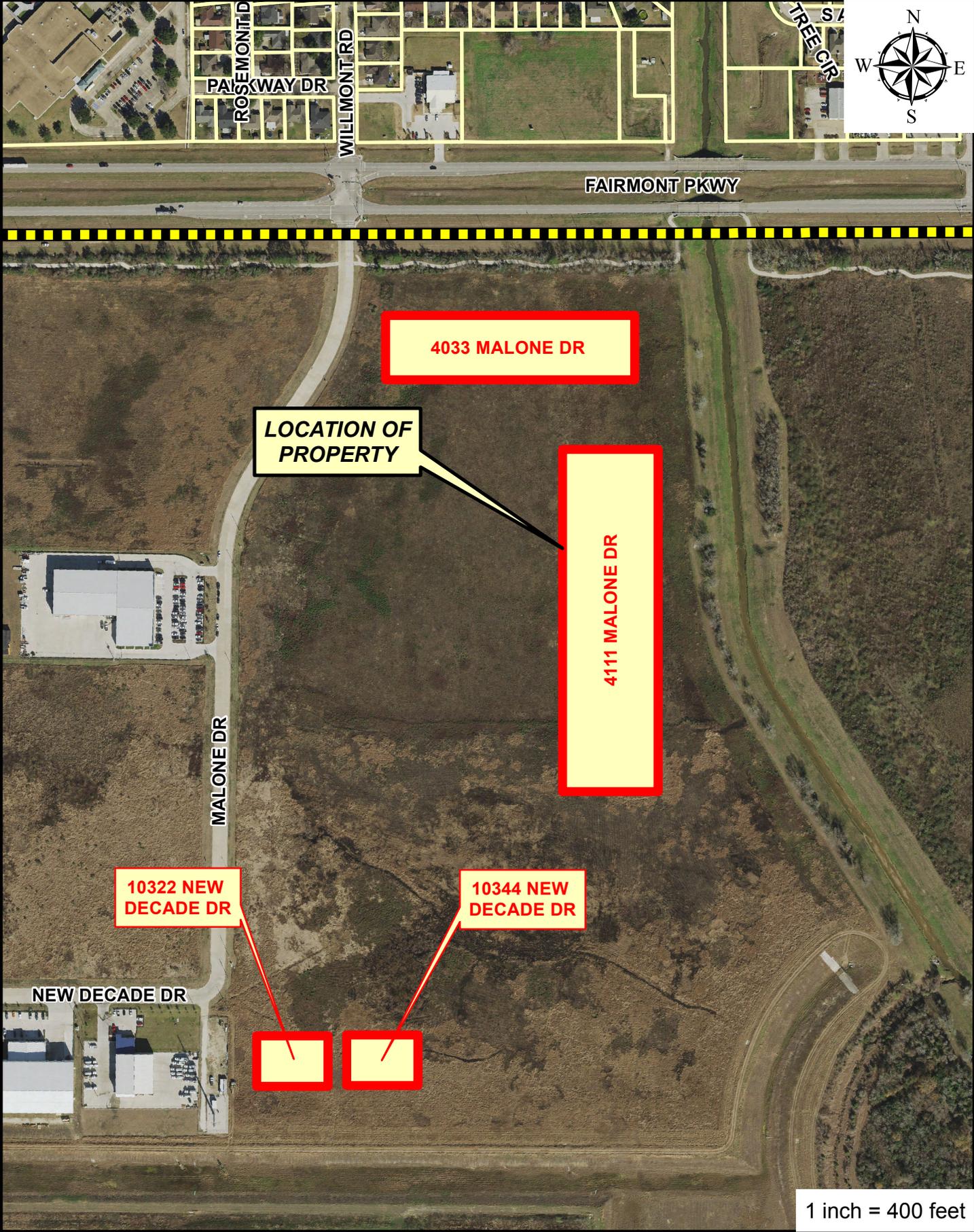
1.

**Initial for Approval:**

CITY APPROVAL: \_\_\_\_\_

COMPANY APPROVAL: DZ

# AREA MAP



## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: May 23, 2016

Requested By: Brian Sterling

Department: Planning

Report: \_\_\_ Resolution: \_\_\_ Ordinance: \_\_\_

### Appropriation

Source of Funds:       N/A      

Account Number:       N/A      

Amount Budgeted:       N/A      

Amount Requested:       N/A      

Budgeted Item: \_\_\_ YES   X   NO

**Exhibits:**

- **Water Service Agreement**
- **Sanitary Sewer Service Agreement**
- **Area Map**

---

### SUMMARY & RECOMMENDATION

Carson Bayport 3, LLC has approached the City for water and sanitary sewer service to its proposed facility at 4033 Malone Dr. in the Bayport Industrial District (see Area Map). The company estimates employing up to 50 full-time positions at this site.

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. Carson Bayport 3, LLC has an existing IDA with the City for the subject site (2007-IDA-144). Administrative fees in the amount of \$5,000 for each agreement have been received.

Based on Carson Bayport 3, LLC's stated demand for domestic uses, the average daily volume for potable water and sanitary sewer is 2,500 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 terms of Carson Bayport 3, LLC's 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 a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 4033 Malone Dr. in the Bayport Industrial District.

---

**Approved for City Council Agenda**

---

**Corby Alexander, City Manager**

---

**Date**

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 **CARSON BAYPORT 3, LLC (4033 Malone Dr.)**, 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	<b><u>50</u></b>
+ Number of Full-Time Contract Employees on site	<b><u>0</u></b>
= Total On-Site Full-Time Employees	<b><u>50</u></b>
Potable Water Approved for Domestic Use (Total on-site Employees times 50 gpd per employee)	<b><u>2,500</u></b>
Total Amount of Potable Water Approved for COMPANY (Average Daily Volume, gpd)	<b><u>2,500</u></b>

## 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 TWO THOUSAND FIVE HUNDRED (2,500) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 3 day of MAY, 2016.



Signature of Company's Authorized Representative

Printed Name: DANIEL G. ZOCH

Company Representative's Title: SR. VICE PRESIDENT

Company's Address:

9821 KATY FRWY, STE 440

HOUSTON, TX 77024

ATTEST:

CITY OF LA PORTE

\_\_\_\_\_

Patrice Fogarty  
City Secretary

\_\_\_\_\_

Louis R. Rigby  
Mayor

APPROVED:

\_\_\_\_\_

Knox W. Askins  
City Attorney

By:

\_\_\_\_\_

Corby D. 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:** N/A

**Initial for Approval:**

CITY APPROVAL: \_\_\_\_\_

COMPANY APPROVAL: Dz

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 **CARSON BAYPORT 3, LLC (4033 Malone Dr.)**, 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	<b><u>50</u></b>
Number of Contract Employees	<b><u>0</u></b>
Total on-site Employees	<b><u>50</u></b>
Sanitary Sewer Desired for Domestic Use (Total on-site times 50 gpd per employee)	<b><u>2,500</u></b>
Total Amount of Sanitary Sewer Approved For COMPANY (Average Daily Volume, gpd)	<b><u>2,500</u></b>

## 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 TWO THOUSAND FIVE HUNDRED (2,500) 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 TWO THOUSAND ONE HUNDRED TWENTY FIVE (2,125) 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 TWO THOUSAND ONE HUNDRED TWENTY FIVE (2,125). 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 3 day of MAY, 2016.



Signature of Company's Authorized Representative

Printed Name: DANIEL G. ZOCH

Company Representative's Title: SR. VICE PRESIDENT

Company's Address:

9821 KATY FRWY., SE 440  
HOUSTON, TX 77024

ATTEST:

CITY OF LA PORTE

\_\_\_\_\_

\_\_\_\_\_

Patrice Fogarty  
City Secretary

Louis R. Rigby  
Mayor

APPROVED:

\_\_\_\_\_

By: \_\_\_\_\_

Knox W. Askins  
City Attorney

Corby D. 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: DZ

# AREA MAP



LOCATION OF PROPERTY

4033 MALONE DR

4111 MALONE DR

10322 NEW DECADE DR

10344 NEW DECADE DR

[Red box]

[Red box]

1 inch = 400 feet

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: May 23, 2016

Requested By: Brian Sterling

Department: Planning

Report: \_\_\_ Resolution: \_\_\_ Ordinance: \_\_\_

### Appropriation

Source of Funds:       N/A      

Account Number:       N/A      

Amount Budgeted:       N/A      

Amount Requested:       N/A      

Budgeted Item: \_\_\_ YES   X   NO

**Exhibits:**

- **Water Service Agreement**
- **Sanitary Sewer Service Agreement**
- **Area Map**

---

### SUMMARY & RECOMMENDATION

Carson Bayport 3, LLC has approached the City for water and sanitary sewer service to its proposed facility at 10322 New Decade Dr. in the Bayport Industrial District (see Area Map). The company estimates employing up to 50 full-time positions at this site.

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. Carson Bayport 3, LLC has an existing IDA with the City for the subject site (2007-IDA-146). Administrative fees in the amount of \$5,000 for each agreement have been received.

Based on Carson Bayport 3, LLC's stated demand for domestic uses, the average daily volume for potable water and sanitary sewer is 2,500 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 terms of Carson Bayport 3, LLC's 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 a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 10322 New Decade Dr. in the Bayport Industrial District.

---

**Approved for City Council Agenda**

---

**Corby Alexander, City Manager**

---

**Date**

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 **CARSON BAYPORT 3, LLC (10322 New Decade Dr.)**, 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	<b><u>50</u></b>
+ Number of Full-Time Contract Employees on site	<b><u>0</u></b>
= Total On-Site Full-Time Employees	<b><u>50</u></b>
Potable Water Approved for Domestic Use (Total on-site Employees times 50 gpd per employee)	<b><u>2,500</u></b>
Total Amount of Potable Water Approved for COMPANY (Average Daily Volume, gpd)	<b><u>2,500</u></b>

## 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 TWO THOUSAND FIVE HUNDRED (2,500) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 3 day of MAY, 2016.



Signature of Company's Authorized Representative

Printed Name: DANIEL G. ZOCH

Company Representative's Title: SR. VICE PRESIDENT

Company's Address:

9821 KATY FERRY, STE 440

HOUSTON, TX 77024

ATTEST:

CITY OF LA PORTE

\_\_\_\_\_

Patrice Fogarty  
City Secretary

\_\_\_\_\_

Louis R. Rigby  
Mayor

APPROVED:

\_\_\_\_\_

Knox W. Askins  
City Attorney

By: \_\_\_\_\_

Corby D. 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:** N/A

**Initial for Approval:**

CITY APPROVAL: \_\_\_\_\_

COMPANY APPROVAL: DZ

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 **CARSON BAYPORT 3, LLC (10322 New Decade Dr.)**, 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	<b><u>50</u></b>
Number of Contract Employees	<b><u>0</u></b>
Total on-site Employees	<b><u>50</u></b>
Sanitary Sewer Desired for Domestic Use (Total on-site times 50 gpd per employee)	<b><u>2,500</u></b>
Total Amount of Sanitary Sewer Approved For COMPANY (Average Daily Volume, gpd)	<b><u>2,500</u></b>

## 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 TWO THOUSAND FIVE HUNDRED (2,500) 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 TWO THOUSAND ONE HUNDRED TWENTY FIVE (2,125) 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 TWO THOUSAND ONE HUNDRED TWENTY FIVE (2,125). 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 3 day of MAY, 2016.



Signature of Company's Authorized Representative

Printed Name: DANIEL G. ZOCH

Company Representative's Title: SR. VICE PRESIDENT

Company's Address:

9821 KATY FWY, STE 440

HOUSTON, TX 77024

ATTEST:

CITY OF LA PORTE

\_\_\_\_\_

Patrice Fogarty  
City Secretary

\_\_\_\_\_

Louis R. Rigby  
Mayor

APPROVED:

\_\_\_\_\_

Knox W. Askins  
City Attorney

By: \_\_\_\_\_

Corby D. 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: Dr

# AREA MAP



## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: May 23, 2016

Requested By: Brian Sterling

Department: Planning

Report: \_\_\_ Resolution: \_\_\_ Ordinance: \_\_\_

### Appropriation

Source of Funds:       N/A      

Account Number:       N/A      

Amount Budgeted:       N/A      

Amount Requested:       N/A      

Budgeted Item: \_\_\_ YES   X   NO

**Exhibits:**

- **Water Service Agreement**
- **Sanitary Sewer Service Agreement**
- **Area Map**

---

### SUMMARY & RECOMMENDATION

Carson Bayport 3, LLC has approached the City for water and sanitary sewer service to its proposed facility at 10344 New Decade Dr. in the Bayport Industrial District (see Area Map). The company estimates employing up to 50 full-time positions at this site.

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. Carson Bayport 3, LLC has an existing IDA with the City for the subject site (2007-IDA-145). Administrative fees in the amount of \$5,000 for each agreement have been received.

Based on Carson Bayport 3, LLC's stated demand for domestic uses, the average daily volume for potable water and sanitary sewer is 2,500 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 terms of Carson Bayport 3, LLC's 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 a Sanitary Sewer Service Agreement with Carson Bayport 3, LLC for its facility at 10344 New Decade Dr. in the Bayport Industrial District.

---

**Approved for City Council Agenda**

---

**Corby Alexander, City Manager**

---

**Date**

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 **CARSON BAYPORT 3, LLC (10344 New Decade Dr.)**, 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	<b><u>50</u></b>
+ Number of Full-Time Contract Employees on site	<b><u>0</u></b>
= Total On-Site Full-Time Employees	<b><u>50</u></b>
Potable Water Approved for Domestic Use (Total on-site Employees times 50 gpd per employee)	<b><u>2,500</u></b>
Total Amount of Potable Water Approved for COMPANY (Average Daily Volume, gpd)	<b><u>2,500</u></b>

## 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 TWO THOUSAND FIVE HUNDRED (2,500) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 SEVENTY SIX THOUSAND TWO HUNDRED FIFTY (76,250) 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 3 day of MAY, 2016.



Signature of Company's Authorized Representative

Printed Name: DANIEL G. ZOCH

Company Representative's Title: SR. VICE PRESIDENT

Company's Address:

9821 KATY, FRWY, STE 440  
HOUSTON, TX 77024

ATTEST:

CITY OF LA PORTE

\_\_\_\_\_

Patrice Fogarty  
City Secretary

\_\_\_\_\_

Louis R. Rigby  
Mayor

APPROVED:

\_\_\_\_\_

Knox W. Askins  
City Attorney

By:

\_\_\_\_\_

Corby D. 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:** N/A

**Initial for Approval:**

CITY APPROVAL: \_\_\_\_\_

COMPANY APPROVAL:   DZ

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 **CARSON BAYPORT 3, LLC (10344 New Decade Dr.)**, 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	<b><u>50</u></b>
Number of Contract Employees	<b><u>0</u></b>
Total on-site Employees	<b><u>50</u></b>
Sanitary Sewer Desired for Domestic Use (Total on-site times 50 gpd per employee)	<b><u>2,500</u></b>
Total Amount of Sanitary Sewer Approved For COMPANY (Average Daily Volume, gpd)	<b><u>2,500</u></b>

## 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 TWO THOUSAND FIVE HUNDRED (2,500) 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 TWO THOUSAND ONE HUNDRED TWENTY FIVE (2,125) 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 TWO THOUSAND ONE HUNDRED TWENTY FIVE (2,125). 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 3 day of MAY, 2016.



Signature of Company's Authorized Representative

Printed Name: DANIEL G. ZOCH

Company Representative's Title: SR. VICE PRESIDENT

Company's Address:

9821 KAMY FRWY, STE 440  
HOUSTON, TX 77024

ATTEST:

CITY OF LA PORTE

\_\_\_\_\_

Patrice Fogarty  
City Secretary

\_\_\_\_\_

Louis R. Rigby  
Mayor

APPROVED:

\_\_\_\_\_

Knox W. Askins  
City Attorney

By: \_\_\_\_\_

Corby D. 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:**

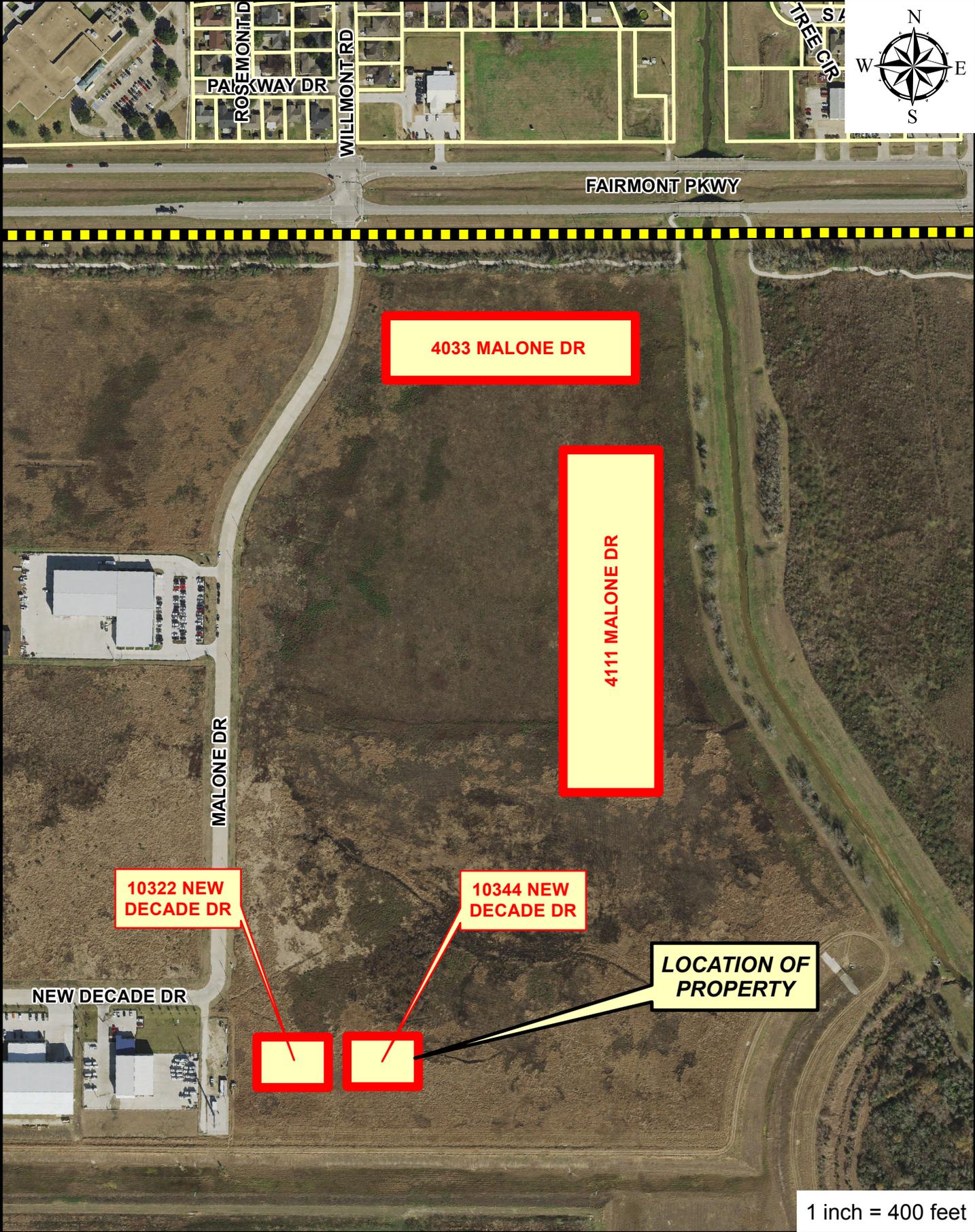
- 1.

**Initial for Approval:**

CITY APPROVAL: \_\_\_\_\_

COMPANY APPROVAL:   DZ

# AREA MAP



4033 MALONE DR

4111 MALONE DR

10322 NEW DECADE DR

10344 NEW DECADE DR

LOCATION OF PROPERTY

1 inch = 400 feet

## REQUEST FOR CITY COUNCIL AGENDA ITEM

**Agenda Date Requested:** May 23 2016

**Requested By:** Eric Ensey

**Department:** Planning and Development

**Report:** X **Resolution:**      **Ordinance:** X

**Exhibits:**

Ordinance – Clean Version  
Ordinance – Showing Changes Version  
P&Z Recommendation Letter

**Appropriation:**

**Source of Funds:** N/A

**Account Number:** N/A

**Amount Budgeted:** N/A

**Amount Requested:** N/A

**Budgeted Item:** N/A

---

### **SUMMARY & RECOMMENDATION**

Section 106-65 (Zoning) of the City’s Code of Ordinances indicates that the Planning and Zoning Commission is to conduct a regular comprehensive review of Chapter 106. The Planning and Zoning Commission took up this item at the April 21, 2016 meeting and is presenting the attached ordinance to the City Council for consideration. The proposed ordinance includes those modifications recommended by the Planning and Zoning Commission and are intended to address some items that may need additional clarification, or were omitted from the comprehensive modifications made to the Zoning Ordinance in 2014.

Attached is the draft version of the proposed modifications to the Zoning Ordinance in a “clean” version as well as a “showing changes” version. In the “showing changes” version, those areas highlighted in yellow indicate new language as part of the proposed modification to Chapter 106. The ~~strike-through~~s indicate where language is proposed to be removed. The following is a summary of the proposed modifications:

**Section 1 (106-145):**

1. The modifications here are to allow the City’s Enforcement Officer the ability and process for revoking a zoning permit, as currently none exists.

**Section 2 (106-171):**

2. The provisions of subparagraph (4) revise the submittal of the P&Z’s findings on a zoning amendment to be forwarded to the City Council within 30 days as opposed to 15 days. Given publication notice requirements, 15 days is not sufficient to present the Commission’s findings to the City Council.

**Section 3 (106-191):**

3. A minor modification was made to the City’s requirements for a Special Exception request clarifying that any building, whether *primary or accessory*, is required to seek approval of a Special Exception to reconstruct or add to a nonconforming structure. Previously the language was not clear as to what buildings are addressed.

**Section 4 (106-264):**

4. Clarification of the NAICS code as opposed to the SIC code.

Section 5 (106-301):

5. The proposed modifications here have been implemented per previous direction of City Council and are simply being codified. Language is now standard in rezoning ordinances approved by the City Council that states the approval of the ordinance hereby authorizes the City staff to modify the Official Zoning Map in accordance with said action by Council. Official copies of the Official Zoning Map are still signed by the Mayor and City Secretary following each zone change or map amendment.

Section 6 (106-310):

6. There are a number of different modifications to different land use categories:
  - a. NAICS category 4884 currently allows for “tow/wrecker yards” in GC zone districts as a permitted use. The recommendation here is to only allow such use in the GC district if approved as a Special Conditional Use Permit (SCUP).
  - b. NAICS category 4885 is an industry category defined as “Freight Transportation Arrangement.” There are instances where this category has been identified by a business in hopes of circumventing the City’s requirements pertaining to warehouse/distribution facilities (NAICS 493), which are only permitted in the LI and HI zone districts and only when immediately adjacent to a high frequency truck road. The recommendation is to allow NAICS 4885 uses in GC, BI, LI and HI if the uses are office-only and to limit facilities that function more like warehouses to LI and HI and only on a high frequency truck road.
  - c. NAICS category 624410 for only child care services has been added allowing child care services in all commercial and industrial districts, except the Mixed Use District.
  - d. Automotive repair facilities under NAICS category 8111 has been revised to restrict truck repair to only industrial zone districts.
  - e. NAICS category 814 for private households has been removed as they are permitted in the MS district under the MS provisions.

Section 7 (106-308):

7. A clarification has been made to the way zone district boundaries are interpreted when a property is bisected by a boundary line. Clarification has been added to this section to indicate that this means of interpreting the boundary lines only applies to existing scenarios and not in circumstances where a property owner consolidates lots.

Section 8 (106-699):

8. Minor clarification made to require PUD development to buffer and screen LL zoned properties, which was previously omitted.

Section 9 (106-746):

9. Clarification proposed here to allow overnight parking of heavy trucks within the city limits in industrial zoned districts, as trucks are already doing so. This was a new section in the most recent modifications of the code, but industrial zone districts were left out of the requirements.

Section 10 (106-771):

10. Minor clarification to certain encroachments that can be made for residential structures. The code previously only allowed encroachments into the yard, which is defined as that portion

from the wall of the structure to the property line. This is more restrictive in many instances than allowing those encroachments into the setback line. Setbacks are established to separate uses/structures. However, in some cases where stairways or patios do not encroach into the front setback but are within the front yard, they will not encroach on adjacent properties.

Section 11 (106-835):

11. Clarification was provided that requires accessible parking stalls to be in accordance with ADA and Texas Accessibility Standards.

Section 12 (106-892):

12. Clarified HI, LI and BI zone districts instead of H-1, B-1, and L-1.

Section 13 (106-928):

13. Masonry standards were not included in the ordinance that was approved by the City Council. This section requires Tier 2 buildings to include 50% of the masonry material as brick or stone and Tier 3 buildings are required to include 20% brick or stone.
14. Language was added to require gas stations in all tiers to include brick or stone on the canopy columns, with Tier 1 requiring 100% and Tier 2 and 3 a 4' high covering.

Section 106-171 of the City's Code of Ordinances outlines the applicable requirements for notification of a public hearing. Notification was provided in accordance with applicable requirements, including notification of the public hearing in the Bay Area Observer 15 days prior to the scheduled public hearing. Additionally, the public hearing was posted at City Hall and on the City's website.

The Planning Commission unanimously recommended approval of the amendments to the City's Zoning Ordinance, as outlined in the attached ordinance.

**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 amending 106 "Zoning" of the Code of Ordinances of the City of La Porte by amending provisions related to zoning permits; amendment procedures; special exceptions; notification of conforming status; official zoning map; commercial and industrial uses; location of heavy truck uses; interpretation of zoning district boundaries; yard requirements; parking design standards; development of towers; and building design standards.

**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 AMENDING PROVISIONS RELATED TO ZONING PERMITS; AMENDMENT PROCEDURES; SPECIAL EXCEPTIONS; NOTIFICATION OF CONFORMING STATUS; OFFICIAL ZONING MAP; COMMERCIAL AND INDUSTRIAL USES; LOCATION OF HEAVY TRUCK USES; INTERPRETATION OF ZONING DISTRICT BOUNDARIES; YARD REQUIREMENTS; PARKING DESIGN STANDARDS; DEVELOPMENT OF TOWERS; AND BUILDING EXTERIOR DESIGN STANDARDS; PROVIDING THAT ANY PERSON VIOLATING THE TERMS OF THIS ORDINANCE SHALL BE DEEMED GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE FINED IN A SUM NOT TO EXCEED TWO THOUSAND DOLLARS; PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING AN EFFECTIVE DATE HEREOF.

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

**Section 1:** That Chapter 106, "Zoning," Article I. "In General", Section 106-145 "Zoning Permit and Building Permit", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**"Sec. 106-145. - Zoning permit and building permit.**

A zoning permit authorizing a proposed use shall be applied for coincident with the application for a building permit or a proposed change to the use of a building; it shall be issued within ten (10) days after the erection, addition, or alteration of such building or use has been completed in conformity with the provisions hereof, as determined by a final inspection. The enforcement officer shall not issue a zoning permit for any use or structure not in conformance with this chapter or any other ordinance of the city in accordance with state law.

The enforcement officer may revoke a zoning permit if the actual use of the property covered by the zoning permit is inconsistent with the use authorized by the zoning permit. The enforcement officer shall notify the permit holder in writing and provide thirty (30) days from the date of the letter for the improper use shall be eliminated and brought into compliance with the terms of the zoning permit, or the permit shall be revoked."

**Section 2:** That Chapter 106, "Zoning," Article I. "In General", Section 106-171 "Amendment Procedures", subparagraph "4", "Submission of findings and recommendations to city council", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**Sec. 106-171. - Amendment procedures.**

*"(4) Submission of findings and recommendations to city council.* The city planning and zoning commission shall forward its final report consisting of written findings of fact and recommendations to city council within thirty (30) days of the close of the public hearing held in accordance with this section."

**Section 3:** That Chapter 106, "Zoning," Article I. "In General", Section 106-191 "Special Exceptions", subparagraph "b", "Special exceptions to be reviewed; findings of facts", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**Sec. 106-191. - Special exceptions.**

“(b) *Special exceptions to be reviewed; finding of facts.* The term "special exception" shall mean a deviation from the requirements of this chapter, specifically enumerated herein, which shall be granted only in the following instances, and then only when the board finds that such special exception will not adversely affect the value and use of adjacent or neighboring property or be contrary to the best public interest:

- (1) To reconstruct, enlarge or extend any building (whether a primary or accessory structure) occupied by a nonconforming use on the lot or tract occupied by such building, provided that the reconstruction, extension, or enlargement does not prevent the return of the property to a conforming use.
- (2) To deviate yard requirements in the following circumstances:
  - a. Any exception from the front yard requirements where the actual front yard setback of any abutting lot does not meet the front yard requirement.
  - b. A rear yard exception where the actual rear yard setback of any four or more lots in the same block does not meet the rear yard requirements of these regulations.
  - c. A yard exception on corner lots.
  - d. An exception where the existing front yard setbacks of the various lots in the same block are not uniform, so that any one of the existing front yard setbacks shall, for buildings hereafter constructed or extended, be the required minimum front yard depth.”

**Section 4:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-264 “Notification of nonconforming status”, subparagraph “b”, “Changing a Non-Conforming use”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**Sec. 106-264. - Notification of nonconforming status.**

“(b) *Changing a nonconforming use.* Any nonconforming use or structure may be changed to a use conforming to the regulations established in this chapter for the district in which the nonconforming use or structure is located, or the nonconforming use or structure may be changed to a use or structure more conforming to the zoning district in which the nonconforming use or structure is located. For purposes of this section, the term "more conforming to the zoning district in which the nonconforming use or structure is located" shall mean a less intense use (per the North American Industry Classification System). Whether or not a use is more conforming to the zoning district in which the nonconforming use or structure is located is a question to be determined by the planning director, subject to appeal as provided within this article. A nonconforming use or structure so changed shall not thereafter be returned to a nonconforming use or structure.”

**Section 5:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-301 “Official Zoning Map Provisions”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-301. - Official zoning map provisions.**

(a) The city is hereby divided into the land use development districts, or zones, established in Section 106-309 of this chapter, as designated on the official zoning map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. The official zoning map shall be identified by the signature of the mayor attested by the city secretary and bearing the seal of the City of La Porte under the following words:

"This is to certify that this is the official zoning map referred to in Section 106-301 of the Code of Ordinances, City of La Porte, Texas."

(b) One copy, hereafter called the original zoning map, shall be filed with the city secretary and retained as the original record and shall not be changed in any manner.

(c) Two copies, hereafter called the official zoning map shall be filed with the enforcing officer and city secretary and shall be maintained up-to-date by the department of planning and development."

**Section 6:** That Chapter 106, "Zoning," Article I. "In General", Section 106-310 "Table A, Commercial & Industrial Uses", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to add and delete certain designated use categories, to be inserted within "Table A, Commercial & Industrial Uses" in proper numerical sequence, as follows:

**Sec. 106-310. - Table A, Commercial & Industrial Uses.**

2012 NAICS Code	2012 NAICS Title	**	NC	MS	GC	MU	BI	LI	HI
4884	Support Services for Road Transportation				C		P	P	P
4885	Freight Transportation Arrangement (Office Only)				P		P	P	P
4885	Freight Transportation Arrangement						p <sup>6</sup>	p <sup>6</sup>	
624410	Child Day Care Services	P	P	P			P	P	P
8111	Automotive Repair and Maintenance (except Truck Repair)			p <sup>15</sup>	p <sup>15</sup>		p <sup>15</sup>	p <sup>15</sup>	p <sup>15</sup>
8111	Automotive Repair and Maintenance (Truck Repair)						p <sup>15</sup>	p <sup>15</sup>	p <sup>15</sup>
814	Private Households	**							

**Section 7:** That Chapter 106, "Zoning," Article I. "In General", Section 106-308 "Interpretation of zoning district boundaries", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**"Sec. 106-308. - Interpretation of zoning district boundaries.**

In determining the location of zoning district boundaries on the official zoning map accompanying and made a part of these regulations, the following rules shall apply:

- (1) Where boundaries are shown to follow streets or alleys, the centerline of such streets or alleys as they exist at the time of adoption of these regulations shall be the zoning boundary.
- (2) Where boundaries are shown to enter on cross platted blocks, property lines of lots, as they exist at the time of adoption of these regulations, shall be the zoning boundary.
- (3) In case of a district boundary line dividing a tract of property into two parts, the district boundary line shall be construed to be the property line nearest the district boundary line as shown. However, if the owner and/or developer of two or more contiguous tracts of property replats or combines such tracts in a manner to consolidate the tracts into one parcel resulting in the consolidated tract being divided by a district boundary into two parts, then in such cases the district boundary line shall be enforced at the location shown on the zoning map.

- (4) Where boundaries are shown on unsubdivided property, the location shall be determined by use of the scale shown on the zoning map unless dimensions are given on the zoning map.”

**Section 8:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-699 “Commercial and Industrial”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-699. - Commercial and industrial.**

(a) *Purpose.* The intent of this section is to establish provisions for the granting of a conditional use permit to erect planned unit development - commercial and industrial projects which are in compliance with the permitted and conditional uses allowed in a specific district in one or more buildings in relation to an overall design, an integrated physical plan and in accordance with the provisions and procedures in this chapter.

(b) *Minimum project size.* The tract of land for which a planned unit development - commercial or industrial project is proposed and permit is requested, shall contain not less than five acres for commercial and industrial projects.

(c) *Frontage.* The tract of land for which a project is proposed and a permit requested shall not have less than 200 feet of frontage on a public right-of-way.

(d) *Yard.* No building shall be nearer than 50 feet to the side or rear property line when such line abuts an R-1, R-2, R-3, LL or MH use district.

(e) *Landscaping, screening and surfacing.*

(1) The entire site other than that taken up by structures or landscaping shall be surfaced with a material to control dust and drainage.

(2) A drainage system subject to the approval of the planning director shall be installed.

(3) Developments abutting an R-1, R-2, R-3, LL or MH district shall be screened and landscaped in compliance with required screening and landscaping for the specific use involved as required in section 106-443, (Table B, commercial area requirements) and, section 106-552 (Industrial area requirements).

(4) Required landscaping must be maintained by the property owner and/or occupant.”

**Section 9:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-746 “Location of heavy truck uses”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-746. - Location of heavy truck uses.**

(1) Heavy truck uses generated from NAICS uses 484110, 484121, 484220, 484230 and 493 shall only be located within properties directly adjacent to the right-of-way of designated High Frequency Truck Roads, provided those uses comply with the underlying zoning classification applicable to the property.

(2) Overnight parking of heavy trucks shall only be permitted on properties within the GC, MU, MSD and NC zoning districts adjacent to High Frequency Truck Roads or in any BI, LI or HI zoning district.”

**Section 10:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-771 “Yard Requirements”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-771. - Yard requirements.**

The following shall not be considered as encroachments on yard setback requirements:

- (1) *Chimneys, flues, belt courses, etc.* Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, steps, stoops, and similar features, provided they do not project more than four feet into any front or rear setback line, and two feet into any side setback line.
- (2) *Terraces, decks, patios, etc.* Terraces, decks, patios, or similar features, provided they do not extend more than one foot above the height of the exterior finish grade elevation, or to a distance less than two feet from any lot line, or encroach upon any utility easement. Further, pools shall not be considered as an encroachment on or in a front yard, provided that such pools are located in a front yard adjacent to Galveston Bay, and provided further that such pool does not extend more than one foot above the exterior finish grade elevation, or to a distance less than two feet from any lot line or encroach upon any utility easement.
- (3) *Rear yards only.* An unenclosed, attached patio cover, awning, or canopy, provided that no portion of such patio covers, awnings, or canopies shall encroach into any utility easements, or any vertical projection thereof, and provided further that no portion of such patio covers, awnings, or canopies shall be located at a distance less than five feet from the side property line or three feet from the rear property line, or any vertical projection thereof.
- (4) *Front and side yard carports.* Front and side yard carports shall be permitted for single-family detached homes subject to the following requirements:
  - a. Carports in a required front or side yard shall not be located closer than five feet from any front or side property line.
  - b. Carports located on corner lots shall not be located closer than 25 feet from an intersection. This distance shall be measured from the intersection of property lines common with street right-of-way lines.
  - c. The maximum width of a carport located in a required front or side yard shall be 25 feet.
- (5) *Recreational areas, facilities and open space.* Trails, playgrounds, and detention areas located within multi-family residential developments are permitted provided they do not encroach into any utility easement.”

**Section 11:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-835 “Design standards (also see Figures 10-1, 10-2 and 10-3)”, subparagraph “a”, “Parking space size”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**Sec. 106-835. - Design standards (also see Figures 10-1, 10-2 and 10-3).**

“(a) *Parking space size.* Each standard parking space shall not be less than nine (9) feet wide and eighteen (18) feet in length, and each accessible parking space shall be designed in accordance with ADA/Texas Accessibility Standards (TAS).”

**Section 12:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-892 “Development of towers”, of the Code of Ordinances of the City of La Porte, Texas, subparagraph “a”, “A tower shall be a permitted use in zoning district H-1”, and subparagraph “b”, “A tower shall be a conditional use of land in zoning districts B-1 and L-1”, are hereby amended to read as follows:

**Sec. 106-892. - Development of towers.**

“(a) *A tower shall be a permitted use of land in zoning district HI.* No person shall build, erect, or construct a tower upon any parcel of land within a zoning district designated HI unless a development permit shall have been issued by the site plan review committee of the city. Application shall be made to the site plan review committee in the manner provided in this chapter.

(b) *A tower shall be a conditional use of land in zoning districts BI and LI.* No person shall build, erect, or construct a tower upon any parcel of land within any zoning district set forth above unless a development permit shall have been issued by the site plan review committee of the city and approval of the city planning and zoning commission is obtained.”

**Section 13:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-928 “Architectural design guidelines”, subparagraph “e”, “Exterior Façade Materials”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**Sec. 106-928. - Architectural design guidelines.**

“(e) Exterior Façade Materials

(1) Allowed exterior materials are categorized into the following three groups, of which at least two materials from different groups shall be used in all exterior facades in Tier 1, Tier 2, and Tier 3:

- a. Group A: Brick and stone
- b. Group B: Stucco, architectural concrete block with integrated color (split face CMU), factory primed cementitious fiberboard in the form of lap siding or board and batten, EIFS (above 14 feet from grade only), and painted, colored or stamped tilt-wall
- c. Group C: Metal, tile, wood

(2) Prohibited exterior materials include cinder block, vinyl, plastic, aggregate pea-gravel finished surfaces, and pre-engineered metal building siding.

(3) Primary façade treatment standards applicable to Tier 1 buildings. The following shall apply to all exterior walls of Tier 1 buildings which are clearly visible from a public street or along an active storefront:

- a. Primary Façades, excluding windows, doors, and other openings, shall be constructed of at least 80% Group A materials and up to 20% Group B materials. However, accent materials from Group

C may be allowed in limited application for architectural features as approved by the director of planning and development or designee.

b. Buildings over 50,000 square feet may use Split-Face CMU (architectural block) for up to 20% of the primary façade, in addition to the 20% of Group B materials.

(4) Primary façade treatment standards applicable to Tier 2 buildings. The following shall apply to all exterior walls of Tier 2 buildings which are clearly visible from a public street or along an active storefront:

Primary Facades, excluding windows, doors, and other openings, shall be constructed of at least 50% Group A materials and up to 50% Group B materials. However, accent materials from Group C may be allowed in limited application for architectural features as approved by the Director of Planning and Development or designee.

(5) Primary façade treatments standards applicable to Tier 3 buildings. The following shall apply to all exterior walls of Tier 3 buildings which are clearly visible from a public street or along an active storefront:

Primary Facades, excluding windows, doors, and other openings, shall be constructed of at least 20% Group A materials and up to 80% Group B materials. However, accent materials from Group C may be allowed in limited application for architectural features as approved by the Director of Planning and Development or designee.

(6) Building color requirements are applicable to buildings in all tiers. The dominant color of all buildings shall be muted shades of color. Black and stark white shall not be used except as an accent color. There are no restrictions on accent colors which comprise less than 1.0% of the building face, except that florescent colors are prohibited.

(7) All gas station development categorized as Tier 1 buildings is required to wrap each of the canopy support columns over the service islands entirely from the ground to the bottom of the canopy. All gas station developments categorized as Tier 2 or Tier 3 buildings shall be required to wrap the base of any support posts up to a height of 4 feet from the ground in stone or masonry to match that required on the primary façade of the building.”

**Section 14.** Any person, as defined in Section 1.07 (27), Texas Penal Code, who shall violate any provision of the ordinance, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed TWO THOUSAND DOLLARS (\$2,000.00).

**Section 15.** Each and every provision, paragraph, sentence and clause of this Ordinance has been separately considered and passed by the City Council of the City of La Porte, Texas, and each said provision would have been separately passed without any other provision, and if any provision hereof shall be ineffective, invalid or unconstitutional, for any cause, it shall not impair or affect the remaining portion, or any part thereof, but the valid portion shall be in force just as if it had been passed alone.

**Section 16.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

**Section 17.** 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 18.** This Ordinance shall be effective fourteen (14) days after its passage and approval. The City Secretary shall give notice of the passage of this ordinance by causing the caption hereof to be published in the official newspaper of the City of La Porte at least once within ten (10) days after the passage of this ordinance.

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF LA PORTE, TEXAS

By: \_\_\_\_\_  
Louis R. Rigby, Mayor

ATTEST:

\_\_\_\_\_  
Patrice Fogarty, City Secretary

APPROVED:

  
\_\_\_\_\_  
Clark T. Askins, Assist. City Attorney

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 106 “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF LA PORTE BY AMENDING PROVISIONS RELATED TO ZONING PERMITS; AMENDMENT PROCEDURES; SPECIAL EXCEPTIONS; NOTIFICATION OF CONFORMING STATUS; OFFICIAL ZONING MAP; COMMERCIAL AND INDUSTRIAL USES; LOCATION OF HEAVY TRUCK USES; INTERPRETATION OF ZONING DISTRICT BOUNDARIES; YARD REQUIREMENTS; PARKING DESIGN STANDARDS; DEVELOPMENT OF TOWERS; AND BUILDING EXTERIOR DESIGN STANDARDS; PROVIDING THAT ANY PERSON VIOLATING THE TERMS OF THIS ORDINANCE SHALL BE DEEMED GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE FINED IN A SUM NOT TO EXCEED TWO THOUSAND DOLLARS; PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING AN EFFECTIVE DATE HEREOF.

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

**Section 1:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-145 “Zoning Permit and Building Permit”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

“Sec. 106-145. - Zoning permit and building permit.

A zoning permit authorizing a proposed use shall be applied for coincident with the application for a building permit or a proposed change to the use of a building; it shall be issued within ten (10) days after the erection, addition, or alteration of such building or use has been completed in conformity with the provisions hereof, as determined by a final inspection. The enforcement officer shall not issue a zoning permit for any use or structure not in conformance with this chapter or any other ordinance of the city in accordance with state law.

The enforcement officer may revoke a zoning permit if the actual use of the property covered by the zoning permit is inconsistent with the use authorized by the zoning permit. The enforcement officer shall notify the permit holder in writing and provide thirty (30) days from the date of the letter for the improper use shall be eliminated and brought into compliance with the terms of the zoning permit, or the permit shall be revoked.”

**Section 2:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-171 “Amendment Procedures”, subparagraph “4”, “Submission of findings and recommendations to city council”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

“Sec. 106-171. - Amendment procedures.

(4) *Submission of findings and recommendations to city council.* The city planning and zoning commission shall forward its final report consisting of written findings of fact and recommendations to city council within ~~15~~ thirty (30) days of the close of the public hearings hearing held in accordance with this section.”

**Section 3:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-191 “Special Exceptions”, subparagraph “b”, “Special exceptions to be reviewed; findings of facts”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

“Sec. 106-191. - Special exceptions.

(b) *Special exceptions to be reviewed; finding of facts.* The term "special exception" shall mean a deviation from the requirements of this chapter, specifically enumerated herein, which shall be granted only in the following instances, and then only when the board finds that such special exception will not adversely affect the value and use of adjacent or neighboring property or be contrary to the best public interest:

(1) To reconstruct, enlarge or extend any building (whether a primary or accessory structure) occupied by a nonconforming use on the lot or tract occupied by such building, provided that the reconstruction, extension, or enlargement does not prevent the return of the property to a conforming use.

(2) To deviate yard requirements in the following circumstances:

a. Any exception from the front yard requirements where the actual front yard setback of any abutting lot does not meet the front yard requirement.

b. A rear yard exception where the actual rear yard setback of any four or more lots in the same block does not meet the rear yard requirements of these regulations.

c. A yard exception on corner lots.

d. An exception where the existing front yard setbacks of the various lots in the same block are not uniform, so that any one of the existing front yard setbacks shall, for buildings hereafter constructed or extended, be the required minimum front yard depth."

**Section 4:** That Chapter 106, "Zoning," Article I. "In General", Section 106-264 "Notification of nonconforming status", subparagraph "b", "Changing a Non-Conforming use", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**"Sec. 106-264. - Notification of nonconforming status.**

(b) *Changing a nonconforming use.* Any nonconforming use or structure may be changed to a use conforming to the regulations established in this chapter for the district in which the nonconforming use or structure is located, or the nonconforming use or structure may be changed to a use or structure more conforming to the zoning district in which the nonconforming use or structure is located. For purposes of this section, the term "more conforming to the zoning district in which the nonconforming use or structure is located" shall mean a less intense use (per the ~~Standard Industrial Classification Code~~ North American Industry Classification System). Whether or not a use is more conforming to the zoning district in which the nonconforming use or structure is located is a question to be determined by the planning director, subject to appeal as provided within this article. A nonconforming use or structure so changed shall not thereafter be returned to a nonconforming use or structure."

**Section 5:** That Chapter 106, "Zoning," Article I. "In General", Section 106-301 "Official Zoning Map Provisions", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**"Sec. 106-301. - Official zoning map provisions.**

(a) ~~The city is hereby divided into zones, or districts, as shown on the zoning maps described in sections 106-301 (Official zoning map provisions) through 106-308 (Interpretation of zoning district boundaries) which, together with all explanatory matter thereon, are as passed and amended adopted by reference and~~

declared to be part of this chapter. Three original and identical copies of the zoning district map shall be identified by the signature of the mayor, attested by the city secretary and bearing the seal of the city under the following words:

"This is to certify that this is the Original Zoning Map/Official Zoning Map referenced to in Article 2 of Ordinance No. \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ of the City of La Porte, Texas."

(a) The city is hereby divided into the land use development districts, or zones, established in Section 106-309 of this chapter, as designated on the official zoning map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. The official zoning map shall be identified by the signature of the mayor attested by the city secretary and bearing the seal of the City of La Porte under the following words:

"This is to certify that this is the official zoning map referred to in Section 106-301 of the Code of Ordinances, City of La Porte, Texas."

(b) One copy, hereafter called the original zoning map, shall be filed with the city secretary and retained as the original record and shall not be changed in any manner.

(c) Two copies, hereafter called the official zoning map shall be filed with the enforcing officer and city secretary and shall be maintained up-to-date by the department of planning and development."

**Section 6:** That Chapter 106, "Zoning," Article I. "In General", Section 106-310 "Table A, Commercial & Industrial Uses", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to add and delete certain designated use categories, to be inserted within "Table A, Commercial & Industrial Uses" in proper numerical sequence, as follows:

**"Sec. 106-310. - Table A, Commercial & Industrial Uses.**

2012 NAICS Code	2012 NAICS Title	**	NC	MS	GC	MU	BI	LI	HI
4884	Support Services for Road Transportation				P		P	P	P
4885	Freight Transportation Arrangement (Office Only)				P		P	P	P
4885	Freight Transportation Arrangement							P <sup>6</sup>	P <sup>6</sup>
624410	Child Day Care Services		P	P	P		P	P	P
8111	Automotive Repair and Maintenance (except Truck Repair)			P <sup>15</sup>	P <sup>15</sup>		P <sup>15</sup>	P <sup>15</sup>	P <sup>15</sup>
8111	Automotive Repair and Maintenance (Truck Repair)						P <sup>15</sup>	P <sup>15</sup>	P <sup>15</sup>
814	Private Households	**							

**Section 7:** That Chapter 106, "Zoning," Article I. "In General", Section 106-308 "Interpretation of zoning district boundaries", of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**"Sec. 106-308. - Interpretation of zoning district boundaries.**

In determining the location of zoning district boundaries on the official zoning map accompanying and made a part of these regulations, the following rules shall apply:

- (1) Where boundaries are shown to follow streets or alleys, the centerline of such streets or alleys as they exist at the time of adoption of these regulations shall be the zoning boundary.
- (2) Where boundaries are shown to enter on cross platted blocks, property lines of lots, as they exist at the time of adoption of these regulations, shall be the zoning boundary.
- (3) In case of a district boundary line dividing a tract of property into two parts, the district boundary line shall be construed to be the property line nearest the district boundary line as shown. However, if the owner and/or developer of two or more contiguous tracts of property replats or combines such tracts in a manner to consolidate the tracts into one parcel resulting in the consolidated tract being divided by a district boundary into two parts, then in such cases the district boundary line shall be enforced at the location shown on the zoning map.
- (4) Where boundaries are shown on unsubdivided property, the location shall be determined by use of the scale shown on the zoning map unless dimensions are given on the zoning map.”

**Section 8:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-699 “Commercial and Industrial”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-699. - Commercial and industrial.**

(a) *Purpose.* The intent of this section is to establish provisions for the granting of a conditional use permit to erect planned unit development - commercial and industrial projects which are in compliance with the permitted and conditional uses allowed in a specific district in one or more buildings in relation to an overall design, an integrated physical plan and in accordance with the provisions and procedures in this chapter.

(b) *Minimum project size.* The tract of land for which a planned unit development - commercial or industrial project is proposed and permit is requested, shall contain not less than five acres for commercial and industrial projects.

(c) *Frontage.* The tract of land for which a project is proposed and a permit requested shall not have less than 200 feet of frontage on a public right-of-way.

(d) *Yard.* No building shall be nearer than 50 feet to the side or rear property line when such line abuts an R-1, R-2, R-3, LL or MH use district.

(e) *Landscaping, screening and surfacing.*

(1) The entire site other than that taken up by structures or landscaping shall be surfaced with a material to control dust and drainage.

(2) A drainage system subject to the approval of the planning director shall be installed.

(3) Developments abutting an R-1, R-2, R-3, LL or MH district shall be screened and landscaped in compliance with required screening and landscaping for the specific use involved as required in section 106-443, (Table B, commercial area requirements) and, section 106-552 (Industrial area requirements).

(4) Required landscaping must be maintained by the property owner and/or occupant.”

**Section 9:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-746 “Location of heavy truck uses”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-746. - Location of heavy truck uses.**

(1) Heavy truck uses generated from NAICS uses 484110, 484121, 484220, 484230 and 493 shall only be located within properties directly adjacent to the right-of-way of designated High Frequency Truck Roads, provided those uses comply with the underlying zoning **classification applicable to the property.**

(2) Overnight parking of heavy trucks shall only be permitted on properties within the GC, MU, MSD and NC zoning districts adjacent to High Frequency Truck Roads **or in any BI, LI or HI zoning district.”**

**Section 10:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-771 “Yard Requirements”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-771. - Yard requirements.**

The following shall not be considered as encroachments on yard setback requirements:

- (1) *Chimneys, flues, belt courses, etc.* Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, steps, stoops, **and similar features** ~~the like~~, provided they do not project more than four feet into any front or rear ~~yard~~ **setback line**, and two feet into any side ~~yard~~ **setback line**.
- (2) *Terraces, decks, patios, etc.* Terraces, decks, patios, or similar features, provided they do not extend more than one foot above the height of the exterior finish grade elevation, or to a distance less than two feet from any lot line, or encroach upon any utility easement. Further, pools shall not be considered as an encroachment on **or in** a front yard ~~setback~~, provided that such pools are located in a front yard adjacent to Galveston Bay, and provided further that such pool does not extend more than one foot above the exterior finish grade elevation, or to a distance less than two feet from any lot line or encroach upon any utility easement.
- (3) *Rear yards only.* An unenclosed, attached patio cover, awning, or canopy, provided that no portion of such patio covers, awnings, or canopies shall encroach into any utility easements, or any vertical projection thereof, and provided further that no portion of such patio covers, awnings, or canopies shall be located at a distance less than five feet from the side property line or three feet from the rear property line, or any vertical projection thereof.
- (4) *Front and side yard carports.* Front and side yard carports shall be permitted for single-family detached homes subject to the following requirements:
  - a. Carports in a required front or side yard shall not be located closer than five feet from any front or side property line.

b. Carports located on corner lots shall not be located closer than 25 feet from an intersection. This distance shall be measured from the intersection of property lines common with street right-of-way lines.

c. The maximum width of a carport located in a required front or side yard shall be 25 feet.

(5) *Recreational areas, facilities and open space.* Trails, playgrounds, and detention areas located within multi-family residential developments are permitted provided they do not encroach into any utility easement.”

**Section 11:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-835 “Design standards (also see Figures 10-1, 10-2 and 10-3)”, subparagraph “a”, “Parking space size”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-835. - Design standards (also see Figures 10-1, 10-2 and 10-3).**

(a) *Parking space size.* Each standard parking space shall not be less than nine (9) feet wide and eighteen (18) feet in length, and each accessible parking space shall be designed in accordance with ADA/Texas Accessibility Standards (TAS) accessible parking space shall not be less than 14 feet wide and 20 feet in length, exclusive of access aisles, and each space shall be served adequately by access aisles.”

**Section 12:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-892 “Development of towers”, of the Code of Ordinances of the City of La Porte, Texas, subparagraph “a”, “A tower shall be a permitted use in zoning district H-1”, and subparagraph “b”, “A tower shall be a conditional use of land in zoning districts B-1 and L-1”, are hereby amended to read as follows:

**“Sec. 106-892. - Development of towers.**

(a) *A tower shall be a permitted use of land in zoning district H-1 HI.* No person shall build, erect, or construct a tower upon any parcel of land within a zoning district designated H-1 HI unless a development permit shall have been issued by the site plan review committee of the city. Application shall be made to the site plan review committee in the manner provided in this chapter.

(b) *A tower shall be a conditional use of land in zoning districts B-1 and L-1 BI and LI.* No person shall build, erect, or construct a tower upon any parcel of land within any zoning district set forth above unless a development permit shall have been issued by the site plan review committee of the city and approval of the city planning and zoning commission is obtained.”

**Section 13:** That Chapter 106, “Zoning,” Article I. “In General”, Section 106-928 “Architectural design guidelines”, subparagraph “e”, “Exterior Façade Materials”, of the Code of Ordinances of the City of La Porte, Texas, is hereby amended to read as follows:

**“Sec. 106-928. - Architectural design guidelines.**

(e) Exterior Façade Materials

(1) Allowed exterior materials are categorized into the following three groups, of which at least two materials from different groups shall be used in all exterior facades in Tier 1, Tier 2, and Tier 3:

a. Group A: Brick and stone

b. Group B: Stucco, architectural concrete block with integrated color (split face CMU), factory primed cementitious fiberboard in the form of lap siding or board and batten, EIFS (above 14 feet from grade only), and painted, colored or stamped tilt-wall

c. Group C: Metal, tile, wood

(2) Prohibited exterior materials include cinder block, vinyl, plastic, aggregate pea-gravel finished surfaces, and pre-engineered metal building siding.

(3) Primary façade treatment standards are applicable to Tier 1 buildings. The following shall apply to all exterior walls of Tier 1 buildings which are clearly visible from a public street or along an active storefront:

a. Primary Façades, excluding windows, doors, and other openings, shall be constructed of at least 80% Group A materials and up to 20% Group B materials. However, accent materials from Group C may be allowed in limited application for architectural features as approved by the director of planning and development or designee.

b. Buildings over 50,000 square feet may use Split-Face CMU (architectural block) for up to 20% of the primary façade, in addition to the 20% of Group B materials.

(4) Primary façade treatment standards are applicable to Tier 2 buildings. The following shall apply to all exterior walls of Tier 2 buildings which are clearly visible from a public street or along an active storefront:

Primary Facades, excluding windows, doors, and other openings, shall be constructed of at least 50% Group A materials and up to 50% Group B materials. However, accent materials from Group C may be allowed in limited application for architectural features as approved by the Director of Planning and Development or designee.

(5) Primary façade treatments standards are applicable to Tier 3 buildings. The following shall apply to all exterior walls of Tier 3 buildings which are clearly visible from a public street or along an active storefront:

Primary Facades, excluding windows, doors, and other openings, shall be constructed of at least 20% Group A materials and up to 80% Group B materials. However, accent materials from Group C may be allowed in limited application for architectural features as approved by the Director of Planning and Development or designee.

(46) Building color requirements are applicable to buildings in all tiers. The dominant color of all buildings shall be muted shades of color. Black and stark white shall not be used except as an accent color. There are no restrictions on accent colors which comprise less than 1.0% of the building face, except that florescent colors are prohibited.

(7) All gas station development categorized as Tier 1 buildings is required to wrap each of the canopy support columns over the service islands entirely from the ground to the bottom of the canopy. All gas station developments categorized as Tier 2 or Tier 3 buildings shall be required to wrap the base of any support posts up to a height of 4 feet from the ground in stone or masonry to match that required on the primary façade of the building.”

**Section 14.** Any person, as defined in Section 1.07 (27), Texas Penal Code, who shall violate any provision of the ordinance, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed TWO THOUSAND DOLLARS (\$2,000.00).

**Section 15.** Each and every provision, paragraph, sentence and clause of this Ordinance has been separately considered and passed by the City Council of the City of La Porte, Texas, and each said provision would have been separately passed without any other provision, and if any provision hereof shall be ineffective, invalid or unconstitutional, for any cause, it shall not impair or affect the remaining portion, or any part thereof, but the valid portion shall be in force just as if it had been passed alone.

**Section 16.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

**Section 17.** 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 18.** This Ordinance shall be effective fourteen (14) days after its passage and approval. The City Secretary shall give notice of the passage of this ordinance by causing the caption hereof to be published in the official newspaper of the City of La Porte at least once within ten (10) days after the passage of this ordinance.

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF LA PORTE, TEXAS

By: \_\_\_\_\_  
Louis R. Rigby, Mayor

ATTEST:

\_\_\_\_\_  
Patrice Fogarty, City Secretary

APPROVED:

\_\_\_\_\_  
Clark T. Askins, Assist. City Attorney



May 4, 2016

Honorable Mayor Rigby and City Council  
City of La Porte

RE: Proposed Ordinance Amending Chapter 106 "Zoning"

Dear Mayor Rigby and City Council:

The La Porte Planning and Zoning Commission held a public hearing at the April 21, 2016 meeting to consider approval of an ordinance amending certain provisions of Chapter 106 (Zoning) of the City of La Porte's Code of Ordinances in connection with an annual review of Chapter 106 (Zoning) by the Commission. The subject matter of the proposed modifications to Chapter 106 (Zoning) include:

- 1) Regulations concerning the revocation of a Zoning Permit
- 2) Procedures for submission of findings/recommendations by the Planning and Zoning Commission to the City Council
- 3) Modifications to scope of special exception for review-by Zoning Board of Adjustment
- 4) Revision to the procedure for adoption of the Official Zoning Map
- 5) Changes to Commercial and Industrial Use Tables, including designation of certain uses
- 6) Modification to how zone district boundaries are interpreted
- 7) Requiring a 50-foot yard adjacent to Large Lot (LL) District for PUD developments
- 8) Modifications to the domestic livestock provisions
- 9) Modifications to location of heavy truck uses
- 10) Clarification of parking space size
- 11) Clarification of zone districts that allow for development of telecommunication towers
- 12) Modifications to exterior façade requirements in the city's building design guidelines

The Commission voted unanimously to recommend approval of the provisions as included in the drafted ordinance presented in the Request for City Council Agenda Item.

Respectfully submitted,

Hal Lawler  
Chairman, Planning and Zoning Commission

cc: Tim Tietjens, Director of Planning and Development  
Department File

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: May 23, 2016 Appropriation  
Requested By: Patrice Fogarty Source of Funds: N/A  
Department: City Secretary's Office Account Number:  
Report:  Resolution:  Ordinance:  Amount Budgeted:  
Other:  Amount Requested:  
**Attachments :** Budgeted Item:  YES  NO

### 1. Ordinance

---

#### **SUMMARY & RECOMMENDATIONS**

Section 2.08 of the City Charter provides that at the first meeting of Council after canvassing the general election and any run-off election, City Council shall elect one of its members to serve as mayor pro tem for a one-year term or until a successor is appointed and has qualified. If a vacancy occurs in the office of mayor, or in the case of his absence or disability, the mayor pro tem shall act as mayor until a successor is elected and has qualified or until the mayor is again able to assume his duties of office.

There was no May 7, 2016 general election to canvass. According to the Election Code, the period to canvass is the 3<sup>rd</sup> through the 11<sup>th</sup> day after election day (May 10-18). Therefore, pursuant to the Charter, any Council meeting after May 10 would be appropriate for a mayor pro tem to be elected.

---

#### **Action Required of Council:**

Consider approval or other action to adopt an ordinance electing a Mayor Pro-Tem.

---

#### **Approved for City Council Agenda**

\_\_\_\_\_  
**Corby D. Alexander, City Manager**

\_\_\_\_\_  
**Date**

ORDINANCE NO. 2016-\_\_\_\_\_

AN ORDINANCE PROVIDING FOR THE ELECTION OF A MEMBER OF THE CITY COUNCIL TO SERVE AS MAYOR PRO-TEM OF THE CITY OF LA PORTE, TEXAS, FOR THE PERIOD JUNE 1, 2016, THROUGH MAY 31, 2017, OR UNTIL A SUCCESSOR HAS BEEN APPOINTED AND HAS QUALIFIED; 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:

**Section 1.** The City Council of the City of La Porte hereby elects \_\_\_\_\_ to serve as Mayor Pro-Tem of the City of La Porte, for the period June 1, 2016, through May 31, 2017, or until a successor has been appointed and has qualified.

**Section 2.** The Mayor Pro-Tem shall serve in such office during said term, and pursuant to the Charter of the City of La Porte shall during the vacancy, absence or incapacity of the Mayor have all powers and duties of the Mayor of the City of La Porte during such vacancy, absence or incapacity of the Mayor. The Mayor Pro-Tem shall act as Mayor until a successor is elected and has qualified or until the Mayor is again able to assume his duties of office, as the case may be.

**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 the 23<sup>rd</sup> day of May, 2016.

CITY OF LA PORTE

By: \_\_\_\_\_  
Louis R. Rigby  
Mayor

ATTEST:

---

Patrice Fogarty  
City Secretary

APPROVED:

---

Clark T. Askins  
Assistant City Attorney

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: May 23, 2016 Appropriation  
Requested By: Traci Leach Source of Funds: 015  
Department: Administration Account Number: \_\_\_\_\_  
Report:  Resolution:  Ordinance:  Amount Budgeted: \$75,000  
Other:  Amount Requested: N/A  
Attachments : Budgeted Item:  YES  NO

1. Proposed Monument Concepts
2. Wharton Weems Layout

---

### SUMMARY & RECOMMENDATIONS

In the FY16 budget, the City partnered with TXDOT to beautify the median entryway at Wharton Weems Blvd and SH146. TXDOT is currently underway on the construction of its portion of the project- removal of existing concrete, installation of pavers, and installation of irrigation and landscaping. The TXDOT work will occur in two time frames, with the demolition work happening now and the landscape and paver work occurring once the City's portion of the project is completed.

The City included \$75,000 in the CIP to construct an entryway monument. The City engaged an architectural design firm, Knudson LP, to create several design concepts for Council consideration. The concepts were built around the following parameters:

- Incorporate masonry components
- Thematically complement the homes at Lakes at Fairmont Green
- Present an inviting and attractive entryway to La Porte

Once the Council decides on a concept, staff will fine tune the design and Knudson will prepare the construction documents for bidding. Estimated construction cost at this time is approximately \$65,000.

Taking total design costs into consideration, total project costs will likely exceed \$75,000. Staff will be seeking additional funding via the H-GAC Downtown Revitalization Grant program to ensure adequate project funding. The H-GAC program is reimbursement based, with the City fronting the cost of construction and submitting documentation for reimbursement. Maximum program grant amount is \$25,000.

---

**Action Required of Council:**

Provide direction regarding the proposed concept design for the Wharton Weems entryway monument.

---

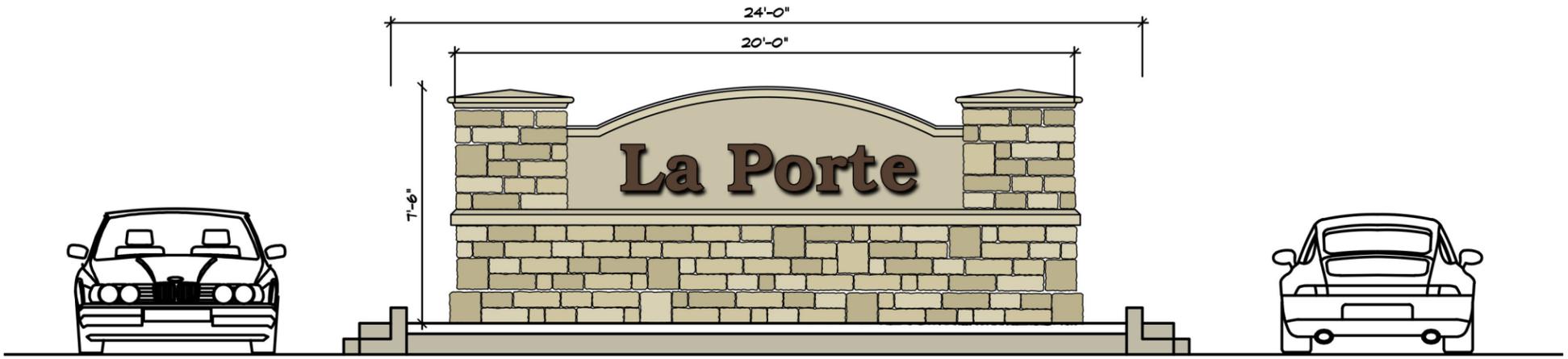
**Approved for City Council Agenda**

---

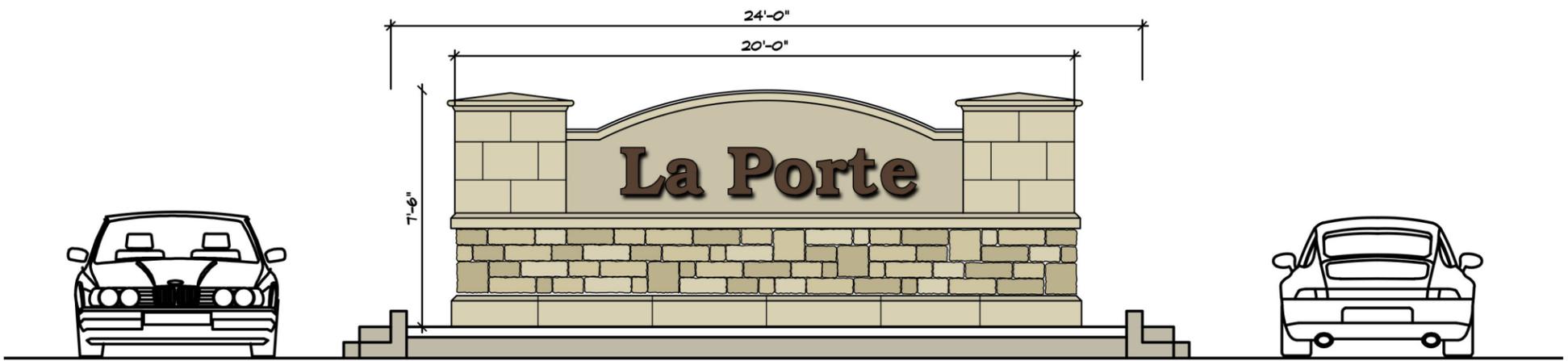
**Corby D. Alexander, City Manager**

---

**Date**



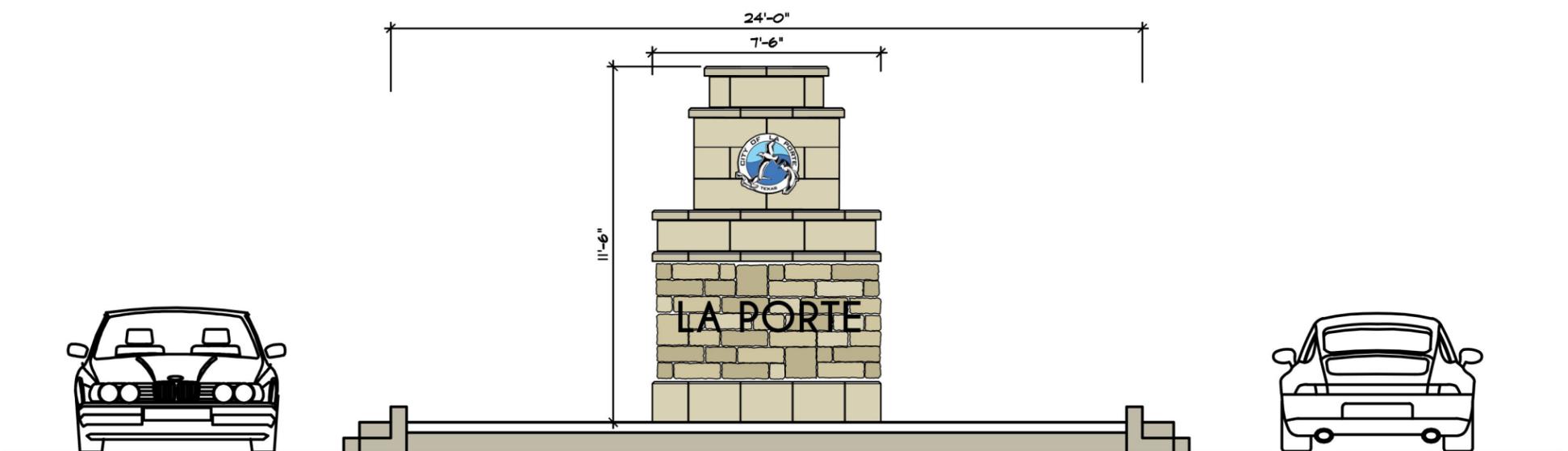
Option #1



Option #2



Option #3



Option #4

**SUMMARY OF QUANTITIES**

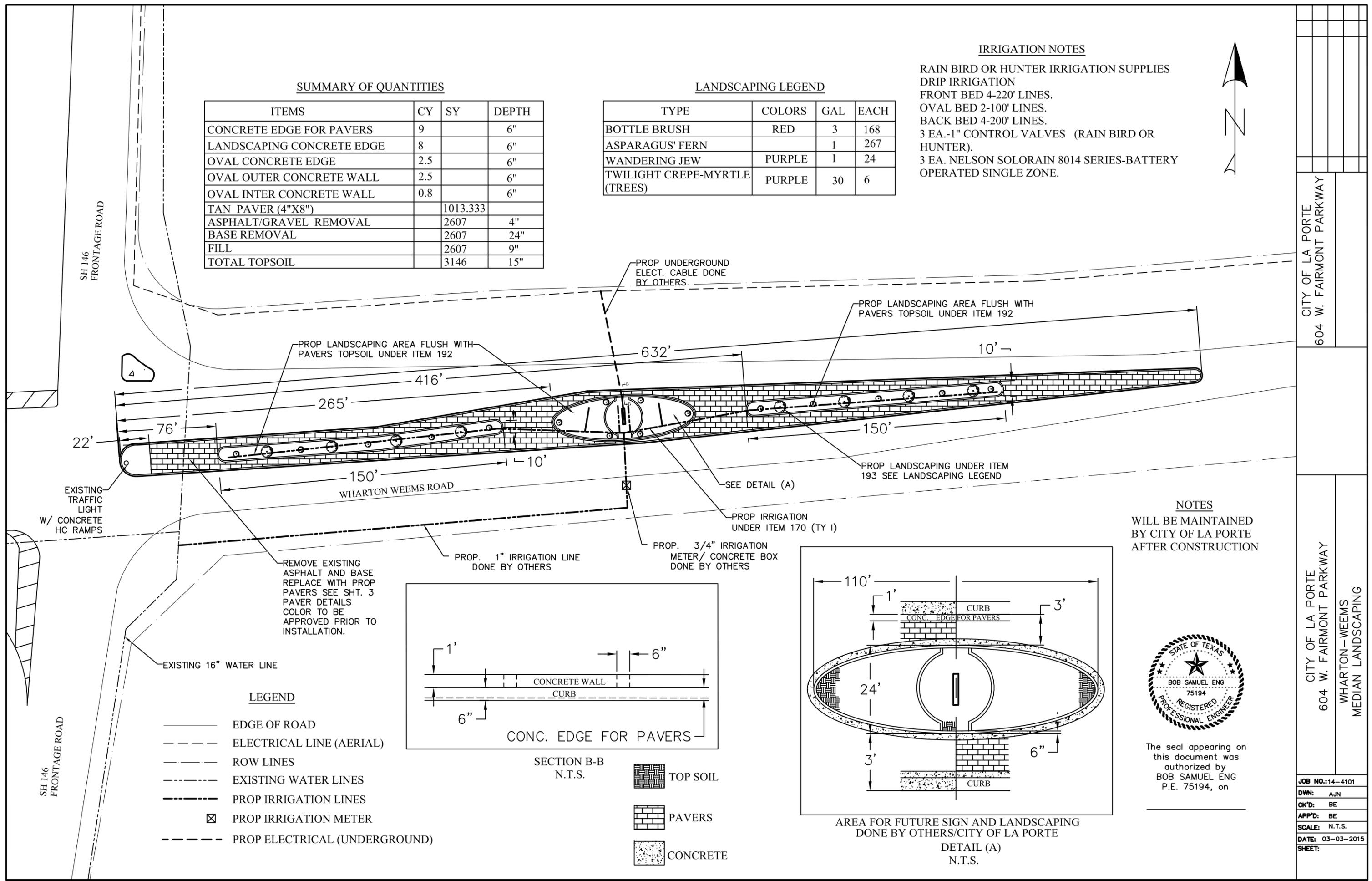
ITEMS	CY	SY	DEPTH
CONCRETE EDGE FOR PAVERS	9		6"
LANDSCAPING CONCRETE EDGE	8		6"
OVAL CONCRETE EDGE	2.5		6"
OVAL OUTER CONCRETE WALL	2.5		6"
OVAL INTER CONCRETE WALL	0.8		6"
TAN PAVER (4"X8")		1013.333	
ASPHALT/GRAVEL REMOVAL		2607	4"
BASE REMOVAL		2607	24"
FILL		2607	9"
TOTAL TOPSOIL		3146	15"

**LANDSCAPING LEGEND**

TYPE	COLORS	GAL	EACH
BOTTLE BRUSH	RED	3	168
ASPARAGUS' FERN		1	267
WANDERING JEW	PURPLE	1	24
TWILIGHT CREPE-MYRTLE (TREES)	PURPLE	30	6

**IRRIGATION NOTES**

RAIN BIRD OR HUNTER IRRIGATION SUPPLIES  
 DRIP IRRIGATION  
 FRONT BED 4-220' LINES.  
 OVAL BED 2-100' LINES.  
 BACK BED 4-200' LINES.  
 3 EA.-1" CONTROL VALVES (RAIN BIRD OR HUNTER).  
 3 EA. NELSON SOLORAIN 8014 SERIES-BATTERY OPERATED SINGLE ZONE.

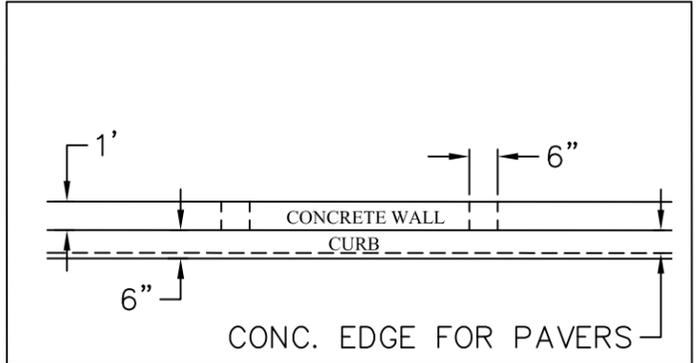


REMOVE EXISTING ASPHALT AND BASE REPLACE WITH PROP PAVERS SEE SHT. 3 PAVER DETAILS COLOR TO BE APPROVED PRIOR TO INSTALLATION.

EXISTING 16" WATER LINE

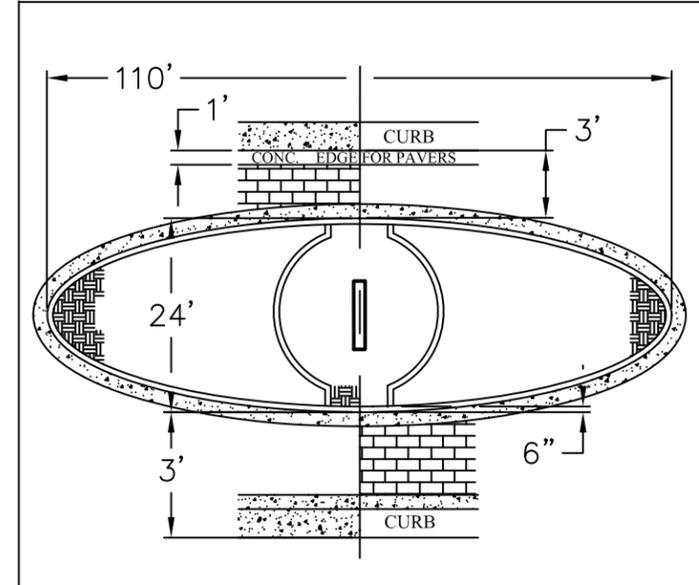
**LEGEND**

- EDGE OF ROAD
- - - ELECTRICAL LINE (AERIAL)
- - - ROW LINES
- - - EXISTING WATER LINES
- - - PROP IRRIGATION LINES
- ☒ PROP IRRIGATION METER
- - - PROP ELECTRICAL (UNDERGROUND)



SECTION B-B  
N.T.S.

- TOP SOIL
- PAVERS
- CONCRETE



AREA FOR FUTURE SIGN AND LANDSCAPING  
 DONE BY OTHERS/CITY OF LA PORTE  
 DETAIL (A)  
 N.T.S.

**NOTES**  
 WILL BE MAINTAINED  
 BY CITY OF LA PORTE  
 AFTER CONSTRUCTION



The seal appearing on this document was authorized by BOB SAMUEL ENG P.E. 75194, on

CITY OF LA PORTE 604 W. FAIRMONT PARKWAY				
CITY OF LA PORTE 604 W. FAIRMONT PARKWAY WHARTON-WEEMS MEDIAN LANDSCAPING				
JOB NO.: 14-4101	DWN: AJN	CK'D: BE	APP'D: BE	SCALE: N.T.S.
				DATE: 03-03-2015
				SHEET:



**Council Agenda Item  
May 23, 2016**

**9. (a) Receive report of the La Porte Development Corporation Board – Councilmember Engelken**

\*\*\*\*\*



**Council Agenda Item  
May 23, 2016**

**10. ADMINISTRATIVE REPORTS**

- Zoning Board of Adjustment Meeting, Thursday, May 26, 2016
- Memorial Day Observed, Monday, May 30, 2016

**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, Clausen, J. Martin, K. Martin, Kaminski, Zemanek, Leonard and Mayor Rigby

**12. EXECUTIVE SESSION**

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, in accordance with the authority contained in:

**Texas Government Code, Section 551.071(2)** – Consultations with Attorney: Meet with City Attorney to discuss legal issues presented by use of Harris County issued overweight/oversize permits by commercial motor vehicles operating in La Porte corporate limits.

**13. RECONVENE** into regular session and consider action, if any, on item(s) discussed in executive session.

**14. ADJOURN**

\*\*\*\*\*