



**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS    APRIL 5, 2016    1:30 P.M.**

**CONSENT AGENDA**

- \*    Approval of minutes – March 29, 2016
  
- \*    Confirmation of committee appointments
  
- A)    Approve a resolution authorizing the repair of a pump at the Water Treatment Plant by The Reynolds Company of Beaumont
  
- B)    Approve a resolution authorizing the City Manager to execute all documents necessary for a business support services agreement between the City of Beaumont and PST Services, Inc., a McKesson Company

# BEAUMONT

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Laura Clark, Chief Financial Officer *LC*

**MEETING DATE:** April 5, 2016

**REQUESTED ACTION:** Council consider a resolution approving the repair of a pump at the Water Treatment Plant by The Reynolds Company of Beaumont, in the amount of \$52,020.

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**BACKGROUND**

The variable frequency drive (VFD) on high service pump no. 8 at the water treatment plant has failed. This drive controls the amount of water pressure provided when treated water is sent into the City's water system.

The Reynolds Company is a sole source vendor that is authorized by the manufacturer to provide repairs to the VFD. The quote to repair this drive to manufacturer standards is \$52,020.

**FUNDING SOURCE**

Water Fund.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Council hereby approves the repair of a Variable Frequency Drive (VFD) for use by the Water Utilities Department by The Reynolds Company, of Beaumont, Texas, a sole source provider, in the amount of \$52,020.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 5th day of April, 2016.

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- Mayor Becky Ames -

# BEAUMONT

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Sherry Ulmer, Public Health Director

**MEETING DATE:** April 5, 2016

**REQUESTED ACTION:** Council consider a resolution approving the City Manager to execute all documents necessary for a business support services agreement between the City of Beaumont and PST Services, Inc., a McKesson Company.

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## **BACKGROUND**

PST Services, Inc. will provide supplemental payment recovery assistance for ambulance services, including all nonemergency and emergency transports under the Texas Ambulance Supplemental Payment Program (TASPP) administered by the Texas Health and Human Services Commission. These supplemental payments offset losses incurred when treating and transporting Medicaid beneficiaries and uninsured patients. The City of Beaumont will pay PST a one-time, upfront set-up fee of \$5,500 and a service fee equal to 10% of the supplemental payments recovered.

## **FUNDING SOURCE**

General Fund - Public Health

## **RECOMMENDATION**

Approval of the resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute a Business Support Services Agreement between the City of Beaumont and PST Services, Inc., a McKesson Company, to provide supplemental payment recovery assistance for ambulance services, including all nonemergency and emergency transports that are reimbursable by Texas Medicaid. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 5th day of April, 2016.

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- Mayor Becky Ames -

**BUSINESS SUPPORT SERVICES AGREEMENT**

This Business Support Services Agreement ("Agreement") is effective as of the last date in the signature block below (the "Effective Date"), by and between PST Services, Inc., a McKesson Company, a Georgia corporation, whose mailing address is 5995 Windward Parkway, Alpharetta, Georgia 30005 ("PST"), and City of Beaumont, whose mailing address is 801 Main Street, Beaumont, Texas 77701 ("Client").

**RECITALS**

Client operates an Emergency Medical Services Squad ("EMS Squad") that provides professional ambulance services. PST is in the business of providing business support services to EMS Squads, provider networks, hospitals, physician groups and other healthcare providers. Client desires to retain PST to provide business support services required by Client in accordance with the terms of this Agreement.

**STATEMENT OF AGREEMENT**

In consideration of the promises and mutual covenants contained herein and other valuable consideration, the receipt, adequacy and legal sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, now agree as follows:

**Article 1 – Obligations of PST.**

Section 1.1. Services. Client retains PST to provide the services set forth in Exhibit A attached, as applicable, (collectively, the "Services") to Client. Client agrees that PST is specifically authorized to engage PST Group or one or more of its subsidiaries to perform the Services hereunder at no additional cost to Client.

Section 1.2. Liabilities. PST is not responsible for any Client expenses or liabilities except as specifically provided for in this Agreement. Client is responsible for paying all expenses and liabilities relating to Client.

Section 1.3. Authority. Client grants PST the authority and power to carry out its obligations under this Agreement. PST shall provide the Services in accordance with applicable legal and regulatory requirements throughout the term of this Agreement.

Section 1.4. Limitations. PST shall employ or retain such personnel/employees as it deems necessary to perform the Services. Client recognizes that the Services provided by such personnel/employees may be part-time in nature and that the personnel/employees serving in these capacities may serve in other capacities as well. PST may propose that certain titles be conferred upon the employees in performing the duties under this Agreement. PST retains the right to replace any personnel/employee who is performing Services hereunder with another person without causing a breach or termination of this Agreement. PST may subcontract certain Services to support its provision of the Services under this Agreement, including but not limited to electronic data interchange and printing of statements, without Client's approval; The Client

shall receive advanced written notice in the event PST subcontracts out the billing and reimbursement management Services.

**Article 2 - Obligations of Client.**

Section 2.1. Agent. Client appoints PST as its lawful attorney-in-fact solely for the purpose of carrying out PST's obligations set forth in this Agreement. Notwithstanding anything to the contrary herein, the parties understand, acknowledge, and agree that neither PST nor any affiliate or agent of PST has the ability to (a) receive payments of benefits assigned to Client directly from any payor pursuant to a power-of-attorney (as defined in Section 3060.10(A) of Medicare Carrier's Manual) or any other arrangement, or (b) transfer any payment of benefits assigned to Client to PST, its affiliates, or agents without the payment first passing through the Client's control.

Section 2.2. Professional Services. Notwithstanding the authority granted to PST herein, Client shall retain the authority to render Emergency Medical Services ("EMS") and direct the medical and ethical aspects of Client's EMS practices and shall retain control of all business affairs that may not legally be carried on by persons other than those duly licensed to practice medicine or surgery in the state or states where such persons practice. Furthermore, the parties acknowledge that only Client may render EMS to its patients through its employees and contractors who are duly licensed or otherwise legally authorized to render professional EMS within the state or states in which such persons practice. PST agrees that it shall not act pursuant to this Agreement in a manner that interferes with the professional judgment of Client's EMS personnel.

**Article 3 - Mutual Obligations.**

Section 3.1. Cooperation. Client's EMS personnel shall execute all documents and take all actions necessary to allow PST to perform its duties under this Agreement.

Section 3.2. Business Associate. In compliance with their respective legal duties regarding the privacy and security of protected health information, PST and Client agree to the obligations set forth in Exhibit C attached hereto.

**Article 4 – Compensation.**

Section 4.1. Service Fees. Client shall pay PST service fees as set forth in Exhibit B, attached hereto, for the Services provided in accordance with this Agreement.

Section 4.2. Reimbursement. Client shall reimburse PST for any additional expenses not contemplated under the terms of this Agreement that PST incurs in connection with the request of Client.

Section 4.3. Payment.

Section 4.3.1. Invoice. PST shall provide Client with an invoice indicating the total amount of service fees due to PST. Client shall pay the service fee to PST within thirty (30) days

from the date of receipt of the invoice.

Section 4.3.2. Disputed Amounts or Invoices. Client agrees to notify PST of any disagreement with respect to the invoice amount within thirty (30) days of receiving the invoice. If Client and PST are unable to resolve the dispute before the date the service fees are due to PST, Client shall forward to PST the undisputed amount and the disputed amount shall be placed by Client into an escrow account until the dispute is resolved. If the parties are unable to resolve the dispute within sixty (60) days from the date the service fees are due to PST, PST may suspend its obligations hereunder upon thirty (30) days written notice to Client.

#### **Article 5 – Term.**

Section 5.1. Term. The initial term of this Agreement shall commence on this 3<sup>rd</sup> day of August, 2015 and shall terminate on July 31, 2018. Unless earlier terminated as provided for in this Agreement, the term of this Agreement shall automatically extend for additional one (1) year terms, unless either party delivers to the other party, not less than ninety (90) days prior to the expiration of the preceding term, written notice of that party's intent not to extend the term of this Agreement.

#### **Article 6 – Termination.**

Section 6.1. Termination. PST or Client may terminate this Agreement after timely notice to the other party, if the other party: (a) materially breaches this Agreement and fails to remedy, or fails to commence reasonable efforts to remedy, such breach within 60 days after receiving notice of the breach from the terminating party, (b) infringes the terminating party's intellectual property rights and fails to remedy, or fails to commence reasonable efforts to remedy, such breach within ten days after receiving notice of the breach from the terminating party, (c) materially breaches this Agreement in a manner that cannot be remedied, (d) commences dissolution proceedings or ceases to operate in the ordinary course of business, or (e) provides 90 days prior written notice to the other party of its intent to terminate. In the event that PST is permitted to terminate this Agreement, PST may, at its sole option, elect to terminate any combination of other then-effective agreement with Client. Except as otherwise provided above, termination of this Agreement will not affect the parties' rights and obligations under any other agreement executed by the parties prior or subsequent to such termination, and all such other agreements will remain in full force and effect unless and until their respective expiration or termination in accordance with their contractual terms.

Section 6.2. Effect of Termination. In the event of termination of this Agreement in accordance with Section 6 or non-renewal, all rights, duties and obligations of both parties shall cease effect as of the date of termination, except as otherwise provided in this Section 6.2. Upon termination, Client, at its discretion, may allow PST to continue providing Services for ninety (90) days following the effective date of termination (the "Post-Termination Period"). During the Post-Termination Period, if allowed, PST shall continue to receive service fees in the manner set forth in Section 4. After the expiration of the Post-Termination Period, PST will deliver to Client a copy of the most current file backup in a printed and/or electronic media copy as agreed upon in

writing by both parties, after payment of all outstanding invoices by Client. Client shall be responsible for the programming, debugging, testing, computer operations, and alternative media costs if a file is requested in a format other than the industry standard formats (i.e. ASCII or comma delimited). Client shall also be responsible for the shipping cost of Client's billing records in PST's possession at the end of the Post-Termination Period that are forwarded to any destination other than Client's address. Furthermore, following the termination of this Agreement and the expiration of the Post-Termination Period, the parties shall remain bound by the restrictions set forth in Section 7.

### **Section 7 - Relationship of Parties.**

Section 7.1. Independent Contractor. Each party is an independent contractor of the other party. This Agreement will not be construed as constituting a relationship of employment, agency, partnership, joint venture or any other form of legal association. Neither party has any power to bind the other party or to assume or to create any obligation or responsibility on behalf of the other party or in the other party's name.

Section 7.2. Warranties. PST warrants it will perform all Services in accordance with reasonable industry practices. The provisions of this Agreement are intended to state all of the rights and responsibilities between PST and Client, and they take the place of and supersede all warranties, express or implied whether of merchantability, fitness or otherwise. With the exception of the above warranty, PST makes and Client receives no warranty, express or implied. All warranties of merchantability and fitness for a particular purpose are hereby expressly excluded.

Section 7.3. Computer Systems. All programs, documentation, specifications, tapes, instruction manuals and similar material developed or used by PST in connection with this Agreement (collectively, "Computer Systems") are and shall remain the sole and exclusive property of PST. Nothing in this Agreement shall be construed as a license or transfer of such Computer Systems to Client. Upon termination of this Agreement for any reason, PST shall have the right to retain all such Computer Systems and Client shall, upon the request of PST, deliver all such Computer Systems in its possession to PST. PST shall use commercially reasonable efforts to cooperate in supplying source data to Client in the event Client transfers its business support function to another contractor.

### Section 7.4. Confidentiality.

7.4.1. Use and Disclosure of Confidential Information. Each party may disclose to the other party Confidential Information. Except as expressly permitted by this Agreement, neither party will: (a) disclose the other party's Confidential Information except (i) to its employees or contractors who have a need to know and are bound by confidentiality terms no less restrictive than those contained in this Section 7.4., or (ii) to the extent required by law following prompt notice of such obligation to the other party, or (b) use the other party's Confidential Information for any purpose other than performing its obligations under this Agreement. Each party will use all reasonable care in handling and securing the other party's Confidential Information and will employ all security measures used for its own proprietary

information of similar nature. Following the termination of this Agreement, each party will, upon written request, return or destroy all of the other party's tangible Confidential Information in its possession and will promptly certify in writing to the other party that it has done so.

7.4.2. Period of Confidentiality. The restrictions on use, disclosure and reproduction of Confidential Information set forth in Section 7.4 will, with respect to Confidential Information that constitutes a "trade secret" (as that term is defined under applicable law), be perpetual, and will, with respect to other Confidential Information, remain in full force and effect during the term of this Agreement and for three years following the termination of this Agreement.

7.4.3. Injunctive Relief. The parties agree that the breach, or threatened breach, of any provision of this Section 7.4 may cause irreparable harm without adequate remedy at law. Upon any such breach or threatened breach, a party will be entitled to seek injunctive relief to prevent the other party from commencing or continuing any action constituting such breach, without having to post a bond or other security and without having to prove the inadequacy of other available remedies. Nothing in this Section 7.4.3 will limit any other remedy available to either party.

7.4.4. Retained Rights. Client's rights in the Services will be limited to those expressly granted in this Agreement. PST and its suppliers reserve all intellectual property rights not expressly granted to Client. All changes, modifications, improvements or new modules made or developed with regard to the Services, whether or not (a) made or developed at Client's request, (b) made or developed in cooperation with Client, or (c) made or developed by Client, will be solely owned by PST or its suppliers. PST retains title to all material, originated or prepared for the Client under this Agreement. Client is granted a license to use such materials in accordance with this Agreement.

Section 7.5. Covenant not to Employ. During the term of the Agreement, and until the two year anniversary date of the effective date of termination of this Agreement, Client covenants and agrees it will not, without the advance written consent of PST, directly or indirectly, (i) induce or attempt to induce any PST employee to terminate employment with PST; (ii) hire or participate in the hiring or interviewing of any PST employee; (iii) provide names or other information about any PST employee for the purpose of assisting others to hire such employee; nor (iv) provide Confidential Information to a PST employee about PST or any entity affiliated with PST for the purpose of assisting that PST employee in finding employment with such entity for EMS billing services. For purposes of this paragraph, a PST employee means any person who is a current PST employee or was employed by PST within one (1) year of the date of any action that alleges a violation of this Section 7.5.

Section 7.6. Records. If required by Section 952 of the Omnibus Reconciliation Act of 1980, 42 U.S.C. Section 1395x(l)(i)(ii), for a period of four years after the Services are furnished, the parties agree that they, and each subcontractor who provides Services under this Agreement, will make available, upon the written request of the Secretary of Health and Human Services, the Comptroller General, or their representatives, this Agreement and such books, documents, and

records as may be necessary to verify the nature and extent of any combination of Services and Products with an aggregate value or cost of \$10,000 or more over a twelve month period.

Section 7.7. Limitation of Liability. CLIENT AGREES THAT PST SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES CAUSED IN WHOLE OR IN PART BY FACTORS NOT WITHIN THE DIRECT CONTROL OF PST, INCLUDING BUT NOT LIMITED TO THE FAILURE OF THIRD PARTY SERVICE PROVIDERS TO ADEQUATELY PROVIDE THE SERVICES. PST SHALL HAVE NO LIABILITY TO CLIENT OR ANY THIRD PARTY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES OR FOR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE OR PROFITS, ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL PST BE LIABLE IN THE AGGREGATE FOR ANY CLAIMS OR DAMAGES IN AN AMOUNT EXCEEDING THE AMOUNTS PAID BY CLIENT FOR SERVICES HEREUNDER DURING THE ONE (1) MONTH IMMEDIATELY PRECEDING SUCH CLAIM OR DAMAGES.

Section 7.8. Exclusivity. During the term of this Agreement Client shall not directly or indirectly contact an entity or person for the purpose of soliciting such entity or person to enter into a contract or arrange to receive any of the Services as set forth in this Agreement or any services substantially similar to the Services from any entity or person other than PST unless agreed upon in writing by PST, except that Client shall be entitled to solicit bids from other suppliers of Services upon the expiration or termination of any term of this Agreement.

Section 7.9 Audits.

7.9.1 Internal Audit by Client. Client may use its own internal resources ("Internal Auditors") to perform audits of PST's accuracy and correctness of the accounting and internal controls performed and maintained by PST. PST will provide the Internal Auditors with information that the Internal Auditor determines to be reasonably necessary to perform and complete the audit procedures. Client agrees that an audit conducted under this section will be conducted at such times and in a manner that avoids undue disruption of PST's operations.

7.9.2 Third-Party Audit by Client. Client may engage, at its own expense, independent, external, third-party auditors ("Third-Party Auditors") to perform audits of PST's accuracy and correctness of the accounting and internal control performed and maintained by PST. If Client engages Third-Party Auditors, who perform, or are associated with a group who performs, billing and accounts receivable management services substantially similar to any of the Services identified on any Service Schedule to this MA, such Third-Party Auditors may not visit PST's processing facility or audit the actual billing and collection process. PST will provide the information that the Third-Party Auditors determine to be reasonably necessary to perform and complete all audit procedures. The Third-Party Auditors shall execute PST's "Confidentiality Agreement", substantially in the form attached hereto as Exhibit D, prior to the start of the audit. Client agrees that an audit conducted under this section will be

conducted at such times and in a manner that avoids undue disruption of PST's operations.

**Section 8 – Miscellaneous.**

Section 8.1. Notices. All notices relating to the parties' legal rights and remedies under this Agreement will be provided in writing and will reference this Agreement. Such notices will be deemed given if sent by: (a) postage prepaid registered or certified U.S. Post mail, five working days after sending; or (b) commercial courier, at the time of receipt confirmed by the recipient to the courier on delivery. All notices to Client will be sent to its address set forth on the cover page hereto, or to such other address as may be designated by Client by notice to PST.

Section 8.2. Force Majeure. Except as otherwise provided, neither party will be responsible for or in breach due to delays or failures to perform resulting either directly or indirectly from any cause beyond the control of the delaying or non-performing party, including but not limited to, acts of God, fires, floods, strikes, lockouts, labor controversies (beyond the control of the delaying or non-performing party), civil disturbances, acts of war, governmental restrictions, shortages or inability to obtain adequate supplies or transportation or transmission facilities (beyond the control of the delaying or non-performing party), or other similar circumstances. In the event of delay in performance due to any such cause, the time for performance will be extended for a period of time reasonably necessary to overcome the effect of such delay.

Section 8.3. Conflicts. The provisions of this Agreement shall govern when there is any conflict with the provisions of any purchase order or other document of Client relating to the Services.

Section 8.4. Governing Law. This Agreement, and all rights and obligations of the parties hereunder, shall be construed and governed by the laws of the State of Texas, without regard to its conflicts of laws provisions.

Section 8.5. Severability. If any part of a provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this Agreement and will not be affected.

Section 8.6. Descriptive Headings and Subheadings. Both parties understand that the headings and subheadings used in this Agreement are for descriptive and/or informational purposes only.

Section 8.7. Waiver. No consent or waiver, whether expressed or implied, by either party to or of any breach under this Agreement shall be construed as a consent or waiver to or of any breach of the same or any other obligation.

Section 8.8. Final Understanding and Modifications. This Agreement represents the entire and integrated agreement of the parties, and supersedes all prior negotiations, representations, and/or agreements, whether written or oral.

Section 8.9 Assignment and Subcontracts. Client may assign this Agreement with at least 60 days' prior written notice to PST, so long as Client remains secondarily liable for any and all

executory obligations under this Agreement. PST may, upon notice to Client, assign this Agreement to any PST affiliate for any reason, or to any other entity as the result of a transfer of all or substantially all of PST's assets or capital stock or of any other corporate reorganization. PST may subcontract its obligations under this Agreement.

Section 8.10. Amendments; Waiver. This Agreement may not be modified, nor shall any provision hereof be waived or amended, except by written addendum to this Agreement, duly signed by authorized representatives of the parties.

Section 8.11. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations or liabilities whatsoever.

Section 8.12. Compliance with Law. The obligations of PST pursuant to this Agreement shall be subject to any limitations or restrictions which may be imposed by law or regulation, and PST may suspend any or all obligations hereunder in the event that it reasonably determines, upon advice of counsel, that the performance of any obligation pursuant to this Agreement may contravene applicable law or regulation, the effect of which would be to have a material adverse effect on the business, financial condition, or operations of PST or any subsidiary or affiliate of PST Group.

Section 8.13. Material Changes; Periodic Review. Notwithstanding anything to the contrary in this Agreement, in the event (i) a significant change or amendment to any regulation, law, policy or procedure, (ii) any legal or ethical rule or regulation is promulgated or modified, or (iii) any administrative ruling or judicial interpretation is issued or modified that prohibits any act or course of conduct contemplated by this Agreement, or which materially and adversely affects the ability of PST to provide Services hereunder or imposes onerous financial or other burdens on PST's provision of Services hereunder, an amendment or modification to this Agreement shall be negotiated in good faith. To the maximum extent possible, any such amendment shall preserve the underlying economic and financial arrangements between Client and PST.

Section 8.14. Agreement Construction. This Agreement shall not be presumptively construed for or against either party. The parties may execute this Agreement in one or more counterparts, each of which will be deemed an original and one and the same instrument.

*[remainder of page intentionally left blank]*

PRIVILEGED AND CONFIDENTIAL

City of Beaumont  
Contract Number: RMS152472

IN WITNESS WHEREOF the parties hereto have caused this Business Support Services Agreement to be executed by their respective duly authorized representatives on the date first above written.

<b>PST Services, Inc.</b>  <b>Address:</b> <b>5995 Windward Parkway</b> <b>Alpharetta, Georgia 30005</b>	<b>City of Beaumont</b> <b>Address:</b> <b>801 Main Street</b> <b>Beaumont, Texas 77701</b>
_____ <b>Signed</b>	_____ <b>Signed</b>
_____ <b>Name</b>	_____ <b>Name:</b>
_____ <b>Title</b>	<b><u>Kyle Hayes</u></b> <b>Title:</b>
_____ <b>Date</b>	<b><u>City Manager</u></b> <b>Date</b>

**EXHIBIT A**

**SUPPLEMENTAL PAYMENT RECOVERY ASSISTANCE SERVICES**

1. Description of Services.

As part of the PST's Supplemental Payment Assistance Services, PST's responsibilities under this Agreement will include:

- (a) Managing the required Texas Ambulance Supplemental Payment Program (TASPP) Enrollment, Cost Allocation Report, and Cost Report processes for Client.
- (b) Developing and submitting the Provider Information Report to the Texas Health and Human Services Commission (HHSC) for enrollment in the TASPP on behalf of Client;
- (c) Developing and submitting the Cost Allocation Report to HHSC on behalf of Client for review as part of the TASPP.
- (d) Changing and finalizing the Cost Allocation Report during HHSC's review of the Cost Allocation Report, to meet HHSC's requirements;
- (e) Ensuring that PST's TASPP Cost Report preparer(s) are certified in accordance with all applicable HHSC rules and regulations.
- (f) Preparing the TASPP Cost Report on behalf of Client and assisting in the submittal of the TASPP Cost Report to HHSC;
- (g) Managing responses to HHSC questions during the Cost Report review/audit process related to the TASPP Cost Reports prepared by PST on behalf Client.
- (h) Assisting Client with preparing and submitting other reports as my required by HHSC related to the TASPP.
- (i) Ensuring that cost report preparer(s) engaged on behalf of Client by PST are certified in accordance with all applicable rules, laws and regulations.

2. Client Responsibilities.

Client acknowledges and understands that inaccurate or false data submissions, even advertent ones, can lead to a false claim charge or Medicaid program exclusion. Therefore, Client agrees that it will use best efforts to:

- (a) Ensure the accuracy of all enrollment, cost allocation, and cost report data provided by Client to PST and provide written certification of the accuracy of

such data to PST and all applicable governmental agencies as part of the TASPP Cost Report Certification.

- (b) Make its internal practices, books and records relating to all cost report data provided to PST by Client available to PST to ensure the accuracy of all such data.
  - (c) Comply with PST policies and procedures for the documentation of all cost report data as established and provided to Client by PST from time to time.
3. Disclaimer.

Service Provider disclaims any and all warranties and representations, express or implied, pertaining to the Supplemental Payment Recovery Assistance Services, except as otherwise set forth herein. It is expressly understood and agreed that Service Provider shall have no liability for (a) any breach or alleged breach of any representation, warranty, covenant or obligation of Client pertaining to the Supplemental Payment Recovery Assistance Services, and (b) any alleged negligent act or omission or intentional misconduct of Client or Client's employees or agents or subcontractors related to any of Client's obligations pertaining to the Supplemental Payment Recovery Assistance Services.

**EXHIBIT B**

**FEES/COSTS**

1. For Supplemental Payment Recovery Assistance Services rendered under Exhibit A-1, Client will pay PST a service fee equal to 10.0% of the Supplemental Payments recovered by PST on behalf of Client, in accordance with Section 4 of the Agreement. Supplemental Payments shall include any payments for ambulance services, including all nonemergency and emergency patient transports that are reimbursed by Texas Medicaid to Client. In addition to the 10.0% service fee due by Client to PST under this Sales Order, Client will pay PST a one-time, upfront fee of \$5,500.00 ("Set-up Fee") for completion of the pre-cost report submittal requirements necessary for Client's participation in the Texas Ambulance Supplemental Payment Program. The Set-up Fee will be due upon Client's execution of this Agreement. Client acknowledges and agrees that PST shall be entitled to receive service fees for Services provided by PST under this Agreement even after expiration or earlier termination of this Agreement provided that PST provided such services on or before the date of expiration or termination of this Agreement.

**EXHIBIT C**

**BUSINESS ASSOCIATE ADDENDUM (“BAA”)**

**SECTION 1: DEFINITIONS**

“**Breach**” will have the same meaning given to such term in 45 C.F.R. § 164.402.

“**Designated Record Set**” will have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.

“**Electronic Protected Health Information**” or “**Electronic PHI**” will have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. § 160.103, as applied to the information that PST creates, receives, maintains or transmits from or on behalf of Client.

“**Individual**” will have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and will include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

“**Privacy Rule**” will mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

“**Protected Health Information**” or “**PHI**” will have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, as applied to the information created, received, maintained or transmitted by PST from or on behalf of Client.

“**Required by Law**” will have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.

“**Secretary**” will mean the Secretary of the Department of Health and Human Services or his or her designee.

“**Security Incident**” will have the meaning given to such term in 45 C.F.R. § 164.304.

“**Security Rule**” will mean the Security Standards at 45 C.F.R. Part 160 and Part 164, Subparts A and C.

“**Unsecured PHI**” will have the same meaning given to such term under 45 C.F.R. § 164.402, and guidance promulgated thereunder.

**Capitalized Terms.** Capitalized terms used in this Addendum and not otherwise defined herein will have the meanings set forth in the Privacy Rule, the Security Rule, and the HIPAA Final Rule, which definitions are incorporated in this Addendum by reference.

**SECTION 2: PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Uses and Disclosures of PHI Pursuant to the Underlying Agreement. Except as otherwise limited in this Addendum, PST may use or disclose PHI to perform functions, activities or services for, or on

behalf of, Client as specified in an existing written agreement (the "Underlying Agreement"), provided that such use or disclosure would not violate the Privacy Rule if done by Client.

2.2 Permitted Uses of PHI by PST. Except as otherwise limited in this Addendum, PST may use PHI for the proper management and administration of PST or to carry out the legal responsibilities of PST.

2.3 Permitted Disclosures of PHI by PST. Except as otherwise limited in this Addendum, PST may disclose PHI for the proper management and administration of PST, provided that the disclosures are Required by Law, or PST obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person (which purpose must be consistent with the limitations imposed upon PST pursuant to this Addendum), and that the person agrees to notify PST of any instances of which it is aware in which the confidentiality of the information has been breached. PST may disclose PHI to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1).

2.4 Data Aggregation. Except as otherwise limited in this Addendum, PST may use PHI to provide Data Aggregation services for the Health Care Operations of the Client as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

2.5 De-identified Data. PST may de-identify PHI in accordance with the standards set forth in 45 C.F.R. § 164.514(b) and may use or disclose such de-identified data unless prohibited by applicable law.

### SECTION 3: OBLIGATIONS OF PST

3.1 Appropriate Safeguards. PST will use appropriate safeguards and will, after the compliance date of the HIPAA Final Rule, comply with the Security Rule with respect to Electronic PHI, to prevent use or disclosure of such information other than as provided for by the Underlying Agreement and this Addendum. Except as expressly provided in the Underlying Agreement or this Addendum, PST will not assume any obligations of Client under the Privacy Rule. To the extent that PST is to carry out any of Client's obligations under the Privacy Rule as expressly provided in the Underlying Agreement or this Addendum, PST will comply with the requirements of the Privacy Rule that apply to Client in the performance of such obligations.

3.2 Reporting of Improper Use or Disclosure, Security Incident or Breach. PST will report to Client any use or disclosure of PHI not permitted under this Addendum, Breach of Unsecured PHI or any Security Incident, without unreasonable delay, and in any event no more than thirty (30) days following discovery; provided, however, that the Parties acknowledge and agree that this Section constitutes notice by PST to Client of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below). "Unsuccessful Security Incidents" will include, but not be limited to, pings and other broadcast attacks on PST's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. PST's notification to Client of a Breach will include: (i) the identification of each individual whose Unsecured PHI has been, or is reasonably believed by PST to have been, accessed, acquired or disclosed during the Breach; and (ii) any particulars regarding the Breach that Client would need to include in its notification, as such particulars are identified in 45 C.F.R. § 164.404.

3.3 PST's Agents. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), as applicable, PST will enter into a written agreement with any agent or subcontractor that creates, receives, maintains or transmits PHI on behalf of PST for services provided to Client, providing that the agent agrees to restrictions and conditions that are substantially similar to those that apply through this

Addendum to PST with respect to such PHI.

3.4 Access to PHI. The Parties do not intend for PST to maintain any PHI in a Designated Record Set for Client. To the extent PST possesses PHI in a Designated Record Set, PST agrees to make such information available to Client pursuant to 45 C.F.R. § 164.524, within ten (10) business days of PST's receipt of a written request from Client; provided, however, that PST is not required to provide such access where the PHI contained in a Designated Record Set is duplicative of the PHI contained in a Designated Record Set possessed by Client. If an Individual makes a request for access pursuant to 45 C.F.R. § 164.524 directly to PST, or inquires about his or her right to access, PST will either forward such request to Client or direct the Individual to Client.

3.5 Amendment of PHI. The Parties do not intend for PST to maintain any PHI in a Designated Record Set for Client. To the extent PST possesses PHI in a Designated Record Set, PST agrees to make such information available to Client for amendment pursuant to 45 C.F.R. § 164.526 within twenty (20) business days of PST's receipt of a written request from Client. If an Individual submits a written request for amendment pursuant to 45 C.F.R. § 164.526 directly to PST, or inquires about his or her right to amendment, PST will either forward such request to Client or direct the Individual to Client.

3.6 Documentation of Disclosures. PST agrees to document such disclosures of PHI and information related to such disclosures as would be required for Client to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. PST will document, at a minimum, the following information ("Disclosure Information"): (a) the date of the disclosure; (b) the name and, if known, the address of the recipient of the PHI; (c) a brief description of the PHI disclosed; (d) the purpose of the disclosure that includes an explanation of the basis for such disclosure; and (e) any additional information required under the HITECH Act and any implementing regulations.

3.7 Accounting of Disclosures. PST agrees to provide to Client, within twenty (20) business days of PST's receipt of a written request from Client, information collected in accordance with Section 3.6 of this Addendum, to permit Client to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. If an Individual submits a written request for an accounting of disclosures of PHI pursuant to 45 C.F.R. § 164.528 directly to PST, or inquires about his or her right to an accounting, PST will direct the Individual to Client.

3.8 Governmental Access to Records. PST will make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by PST on behalf of, Client available to the Secretary for purposes of the Secretary determining Client's compliance with the Privacy Rule and the Security Rule.

3.9 Mitigation. To the extent practicable, PST will cooperate with Client's efforts to mitigate a harmful effect that is known to PST of a use or disclosure of PHI by PST that is not permitted by this Addendum.

3.10 Minimum Necessary. PST will request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure, in accordance with 45 C.F.R. § 164.514(d), and any amendments thereto.

3.11 HIPAA Final Rule Applicability. PST acknowledges that enactment of the HITECH Act, as implemented by the HIPAA Final Rule, amended certain provisions of HIPAA in ways that now directly regulate, or will on future dates directly regulate, PST under the Privacy Rule and Security Rule. PST agrees, as of the compliance date of the HIPAA Final Rule, to comply with applicable requirements imposed under the HIPAA Final Rule, including any amendments thereto.

#### SECTION 4: OBLIGATIONS OF CLIENT

4.1 Notice of Privacy Practices. Client will notify PST of any limitation(s) in its notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect PST's use or disclosure of PHI. Client will provide such notice no later than fifteen (15) days prior to the effective date of the limitation.

4.2 Notification of Changes Regarding Individual Permission. Client will obtain any consent or authorization that may be required by the Privacy Rule, or applicable state law, prior to furnishing PST with PHI. Client will notify PST of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect PST's use or disclosure of PHI. Client will provide such notice no later than fifteen (15) days prior to the effective date of the change.

4.3 Notification of Restrictions to Use or Disclosure of PHI. Client will notify PST of any restriction to the use or disclosure of PHI that Client has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect PST's use or disclosure of PHI. Client will provide such notice no later than fifteen (15) days prior to the effective date of the restriction. If PST reasonably believes that any restriction agreed to by Client pursuant to this Section may materially impair PST's ability to perform its obligations under the Underlying Agreement or this Addendum, the Parties will mutually agree upon any necessary modification of PST's obligations under such agreements.

4.4 Permissible Requests by Client. Client will not request PST to use or disclose PHI in any manner that would not be permissible under the Privacy Rule, the Security Rule or the HITECH Act if done by Client, except as permitted pursuant to the provisions of Sections 2.2, 2.3, 2.4 and 2.5 of this Addendum.

#### SECTION 5: TERM AND TERMINATION

5.1 Term. The term of this Addendum will commence as of the Effective Date, and will terminate when all of the PHI provided by Client to PST, or created or received by PST on behalf of Client, is destroyed or returned to Client. If it is infeasible to return or destroy PHI, PST will extend the protections to such information, in accordance with Section 5.3.

5.2 Termination for Cause. Upon either Party's knowledge of a material breach by the other Party of this Addendum, such Party may terminate this Addendum immediately if cure is not possible. Otherwise, the non-breaching party will provide written notice to the breaching Party detailing the nature of the breach and providing an opportunity to cure the breach within thirty (30) business days. Upon the expiration of such thirty (30) day cure period, the non-breaching Party may terminate this Addendum if the breaching party does not cure the breach or if cure is not possible. If termination is not feasible, the non-breaching party may report the breach or violation to the Secretary.

5.3 No Cause Termination. Either Party may terminate this Addendum at anytime and for any reason or no reason upon 90 days prior written notice to the other Party of its intent to terminate.

5.4 Effect of Termination.

5.4.1 Except as provided in Section 5.4.2, upon termination of the Underlying Agreement or this Addendum for any reason, PST will return or destroy all PHI received from Client, or created or received by PST on behalf of Client, at Client's expense, and will retain no copies of the PHI. This provision will apply to PHI that is in the possession of subcontractors or agents of PST.

5.3.2 If it is infeasible for PST to return or destroy the PHI upon termination of the Underlying Agreement or this Addendum, PST will: (a) extend the protections of this Addendum to such PHI and (b) limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as PST maintains such PHI.

#### **SECTION 6: COOPERATION IN INVESTIGATIONS**

The Parties acknowledge that certain breaches or violations of this Addendum may result in litigation or investigations pursued by federal or state governmental authorities of the United States resulting in civil liability or criminal penalties. Each Party will cooperate in good faith in all respects with the other Party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action or other inquiry.

#### **SECTION 7: SURVIVAL**

The respective rights and obligations of PST under Section 5.3 of this Addendum will survive the termination of this Addendum and the Underlying Agreement.

#### **SECTION 8: AMENDMENT**

This Addendum may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties. In addition, if any relevant provision of the Privacy Rule, the Security Rule or the HIPAA Final Rule is amended in a manner that changes the obligations of PST or Client that are embodied in terms of this Addendum, then the Parties agree to negotiate in good faith appropriate non-financial terms or amendments to this Addendum to give effect to such revised obligations.

#### **SECTION 9: EFFECT OF ADDENDUM**

In the event of any inconsistency between the provisions of this Addendum and the Underlying Agreement, the provisions of this Addendum will control. In the event that a court or regulatory agency with authority over PST or Client interprets the mandatory provisions of the Privacy Rule, the Security Rule or the HIPAA Final Rule, in a way that is inconsistent with the provisions of this Addendum, such interpretation will control. Where provisions of this Addendum are different from those mandated in the Privacy Rule, the Security Rule, or the HIPAA Final Rule, but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this Addendum will control.

**EXHIBIT D**

**CONFIDENTIALITY AGREEMENT**

PST and City of Beaumont ("Client") have entered into an agreement whereby PST provides certain services (the "Services") to Client (the "Business Support Services Agreement"). Client has entered into a contractual relationship with \_\_\_\_\_ [insert name of person/entity performing the audit] \_\_\_\_\_ ("Recipient") and instructs PST to allow Recipient to review certain information in PST's possession regarding Client's business and supplemental payment recovery assistance services performed by PST ("Client Proprietary Information"). Therefore, in consideration of the mutual covenants and conditions contained in this Confidentiality Agreement (the "Confidentiality Agreement"), Recipient and Client agree as follows:

A. During the course of Recipient's examination and review of Client Proprietary Information, Recipient may be exposed to or review certain proprietary information regarding PST ("PST Proprietary Information"). PST Proprietary Information refers to any and all data and information relating to the business of PST which has value to PST and is not generally known by its competitors or the public, including, without limitation, financial information, inventions, methods, techniques, actual or potential customers and suppliers, the Business Support Services Agreement, PST's business practices or other trade secrets or confidential information of PST, all report formats, and existing and future products and computer systems and software. Recipient acknowledges and agrees that all PST Proprietary Information and all physical embodiments thereof are confidential to PST and are and will remain the sole and exclusive property of PST. All PST Proprietary Information acquired by Recipient will be kept strictly confidential and will not be disclosed to any other person or entity (including any entity affiliated with or any division of Recipient), unless required by law or court order.

B. PST Proprietary Information does not include information which (i) is publicly known or which becomes publicly known through no act or failure to act on the part of Recipient; (ii) is lawfully obtained by Recipient from any third party entitled to disclose such information; (iii) is in the lawful possession of Recipient prior to such information having been disclosed to Recipient by PST; or (iv) is independently developed by Recipient.

C. Recipient further agrees that during Recipient's engagement by Client and for a period of one (1) year following any termination of Recipient's engagement for whatever reason, Recipient will not, directly or indirectly, on Recipient's own behalf or in the service of, or on behalf of any other individual or entity, divert, solicit or hire away, or attempt to divert, solicit or hire away, to or for any individual or entity, any person employed by PST, whether or not such employee is a full-time employee, temporary employee, leased employee or independent contractor of PST, whether or not such employee is employed pursuant to written agreement and whether or not such employee is employed for a determined period or at-will.

D. Recipient acknowledges that great loss and irreparable damage would be suffered by PST if Recipient should breach or violate the terms of this Confidentiality Agreement. In the event Recipient breaches or violates this Confidentiality Agreement, Recipient agrees that PST would not have an adequate remedy at law and, therefore, that PST would be entitled to a temporary restraining order and permanent injunction to prevent a breach of any of the terms or provisions contained in this Confidentiality Agreement, in addition to any monetary damages that may be available at law or equity. Recipient's obligations under this Confidentiality Agreement will survive indefinitely.

E. Recipient represents and warrants that (i) it has the full power and authority to enter into this Confidentiality Agreement, and (ii) the person executing this Confidentiality Agreement has the full power and authority to do so.

IN WITNESS WHEREOF, Recipient has signed this Confidentiality Agreement as of the date below written.

RECIPIENT: \_\_\_\_\_

CLIENT: CITY OF BEAUMONT MEDICAL

By: \_\_\_\_\_  
Print Name: **SAMPLE**  
(No Signature Required)  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: **SAMPLE**  
(No Signature Required)  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# BEAUMONT

TEXAS

**REGULAR MEETING OF THE CITY COUNCIL**  
**COUNCIL CHAMBERS    APRIL 5, 2016    1:30 P.M.**

## AGENDA

### CALL TO ORDER

- \*    Invocation                      Pledge                      Roll Call
- \*    Presentations and Recognition
- \*    Public Comment: Persons may speak on scheduled agenda items 2-4/Consent Agenda
- \*    Consent Agenda

### GENERAL BUSINESS

1.    Consider a request for a Specific Use Permit to allow a mini storage facility in GC-MD (General Commercial-Multiple Family Dwelling District), at 6160 Delaware Street
2.    Consider amending Section 2.03.074 of the Code of Ordinances by reducing the number of Grade III (Captain) positions from 47 to 46 and increasing the number of Grade IV (District Chief) positions from 11 to 12 in the Beaumont Fire Department
3.    Consider a resolution approving Change Order No. 10 to the contract with the Texas Department of Transportation (TxDOT) for the Concord Road Project

### COMMENTS

- \*    Councilmembers/City Manager comment on various matters
- \*    Public Comment (Persons are limited to 3 minutes)

### EXECUTIVE SESSION

- \*    Consider matters related to the deliberation of the purchase, exchange, lease or value of real property in accordance with Section 551.072 of the Government Code, to wit:

Beaumont Yacht Club located at 560 Marina Drive, Beaumont, TX 77703

4.    Consider a resolution authorizing the City Manager to execute an Earnest Money Contract and other related documents for the sale of the marina property and improvements located at 560 Marina Drive

## **EXECUTIVE SESSION**

- \* Consider matters related to contemplated or pending litigation in accordance with Section 551.071 of the Government Code:

United States of America vs. City of Beaumont, Texas; Civil Action No.  
1:15CV201

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

**April 5, 2016**

Consider a request for a Specific Use Permit to allow a mini storage facility in GC-MD (General Commercial-Multiple Family Dwelling District), at 6160 Delaware Street

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# BEAUMONT

TEXAS

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Chris Boone, <sup>CSB</sup> Planning & Community Development Director

**MEETING DATE:** April 5, 2016

**REQUESTED ACTION:** Council consider a request for a Specific Use Permit to allow a mini storage facility in GC-MD (General Commercial-Multiple Family Dwelling District), at 6160 Delaware Street.

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## BACKGROUND

Zachary Rowe of Mark W. Whiteley and Associates has designed and submitted a Mini Storage Facility that the property owner, Mr. Sam Parigi, Jr., would like to construct at 6160 Delaware Street. This development will consist of a three (3) story building. Mr. Parigi does not want the structure to resemble a warehouse and has asked the architect to incorporate materials that will have a more aesthetic appeal, especially for the neighbors to the north. All lighting will be directional so as to not disturb neighboring properties. In addition, a 120 foot wide ditch separates the property from the residential lots to the north.

At a Joint Public Hearing held on March 21, 2016, the Planning Commission recommended 8:0 to approve a Specific Use to allow a mini storage facility in the GC-MD (General Commercial-Multiple Family Dwelling District), at 6160 Delaware Street with the following condition:

1. Submit storm drainage discharge design on construction drawings.

## FUNDING SOURCE

Not applicable.

## RECOMMENDATIONS

Approval of the ordinance subject to the following condition:

1. Submit storm drainage discharge design on construction drawings.

**SPECIFIC USE PERMIT APPLICATION  
BEAUMONT, TEXAS**

(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME: Zachary Rowe

APPLICANT'S ADDRESS: 3250 Eastex Freeway, Beaumont, Texas 77703

APPLICANT'S PHONE #: (409) 892-0421 FAX #: (409) 892-1346

NAME OF OWNER: Sam C. Parigi, Jr.

ADDRESS OF OWNER: 445 North 14 Street, Beaumont, Texas 77702

LOCATION OF PROPERTY: 6160 Delaware Street

**LEGAL DESCRIPTION OF PROPERTY:**

LOT NO. \_\_\_\_\_ OR TRACT A 2.1599 Acre Tract

BLOCK NO. \_\_\_\_\_ PLAT \_\_\_\_\_

ADDITION \_\_\_\_\_ SURVEY Hezekiah Williams, Abstract No. 56

NUMBER OF ACRES \_\_\_\_\_ NUMBER OF ACRES 2.1599 Acres

**For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed for a specific use permit, and a complete legal field note description.**

PROPOSED USE: Mini Storage Facility ZONE: GC-MD

ATTACH A LETTER describing all processes and activities involved with the proposed uses.

ATTACH A SITE PLAN drawn to scale with the information listed on the top back side of this sheet.

ATTACH A REDUCED 8 1/2" X 11" PHOTOCOPY OF THE SITE PLAN.

THE EIGHT CONDITIONS listed on the back side of this sheet must be met before City Council can grant a specific use permit. PLEASE ADDRESS EACH CONDITION IN DETAIL.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by City Council.

SIGNATURE OF APPLICANT: [Signature] DATE: 2-26-16

SIGNATURE OF OWNER: Sam Parigi, Jr. DATE: 2-26-16

PLEASE TYPE OR PRINT AND SUBMIT TO: CITY OF BEAUMONT  
PLANNING DIVISION  
801 MAIN STREET, ROOM 201  
BEAUMONT, TX 77701

FILE NUMBER: \_\_\_\_\_

DATE RECEIVED: \_\_\_\_\_

Phone - (409) 880-3764  
Fax - (409) 880-3133

\*\*\*\*\*

PLEASE MAKE NOTE ON REVERSE SIDE OF CONDITIONS TO BE MET REGARDING THE SITE PLAN AND LETTER OF PROPOSED USES AND ACTIVITIES.

Mini Storage  
6160 Delaware Street  
Beaumont, Texas 77706

25 February 2016

City of Beaumont  
Planning Division  
801 Main Street, Room 201  
Beaumont, Texas 77701

ATTN.: Chris Boone  
Director of Planning and Community Development

REF.: Specific Use Permit  
6160 Delaware Street

Dear Mr. Boone:

Please find attached the Specific Use Permit Application along with a site plan and the fee for the above referenced tract.

We propose to construct a 3 story Mini Storage facility at the above listed address. The following comments address the eight conditions as required by the City's Specific Use Permit:

- The proposed Mini Storage Facility will enhance the locale and not be injurious to the use and enjoyment of other property, nor significantly diminish or impair property values within the immediate vicinity. Appropriate architectural measures will be taken to ensure aesthetic compatibility with nearby structures as well as to avoid being a nuisance to the residential subdivision to the North.
- The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property, as this is the last remaining vacant lot along the North side of Delaware Street in the nearby vicinity.
- There are existing and adequate utilities, access roads, drainage and other necessary supporting facilities currently present at the site. The site fronts Delaware Street, which has water, sewer, gas and communications within the Right of Way. The site is also bordered on the rear by a Jefferson County Drainage District No. 6 canal, which will be utilized for receiving storm water runoff.

- As shown on the attached site plan, the design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development. A shared driveway with the previously approved Goodwill store to the West will be utilized for site access. A 26' firelane will be provided around the entirety of the proposed structure, and two canopies will be installed for loading zones leading into the building. Expected daily traffic to the proposed development is low and should result in minimal impact to the immediate vicinity.
- There will be no offensive odor, fumes, dust, noise or vibration caused by the proposed use of this site as a Mini Storage.
- All proposed onsite lighting will be direct in nature so as not to disturb or adversely affect neighboring properties. Appropriate measures will be taken to mitigate adverse effects on the nearby properties.
- Landscaping and screening will be provided in accordance with the appropriate City requirements to ensure harmony and compatibility with the adjacent properties.
- The proposed use is in accordance with the Comprehensive Plan and will assist in further developing the West End of Beaumont.

If you have any questions or need additional information please contact me at (409)-892-0421.

Sincerely,



Zachary Rowe  
Engineer Assistant  
Mark W. Whiteley and Associates, Inc.  
Applicant

ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW A MINI STORAGE FACILITY IN A GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT AT 6160 DELAWARE STREET IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, Zachary Rowe, on behalf of Sam Parigi, Jr., has applied for a specific use permit to allow a mini storage facility in a GC-MD (General Commercial-Multiple Family Dwelling) District, at 6160 Delaware Street, as described in Exhibit "A" and shown on Exhibit "B," attached hereto; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the request and is recommending approval of a specific use permit to allow a mini storage facility in a GC-MD (General Commercial-Multiple Family Dwelling) District at 6160 Delaware Street, subject to the following condition:

- Submit storm drainage discharge design on construction drawings

; and,

WHEREAS, the City Council is of the opinion that the issuance of such specific use permit is in the best interest of the City of Beaumont and its citizens;

NOW, THEREFORE, BE IT ORDAINED

BY THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this ordinance are hereby, in all things, approved and adopted; and,

Section 1.

That a specific use permit to allow a mini storage facility in a GC-MD (General Commercial-Multiple Family Dwelling) District at 6160 Delaware Street as described in

Exhibit "A" and shown on Exhibit "B," is hereby granted to Sam Parigi, Jr., his legal representatives, successors and assigns, as shown on Exhibit "C," attached hereto and made a part hereof for all purposes, subject to the following condition:

- Submit storm drainage discharge design on construction drawings.

Section 2.

That the specific use permit herein granted is expressly issued for and in accordance with each particular and detail of the site plan attached hereto as Exhibit "C" and made a part hereof for all purposes.

Section 3.

Notwithstanding the site plan attached hereto, the use of the property herein above described shall be in all other respects subject to all of the applicable regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended, as well as comply with any and all federal, state and local statutes, regulations or ordinances which may apply.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 5th day of April, 2016.

---

- Mayor Becky Ames -

**LEGAL DESCRIPTION FOR ORDINANCE PURPOSES**

**BEING** a 2.1599 acre tract or parcel of land situated in the Hezekiah Williams Survey, Abstract No. 56, Jefferson County, Texas and being out of and part of that certain called 680.66 acre tract called "Second Tract" as conveyed by Treadaway Land Company et al. to Yount-Lee Oil Company as recorded in Volume 374, Page 113, Deed Records, Jefferson County, Texas and also being out of and part of that certain remainder of a called 40.5391 acre tract of land as conveyed by Amoco Production Company to Dowdel Investments, Ltd. as recorded in Clerk's File No. 1999047799, Official Public Records of Real Property, Jefferson County, Texas, said 2.1599 acre tract being more particularly described as follows:

*NOTE: All bearings are based on the West line of Lot 1, Block 1 of HEB Grocery Addition as NORTH 01°23'48" WEST as recorded in Clerk's File No. 2006015377, Official Public Records of Real Property, Jefferson County, Texas. All set 5/8" iron rods set with caps stamped "M.W. Whiteley & Associates".*

**COMMENCING** at a 5/8" iron rod found for the Southeast corner of that certain called 0.9601 acre tract of land as described in a "Special Warranty Deed with Vendor's Lien" from Dowdel Investments, Ltd. to CBH Properties Beaumont, LLC. as recorded under Clerk's File No. 2015016749, Official Public Records of Real Property, Jefferson County, Texas and being the Southwest corner of Lot 1, Block 1 of HEB Grocery Addition, an addition of the City of Beaumont, Jefferson County, Texas, according to the map or plat thereof, recorded under Clerk's File No. 2006015377, Official Public Records of Real Property, Jefferson County, Texas, and also being in the North right-of-way line of Delaware Street;

**THENCE** SOUTH 88°52'27" WEST, along and with the North right-of-way line of Delaware Street, for a distance of 110.00 feet to a 5/8" iron rod with cap stamped "M. W. Whiteley and Associates" found for the Southwest corner of said 0.9601 acre CBH Properties Beaumont, LLC tract, and the **POINT OF BEGINNING** of the tract herein described;

**THENCE** SOUTH 88°52'27" WEST, continuing along and with the North right-of-way line of Delaware Street, for a distance of 264.85 feet to a 5/8" iron rod set for corner, said corner being the Southwest corner of the tract herein described and the Southeast corner of a proposed 1.4354 acre tract of land;

**THENCE** NORTH 01°24'16" WEST, over and across the remainder of said 40.5391 acre Dowdel Investments, Ltd. tract and along and with the Easterly boundary line of the proposed 1.4354 acre tract of land, for a distance of 202.13 feet to a 5/8" iron rod set for corner;

**THENCE** NORTH 88°52'27" EAST, continuing over and across the remainder of said 40.5391 acre Dowdel Investments, Ltd. tract and along and with the Easterly boundary line of the proposed 1.4354 acre tract of land, for a distance of 37.00 feet to a 5/8" iron rod set for corner;

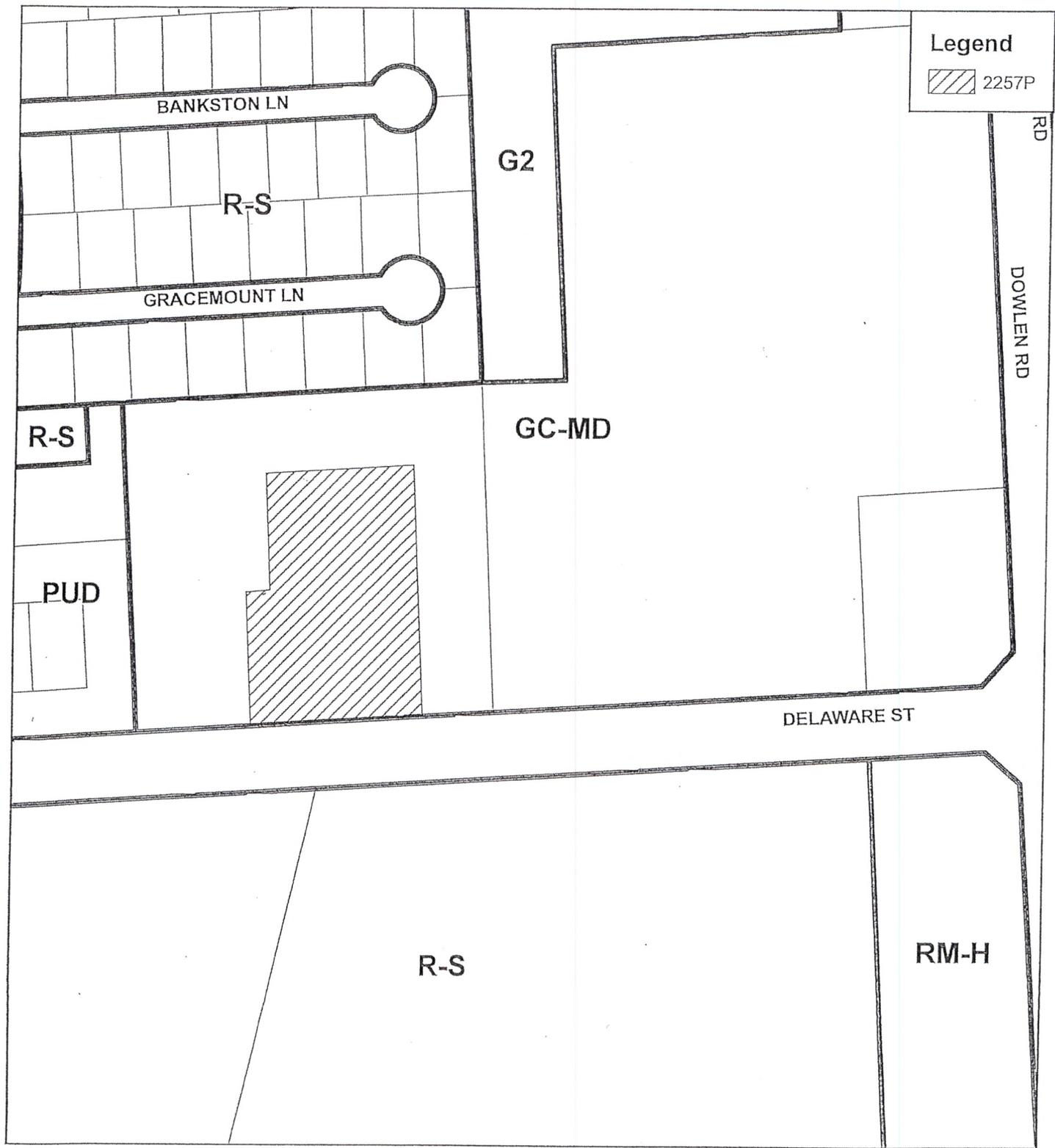
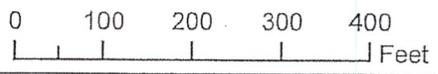
**THENCE** NORTH 01°24'16" WEST, continuing over and across the remainder of said 40.5391 acre Dowdel Investments, Ltd. tract and along and with the Easterly boundary line of the proposed 1.4354 acre tract of land, for a distance of 177.83 feet to a 5/8" iron rod set for corner, said corner being in the South line of the remainder of that certain called 2.727 acre tract of land

as described in a "Drainage Easement" from Amoco Production Company to Jefferson County Drainage District No. 6 as recorded under Clerk's File No. 1999047796, Official Public Records of Real Property, Jefferson County, Texas;

**THENCE** NORTH 88°49'09" EAST, along and with the boundary between the remainder of said 40.5391 acre Dowdel Investments, Ltd. tract and the remainder of said 2.727 acre Jefferson County Drainage District No. 6 easement, for a distance of 227.90 feet to a 5/8" iron rod with stamped "M.W. Whiteley & Associates" found for corner, said corner being the Northwest corner of said 0.9601 acre CBH Properties Beaumont, LLC tract and the Northeast corner of the remainder of said 40.5391 acre Dowdel Investments, Ltd. tract;

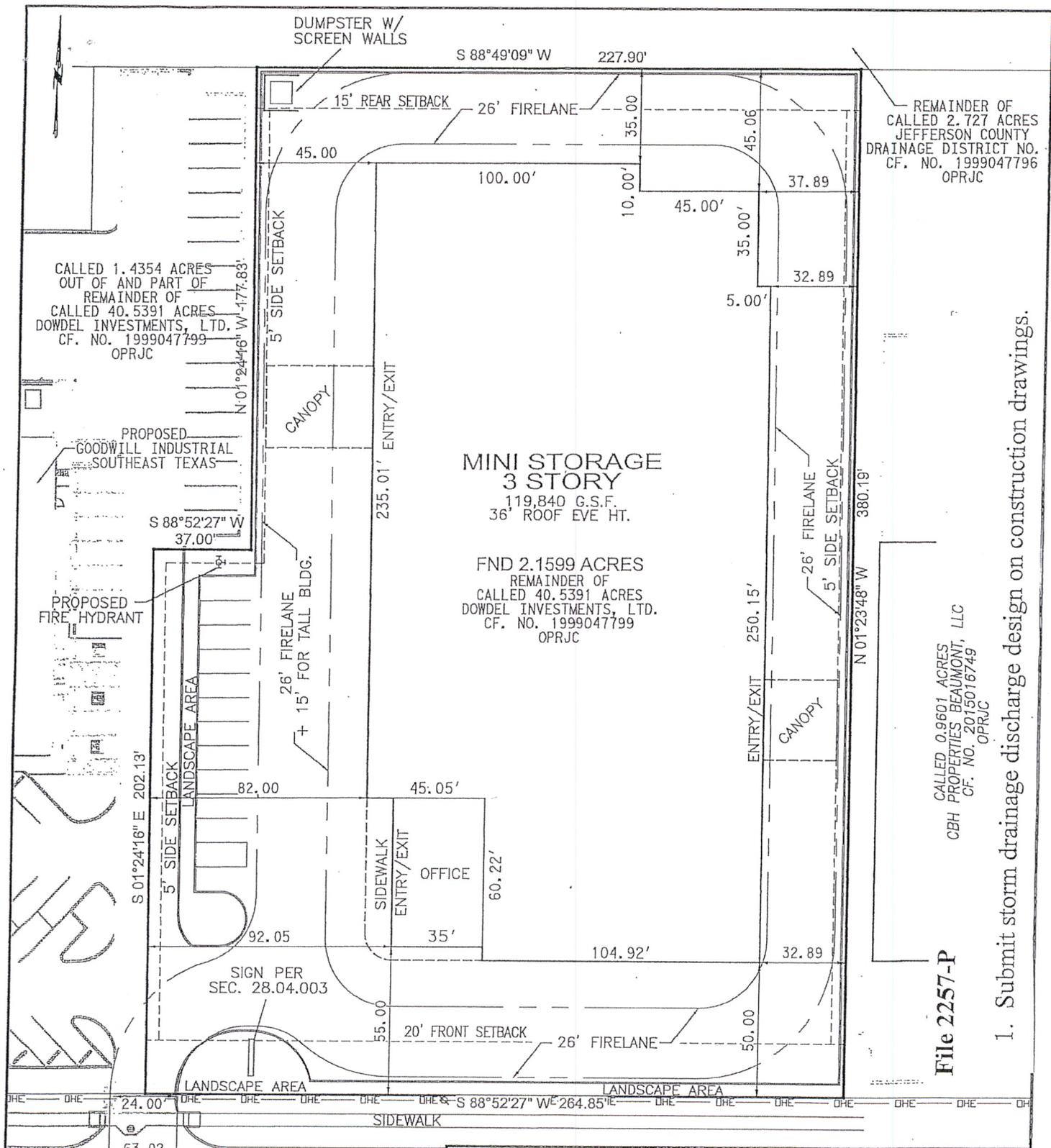
**THENCE** SOUTH 01°23'48" EAST, along and with the boundary between the remainder of said 40.5391 acre Dowdel Investments, Ltd. tract and said 0.9601 acre CBH Properties Beaumont, LLC tract, for a distance of 380.19 feet to the **POINT OF BEGINNING** and containing 2.1599 Acres, more or less.

**File 2257-P:** Consider a request for a Specific Use Permit to allow a mini storage facility in GC-MD (General Commercial-Multiple Family Dwelling District) zoning.  
**Applicant:** Zachery Rowe-Mark W. Whiteley and Associates, Inc.  
**Location:** 6160 Delaware Street



**Legend**  
[Hatched Box] 2257P

EXHIBIT "B"



REMAINDER OF  
CALLED 2.727 ACRES  
JEFFERSON COUNTY  
DRAINAGE DISTRICT NO.  
CF. NO. 1999047796  
OPRJC

CALLLED 1.4354 ACRES  
OUT OF AND PART OF  
REMAINDER OF  
CALLED 40.5391 ACRES  
DOWDEL INVESTMENTS, LTD.  
CF. NO. 1999047799  
OPRJC

**MINI STORAGE  
3 STORY**  
119,840 G.S.F.  
36' ROOF EVE HT.  
  
FND 2.1599 ACRES  
REMAINDER OF  
CALLED 40.5391 ACRES  
DOWDEL INVESTMENTS, LTD.  
CF. NO. 1999047799  
OPRJC

CALLLED 0.9601 ACRES  
PROPERTIES BEAUMONT, LLC  
CF. NO. 2015016749  
OPRJC

**File 2257-P**

1. Submit storm drainage design on construction drawings.

**DELAWARE STREET**  
(100' R.O.W.)

CLIENT: DOWDEL INVESTMENTS, LTD.		
DR BY: ZTR	SCALE: 1" = 50'	SHEET No.: 1 of 2
VER: ACAD 2016	FILE: W:\2016\16-242	REV: 1
JOB NO. 16-242	FILE: 16-242_SUP Sketch.DWG	

**MARK W. WHITELEY  
AND ASSOCIATES  
INCORPORATED**  
  
CONSULTING ENGINEERS,  
SURVEYORS, AND PLANNERS  
T.B.P.L.S. FIRM NO. 10106700  
T.B.P.E. FIRM NO. F-2633

**PROPOSED MINI STORAGE  
SITE PLAN**  
6160 DELAWARE STREET  
BEAUMONT, TEXAS  
2.1599 ACRE TRACT  
OUT OF  
HEZEKIAH WILLIAMS  
ABSTRACT NO. 56  
BEAUMONT, JEFFERSON COUNTY, TEXAS

**EXHIBIT "C"**

9250 EASTEX FRWY.  
UMONT, TEXAS 77703  
XX 409-582-1348

**April 5, 2016**

Consider amending Section 2.03.074 of the Code of Ordinances by reducing the number of Grade III (Captain) positions from 47 to 46 and increasing the number of Grade IV (District Chief) positions from 11 to 12 in the Beaumont Fire Department

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**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Anne Huff, Fire Chief 

**MEETING DATE:** April 5, 2016

**REQUESTED ACTION:** Council consider amending Section 2.03.074 of the Code of Ordinances by reducing the number of Grade III (Captain) positions from 47 to 46 and increasing the number of Grade IV (District Chief) positions from 11 to 12 in the Beaumont Fire Department.

---

**BACKGROUND**

A Grade III Captain's position in the Fire Marshal's office is vacated due to a retirement. Chief Huff wishes to delete this vacant position and create a new Grade IV District Chief position.

**RECOMMENDATION**

Approval of the ordinance.

ORDINANCE NO.

ENTITLED AN ORDINANCE AMENDING SECTION 2.03.074 OF THE CODE OF ORDINANCES BY REDUCING THE NUMBER OF GRADE III CAPTAIN POSITIONS IN THE BEAUMONT FIRE DEPARTMENT FROM FORTY-SEVEN (47) TO FORTY-SIX (46) AND INCREASING THE NUMBER OF GRADE IV DISTRICT CHIEF POSITIONS IN THE BEAUMONT FIRE DEPARTMENT FROM ELEVEN (11) TO TWELVE (12); PROVIDING FOR SEVERABILITY AND PROVIDING FOR REPEAL.

Section 1.

That Chapter 21, Section 2.03.074, of the Code of Ordinances of the City of Beaumont be and the same is hereby amended to decrease the number of Grade III Captain positions in the Beaumont Fire Department from forty-seven (47) to forty-six (46) and increase the number of Grade IV District Chief positions in the Beaumont Fire Department from eleven (11) to twelve (12).

Section 2.

That if any section, subsection, sentence, clause or phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance and, to such end, the various portions and provisions of this ordinance are declared to be severable.

Section 3.

All ordinance or parts of ordinances in conflict herewith, including conflicting portions of the City Budget, are repealed to the extent of the conflict only.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 5th day of  
April, 2016.

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- Mayor Becky Ames -

**April 5, 2016**

Consider a resolution approving Change Order No. 10 to the contract with the Texas Department of Transportation (TxDOT) for the Concord Road Project

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**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director

**MEETING DATE:** April 5, 2016

**REQUESTED ACTION:** Council consider a resolution approving Change Order No. 10 to the contract with the Texas Department of Transportation (TxDOT) for the Concord Road Project.

---

**BACKGROUND**

Texas Department of Transportation (TxDOT) is managing the Concord Road Project. On July 26, 2012, TxDOT entered into an agreement with Tradeco Infraestructura, Inc. in the amount of \$11,284,746.71 for the Concord Road Project.

On June 10, 2015, Tradeco delivered a voluntary letter of default to TxDOT abandoning and terminating the contract. The Surety Bond held by American Home Assurance Company, is acting in its capacity as the Surety for Tradeco and has chosen Texas Sterling Construction Co., as the Completion Contractor. On September 1, 2015, Texas Sterling Construction Co., was given the Notice to Proceed with a Substantial Completion Date set at November 23, 2016.

Previous Change Order Nos. 1, 2, 3, 4, and 5 in the amount of \$126,767.20 were approved by City Council resulting in a new contract amount of \$11,411,510.91. Change Order Nos. 6, 7, 8, and 9 were executed by the City Manager resulting in a reduction to the contract in the amount of (36,329.04) making the total contract amount \$11,375,181.87.

TxDOT is requesting Change Order No. 10 to revise quantities for items relating to the realignment of sanitary sewer lines from Dowlen Road to Garner Road to avoid conflict with established utilities. The proposed change order of \$55,461.32 includes \$7,534.15 for Engineering and Contingency charges. If approved, the total contract amount would be \$11,430,643.19.

**FUNDING SOURCE**

Capital Program.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO. 15-295

WHEREAS, on July 26, 2012, the Texas Department of Transportation (TxDOT) entered into an agreement with Tradeco Infraestructura, Inc. in the amount of \$11,284,746.71 for the Concord Road Project; and,

WHEREAS, on July 9, 2013, the City Council of the City of Beaumont, Texas, passed Resolution No. 13-147 approving Change Order No. 1, in the amount of \$88,965.21, including \$12,085.19 for Engineering and Contingency charges, for modifications to the water, sanitary sewer, storm sewer, and conduit lines for the project; and,

WHEREAS, on June 10, 2015, Tradeco Infraestructura, Inc. delivered a voluntary letter of default to TxDOT abandoning and terminating the contract; and,

WHEREAS, the surety bond held by American Home Assurance Company is acting in its capacity as the surety for Tradeco and has chosen Texas Sterling Construction Co. as the completion contractor; and,

WHEREAS, TxDOT has requested Change Order Nos. 2, 3, 4 and 5, in the total amount of \$37,798.99, including \$5,134.81 for Engineering and Contingency charges, for the removal of water oak trees along SH 105; temporary drainage on SH 105 to aid the installation of water and sanitary sewer improvements; adjustment of sanitary manholes to match final paving; and, removal of three (3) existing sanitary manholes, respectively, thereby increasing the contract amount to \$11,411,510.91; and,

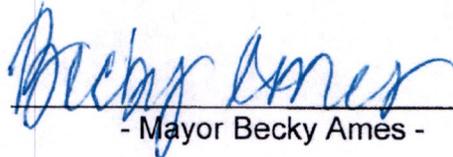
NOW, THEREFORE, BE IT RESOLVED BY THE  
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute an acknowledgment of Change Order Nos. 2, 3, 4 and 5 for additional work described above, thereby increasing the contract amount by \$37,798.99 for a total contract amount of \$11,411,510.91 for the Concord Road Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 15th day of December, 2015.



  
- Mayor Becky Ames -

# TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 10

## Third Party Funding Notification Sheet

**This form is used when the subject change order involves funding by a source other than TxDOT/U.S. DOT, and involves third parties who are providing funding under an Advance Funding Agreement or Donation Agreement.**

1. Outside funding provided by:

CITY of BEAUMONT  
 \_\_\_\_\_  
 (Outside Entity's Legal Name)

<b>CCSJ:</b>	<u>0920-38-153</u>
<b>Project:</b>	<u>HP 450(1)</u>
<b>Highway:</b>	<u>CONCORD ROAD</u>
<b>County:</b>	<u>JEFFERSON</u>
<b>District:</b>	<u>BEAUMONT</u>
<b>Contract Number:</b>	<u>07123217</u>

2. Type of outside funding agreement for this change:

Existing       Amended       New  
 [ Check one ]

3. Indicate the type and amount of funding:

Fixed Price (Lump Sum)      (Estimated Amount 47,927.17 )  
 Actual Cost

(a) Contract Items (Bid Items):		<u>47,927.17</u>		
(b) E&C*:	(a) x <u>0</u>	=	<u>7,534.15</u>	
	enter %			
(c) Indirect Cost**:	(a + b) x <u>    </u>	=	<u>0.00</u>	
	enter %			
<b>TOTAL</b>			<u>55,461.32</u>	

**Use as needed:**

I hereby acknowledge notification of the modifications covered by this Change Order.

Date \_\_\_\_\_

By \_\_\_\_\_

Typed/Printed Name \_\_\_\_\_

Typed/Printed Title \_\_\_\_\_

\* The percentage (%) for E&C (Engineering and Contingencies) charges varies from project to project depending on the contract amount of the project. Projects with a higher contract amount will have a lower rate of E&C charge. For a specific project, E&C rate (%) can be derived from the cost of "Engineering and Contingencies" in the "Estimated Cost" of the project.

\*\* Use the statewide district rate as established by Finance Division each year. This line 3(c) is for Service Project only, unless otherwise specified in the Advance Funding Agreement. See Stand Alone Manual Notice 98-2 for instructions.

Funding for this Change Order has been arranged:	
_____ TxDOT Representative	_____ Date
Typed/Printed Name: _____	



CHANGE ORDER NBR. 10

REPORT DATE: 3/10/2016 5:23:54PM

**CONTRACT ID:** 092038153  
**PROJECT:** HP 450(1)  
**CONTRACT:** 07123217  
**AWARD AMOUNT:** \$11,284,746.71  
**PROJECTED AMOUNT:** \$11,284,746.71  
**ADJ PROJECTED AMT:** \$11,391,295.92  
**PEND ADJ PROJ AMT:** \$11,359,971.48  
**CONTRACTOR:** AMERICAN HOME ASSURANCE COMPANY  
**CO AMOUNT:** \$47,927.17  
**CO TYPE:** STATE LETTER OF AUTH - PARTICIPATING  
**3RD PARTY AMOUNT:** \$0.00  
**APPRV LEVEL:** OVERRIDE

**HIGHWAY:** CS  
**DISTRICT:** 20  
**COUNTY:** JEFFERSON  
**AREA ENGINEER:** Kenneth Wiemers, P.E.  
**AREA NUMBER:** 051

**DESCRIPTION:** Realign Sanitary Sewer from Dowlen to Garner  
**REASON:** 2G - 2G-UNADJUSTED UTILITY (UNFORESEEABLE)  
**SECONDARY REASON(S):**

<b>Functions:</b>	
<input checked="" type="checkbox"/> Extra Work	<input type="checkbox"/> Force Account
<input type="checkbox"/> Zero Dollar	<input type="checkbox"/> Final Quantity
<input checked="" type="checkbox"/> Overrun/Underrun	<input type="checkbox"/> Change Project Limits
<input type="checkbox"/> Time Adjustment	<input type="checkbox"/> Delete/Add CSJ
<input type="checkbox"/> Stock Account	

**DESCRIBE THE REASON FOR THE CHANGE ORDER AND WHAT IS BEING CHANGED. WHEN NECESSARY, INCLUDE EXCEPTIONS TO THIS AGREEMENT:**

This change order revises quantities for items relating to the realignment of the sanitary sewer line from Dowlen Road to Garner Road, from station 199+50 to station 202+41. This change order also adds plan sheets #2, #20C, #189A, #190B, and #219B to the contract.

The intent of this change order is to compensate for additional work in accordance with Article 4.2 "Changes in the Work". This change order does not preclude compensation under Article 4.4 "Request and Claims for Additional Compensation".

**ADDITIONAL TIME NOT NEEDED**

"By signing this change order, the contractor agrees to waive any and all claims for additional compensation due to any and all other expenses; additional changes for time, overhead and profit; or loss of compensation as a result of this change and that this agreement is made in accordance Item 4 and the Contract. Exceptions should be noted in explanation above."

**THE CONTRACTOR**

**BY:** Lin B Heath, PE 3/21/16  
DATE  
**TYPED/PRINTED NAME:** Lin B Heath  
DATE  
**TYPED/PRINTED TITLE:** Consultant for Surety  
DATE  
**AREA ENGINEER:** \_\_\_\_\_  
DATE  
**AREA ENGINEER'S SEAL:** \_\_\_\_\_

**DISTRICT ENGINEER:** \_\_\_\_\_  
DATE  
**DIRECTOR, CONSTRUCTION DIVISION:** \_\_\_\_\_  
DATE  
**DEPUTY EXECUTIVE DIRECTOR:** \_\_\_\_\_  
DATE  
**FHWA:** \_\_\_\_\_  
DATE

CONTRACT ID 092038153

CHANGE ORDER NBR. 10

CONTRACT ITEMS

PROJECT NBR 092038153

CATG NBR	LINE ITEM	ITEM CODE	SP NBR	DESCRIPTION	UNIT	UNIT PRICE	ORIG + PREV REV QTY	QTY THIS CO	NEW QTY	AMOUNT THIS CO
001	0200	04002006	000	CUT & RESTORING PAV	SY	36.00000	752.000	150.000	902.000	\$5,400.00
001	0615	59712001	000	18"X1/4" CASING	LF	112.00000	70.000	20.000	90.000	\$2,240.00
001	0617	96082003 ADDTL CO DESCR 1		UNIQUE CHANGE ORDER ITEM 3 CO 1, 20" x 1/4" CASING (LF)	DOL	128.61000	10.000	-10.000	0.000	-\$1,286.10
001	0620	59712002	000	MANHOLE SEWER (FIBERGLASS)	EA	2,600.00000	47.000	3.000	50.000	\$7,800.00
001	0640	59712006	000	12" SDR-17 (SEWER LINE) OPEN TRENCH	LF	32.00000	939.600	-162.000	777.600	-\$5,184.00
002	0880	04002005	000	CEM STABIL BKFL	CY	65.00000	71.700	269.000	340.700	\$17,485.00
001	0921	96082011 CO DESCR ADDTL CO DESCR 1		UNIQUE CHANGE ORDER ITEM 11 Traffic Control (Lump Sum) CO #10	DOL	7,953.75000	0.000	1.000	1.000	\$7,953.75
001	0922	04202090		CL A CONC(COLLAR)	EA	13,518.52000	0.000	1.000	1.000	\$13,518.52
<b>CHANGE ORDER AMOUNT</b>										<b>\$47,927.17</b>

CONTRACT ID 092038153

CHANGE ORDER NBR. 10

Page 3 of 3

FUNDING SOURCES

1. Work Program: LOCAL      Work Category: 003      Amount: \$47,927.17

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## RESOLUTION NO.

WHEREAS, on July 26, 2012, the Texas Department of Transportation (TxDOT) entered into an agreement with Tradeco Infraestructura, Inc. in the amount of \$11,284,746.71 for the Concord Road Project; and,

WHEREAS, on July 9, 2013, the City Council of the City of Beaumont, Texas, passed Resolution No. 13-147 approving Change Order No. 1, in the amount of \$88,965.21, including \$12,085.19 for Engineering and Contingency charges, for modifications to the water, sanitary sewer, storm sewer, and conduit lines for the project; and,

WHEREAS, on December 15, 2015, the City Council of the City of Beaumont, Texas, passed Resolution No. 15-295 approving Change Order Nos. 2, 3, 4 and 5, in the total amount of \$37,798.99, including \$5,134.81 for Engineering and Contingency charges, for the removal of water oak trees along SH 105; temporary drainage on SH 105 to aid the installation of water and sanitary sewer improvements; adjustment of sanitary manholes to match final paving; and, removal of three (3) existing sanitary manholes, respectively, thereby increasing the contract amount to \$11,411,510.91; and,

WHEREAS, on March 4, 2016, the City Manager executed Change Order No. 6 in the amount of (-\$6,695.34) for alterations to the sanitary pipe from SDR-17 to SDR-26, thereby decreasing the contract amount to \$11,404,815.57; and,

WHEREAS, on March 24, 2016, the City Manager executed Change order No. 7 in the amount of \$6,614.94, including \$898.61 for Engineering and Contingency charges, for realignment of 8" PVC waterline to avoid conflict with existing utilities at

Concord Road and Garner Street, thereby increasing the contract amount to \$11,411,430.51; and,

WHEREAS, on February 9, 2016, the City Manager executed Change Order No. 8 in the amount of \$0.00 to provide 87 additional working days to the contract, thereby having no affect on the contract amount of \$11,411,430.51; and,

WHEREAS, on March 8, 2016, the City Manager executed Change Order No. 9 in the amount of (-\$36,248.64) for adjustments to the unit price for concrete sidewalks, thereby decreasing the contract amount to \$11,375,181.87; and,

WHEREAS, Change Order No. 10, in the amount of \$55,461.32, including \$7,534.15 for Engineering and Contingency charges, is necessary to revise quantities for items relating to the realignment of sanitary sewer lines from Dowlen Road to Garner Road to avoid conflict with established utilities, thereby increasing the contract amount to \$11,430,643.19;

NOW, THEREFORE, BE IT RESOLVED BY THE  
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute Change Order No.10 for additional work described above, thereby increasing the contract amount by \$55,461.32 for a total contract amount of \$11,430,643.19 for the Concord Road Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 5th day of  
April, 2016.

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- Mayor Becky Ames -

**April 5, 2016**

Consider a resolution authorizing the City Manager to execute an Earnest Money Contract and other related documents for the sale of the marina property and improvements located at 560 Marina Drive

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# BEAUMONT

TEXAS

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Dr. Joseph Majdalani, P.E., Public Works Director

**MEETING DATE:** April 5, 2016

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to execute an Earnest Money Contract and other related documents for the sale of the marina property and improvements located at 560 Marina Drive.

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## **BACKGROUND**

On February 25, 2014, City Council passed Resolution No. 14-043 accepting the bid submitted by NAI Wheeler for an annual contract for real estate broker services to list and sell City-owned property.

NAI Wheeler has secured five (5) potential buyers who are interested in purchasing the marina property and improvements located at 560 Marina Drive. However, after reviewing all the Earnest Money Contracts, it is in the best interest of the City of Beaumont to execute the Earnest Money Contract with USA Self-Storage Inc. dba The Access Companies with a cash offer in the amount of \$1,475,000.00.

USA Self-Storage Inc. dba The Access Companies will deposit \$50,000 as earnest money with Texas Regional Title for a feasibility period of 60 days. If USA Self-Storage Inc. dba The Access Companies terminates the earnest money contract, \$25,000 of the earnest money will not be refunded to USA Self-Storage Inc. dba The Access Companies. The date of closing will be fifteen (15) days after the expiration of the feasibility period.

## **FUNDING SOURCE**

Not applicable.

## **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute an Earnest Money Contract with USA Self-Storage Inc., d/b/a The Access Companies for the sale of the marina property and improvements a/k/a The Beaumont Yacht Club located at 560 Marina Drive; and,

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to execute all documents necessary for the sale of the marina property and improvements.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 5th day of April, 2016.

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- Mayor Becky Ames -