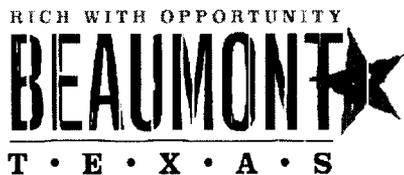




**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS    AUGUST 26, 2014    1:30 P.M.**

**CONSENT AGENDA**

- \* Approval of minutes – August 19, 2014
- \* Confirmation of committee appointments
- A) Authorize the City of Beaumont to submit a grant application to the Mamie McFaddin Ward Heritage Foundation for grant funds in the amount of \$7,500
- B) Approve the cancellation of a contract with Valley View Consulting, LLC, for investment management services
- C) Authorize the acceptance of a ten foot wide Non-Exclusive Water Line Easement located at a new boiler facility at its Lucas Terminal on West Port Arthur Road



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**REQUESTED BY:** Mayor Pro Tem Alan Coleman and  
Councilmember W.L. Pate

**MEETING DATE:** August 26, 2014

**REQUESTED ACTION:** Council consider a resolution authorizing the City of Beaumont to submit a grant application to the Mamie McFaddin Ward Heritage Foundation for grant funds in the amount of \$7,500.

### **BACKGROUND**

Mayor Pro-Tem Alan Coleman is spearheading the development of a regional coalition that will coordinate the services of our area's non-profits, hospitals, school districts and counties as it relates to healthy initiatives. The grant funds, if received, will be utilized to contract with a company to develop a website to provide "easy access to fitness opportunities, nutritional counseling and medical advice."

If approved, the content of the website will be managed by the IT Department in the same manner that it is responsible for [beaumonttexas.gov](http://beaumonttexas.gov).

The grant application will be prepared and completed by Sherry Ulmer, Public Health Director, before the application deadline of August 31, 2014.

healthy  beaumont

A regional coalition will coordinate the services of our area's non-profits, hospitals, school districts and counties.

A Needs Assessment will be performed to assure that necessary services are being provided and all human services needs are being met.

A website will be developed with easy access to fitness opportunities, nutritional counseling and medical advice.

healthy  beaumont

Baton Rouge has one of the top three coalitions in the nation.

The coalition is named HealthyBR. Their structure includes two boards. One to promote healthy lifestyles and one to address the medical needs of the community.

HealthyBR is sustainable, with a separate 501(c)(3) status.

HealthyBR's activities and website are coordinated by the Community Outreach Coordinator. Salary \$40,000.

# MAMIE McFADDIN WARD HERITAGE FOUNDATION GRANT APPLICATION



Wealth and Asset Management  
P. O. Box 3928  
Beaumont, Texas 77704-3928

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## GENERAL GUIDELINES

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The following guidelines and comments are provided to assist applicants in the preparation of their grant requests and to provide some insight as to the manner in which grants are considered.

1. Applicants should use the attached pre-printed form, or follow the same format. **Ten copies of the grant application should be submitted; four of the copies should be fully supported by the attachments listed in Section 4 and the other six may be submitted without the attachments listed in Section 4. Do not include the instructions/General Guidelines with your Grant application. Grant requests should be received by Capital One, National Association – Wealth and Asset Management (herein referred to as "Bank") by August 31st** in order to assure consideration along with all other applications received during the year. Submitted material will not be returned and becomes the property of the Foundation.

2. Applicants must have received tax exemption as a 501(c)(3) charitable organization, or the equivalent designation, prior to making application and must attach a copy of the IRS exemption letter to the grant request form. Grants may not be made to individuals.

3. The General Guidelines found at the beginning of this packet should not be included in your materials submitted with the grant application. The Affidavit found at the end of this packet must be signed, notarized and attached to the application.

4. The primary purpose of the Mamie McFaddin Ward Heritage Foundation is to support the McFaddin-Ward House Museum, located in Beaumont, Texas. The Foundation may also make grants to non-profit organizations in the local community typically within the following giving areas:

(1) the arts, culture, humanities and historic preservation (2) community services, (3) educational/vocational training, (4) health, and (5) services for the needy and disadvantaged.

5. There are no formal restrictions as to the types of requests being considered, whether programming, project or capital improvement in nature. There are never enough funds available to meet the many worthwhile requests submitted for consideration. In order to meet as many of these needs as possible within the community, and to encourage organizations to expand their permanent services without becoming dependent upon the Foundation, the Co-Trustees prefer to move the Foundation's support among various charities from time to time, and not to become a continuous supporter of any organization. There is a general policy against the funding of positions, salaries or other continuing operational expenses that would subject the organization to becoming dependent upon continued foundation support. No funds will be provided for student loans, scholarships or fellowships for individual students, grants for endowment funds, annual fundraisers or annual operating budgets.

6. These guidelines are general in nature, with the Co-Trustees presume that they will make exceptions and changes in any and all of these areas, within their own discretion, as they may from time to time deem appropriate.

7. A list of previous grants received by the Mamie McFaddin Ward Heritage Foundation is required as a part of this grant application. (see Section 3.G.) If no previous grants have been received from the Foundation, please respond "None".

8. It is the Co-Trustees' practice to notify all applicants of the decision concerning their requests. This usually occurs in November.

9. A final report must be submitted upon completion of the program/project as described in the grant application or at least annually if the funds are not utilized in the time specified. Future grant requests will not be considered unless the appropriate reports have been received. A Final Report form will be sent to all successful grant applicants and is available upon request.

FORMS\GRANTAPPMW

Name \_\_\_\_\_ of \_\_\_\_\_ Organization: \_\_\_\_\_

FORMS\GRANTAPPMW

Name

of

Organization:

MAMIE MCFADDIN WARD HERITAGE FOUNDATION



Wealth and Asset Management  
P. O. Box 3928  
Beaumont, Texas 77704-3928

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GRANT APPLICATION

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1. Organization Information

A. Name:

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B. Executive

Director:

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C. Grant

Writer/Contact

Person:

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D. Mailing

Address:

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E. Street

Address:

-----

F. Phone

Number:

-----

G. FAX

Number:

-----

H. E-mail

Address:

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FORMS\GRANTAPPMW

Name

of

Organization:

-----

I. Website Address:

-----

J. Tax ID Number:

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2. Request Information

A. Amount of Request: \$\_\_\_\_\_ and Date Needed:  
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B. Title of Request:

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C. Brief Description, Including Statement of Need:

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D. Name and Qualifications of the Person Responsible for this Program/Project:

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E. Number of People Served by This Request:

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F. Other Entities Being Asked for Funding:

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G. Describe Plans to Evaluate the Program/Project:

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FORMS\GRANTAPPMW

Name of Organization:

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**3. Organizational History and Structure**

**A. Mission of the Organization:**

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**B. Brief History of the Organization and Its Achievements:**

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**C. Description of Existing Services:**

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**D. Objective (Next 3-5 Years):**-----

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**E. Geographic Area and Population Served:**

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FORMS\GRANTAPPMW

Name of Organization:

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F. Organizations Offering Same or Similar Services:

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G. Previous Grants Received from this Foundation (Project Title, Date and Amount):

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-

H. List Major Grant and Gift Sources:

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-

I. Current Number of Staff and Volunteers:

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K. Organization Officers:

President/Chairman:

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Treasurer:

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Others:

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L. Board Members:

Chairman:

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FORMS\GRANTAPPMW

Name of Organization:

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Others:

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**4. Required Attachments and Additional Information**

- A. Attach IRS Determination Letter verifying tax-exempt status.
- B. Organizations applying for funding must submit with their application a copy of their most recent fiscal year Audit (Audited Financial Statements) completed by an outside, independent Certified Public Accountant (CPA).

*If your organization has not had a financial audit, please submit a copy of:*

- 1) a Review; or*
- 2) a Compilation, completed by an outside, independent CPA.*

- C. The following supplemental financial documents must be submitted with your application:
  - 1) Most recent Year-to-Date, detailed statements of income and expenses, i.e. Profit & Loss (P&L) Statement,
  - 2) Most recent Balance Sheet,
  - 3) Current year, Board approved, Operating Budget

Please do not submit a copy of your IRS Tax Form 990, as that information will be accessible utilizing your Tax ID number/Employer Identification Number (EIN), provided on your IRS Determination Letter.

- D. The following additional documents must be submitted with your application:
  - 1) Project Budget (Income and Expenses)

FORMS\GRANTAPPMMW

Name \_\_\_\_\_ of \_\_\_\_\_ Organization: \_\_\_\_\_

2) Project Timeline

AFFIDAVIT

I, the undersigned, state and affirm that all of the above statements and information are true and correct. Further, I hereby declare that the organization for which this application is filed, is a charitable organization as defined under 501(c)(3) and/or related sections of the Internal Revenue Code, and does not discriminate in any manner on the basis of race, color, religion, sex national origin or on the basis of age.

\_\_\_\_\_  
Signature of Affiant

NOTARIZATION:

I, the below signed Notary, in and for the State of \_\_\_\_\_, County of \_\_\_\_\_, do hereby acknowledge that \_\_\_\_\_, the above signed Affidavit, did sign and publish the above Affidavit before me, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affirming the correctness and validity of the statements made in the application to which the Affidavit is attached.

\_\_\_\_\_  
NOTARY

FORMS\GRANTAPPMW

Name \_\_\_\_\_ of \_\_\_\_\_ Organization: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

FORMS\GRANTAPPMW

Name

of

Organization:

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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 apply for and receive funding for the City of Beaumont through the Mamie McFaddin Ward Heritage Foundation in an amount not to exceed \$7,500 to contract with a company to develop a website to provide easy access to fitness opportunities, nutritional counseling and medical advice.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 26th day of August, 2014.

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- Mayor Becky Ames -



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

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

**MEETING DATE:** August 26, 2014

**REQUESTED ACTION:** Council consider a resolution approving the cancellation of a contract with Valley View Consulting, LLC, for investment management services.

### **BACKGROUND**

On April 19, 2008, Council approved a contract for investment management services with Valley View Consulting, LLC. The agreement has been extended several times, most recently on May 14, 2013, for an additional two years. Since the inception of this contract, the City has had a great relationship with Valley View and is still pleased with their services. However, when considering the City's FY 2015 budget and in an effort to reduce expenditures citywide, the cancellation of this contract would save approximately \$60,000 per year. Because today's market environment is much more stable and predictable than the market environment that existed in 2009, the investments can be administered in-house with current staff. The contract requires 30 days notice prior to termination.

### **FUNDING SOURCE**

Estimated savings to the General Fund in the amount of \$60,000.

### **RECOMMENDATION**

Approval of resolution

## RESOLUTION NO.

WHEREAS, on April 28, 2009, City Council approved Resolution No. 09-115 authorizing the City Manager to execute a two-year contract with Valley View Consulting, L.L.C. for professional services to direct and coordinate all programs of investing as may be considered and authorized by the City for an annual fee of .04% (4 basis points) of the average quarterly fund balance for all funds designated as Investable Funds; and,

WHEREAS, on March 8, 2011, City Council approved Resolution No. 11-087 authorizing the City Manager to exercise an option for a two-year extension of the contract with Valley View Consulting, L.L.C. for professional services to direct and coordinate all programs of investing as may be considered and authorized by the City for an annual fee of .04% (4 basis points) of an average quarterly fund balance for all funds designated as Investable Funds; and,

WHEREAS, on May 14, 2013, City Council approved Resolution No. 13-104 authorizing the City Manager to exercise an option for a two-year extension of the contract with Valley View Consulting, L.L.C. for professional services to direct and coordinate all programs of investing as may be considered and authorized by the City for an annual fee of .04% (4 basis points) of the average quarter end book value; and,

WHEREAS, when considering the City's FY 2015 budget and in an effort to reduce expenditures citywide, the termination of the contract would save approximately \$60,000 per year and the investments can be administered by City staff; and,

WHEREAS, City Council is of the opinion that it is in the best interest of the City to terminate the contract with Valley View Consulting, L.L.C.;

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 contract with Valley View Consulting, L.L.C. be and it is hereby terminated effective upon the giving of thirty (30) days notice of termination.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 26th day of August, 2014.

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- Mayor Becky Ames -



# City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

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

**MEETING DATE:** August 26, 2014

**REQUESTED ACTION:** Council consider a resolution authorizing the acceptance of a ten foot (10') wide Non-Exclusive Water Line Easement.

**BACKGROUND**

Valero Partners Lucas, LLC has agreed to convey a ten foot (10') wide non-exclusive Water Line Easement to the City of Beaumont. The easement is described as being a 0.0155 acre tract out of the Pelham Humphreys Survey, Abstract No. 32. The water line easement is for a new boiler facility at its Lucas Terminal on West Port Arthur Road.

**FUNDING SOURCE**

Not applicable.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

WHEREAS, Valero Partners Lucas, LLC, has agreed to convey one (1) ten foot (10') wide non-exclusive water line easement, said easement being a 0.0155 acre tract out of the Pelham Humphreys Survey, Abstract No. 32, as described in Exhibit "A" and shown on Exhibit "B," attached hereto, to the City of Beaumont for the purpose of constructing a new boiler facility at its Lucas Terminal located on West Port Arthur Road; and,

WHEREAS, the City Council has considered the purpose of said conveyance and is of the opinion that the acceptance of said conveyance is necessary and desirable and that same should be accepted;

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 one (1) ten foot (10') non-exclusive water line easement conveyed by Valero Partners Lucas, LLC, being a 0.0155 acre tract out of the Pelham Humphreys Survey, Abstract No. 32, as described in Exhibit "A" and shown on Exhibit "B," attached hereto, be and the same is hereby, in all things, accepted for the stated purpose.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 26th day of August, 2014.

---

- Mayor Becky Ames -



GRANTEE's use and enjoyment of the Easement Rights, such roads and access points to be specifically designated by GRANTOR.

GRANTOR reserves for itself, its successors and assigns, the right to cross over or under said Easement Area with pipelines, roads, water lines, sewer lines, and other utilities or facilities so long as such use does not unreasonably interfere with GRANTEE's rights hereunder or create a safety hazard. GRANTOR agrees not to construct new pipelines or utilities that parallel GRANTEE's water lines within the Easement Area. GRANTOR further agrees not to place any new structures or appurtenances within the Easement Area that will unreasonably interfere with GRANTEE's ability to exercise the Easement Rights.

GRANTEE shall have the right and privilege to improve, maintain and operate its water lines and appurtenances hereunder as permitted by law. GRANTEE shall not be responsible for the repair and replacement of any paving or other structures within the Easement Area.

The grant provided herein unto GRANTEE is subject to all prior easements, rights-of-way, exceptions, reservations, covenants, conditions, restrictions, and all other matters affecting the Easement Area, whether or not of record or physically evident on the Easement Area. This instrument does not constitute a conveyance of the surface of the Easement Area (or any other portion of GRANTOR's property), nor of any of the oil, gas, water, or minerals contained therein or thereunder. This agreement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to conflicts of laws rules as applied in Texas.

TO HAVE AND TO HOLD the above described Water Line Easement unto GRANTEE, its successors and assigns forever, subject, however, to the terms contained herein.

*[signature contained on next page]*

EXECUTED this 27<sup>th</sup> day of March, 2014.

GRANTOR:

**VALERO PARTNERS LUCAS, LLC**

By: 

Printed Name: James V. Stegall

Title: Vice President

APPROVED  
LEGAL  
LC

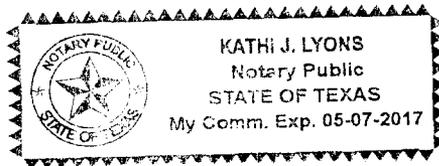
ACKNOWLEDGMENT

STATE OF TEXAS        X

COUNTY OF BEXAR     X

BEFORE ME, the undersigned authority, on this day personally appeared James V. Stegall as Vice President of Valero Partners Lucas, LLC, a Delaware limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act of such company for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 27 day of March, 2014.



  
Notary Public, State of Texas

RETURN TO: City of Beaumont  
Antoinette Hardy - Engineering  
P. O. Box 3827  
Beaumont, TX 77704

**EXHIBIT "A"**  
**WATERLINE EASEMENT**

Legal Description: 0.0155 Acre Waterline Easement  
Pelham Humphreys Survey, Abstract No. 32  
Jefferson County, Texas

**BEING** a 0.0155 acre waterline easement situated in the Pelham Humphreys Survey, Abstract No. 32, Jefferson County, Texas and being out of and part of that certain called 220.32 acre tract of land, identified as Tract IV as described in a "Deed Without Warranty" from Clark Refining & Marketing, Inc. to Clark Port Arthur Pipeline Company as recorded in Clerk's File No. 95-9505625, Official Public Records of Real Property, Jefferson County, Texas and also being out of and part of that certain called 46.7013 acre tract of land identified as "Lucas Terminal Tract IV" as described in a "Special Warranty Deed" from The Premcor Pipeline Co. to Valero Partners Lucas, LLC as recorded in Clerk's File No. 2013039464, Official Public Records of Real Property, Jefferson County, Texas, said 0.0155 acre waterline easement being more particularly described as follows:

*NOTE: All bearings are referenced to the Texas State Plane Coordinate System NAD83(CORS96). All distances and acreage are surface.*

**COMMENCING** at an iron pipe with a cap stamped "Gullett" found for the most Southerly corner of the said 46.7013 acre Valero Partners Lucas, LLC tract, also being the most Westerly corner of that certain called 2.125 acre tract of land as described in a "Special Warranty Deed" from BP Pipelines (North America) Inc. to Oiltanking Beaumont Partners, L.P. as recorded in Clerk's File No. 2001014848, Official Public Records of Real Property, Jefferson County, Texas and said corner being in the East right-of-way line of the Southern Pacific Railroad (formerly the Sabine & East Texas Railroad)(based on a width of 100 feet);

**THENCE** NORTH 30°55'00" WEST, along and with the said East right-of-way line of Southern Pacific Railroad, for a distance of 1863.11 feet to the **POINT OF BEGINNING** of the tract herein described;

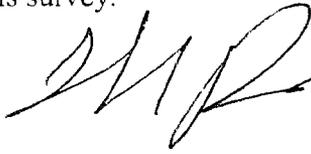
**THENCE** NORTH 30°55'00" WEST, continuing along and with the said East right-of-way line of Southern Pacific Railroad, for a distance of 10.52 feet to a point for corner;

**THENCE** NORTH 77°13'52" EAST, over and across the said 46.7013 acre Valero Partners Lucas, LLC tract, for a distance of 69.19 feet to a point for corner;

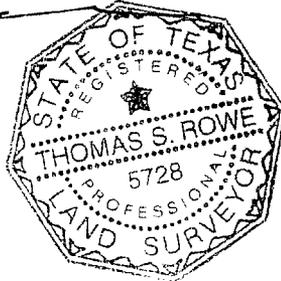
**THENCE** SOUTH 12°46'07" EAST, continuing over and across the said 46.7013 acre Valero Partners Lucas, LLC tract, for a distance of 10.00 feet to a point for corner;

**THENCE** SOUTH 77°13'52" WEST, continuing over and across the said 46.7013 acre Valero Partners Lucas, LLC tract, for a distance of 65.91 feet to the **POINT OF BEGINNING** of the tract herein described and containing 0.0155 acres more or less.

Surveyed on August 29, 2013. This legal description is being submitted along with a plat based on this survey.



Thomas S. Rowe, RPLS No. 5728  
W:\2013 13-L32 13-L32 WATERLINE EASEMENT M&B.doc



SCALE 1"=100'

LINE	BEARING	DISTANCE
L1	N30°55'00"W	10.52'
L2	N77°13'52"E	69.19'
L3	S12°46'07"E	10.00'
L4	S77°13'52"W	65.91'

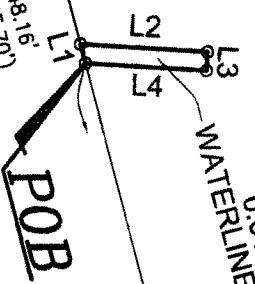
PELHAM HUMPHREYS SURVEY  
ABSTRACT NO. 32

CALLED 46.7013 ACRES  
TERMINAL TRACT N  
LUCAS PARTNERS LUCAS, LLC  
CF. NO. 2013039464  
OPRUC

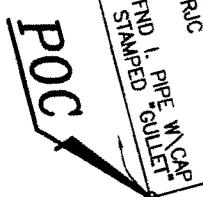
CALLED 2.125 ACRES  
BEAUMONT  
OLTMANKING, L.P.  
PARTNERS, L.P.  
CF. NO. 2001014848  
OPRUC

FND 1/2" I. ROD

FND N30°55'00"W 5548.16'  
(CALL N27°54'00"W 5245.70')



N30°55'00"W 1863.11'



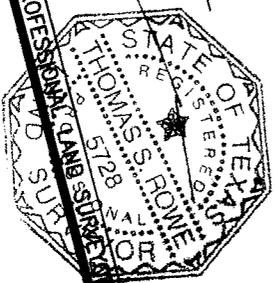
FND 1/2" I. ROD

FND S59°05'57"W 2191.94'  
(CALL S62°06'00"W 2204.60')

SOUTHERN PACIFIC RAILROAD  
(FORMERLY THE SABINE & EAST TEXAS RAILROAD)(100' ROW)  
SPUR 93  
(ALSO KNOWN AS WEST PORT ARTHUR ROAD)

TO THE OWNERS OF THE PREMISES SURVEYED  
AS OF THE DATE OF THIS SURVEY WAS THIS DAY  
AS OF THE DATE OF THE FOUND AT THE TIME.

THOMAS S. ROWE DO HEREBY CERTIFY THAT THE SURFACE OF THE PREMISES SURVEYED  
MADE ON AND CORRECTLY REPRESENTS THE GROUND AT THE TIME.  
DATE SURVEYED: MARCH 19, 2013

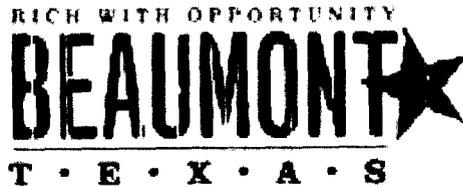


THOMAS S. ROWE - REGISTERED PROFESSIONAL SURVEYOR

NOTE:  
1. ALL BEARINGS ARE REFERENCED TO  
TEXAS COORDINATE SYSTEM OF 1983,  
SOUTH CENTRAL ZONE AND ACREAGE ARE  
2. ALL DISTANCES AND ACREAGE ARE  
SURFACE.

MARK W. WHITELEY  
CONSULTING ENGINEER,  
SURVEYOR, AND PLANNER  
SERVICES, AND ASSOCIATES  
AND INCORPORATED  
13-1-32  
SCALE 1"=100'

EXHIBIT "B"  
REFER TO EXHIBIT "A"  
FOR LEGAL DESCRIPTION  
0.0155 ACRE  
WATERLINE EASEMENT  
PELHAM HUMPHREYS SURVEY  
ABSTRACT NO. 32  
JEFFERSON COUNTY, TEXAS



**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS    AUGUST 26, 2014    1:30 P.M.**

**AGENDA**

**CALL TO ORDER**

- \*    Invocation                    Pledge                    Roll Call
- \*    Presentations and Recognition
- \*    Public Comment: Persons may speak on scheduled agenda items 1-2/Consent Agenda
- \*    Consent Agenda

**GENERAL BUSINESS**

1.    Consider a resolution approving a change order to the contract with Johnson Controls, Inc. to increase the number of new water meters to be replaced
  
2.    Consider granting a solid waste collection and transportation service franchise to Sprint Waste Services, L.P.

**WORK SESSION**

- \*    Review and discuss the proposed FY 2015 Budget and the proposed 2015 Capital Program

**PUBLIC HEARING**

- \*    Receive comments on the proposed FY 2015 Budget and the proposed 2015 Capital Program

**PUBLIC HEARING**

- \*    Receive comments on the 2014 (FY 2015) Proposed Tax Rate

**WORK SESSION**

- \*    Review and discuss proposed changes to the Alcohol and Beverage Ordinance

## **COMMENTS**

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

## **EXECUTIVE SESSION**

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

James Mathews vs. City of Beaumont, Texas; A-192,887

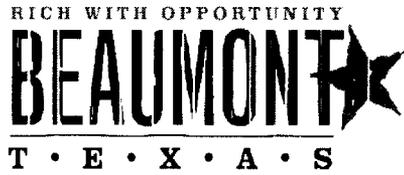
Robert "Bobby" Lorraine vs. City of Beaumont, Texas; Cause No. 122490

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.

**August 26, 2014**

Consider a resolution approving a change order to the contract with Johnson Controls, Inc. to increase the number of new water meters to be replaced

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## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

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

**MEETING DATE:** August 26, 2014

**REQUESTED ACTION:** Council consider a resolution approving a change order to the contract with Johnson Controls, Inc. to increase the number of new water meters to be replaced.

### **BACKGROUND**

The City entered into a performance contract with Johnson Controls, Inc., on September 27, 2012 in the amount of \$14,487,402. The debt was financed over a 7 year period at 1.766%. The purpose of the project is to install Automated Metering Infrastructure (AMI) in the City of Beaumont for reading water meters. The initial project included replacing 29,644 5/8" water meters that were installed prior to 2006 and retrofitting other meters with the appropriate register from the original water meter manufacturer compatible with the Itron AMI system and a leak detection system. Unfortunately, the manufacturer of some of our meters (meters manufactured by Kent) that were planned to be retrofitted has discontinued producing register retrofits compatible with the Itron system. Consequently there are 1,806 meters that will need to be replaced rather than retrofitted at a cost of \$606,962. If the change order is approved, the outstanding debt for this contract will be \$15,094,364. Staff will look at refinancing the total amount from 7 years to 10 years and will bring the item to City Council for consideration if it is found to be advantageous.

### **FUNDING SOURCE**

Capital Program – Water and Sewer Projects.

### **RECOMMENDATION**

Approval of resolution

CHANGE ORDER

Performance Contract dated September 27, 2012 between Johnson Controls, Inc. and Customer	Change Order No. 1	Date (mo/day/yr) 8/20/14
Customer CITY OF BEAUMONT		
The above referenced Performance Contract is hereby modified to the extent described below in accordance with the Terms and Conditions of the CHANGE ORDERS section thereof.		
Scope of Work changed as follows:		
See Attached		
Total amount of this Change Order.....	\$	606,962
Total Performance Contract amount as revised by this Change Order.....	\$	15,094,364
The time for completion is: <input checked="" type="checkbox"/> increased, <input type="checkbox"/> decreased, <input type="checkbox"/> unchanged.	(mo, day, yr)	
The new completion date resulting from this Change Order is:	11/30/2014	
[check if applicable] Assured Performance Guarantee changed as follows:		
Unless specifically changed by this Change Order, all terms, conditions and provisions of the above referenced Performance Contract remain unchanged and in full effect.		
<b>JOHNSON CONTROLS, INC.</b>	<b>CUSTOMER</b>	
Signature: <i>James Simpson</i>	Signature:	
Printed Name: James Simpson	Printed Name:	
Title: Area General Manager	Title:	

## SCOPE OF WORK

1. **SUMMARY OF WORK:** The following summarizes the additional Work to be provided by JCI under this Agreement, as further defined below:

Scope Of Work Summary:
1. Water Meter Improvements and Advanced Metering Infrastructure (AMI) System

This Business Improvement Measure will include the following:

- Replacement of one thousand and fifty-nine (1,283) 1" water meters. New water meters will be Neptune meters with Itron inline connectors for AMI system
- Replacement of one hundred and two (134) 1.5" water meters. New water meters will be Neptune meters with Itron inline connectors for AMI system
- Replacement of three hundred and seventeen (389) 2" water meters. New water meters will be Neptune meters with Itron inline connectors for AMI system

A credit is being issued for registers that were in the scope of work to retrofit, but that can no longer be purchased.

Scope	Quantity	Unit Cost	Total Cost
Replace 1" Meters	1283	\$ 301.91	\$ 387,346
Register Retrofit 1" Meters (Credit)	(1283)	\$ 129.33	\$ (165,935)
Replace 1 1/2" Meters	134	\$ 734.51	\$ 98,424
Register Retrofit 1 1/2" Meters (Credit)	(134)	\$ 142.67	\$ (19,117)
Replace 2" Meters	389	\$ 929.93	\$ 361,741
Register Retrofit 2" Meters (Credit)	(389)	\$ 142.67	\$ (55,497)
<b>Total</b>			<b>\$ 606,962</b>

RESOLUTION NO.

WHEREAS, on September 25, 2012, the City Council of the City of Beaumont, Texas passed Resolution No. 12-225 authorizing the City Manager to execute a Performance Contract with Johnson Controls, Inc., in the amount of \$14,487,402, for installation and implementation of an Automated Metering and Leak Detection Infrastructure for the Water Utilities Department; and,

WHEREAS, a Change Order, in the amount of \$606,962, is required for replacement of one thousand two hundred eighty-three (1,283) 1" water meters with a credit for register retrofit of one thousand two hundred eighty-three (1,283) 1" meters; replacement of one hundred thirty-four (134) 1.5" water meters with a credit for register retrofit of one hundred thirty-four (134) 1.5" meters; and, replacement of three hundred eighty-nine (389) 2" water meters with a credit for register retrofit of three hundred eighty-nine (389) 2" meters, thereby increasing the contract amount to \$15,094,364;

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 a Change Order for additional work described above, thereby increasing the contract amount by \$606,962 for a total contract amount of \$15,094,364 for the Automated Metering Infrastructure (AMI) Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 26th day of  
August, 2014.

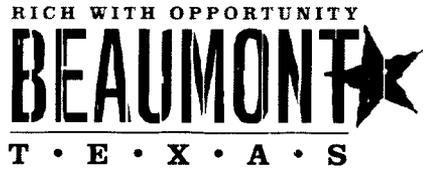
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- Mayor Becky Ames -

**August 26, 2014**

Consider granting a solid waste collection and transportation service franchise to Sprint Waste Services, L.P.

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## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

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

**MEETING DATE:** August 26, 2014

**REQUESTED ACTION:** Council consider granting a solid waste collection and transportation service franchise to Sprint Waste Services, L.P.

### **BACKGROUND**

On January 1, 2014, Triangle Waste ( a wholly-owned subsidiary of Sprint Waste Services, LP) merged into Sprint Waste Services, LP. Triangle Waste has a solid waste franchise agreement with the City of Beaumont but due to the legal change in corporate structure and merger with Sprint Waste Services, LP, it is necessary for the company to obtain a franchise agreement with the City in the name of Sprint Waste Services, LP. According to City Ordinance 22.05.101, no person shall engage in the business of collecting, hauling or transporting, in the city, any garbage, waste or refuse, without first having obtained a franchise from the City. Seven (7) entities currently have nonexclusive franchise agreements with the City and are doing business in this area.

The requested franchise is generally the same as those previously approved by City Council. It provides for a term of one year from its effective date and a franchise fee of seven percent (7%) of gross revenues received for service. It also requires the entity to indemnify the City of Beaumont and provide insurance which names the City of Beaumont as a named insured.

According to City Charter, franchise ordinances require readings at three (3) separate Council meetings, with the third not less than thirty (30) days from the first reading. The ordinance does not take effect until sixty (60) days after its adoption on the third and final reading. After passage, the ordinance must be published for four (4) consecutive weeks in a newspaper of general circulation in the city. All publication costs are paid by the franchisee.

This is first reading of the franchise ordinance.

Franchise for Sprint Waste Services, LP.  
August 26, 2014  
Page 2

**FUNDING SOURCE**

A franchise fee of seven percent (7%) of gross receipts is paid into the General Fund.

**RECOMMENDATION**

Approval of resolution.

ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A FRANCHISE FOR  
SOLID WASTE COLLECTION AND TRANSPORTATION  
SERVICES TO SPRINT WASTE SERVICES, L.P.

WHEREAS, Sprint Waste Services, L.P. (the "Company") has requested a franchise to operate a solid waste collection and transportation service within the City of Beaumont, Texas (the "City"); and,

WHEREAS, the City desires to grant such franchise;

NOW, THEREFORE, BE IT ORDAINED BY 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

Section 1.

Grant of Authority

There is hereby granted by the City to Sprint Waste Services, L.P. the right and privilege to operate and maintain within the City a solid waste collection and transportation service (the "service"). For purposes of this franchise, the term "solid waste collection and transportation service" shall mean the regular business of collection, hauling or transporting any garbage, rubbish, waste or refuse from locations in the City, and the disposal of such material in accordance with law. The franchise granted herein is nonexclusive, and franchises may be granted to other persons for service.

Section 2.

Term of Franchise

The franchise herein granted shall take effect and be in force sixty (60) days after

the final passage hereof as required by law and upon the filing by the Company of an acceptance with the City Clerk, and shall continue in force and effect until one (1) year thereafter. The acceptance required hereunder must be in writing and filed with the City Clerk within thirty (30) days after final passage hereof. Upon the expiration of the term hereof, this franchise shall continue on a month-to-month basis until terminated by either party or extended or replaced.

### Section 3.

#### Rates

The Company shall establish rates for service which are uniform as to customer class based upon such criteria as type of waste, container size, frequency of collection and distance of travel. The Company shall file its initial rates for service with its acceptance as required herein. Such rates shall, unless modified by the City, be effective with the effective date of this franchise. Any modifications in rates by the Company shall first be filed with the City Clerk and City Attorney and shall be effective thirty (30) days after such filing unless modified by City as provided herein. Nothing herein shall prevent the Company from charging uniform rates which are less than the rates filed with the City. The City shall have the right to establish rates charged by Company for services performed hereunder, after notice and hearing. Rates established by the City shall be sufficient to allow the Company an opportunity to earn a reasonable return on its invested capital used in providing such services.

### Section 4.

#### Franchise Fee

The Company shall pay to the City, on or before the fifteenth (15th) day of each

month, a sum equal to SEVEN PERCENT (7%) of the gross revenues received for service in the previous month as payment for the use of the City's streets, alleys and rights-of-way. The payments herein provided do not relieve Company from the payment of ad valorem taxes, special assessments, charges, or other fees applicable to the public generally. City shall have the right, at any reasonable time, to audit the books and records of the Company and the Company is hereby required to make such books and records available at the request of City. Upon written acceptance, the Company shall furnish to the City a listing of customers served, including customer name, address, frequency of pick-up, size of container or type of service and charge for same. The following report shall be filed monthly with the City Manager or his designee along with the street rental payment required herein:

Upon written request and within thirty (30) days of receipt, the Company shall furnish to the City adequate reconciliation of reported revenues which would include: a listing of names and addresses of all customers served, frequency of pick-up, size of container or type of service and charge for same, and date service was initiated and discontinued.

#### Section 5.

#### Indemnity, Insurance and Bond

The Company shall at all times during the effective period of this franchise, carry liability insurance as provided herein. The Company covenants and agrees at all times to indemnify and save harmless the City, its officers, agents, employees, and any member of the public against any and all injuries, damages, claims, causes of action or loss of compensation arising or resulting from Company's operations under this franchise, whether or not such loss was caused by the negligence of the City, its agents, servants or employees. Upon notice given Company by City, Company must defend at its own

expense, any action or suit brought against the City because of any work or other acts done by the Company under the terms of this franchise. Counsel chosen by Company to defend City must be satisfactory to City. Company will pay any final judgment which might be obtained against City by reason of any work or acts done hereunder by Company, its agents, servants or employees, and Company will pay all damages occurring to any person or property, public or private, resulting from any fault or neglect on its part or on the part of its agents or employees.

The Company agrees to carry insurance as follows:

- 1) Workers' Compensation  
The Company shall furnish the City Clerk a certificate of insurance indicating workers' compensation coverage as required by the State of Texas.
- 2) Automobile Liability Insurance  
The Company shall carry, in its own name, a policy in comprehensive form to insure the automobile liability of its operation with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence for bodily injury and, in addition, not less than One Hundred Thousand Dollars (\$100,000.00) property damage. This policy shall name City as an additional insured and provide for thirty (30) days notice to City prior to cancellation. A certificate of insurance certifying such coverage shall be filed with the City Clerk before the effective date of this franchise, and it shall be maintained in force during the term of the franchise.
- 3) General Liability  
The Company shall carry, in its own name, a comprehensive liability insurance policy including contractual coverage for operations other than automobile with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence for bodily injury, and One Hundred Thousand Dollars (\$100,00.00) per occurrence for property damage. The policy shall name the City as named insured and provide for thirty (30) days notice to City prior to cancellation. A certificate of insurance certifying such coverage shall be filed with the City Clerk before the effective date of this franchise and maintained in force during the term of the franchise.

## Section 6.

### Compliance with Laws and Ordinances

The Company shall, at all times during the term of this franchise, be subject to all lawful exercise of police power by the City and to such reasonable regulations as the City shall hereafter by ordinance provide. In addition, the Company will observe all city, county, state, and federal laws regulating the collection and disposal of solid waste.

## Section 7.

### Service Standard and Equipment

The Company shall maintain and operate its collection system and equipment in good order to render efficient service subject to the terms of this franchise. All vehicles, containers, and equipment used for the collection and transportation of solid waste shall be constructed, operated and maintained to prevent loss of liquid or solid waste material and to minimize health and safety hazards to solid waste management personnel and the public. Such vehicles, containers, and equipment used shall be maintained in a clean, sanitary condition and free from odors at all times. All vehicles and equipment shall comply with federal, state, and local regulations. Collection vehicles and all bulk, commercial, and roll-off type containers shall be painted and numbered and shall have the Company's name and telephone number painted in letters of a contrasting color. Such containers may not be placed on any street or right-of-way within the City. All collections shall be made directly from the premises of the customer and any emptied containers returned directly to such premises.

## Section 8.

### Providing Services

The Company shall provide service to any person, firm, corporation, association or entity inside the City of Beaumont who requests such service and is not delinquent in the payment of collection charges due the Company.

## Section 9.

### Office

The Company shall establish and maintain an office with telephone service and shall keep said office open for business from 9:00 A.M. to 5:00 P.M. each and every day except Saturday, Sunday and holidays.

## Section 10.

### Interruption of Service

In the event that service shall be interrupted for any reason for more than forty-eight (48) hours, the City shall have the right to make temporary independent arrangements for the purposes of continuing this necessary service to its residents in order to provide or protect the public health and safety. If the interruption in service mentioned herein continues for a period of seventy-two (72) hours, then the City shall have the right to terminate the rights and privileges granted in this franchise.

## Section 11.

### Termination

In the event that any provision of this franchise is violated by the Company, the City may serve written notice upon the Company of its intention to terminate this franchise. The

notice shall contain the reasons for such intention to terminate the franchise. Unless within ten (10) days after mailing such notice by City to the Company, such violation shall cease, or satisfactorily arrangements for correction be made by Company, the City Council may, after a public hearing in which Company is provided an opportunity to present evidence concerning such violation, declare the franchise terminated and serve written notice upon the Company of the termination and the termination of the franchise shall be effective upon the mailing of such notice.

#### Section 12.

##### Transfer of Franchise Rights

Franchise rights granted hereunder shall not be transferred to another without the approval of City. A single transfer or a series of transfers of Company's stock which constitute a transfer of a majority interest in Company is subject to the prior approval of City.

#### Section 13.

##### Notices

Where written notices are provided for in this ordinance, same shall be sufficient to notify Company when provided by certified mail to:

Sprint Waste Services, L.P.  
1000 S. Business Park Dr.  
Port Arthur, TX 77640

Notice to City is sufficient if mailed by certified mail to:

City Manager  
City of Beaumont  
P.O. Box 3827  
Beaumont, TX 77704

#### Section 14.

If any section, sentence, clause, paragraph or phrase of this ordinance, other than Section 4, is for any reason held to be invalid or illegal, such invalidity shall not effect the remaining portions of this ordinance. If Section 4 hereof is held to be invalid for any reason, the ordinance shall be immediately invalid.

#### Section 15.

It is agreed by City and Company that venue of any legal proceedings under this franchise agreement shall be in Jefferson County, Texas.

#### Section 16.

##### Vehicle Permits

Twenty (20) days prior to the effective date of this franchise, the Company shall furnish to the City a list of all vehicles to be providing solid waste collection and disposal service under this franchise. Such list shall include state license number, year, make, model and manufacturer's rated capacity for each vehicle. Vehicles not having a valid City of Beaumont landfill permit will not be allowed to operate under this agreement nor utilize the City refuse disposal facility. If at any time a vehicle or equipment is found to be in noncompliance with Section 7 of this franchise, the Company will be notified of its violation and said equipment or vehicle shall be removed from service upon receipt of written notification.

Failure to comply with this provision or to falsify the information concerning the location of the service of the vehicle shall be a material breach of this franchise. Should City decide not to terminate this franchise because of any violation of this Section, Company's disposal fee at City's landfill shall be doubled for all of Company's vehicles for

a period of sixty (60) days.

PASSED BY THE CITY COUNCIL of the City of Beaumont on first reading this the 26th day of August, 2014.

PASSED BY THE CITY COUNCIL of the City of Beaumont on second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED BY THE CITY COUNCIL of the City of Beaumont on final reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
- Mayor Becky Ames -

ACCEPTANCE:  
Sprint Waste Services, L.P.

By: \_\_\_\_\_  
(Company Owner/Representative)

# WORK SESSION

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- \* Review and discuss the proposed FY 2015 Budget and the proposed 2015 Capital Program



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

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

**MEETING DATE:** August 26, 2014

**REQUESTED ACTION:** Council to hold a joint public hearing on the proposed FY 2015 Budget and the proposed 2015 Capital Program.

### **BACKGROUND**

The proposed FY 2015 Budget was submitted to Council on August 12, 2014. The proposed 2015 Capital Program was originally submitted on May 13, 2014. On August 12, 2014, the proposed 2015 Capital Program was submitted with revisions.

The notice of the public hearing on the Budget and Capital Program was published August 19, 2014.

### **FUNDING SOURCE**

Not applicable.

### **RECOMMENDATION**

To hold the joint public hearing.

# PUBLIC HEARING

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- \* Receive comments on the proposed FY 2015 Budget and the proposed 2015 Capital Program

# **PUBLIC HEARING**

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- \* Receive comments on the 2014 (FY 2015) Proposed Tax Rate



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

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

**MEETING DATE:** August 26, 2014

**REQUESTED ACTION:** Council to hold a public hearing on the 2014 (FY 2015) Proposed Tax Rate.

### **BACKGROUND**

Chapter 26 of the Property Tax Code requires taxing units to comply with truth-in-taxation laws in adopting their tax rate. Two public hearings are required if the proposed tax rate exceeds the lower of the effective tax rate or the roll back tax rate. A Notice of Proposed Tax Rate is required to be published in the newspaper, on the city website, and on a television channel, if available. The notice was published in the newspaper, on the website and on the cable channel 4 on August 19, 2014.

### **FUNDING SOURCE**

Not applicable.

### **RECOMMENDATION**

To hold the public hearing.

# WORK SESSION

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- \* Review and discuss proposed changes to the Alcohol and Beverage Ordinance

## ARTICLE 6.03 ALCOHOLIC BEVERAGES

### Division 1. Generally

#### Sec. 6.03.001 Definitions.

For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Applicant. An individual that submits an original or renewal application for a permit. The applicant is the intended operator, occupant, or owner of the establishment.

City Manager. The City Manager of the City of Beaumont or the designated representative of the City Manager.

Chief Building Official. The Chief Building official for the City of Beaumont or the designated representative of the Chief Building official.

Church. A building, in possession of a certificate of occupancy, in which persons regularly assemble for purposes of religious worship, intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Establishment. The intended site for which the permit will be issued.

Fire Chief. The Chief of the City of Beaumont Fire Department or the designated representative of the Chief of the Fire Department.

Occupant. An individual who occupies or exercises direct control of the establishment.

Operator. The manager or other natural person principally in charge of the establishment.

Owner. An individual who has an ownership interest in the establishment or receives an economic or monetary benefit from the establishment.

Permit. A current, valid permit issued by the City Manager pursuant to the terms of this Article to an applicant.

Permit Holder. A person how has been issued a permit pursuant to this Article.

Police Chief. The Chief of the City of Beaumont Police Department or the designated representative of the Chief of the Police Department.

Public Health Director. The Public Health Director for the Public Health Department for the City of Beaumont or the designated representative of the Public Health Director.

School. A building, in possession of a certificate of occupancy, where persons regularly assemble for the purpose of instruction or education together with the playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:

- (1) Public and private schools used for primary or secondary education, in which any regular kindergarten or grades 1 through 12 classes are taught; and
- (2) Special education facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any grades 1 through 12.

## **Division 2. Permits**

### **Sec. 6.03.002 Permits.**

- (a) It shall be unlawful for any operator, occupant, or owner of an establishment to do the following without first obtaining a permit issued pursuant to this Article by the City:
  - (1) Manufacture, distill, brew, sell, possess, import into this state, export from this state, transport, distribute, warehouse, or store any liquor or alcoholic beverage;
  - (2) Solicit or take orders for any liquor or alcoholic beverage; or
  - (3) Bottle, rectify, blend, treat, fortify, mix or process any liquor or alcoholic beverage.
- (b) A permit issued under this Article is non-transferable and non-refundable.

### **Sec. 6.03.003 Display.**

It shall be unlawful for any operator, occupant, or owner of an establishment required to obtain a permit hereunder to fail to keep the same displayed in a conspicuous place at or near the principal public entrance in the establishment for which it was issued.

### **Sec. 6.03.004 Application, term.**

- (a) A permit issued under this Article does not vest any property rights in the applicant or permit holder.
- (b) All permits, excluding mixed beverages and late beverages, shall be valid for a two (2) year period starting from the date of issuance.
- (c) Permits for mixed beverages and late beverages shall be valid for a three (3) year period and upon renewal shall be valid for a two (2) year period.

- (d) An application shall be made by the intended owner or operator of the establishment.
- (e) The application for permit shall be submitted with the prescribed fee as outlined in the fee schedule. The application must be completed for each location sought to be permitted. The following information is required in the application:
  - (1) Name, address, and telephone number of the applicant, including the trade name by which applicant does business and the street address of the proposed establishment, and if incorporated, the name registered with the Secretary of State;
  - (2) Name, address, and telephone number of the operator of the establishment to be permitted;
  - (3) Whether a previous permit of the applicant, or, if applicable, a corporate officer of the applicant, has been revoked within three (3) years of filing of the application; and
  - (4) A statement that all the facts contained in the application are true and correct.
  - (5) Proof of a valid state permit.

**Sec. 6.03.005 Renewal.**

- (a) An application for renewal must be submitted thirty (30) days before the expiration date of the existing permit to the City Manager on a form provided by the City for such purpose.
- (b) The renewal application must be submitted with the prescribed fee not to exceed one-half the state fee.
- (c) Applications submitted after the expiration date of the expiration date of the previous permit will be assessed a fifty dollar (\$50.00) penalty.

**Sec. 6.03.006 Grounds for denial or revocation.**

- (a) The City Manager shall refuse to approve the issuance or renewal of a permit or shall revoke a permit for one or more of the following reasons:
  - (1) A false statement as to a material matter made in an application for a permit or renewal of a permit.
  - (2) Revocation of a permit; pursuant to this Article, of the applicant or corporate officer of the applicant within three (3) years preceding the filing of the application.

**Sec. 6.03.007 Appeal from denial or revocation.**

If the City Manager denies, refuses to approve the issuance of a permit or the renewal of a permit to an applicant, or revokes a permit issued under this Article, this action is final unless the applicant or permit holder, within ten (10) days after the receipt of written notice of the action, files a written appeal to the City Council by delivering said notice to the City Clerk setting forth the specific grounds for the appeal. The City Council shall either hear the appeal or select a hearing officer to preside over the appeal hearing. The City Council or hearing officer shall within fourteen (14) days of the notice of appeal grant a hearing to consider the action. The City Council and hearing officer have the authority to sustain, reverse, or modify the action appealed. The decision of either the City Council or hearing officer is final.

**Sec. 6.03.008 Transfer of permit.**

- (a) A permit issued under the provisions of this Article shall be specific to the establishment site and personal to the permit holder thereof and shall not be transferable or assignable.
- (b) Owners or occupants of multiple sites are required to have permits for each location.

**Sec. 6.03.009 Replacement permits.**

- (a) A replacement permit shall be issued to the original applicant for one lost, destroyed, or mutilated after a written application is submitted with a fee of fifteen dollars (\$15.00) to the City Manager on a form provided by the City for such purpose.
- (b) A replacement permit shall bear the same expiration date as the one it replaces.

**Sec. 6.03.010 Occupation tax; permit fees.**

- (a) There are hereby prescribed and levied occupation taxes or permit fees upon persons carrying on the business of manufacturing, distributing or dealing in alcoholic beverages, as described in this article, in an amount not to exceed one-half of the taxes or fees levied upon such business by the state.
- (b) The holder of a state retail dealer's on-premises late hours license shall pay to the city, before exercising any privilege by virtue of such late hours license, a fee not to exceed one-half of the state fee for such late hours license.
- (c) All taxes or fees for each place of business shall be paid in advance in compliance with the fee schedules authorized by the Texas Alcoholic Beverage Code.

### **Division 3. Inspections**

#### **Sec. 6.03.011 Inspections; compliance**

- (a) The establishment shall conform to all zoning ordinances, building codes, health and sanitization codes and fire prevention codes of the City and comply with all federal, state and local ordinances and regulations relevant to the sale, manufacturing, or distributing of alcoholic beverages.
- (b) The Police Chief, the Fire Chief, the Chief Building Official, and Public Health Director shall have the right to immediate access to enter and inspect all manufacturing, distributing, and retailing establishments in possession of alcoholic beverages.
- (c) An owner, operator, occupant, or any person who does not allow immediate access to the establishment for the purpose of inspection commits an offense.

#### **Sec. 6.03.012 Prohibited locations.**

- (a) Except as otherwise provided by the Texas Alcoholic Beverage Code, it shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverages where the establishment or place of business of any dealer is:
  - (1) Within three hundred (300) feet of a church or public or private school;
  - (2) Within one thousand (1,000) feet of a public school or a private school if the governing body of the city receives a request from the governing body of the private school or from the board of trustees of the school district under section 38.007, Education Code; or
  - (3) Within 1000 feet of a day care center or child care facility, as those terms are defined by section 42.002 of the Texas Human Resources Code.
- (b) The measurement of the distance between the place of business where alcoholic beverages are sold and the church, public or private school, day care center, or child care facility shall be determined as described in sections 109.33 and 109.331 of the Texas Alcoholic Beverage Code, as amended.

#### **Sec. 6.03.013 Responsibility of permit holder.**

- (a) The permit holder shall within fourteen (14) days of the effective date notify the City Manager in writing of any changes to information submitted in the application.

- (b) Failure to notify the City Manager of changes may result in the revocation of the establishment's permit or the denial of the permit renewal.
- (c) The permit holder shall within fourteen (14) days of the effective date notify the City Manager of the establishment's closure.

#### **Division 4. Enforcement**

##### **Sec. 6.03.014 Hours of operation**

- (a) The city is hereby designated as an "extended (late) hours area,,," and the times permitted for consumption and possession of alcoholic beverages defined by section 105.06 of the Texas Alcoholic Beverage Code, as amended, are hereby adopted and made effective in the City.
- (b) The hours prescribed by section 105.05 of the Texas Alcoholic Beverage Code, as amended, for the sale of beer are hereby adopted and made effective in the City.
- (c) The hours prescribed by section 105.03 of the Texas Alcoholic Beverage Code, as amended, for the sale of mixed beverages are hereby adopted and made effective in the City.
- (d) It shall be unlawful for holders of package store permits as provided in the Texas Alcoholic Beverage Code to sell, offer for sale, or deliver any liquor:
  - (1) Between 9:00 p.m. of any day and 10:00 a.m. of the following day;
  - (2) On Sunday;
  - (3) On New Year's Day;
  - (4) On July fourth;
  - (5) On Labor Day;
  - (6) On Thanksgiving Day;
  - (7) On Christmas Day;
  - (8) On the following Monday when Christmas Day or New Year's Day falls on a Sunday.

**Sec. 6.03.015 Violation of existing laws not authorized**

Nothing herein shall be construed or have the effect to license, permit, authorize or legalize the sale, offer to sell, or delivery of any liquor which is illegal or in violation of any ordinance of the City, any section of the Penal Code of this state, or the Constitution of this state.

**Sec. 6.03.016 Penalties.**

- (a) It shall be unlawful for an owner, operator, or occupant of an establishment not to maintain and display a valid permit issued by the City.
- (b) Except as otherwise provided by this section, if it be shown that a person has violated this Article, upon conviction, the defendant shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00).
- (c) Upon a second conviction of a violation of this Article, the defendant shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00).
- (d) Any violation charged pursuant to this section shall be independent of and may be in addition to any administrative penalties which may be imposed regarding the suspension, revocation or denial of any permit granted under this Article.

**Sec. 6.03.017 Injunctions.**

- (a) In addition to the fines and penalties provided in this Article, if it appears that a person has violated or is violating or is threatening to violate any provision of this Article, the City Attorney may institute a civil suit in a court of competent jurisdiction for injunctive relief to restrain the person from continuing the violation or threat of violation.
- (b) On application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Article, the court shall grant such injunctive relief as the facts may warrant.

**Sec. 6.03.018 Strict enforcement.**

All law enforcement personnel, inspectors, and other designated City personnel shall carry out the provisions of this Article and may issue citations for violations of this Article. All law enforcement personnel, inspectors, and other designated City personnel shall strictly enforce and prosecute the provisions of this Article, and court officials shall see that this Article receives strict interpretation and adjudication in a court of competent jurisdiction.