

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



**CHUCK ENGELKEN**  
Councilmember District 2  
**DARYL LEONARD**  
Councilmember District 3  
**KRISTIN MARTIN**  
Councilmember District 4  
**JAY MARTIN**  
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 December 12, 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 Clark Askins, Assistant City Attorney.
- 3. PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance will be led by Councilmember Dottie Kaminski
- 4. PRESENTATIONS, PROCLAMATIONS, and RECOGNITIONS**
  - (a)** Recognition - Employees of the Third Quarter (2016) - Rachel Gomez and Trudy Rayburn - City of La Porte Emergency Medical Services (EMS) Department - Mayor Rigby
- 5. PUBLIC COMMENTS** (Limited to five minutes per person.)
- 6. CONSENT AGENDA** *(All consent agenda items are considered routine by City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember requests an item be removed and considered separately.)*
  - (a)** Consider approval or other action regarding minutes of the meeting held on November 14, 2016 - P. Fogarty
  - (b)** Consider approval or other action awarding Request For Proposal #17502 for Delinquent Ad Valorem Tax Collection Services - M. Dolby
  - (c)** Consider approval or other action regarding a Resolution authorizing publication of a notice of intention to issue certificates of obligation - M. Dolby
  - (d)** Consider approval or other action authorizing the Mayor to execute amendments to the Local Government Code Chapter 380 Agreement between the City of La Porte and Ybarra Restaurants, Inc., for waiver of payment for closure of street right-of-way in connection with the construction of a new El Toro restaurant - T. Leach
  - (e)** Consider approval or other action regarding an Ordinance amending Chapter 70 “Traffic and Vehicles” of the Code of Ordinances by amending truck route regulations to add site plan requirements for establishments offering fuel to commercial vehicles - C. Alexander
  - (f)** Consider approval or other action authorizing the Mayor to execute an Interlocal Agreement with the City of Morgan's Point to provide an emergency water main interconnect - D. Pennell
  - (g)** Consider approval or other action awarding Bid# 17005 for plastic garbage bags - D. Pennell

- (h) Consider approval or other action regarding an Ordinance vacating, abandoning, and closing a portion of N. 25th Street and West Polk Street rights-of-way - B. Sterling
- (i) Consider approval or other action regarding an Ordinance abandoning and releasing an existing 16-foot-wide public utility easement located within the abandoned east/west alley of Block 48, Town of La Porte, Harris County, Texas - B. Sterling
- (j) Consider approval or other action regarding a Resolution reaffirming the City's Investment Policy - S. Wolny

**7. PUBLIC HEARINGS AND ASSOCIATED ORDINANCES**

- (a) Continue public hearing to receive comments on the Dangerous Building Board recommendation of condemnation of dangerous/substandard buildings located at 0 S. Lobit and 3313 Bayer; consider approval or other action regarding ordinances for condemnation of dangerous/substandard buildings located at 0 S. Lobit and 3313 Bayer - M. Huber

**8. AUTHORIZATIONS**

- (a) Consider approval or other action Bid# 16018 for City of La Porte Depot Expansion - C. Alexander

**9. DISCUSSION AND POSSIBLE ACTION**

- (a) Discussion and possible action regarding the City of La Porte's participation in branch early voting with La Porte Independent School District during the May 2017 general election - P. Fogarty

**10. REPORTS**

- (a) Receive report of La Porte Development Corporation Board - Councilmember Engelken
- (b) Receive report on the Gilley's development project - T. Leach/ D. Miles
- (c) Receive report for ONE Solution - M. Dolby

**11. ADMINISTRATIVE REPORTS**

- Zoning Board of Adjustment Meeting, Tuesday, December 13, 2016
- Christmas Holidays, Friday, December 23, 2016 and Monday, December 26, 2016
- New Year Holiday, Monday, January 2, 2017
- City Council Meeting, Monday, January 9, 2017
- City Council Meeting, Monday, January 23, 2017

- 12. COUNCIL COMMENTS** regarding matters appearing on the agenda; recognition of communitymembers, city employees, and upcoming events; inquiry of staff regarding specific factual information or existing policies - Councilmembers Kaminski, Zemanek, Leonard, Engelken, Earp, Clausen, J. Martin, K. Martin and Mayor Rigby

**13. 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 December 12, 2016, agenda of items to be considered by the City Council was posted on the City Hall bulletin board on December 6, 2016.

*Patrice Fogarty*



**Council Agenda Item  
December 12, 2016**

1. **CALL TO ORDER**
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5. **PUBLIC COMMENTS** (Limited to five minutes per person.)

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## Employees of the 3<sup>rd</sup> Quarter – 2016 Rachel Gomez and Trudy Rayburn - EMS

Rachel Gomez and Trudy Rayburn both currently serve the La Porte community as Lieutenants in the Emergency Medical Services division. Rachel joined the La Porte team in January of 2000 and Trudy in March of 2009. Both employees perform their daily jobs with high levels of professionalism and dedication. They lead their respective shifts by example with their positive attitudes and their care for patients. They continually seek better ways to serve the community and represent the City well.

In the month of July, these two employees teamed up for a kid friendly food drive benefitting The Bridge Over Troubled Waters, an agency dedicated to offering support for victims of domestic violence. They had brochures printed, placed food drop boxes in several city buildings, and did a food drive at Kroger where they filled the back of an ambulance with donations. In total, their efforts collected over 1,700 pounds of food. The Bridge was very grateful for the support received from the community, and specifically for the organization and leadership given by Rachel and Trudy.

For their ongoing service, their high levels of performance, and their initiative to go above and beyond to provide support through this food drive, please join me in recognizing Rachel Gomez and Trudy Rayburn as the Employees of the Quarter.



**Council Agenda Item  
December 12, 2016**

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**MINUTES OF THE REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF LA PORTE  
NOVEMBER 14, 2016**

The City Council of the City of La Porte met in a regular meeting on **Monday, November 14, 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:

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

2. **INVOCATION** – The invocation was given by Dee Spears, Fairmont Park Church.

3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by Councilmember Kristin Martin.

4. **PRESENTATIONS, PROCLAMATIONS and RECOGNITIONS**

(a) Recognition – 2016 City University Participants – Mayor Rigby

Mayor Rigby recognized the 2016 City University Participants.

(b) Proclamation – Tony Constanzo Day – Mayor Rigby

Mayor Rigby presented Tony Constanzo with a proclamation for Tony Constanzo Day.

(c) Recognition – Employees of the Third Quarter (2016) – Rachel Gomez and Trudy Rayburn – City of La Porte Emergency Medical Services (EMS) Department – Mayor Rigby

Recognition of Employees of the Third Quarter 2016 were rescheduled to the December 12, 2016, Council meeting.

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

There were no public comments.

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 meeting held on October 24, 2016 – P. Fogarty

- (b) Consider approval or other action regarding a Resolution appointing one representative and one alternate to the H-GAC 2017 General Assembly and Board of Directors – P. Fogarty
- (c) Consider approval or other action authorizing the Mayor to execute an Interlocal Agreement with Harris County to construct sidewalk, drainage and traffic control improvements along Park Drive from S. Blackwell to Fairmont Parkway – S. Valiante
- (d) Consider approval or other action authorizing the Mayor to execute an Interlocal Agreement with Harris County to construct a sidewalk along Park Drive from S. Lobit to San Jacinto Street – S. Valiante
- (e) Consider approval or other action awarding bid for vehicle and equipment replacements for Fiscal Year 2016-2017 – S. Valiante
- (f) Consider approval or other action regarding the purchase of playground equipment in the amount of \$52, 949.52 from GameTime, for Lomax Park and Tom Brown Park – R. Epting
- (g) Consider approval or other action authorizing the purchase of medical treatment devices in the amount of \$57,603.33 from Physio-Control, Inc. – R. Nolen
- (h) Consider approval or other action regarding the purchase of computers through PCMG (PCMall Gov) utilizing Buy Board Contract 498-15) – R. Valdez
- (i) Consider approval or other action regarding to roll over requested encumbrances from La Porte Fiscal Year 2016 Budget to La Porte Fiscal 2017 Budget – M. Dolby
- (j) Consider approval or other action accepting the Fiscal Year 2016 audit/asset forfeiture report and associated financial records as required by Chapter 59 of the Texas Code of Criminal Procedure – K. Adcox

Councilmember J. Martin made a motion to approve the Consent Agenda items pursuant to staff recommendations. Councilmember Kaminski seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

## 7. AUTHORIZATIONS

- (a) Consider approval or other action regarding recommendation of City Staff and the Chapter 172 Employee Retiree Insurance and Benefits Committee for award of bid proposal to vendors for Medical; Pharmacy; Stop Loss; Medical and Vision benefits plans – M. Hartleib

Human Resources Manager Matt Hartleib introduced John Heerwagen, who presented a summary. These are the following staff recommendations:

Third Party Administration of Medical and Pharmacy Plans – Recommended is the proposal received from the City's current provider, Aetna, which reduces administrative costs and increases the share of Rx rebates the City retains;

Stop Loss – Recommended is the proposal received from Partner RE which would result in a projected savings over the current plan with Highmark.

Medicare – Recommended is the proposal received from Aetna, which is the current provider. This recommendation will result in no change to our retirees' coverage and no increase to City cost.

Vision – The City's current provider for the voluntary vision plan did not submit a proposal. Recommended is the proposal from Avesis, which includes benefits that closely match the current plan and a slight reduction in cost to participants.

Councilmember Zemanek made a motion to approve the recommendation of City Staff and the Chapter 172 Employee Retiree Insurance and Benefits Committee for award of bid proposal to vendors for Medical; Pharmacy; Stop Loss; Medical and Vision benefits plans. Councilmember K. Martin seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

- (b) Consider approval or other action regarding vendor service contract for mowing of City-maintained properties – R. Epting

Parks and Recreation Director Rosalyn Epting presented a summary.

Mayor Rigby asked if Camp Landscape Services were the only bidder, would the City have to go out for bid a second time. Finance Director Dolby and Purchasing Manager Cherell Daeumer both responded, probably not.

Mayor Rigby asked Assistant City Attorney Clark Askins if there is a fourth option. Mr. Askins responded the City should choose from the bids that were submitted.

Councilmember Earp made a motion to reject the first bids and accept the bid of \$286,280 from Cornerstone Maintenance. Councilmember Leonard seconded the motion. **MOTION PASSED 8/1.**

Ayes:	Councilmembers Earp, Zemanek, Kaminski, Leonard, Clausen, J. Martin, K. Martin and Engelken
Nays:	Mayor Rigby
Absent:	None

## 8. DISCUSSION AND POSSIBLE ACTION

- (a) Discussion and possible action regarding design of the elevated storage tank artwork on 4<sup>th</sup> Street and Main Street – S. Valiante

Public Works Director Sharon Valiante presented a summary.

Councilmember Zemanek commented he likes La Porte in the middle of the tank, the La Porte logo on the left and the Bulldog artwork on the right.

Councilmember Clausen made a motion for the Bulldog logo at 0° and 180° and the word “La Porte” at 90° and 270°. Councilmember Zemanek seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

- (b) Discussion and possible action regarding City of La Porte Parks and Recreation Department Operational Analysis – R. Epting

Parks and Recreation Director Rosalyn Epting presented a summary and introduced Melissa Chew, Project Consultant with GreenPlay LLC.

After the presentation, Councilmember Leonard asked if Staff and the Parks and Recreation Department were made aware of alternative funding opportunities that other cities have used. Ms. Chew responded yes, they were provided with a list of over 100 funding strategies.

Councilman Zemanek stated the entire report is all of the negatives and none of the positives, and he indicated concern for the cost of making changes to comply with the proposed organization chart.

Councilmember Earp asked if the Master Plan was reviewed and re-evaluated. Ms. Chew responded yes. He also asked if the comparison to other cities was apples to apples or if it is slightly skewed. Ms. Epting responded that there are definitely subtle differences between what each city does, which means the information is skewed somewhat. She will be looking at this very closely.

Councilmember Engelken stated he is disappointed in the entire study and overall product, including performance metrics indicating some strengths don't coincide with indicated weaknesses. He said the study indicates staff doesn't know what the metrics are, so what are they being evaluated on? He said the study indicates the City does not advertise and toot our horn; however, the website and newsletters indicate all events.

Mayor Rigby asked if two new positions were being recommended on the organizational chart. Ms. Chew responded there are no additional full-time positions being recommended. Mayor Rigby asked if the Manager position is considered higher than the Superintendent position. Ms. Chew responded yes. Mayor Rigby commented Staff should not do anything with the organization until Human Resources Manager Matt Hartleib has completed the compensation study.

Mayor Rigby asked if the plan is to take additional comments. City Manager Corby Alexander asked Council to provide additional feedback before the next City Council meeting. Council does not have to reiterate what was said at this meeting, but any additional comments are welcome.

- (c) Discussion and possible action regarding future operations of the La Porte Boys Baseball Association – C. Alexander

Parks and Recreation Director Rosalyn Epting presented a summary.

Councilmember Engelken commented he is disappointed in the timeline of meeting the objective set this past summer, and there needs to be more accountability on the accounting side.

Councilmember Earp questioned how tournaments are handled. Heath Patterson, President of the La Porte Boys Baseball Association advised the association does not have a Tournament Director; but the association will host their own tournaments, and payments will be accepted by cashier's checks and credit cards.

Councilmember Zemanek commented he has a problem with subletting out the field.

Mayor Rigby stated there needs to be an agreement between the City of La Porte and the La Porte Boys Baseball Association.

Councilmember Engelken commented there was clear direction that a good and solid agreement was to be done by September 11, 2016; and here we are, two months later without one.

Councilmember Zemanek asked Finance Director Michael Dolby if he is confident that the changes have been addressed with the La Porte Boys Baseball Association. Mr. Dolby responded the association is working very well with Staff and are being very forthcoming.

Parks and Recreation Director Rosalyn Epting asked Council for direction to review the current agreement with the association; information regarding tournament play; general bookkeeping and registration; concession stand operation; umpires and fields.

Councilmember Clausen made a motion for Staff and the La Porte Boys Baseball Association to draft an agreement with items discussed and also those found in the agenda request and come back at a later date for approval. Councilmember Kaminski seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

## 9. REPORTS

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

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

**10. ADMINISTRATIVE REPORTS**

There were no administrative reports.

**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.

Councilmembers K. Martin; Zemanek and Clausen congratulated Tony Constanzo; participants of the 2016 City University and wished everyone a Happy Thanksgiving; Councilmember Kaminski congratulated Tony Constanzo; participants of the 2016 City University and commented she attended the Harvest Banquet that was well attended; Councilmember Leonard congratulated the participants of the 2016 City University and expressed condolences on the passing of La Porte Independent School District's retired teacher and coach Jerry Schima; Councilmember Engelken congratulated Tony Constanzo; participants of the 2016 City University; thanked the Parks and Recreation Department for the report; La Porte Boys Baseball Association President Heath Patterson and wished everyone a Happy Thanksgiving; Councilmember Earp congratulated Tony Constanzo; participants of the 2016 City University; wished everyone a Happy Thanksgiving and thanked La Porte Boys Baseball Association President Heath Patterson; Councilmember J. Martin congratulated Tony Constanzo; participants of the 2016 City University; the City for moving forward with the Park Drive sidewalks and Human Resources Manager Matt Hartleib for a great job on the Medical; Pharmacy; Stop Loss; Medical and Vision benefits plans and Mayor Rigby congratulated Tony Constanzo; participants of the 2016 City University; informed he attended the Veterans Day Ceremony at the high school; thanked Councilmember Leonard for serving the country and advised he and Mayors Bechtel; Mouton and Don Carlos attended a meeting in Austin with Speaker of the Texas House of Representatives Joe Straus to speak and address issues in the upcoming legislative session such as revenue caps; annexation and transportation. Lastly, Mayor Rigby wished Public Works Director Sharon Valiante the best in her future endeavors at the City of Fulshear.

**12. ADJOURN** - There being no further business, Councilmember Engelken made a motion to adjourn the meeting at 8:30 p.m. Councilmember Leonard seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

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Patrice Fogarty, City Secretary

Passed and approved on December 12, 2016.

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Mayor Louis R. Rigby

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: December 12, 2016 Appropriation  
Requested By: Michael Dolby, Director of Finance Source of Funds: N/A  
Department: Finance Account Number: \_\_\_\_\_  
Report:  Resolution:  Ordinance:  Amount Budgeted: \_\_\_\_\_  
Other:  Amount Requested: \_\_\_\_\_  
Budgeted Item:  YES  NO

### Attachments :

1. RFP Evaluation Forms
2. Performance Record
3. RFP Matrix

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### SUMMARY & RECOMMENDATIONS

At the October 10, 2016, Council Meeting, Council reviewed the evaluation matrix for the Request for Proposal for delinquent tax collection services. Staff was instructed to proceed with the RFP using the evaluation matrix that was presented.

RFP 17502 for Delinquent Ad Valorem Tax Collections Services was advertised in the Bay Area Observer on

October 20<sup>th</sup> & 27<sup>th</sup>, posted on Public Purchase and the City's website. Proposals were received from Linebarger Goggan Blair & Sampson, LLP (Linebarger) and Perdue Brandon Fielder Collins & Mott LLP (Perdue). The proposals were evaluated using the approved matrix with Linebarger scoring a 90 and Perdue a 75.

Based on the evaluation of the proposals, staff is recommending award of RFP #17502 for the Delinquent Ad Valorem Tax Collection Services to Linebarger Goggan Blair & Sampson, LLP.

### Action Required of Council:

Consider approval or other action awarding for Request For Proposal #17502 for Delinquent Ad Valorem Tax Collection. - M. Dolby

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**Approved for City Council Agenda**

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**Corby D. Alexander, City Manager**

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**Date**

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**CITY OF LA PORTE**

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**RFQ EVALUATION FORM****RFP 17502 DELINQUENT AD VALOREM TAX COLLECTION SERVICE**Vendor Name: Linebarger Goggan Blair & Sampson, LLP

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<b>Criterion</b>	<b>Maximum Points</b>	<b>Score</b>
1.) Demonstrated results of the performance of the firm for delinquent tax collections. Based on a three year (2013-2016 tax years) summary for four surrounding existing municipal clients of delinquent tax collections that have been achieved.	30	20
2.) Proven experience in the field of delinquent property tax collections.	25	25
3.) Experience of personnel assigned to the City's account in connection with the collection of delinquent taxes.	20	20
4.) Historical performance levels and demonstrated capabilities. (Factors for this criteria will be based on suits filed and dismissals from July 1,2013- June 30, 2016 from four surrounding existing municipal clients)	20	20
5.) Clarity of proposal and supporting data.	5	5
Totals:		90

Signature: Cherell Daeumer, Purchasing Manager

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**CITY OF LA PORTE**

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**RFQ EVALUATION FORM****RFP 17502 DELINQUENT AD VALOREM TAX COLLECTION SERVICE**Vendor Name: Perdue Brandon Fielder Collins and Mott LLP

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Criterion	Maximum Points	Score
1.) Demonstrated results of the performance of the firm for delinquent tax collections. Based on a three year (2013-2016 tax years) summary for four surrounding existing municipal clients of delinquent tax collections that have been achieved.	30	10
2.) Proven experience in the field of delinquent property tax collections.	25	25
3.) Experience of personnel assigned to the City's account in connection with the collection of delinquent taxes.	20	20
4.) Historical performance levels and demonstrated capabilities. (Factors for this criteria will be based on suits filed and dismissals from July 1,2013- June 30, 2016 from four surrounding existing municipal clients)	20	15
5.) Clarity of proposal and supporting data.	5	5
Totals:		75

Signature: Cherell Daeumer, Purchasing Manager

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**PERFORMANCE RECORD  
LINEBARGER GOGGAN BLAIR & SAMPSON, LLP**

	Dickinson	Galveston	League City	Missouri City	July 1, 2013 - June 30, 2014	Dickinson	Galveston	League City	Missouri City	July 1, 2014 - June 30, 2015	Dickinson	Galveston	League City	Missouri City	July 1, 2015 - June 30, 2016	3 Year Average
<b>Collection Records</b>																
Number of Accounts	1163	4132	2486	1363	2286	n/a	n/a	n/a	1374	n/a	n/a	n/a	n/a	n/a	n/a	2286
Beginning Delinquent Taxes Receivable for all delinquent tax years on July 1.	\$ 318,423	\$ 2,078,335	\$ 1,361,832	\$ 885,632	\$ 1,161,056	\$ 323,272	\$ 2,043,220	\$ 1,452,635	\$ 949,419	\$ 1,192,137	\$ 335,355	\$ 2,164,246	\$ 1,371,229	\$ 1,026,732	\$ 1,224,391	\$ 1,192,528
Total Delinquent Taxes Collected	\$ 121,910	\$ 1,014,932	\$ 698,857	\$ 421,621	\$ 564,330	\$ 94,126	\$ 912,558	\$ 667,516	\$ 486,600	\$ 540,200	\$ 132,390	\$ 1,154,493	\$ 676,903	\$ 570,649	\$ 633,609	\$ 579,380
Total Penalties and Interest Collected	\$ 33,119	\$ 206,500	\$ 88,996	\$ 81,395	\$ 102,503	\$ 19,833	\$ 124,032	\$ 58,555	\$ 86,321	\$ 72,185	\$ 29,993	\$ 215,636	\$ 89,965	\$ 105,447	\$ 110,260	\$ 94,983
Collection Percentage (Base, P&I) for all delinquent tax years	48.69%	58.77%	57.85%	56.80%	55.53%	35.25%	50.73%	49.98%	60.34%	49.08%	48.42%	63.31%	55.93%	65.85%	58.38%	54%
<b>Litigation Records</b>																
Suits Filed	90	178	121	58	112	74	231	99	36	110	68	231	75	58	108	110
Primary Suits Filed	47	178	94	48	92	39	231	58	28	89	37	231	57	33	90	90
Intervenor Suits	43	0	27	10	20	35	0	41	8	21	31	0	18	25	19	20
Number of Demand Letters	473	1388	717	2784	1341	594	974	855	2833	1314	516	1026	1005	2879	1357	1337
Dismissals	24	58	65	22	42	23	79	29	11	36	12	52	25	22	28	35
<i>Dismissals as a % of suits filed</i>	27%	33%	54%	38%	38%	31%	34%	29%	31%	32%	18%	23%	33%	38%	26%	32%

**PERFORMANCE RECORD  
PERDUE BRANDON FIELDER COLLINS & MOTT LLP**

	Rosenberg	Friendswood	Lake Jackson	Alvin	July 1, 2013 - June 30, 2014	Rosenberg	Friendswood	Lake Jackson	Alvin	July 1, 2014 - June 30, 2015	Rosenberg	Friendswood	Lake Jackson	Alvin	July 1, 2015 - June 30, 2016	3 Year Average
<b>Collection Records</b>																
Number of Accounts	1333	1038	481	1159	1003	1331	1075	526	1184	1029	1302	1134	476	1128	1010	1014
Beginning Delinquent Taxes Receivable for all delinquent tax years on July 1.	\$ 379,774	\$ 506,517	\$ 111,565	\$ 454,960	\$ 363,204	\$ 326,615	\$ 404,775	\$ 104,695	\$ 438,611	\$ 318,674	\$ 303,836	\$ 493,309	\$ 127,581	\$ 437,830	\$ 340,639	\$ 340,839
Total Delinquent Taxes Collected	\$ 194,440	\$ 251,083	\$ 62,055	\$ 188,566	\$ 174,036	\$ 52,613	\$ 117,995	\$ 46,538	\$ 152,329	\$ 92,369	\$ 12,880	\$ 150,054	\$ 73,746	\$ 179,612	\$ 104,073	\$ 123,493
Total Penalties and Interest Collected	\$ 39,345	\$ 52,707	\$ 13,592	\$ 45,506	\$ 37,788	\$ 43,822	\$ 26,024	\$ 11,046	\$ 54,159	\$ 33,763	\$ 31,335	\$ 27,536	\$ 14,347	\$ 51,490	\$ 31,177	\$ 34,242
Collection Percentage (Base, P&I) for all delinquent tax years	61.56%	59.98%	67.81%	51.45%	60.20%	29.53%	35.58%	55.00%	47.08%	41.80%	14.55%	36.00%	69.05%	52.78%	43.10%	48%
<b>Litigation Records</b>																
Suits Filed	56	21	11	255	86	67	10	16	76	42	51	16	14	172	63	64
Primary Suits Filed	29	19	11	38	24	48	9	16	16	22	27	13	14	28	21	22
Intervenor Suits	27	2	0	38	17	19	1	0	15	9	24	3	0	28	14	13
Number of Demand Letters	1011	598	472	1216	824	1632	398	392	994	854	1296	478	420	1061	814	831
Dismissals	20	23	3	8	14	9	6	5	4	6	24	3	7	14	12	11
<i>Dismissals as a % of suits filed</i>	36%	110%	27%	3%	16%	13%	60%	31%	5%	14%	47%	19%	50%	8%	19%	16%

**PERFORMANCE RECORD  
LINEBARGER GOGGAN BLAIR & SAMPSON, LLP**

	Dickinson	Galveston	League City	Missouri City	July 1, 2013 - June 30, 2014	Dickinson	Galveston	League City	Missouri City	July 1, 2014 - June 30, 2015	Dickinson	Galveston	League City	Missouri City	July 1, 2015 - June 30, 2016	3 Year Average
<b>Collection Records</b>																
Number of Accounts	1099	4277	2152	1380	2227	1145	4084	2250	1412	2223	1163	4132	2486	1363	2286	2245
Beginning Delinquent Taxes Receivable for all delinquent tax years on July 1.	\$ 318,423	\$ 2,078,335	\$ 1,361,832	\$ 885,632	\$ 1,161,056	\$ 323,272	\$ 2,043,220	\$ 1,452,635	\$ 949,419	\$ 1,192,137	\$ 335,355	\$ 2,164,246	\$ 1,371,229	\$ 1,026,732	\$ 1,224,391	\$ 1,192,528
Total Delinquent Taxes Collected	\$ 121,910	\$ 1,014,932	\$ 698,857	\$ 421,621	\$ 564,330	\$ 94,126	\$ 912,558	\$ 667,516	\$ 486,600	\$ 540,200	\$ 132,390	\$ 1,154,493	\$ 676,903	\$ 570,649	\$ 633,609	\$ 579,380
Total Penalties and Interest Collected	\$ 33,119	\$ 206,500	\$ 88,996	\$ 81,395	\$ 102,503	\$ 19,833	\$ 124,032	\$ 58,555	\$ 86,321	\$ 72,185	\$ 29,993	\$ 215,636	\$ 89,965	\$ 105,447	\$ 110,260	\$ 94,983
Collection Percentage (Base, P&I) for all delinquent tax years	48.69%	58.77%	57.85%	56.80%	55.53%	35.25%	50.73%	49.98%	60.34%	49.08%	48.42%	63.31%	55.93%	65.85%	58.38%	54%
<b>Litigation Records</b>																
Suits Filed	90	178	121	58	112	74	231	99	36	110	68	231	75	58	108	110
Primary Suits Filed	47	178	94	48	92	39	231	58	28	89	37	231	57	33	90	90
Intervenor Suits	43	0	27	10	20	35	0	41	8	21	31	0	18	25	19	20
Number of Demand Letters	473	1388	717	2784	1341	594	974	855	2833	1314	516	1026	1005	2879	1357	1337
Dismissals	24	58	65	22	42	23	79	29	11	36	12	52	25	22	28	35
<i>Dismissals as a % of suits filed</i>	27%	33%	54%	38%	38%	31%	34%	29%	31%	32%	18%	23%	33%	38%	26%	32%

**PERFORMANCE RECORD  
PERDUE BRANDON FIELDER COLLINS & MOTT LLP**

	Rosenberg	Friendswood	Lake Jackson	Alvin	July 1, 2013 - June 30, 2014	Rosenberg	Friendswood	Lake Jackson	Alvin	July 1, 2014 - June 30, 2015	Rosenberg	Friendswood	Lake Jackson	Alvin	July 1, 2015 - June 30, 2016	3 Year Average
<b>Collection Records</b>																
Number of Accounts	1333	1038	481	1159	1003	1331	1075	526	1184	1029	1302	1134	476	1128	1010	1014
Beginning Delinquent Taxes Receivable for all delinquent tax years on July 1.	\$ 379,774	\$ 506,517	\$ 111,565	\$ 454,960	\$ 363,204	\$ 326,615	\$ 404,775	\$ 104,695	\$ 438,611	\$ 318,674	\$ 303,836	\$ 493,309	\$ 127,581	\$ 437,830	\$ 340,639	\$ 340,839
Total Delinquent Taxes Collected	\$ 194,440	\$ 251,083	\$ 62,055	\$ 188,566	\$ 174,036	\$ 52,613	\$ 117,995	\$ 46,538	\$ 152,329	\$ 92,369	\$ 12,880	\$ 150,054	\$ 73,746	\$ 179,612	\$ 104,073	\$ 123,493
Total Penalties and Interest Collected	\$ 39,345	\$ 52,707	\$ 13,592	\$ 45,506	\$ 37,788	\$ 43,822	\$ 26,024	\$ 11,046	\$ 54,159	\$ 33,763	\$ 31,335	\$ 27,536	\$ 14,347	\$ 51,490	\$ 31,177	\$ 34,242
Collection Percentage (Base, P&I) for all delinquent tax years	61.56%	59.98%	67.81%	51.45%	60.20%	29.53%	35.58%	55.00%	47.08%	41.80%	14.55%	36.00%	69.05%	52.78%	43.10%	48%
<b>Litigation Records</b>																
Suits Filed	56	21	11	255	86	67	10	16	76	42	51	16	14	172	63	64
Primary Suits Filed	29	19	11	38	24	48	9	16	16	22	27	13	14	28	21	22
Intervenor Suits	27	2	0	38	17	19	1	0	15	9	24	3	0	28	14	13
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<i>Dismissals as a % of suits filed</i>	36%	110%	27%	3%	16%	13%	60%	31%	5%	14%	47%	19%	50%	8%	19%	16%

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested:	December 12, 2016	Appropriation
Requested By:	Michael Dolby, Director of Finance	Source of Funds: N/A
Department:	Finance	Account Number: N/A
Report: <input type="radio"/>	Resolution: <input checked="" type="radio"/> Ordinance: <input type="radio"/>	Amount Budgeted: _____
Other: <input type="radio"/>	_____	Amount Requested: N/A
		Budgeted Item: <input checked="" type="radio"/> YES <input type="radio"/> NO

### Attachments :

1. **Plan of Finance 11 22 16**
2. **Resolution**
3. **Debt Capacity**

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### SUMMARY & RECOMMENDATIONS

During Council budget workshops, Staff presented several key wastewater infrastructure improvement projects that require funding. Staff applied for and received approval of a loan of (\$10,635,000) through the Texas Water Development Board.

Staff is requesting to move forward with funding the projects through a certificate of obligation. Staff is requesting permission to publish a notice of intent to issue debt in a newspaper of general circulation within the City for two consecutive weeks. The date of the first publication is to be at least thirty-one days (31) before date set as passage of ordinance authorizing the sale.

Timing for this funding is as follows:

Council gives Notice of Intent to Issue: December 12, 2016

Council meets to approve Issuance: January 23, 2017

Anticipated Closing: February 15, 2017

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

Consider approval or other action regarding a resolution authorizing publication of a notice of intention to issue certificates of obligation.

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**Approved for City Council Agenda**

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**Corby D. Alexander, City Manager**

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**Date**



**Robert V. Henderson**  
Managing Director,  
Phone: (210) 805-1118  
Facsimile: (210) 805-1119  
robert.henderson@rbccm.com

## ***CITY OF LA PORTE, TEXAS***

### ***PRELIMINARY PLAN OF FINANCE***

***DATED: NOVEMBER 21, 2016***

#### ***INTRODUCTION:***

As part of the City's long-term capital planning, the City has anticipated significant improvements to its combined utility system. The City Manager, the Director of Finance and RBC CM, as the City's financial advisors, have closely monitored multiple aspects of the City's operations for opportunities to fund these improvements with minimal financial impact to the citizens of La Porte. Given the focus on maintaining competitive utility rates in the area, this examination has primarily focused on the debt capacity of the General Fund within the historical 10.5 cent Interest and Sinking Fund tax rate. The purpose of this report is to provide the results of that analysis and to provide a formal recommendation as to a Plan of Finance to fund the needed improvements

#### ***FINANCIAL BACKGROUND:***

Including the recently issued General Obligation Refunding Bonds Series 2016, the City of La Porte currently has ten ad valorem property tax secured debt obligations outstanding as follows:

<u>Issue:</u>	<u>Original Amount:</u>	<u>Currently Outstanding:</u>	<u>Final Maturity:</u>
Certificates of Obligation, Series 2005	\$1,800,000	\$ 90,000	3/15/2017
General Obligation Bonds, Series 2005	7,675,000	400,000	3/15/2017
Certificates of Obligation, Series 2006	5,765,000	315,000	3/15/2017
General Obligation Bonds, Series 2006	1,200,000	140,000	3/15/2018
Certificates of Obligation, Series 2010	6,265,000	4,535,000	3/15/2026
General Obligation Ref. Bonds, Series 2010	4,295,000	1,705,000	3/15/2020
General Obligation Ref. Bonds, Series 2012	9,435,000	9,125,000	3/15/2025
General Obligation Ref. Bonds, Series 2014	9,300,000	8,310,000	3/15/2025
Certificates of Obligation, Series 2015	7,770,000	7,395,000	3/15/2030
General Obligation Ref. Bonds, Series 2016	3,165,000	3,135,000	3/15/2029

#### ***DEBT CAPACITY IN THE GENERAL FUND:***

The City continues to enjoy growth in its taxable assessed valuation (TAV). However, for the purposes of this analysis, the TAV is assumed to be the recent figure of \$2.65 billion. We also assume a conservative 98.5% collection ratio. With the savings derived from the January 2016 refunding and the rapidity of existing debt repayment, the debt capacity within the context of the City's historical Interest and Sinking Fund tax rate of 10.5 cents is calculated to be approximately \$10,000,000 assuming a 20-year final maturity. Meaning, this debt can be issued with no tax rate increase.

### ***FINANCING ALTERNATIVES:***

With the City's bond ratings and modest debt levels, the City has multiple options for financing including going to the public markets as it did with the Series 2015 Certificates of Obligation. However, given the nature of the utility improvements that are the focus of this financing, the City has the additional option of seeking funding through the Texas Water Development Board (TWDB) under the Clean Water State Revolving Fund (CWSRF). The significant advantage of this program is that the State charges below market interest rates on this program on the basis of funds received from the Federal Government under the Clean Water Act. As a result of this subsidy, the TWDB has estimated an interest rate on this loan of 2.5% (please keep in mind this is an estimate provided by the TWDB prior to the Presidential election and is subject to change). Based on this interest rate estimate, the Debt Capacity of the City is increased to approximately \$10,800,000. This amount exceeds the \$10,635,000 value of the application submitted to the TWDB. It is our recommendation that the City avail itself of this program with its subsidized borrowing rates.

### ***COMPLETING THE FINANCING:***

City administration has been following a "dual track" with respect to keeping its options open on this financing. Consequently, resolutions requesting TWDB assistance and applications have already been filed and approved. Of course, the City is not obligated pending City Council approval. Should the Council approve, the next step would be to pass a resolution giving and authorizing publication of a Notice of Intent to issue Certificates. This Notice will be on the Council's agenda for the meeting of December 12, 2016.

State law requires this notice be published in a newspaper of local circulation twice, the first publication being not less than 30 prior to the Council taking action to actually issue the Certificates. Given that requirement and the dates of the regularly scheduled City Council meetings, this indicates the action to actually sell the Certificates cannot take place before the January 23, 2017 meeting. If approved by the Council on that date, the issue would close in mid-February at which time the City would take delivery of the full value of borrowing less fees and expenses.

As a reminder from previous written plans submitted to the Council, there are three generally prescribed methods for selling public debt; Selling by competitive bid, selling on a negotiated sale basis and conducting a private placement. Selling the Certificates of Obligation to the TWDB constitutes a private placement method. As a result, the City will be able to avoid the costs of ratings, the preparation of public offering documents and the expenses related to an underwriting firm. However, please be aware that the TWDB does charge a fee for this program designed to approximate the avoided costs. It is our opinion that the subsidized interest rates more than offsets the TWDB related fees.

### ***TIMING:***

Timing has largely been discussed above but to recap:

Council gives Notice of Intent to Issue:	December 12, 2016
Council meets to approve Issuance:	January 23, 2016
Anticipated Closing:	February 15, 2017

### ***SUMMARY:***

The City has multiple options with respect to financing these improvements. The result of our analysis is that the most cost effective of these alternatives is the private placement of Certificates of Obligation with the Texas Water Development Board. Further, our analysis indicates that the City can issue and pay for this debt while, barring unforeseen circumstances, keeping its Interest and Sinking Fund at its recently historical rate of 10.5 cents. It is our recommendation that the City proceed with the TWDB option.

RESOLUTION NO. 2016-\_\_

RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF INTENTION  
TO ISSUE CERTIFICATES OF OBLIGATION

STATE OF TEXAS §  
COUNTY OF HARRIS §  
CITY OF LA PORTE §

WHEREAS, the City Council (the “City Council”) of the City of La Porte, Texas (the “City”) has determined that it is in the best interests of the City and otherwise desirable to issue certificates of obligation in a principal amount not to exceed \$10,635,000 styled “City of La Porte, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2017” (the “Certificates”) pursuant Subchapter C of Chapter 271, Texas Local Government Code, in accordance with the notice hereinafter set forth;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA PORTE, TEXAS:

Section 1. Preamble. The facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct.

Section 2. Authorization of Notice. The City Secretary is hereby authorized and directed to deliver the Notice, in the form set forth in Exhibit A hereto, and to publish such Notice on behalf of the City once a week for two (2) consecutive weeks in a newspaper which is of general circulation in the City, the date of the first publication to be at least thirty-one (31) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

Notwithstanding any other provision of this Resolution, the Mayor and City Manager are each hereby authorized to make or approve such revisions, additions, deletions, and variations to the Notice as, in the judgment of the Mayor and/or City Manager and in the opinion of Bond Counsel to the City, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, or as may be required for approval of the Certificates by the Attorney General of Texas; provided, however, that any change to the Notice resulting in material substantive amendments shall be subject to the prior approval of City Council.

Section 3. Authorization of Other Matters Relating Thereto. The Mayor, City Secretary and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this Resolution.

Section 4. Effective Date. This Resolution shall take effect immediately upon its passage.

Section 5.     Public Meeting. It is officially found, determined and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered at such meeting, including this Resolution, was given all as required by the Texas Government Code, Chapter 551, as amended.

*(execution page follows)*

PASSED AND APPROVED the 12th day of December, 2016

CITY OF LA PORTE, TEXAS

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Mayor

ATTEST

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City Secretary

(SEAL)

## **EXHIBIT A**

### **NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION**

NOTICE IS HEREBY GIVEN that the City Council of the City of La Porte, Texas (the “City”) will meet at its regular meeting place at City Council Chambers, City Hall, 604 West Fairmont Parkway, La Porte, Texas at 6:00 p.m. on January 23, 2017, which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City’s certificates of obligation, payable from ad valorem taxation and a pledge of surplus net revenues of the water and sewer system of the City, in the maximum aggregate principal amount of \$10,635,000, bearing interest at any rate or rates, not to exceed the maximum interest rate now or hereafter authorized by law, as shall be determined within the discretion of the City Council at the time of issuance and maturing over a period of years not to exceed forty (30) years from the date thereof, for the purpose of evidencing the indebtedness of the City to pay all or any part of the costs associated with (i) the planning, acquisition, design and construction of wastewater system improvements and (ii) professional services rendered in connection therewith.

# City of La Porte, Texas

## Debt Capacity Analysis - Interest and Sinking Fund Supported

Last Revised: 12/5/2016

Base Case Study @ 10.5 Cent I & S Tax Rate

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	
Fiscal Year Ending 9-30	Net Taxable Assessed Valuation	Currently Outstanding I & S Tax Supported Debt												Total Available Funds	Total Net Debt Serv	Prjctd I & S	Projected Cert Oblig Series 2017	Projected Total Net Debt Serv	Prjctd Total I & S	Fiscal Year Ending 9-30
2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
2016	\$2,639,625,327	\$ 275,805	\$ 39,824	\$ 404,338	\$ 155,949	\$ 72,365	\$ 549,619	\$ 349,156	\$ 147,289	\$ 241,859	\$ 568,539	\$ 2,804,742	\$ 75,000	\$ 2,729,742	0.1050	\$ -	\$ 2,729,742	0.1050	2016	
2017	3,018,139,000	-	38,276	408,250	155,949	74,305	548,369	336,789	146,754	285,519	544,263	2,538,474	75,000	2,463,474	0.0829	657,500	3,120,974	0.1050	2017	
2018	3,093,592,475	-	-	-	-	71,435	549,769	323,773	190,556	496,391	543,913	2,175,837	50,000	2,125,837	0.0698	676,263	2,802,100	0.0920	2018	
2019	3,170,932,287	-	-	-	-	-	548,669	309,745	283,011	665,051	543,263	2,349,739	135,000	2,214,739	0.0709	676,263	2,891,001	0.0926	2019	
2020	3,170,932,287	-	-	-	-	-	546,969	215,475	279,115	699,045	547,238	2,287,841	75,000	2,212,841	0.0708	676,263	2,889,104	0.0925	2020	
2021	3,170,932,287	-	-	-	-	-	549,569	-	773,687	473,137	545,838	2,342,231	75,000	2,267,231	0.0726	676,263	2,943,493	0.0942	2021	
2022	3,170,932,287	-	-	-	-	-	547,331	-	768,210	476,246	544,138	2,335,925	75,000	2,260,925	0.0724	676,263	2,937,187	0.0940	2022	
2023	3,170,932,287	-	-	-	-	-	545,088	-	765,345	472,199	547,062	2,329,693	75,000	2,254,693	0.0722	676,263	2,930,956	0.0938	2023	
2024	3,170,932,287	-	-	-	-	-	546,591	-	758,976	473,419	544,612	2,323,598	75,000	2,248,598	0.0720	676,263	2,924,861	0.0936	2024	
2025	3,170,932,287	-	-	-	-	-	546,700	-	752,878	253,062	546,788	2,099,428	75,000	2,024,428	0.0648	676,263	2,700,691	0.0865	2025	
2026	3,170,932,287	-	-	-	-	-	545,700	-	-	-	545,255	1,090,955	75,000	1,015,955	0.0325	676,263	1,692,218	0.0542	2026	
2027	3,170,932,287	-	-	-	-	-	-	-	-	-	988,937	988,937	-	988,937	0.0317	676,263	1,665,200	0.0533	2027	
2028	3,170,932,287	-	-	-	-	-	-	-	-	-	986,062	986,062	-	986,062	0.0316	676,263	1,662,325	0.0532	2028	
2029	3,170,932,287	-	-	-	-	-	-	-	-	-	985,250	985,250	-	985,250	0.0315	676,263	1,661,513	0.0532	2029	
2030	3,170,932,287	-	-	-	-	-	-	-	-	-	710,500	710,500	-	710,500	0.0227	676,263	1,386,763	0.0444	2030	
2031	3,170,932,287	-	-	-	-	-	-	-	-	-	-	-	-	-	-	676,263	676,263	0.0217	2031	
2032	3,170,932,287	-	-	-	-	-	-	-	-	-	-	-	-	-	-	676,263	676,263	0.0217	2032	
2033	3,170,932,287	-	-	-	-	-	-	-	-	-	-	-	-	-	-	676,263	676,263	0.0217	2033	
2034	3,170,932,287	-	-	-	-	-	-	-	-	-	-	-	-	-	-	676,263	676,263	0.0217	2034	
2035	3,170,932,287	-	-	-	-	-	-	-	-	-	-	-	-	-	-	676,263	676,263	0.0217	2035	
2036	3,170,932,287	-	-	-	-	-	-	-	-	-	-	-	-	-	-	676,263	676,263	0.0217	2036	
		<b>\$ 275,805</b>	<b>\$ 78,100</b>	<b>\$ 812,588</b>	<b>\$ 311,897</b>	<b>\$ 218,105</b>	<b>\$ 6,024,372</b>	<b>\$ 1,534,938</b>	<b>\$ 4,865,821</b>	<b>\$ 4,535,928</b>	<b>\$ 9,691,658</b>	<b>\$ 28,349,212</b>	<b>\$ 27,489,212</b>			<b>\$ 13,506,488</b>	<b>\$ 40,995,700</b>			

- Notes:**
1. Assumed current tax rate collection ratio is 98.5%
  2. Using \$2,650,000,000 Assessed Value for FYE 2016; assumes a growth rate of 2.5% per year for 4 years; at 0% thereafter.
  3. Series 2017 Debt Service figures are based on a \$10,635,000 issue with a 20 year debt structure assuming 2.5% .

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: December 12, 2016 Appropriation  
Source of Funds: N/A  
Requested By: Traci Leach Account Number: \_\_\_\_\_  
Department: Administration Amount Budgeted: \_\_\_\_\_  
Report:  Resolution:  Ordinance:  Amount Requested: \_\_\_\_\_  
Other:  \_\_\_\_\_ Budgeted Item:  YES  NO

### Attachments :

1. Amended 380 Agreement
2. Guaranty of Payment
3. Deed Without Warranty
4. Real Estate Lien
5. Deed of Trust

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### SUMMARY & RECOMMENDATIONS

El Toro Mexican Restaurant is a local well known restaurant that has been doing business in La Porte for over 50 years. It is owned and operated by the Ybarra family, which not only grew up in La Porte but still live there.

Mr. Roland Ybarra (dba as Ybarra Restaurants Inc.) is planning on building a brand new El Toro restaurant with a Hacienda feel that will not only attract local patrons but also ones visiting or staying here. The proposed restaurant will be a minimum of 7,500 square feet, seat over 400 patrons, and will have patio dining, as well. All 35 existing employees will be retained in La Porte and approximately 100 employees will be hired as a result of building this restaurant.

In order to construct the proposed restaurant, El Toro applied for closure of the N. 25<sup>th</sup> Street right of way (El Toro owns property on both sides of the N. 25<sup>th</sup> Street right of way). This application was approved by the Council at the October 10, 2016 meeting, along with a development agreement to waive closure fees.

Unfortunately, the closure that was approved did not include a small rectangle of property (approximately 1,800 square feet) abutting the property to the north of the N. 25<sup>th</sup> Street right-of-way. This corner property was not included in the original closure application in 2015 due to lack of participation by the abutting property owner. In the interest of moving forward with the El Toro project, that corner piece was carved out of the closure application. Subsequent to those initial discussions in 2015, the abutting property owner did agree to participate in the closure and signed the appropriate documents to allow the closure to move forward. The exhibits for the closure were never updated to reflect the agreement of the credit union.

As such, staff has considered this secondary closure as a phase two of the initial application. The 75% valuation calculation method has been applied to this closure and no additional application fees were charged to the applicant. The "no objection" letters from the utilities are valid for two years from the date of issue, so all letters are still applicable. The ordinance to close this additional 1,800 square foot area is a companion item on this agenda.

The attached documents amend the development agreement and associated supporting documents to reflect the additional closure of this property. The 1,800 square foot area adds \$8,100 to the value of the incentive offered to El Toro for the construction of the new restaurant. All performance benchmarks and timelines remain unchanged from the original documents approved on October 10, 2016. Only the references to the total value of the closure has been changed.

Staff recommends approval of the amended Chapter 380 Agreement between the City of La Porte and Ybarra restaurants to construct a new El Toro restaurant.

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**Action Required of Council:**

Consider approval or other action authorizing the Mayor to execute amendments to a Chapter 380 Agreement between the City of La Porte and Ybarra Restaurants, Inc. and all associated documents for waiver of payment for closure of street right of way for the construction of a new El Toro restaurant.

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**Approved for City Council Agenda**

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**Corby D. Alexander, City Manager**

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**Date**

AMENDMENT TO CHAPTER 380 AGREEMENT FOR WAIVER OF PAYMENT FOR  
CLOSURE OF STREET RIGHT-OF-WAY BETWEEN YBARRA RESTAURANTS, INC., A  
TEXAS CORPORATION AND THE CITY OF LA PORTE, TEXAS

That Agreement dated October 10, 2016, between the City of La Porte, Texas and Ybarra Restaurants, Inc., for waiver of payment for closure of street right-of-way, is hereby amended as follows:

Section 1.2 shall be amended to read:

As a precondition to implementation of the Project, DEVELOPER has determined that it would be necessary to petition CITY to close, vacate and abandon that portion of the 25<sup>th</sup> Street right-of-way situated between West Main Street and West Polk Street, but also including that portion of West Polk Street intersected by 25<sup>th</sup> Street (the "Right-of Way" herein), which currently separates DEVELOPER'S tracts, in order to consolidate said tracts and thereafter construct the proposed restaurant and associated facilities.

Section 1.4 shall be amended to read:

"Under Chapter 62, Article II of CITY's Code of Ordinances, a landowner is required to pay to CITY the fair market value of the right-of-way petitioned to be closed, in exchange for conveyance of the right-of-way to the landowner after closure. Section 62-35(b) of said Code defines "fair market value" as 75% of the appraised value of the right-of-way. Independent appraisals of separate portions of the Right-of-Way determined the cumulative fair market value to be \$165,600.00, 75% of which is \$124,200.00."

Section 1.5 shall be amended to read:

"In accordance with Texas Local Government Code Chapter 272 and Chapter 62 of CITY's Code of Ordinances, on October 10, 2016 and December 12, 2016 CITY considered DEVELOPER's applications for closure of the Right-of-Way, and upon a finding of no public necessity to maintain the Right-of-Way and proper receipt of notices of Non-Objection from utilities maintaining facilities in the Right-of-Way, did on such respective dates vote to adopt Ordinance 2016-3656 and Ordinance 2016-\_\_\_\_, to effect the closure of Right-of-Way and convey title to same to Developer. Said Ordinances 2016-\_\_\_\_\_ and 2016-\_\_\_\_ and accompanying Deeds Without Warranty are attached to this Agreement as Exhibit C and is incorporated by reference for all purposes."

Section 3.3 shall be amended to read:

"Upon execution of this Agreement DEVELOPER agrees to simultaneously execute an amended promissory note in the amount of \$124,200.00 and amended Deed of Trust in favor of CITY, with said Deed of Trust imposing a lien on and against the Property, to secure DEVELOPER'S obligation to remit to CITY the fair market value of the Right-of-Way in the event of

DEVELOPER'S breach of this Agreement. Accordingly, the principals and/or owners of the proposed Project, shall each in their individual capacities execute in favor of CITY an amended personal guarantee in the cumulative amount of \$124,200.00."

Section 3.5 shall be amended to read:

"Mr. Roland Ybarra, President of DEVELOPER, agrees that he will, as a condition of City's entering into this Agreement, execute in favor of CITY an amended personal guarantee in his individual capacity, in the amount of \$124,200.00."

It is understood and agreed to by the parties that the all other provisions of the AGREEMENT, which is attached hereto as Exhibit A and incorporated by reference for all purposes, shall remain in full force and effect and is amended only as provided by this document.

Respectfully,

The City of La Porte, Texas

---

By:

---

Signature

**AGREED AND ACCEPTED:**

**YBARRA RESTAURANTS, INC.**

By:   
\_\_\_\_\_  
Roland Ybarra  
Owner

## AMENDED AND RESTATED GUARANTY OF PAYMENT

**GUARANTY** dated \_\_\_\_\_, 2016, made by **ROLAND YBARRA**, having an address of \_\_\_\_\_ (the "Guarantor"), in favor of **CITY OF LA PORTE, TEXAS**, having an address of 604 W. Fairmont Parkway, La Porte, Texas 77571 (the "City").

YBARRA RESTAURANTS, INC., a Texas corporation (the "Borrower"), desires to obtain financial accommodations from the City in connection with the development of a new business site. The City, as reflected in that Chapter 380 Agreement for Waiver of Payment for Closing of Street Right-of-Way dated October 10, 2016, and Amendment to 380 Agreement for Waiver of Payment for Closing of Street Right-of-Way, dated December 12, 2016, is unwilling to extend the accommodations to Borrower unless it receives this Guaranty. The Guarantor wishes the accommodations to be made and will derive advantage from such accommodations.

Accordingly, to induce the City in its discretion, to make such financial accommodations:

**Section 1. Guaranty.** The Guarantor hereby unconditionally guarantees to the City, the prompt payment, when due, whether by acceleration or otherwise, of all present or future obligations or liabilities of the Borrower to the City, whether now existing or arising after the date of this Guaranty, secured or unsecured, absolute or contingent, together with all modifications, extensions or renewals of the obligations or liabilities. This Guaranty covers obligations and liabilities incurred by the Borrower in any capacity (including as maker, endorser, guarantor, accommodation party or otherwise) and also includes the amount of any payment made by the Borrower to the City, which payment is rescinded or must otherwise be returned by the City upon the insolvency or bankruptcy of the Borrower. This Guaranty covers obligations and liabilities incurred by the Borrower under any indemnification provisions set forth in the documents evidencing and securing such obligations and liabilities. Such obligations and liabilities, together with interest and all fees, costs, expenses, attorneys' fees and other costs of collection incurred or paid by the City, are together referred to as the "Indebtedness".

**Section 2. Guaranty Absolute.** The Guarantor will pay all Indebtedness in accordance with its terms. The liability of the Guarantor under this Guaranty is absolute and unconditional irrespective of:

- (i) any lack of validity or enforceability of any documents evidencing (or relating) to the Indebtedness;
- (ii) any change in the time, manner, place or amount of payment or in any other term of all or any of the Indebtedness, or any other amendment or waiver of or any consent to departure from the terms of the Indebtedness;
- (iii) any exchange, release or non-perfection of any collateral or lien securing all or any part of the Indebtedness, which exchange, release or non-perfection the Guarantor expressly agrees will not be deemed an unjustifiable impairment of the collateral;

- (iv) any release or amendment or waiver of or consent to departure from any other guaranty, for all or any part of the Indebtedness;
- (v) any settlement or compromise with any Borrower or any other person relating to the Indebtedness; or
- (vi) any other circumstances which might otherwise constitute a defense available to, or a discharge of, any Borrower in respect of the Indebtedness or the Guarantor in respect of this Guaranty.

This Guaranty will continue to be effective, or be reinstated, as the case may be, if at any time any of the Indebtedness is rescinded or must otherwise be returned by the City upon the insolvency or bankruptcy of any Borrower or otherwise, all as though such payment had not been made.

**Section 3. Waiver.** The Guarantor waives presentment, demand, diligence, notice of acceptance and any other notice with respect to any of the Indebtedness and/or this Guaranty and any requirement that the City exhaust any right or take any action against the Borrower or any other person or entity or any collateral.

**Section 4. Subrogation, Reimbursement and Indemnity.** Each Guarantor waives (a) all right to seek reimbursement or indemnity from the Borrower, and (b) any right to subrogation it may have or acquire as result of performance under this Guaranty.

**Section 5. Representation and Warranties.** Each Guarantor represents and warrants:

- (a) The execution and delivery of this Guaranty and the performance of its obligations under this Guaranty have been authorized by all necessary action.
- (b) No authorization, or registration with, any court or governmental department, commission, agency or instrumentality, is or will be necessary to the valid execution, delivery or performance of the Guaranty.
- (c) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms.
- (d) The Guarantor has made whatever inquiry into the financial or other affairs of the Borrower, and the terms of any Indebtedness, as it deems necessary or desirable prior to executing this Guaranty and has not relied on the City for any such information.
- (e) The Guarantor shall provide the City with any and all financial information and/or financial statements as requested by the City, including annual financial statements and manually signed copies of federal and state tax returns, which shall be satisfactory to the City.
- (f) The Guarantor agrees not to transfer any of its assets other than for full and adequate consideration, without the written consent of the City.

**Section 6. Acceleration.** The Guarantor agrees that, if the maturity of any of the Indebtedness is accelerated, by bankruptcy or otherwise, as against the Borrower, the maturity shall also be deemed accelerated for the purposes of this Guaranty, and without demand on or notice to the Guarantor.

**Section 7. Amendments, etc.** This Guaranty represents the entire agreement of the parties. No amendment or waiver of any provision nor consent to departure by the Guarantor from any provision is effective unless in writing and signed by the City, and then the waiver or consent will be effective only in the special instance and for the specific purpose given.

**Section 8. Notices.** All notices required or permitted under this Guaranty shall be given to the parties at the address stated in this Guaranty (or at any other address a party may designate in writing), sent by first class mail, postage prepaid, and is deemed complete upon mailing.

**Section 9. No Waiver; Remedies.** No failure on the part of the City to exercise, and no delay in exercising, any right under this Guaranty shall operate as a waiver of such right, nor shall any single or partial exercise of any right preclude any further exercise of such right or of any other right. All remedies provided in this Guaranty and in any document evidencing or relating to any Indebtedness are cumulative.

**Section 10. Right of Set-off; Security Interest.** On the occurrence and during the continuance of any default under the Indebtedness, the City is authorized at any time, without notice to the Guarantor to set off and apply to any unpaid Indebtedness: (a) any amounts which the City from time to time may owe the Guarantor, including any balance or share of any general or special deposit, certificate of deposit, savings certificates or other account (regardless of the source or intended use of any funds in such account), and (b) any other property, tangible or intangible, owned by or in which the Guarantor has an interest which may be in the possession or control of the City, in which accounts and other property the Guarantor grants the City a security interest. This right is in addition to and not in limitation of any other rights, including of set-off, which the City may have by law.

**Section 11. Continuing Guaranty; Assignment.** This Guaranty is a continuing guaranty and will: (a) remain in full force and effect until payment in full of the Indebtedness and all other amounts payable under this Guaranty, (b) extend to and cover every modification, waiver, extension or renewal of and every obligation accepted in substitution for, the Indebtedness, (c) be binding upon the Guarantor, his successors and assigns and; (d) inure to the benefit of and be enforceable by the City and its successors, transferees and assigns.

**Section 12. Other Guarantors.** The obligations of each Guarantor under this Guaranty shall be joint and several as to each other and all other guarantors of the Indebtedness. This Guaranty shall not be impaired or affected in any way as to the Guarantor by any termination, revocation, release, modification, discharge or substitution of collateral or changes as to any or all of the liabilities or undertakings of any other guarantor.

**Section 13. Guaranty Not Modified By Bankruptcy.** Neither the Guarantor's obligation in accordance with the terms of this Guaranty, nor any remedy for the enforcement, nor the amount of the Indebtedness of the Borrower will be impaired, modified, or limited in any manner whatsoever by any impairment, modification, discharge, limitation of the Indebtedness of the Borrower or its estate in bankruptcy or any remedy for the enforcement, resulting from the operation of any present or future provision of the Bankruptcy Code of the United States or other statute, or from the decision of any court interpreting any of the same, and each Guarantor is

obligated under this Guaranty. The amount of the Indebtedness will, for the purposes of this Guaranty, be determined as if no such impairment, stay, modification, discharge, or limitation had occurred.

**Section 14. Governing Law.** This Guaranty will be governed by, and construed in accordance with, the laws of the State of Texas. In the event the City brings any action hereunder in any court of record of Texas or the Federal Government, the Guarantor consents to and confers personal jurisdiction over the Guarantor by such court or courts and agrees that service of process may be made upon the Guarantor by mailing a copy of such process to the Guarantor.

**Section 15. Waiver of Jury Trial.** EACH GUARANTOR WAIVES TRIAL BY JURY IN ANY ACTION UNDER OR RELATING TO THIS GUARANTY AND TO THE INDEBTEDNESS OF THE BORROWER TO THE BANK.

Witness:

ROLAND YBARRA

\_\_\_\_\_



\_\_\_\_\_  
Roland Ybarra

Agreed to by:

CITY OF LA PORTE, TEXAS

\_\_\_\_\_  
Corby Alexander, City Manager

**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.

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

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

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

Grantee: Ybarra Restaurants, Inc., a Texas corporation

Mailing Address: 7529 Bayway Drive, Baytown, Texas 77520

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

Vendor's Lien Note: \$124,200.00

Further Consideration: The execution and delivery by the said Grantee of one certain amended promissory note of even date herewith in the principal sum shown above as Vendor's Lien Note, payable to the order of Grantor, bearing interest at the rate therein specified, providing for attorney's fees and acceleration of maturity at the rate and in the events therein set forth, and payment of said note being secured by Vendor's Lien and Superior Title retained herein in favor of said Grantor, and by amended and restated Deed of Trust of even date herewith, from Grantee to CLARK T. ASKINS, Trustee, to which reference is here made for all purposes; have GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto the said Grantee, the following described property, to-wit:

Property (including any improvements):

BEGINNING at a point located at the northwest corner of Block 708, Town of La Porte, said point being located on the east line of the North 25th Street Right-of-Way and the south line of the West Polk Street Right-of-Way;

THENCE in a westerly direction, along the projected south line of the West Polk Street Right-of-Way to its intersection with the center line of the North 25th Street Right-of-Way;

THENCE in a northerly direction along the projected center line of the North 25th Street Right-of-Way to its intersection with the north line of the West Polk St. Right-of-Way;

THENCE in an easterly direction, along the north line of the W of the North 25th Street Right-of-Way to its intersection with the east line of the North 25th Street Right-of-Way;

THENCE in a southerly direction, along the projected east line of the North 25th Street Right-of-Way to the POINT OF BEGINNING of the herein described tract, which was vacated, abandoned and closed by City of La Porte Ordinance No. 2016-\_\_\_\_\_ passed and 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, Texas

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

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

Approved:

\_\_\_\_\_  
Clark T. Askins  
Assistant City Attorney

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

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

## **AMENDED AND RESTATED REAL ESTATE LIEN NOTE**

That certain Deed of Trust dated October 10, 2016 entered into between YBARRA RESTAURANTS, INC. and the CITY OF LA PORTE, TEXAS, is hereby amended and restated, as follows:

Date: DECEMBER 12, 2016

Maker: YBARRA RESTAURANTS, INC., a Texas corporation

Mailing Address: 7529 Bayway Drive, Baytown, Texas 77520

Payee: CITY OF LA PORTE, TEXAS, a municipal corporation

Place for Payment: 604 West Fairmont Parkway, La Porte, TX 77571

Principal Amount: ONE HUNDRED TWENTY FOUR THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$124,200.00)

Annual Interest Rate on Unpaid Principal from Date: 0%

Annual Interest Rate on Matured, Unpaid Amounts: 18%

Terms of Payment:

This Amended and Restated Real Estate Lien Note is delivered to Payee by Maker, to secure Maker's performance of the terms, conditions and covenants of that certain Chapter 380 Agreement for Waiver of Payment for Closure of Street Right-of-Way ("Agreement" herein) between Ybarra Restaurants, Inc., a Texas corporation (as Developer), and the City of La Porte, Texas, dated October 10, 2016, and Amended Chapter 380 Agreement for Waiver of Payment for Closure of Street Right-of-Way, dated December 12, 2016. This Amended and Restated Real Estate Lien Note shall be due and payable three (3) years from the effective date of October 10, 2016 under said original Agreement. In the event that Maker, as Developer under said Agreement, has performed each and every obligation under the Agreement by three (3) years from the effective date of said Agreement, the entire principal balance of this Real Estate Lien Note shall be forgiven and Maker's and Guarantor's obligations under this Real Estate Lien Note will be deemed discharged.

### **Security for Payment:**

Vendor's Lien retained in Deed of even date herewith from YBARRA RESTAURANTS, INC. to CITY OF LA PORTE, TEXAS, and being additionally secured by Amended and Restated Deed of Trust of even date herewith to CLARK T. ASKINS, TRUSTEE, covering the tracts of land and property described therein, as well as adjacent property owned by Maker, to which Deed and Amended and Restated Deed of Trust and the record thereof reference is here made for further identity of the security for this note.

Maker promises to pay to the order of Payee at the place for payment and according to the terms of payment the principal amount plus interest at the rates stated above. All unpaid amounts shall be

due by the final scheduled payment date.

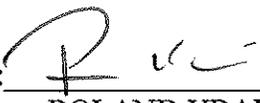
If Maker defaults in the payment of this note or in the performance of any obligation in any instrument securing or collateral to it, and the default continues after Payee gives Maker notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Payee may declare the unpaid principal balance and earned interest on this note immediately due. Maker and each surety, endorser, and guarantor waive all demands for payment, presentations for payment, notices of intention to accelerate maturity, notices of acceleration of maturity, protests, and notices of protest, to the extent permitted by law.

If this note or any instrument securing or collateral to it is given to an attorney for collection or enforcement, or if suit is brought for collection or enforcement, or if collected or enforced through probate, bankruptcy, or other judicial proceeding, then Maker shall pay Payee all costs of collection and enforcement, including reasonable attorney's fees and court costs, in addition to other amounts due. Reasonable attorney's fees shall be 10% of all amounts due unless either party pleads otherwise.

Interest on the debt evidenced by this note shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.

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

YBARRA RESTAURANTS, INC.

BY:   
\_\_\_\_\_  
ROLAND YBARRA, President

BY:   
\_\_\_\_\_  
ROLAND YBARRA, Guarantor

\_\_\_\_\_  
Date

**PREPARED IN THE LAW OFFICE OF:**

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

**AFTER RECORDING RETURN TO:**  
ASKINS & ASKINS, P.C.  
P.O. Box 1218  
La Porte, Texas 77571

**PREPARED IN THE LAW OFFICE OF:**  
ASKINS & ASKINS, P.C.  
P.O. Box 1218  
La Porte, Texas 77571

**AMENDED AND RESTATED DEED OF TRUST AND SECURITY AGREEMENT**

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.

That certain Deed of Trust dated October 10, 2016 entered into between YBARRA RESTAURANTS, INC. and the CITY OF LA PORTE, TEXAS, and recorded on October 18, 2016 under Harris County Clerk File No. PR-2016-470420, is hereby amended and restated, as follows:

Date: December \_\_\_\_, 2016

Grantor: YBARRA RESTAURANTS, INC.

Mailing Address: 7529 Bayway Drive, Baytown, Texas 77520

Trustee: CLARK T. ASKINS

Mailing Address: P.O. Box 1218, La Porte, Texas 77572

Beneficiary: CITY OF LA PORTE, TEXAS

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

Real Estate Lien Note:

Date: December \_\_\_\_\_, 2016

Amount: ONE HUNDRED TWENTY FOUR THOUSAND TWO HUNDRED AND NO/100  
DOLLARS (\$124,200.00)

Maker: YBARRA RESTAURANTS, INC.

Payee: CITY OF LA PORTE, TEXAS

Property (including any improvements):

TRACT 1

Being a 2.403 acre tract of land out of the T.W. Lee Subdivision, Richard Pearsall

Survey, A625, Harris County, Texas, according to the survey performed by H. Carlos Smith, Engineers & Surveyors, Inc., on April 12 thru 13, 1984. The 2.403 acre tract is further described as being part of Lots 1 thru 10 and Lots 12 thru 20, all of Lots 21 thru 30, Block 707, including the alley contained therein and a portion of "A" Street; both the alley and street having been vacated, abandoned and closed on March 18, 1981, by the City of La Porte Ordinance No. 1252. The 2.403 acre tract of land is more particularly described by metes and bounds as follows:

Beginning at a 5/8 inch iron rod found for the Southeast corner of Block 698, T.W. Lee Subdivision, according to the plat recorded in Volume 67, Page 1, Harris County Deed Records, said corner being coincident with the West right-of-way line of 25<sup>th</sup> street (based on a width of 60.00 feet) and the North right-of-way line of "A" street (based on a width of 60.00 feet);

Thence South, passing at 60.00 feet the Northeast corner of Block 707 and being coincident with West right-of-way line of 25<sup>th</sup> street (based on a width of 60.00 feet) and the East boundary line of Block 707 for a total distance of 452.50 feet to a 5/8 inch iron rod found for the Southeast corner of the aforesaid 2.403 acre tract;

Thence West, coincident with the North right-of-way line of West Main Street (based on a width of 114.00 feet; original 85.00 feet) a distance of 221.00 feet to a 5/8 inch iron rod set for the Southwest corner of the aforesaid 2.403 acre tract;

Thence North, coincident with the East right-of-way line of Sens Road (26<sup>th</sup> street) (based on a width of 105.00 feet, original 60.00 feet) as widened and recorded under Harris County Film Code No. 176-97-1700; a distance of 100.00 feet to a 5/8 inch iron rod set for corner;

Thence N 4° 17' 21" W, coincident with East right-of-way line of Sens Road as widened, a distance of 353.49 feet to a 5/8 inch iron rod set for the Northwest corner of the aforesaid 2.403 acre tract, same corner being coincident with the North right-of-way line of "A" street as vacated, abandoned and closed by the City of La Porte Ordinance No. 1252 on March 8, 1981, and the South boundary line of Block 698;

Thence East, coincident with the North right-of-way line of "A" Street and the South boundary of Block 698, a distance of 247.44 feet to the POINT OF BEGINNING.

## TRACT 2

Lots 1 through 30, Block 708, Town of La Porte, according to map or plat thereof recorded in Volume 67, Page 1, of the Map/Plat Records of Harris County, Texas SAVE AND EXCEPT that 7.5 foot strip of land conveyed to Harris County, Texas by deed recorded under Clerk's File No. D231169.

For value received and to secure payment of the note, and as required by Section 3.3 of the 380 Agreement for Waiver for Payment for Closure of Street Right-of-Way executed by Grantor, Grantor

conveys the property to Trustee in trust. Grantor warrants and agrees to defend the title to the property. If Grantor performs all the covenants and pays the note according to its terms, or alternatively, if the Note is forgiven in accordance with the terms of the Note and said 380 Agreement for Waiver of Payment for Closure of Street Right-of-Way, this deed of trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

### **Grantor's Obligations**

Grantor agrees to:

1. keep the property in good repair and condition;
2. pay all taxes and assessments on the property when due;
3. preserve the lien's priority as it is established in this deed of trust;
4. maintain, in a form acceptable to Beneficiary, an insurance policy that:
  - a. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
  - b. contains an 80% coinsurance clause;
  - c. provides fire and extended coverage, including windstorm coverage;
  - d. protects Beneficiary with a standard mortgage clause;
  - e. provides flood insurance at any time the property is in a flood hazard area; and
  - f. contains such other coverage as Beneficiary may reasonably require;
5. comply at all times with the requirements of the 80% coinsurance clause;
6. deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration;
7. keep any buildings occupied as required by the insurance policy; and
8. if this is not a first lien, pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.

### **Beneficiary's Rights**

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If the proceeds of the note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. Beneficiary may apply any proceeds received under the insurance policy either to reduce the note or to repair or replace damaged or destroyed improvements covered by the policy.
4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand at the place where the note is payable for any sums so paid, including attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this deed of trust.
5. If Grantor defaults on the note or fails to perform any of Grantor's obligations or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
  - a. declare the unpaid principal balance and earned interest on the note immediately due;
  - b. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then

amended; and

c. purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited on the note.

### **Trustee's Duties**

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended;
2. sell and convey all or part of the property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty; and
3. from the proceeds of the sale, pay, in this order:
  - a. expenses of foreclosure, including a commission to Trustee of 5% of the bid;
  - b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
  - c. any amounts required by law to be paid before payment to Grantor; and
  - d. to Grantor, any balance.

### **General Provisions**

1. If any of the property is sold under this deed of trust, Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the property will be presumed to be true.
3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created even if the time of payment of all or part of the note is extended or part of the property is released.
5. If any portion of the note cannot be lawfully secured by this deed of trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in default under the note or this deed of trust. Grantor will apply all rent and other income and receipts to payment of the note and performance of this deed of trust, but if the rent and other income and receipts exceed the amount due under the note and deed of trust, Grantor may retain the excess. If Grantor defaults in payment of the note or performance of this deed of trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the note and this deed of trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph,

and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.

8. Interest on the debt secured by this deed of trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.

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

10. The term "note" includes all sums secured by this deed of trust.

11. This deed of trust shall bind, inure, to the benefit of, and be exercised by successors in interest of all parties.

12. If Grantor and Maker are not the same person, the term "Grantor" shall include Maker.

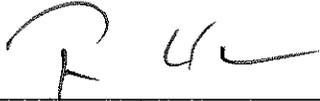
13. If Grantor transfers any part of the property without Beneficiary's prior written consent, Beneficiary may declare the debt secured by this deed of trust immediately payable. In that event Beneficiary will notify Grantor that the debt is payable; if it is not paid within thirty days after notice to Grantor, Beneficiary may without further notice of demand to Grantor invoke any remedies provided in this instrument for default. Exceptions to this provision for declaring the note due on sale or transfer are limited to the following:

- a. creation of a lien or encumbrance subordinate to this deed of trust;
- b. creation of a purchase-money security interest for household appliances;
- c. transfer by devise, descent, or operation of law on the death of a joint tenant; and
- d. grant of a leasehold interest of three years or less without an option to purchase.

14. Grantor represents that this deed of trust and the note are given for the following purposes: The indebtedness, the payment of which is hereby secured, is in part payment of the purchase price of the real property herein described, and is also secured by a vendor's lien thereon retained in Deed of even date herewith to the undersigned, and this Deed of Trust is given as additional security for the payment of said indebtedness.

EXECUTED December \_\_\_\_, 2016.

YBARRA RESTAURANTS, INC.

BY:   
\_\_\_\_\_  
ROLAND YBARRA, President

STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on December \_\_\_\_, 2016, by ROLAND YBARRA, President of YBARRA RESTAURANTS, INC .

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

## REQUEST FOR CITY COUNCIL AGENDA ITEM

<b>Agenda Date Requested</b> <u>December 12, 2016</u>	<b><u>Appropriation</u></b>
<b>Requested By:</b> <u>Corby Alexander</u>	<b>Source of Funds:</b> <u>N/A</u>
<b>Department:</b> <u>City Manager</u>	<b>Account Number:</b> <u>N/A</u>
<b>Report:</b> _____ <b>Resolution:</b> _____ <b>Ordinance:</b> _____	<b>Amount Budgeted:</b> <u>N/A</u>
<b>Exhibit:</b> Chapter 70 Ordinance Amendment	<b>Amount Requested:</b> <u>N/A</u>
	<b>Budgeted Item:</b> YES    NO

### SUMMARY & RECOMMENDATION

While enforcing Chapter 70 of the City's Code of Ordinances (which regulates truck parking), staff discovered a potential area of concern with the ordinance as currently written. The ordinance clearly addresses parking requirements for commercial motor vehicles in La Porte. However, the ordinance is less clear on regulations regarding where these commercial motor vehicles re-fuel. Council met with the City Attorney to discuss options and ascertain the level of restriction desired that should be imposed. The enclosed ordinance clarifies that commercial motor vehicles will only be permitted to re-fuel at approved locations along the designated "truck route" if the vehicle is travelling in combination (i.e. both truck and trailer). Vehicles not in combination (bobtails) will be allowed to fuel elsewhere in the community, provided those location have a site plan approved to accommodate commercial motor vehicles. This approach mirrors that taken to truck parking in the most recent amendment to this ordinance.

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#### **Action Required by Council:**

Consider approval or other action of ordinance amending Chapter 70 of the City's Code of Ordinances.

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

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

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

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

AN ORDINANCE AMENDING CHAPTER 70 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES BY AMENDING TRUCK ROUTE REGULATIONS TO ADD SITE PLAN REQUIREMENTS FOR ESTABLISHMENTS OFFERING FUEL TO COMMERCIAL VEHICLES; PROVIDING A REPEALING CLAUSE; CONTAINING A SEVERABILITY CLAUSE; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; 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 FIVE HUNDRED 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 70, "Traffic and Vehicles," Article V "Stopping, Standing and Parking," Section 70-233 "Exception to Section 70-232: point of origin; parking of commercial motor vehicles", of the La Porte, Texas Code of Ordinances is hereby amended to read as follows:

**"Sec. 70-233. - Exception to Section 70-232: point of origin; parking of commercial motor vehicles; acquiring fuel.**

- (a) The provisions of Section 70-232 of this Code notwithstanding, in those instances where any commercial motor vehicles originating within the corporate limits of the city, shall have as its point of origin a point located off a designated truck route, it shall proceed to the nearest point on a designated truck route by the most direct route possible. If such commercial motor vehicles shall originate outside the corporate limits of the city and enter the city at a point which is not on a designated truck route, it shall proceed to the nearest point on a designated truck route by the most direct route possible.
- (b) In those cases where commercial motor vehicles originate off a designated truck route, whether inside or outside the corporate limits of the city, and the destination of the commercial motor vehicle is nearer the origin or point of entering the corporate limits of the city than is the nearest point on a designated truck route by the most direct route possible, it shall not be necessary to proceed to the nearest designated truck route.
- (c) Commercial motor vehicles not in combination with a trailer or transporting a placarded load of hazardous materials may travel to and park at locations off a designated truck route by taking the most direct route possible, regardless of whether the operator of the commercial motor vehicle is loading or unloading cargo, providing services, or seeking repairs at a legitimate repair facility, provided that the location is not in a residentially zoned area and is at a site physically capable of accommodating customer commercial motor vehicle parking by means of a parking facility striping plan 1) configured to allow for the safe parking of commercial motor vehicles, and 2) approved by the Planning Department of the City in accordance with the requirements of Section 70-237 of this Chapter.
- (d) Combination commercial motor vehicles, other than vehicles transporting a placarded load of hazardous cargo, may travel to and park at locations contiguous to and fronting a designated truck route, regardless of whether the operator of the commercial motor vehicle is loading or unloading cargo, providing services, or seeking

repairs at a legitimate repair facility, provided that the location is at a site physically capable of accommodating customer commercial motor vehicle parking specific to commercial motor vehicles in combination with a trailer, by means of a parking striping plan 1) configured to allow for the safe parking of combination commercial motor vehicles, and 2) approved by the Planning Department of the City in accordance with the requirements of Section 70-237 of this Chapter.

(e) Commercial motor vehicles not in combination with a trailer, other than vehicles transporting a placarded load of hazardous cargo, may travel to establishments located contiguous to and fronting a designated truck route, regardless of whether the operator of the commercial motor vehicle is loading or unloading cargo, providing services, or seeking repairs at a legitimate repair facility, for the purpose of acquiring fuel for the operation of the vehicle. However, in such cases the commercial motor vehicle is eligible to acquire fuel only where the establishment is equipped with fuel dispensing facilities that are designed to safely accommodate customer commercial motor vehicles not in combination with a trailer, in accordance with a site use plan approved by the Planning Department of the City pursuant to Section 70-237(b) of this Chapter.

(f) Combination commercial motor vehicles, may travel to establishments 1) located contiguous to and fronting a designated truck route and 2) qualifying as a “truck stop”, as that term is defined in Section 106-1 of this Code, regardless of whether the operator of the commercial motor vehicle is loading or unloading cargo, providing services, or seeking repairs at a legitimate repair facility, for the purpose of acquiring fuel for the operation of the vehicle. However, in such cases the commercial motor vehicle is eligible to acquire fuel only where the establishment is equipped with fuel dispensing facilities that are designed to safely accommodate customer commercial motor vehicles (including those in combination with a trailer), in accordance with a site use plan approved by the Planning Department of the City pursuant to Section 70-237(b) of this Chapter.”

**Section 2:** That Chapter 70, “Traffic and Vehicles,” Article V “Stopping, Standing and Parking,” Section 70-237 “Parking Plan for Accommodation of Commercial Motor Vehicles”, of the La Porte, Texas Code of Ordinances is hereby amended to read as follows:

**Sec. 70-237. Parking Plan for Accommodation of Commercial Motor Vehicle; Site Use Plan for use of Fuel Dispensing Facilities.**

(a) The owner or operator of any existing or proposed site in which parking is sought for accommodation of customer commercial motor vehicles, including combination commercial motor vehicles, where the site is physically capable of safely accommodating such vehicles, shall be required to submit to the Planning and Development Department for approval a parking facility striping plan as a component of a proposed site plan, or as an amending document to a previously approved (if one exists) site plan. The applicant for the site plan or amended site plan shall be allowed the option of striping up to 15% of the required automobile parking as dual use parking spots for the accommodation of commercial motor vehicle parking, and shall be so striped and labeled. Such allocation shall generally be located within the parking spaces least used.

(b) The owner or operator of any existing or proposed site in which fuel dispensing facilities are proposed for use by commercial motor vehicles (including those in combination with a trailer), where the site is physically capable of safely

accommodating such vehicles, shall be required to submit to the Planning and Development Department for approval a site use plan as a component of a proposed site plan, or as an amending document to a previously approved (if one exists) site plan. The site use plan shall 1) provide maneuvering space in proximity to fuel dispensing facilities to allow commercial motor vehicles to safely position into and depart from lanes dedicated for use of fuel dispensing facilities; 2) provide that such lanes be of sufficient width to accommodate commercial motor vehicles using the fuel dispensing facilities; and 3) provide adequate height clearance for commercial motor vehicles using the fuel dispensing facilities.”

**Section 3.** 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 FIVE HUNDRED DOLLARS (\$500.00).

**Section 4.** 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 5.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

**Section 6.** 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 7.** This Ordinance shall be effective sixty (60) 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 NOVEMBER, 2016.

CITY OF LA PORTE, TEXAS

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

ATTEST:

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City Secretary

APPROVED:

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Assistant City Attorney

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

AN ORDINANCE AMENDING CHAPTER 70 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES BY AMENDING TRUCK ROUTE REGULATIONS TO ADD SITE PLAN REQUIREMENTS FOR ESTABLISHMENTS OFFERING FUEL TO COMMERCIAL VEHICLES; PROVIDING A REPEALING CLAUSE; CONTAINING A SEVERABILITY CLAUSE; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; 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 FIVE HUNDRED 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:

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**"Sec. 70-233. - Exception to Section 70-232: point of origin; parking of commercial motor vehicles; acquiring fuel.**

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- (b) In those cases where commercial motor vehicles originate off a designated truck route, whether inside or outside the corporate limits of the city, and the destination of the commercial motor vehicle is nearer the origin or point of entering the corporate limits of the city than is the nearest point on a designated truck route by the most direct route possible, it shall not be necessary to proceed to the nearest designated truck route.
- (c) Commercial motor vehicles not in combination with a trailer or transporting a placarded load of hazardous materials may travel to and park at locations off a designated truck route by taking the most direct route possible, regardless of whether the operator of the commercial motor vehicle is loading or unloading cargo, providing services, or seeking repairs at a legitimate repair facility, provided that the location is not in a residentially zoned area and is at a site physically capable of accommodating customer commercial motor vehicle parking by means of a parking facility striping plan 1) configured to allow for the safe parking of commercial motor vehicles, and 2) approved by the Planning Department of the City in accordance with the requirements of Section 70-237 of this Chapter.

- (d) Combination commercial motor vehicles, other than vehicles transporting a placarded load of hazardous cargo, may travel to and park at locations contiguous to and fronting a designated truck route, regardless of whether the operator of the commercial motor vehicle is loading or unloading cargo, providing services, or seeking repairs at a legitimate repair facility, provided that the location is at a site physically capable of accommodating customer commercial motor vehicle parking specific to commercial motor vehicles in combination with a trailer, by means of a parking striping plan 1) configured to allow for the safe parking of combination commercial motor vehicles, and 2) approved by the Planning Department of the City in accordance with the requirements of Section 70-237 of this Chapter.
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- (f) Combination commercial motor vehicles, may travel to establishments 1) located contiguous to and fronting a designated truck route and 2) qualifying as a “truck stop”, as that term is defined in Section 106-1 of this Code, regardless of whether the operator of the commercial motor vehicle is loading or unloading cargo, providing services, or seeking repairs at a legitimate repair facility, for the purpose of acquiring fuel for the operation of the vehicle. However, in such cases the commercial motor vehicle is eligible to acquire fuel only where the establishment is equipped with fuel dispensing facilities that are designed to safely accommodate customer commercial motor vehicles (including those in combination with a trailer), in accordance with a site use plan approved by the Planning Department of the pursuant to Section 70-237(b) of this Chapter.”

**Section 2:** That Chapter 70, “Traffic and Vehicles,” Article V “Stopping, Standing and Parking,” Section 70-237 “Parking Plan for Accommodation of Commercial Motor Vehicles”, of the La Porte, Texas Code of Ordinances is hereby amended to read as follows:

**“Sec. 70-237. Parking Plan for Accommodation of Commercial Motor Vehicle; Site Use Plan for use of Fuel Dispensing Facilities.**

(a) The owner or operator of any existing or proposed site in which parking is sought for accommodation of customer commercial motor vehicles, including combination commercial motor vehicles, where the site is physically capable of safely accommodating such vehicles, shall be required to submit to the Planning and Development Department for approval a parking facility striping plan as a component of a proposed site plan, or as an amending document to a previously approved (if one exists) site plan. The applicant for the site plan or amended site plan shall be allowed the option of striping up to 15% of the required automobile parking as dual use parking spots for the accommodation of commercial motor vehicle parking, and shall be so striped and labeled. Such allocation shall generally be located within the parking spaces least used.

(b) The owner or operator of any existing or proposed site in which fuel dispensing facilities are proposed for use by commercial motor vehicles (including those in combination with a trailer), where the site is physically capable of safely accommodating such vehicles, shall be required to submit to the Planning and Development Department for approval a site use plan as a component of a proposed site plan, or as an amending document to a previously approved (if one exists) site plan. The site use plan shall 1) provide maneuvering space in proximity to fuel dispensing facilities to allow commercial motor vehicles to safely position into and depart from lanes dedicated for use of fuel dispensing facilities; 2) provide that such lanes be of sufficient width to accommodate commercial motor vehicles using the fuel dispensing facilities; and 3) provide adequate height clearance for commercial motor vehicles using the fuel dispensing facilities.”

**Section 3.** 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 FIVE HUNDRED DOLLARS (\$500.00).

**Section 4.** 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 5.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

**Section 6.** 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 7.** This Ordinance shall be effective sixty (60) 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 NOVEMBER, 2016.

CITY OF LA PORTE, TEXAS

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

ATTEST:

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City Secretary

APPROVED:

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Assistant City Attorney

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>December 12, 2016</u>	<u>Appropriation</u>
Requested By: <u>Don Pennell</u>	Source of Funds: <u>City of Morgan's Point</u>
Department: <u>Public Works</u>	Account Number: _____
Report: <input checked="" type="radio"/> Resolution: <input type="radio"/> Ordinance: <input type="radio"/>	Amount Budgeted: _____
Other: <input type="radio"/> _____	Amount Requested: _____
<b>Attachments :</b>	Budgeted Item: <input checked="" type="radio"/> YES <input type="radio"/> NO

- 1. MPT Draft Water Purchase Interlocal Agreement**
- 2. Attachment for ILA**

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### SUMMARY & RECOMMENDATIONS

Water supply problems can arise in all phases of emergency or disaster-management cycles. As with other elements of emergency management, water supplies can be designed and maintained in ways that help to reduce the health impacts of disasters/emergencies.

The City of Morgan's Point approached City staff with this in mind and proposed an emergency water line interconnect that would, in cases of emergency/disaster, allow for a back-up source of potable water. The City of Morgan's Point presented the Interlocal Agreement (ILA) to its City Council November 8, 2016 at its regular City Council meeting and received approval to present to the City of La Porte's City Council for consideration.

This ILA will establish the right and duties of each City in relation to water capacity, whereby Morgan's Point may purchase additional potable water from the City of La Porte on an emergency basis. Morgan's Point shall compensate La Porte at a rate equal to 150% of the standard utility rate charged to customers situated within La Porte. The City of La Porte reserves the right to suspend water service to Morgan's Point through the water interconnect if there is not an adequate water supply available to meet the demands of the City of La Porte customers.

The approval of this ILA commits the City of Morgan's Point to design and construct a new metered water main at the intersection of Blackwell and East Main Street in the City of La Porte and extending approximately 350 LF east to connect to the Morgan's Point water distribution system. The design and construction requires approval from the TCEQ prior to releasing water into the Morgan's Point system. Morgan's Point will coordinate all reviews and approvals. In addition Morgan's Point is prohibited from using this interconnect to meet its minimum requirements for capacity.

Both cities believe this to be of mutual benefit relating to mutual aid and to protect public health. The agreement is proposed as a five-year term, with an additional five-year term with mutual agreement by both parties.

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**Action Required of Council:**

Consider approval or other action authorizing the Mayor to execute and the City Secretary to attest to an Interlocal Agreement with the City of Morgan's Point to provide an emergency water main interconnect.

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**Approved for City Council Agenda**

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**Corby D. Alexander, City Manager**

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**Date**

**AN INTERLOCAL AGREEMENT BETWEEN LA PORTE AND MORGAN'S POINT  
FOR PURCHASE OF TREATED WATER**

This Interlocal Agreement is made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code, on this \_\_\_ day of \_\_\_\_\_, 2016 (the "Effective Date"), by and between the City of La Porte, Texas ("La Porte") and the City of Morgan's Point, Texas ("Morgan's Point") for the purpose of providing an emergency water main interconnection to function as a backup source of potable water for Morgan's Point.

**TERMS OF AGREEMENT**

IN CONSIDERATION of the mutual promises, covenants, obligations, and benefits in this Agreement, the above-mentioned parties agree upon the terms outlined below, and in accordance therewith may file this Agreement and request for authorization with the Texas Commission on Environmental Quality ("TCEQ") and:

**RIGHTS AND DUTIES OF LA PORTE**

1.1 La Porte represents that it has the right to purchase additional water capacity through its existing agreement with the City of Houston Southeast Water Treatment Plant in amounts sufficient to cover anticipated needs by Morgan's Point. La Porte agrees that on an emergency basis, it will sell treated water to Morgan's Point as a source of potable water through the water main interconnect to be constructed by Morgan's Point in La Porte, into Morgan's Point water distribution system ("Project").

1.2 La Porte shall provide water of the same quality and standard being furnished to its own customers. La Porte shall have no responsibility for the quality or pressure of water once it passes through the Project into Morgan's Point distribution system.

1.3 La Porte shall have the right to interrupt or temporarily suspend water service to Morgan's Point through the water main interconnect if for any reason there is not an adequate water supply to meet the requirements of the citizens of La Porte.

1.4 La Porte agrees to waive all standby or other charges for any period of time when Morgan's Point does not receive water through the Project.

1.5 La Porte shall provide Morgan's Point with a written notice of any rate increases at least sixty (60) days prior to the effective date of the rate increase.

**RIGHTS AND DUTIES OF MORGAN'S POINT**

2.1 Morgan's Point, at its own expense, shall construct the new metered water main interconnect at or near the intersection of S. Blackwell Street and East Main Street in La Porte, and extending approximately 350 feet east to connect to the existing Morgan's Point water distribution system. Morgan's Point shall 1) provide an engineered design of the Project compatible with the Neptune Automated Meter Reading system utilized by the City of La Porte to the Public Works Director of La Porte for approval; 2) manage the construction of the Project; and 3) be responsible for all maintenance of the Project for the period that the interconnect remains connected to

both cities' water distribution systems. The Project shall include double check valve assembly and backflow prevention device that will be tested every five years by the City of Morgan's Point.

2.2 Morgan's Point shall coordinate with the TCEQ on securing all necessary reviews and approvals for the Project. La Porte shall also approve the design, construction, and any maintenance activity on the interconnect Project prior to releasing water into the Morgan's Point system.

2.3 Subject to Texas Administrative Code Section 290.46(k) or subsequent revisions made thereto, the interconnect will not be operated, if for any reason the water in either cities' water distribution system is not of safe sanitary quality.

2.4 Morgan's Point is prohibited from using the capacity obtained through the interconnect to comply with any current or future TCEQ minimum capacity requirement for public water systems.

2.5 Whenever possible, Morgan's Point shall inform La Porte twenty-four (24) hours prior to water usage so as to allow La Porte sufficient time to make any necessary system changes to supply the requested water. When prior notification is not possible, Morgan's Point shall contact the La Porte Public Works Department (during regular business hours) or the La Porte Police Department (after hours).

2.6 Morgan's Point shall compensate La Porte at a rate equal to 150% of the standard utility rate charged to customers situated within La Porte. This Agreement is subject to the Texas Prompt Payment Act. TEX. GOV'T CODE § 2251.001, et seq.

2.7 During periods of use, Morgan's Point shall monitor the flow of the water main interconnect and ensure the water delivery rate shall not exceed 600 gallons per minute. In any case where the water delivery rate exceeds 600 gallons per minute, the flow shall not be for a period longer than four (4) consecutive hours. Normal anticipated daily flow rate is equal to 120 gallons per minute (based on a 4 year average of 176,000 gallons per day (2016)). The seasonal peak anticipated daily flow rate is equal to 200 gallons per minute (based on the daily average of the peak usage month 287,000 gallons per day (July 2014)).

## **TERM AND TERMINATION**

3.1 This Agreement shall continue in force and effect for five (5) years from the Effective Date ("Initial Term") and shall be renewable for one (1) additional five (5) year term ("Renewal Term") upon the mutual agreement of both parties, unless sooner terminated for cause or by mutual written consent of the parties. Additionally, either party may terminate this Agreement without cause. Notice of intent to terminate with or without cause, or to not renew, shall be provided by the terminating party to the opposite party a minimum of thirty (30) days prior to the intended date of termination.

## **MISCELLANEOUS**

4.1 Choice of Law. This Agreement shall be governed by and construed and enforced under the laws of the

State of Texas.

4.2 INDEMNIFICATION. LA PORTE SHALL NOT BE RESPONSIBLE TO MORGAN'S POINT OR ANY OTHER PARTY OR PARTIES FOR ANY CLAIMS, DEMANDS, LOSSES, SUITS, JUDGMENTS FOR DAMAGE OR INJURIES TO PERSONS OR PROPERTY BY REASON OF THE CONSTRUCTION, MAINTENANCE, INSPECTION, OPERATION OF THE REQUESTED INTERCONNECT PROJECT OR THE ASSOCIATED SUPPLY OF WATER (INCLUDING THE QUALITY OR PRESSURE) TO MORGAN'S POINT. MORGAN'S POINT HEREBY AGREES TO INDEMNIFY AND HOLD LA PORTE HARMLESS AGAINST ALL SUCH CLAIMS, LOSSES, DEMANDS, SUITS AND JUDGMENTS TO THE EXTENT PERMITTED BY LAW.

4.2 Modification. This Agreement shall be subject to change or modification only with the written mutual consent of each of the parties hereto.

4.3 Assignability of this Agreement. This Agreement shall be binding upon the parties hereto and their respective successors, heirs, representatives, and assigns. This Agreement, and all rights, duties, and obligations hereunder, shall not be assignable by either Party without the prior written consent of the other Party.

4.4 Relationship of Parties. Neither party shall be considered the agent, partner, fiduciary or employee of any other party, in its performance of any and all duties under any transactions contemplated by this Agreement. No Party shall be deemed to have any fiduciary relationship to any other party.

4.5 Severability. Should and provision of this Agreement be declared void by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

4.6 Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the parties, and shall not be construed to confer any benefit or right upon any third party. This Agreement is for the sole benefit of, and may be enforced only by, the parties to this Agreement. No other third party shall have standing to enforce any provision of this Agreement.

4.7 Merger. This Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the parties relative to the subject matter hereof.

4.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original instrument, but all such counterparts together shall constitute but one agreement.

4.9 No Third Party Beneficiaries. This Agreement shall be for the sole and exclusive benefit of La Porte and Morgan's Point and is not intended to confer any benefit or right upon any other party or parties.

4.10 Authority to Contract. Both parties warrant and represent that this Agreement has been approved by the governing bodies of each city prior to execution.

CITY OF LA PORTE, TEXAS

---

Louis Rigby, Mayor

ATTEST:

---

Patrice Fogarty, TRMC  
City Secretary

CITY OF MORGAN'S POINT, TEXAS

---

Michel Bechtel, Mayor

ATTEST:

---

Megan Mayes,  
City Secretary



Yellow line represents proposed water line connected to La Porte's water system at the corner of Blackwell Street and Main Street. Line runs east 350 feet to the east connecting with the City of Morgan's Point's water system.

Blackwell Street

Main Street

South Wilson Street

Google Earth

© 2016 Google

1978

ASI

29°40'14.57" N 95°00'24.30" W elev 38 ft eye alt 791 ft

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested:	<u>December 12, 2016</u>	<u>Appropriation</u>
Requested By:	<u>Don Pennell</u>	Source of Funds: <u>General Fund</u>
Department:	<u>Public Works</u>	Account Number: <u>001-7072-532-2015</u>
Report: <input checked="" type="radio"/>	Resolution: <input type="radio"/> Ordinance: <input type="radio"/>	Amount Budgeted: <u>\$ 148,995</u>
Other: <input type="radio"/>		Amount Requested: <u>\$ 148,995</u>
<b>Attachments :</b>		Budgeted Item: <input checked="" type="radio"/> YES <input type="radio"/> NO

- #17005 Public Bid Tabulation**
- #17005 Notifications & Access Report**

---

### SUMMARY & RECOMMENDATIONS

The City's solid waste ordinance (Section 58-36) stipulates that residential solid waste customers use plastic garbage bags provided by the City. The City orders 27,500 rolls of garbage bags most years. Each residential account is eligible for 3 free rolls of bags per year and residents may purchase additional rolls throughout the year if needed.

The Public Works Department with assistance from the Parks Department plan to deliver garbage bags to door steps February 8, 9 and 10, 2017. Where bags cannot be placed at the doorstep they will be placed at the side of the driveway as close to the house as possible. Where the bags cannot be placed the Public Works or Parks employee will note to their Supervisor the location and a letter will be mailed to the resident to pick up their bags at Public Works or City Hall.

The Solid Waste Division will order 33,000 rolls of garbage bags. Currently there are approximately 10,350 residential accounts at 3 rolls per residence equals 31,050 rolls. This will leave 1,950 rolls city for sales and new customer distribution in addition to 1920 rolls Public Works currently has in stock as of November 17, 2016.

Bids for the advertised sealed bid (Bid #17005) for plastic garbage bags were opened and read on October 15, 2016. Bid notification was accessed online by 25 vendors, with 7 returning bids. A request for bids was also advertised in the Bay Area Observer and posted on the City website.

The lowest and best bid for the bag sizes was submitted by Houston Poly Bag for \$4.39 per 52 bag roll of 33 gallon bags representing a total of \$144,870.00 for 33,000 rolls (a 2 percent decrease over last year at \$4.48 per roll).

Solid Waste performed a hang test on sample bags provided by the proposed vendor and confirmed that the vendor's bag has adequate strength. The hang test consists of placing 75-lbs of sand inside the bag and hanging the bag for a minimum of two minutes.

The FY 16-17 budget for this item is \$148,995.

---

**Action Required of Council:**

Consider approval or other action awarding Bid No. 15017 for 33,000 rolls of 1.5 mil, 33 gallon plastic garbage bags to Houston Poly Bag in the amount of \$144,870.00 and \$4,125 in contingency to purchase additional bags should counter sales or new residential services increase.

---

**Approved for City Council Agenda**

---

**Corby D. Alexander, City Manager**

---

**Date**

**Sealed Bid #17005**

	QTY	UOM	Jadcore, LLC		Interboro Packaging		Dyna Pak		Waste Zero		Central Poly Corp		Houston Poly Bag		All American Poly	
			Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
33 gallon 1.5 mil plastic garbage bags as per specifications	30500	RLS	4.83	\$147,315	5.48	\$167,140	4.76	\$145,180	4.69	\$143,045	4.8	\$146,400	4.39	\$133,895	8.9	\$271,450
Delivery			30 ARO		10-14 ARO		30 ARO		30-40 ARO		14-21 BUS days		30 days ARO		10-30 ARO	

**Bid tabulation is preliminary information only and does not indicate any type of award. Other considerations may apply.**

## Notification and Access Report to Sealed Bid #17005 - Plastic Garbage Bags

### NOTIFICATIONS REPORT:

Vendor Name	Date
All American	2016-10-20 07:27:06
Alta One, LLC	2016-10-20 07:27:06
Ambassador Services	2016-10-20 07:27:06
Building Blocks of Wealth Emp	2016-10-20 07:27:06
Calico Industries, Inc.	2016-10-20 07:27:06
Caltex Plastics Inc.	2016-10-20 07:27:06
CENTRAL POLY-BAG CORP.	2016-10-20 14:38:55
CrimeTech, Inc.	2016-10-20 07:27:06
Discount Plastic Bags and Pack	2016-10-20 07:27:06
DYNA PAK CORP	2016-10-20 14:38:55
Element Solutions International	2016-10-20 07:27:06
FOX-RICH TEXTILES INC.	2016-10-20 07:27:06
HD SUPPLY FACILITIES MAIN	2016-10-20 07:27:06
Hillyard, Inc.	2016-10-20 07:27:06
Houston Poly Bag	2016-10-21 10:38:42
HUCKSTER PACKAGING AND	2016-10-20 14:38:55
Interboro Packaging Corporatio	2016-10-20 14:38:55
Jadcore, Inc.	2016-10-20 14:38:55
JetCo Solutions	2016-10-20 07:27:06
Kleen Janitorial Supply Co	2016-10-20 07:27:06
Maglin Site Furniture	2016-10-20 07:27:06
Nasco	2016-10-20 07:27:06
National Shipping Supply	2016-10-20 07:27:06
Onvia	2016-10-20 14:38:55
Platinum Paper and Packaging	2016-10-20 07:27:06
Pollock Paper Distributors	2016-10-20 07:27:06
Pumps, Motors & Controls, Inc.	2016-10-20 07:27:06
Ritz Safety LLC	2016-10-20 14:38:55
Royal Media Network Inc.	2016-11-03 13:42:51
Safeway Supply, Inc.	2016-10-20 14:38:55
Semiconductor Equipment Serv	2016-10-20 07:27:06
SiteOne Landscape Supply	2016-10-20 07:27:06
Sunset Survival & First Aid, Inc.	2016-10-20 07:27:06
Unipak Corp.	2016-10-20 14:38:55
WasteZero, Inc	2016-10-20 07:27:06

### ACCESS REPORT:

VENDOR NAME:	DATE	
All American	2016-10-20 03:32 PM CDT	#17005 Plastic Garbage Bags.pdf
Aziaa Corp	2016-10-25 03:15 AM CDT	
BidClerk	2016-11-01 01:34 PM CDT	
Calico Industries of Florida LLC	2016-10-20 10:21 AM CDT	#17005 Plastic Garbage Bags.pdf
CAPITAL PLASTICS INT'L INC	2016-10-21 02:24 AM CDT	#17005 Plastic Garbage Bags.pdf
CENTRAL POLY-BAG CORP.	2016-10-20 08:50 AM CDT	#17005 Plastic Garbage Bags.pdf
Charter Communications	2016-10-25 06:53 AM CDT	
DYNA PAK CORP	2016-10-20 11:26 AM CDT	#17005 Plastic Garbage Bags.pdf
global soft inc	2016-10-27 03:18 PM CDT	
HD SUPPLY FACILITIES MAIN	2016-10-28 02:03 PM CDT	#17005 Plastic Garbage Bags.pdf

Hendee Enterprises, Inc.	2016-11-01 02:06 PM CDT	#17005 Plastic Garbage Bags.pdf
Hillyard, Inc.	2016-10-21 01:17 PM CDT	#17005 Plastic Garbage Bags.pdf
Houston Poly Bag	2016-10-21 10:38 AM CDT	#17005 Plastic Garbage Bags.pdf
HUCKSTER PACKAGING ANE	2016-10-20 02:12 PM CDT	#17005 Plastic Garbage Bags.pdf
Interboro Packaging Corporatio	2016-10-20 09:46 AM CDT	#17005 Plastic Garbage Bags.pdf
Jadcore, Inc.	2016-10-20 09:37 AM CDT	#17005 Plastic Garbage Bags.pdf
Lindsay Circle, LLC	2016-10-26 10:56 PM CDT	
North America Procurement Co	2016-10-22 03:31 AM CDT	#17005 Plastic Garbage Bags.pdf
Onvia	2016-10-20 01:01 PM CDT	#17005 Plastic Garbage Bags.pdf
Perkens WS Corporation	2016-10-24 04:18 PM CDT	#17005 Plastic Garbage Bags.pdf
QT & Associates of Miami, Inc	2016-10-21 09:29 AM CDT	#17005 Plastic Garbage Bags.pdf
Ritz Safety LLC	2016-10-20 01:40 PM CDT	#17005 Plastic Garbage Bags.pdf
Royal Media Network Inc.	2016-11-03 02:43 PM CDT	
Safeway Supply, Inc.	2016-10-20 11:09 AM CDT	#17005 Plastic Garbage Bags.pdf
Sam Anderson Pvt Ltd	2016-10-20 08:52 AM CDT	
SMS AMBASSADORS CORP	2016-10-25 12:10 PM CDT	#17005 Plastic Garbage Bags.pdf
The Blue Book Building & Cons	2016-10-27 04:00 PM CDT	#17005 Plastic Garbage Bags.pdf
Tukmol General Contractor	2016-10-21 03:25 AM CDT	
Unipak Corp.	2016-10-20 08:39 AM CDT	#17005 Plastic Garbage Bags.pdf
Vendor Support Account	2016-10-26 01:06 PM CDT	
WasteZero, Inc	2016-10-20 08:36 AM CDT	#17005 Plastic Garbage Bags.pdf

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested:	December 12, 2016	Appropriation
Requested By:	Brian Sterling	Source of Funds: N/A
Department:	Planning & Development	Account Number: N/A
Report: <input type="radio"/>	Resolution: <input type="radio"/> Ordinance: <input checked="" type="radio"/>	Amount Budgeted: N/A
Other: <input type="radio"/>		Amount Requested: N/A
		Budgeted Item: <input type="radio"/> YES <input checked="" type="radio"/> NO

### Attachments :

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

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### SUMMARY & RECOMMENDATIONS

Staff has received and processed an application from El Toro Mexican Restaurants to vacate, abandon and close a 1,800 square foot remnant of the intersection of the North 25<sup>th</sup> Street and West Polk Street Rights-of-Way (see Area Map). The purpose of the closing request is to complete the company's acquisition of the entire North 25<sup>th</sup> Street Right-of-Way from West Main St. to the north line of the West Polk Street Right-of-Way.

Staff's review of the closing application has determined that no public or franchised utilities exist within the subject rights-of-way to be closed.

In accordance with Section 62.35 of the Code of Ordinances, an independent appraisal of the subject right-of-way has been conducted to determine fair market value. The appraisal established a value of \$6.00 per square foot for 1,800 sq. feet of right-of-way to be closed. The total closing fee for the subject abandonment (with 25% discount by ordinance) is \$8,100.

---

### Action Required of Council:

Consider approval of an ordinance or other action vacating, abandoning, and closing a 1,800 square foot portion of the North 25<sup>th</sup> Street and West Polk Street Rights-of-Way and authorizing the City Manager to execute a deed to the adjacent owner for the subject tract.

---

**Approved for City Council Agenda**

---

**Corby D. Alexander, City Manager**

---

**Date**

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

**AN ORDINANCE VACATING, ABANDONING AND CLOSING A PORTION OF THE NORTH 25<sup>TH</sup> STREET AND WEST POLK STREET RIGHTS-OF-WAY; 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 North 25<sup>th</sup> Street and West Polk Street Rights-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 North 25<sup>th</sup> Street and West Polk Street Rights-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 North 25<sup>th</sup> Street and West Polk Street Rights-of-Way is for the protection of the public and for the public interest and benefit, and that the hereinafter described portion of the North 25<sup>th</sup> Street and West Polk Street Rights-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 North 25<sup>th</sup> Street and West Polk Street Rights-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:

BEGINNING at a point located at the northwest corner of Block 708, Town of La Porte, said point being located on the east line of the North 25<sup>th</sup> Street Right-of-Way and the south line of the West Polk Street Right-of-Way;

THENCE in a westerly direction, along the projected south line of the West Polk Street Right-of-Way to its intersection with the center line of the North 25<sup>th</sup> Street Right-of-Way;

THENCE in a northerly direction along the projected center line of the North 25th Street Right-of-Way to its intersection with the north line of the West Polk St. Right-of-Way;

THENCE in an easterly direction, along the north line of the W of the North 25th Street Right-of-Way to its intersection with the east line of the North 25th Street Right-of-Way;

THENCE in a southerly direction, along the projected east line of the North 25th Street Right-of-Way 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 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:

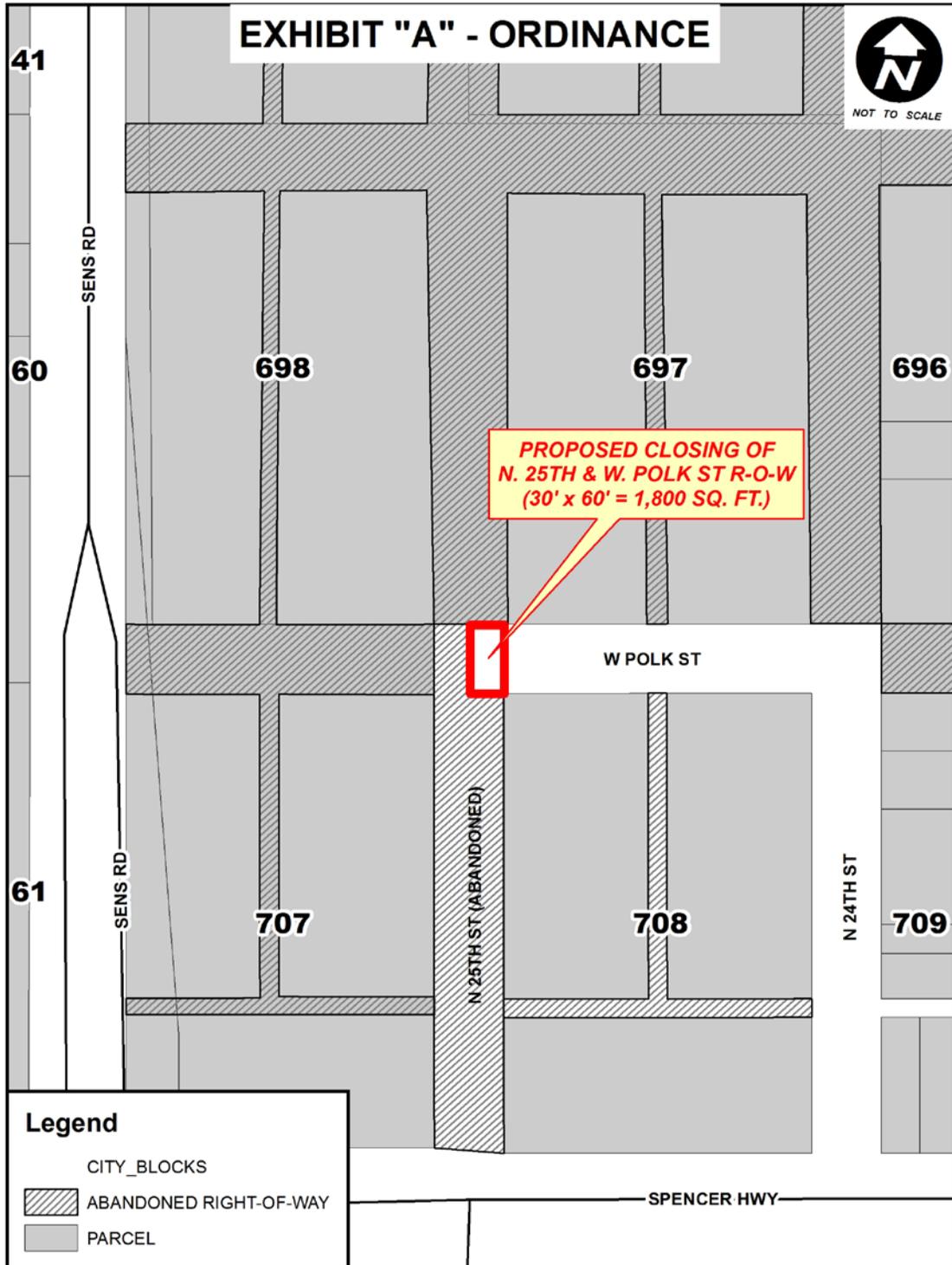
\_\_\_\_\_  
Louis R. Rigby, Mayor

ATTEST:

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

APPROVED:

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



## **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.

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

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

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

Grantee: Ybarra Restaurants, Inc., a Texas corporation

Mailing Address: 7529 Bayway Drive, Baytown, Texas 77520

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

Vendor's Lien Note: \$124,200.00

Further Consideration: The execution and delivery by the said Grantee of one certain amended promissory note of even date herewith in the principal sum shown above as Vendor's Lien Note, payable to the order of Grantor, bearing interest at the rate therein specified, providing for attorney's fees and acceleration of maturity at the rate and in the events therein set forth, and payment of said note being secured by Vendor's Lien and Superior Title retained herein in favor of said Grantor, and by amended and restated Deed of Trust of even date herewith, from Grantee to CLARK T. ASKINS, Trustee, to which reference is here made for all purposes; have GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto the said Grantee, the following described property, to-wit:

Property (including any improvements):

BEGINNING at a point located at the northwest corner of Block 708, Town of La Porte, said point being located on the east line of the North 25th Street Right-of-Way and the south line of the West Polk Street Right-of-Way;

THENCE in a westerly direction, along the projected south line of the West Polk Street Right-of-Way to its intersection with the center line of the North 25th Street Right-of-Way;

THENCE in a northerly direction along the projected center line of the North 25th Street Right-of-Way to its intersection with the north line of the West Polk St. Right-of-Way;

THENCE in an easterly direction, along the north line of the W of the North 25th Street Right-of-Way to its intersection with the east line of the North 25th Street Right-of-Way;

THENCE in a southerly direction, along the projected east line of the North 25th Street Right-of-Way to the POINT OF BEGINNING of the herein described tract, which was vacated, abandoned and closed by City of La Porte Ordinance No. 2016-\_\_\_\_\_ passed and 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, Texas

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

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

Approved:

\_\_\_\_\_  
Clark T. Askins  
Assistant City Attorney

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

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

67 EXHIBIT to DEED 72



NOT TO SCALE

41

60

61

SENS RD

SENS RD

698

697

696

**PROPOSED CLOSING OF  
N. 25TH & W. POLK ST R-O-W  
(30' x 60' = 1,800 SQ. FT.)**



W POLK ST

707

N 25TH ST (ABANDONED)

708

N 24TH ST

709

**Legend**

CITY\_BLOCKS



ABANDONED RIGHT-OF-WAY



PARCEL

SPENCER HWY

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

P.O. Box 1447  
League City, Texas 77574

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

May 2, 2015

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 25th Street right of way adjoining the north line of (West Main (Spencer), 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 25th Street right of way adjoining the north line of (West Main (Spencer), between Blocks 707 and 708, 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.

The market values in the subject neighborhood appear to vary generally from +-\$2.00 PSF to over \$9.00 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 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 commercial tracts of land with frontage along West Main Street or Sens Road. 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 is March 29, 2015. The effective date of the report is May 2, 2015. 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 **\$4.00 PSF to \$8.00 PSF** would be placed on the subject property with a mid-range value of **\$6.00 PSF** being indicated for the subject property before any discounting. Therefore the unit market value of the subject tract is estimated at **\$6.00 PSF which is based on 100% fee simple ownership with no discounting applied.**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "C. Chuoke", written over a horizontal line.

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



March 11, 2015

John Mayes  
El Toro Restaurants  
7529 Bayway Drive  
Baytown, Texas 77520

Re: Street & Alley Closure of 25<sup>th</sup> Street in LaPorte, TX  
R/W File # 91498

Dear Mr. Mayes:

The City of LaPorte has been asked to close and abandon a portion of 25<sup>th</sup> 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 it has no facilities located within the area to be abandoned as highlighted on the attached sketch. Therefore, CenterPoint Energy will interpose no objection to the request as filed.

This letter of concurrence shall become null and void in the event two (2) years has transpired from the above date and this street/alley closure has not been completed. CenterPoint Energy respectfully requests that the City of LaPorte forward a copy of the final abandonment ordinance to CenterPoint Energy in order to complete our files and to update our map records.

Yours truly,

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

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

Enclosure



AT&T Texas  
7602 Spring Cypress Drive  
Room 226  
Spring, TX 77379-3113

T: 281.379.7524  
F: 281.374.3318

March 18, 2015

John Mayes  
El Toro Restaurants  
7529 Bayway Drive  
Baytown, Texas 77520

**RE: "Consent to Abandon"** Abandonment of the 60'wide right-of-way of 25th Street that extends North from West Main Street to it terminus, LaPorte, Harris County, Texas. (R.O.W. Job # LP 00315-M)

Dear Mr. Mayes,

Southwestern Bell Telephone Company (SWBT) offers No Objection to the abandonment of the 60'wide right-of-way of 25th Street that extends north from West Main Street to it terminus, located in the City of LaPorte, Harris County, Texas, as described in your acceptance letter dated February 26<sup>th</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

March 5, 2015

Mr. John Mayes  
Owner of Operations  
El Toro Mexican Restaurant's  
[eltorotexmex.com](http://eltorotexmex.com)  
E-mail: [jdmayes@comcast.net](mailto:jdmayes@comcast.net)

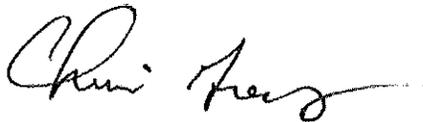
Re: No Objection for the abandonment of unopened public right-of-way in the northeast quadrant of the intersection of Spencer Highway and Sens Road.

Mr. Mayes,

Please accept this letter as notification that Comcast of Houston LLC, herein referred to as Comcast has no objections to the abandonment of unopened public right-of-way in the northeast quadrant of the intersection of Spencer Highway and Sens Road depicted in the attached hereto Exhibit "A" as Comcast Cable has no facilities within said Right-Of-Way.

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

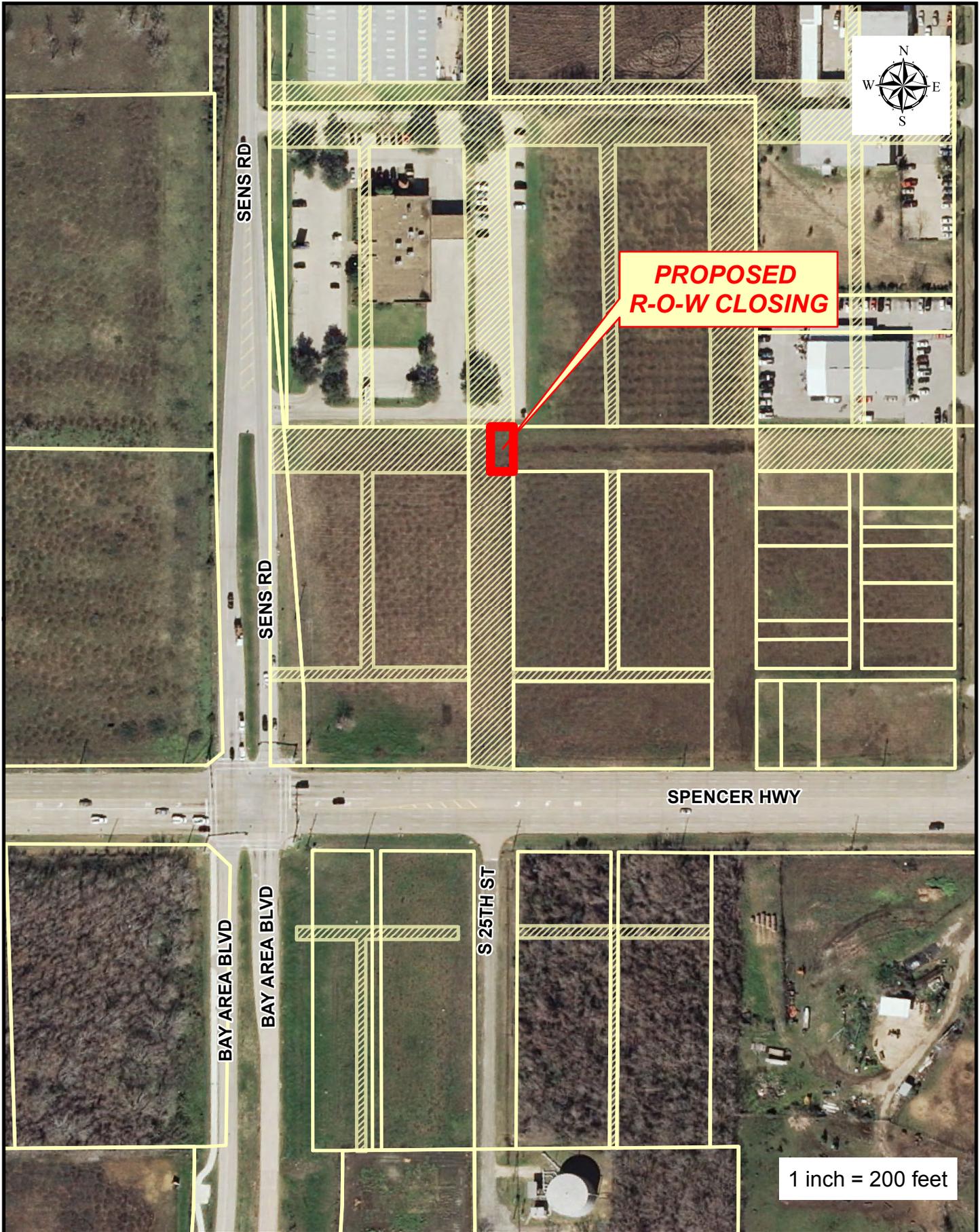
Sincerely,

A handwritten signature in black ink, appearing to read "Chris Grey".

Chris Grey  
Construction Supervisor, Design and Serviceability

# AREA MAP

CLP PROJECT NO. 15-2500002





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

AN ORDINANCE ABANDONING AND RELEASING AN EXISTING SIXTEEN (16) FOOT WIDE PUBLIC UTILITY EASEMENT LOCATED WITHIN THE ABANDONED EAST/WEST ALLEY OF BLOCK 48, TOWN OF LA PORTE, HARRIS COUNTY, TEXAS, 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 Lots 1 through 6, Lots 27 through 31, and Tracts 7 and 26, Town of La Porte (1201 W. Main St.), to abandon and release an existing sixteen (16) foot wide public utility easement located within the above described property;

WHEREAS, Section 272.001 of the Texas Local Government Code provides for the release and abandonment of easements to the adjacent owner;

WHEREAS, the City Council of the City of La Porte has determined and does hereby find, determine, and declare that the hereinafter described sixteen (16) foot wide public utility easement is no longer suitable, needed, or beneficial to the public as a utility easement, and the abandonment and release of the hereinafter described sixteen (16) foot wide utility easement is for the protection of the public and for the public interest and benefit, and that the hereinafter described sixteen (16) foot wide utility easement should be permanently abandoned and released.

**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 Sections

253.001 and 272.001 of the Texas Local Government Code, the hereinafter described sixteen (16) foot wide public utility easement, is hereby permanently abandoned and released by the City of La Porte, which easement is legally described below, and generally illustrated on Exhibit "A" attached hereto:

**BEGINNING** at the southeast corner of Lot 27, Block 48, Town of La Porte;

**THENCE** in an westerly direction along the south line of Lots 27 through 31 and Lots 1 through 6, inclusive, to the southwest corner of Lot 6, a distance of 266 feet, said point being located on the east right-of-way line of South 12th Street;

**THENCE** in a southerly direction along the east right-of-way line of South 12th Street, a distance of 16 feet to the northwest corner of Lot 7;

**THENCE** in an easterly direction along the projected north line of Lots 7 and 26, a distance of 266 feet to a point for corner at the northeast corner of Lot 26, said point being located on the west right-of-way line of South 11th Street;

**THENCE** in a northerly direction, along the west right-of-way line of South 11th Street, a distance of 16 feet, to **POINT OF BEGINNING**, containing a total area of 4,256 square feet of land.

**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.** The City Secretary is hereby directed to certify a copy of this Ordinance and cause it to be recorded in the Deed Records of Harris County, Texas.

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

**PASSED AND APPROVED THIS 12th DAY OF DECEMBER 2016.**

CITY OF LA PORTE, TEXAS

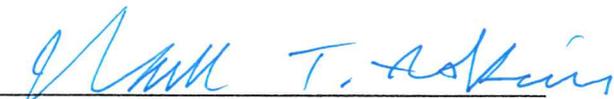
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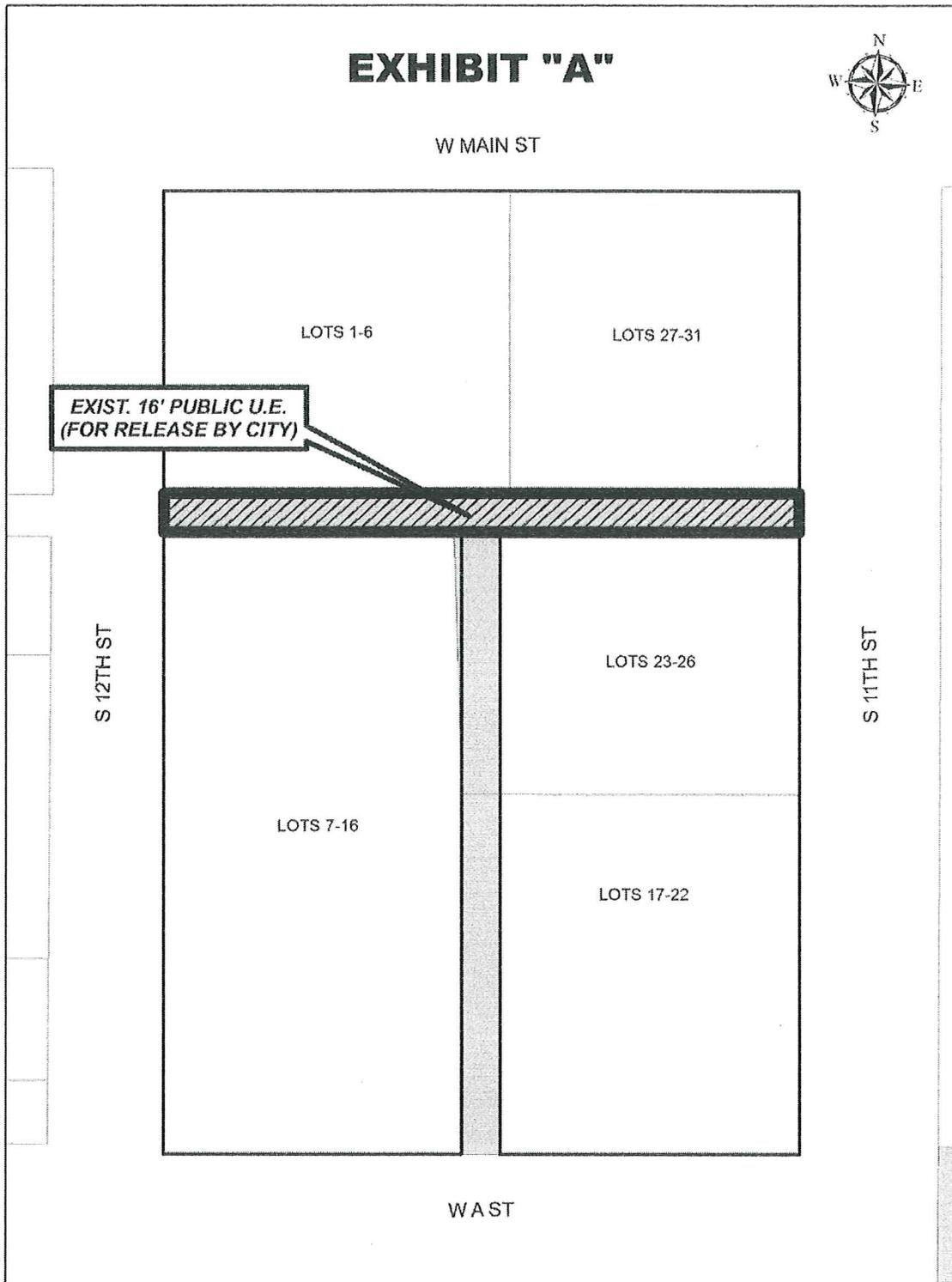
\_\_\_\_\_  
Louis R. Rigby, Mayor

ATTEST:

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

APPROVED:

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



## PUBLIC UTILITY EASEMENT

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF HARRIS

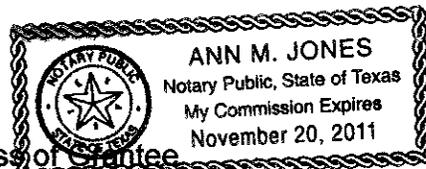
That **EMROJC, LLC** ("Grantor"), for and in consideration of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration paid by the **CITY OF LA PORTE** ("Grantee"), a Municipal Corporation and its Franchisees, the receipt and sufficiency of which is hereby acknowledged and confessed, have this day **GRANTED, BARGAINED, SOLD AND CONVEYED** and by these presents do **GRANT, SELL AND CONVEY** unto said **GRANTEE**, and to its successors and assigns the perpetual right, privilege and easement, with appropriate rights of ingress and reasonable working area for construction and maintenance, to enter upon and construct, reconstruct, maintain, operate, inspect, replace, repair and remove **ALL PUBLIC UTILITIES** together with all necessary appurtenances, over, across, through and under that certain tract or parcel of land lying and being situated in Harris County, Texas and being more particularly described on Exhibits "A" & "B" attached hereto and made a part hereof for all purposes.

TO HAVE AND TO HOLD the above described easement, together with all and singular the rights and appurtenances thereto in anywise belonging unto said **GRANTEE**, and its successors or assigns, in accordance with the terms and conditions hereinabove set forth. The **GRANTOR** does hereby bind itself, its successors or assigns to **WARRANT AND FOREVER DEFEND**, all and singular the said easement unto the **GRANTEE**, its successors or assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF on this the 14 day of June, 2011.

BY: *Fran Lowe*  
Authorized Representative of EMROJC, LLC

This instrument was acknowledged before me on the 14 day of June, 2011  
by *Fran Lowe*



*Ann M. Jones*  
Notary Public, State of Texas

Mailing Address of Grantee  
City of La Porte  
604 West Fairmont Parkway  
La Porte, Texas 77571

**EXHIBIT "A"**

(16' Public Utility Easement in Block 48, La Porte)

Being a 4,256 square foot tract of land situated in Block 48, La Porte, Harris County, Texas, and being more particularly described by metes & bounds as follows;

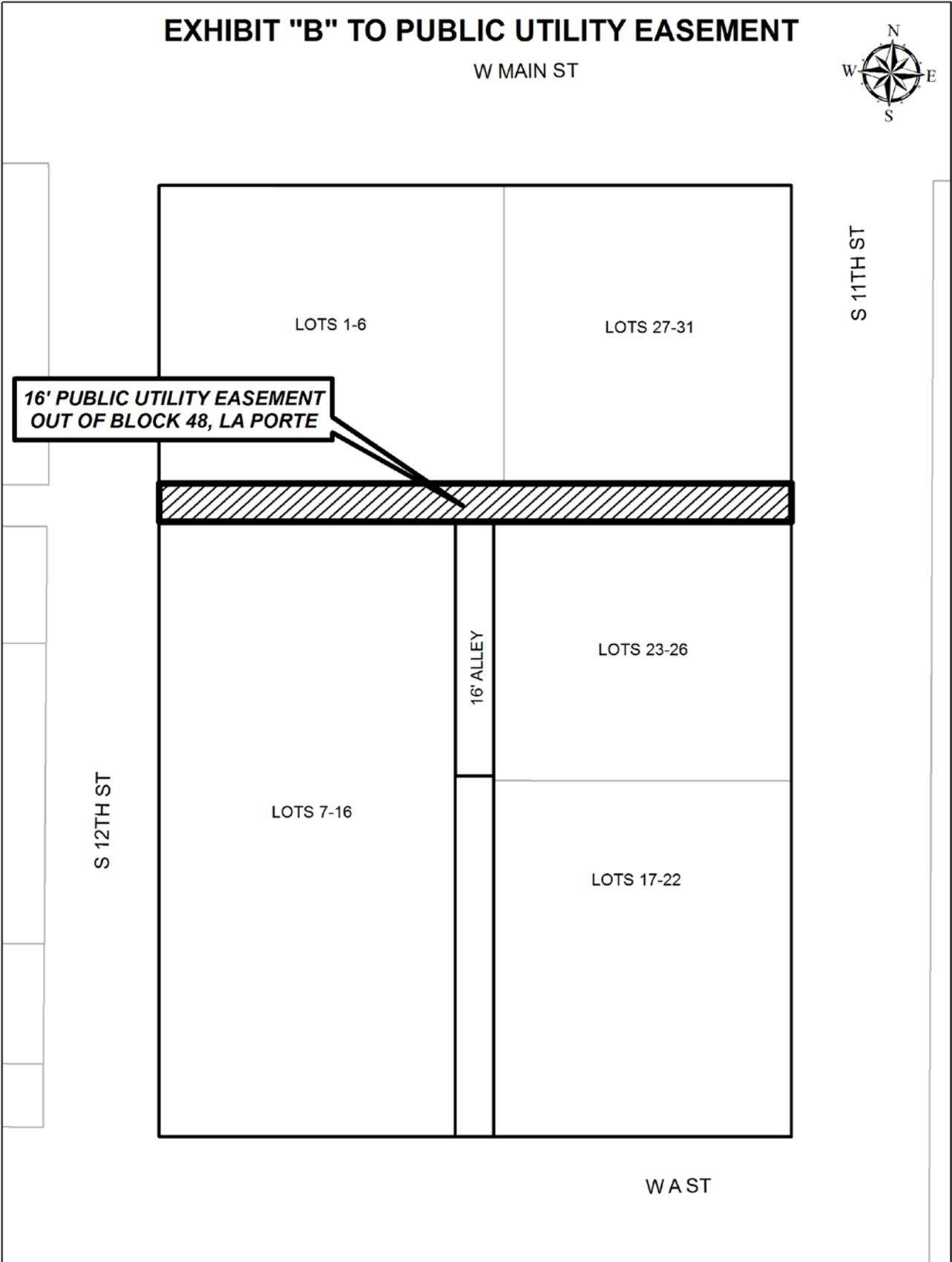
BEGINNING at the southeast corner of Lot 27, Block 48, La Porte;

THENCE in an westerly direction along the south line of Lots 27 through 31 and Lots 1 through 6, inclusive, to the southwest corner of Lot 6, a distance of 266 feet, said point being located on the east right-of-way line of South 12<sup>th</sup> Street;

THENCE in a southerly direction along the east right-of-way line of South 12<sup>th</sup> Street, a distance of 16 feet to the northwest corner of Lot 7;

THENCE in an easterly direction along the projected north line of Lots 7 and 26, a distance of 266 feet to a point for corner at the northeast corner of Lot 26, said point being located on the west right-of-way line of South 11<sup>th</sup> Street;

THENCE in a northerly direction, along the west right-of-way line of South 11<sup>th</sup> Street, a distance of 16 feet, to POINT OF BEGINNING, containing a total area of 4,256 square feet of land.



# AREA MAP



W MAIN ST

LOTS 1-6

LOTS 27-31

**EXIST. 16' PUBLIC U.E.  
(FOR RELEASE BY CITY)**



S 12TH ST

S 11TH ST

LOTS 23-26

LOTS 7-16

LOTS 17-22

WAST

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>December 12, 2016</u>	<u>Appropriation</u>
Requested By: <u>Shelly Wolny, Treasurer</u>	Source of Funds: _____
Department: <u>Finance</u>	Account Number: _____
Report: <input type="radio"/> Resolution: <input checked="" type="radio"/> Ordinance: <input type="radio"/>	Amount Budgeted: _____
Other: <input type="radio"/> _____	Amount Requested: _____
	Budgeted Item: <input checked="" type="radio"/> YES <input type="radio"/> NO

**Attachments :**

- 1. Resolution for annual review 2016**
- 2. Investment Policy 2016**

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### SUMMARY & RECOMMENDATIONS

The City Council of the City of La Porte originally adopted an Investment Policy on January 13, 1992, by Ordinance No. 1802. The Investment Policy governs how the City will invest the City's funds and outlines administrative and legal guidelines for the Investment Officers to follow for the preservation of capital. The Public Funds Investment Act requires that a City must present the Investment Policy to Council annually for review or amendment. The policy was last reviewed on October 12, 2015.

On November 14, 2016, the Finance Department presented the Investment Policy to the Fiscal Affairs Committee for review. No changes to the actual policy are recommended at this time; however, staff is recommending adding Cantor Fitzgerald to the list of approved brokers.

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**Action Required of Council:**

Consider approval or other action regarding a Resolution reaffirming the City's Investment Policy.

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**Approved for City Council Agenda**

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

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

## RESOLUTION NO.

A RESOLUTION OF THE CITY OF LA PORTE, TEXAS, ADOPTING AN INVESTMENT POLICY CONFORMING TO ALL STATUTES GOVERNING INVESTMENT OF THE CITY OF LA PORTE'S FUNDS, INCLUDING, BUT NOT BY WAY OF LIMITATION, THE PUBLIC FUNDS INVESTMENT ACT, CHAPTER 2256, TEXAS GOVERNMENT CODE; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND SETTING AN EFFECTIVE DATE THEREOF.

**WHEREAS**, the City of La Porte requires that funds be invested in a manner which will preserve the principal of funds invested while meeting daily cash flow demands of the City; and

**WHEREAS**, the Public Funds Investment Act requires the adoption of certain investment policies and controls regarding the investment of its funds; and

**WHEREAS**, the Public Funds Investment Act further requires that the governing body of an investing entity shall adopt a written investment policy by resolution, and shall further state that it has reviewed the investment policy and investment strategies adopted, and that the written policy adopted shall record any changes made to either the investment policy or investment strategies previously adopted; and

**WHEREAS**, the City will endeavor to earn a return on funds invested at the highest return possible after taking into account the primary goals of preservation of liquidity of funds invested, consistent with the City's Investment Policy;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA PORTE, THAT:**

**SECTION 1.** The findings and recitations set out in the preamble to this Resolution are found to be true and correct and that they are hereby adopted by the City Council of the City of La Porte and made a part hereof for all purposes.

**SECTION 2.** The City of La Porte hereby designates the, *City of La Porte, Texas Investment Policy*, a true copy of which is on file in the office of the City Secretary of the City of La Porte and that it is hereby adopted by the City of La Porte and made a part hereof for all purposes.

**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 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 Resolution 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 resolution shall be effective upon its passage and approval.

**INTRODUCED, READ and PASSED** by the affirmative vote of a majority of the City Council of the City of La Porte, Texas, on this the 12th day of December, 2016.

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Louis R. Rigby,  
Mayor

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Patrice Fogarty,  
City Secretary



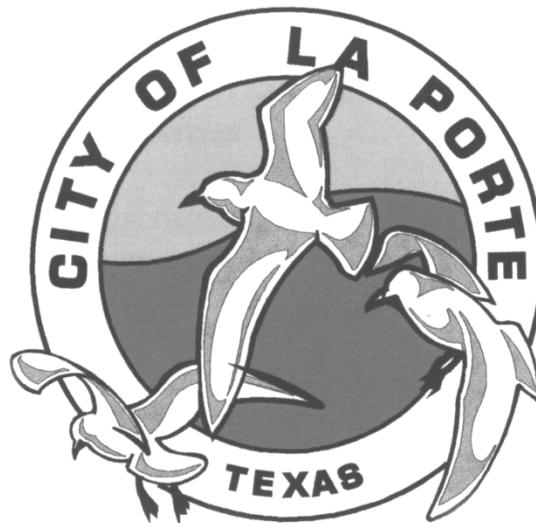
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Clark T. Askins,  
Assistant City Attorney

# City of La Porte, Texas Investment Policy

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Adopted by the City Council  
Of the City of La Porte  
On January 13, 1992, by  
Ordinance No. 1802



Amended:

*November 1995*  
*August 1997*  
*November 2000*  
*February 2003*  
*February 2005*  
*October 2005*  
*July 2009*  
*May 2011*  
*October 2013*  
*October 2014*

**City of La Porte, Texas**

*Michael G. Dolby, CPA*  
*Director of Finance*

*Shelley Wolny*  
*Treasurer*

**I. POLICY**

It is the policy of the City of La Porte, Texas (the "City") to administer and invest its funds in a manner which will preserve the principal and maintain the liquidity through limitations and diversification while meeting the daily cash flow requirements of the City. The City will invest all available funds in conformance with legal and administrative guidelines, seeking to optimize interest earnings to the maximum extent possible.

The purpose of this investment policy is to comply with all statutes governing the investment of the City's funds, including the Public Funds Investment Act, Chapter 2256 of the Texas Government Code (the " Act"), which requires the City to adopt a written investment policy regarding the investment of its funds and funds under its control. The Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City's funds.

**II. SCOPE**

The City will strive to earn a return on funds invested at the highest investment return possible after taking in consideration the primary goals of preservation of principal and liquidity of funds invested, consistent with the policy objectives described below. This investment policy applies to the investment activities of the government of the City of La Porte, Texas.

FUNDS INCLUDED The City's funds, which are pooled together and constitute the investment portfolio, include all financial assets of all funds managed by the City, including but not limited to receipts of tax revenues, charges for services, bond proceeds, interest incomes, loans and funds received by the City where the City performs a custodial function. These funds are accounted for in the City's Comprehensive Annual Financial Report (CAFR) and include:

- General Fund
- Special Revenue Funds
- Debt Service Funds
- Capital Projects Funds
- Enterprise Funds
- Internal Service Funds

Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

**III. OBJECTIVES**

SAFETY The primary objective of the City's investment activity is the preservation of capital and the protection of investment principal in the overall portfolio. Each investment transaction shall seek first to ensure that capital losses are avoided, whether they are from securities defaults or erosion of market value. The City will strive to minimize credit risk by limiting investments to the safest types of investments, prequalifying the financial institutions and broker/dealers with which the City conducts business, and diversify the investment portfolio so that potential losses on individual issuers will be minimized. To minimize interest rate risk, the City will ladder the portfolio and match investments with future cash requirements and invest operating funds in shorter, more liquid securities and investments.

LIQUIDITY The City's investment portfolio will remain sufficiently liquid to enable the City to meet operating requirements that might be reasonably anticipated. Liquidity shall be achieved by matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in shares of money market mutual funds or local government investment pools that offer same day liquidity.

PUBLIC TRUST All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment Officials shall avoid any transaction that might impair public confidence in the City's ability to govern effectively. The governing body recognizes that in a diversified portfolio, occasional measured losses due to market volatility are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

YIELD (Optimization of Interest Earnings) The City's cash management portfolio shall be designed with the objective of regularly meeting or exceeding the average rate of return on U.S. Treasury Bills at a maturity level comparable to the City's weighted average maturity in days. The investment program shall seek to augment returns above this threshold consistent with risk limitations identified herein and prudent investment principles.

INVESTMENT STRATEGY The City maintains a commingled portfolio for investment purposes which incorporates the specific uses and the unique characteristics of the funds in the portfolio. The investment strategy has as its primary objective assurance that anticipated liabilities are matched and adequate investment liquidity provided. The City shall pursue conservative portfolio management strategy. This may be accomplished by creating a laddered maturity structure with some extension for yield enhancement. The maximum dollar weighted average maturity of 2 years or less will be calculated using the stated final maturity date of each security.

#### IV. **RESPONSIBILITY AND CONTROL**

Oversight Responsibility for the investment activity of the City of La Porte shall rest with the Fiscal Affairs Committee and the City Manager. They will designate investment officer(s), receive and review quarterly reporting, approve and provide for investment officer training, approve broker/dealers, and review and adopt the Investment Policy and Strategy at least annually.

DELEGATION Management responsibility for the investment program is hereby delegated to the Director of Finance, who shall establish written procedures for the operation of the investment program, consistent with this investment policy. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions.

SUBORDINATES All persons involved in investment activities will be referred to as "Investment Officers." No person shall engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Director of Finance. The Director of Finance shall be responsible for all transactions undertaken, and shall establish a system of controls to regulate the activities of Subordinate Investment Officers. All investment officers, including the Director of Finance, will demonstrate competence in the execution of the city's investments. All Investment Officers will insure compliance with the investment program with ongoing training and evaluation by management.

PRUDENCE Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment Officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

INDEMNIFICATION The Director of Finance and the Investment Officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific investment's credit risk or market price changes, provided that these deviations are reported immediately and the appropriate action is taken to control adverse developments.

ETHICS DISCLOSURE AND CONFLICTS OF INTEREST Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution and management of the investment program, or which could impair their ability to make impartial investment decisions. Employees and Investment Officers shall disclose to the City Manager any material interests in financial institutions that conduct business with the City of La Porte, and shall further disclose any personal financial or investment positions that could be related to the performance of the City's investment portfolio. Employees and Investment Officers shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the City of La Porte.

An Investment Officer of the City of La Porte who has a personal business relationship with an organization seeking to sell an investment to the City of La Porte shall file a statement disclosing that personal business interest. An Investment Officer who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City of La Porte shall file a statement disclosing that relationship. A statement required under subsection 2256.005(i) of the Act must be filed with the Texas Ethics Commission and the governing body of the City of La Porte.

TRAINING Investment Officers shall attend 10 hours of investment training within 12 months after taking office or assuming duties, and 10 hours every succeeding two years that begins on the first day of the fiscal year, which is October 1<sup>st</sup>, and consists of the two consecutive fiscal years after that date. The investments training shall be provided from an independent source approved by the Fiscal Affairs Committee to insure the quality and capability of investment management in compliance with the Act. For the purposes of this policy, an "independent source" is defined as a professional organization, an institute of higher learning or any other sponsor other than a Business Organization with whom the City may engage in investment transactions. Training shall be in accordance with the Act and shall include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with statutes governing the investment of public funds.

## V. **REPORTING**

Investment reports shall be prepared quarterly and be signed and submitted by the Investment Officers, in a timely manner. These reports will be submitted to the City Manager and City Council. This report shall describe in detail the investment position of the City, disclose the market value and book value of each fund group as well as each separate investment, and state the maturity date of each security and accrued interest for the reporting period. The report shall

include all information as required by Section 2256.023 of the Act. It must also express compliance of the portfolio to the investment strategy contained in the City's Investment Policy and the Act.

MONITORING The market price of each investment shall be obtained monthly from a source such as the Wall Street Journal newspaper, the City's custodial bank, a reputable brokerage firm or security pricing service and reported on the investment reports. Investments with minimum rating requirements will be monitored for rate changes and liquidation of such investments will be determined at such time.

Monitoring credit ratings – The Investment Officer shall monitor, on no less than a monthly basis, the credit rating on all authorized investments in the portfolio based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by Policy, the Investment Officer shall notify the City Manager of the loss of rating, and liquidate the investment within one week.

Monitoring FDIC Status for Mergers and Acquisitions – The Investment Officer shall monitor, on no less than a weekly basis, the status and ownership of all banks issuing brokered CDs owned by the City based upon information from the FDIC. If any bank has been acquired or merged with another bank in which brokered CDs are owned, the Investment Officer or Advisor shall immediately liquidate any brokered CD which places the City above the FDIC insurance level.

## VI. INVESTMENTS

ACTIVE PORTFOLIO MANAGEMENT The City intends to pursue active versus passive portfolio management philosophy. That is, securities may be sold before they mature if market conditions present an opportunity for the City to benefit from the trade.

AUTHORIZED INVESTMENTS The following are authorized investments for the City and all are authorized and further defined by the Act. Only those investments listed in this section are authorized.

A. Obligations, including letters of credit, of the United States or its agencies and instrumentalities; direct obligations of this state or its agencies and instrumentalities; other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States; and obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent. (Section 2256.009 (a) of the Act)

The following are not authorized investments under Section 2256.009 (b) of the Act:

- obligations whose payment represents the coupon payment on the outstanding principal balance of the underlying mortgage-backed security collateral and pays not principal (Interest only bonded);
- obligations whose payment represents the principal stream of cash from the underlying mortgage-backed security collateral and pays no interest (Principal only bonds);

- collateralized mortgage obligations that have a final stated maturity date of greater than 10 years; and
  - collateralized mortgage obligations, the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.
- B. Fully collateralized certificates of deposit issued by a depository institution or an approved broker that has its main office or branch office in Texas, selected from a list adopted by the City, and guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor; secured by obligations authorized by this subchapter, or secured in any other manner and amount provided by law for deposits of the City. (Section 2256.010 of the Act)
- C. FDIC insured, brokered certificates of deposit securities from a bank in any US state, delivered versus payment to the City safekeeping agent, not to exceed one year to maturity. Before purchase, the Investment Officer must verify the FDIC status of the bank on [www.fdic.gov](http://www.fdic.gov) to assure that the bank is FDIC insured.
- D. AAA-rated, or an equivalent rating, no-load money market mutual funds registered with and regulated by the Securities and Exchange Commission; having a dollar-weighted average stated maturity of 90 days or fewer; and includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share. (Section 2256.014 of the Act) The Fund must provide the City with a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. Section 80a-1 et seq.);

The City is not authorized by Section 2256.014 (c) of the Act to:

- invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves in other funds held for debt service, in mutual funds described in the Act (Section 2256.014);
  - invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in the Act (Section 2256.014); or
  - invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in the Act (Section 2256.014) in an amount that exceeds 10 percent of the total assets of the mutual fund.
- E. AAA-rated, or an equivalent rating by at least one nationally recognized rating service, constant dollar, investment pools as authorized by the City Council and as further defined by the Act, which invests in eligible securities as authorized by Section 2256.016 of the Act.

**EXISTING INVESTMENTS** The Investment Officer is not required to liquidate investments that were authorized investments at the time of purchase. Any investments currently held that do not meet the guidelines of this policy shall be reviewed to determine the ability to liquidate. An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. If the investment cannot be liquidated because of material adverse change in the value since the time of purchase, and holding the investment to maturity does not negatively affect disbursements or cash flow, a recommendation of holding said investment to maturity is acceptable.

**MAXIMUM MATURITIES** The maximum stated maturity, from the date of purchase, for any individual investment may not exceed 5 years and the maximum dollar-weighted average maturity for the pooled fund group (investment portfolio) may not exceed 2 years.

**DIVERSIFICATION** It is the policy of the City to diversify its investment portfolios. Assets held in the pooled investment portfolio shall be diversified to eliminate the risk of loss resulting from over-concentration of assets in a specific maturity, specific issuer or specific class of securities. Diversification strategies shall be determined and revised periodically by the Fiscal Affairs Committee.

**FINANCIAL INSTRUMENTS** Maximum allowable percentages of the total portfolio for investments are stated as follows:

	Investment Type	Maximum Limit
1.	Investment Pools	100%
2.	Money Market Accounts	10%
3.	Certificates of Deposit	60%
4.	U.S. Government Securities	80%
5.	U.S. Agency Securities	80%

## **VII. SELECTION OF FINANCIAL INSTITUTIONS AND BROKER DEALERS**

**SELECTION OF FINANCIAL INSTITUTIONS** Depositories shall be selected through the City's banking services procurement process, which shall include a formal request for proposal (RFP) issued every five (5) years. In selecting depositories, the services available, service costs, and credit worthiness of institutions shall be considered, and the Director of Finance shall conduct a comprehensive review of prospective depositories' credit characteristics and financial history. The depository contract will provide for collateral if balance exceeds FDIC Insurance amounts.

The City shall select financial institutions from which the City may purchase certificates of deposit in accordance with the Act and this policy and will have a written depository agreement with the selected institution, which was approved by resolution of the Bank's Board if collateral is required. The Investment Officer shall monitor the fiscal condition of financial institutions where certificates of deposit are held.

**AUTHORIZED FINANCIAL BROKER/DEALERS AND INSTITUTIONS** The Investment Officer shall maintain a list of broker/dealers and financial institutions authorized to provide investment services. These may include primary dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (uniform net capital rule). All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must submit: audited financial statements, proof of National Association of Security Dealers certification, and proof of state registration.

Before engaging in investment transactions with a financial institutions or broker/dealers, the Investment Officer shall have received, from a Qualified Representative of said firm, a signed Certification Form. (Exhibit B) This form shall attest that the individual responsible for the City's account with that firm has (1) received and reviewed the investment policy of the City; and (2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and the organization that are not authorized by the City's investment policy, except to the extent that this

authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards. Investment Officers of the City may not acquire or otherwise obtain any authorized investment described in the investment policy from a person who has not delivered a signed Certification Form. The Fiscal Affairs Committee shall at least annually review, revise, and adopt a list of qualified broker/dealers and other financial institutions that are authorized to engage in investment transactions with the City. (Exhibit A)

COMPETITIVE BIDDING All investment transactions must be competitively transacted and executed with broker/dealers or financial institutions that have been authorized by the City. The City will obtain at least three competitive offers. Exception: New issues will not be required to be competitively transacted as all broker/dealers would show the same price and yield.

## VIII. **COLLATERAL**

COLLATERALIZATION OF PUBLIC DEPOSITS Collateralization requirements are governed by the Texas Government Code Chapter 2257 (Public Funds Collateral Act). All bank deposits, certificates of deposit, and repurchase agreements shall be secured by pledged collateral. In order to anticipate market changes and provide a level of security for all funds, the required minimum collateral level will be a market value equal to no less than 102% of the deposits. Collateral levels should be monitored and maintained by the financial institution. Repurchase agreements shall be documented by specific agreement noting the collateral pledged in each agreement and should be monitored daily. Collateral shall be reviewed monthly to assure the market value of the securities pledged equals or exceeds the related bank balances.

Collateral shall always be held in the City's name by an independent third party with whom the City of La Porte has a current custodial agreement. Evidence of the pledged collateral shall be maintained by a written agreement. A safekeeping receipt must be supplied to the City of La Porte for any transaction involving sales/purchases/maturities of securities and/or underlying collateral, which the City of La Porte will retain. The right of collateral substitution is granted provided the substitution has prior approval of the City and is followed by the delivery of an original safekeeping receipt to the City, and replacement collateral is received prior to the release of original collateral.

COLLATERAL DEFINED The City shall accept only the following securities as collateral:

- A. FDIC insurance coverage;
- B. United States Treasuries and Agencies;
- C. Obligations, including letters of credit, of the United States or its agencies and instrumentalities.
- D. Other securities as approved by the Fiscal Affairs Committee.

SUBJECT TO AUDIT All collateral shall be subject to inspection and audit by the Director of Finance or the City's independent auditors.

## IX. **SAFEKEEPING AND CUSTODY**

SAFEKEEPING AGREEMENT All securities owned by the City shall be held in the City's designated third party safekeeping. The third party custodian shall be required to issue safekeeping receipts to the City listing each specific security, description, maturity, cusip number yield and/or coupon, market value and other pertinent information. Each safekeeping receipt

shall clearly indicate that the instrument is held for the City of La Porte. All safekeeping arrangements shall be documented by the Investment Officer.

DELIVERY VERSUS PAYMENT All investment transactions shall be executed on a delivery versus payment basis. That is, funds shall not be wired or paid until verification has been made that the collateral was received by the Trustee. The collateral shall be held in the name of the City. The Trustee's records shall assure the notation of the City's ownership of or explicit claim on the securities. The original copy of all safekeeping receipts shall be delivered to the City.

## X. **MANAGEMENT AND INTERNAL CONTROLS**

The Director of Finance shall establish a system of internal controls, which shall be reviewed by an independent auditor. The controls shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees or Investment Officers of the City.

Controls and managerial emphasis deemed most important that shall be employed where practical are:

- A. Control of collusion
- B. Separation of duties
- C. Separation of transaction authority from accounting and record keeping
- D. Custodian safekeeping receipts records management
- E. Avoidance of physical delivery securities
- F. Clear delegation of authority to subordinate staff members
- G. Documentation on investment bidding events
- H. Written confirmation of transactions for investments and wire transfers
- I. Reconciliation and comparisons of security receipts with the investment subsidiary records
- J. Compliance with investment policies
- K. Accurate and timely reports
- L. Validation of investment maturity decisions with supporting cash flow data
- M. Adequate training and development of Investment Officers
- O. Review of financial condition of all brokers, dealers and financial institutions
- P. Staying informed about market conditions, changes, and trends that require adjustments in investment strategies
- Q. Monitor credit ratings
- R. Monitor FDIC status for mergers and acquisitions for brokered CD's

COMPLIANCE AUDIT The City shall perform, in conjunction with its annual financial audit, a compliance audit of management controls on investments and adherence to the entity's established investment policies. The audit shall include a formal review of the quarterly investment reports by an independent auditor and the results reported to the governing body by the independent auditor. Also, the governing body shall review its investment policy and investment strategy not less than annually and adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and strategy, and recorded any changes made to them.

**City of La Porte  
Approved List of Brokers/Dealers and Investment Pools**

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**Brokers/Dealers**

Coastal Securities

Wells Fargo

Cantor Fitzgerald

Amegy Bank

**Investment Pools**

TexPool

LOGIC Investment Pool

**TEXAS PUBLIC FUNDS INVESTMENT ACT CERTIFICATION FORM**  
**As required by Texas Government Code 2256.005 (k-1)**

**CITY OF LA PORTE, TEXAS**

This certification is executed on behalf of the City of La Porte, Texas (the Investor) and \_\_\_\_\_ (the Seller) pursuant to the Public Funds Investment Act, Chapter 2256, Government Code, Texas Codes Annotated (the Act) in connection with investment transactions conducted between the Investor and Dealer.

The Undersigned Qualified Representative of the Seller hereby certifies on behalf of the Seller that:

1. The Qualified Representative is duly authorized to execute this Certification on behalf of the Seller, and
2. The Qualified Representative has received and reviewed the Investment Policy furnished by the Investor, and
3. The Seller has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Seller and the Investor that are not authorized by the entity's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

**Qualified Representative**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Printed):

\_\_\_\_\_  
Title:

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

**City of La Porte, Texas  
Investment Strategy Statement**

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The City of La Porte, Texas (the "City") will strive to administer and invest its pooled funds at the highest investment return possible while always taking into account the primary goals of preservation of principal and liquidity of funds invested consistent with the City's investment policy.

The City's funds, which are pooled together and constitute the investment portfolio, include all financial assets of all funds managed by the City, including but not limited to receipts of tax revenues, charges for services, bond proceeds, interest incomes, loans and funds received by the City where the City performs a custodial function.

The City will never invest its funds in a security that is deemed unsuitable to the financial requirements of the City. Maturities will be staggered in a manner that meets the cash flow needs of the City.

The primary investment objective is the preservation and safety of principal. Each investment transaction shall seek first to ensure that principal losses are avoided, whether they are from security defaults or erosion of market value.

The City's investment portfolio will remain sufficiently liquid to enable the City to meet operating requirements that might be reasonably anticipated. Liquidity shall be achieved by matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets.

The City shall always maintain a highly diversified investment portfolio in order to reduce the amount of credit and market risk exposed to the City's portfolio.

After first considering safety and liquidity, the City's investment portfolio shall be designed with the objective of regularly exceeding the average rate of return on U.S. Treasury Bills at a maturity level comparable to the City's weighted average maturity in days. The City shall seek to augment returns above this threshold consistent with risk limitations identified in the City's investment policy and prudent investment principles.

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: December 12, 2016 Appropriation  
Requested By: \_\_\_\_\_ Source of Funds: \_\_\_\_\_  
Department: Administration Account Number: \_\_\_\_\_  
Report:  Resolution:  Ordinance:  Amount Budgeted: \_\_\_\_\_  
Other:  \_\_\_\_\_ Amount Requested: \_\_\_\_\_  
Budgeted Item:  YES  NO

**Attachments :**

- 1. Presentation**
- 2. Ordinances**

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### SUMMARY & RECOMMENDATIONS

The Dangerous Building Inspection Board, as established by Sect. 82-472 of the City's Code of Ordinances, is composed of the Deputy Building Official (Mike Collier), the Fire Chief (Mike Boaze) and the Fire Marshal (Clif Meekins).

On September 12, 2016, Council granted five property owners 90 days to complete repairs on structures located at 0 S. Lobit, 3142 Fondren, 727 S. Kansas, 202 N. Forrest, and 3313 Bayer. Prior to tonight's meeting, courtesy letters both regular mail and certified, were sent to all property owners as a reminder of the upcoming deadline.

The current status of each property is as follows:

0 S. Lobit:	Negligible improvements	
3142 Fondren: 11/11/2016	To be Demolished by owner	Demolition Permit issued
727 S. Kansas: 09/02/2016	Anticipate completion of repairs by December 12.	Remodel Permit issued
202 N. Forrest: 11/04/2016	Demolished by owner	Demolition Permit issued
3313 Bayer:	Negligible improvements	

At this time, staff is recommending Council consider authorizing the removal of dangerous buildings located at 0 S. Lobit and 3313 Bayer to prevent devaluation of adjoining properties. Should the Council approve the condemnation ordinances for 0 S. Lobit and 3313 Bayer, staff will obtain quotes for the demolition. It is estimated that each structure will cost approximately \$5,000 - \$7,000 to demolish.

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**Action Required of Council:**

Consider approval or other action of ordinances to proceed with removal of the dangerous buildings located at 0 S. Lobit and 3313 Bayer.

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**Approved for City Council Agenda**

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**Corby D. Alexander, City Manager**

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**Date**

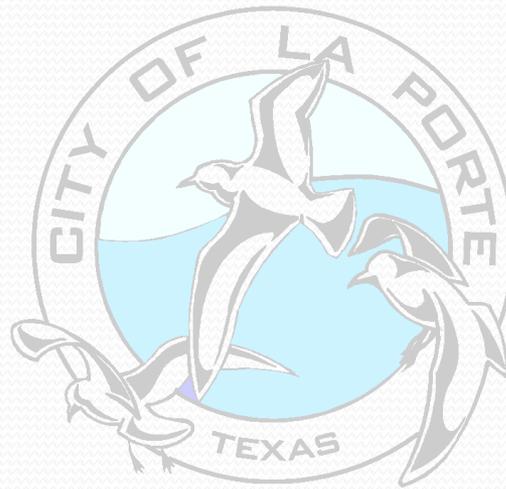
# Dangerous Buildings

Possible Dangerous Building List

12/12/2016



# Properties with Voluntary Demolition





# 3142 Fondren (April 2016)





# 3142 Fondren (Nov. 2016)



Note: Property should be completely demolished by the December 12 meeting.



# 202 N. Forrest (April 2016)





# 202 N. Forrest (Nov. 2016)



# Property with Substantial Progress





# 727 S. Kansas (April 2016)





# 727 S. Kansas (Nov. 2016)



# Properties with Negligible Progress





# 0 S. Lobit (April 2016)





# 0 S. Lobit (Nov. 2016)





# 3313 Bayer (April 2016)





# 3313 Bayer (Nov. 2016)



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

AN ORDINANCE DECLARING THE STORAGE BUILDING LOCATED AT LOT THIRTEEN (13) THROUGH LOT TWENTY-TWO (24), BLOCK 24, BAYFRONT ADDITION TO LA PORTE, HARRIS COUNTY, TEXAS, MORE COMMONLY KNOWN AS 0 S. LOBIT ST. TO BE IN FACT A NUISANCE; ORDERING SUCH BUILDING CONDEMNED; FINDING THAT JERRY GLENN GUEST IS THE RECORD OWNER OF SAID PROPERTY; ORDERING THE SAID OWNER TO ENTIRELY REMOVE OR TEAR DOWN SUCH BUILDING; ORDERING THE SAID OWNER TO COMMENCE SAID REMOVAL OR DEMOLITION WITHIN TEN (10) DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; AND TO COMPLETE SAID REMOVAL OR DEMOLITION WITHIN FORTY-FIVE (45) DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; ORDERING THE DANGEROUS BUILDING INSPECTION BOARD TO PLACE A NOTICE ON SAID BUILDING; ORDERING THE CITY SECRETARY TO FORWARD A COPY OF THIS ORDINANCE TO SAID OWNER; PROVIDING FOR THE REMOVAL OF SAID BUILDING) BY THE CITY OF LA PORTE IF NOT REMOVED BY SAID OWNERS IN THE MANNER PROVIDED HEREIN; PROVIDING AN EFFECTIVE DATE HEREOF; AND FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW.

WHEREAS, the City Council of the City of La Porte, passed and approved Section 82-472 of the Code of Ordinances, creating a Dangerous Building Inspection Board (*the Board*) to be composed of the Building Official or his duly authorized representative, the Fire Chief or his duly authorized representative, the Fire Marshal or his duly authorized representative; and

WHEREAS, Section 82-474 (a) provides that:

Whenever it shall come to the attention of the Board or any member thereof, by reason of the carrying out of the necessary duties of such member, or by reason of a complaint of any citizen of the City or of the City Council, that a dangerous building exists, the Board shall make a thorough inspection of such building(s); and

WHEREAS, Section 82-474 (e) provides that:

After the inspection provided for in this Section has been made, with or without the aid of experts, the Board shall report its conclusion in writing to each of the members of the City Council and to the City Attorney. Such report shall state the circumstances and the condition of the building(s) upon which such conclusion was based. The report shall be filed in all cases no matter what conclusion is stated by the Board; and

WHEREAS, it has heretofore come to the attention of the Board that the storage building at LOT THIRTEEN (13) THROUGH LOT TWENTY-TWO (24), BLOCK 24, BAYFRONT ADDITION TO LA PORTE, HARRIS COUNTY, TEXAS, which is further described as 0 S. LOBIT ST, Harris County, Texas, has become dangerous or substandard and thereby a public nuisance, as established in Section 82-473 of the Code of Ordinances of the City of La Porte; and

WHEREAS, said Board has heretofore made and filed its written report, dated APRIL 11, 2016 finding said building to be in fact a dangerous building;

WHEREAS, City Council received such report, and ordered notice to the record owner of said property that a hearing as provided in Section 82-477 of said Ordinance would be held at 6:00 PM on SEPTEMBER 12, 2016, at 604 W. Fairmont Parkway, at the Council Chambers, City Hall, City of La Porte, Texas, at which time the Council would hear further evidence for and against the conclusions of the Board;

WHEREAS, the City of La Porte has heretofore served notice of said hearing upon said owner(s), by posting a notice on the subject property on or about AUGUST 12, 2016; and by registered mail, return receipt requested, which notice was shown by USPS as delivered on AUGUST 24, 2016; a date more than ten (10) days before the date set for said hearing;

WHEREAS, the City of La Porte has heretofore served notice of said hearing upon said owner(s), by posting a notice on the subject property on or about AUGUST 12, 2016; and by registered mail, return receipt requested, which notice was shown by USPS as delivered on AUGUST 18, 2016; a date more than ten (10) days before the date set for said hearing;

WHEREAS, on SEPTEMBER 12, 2016 City Council met in regular session to conduct such public hearing, at which time evidence was presented both for and against the conclusions of the Board;

WHEREAS, in lieu of closing the public hearing and considering formal action to order the condemnation of the building, the City Council voted to continue such public hearing until its regularly scheduled meeting date on DECEMBER 12, 2016;

WHEREAS, on DECEMBER 12, 2016 the City Council met in regular session to complete such public hearing, at which time evidence was presented both for and against the conclusions of the Board, after which the public hearing was concluded;

WHEREAS, the City Council, after due deliberation, and within fifteen (15) days after the termination of the public hearing, is required to make its decision in writing and enter its order; and;

WHEREAS, City Council entered its order to condemn the building on DECEMBER 12, 2016 a day which is within fifteen (15) days after the termination of the hearing; NOW THEREFORE:

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

Section 1. This Ordinance contains the Findings of Fact, Conclusions of Law, and orders of the City Council of the City of La Porte, based upon the evidence presented at said hearing.

Section 2. Based on the evidence presented at said hearing, the City Council hereby adopts the attached report of the Board, in full, and incorporates such by reference herein as fully as though set out herein.

Section 3. The City Council hereby finds, determines and declares such building, being the storage building, to be a public nuisance, and orders such building condemned.

Section 4. The City Council hereby finds, determines and declares that JERRY GLENN GUEST is the record owner of the property on which the aforementioned storage building

is situated, and that as such record owner, the said JERRY GLENN GUEST have been duly and legally notified of those proceedings.

Section 5. The City Council hereby orders the said JERRY GLENN GUEST to entirely remove or demolish such building including all slabs, parking bays and driveways, and further orders the said JERRY GLENN GUEST to commence such removal within ten (10) days from the effective date of this Ordinance, and to complete said removal or demolition within forty-five (45) days from the effective date of this ordinance.

Section 6. The City Council hereby orders the Board of the City of La Porte to cause a notice of the dangerous, unsanitary condition of the building to be affixed in one or more conspicuous places on the exterior of the building, which notice or notices shall not be removed or defaced by any person, under penalty of law.

Section 7. The City Council hereby orders the City Secretary to forward a certified copy of this Ordinance, to the record owner of said property and to any and all lienholders or mortgagees, by registered mail, return receipt requested; file a copy of this Ordinance in the office of the City Secretary; and, publish in the official newspaper of the city a notice containing: 1) the street address or legal description of the property, 2) the date of the public hearing, 3) a brief statement indicating the results of the hearing, and 4) instructions stating where a complete copy of this Ordinance may be obtained.

Section 8. Should the said JERRY GLENN GUEST not comply with the orders contained in this Ordinance relating to the removal or demolition of such building including all slabs, parking bays and driveways, within forty-five (45) days after hereof, then the City of La Porte shall enter upon the said premises with such assistance as it may deem necessary, and cause the said building to be removed or demolished without delay, and the expenses of such procedure shall be charged against the said record owner of said property, and shall thereupon become a valid and enforceable personal obligation of said owner of such premises, and the said City shall carefully compute the cost of such removal or demolition, which cost shall be hereafter assessed against the land occupied by such building, and made lien thereon.

Section 9. The City Council officially finds, determines, and 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 10. This Ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED this the 12<sup>th</sup> day of DECEMBER, 2016.

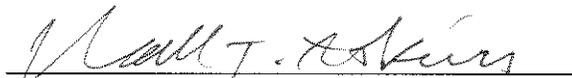
CITY OF LA PORTE, TEXAS

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

ATTEST:

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

APPROVED:

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

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

AN ORDINANCE DECLARING THE PRIMARY DWELLING LOCATED AT SOUTH 20 FEET OF LOT TWELVE (12), LOTS THIRTEEN (13) AND FOURTEEN (14), BLOCK 263, TOWN OF LA PORTE, HARRIS COUNTY, TEXAS, MORE COMMONLY KNOWN AS 727 S. KANSAS ST. TO BE IN FACT A NUISANCE; ORDERING SUCH BUILDING CONDEMNED; FINDING THAT 3K COASTWIDE INVESTMENTS, LLC IS THE RECORD OWNERS OF SAID PROPERTY; ORDERING THE SAID OWNER TO ENTIRELY REMOVE OR TEAR DOWN SUCH BUILDING; ORDERING THE SAID OWNER TO COMMENCE SAID REMOVAL OR DEMOLITION WITHIN TEN (10) DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; AND TO COMPLETE SAID REMOVAL OR DEMOLITION WITHIN FORTY-FIVE (45) DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; ORDERING THE DANGEROUS BUILDING INSPECTION BOARD TO PLACE A NOTICE ON SAID BUILDING; ORDERING THE CITY SECRETARY TO FORWARD A COPY OF THIS ORDINANCE TO SAID OWNER; PROVIDING FOR THE REMOVAL OF SAID BUILDING) BY THE CITY OF LA PORTE IF NOT REMOVED BY SAID OWNERS IN THE MANNER PROVIDED HEREIN; PROVIDING AN EFFECTIVE DATE HEREOF; AND FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW.

WHEREAS, the City Council of the City of La Porte, passed and approved Section 82-472 of the Code of Ordinances, creating a Dangerous Building Inspection Board (*the Board*) to be composed of the Building Official or his duly authorized representative, the Fire Chief or his duly authorized representative, the Fire Marshal or his duly authorized representative; and

WHEREAS, Section 82-474 (a) provides that:

Whenever it shall come to the attention of the Board or any member thereof, by reason of the carrying out of the necessary duties of such member, or by reason of a complaint of any citizen of the City or of the City Council, that a dangerous building exists, the Board shall make a thorough inspection of such building(s); and

WHEREAS, Section 82-474 (e) provides that:

After the inspection provided for in this Section has been made, with or without the aid of experts, the Board shall report its conclusion in writing to each of the members of the City Council and to the City Attorney. Such report shall state the circumstances and the condition of the building(s) upon which such conclusion was based. The report shall be filed in all cases no matter what conclusion is stated by the Board; and

WHEREAS, it has heretofore come to the attention of the Board that the primary dwelling at SOUTH 20 FEET OF LOT TWELVE (12), LOTS THIRTEEN (13) AND FOURTEEN (14), BLOCK 263, TOWN OF LA PORTE, HARRIS COUNTY, TEXAS, which is further described as 727 S. KANSAS ST., Harris County, Texas, has become dangerous or substandard and thereby a public nuisance, as established in Section 82-473 of the Code of Ordinances of the City of La Porte; and

WHEREAS, said Board has heretofore made and filed its written report, dated APRIL 11, 2016 finding said building to be in fact a dangerous building;

WHEREAS, City Council received such report, and ordered notice to the record owner of said property that a hearing as provided in Section 82-477 of said Ordinance would be held at 6:00 PM on SEPTEMBER 12, 2016, at 604 W. Fairmont Parkway, at the Council Chambers, City Hall, City of La Porte, Texas, at which time the Council would hear further evidence for and against the conclusions of the Board;

WHEREAS, the City of La Porte has heretofore served notice of said hearing upon said owner(s), by posting a notice on the subject property on or about AUGUST 12, 2016; and by registered mail, return receipt requested, which notice was shown by USPS as delivered on AUGUST 22, 2016; a date more than ten (10) days before the date set for said hearing;

WHEREAS, on SEPTEMBER 12, 2016 City Council met in regular session to conduct such public hearing, at which time evidence was presented both for and against the conclusions of the Board;

WHEREAS, in lieu of closing the public hearing and considering formal action to order the condemnation of the building, the City Council voted to continue such public hearing until its regularly scheduled meeting date on DECEMBER 12, 2016;

WHEREAS, on DECEMBER 12, 2016 the City Council met in regular session to complete such public hearing, at which time evidence was presented both for and against the conclusions of the Board, after which the public hearing was concluded;

WHEREAS, the City Council, after due deliberation, and within fifteen (15) days after the termination of the public hearing, is required to make its decision in writing and enter its order; and;

WHEREAS, City Council entered its order to condemn the building on DECEMBER 12, 2016 a day which is within fifteen (15) days after the termination of the hearing; NOW THEREFORE:

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

Section 1. This Ordinance contains the Findings of Fact, Conclusions of Law, and orders of the City Council of the City of La Porte, based upon the evidence presented at said hearing.

Section 2. Based on the evidence presented at said hearing, the City Council hereby adopts the attached report of the Board, in full, and incorporates such by reference herein as fully as though set out herein.

Section 3. The City Council hereby finds, determines and declares such building, being the primary dwelling structure, to be a public nuisance, and orders such building condemned.

Section 4. The City Council hereby finds, determines and declares that 3K COASTWIDE INVESTMENTS, LLC is the record owner of the property on which the aforementioned primary dwelling structure is situated, and that as such record owner, the said 3K COASTWIDE INVESTMENTS, LLC has been duly and legally notified of those proceedings.

Section 5. The City Council hereby orders the said 3K COASTWIDE INVESTMENTS, LLC to entirely remove or demolish such building including all slabs, parking

bays and driveways, and further orders the said 3K COASTWIDE INVESTMENTS, LLC to commence such removal within ten (10) days from the effective date of this Ordinance, and to complete said removal or demolition within forty-five (45) days from the effective date of this ordinance.

Section 6. The City Council hereby orders the Board of the City of La Porte to cause a notice of the dangerous, unsanitary condition of the building to be affixed in one or more conspicuous places on the exterior of the building, which notice or notices shall not be removed or defaced by any person, under penalty of law.

Section 7. The City Council hereby orders the City Secretary to forward a certified copy of this Ordinance, to the record owner of said property and to any and all lienholders or mortgagees, by registered mail, return receipt requested; file a copy of this Ordinance in the office of the City Secretary; and, publish in the official newspaper of the city a notice containing: 1) the street address or legal description of the property, 2) the date of the public hearing, 3) a brief statement indicating the results of the hearing, and 4) instructions stating where a complete copy of this Ordinance may be obtained.

Section 8. Should the said 3K COASTWIDE INVESTMENTS, LLC not comply with the orders contained in this Ordinance relating to the removal or demolition of such building including all slabs, parking bays and driveways within forty-five (45) days after hereof, then the City of La Porte shall enter upon the said premises with such assistance as it may deem necessary, and cause the said building to be removed or demolished without delay, and the expenses of such procedure shall be charged against the said record owner of said property, and shall thereupon become a valid and enforceable personal obligation of said owner of such premises, and the said City shall carefully compute the cost of such removal or demolition, which cost shall be hereafter assessed against the land occupied by such building, and made lien thereon.

Section 9. The City Council officially finds, determines, and 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 10. This Ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED this the 12th day of DECEMBER, 2016.

CITY OF LA PORTE, TEXAS

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

ATTEST:

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

APPROVED:

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

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

AN ORDINANCE DECLARING THE PRIMARY RESIDENTIAL DWELLING LOCATED AT LOTS SEVENTY-NINE (79) AND EIGHTY (80), BLOCK 6, SPENCER HWY ESTATES, HARRIS COUNTY, TEXAS, MORE COMMONLY KNOWN AS 3313 BAYER ST. TO BE IN FACT A NUISANCE; ORDERING SUCH BUILDING CONDEMNED; FINDING THAT ANTHONY J. DISISTO AND LUCY S. DISISTO ARE THE RECORD OWNERS OF SAID PROPERTY; ORDERING THE SAID OWNERS TO ENTIRELY REMOVE OR TEAR DOWN SUCH BUILDING; ORDERING THE SAID OWNERS TO COMMENCE SAID REMOVAL OR DEMOLITION WITHIN TEN (10) DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; AND TO COMPLETE SAID REMOVAL OR DEMOLITION WITHIN FORTY-FIVE (45) DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; ORDERING THE DANGEROUS BUILDING INSPECTION BOARD TO PLACE A NOTICE ON SAID BUILDING; ORDERING THE CITY SECRETARY TO FORWARD A COPY OF THIS ORDINANCE TO SAID OWNER; PROVIDING FOR THE REMOVAL OF SAID BUILDING) BY THE CITY OF LA PORTE IF NOT REMOVED BY SAID OWNERS IN THE MANNER PROVIDED HEREIN; PROVIDING AN EFFECTIVE DATE HEREOF; AND FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW.

WHEREAS, the City Council of the City of La Porte, passed and approved Section 82-472 of the Code of Ordinances, creating a Dangerous Building Inspection Board (*the Board*) to be composed of the Building Official or his duly authorized representative, the Fire Chief or his duly authorized representative, the Fire Marshal or his duly authorized representative; and

WHEREAS, Section 82-474 (a) provides that:

Whenever it shall come to the attention of the Board or any member thereof, by reason of the carrying out of the necessary duties of such member, or by reason of a complaint of any citizen of the City or of the City Council, that a dangerous building exists, the Board shall make a thorough inspection of such building(s); and

WHEREAS, Section 82-474 (e) provides that:

After the inspection provided for in this Section has been made, with or without the aid of experts, the Board shall report its conclusion in writing to each of the members of the City Council and to the City Attorney. Such report shall state the circumstances and the condition of the building(s) upon which such conclusion was based. The report shall be filed in all cases no matter what conclusion is stated by the Board; and

WHEREAS, it has heretofore come to the attention of the Board that the primary residential dwelling at LOTS SEVENTY-NINE (79) AND EIGHTY (80), BLOCK 6, SPENCER HWY ESTATES, HARRIS COUNTY, TEXAS, which is further described as 3313 BAYER ST., Harris County, Texas, has become dangerous or substandard and thereby a public nuisance, as established in Section 82-473 of the Code of Ordinances of the City of La Porte; and

WHEREAS, said Board has heretofore made and filed its written report, dated APRIL 11, 2016 finding said building to be in fact a dangerous building;

WHEREAS, City Council received such report, and ordered notice to the record owners of said property that a hearing as provided in Section 82-477 of said Ordinance would be held at 6:00 PM on SEPTEMBER 12, 2016, at 604 W. Fairmont Parkway, at the Council Chambers, City Hall, City of La Porte, Texas, at which time the Council would hear further evidence for and against the conclusions of the Board;

WHEREAS, the City of La Porte has heretofore served notice of said hearing upon said owner(s), by posting a notice on the subject property on or about AUGUST 12, 2016; and by registered mail, return receipt requested, which notice was shown by USPS as delivered on AUGUST 18, 2016; a date more than ten (10) days before the date set for said hearing;

WHEREAS, on SEPTEMBER 12, 2016 City Council met in regular session to conduct such public hearing, at which time evidence was presented both for and against the conclusions of the Board;

WHEREAS, in lieu of closing the public hearing and considering formal action to order the condemnation of the building, the City Council voted to continue such public hearing until its regularly scheduled meeting date on DECEMBER 12, 2016;

WHEREAS, on DECEMBER 12, 2016 the City Council met in regular session to complete such public hearing, at which time evidence was presented both for and against the conclusions of the Board, after which the public hearing was concluded;

WHEREAS, the City Council, after due deliberation, and within fifteen (15) days after the termination of the public hearing, is required to make its decision in writing and enter its order; and;

WHEREAS, City Council entered its order to condemn the building on DECEMBER 12, 2016 a day which is within fifteen (15) days after the termination of the hearing; NOW THEREFORE:

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

Section 1. This Ordinance contains the Findings of Fact, Conclusions of Law, and orders of the City Council of the City of La Porte, based upon the evidence presented at said hearing.

Section 2. Based on the evidence presented at said hearing, the City Council hereby adopts the attached report of the Board, in full, and incorporates such by reference herein as fully as though set out herein.

Section 3. The City Council hereby finds, determines and declares such building, being the primary dwelling structure, to be a public nuisance, and orders such building condemned.

Section 4. The City Council hereby finds, determines and declares that ANTHONY J. DISISTO AND LUCY S. DISISTO are the record owners of the property on which the aforementioned primary residential dwelling structure are situated, and that as such record owners, the said ANTHONY J. DISISTO AND LUCY S. DISISTO have been duly and legally notified of those proceedings.

Section 5. The City Council hereby orders the said ANTHONY J. DISISTO AND LUCY S. DISISTO to entirely remove or demolish such building including all slabs, parking bays and driveways, and further orders the said ANTHONY J. DISISTO AND LUCY S. DISISTO to commence such removal within ten (10) days from the effective date of this Ordinance, and to complete said removal or demolition within forty-five (45) days from the effective date of this ordinance.

Section 6. The City Council hereby orders the Board of the City of La Porte to cause a notice of the dangerous, unsanitary condition of the building to be affixed in one or more conspicuous places on the exterior of the building, which notice or notices shall not be removed or defaced by any person, under penalty of law.

Section 7. The City Council hereby orders the City Secretary to forward a certified copy of this Ordinance, to the record owners of said property and to any and all lienholders or mortgagees, by registered mail, return receipt requested; file a copy of this Ordinance in the office of the City Secretary; and, publish in the official newspaper of the city a notice containing: 1) the street address or legal description of the property, 2) the date of the public hearing, 3) a brief statement indicating the results of the hearing, and 4) instructions stating where a complete copy of this Ordinance may be obtained.

Section 8. Should the said ANTHONY J. DISISTO AND LUCY S. DISISTO not comply with the orders contained in this Ordinance relating to the removal or demolition of such building including all slabs, parking bays and driveways within forty-five (45) days after hereof, then the City of La Porte shall enter upon the said premises with such assistance as it may deem necessary, and cause the said building to be removed or demolished without delay, and the expenses of such procedure shall be charged against the said record owners of said property, and shall thereupon become a valid and enforceable personal obligation of said owner of such premises, and the said City shall carefully compute the cost of such removal or demolition, which cost shall be hereafter assessed against the land occupied by such building, and made lien thereon.

Section 9. The City Council officially finds, determines, and 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 10. This Ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED this the 12<sup>th</sup> day of DECEMBER, 2016.

CITY OF LA PORTE, TEXAS

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

ATTEST:

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

APPROVED:

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

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested:	<u>December 12, 2016</u>	Appropriation	
Requested By:	<u>Corby Alexander</u>	Source of Funds:	<u>Hotel/Motel Fund</u>
Department:	<u>Administration</u>	Account Number:	<u>N/A</u>
Report: <input checked="" type="radio"/>	Resolution: <input type="radio"/> Ordinance: <input type="radio"/>	Amount Budgeted:	<u>\$ 135,000</u>
Other: <input type="radio"/>	<u></u>	Amount Requested:	<u>\$ 147,106.49</u>
		Budgeted Item:	<input checked="" type="radio"/> YES <input type="radio"/> NO

### Attachments :

#### 1. #16018 Bid Tabulation

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### SUMMARY & RECOMMENDATIONS

During the FY 2015-2016 Budget cycle Council approved funding for improvements to the Depot Museum, operated by the local Heritage Society. The initial project was to provide funding to construct a facility to house the Society's Model T car. The project was designed and published for bid. Bids were above budget. Staff returned to the drawing board in consultation with the Heritage Society. The Society has come to the conclusion that additional meeting/exhibit space would be more desirable than storage space for the Model T. Staff then worked with the architect to revise the drawing for the project.

Enclosed is the bid tab for the revised project. The low bidder is Sage Construction with a base bid of \$139,126.49. The bid included two alternates. Alternate 1 was to install gravel underneath the new construction, and alternate 2 was to install an elevated deck to connect the new structure to the exist facility. Please note that the Heritage Society has agreed to participate in the cost of construction in the amount of \$7,900 to offset the cost of alternate 2.

Should Council wish to proceed, staff recommends moving forward with the base bid and alternate 2.

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

Consider approval bid award for construction of Depot Museum expansion.

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**Approved for City Council Agenda**

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**Corby D. Alexander, City Manager**

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**Date**

## Sealed Bid #16018 - City of La porte Depot Expansion Bid Tabulation

Item	Description	Sage Commercial Group, LLC	Aztec Remodeling & Landscaping	General Contractor Services, Inc.
Lump Sum	Project as SpecifiedLump Sum	\$139,126.49	\$145,000.00	\$179,068.00
Alternate 1	Add gravel fill and edging (A351)	\$9,664.00	\$2,000.00	\$2,271.00
Alternate 2	Add extension of raised wood decking and stairs, including railings (2A100)	\$7,980.00	\$8,100.00	\$12,778.00

**Bid Tabulation reflects opening information only and does not imply any basis for award. Other factors may apply.**

### Addendum Acknowledgement

No. 1	NA	NA	NA
No. 2	Yes	Yes	Yes

## REQUEST FOR CITY COUNCIL AGENDA ITEM

<b>Agenda Date Requested</b> <u>December 12, 2016</u>	<b><u>Appropriation</u></b>
<b>Requested By</b> <u>Patrice Fogarty</u>	<b>Source of Funds:</b> _____
<b>Department:</b> <u>City Secretary</u>	<b>Account Number:</b> _____
<b>Report</b> <input checked="" type="checkbox"/> <b>Resolution:</b> _____ <b>Ordinance:</b> _____	<b>Amount Budgeted:</b> _____
<b>Exhibits:</b> <u>N/A</u>	<b>Amount Requested:</b> _____
<b>Exhibits:</b> _____	<b>Budgeted Item:</b> YES    NO

### SUMMARY & RECOMMENDATION

For many years the City of La Porte (City) and La Porte Independent School District (ISD) have conducted joint elections for officers, together with the San Jacinto College (College). The joint elections encompassed both early voting and election day voting. For the May 6, 2017, election, the College plans to join with the City and the ISD in a joint election.

The ISD has utilized branch early voting in its last few elections and desires to continue. Branch early voting provides for one or more polling places in addition to the main early voting polling place for the convenience of voters. The main early voting polling place is City Hall, and the ISD desires the branch polling place to be the Instructional Technology Building (ITC Building) at 9832 Spencer Highway, which is across the parking lot from the ISD's Baker Sixth Grade Campus.

The question before Council is whether the City will participate in branch voting during the early voting period associated with the May 6, 2017, general election for officers if the City and the ISD hold a joint election.

If the City utilizes the additional branch location, qualified voters who present at the ITC location will receive a full ballot reflecting the City's election, the ISD's election, and the College's election.

If the City does not enter into branch early voting, a qualified voter who presents to vote at the ITC Building will not receive the City's ballot – only the ISD and the College will be on a ballot at that location. If the voter wants to vote the City's ballot, they would need to also vote at City Hall, the main early voting polling place. However, if the voter initially presents to vote at City Hall, the voter would receive both ballots – the City's and the ISD/College's ballot.

Total costs would be split three ways if all three entities make use of the branch early voting polling place. Estimate for manpower at the branch location with three election clerks each day during early voting would be approximately \$2,340.00, or \$780 per entity. Additional necessary costs such as election forms and incidentals could drive the per entity cost to \$1,000 or more for the branch location.

Staff is requesting Council determine whether the City will participate in branch early voting if the City and the ISD each hold an election on the May uniform election date. Staff does not contemplate operating a branch early voting polling place if the ISD is not holding an election unless Council desires to do so.

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**Action Required by Council:**

Consider approval or other action regarding the City's participation in branch early voting during the May 2017 general election if the City and the ISD enter into a joint election agreement. Staff does not contemplate operating a branch early voting polling place if the ISD is not holding an election on the May uniform election date unless Council desires to do so.

**Approved for City Council Agenda**

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

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



**Council Agenda Item  
December 12, 2016**

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

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## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>December 12, 2016</u>	<u>Appropriation</u>
Requested By: <u>Traci E. Leach</u>	Source of Funds: <u>N/A</u>
Department: <u>Administration</u>	Account Number: _____
Report: <input checked="" type="radio"/> Resolution: <input type="radio"/> Ordinance: <input type="radio"/>	Amount Budgeted: _____
Other: <input type="radio"/> _____	Amount Requested: _____
	Budgeted Item: <input checked="" type="radio"/> YES <input type="radio"/> NO

**Attachments :**

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### SUMMARY & RECOMMENDATIONS

David Miles with Spherical Development would like to brief the Council on the Gilley's development project.

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**Action Required of Council:**

None.

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**Approved for City Council Agenda**

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

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

## REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested:	December 12, 2016	Appropriation
Requested By:	Michael Dolby, Director of Finance	Source of Funds: N/A
Department:	Finance	Account Number: N/A
Report: <input checked="" type="radio"/>	Resolution: <input type="radio"/> Ordinance: <input type="radio"/>	Amount Budgeted: _____
Other: <input type="radio"/>	_____	Amount Requested: N/A
		Budgeted Item: <input checked="" type="radio"/> YES <input type="radio"/> NO

### Attachments :

1. Implementation Issues and Timeline
2. Reasons for upgrading to One Solution

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### SUMMARY & RECOMMENDATIONS

In FY 15, the City began a major transition to the primary software system that is utilized by every department and impacts critical functions such as accounts payable, accounts receivable, payroll, budgeting, code enforcement, inspections, land management, and purchasing. The new software, called ONE Solution, is an upgrade from the City's current system, Naviline. Both versions of the software are products of a company called SunGard.

As with any upgrade of this magnitude, staff expected to encounter issues that were not identified during the planning stage of the project plan. However, the volume of issues and the critical nature of the issues have forced delays in the "go live" launch of the upgraded software. Staff has been very diligent in trying to keep SunGard staff on track.

Attached are two documents that should be used as a reference for this discussion. The first document outlines the reasons why staff recommended moving to ONE Solution. ONE Solution represented a much more streamlined and efficient way to process almost every one of the core financial functions. While the Naviline module is not yet at end of life, it is at the end of new development, which means that the City's ability to incorporate new software and online services would be very limited in the future due to the fact that no resources are being dedicated towards new software integration and development for Naviline. This would not immediately negatively impact the City; however, staff wanted to proactively address this impending "end of development" phase of the Naviline software and allow the continued enhancement for City services.

The second document outlines the various issues and delays that the project has encountered since launching the process almost two years ago.

The City's initial request was \$442,545 to complete the upgrade. To date, the City has paid \$198,986 dollars.

Representatives from SunGard will be available to answer any questions.

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**Action Required of Council:**

Receive report on ONE Solution.

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**Approved for City Council Agenda**

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**Corby D. Alexander, City Manager**

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**Date**

## Implementation Issues and Timeline

Staff encountered several pitfalls at the beginning of the process (January 2015). We were given training by SunGard staff on general ledger and financials prior to ever seeing the full module working. There were constant interruptions in our training due to connectivity issues which resulted in repeated technical support calls. This pattern of constant training interruptions continued for the next six months; so, we scheduled a call with Sun Guard (July 2015); to discuss: payroll system problems preventing parallel testing, PO order format; workflows not working; accounts payable not working, cash and account receivable not working, and general ledger training. The next several months was more of the same, so staff scheduled another call with SunGard, January 25, 2016, regarding training disruptions due to technical support issues with their software. Payroll, cash receipts, accounts payable project ledgers not working, scheduling issues with trainers. The next several months (May 16) was more of the same – systems not working; however, staff felt we should have a cooling off period and allow SunGard to develop modules that function. The Finance Director, along with City Manager Corby Alexander and Rene Valdez (IT Manager), met with Tom Amburgey VP Public Administration (June 1, 2016). We discussed 16.1 upgrade, cloud team configuration, web services set up and having our team fly out to Chico, California for intensive one on one training with the Sun Gard team. The trip was postponed until SunGard was able to correct its issues with the software not working. We have continued to hold weekly calls with our project manager and we have made some headway – cash receipts is working, project numbers are working, most of the purchasing functions were working but we recently have taken a step back.

The specific challenges for finance are listed below:

### Payroll

Payroll has had continuous problems with the calculations. Since the beginning of the conversion process, we have not been able to complete any parallels. In August of 2016, we have started working on a bi-weekly basis with consultant Katie Lee on our calculations. These sessions have been the most productive for payroll to date, however, we still have not been able to process a payroll from start to finish.

Specific items for payroll:

- a. Scheduling for training on the payroll module has been an issue from day one. Sun Gard has continuously set up our training on payroll weeks, even after multiple requests not to. Their response was that their trainers were already set and could not be changed.
- b. During the initial training for One Solution we had continuous connectivity issues, which would delay our training, sometimes up to an hour at a time.
- c. When uploading our payroll year to date information from Naviline to One Solution, all of the changes that we had completed were wiped out twice, and we had start over the entry process, therefore doing double work.
- d. Project numbers were not working with payroll. This is a very important piece that must work correctly with General Ledger.
- e. Premium Hour calculations are still being worked on.
- f. Shift differentials had to be completely set up in a different fashion, because they did not exist in One Solution.
- g. Imputed Income was not calculating correctly.
- h. Since the One Solution Upgrade which was done in July 2016, we have gone backwards with our training. It has caused multiple issues in payroll. Namely, the additional 2 digits that were added to the employee ID numbers

without notification. Because of this change, we could not move a file over from Executime until recently, further delaying our payroll calculations. The Upgrade dropped all of the printers, which was another setback.

- i. Some basic reporting (such as TMRS monthly report as one example) are not available with One Solution, and we have been notified that the set up for these reports will cost the City extra. We also had to spend a lot of time with Katie reviewing and outlining our report needs, because they do not have the reports we need for payroll.

### Accounts Payable

Initially Accounts Payable was working with some minor issues. However, when the Upgrade was done in July 2016 it set back Accounts Payable as well.

Specific items for Accounts Payable:

- a. No connectivity during the initial training process, which caused long stretches of inactivity during training.
- b. After the upgrade, the workflows did not process properly, and approvals did not flow, pending tasks were not visible, etc. These items were working previously, so this was a setback for Accounts Payable.
- c. Projects were not set up during the 1<sup>st</sup> of the conversion, these are a must for Accounts Payable, and have been a continuous issue.
- d. We have been unable to process Accounts Payable completely since the upgrade.
- e. Miscellaneous Vendors have been another major issue for Accounts Payable. It is important that this feature works for Accounts Payable. Without Miscellaneous Vendors an exorbitant amount of time would be spent creating new vendors for one time use. This feature was not available in One Solution, and they are developing at this time. This is essential for Accounts Payable.

### Cash Receipts/Accounts Receivable

The main aspect of Cash Receipts has been Web Services. Web Services is the program that will bring over cash reports from Naviline (Utility Billing), or non-Naviline software (Parks, Golf, Court) to One Solution for processing to the General Ledger through Cash Receipts. This is a VERY important piece that has never worked at all. We have been waiting for the entire conversion for this module to be developed.

Specific items for Cash Receipts:

- a. Connectivity issues during the initial training.
- b. Continuously receiving errors when practicing in One Solution.
- c. Receipts and postings would not print.
- d. The City of La Porte was not notified that Click to Gov is not compatible with One Solution. Click to Gov is our current online credit card processing utility. This means we will need to completely change our providers for online credit card services.
- e. After the Upgrade in July of 2016, there were different errors that seemed to crop up each time we practiced, further delaying our learning of the system. Work orders had to be completed for each problem, and we waited until they were resolved.

- f. As of 11-16-16, Accounts Receivable was tested and errors were encountered and will not create an invoice at this time. A work order will be entered today.

#### Fixed Assets

The main issue for Fixed Assets was the Uploads that would wipe out all corrections preciously done in the system.

- a. Posting strategies had to be completely set up in the system. Would not come over during the Uploads.
- b. Depreciation records would not update, and had to be manually entered into One Solution fields.
- c. As of to date, we have not had any training on how to actually manually enter a fixed asset item.
- d. Connectivity issues during the initial training process.
- e. Fixed Assets also did not have any reporting, and had to be set up in Cognos by Paula Bradstreet.

Although we have had challenges with converting to One Solution it should be noted that finance has been able to continue to provide superior financial reporting and service to our community with our current Naviline System.

#### IT:

- **Web Services:** Web Services and workflow have been the longest running, most problematic component to this project from the IT perspective. After many months of delays, the first time we were told Web Services was fixed, we tested and it didn't function. We were then told our test environment had been reloaded or upgraded and had not been reconfigured for Web Services. After many more months of being told it was delayed or it was being built we got the notification we were ready to test again. The test was unsuccessful and they said that they had misunderstood what we needed and misconfigured web services. We don't seem to get information or an ETA for when it will be working again, it is kind of hard to get specifics from our project managers on what fixing web services consists of. Additionally we have yet to complete an entire payroll successfully in OneSolution from start to finish.
- **Sungard Project Management Team Turnover:** Over the span of this project we have dealt with many people from SunGard. More times often than not, the person from SunGard was either unaware that we were hosted with them, that we have been a hosted Naviline customer, or how they were supposed to access our SunGard components.
- **Training Issues:** Almost every scheduled training had difficulties with using the application or accessing it, leading to them saying "Well if you could click here it would look like this" and other similar phrases. When we had issues during training there was a slow response from SunGard, sometimes taking days, sometimes hours, but we could not get priority or escalation while trainers were onsite. This held up training, eroded knowledge retention and disrupted classes. The training schedule seemed out of order as well. Advanced topics such as workflow and CDD reporting were introduced long before we had seen the system or had access to what they were training us on. For example, one Sungard staff member trained us on CDD and workflow, but he had to say " this isn't available to you yet, but will be eventually." IT's admin training was done in the same manner in relation to security. Users had trouble understanding what they were supposed to be learning. Trainers started with screens masks and moved around the system before explaining what the screen masks were or why they're used. We had to ask them to show menu navigation so we could comprehend. It seems the trainers are too used to the system and can't see from the beginners view point or perspective. It felt as if the trainers need to be trained on how to introduce the application to new clients.
- **Sungard Datacenter Upgrade:** On top of all this, SunGard has moved our data to a new datacenter. While this is supposed to make access to the data faster and more resilient, it changed the we our users were trained to access OneSolution. We now launch a Citrix session to access OneSolution and all of the URLs we documented

during training have changed. We have also changed the usernames our end users log in with to be the same account they log into their computer with. While the username change should make it easier to log in and remember, we have not gotten everyone on the same page yet. We have also had many project managers, consultants, and trainers that have left, been fired or promoted to different roles, making the new people filling their shoes unaware of what we've achieved so far and the previous history with issues.

## **Upgrade to One Solution**

The upgrade of the financial software to One Solution was to provide the following

### **Reports**

- Click, drag and drill (CDD) will allow users to quickly create reports using “point and click”
- Users will be able to investigate transactions interactively from their desktop
- Users may view scanned documents such as invoices attached to transactions
- Lower learning curve, easier to use, less cumbersome reporting software
- Modernized reporting software, actively see data as you pull fields into your report
- Dashboards help turn data into actionable information
- Web based mobility focused application, can access from any computer in the network

### **Accounts Payable**

- Email entries for electronic approvals
- Support recurring payments
- Better internal control to detect theft
- Scan and route invoices via document capture (electronic)
- Replace paper form for check request with Web form. Supporting documents can be scanned and attached
- Use freight codes for splitting freight charges and faster data entry
- Automatically transfer capital purchases to fixed assets.

### **Payroll**

- Currently we have a process for project numbers in payroll that is very time consuming, One Solution will be able to process these without all of the manual processing.
- Currently we manually calculate the overtime, overtime account numbers, both of these items can be done electronically by the One Solution system.
- The reporting that is available to us in One Solution will save time. Currently, Naviline has very limited reporting options, which means we have to do manual spreadsheets for departmental questions, etc. We will be able to drag and drop for any type of reporting needed.
- We will be able to have W4s and W2s on line for the employees. Currently, we spend quite a bit of time, going to each department to distribute W2s. They will also be able to reprint W2s if they have lost theirs.
- Changes to payroll check deductions (for the entire city, such as dental, vision, etc.) is a much quicker process.
- Automatically upload Payroll ACH file to bank
- Paperless functionality
- Employee Online will allow employees to view and print previous w2s and check stubs.

### **General Ledger and Bank Reconciliations**

- Import electronic bank statements for reconciliation purposes
- Journal entries and budget adjustments will be entered by departments and then approved and update by Finance personnel
- Recurring journal entries can be set once to be processed monthly

- Automatically generates the CAFR

### **Budgeting**

- Will be able to attach the backup electronically to the budget adjustment
- Work flow will allow for email notification to the division once entry completed in the system
- Ability to add additional number in account code-will be beneficial to expand on project numbers
- Reporting abilities extremely important as it will reduce manual entry (reducing keying errors) and increase efficiency (reduce time to complete reports)

### **Purchasing**

- Increase efficiencies and streamline processes for issuing purchase orders.
- Opportunity for better contract utilization and consistency through internal business rules “flagged” and documents routed accordingly for the requisitioning and purchase order issuance processes.
- Use workflow to route Purchase Request based on business rules (approvals, etc.). Electronic distribution to vendors and others.
- Use Fixed Asset flagging to route Capital items and to take advantage of auto-creation of asset record upon receipt.
- Utilize Workflow to email PDF copy of Purchase Order to Vendor and Department.
- Increased access to data and reporting capabilities
- Line item ‘ship-to’ capability
- Improved capital project close out processes available
- Implement decentralized online receiving.
- Vendors-Employees added by AP using Human Resources to Person Entity interface.
- Custom Business Rule to route requisitions over certain dollar amount.
- Set Pay Tolerance (allowable amount to overpay a Purchase Order) to 5% or 10% with a dollar amount limit.
- Use Freight codes for splitting freight and faster data entry.
- Webform replaces email requests from vendors; workflow routes to Purchasing and Finance
- P-card invoice file directly to A/P
- Use payment terms to capture cost savings

### **Contracts**

- Setup retainage on Purchase Orders.
- Mandate retainage on certain contracts.
- Consider retainage release for contracts on Check Request Webform.
- Reduce use of blankets by utilizing P Cards.
- Create workflow notification when contracts are ending

## **General System wide improvements**

- One Solution is not dependent on Java. Java has caused many of our problems over the last decade
- All application windows can scale to fit the entire monitor instead of the fixed size of Naviline
- The “home page” for each user or for each department can be customized for the applications needed
- Within each application the elements on the screen can be adjusted for the task at hand
- Data is easier to enter and to access within the system
- Search capabilities from the home page allow quick access to the applications needed
- Screen specific data dictionaries describe each field and what the reporting elements are for more efficient report building
- Most applications have been optimized to do more on one screen than Naviline could on 3 or 4 screens

## **Human Resources**

- Eliminate the need for dual entry in two systems
- ADP will not be needed once we are live in One Solution
- Employee portal will allow employees to make changes such as address, marital status, etc. that will notify HR to review and accept or modify employee data.
- Applicant Online will allow us to streamline the onboarding process.
- Applicants applying for posted jobs will be automatically entered into the system “for review” by HR. If selected for the job, automated processes will generate employee IDs and other typical time consuming tasks.



## **Council Agenda Item December 12, 2016**

### **11. ADMINISTRATIVE REPORTS**

- Zoning Board of Adjustment Meeting, Tuesday, December 13, 2016
- Christmas Holidays, Friday, December 23, 2016 and Monday, December 26, 2016
- New Year Holiday, Monday, January 2, 2017
- City Council Meeting, Monday, January 9, 2017
- City Council Meeting, Monday, January 23, 2017

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

### **13. ADJOURN**

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